



# Guns, Excise Taxes, and Wildlife Restoration

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**A**s a result of the recent debate over guns, gun rights, and gun-related violence, there has been a marked increase in sales of many weapons as well as ammunition. Through an excise tax on firearms and ammunition, such sales have a marked beneficial effect on funding for state wildlife programs through the Wildlife Restoration Program (also known as Pittman-Robertson or P-R). This report examines these taxes, their allocation, and their use. It also examines the effects of sequestration of this account, pursuant to the Budget Control Act of 2011 (BCA; P.L. 112-25).

## The Excise Taxes

The Pittman-Robertson Wildlife Restoration Act of 1937 (16 U.S.C. 669-669k; P-R) uses the proceeds from a federal excise tax to fund grants to states and territories for projects to benefit wildlife resources and to conduct programs for hunter education. The excise tax predates the act, having begun in 1919. The excise tax is set at 10% of the wholesale price for pistols and revolvers, and 11% for other firearms as well as shells or cartridges,<sup>1</sup> and is collected by the manufacturer. An 11% tax on archery equipment is also deposited into the fund. The tax is applied whether the equipment is likely to be used for hunting or not. Total collections from these taxes were \$388.2 million in FY2011 and \$555.3 million in FY2012. Most of the tax is collected from firearms and ammunition. Of the tax on firearms and ammunition, approximately one-third is due to each source: 31% for pistols and revolvers, 37% for other firearms, and 31% for ammunition.<sup>2</sup> These amounts become available for expenditure in the year following their collection.<sup>3</sup> (See **Figure 1**.)

The P-R tax has some of the same exemptions and tax-free sales as those that typically apply to excise taxes: sales are tax-free to the Department of Defense and the Coast Guard, for use in vessels and aircraft, to state and local governments, to nonprofits, and for export. Producers of less than 50 guns a year are exempt. There is also a personal use exemption for manufacturers, importers, or producers who incidentally produce for their own use. There are no data on the revenue loss due to exemptions, although the personal exemption would be expected to be small.

The tax is currently administered by the Alcohol and Tobacco Tax and Trade Bureau (TTB) in the Department of the Treasury. It was formerly administered by the Bureau of Alcohol, Tobacco and Firearms (ATF) from 1991 until its transfer and prior to that by the Internal Revenue Service.<sup>4</sup>

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<sup>1</sup> Certain weapons and manufacturers are subject to separate taxes based on the National Firearms Act and subsequent legislation. These are weapons that, in private hands, are older collectibles and are rare. The regulation of these weapons is by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). The resulting amounts appear inconsequential.

<sup>2</sup> Data on the distribution of taxes between pistols and revolvers, other firearms, and ammunition provided by Thomas K. Hogue of the Alcohol and Tobacco Tax and Trade Bureau (TTB); data are for FY2012. The total collection was \$483.1 million. The information was provided with the following notation: "These figures represent tax liabilities reported on returns filed as of January 28, 2013 (the date the attached report was run) and are only accurate as of that date. These figures do not represent taxes collected. Late filed or amended tax returns will increase or decrease the tax liability for these periods. Future TTB statistical releases will include the updated liabilities and therefore will not agree with the figures provided in this email."

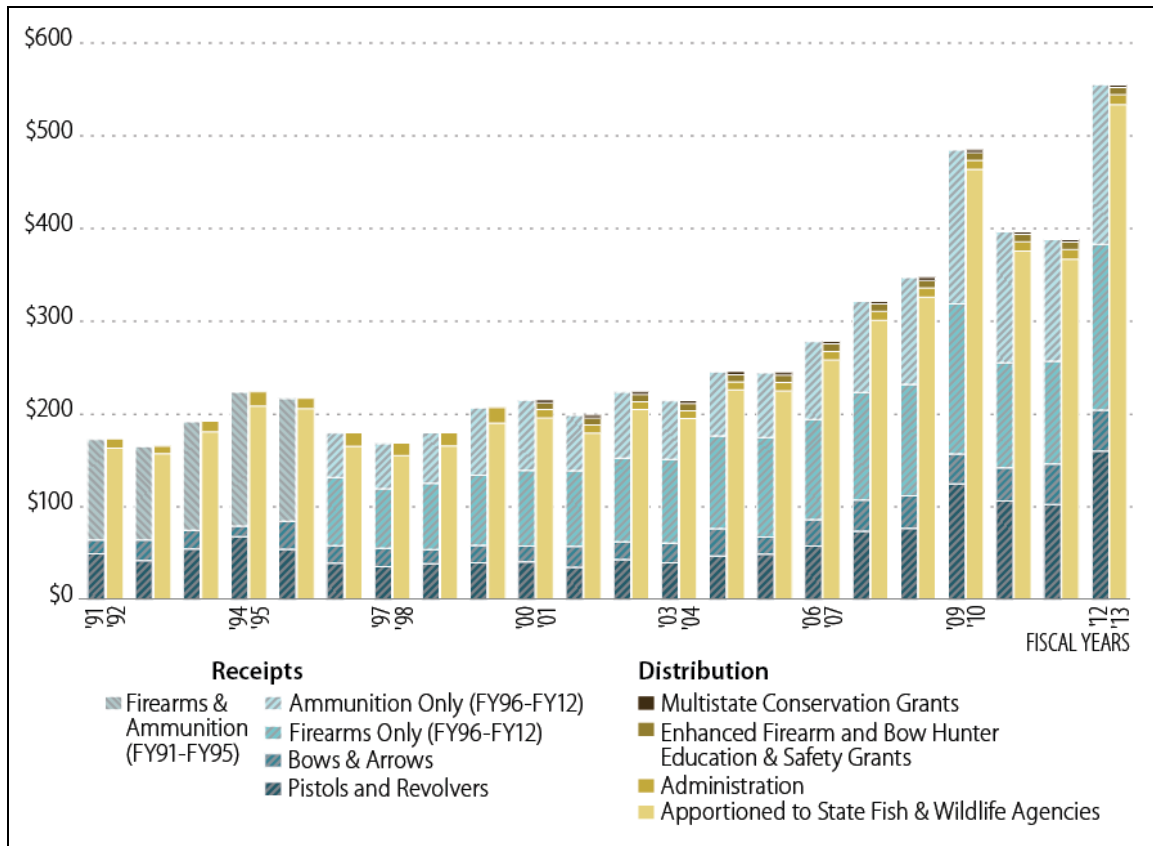
<sup>3</sup> Steve Barton, Acting Deputy Assistant Director, and Chief, Division of Administration and Information Management, Wildlife and Sport Fish Restoration Program, FWS. Personal email to (name redacted), February 13, 2013. These and other figures on collections and expenditures in this report are derived from this source unless otherwise specified.

<sup>4</sup> Under the Homeland Security Act (P.L. 107-296), Congress established TTB at the Department of the Treasury. The TTB generally consists of those administrative units charged with regulating alcohol and tobacco products that were (continued...)

Because the taxes are allocated to wildlife restoration and hunter education, the tax appears to be motivated as a use tax (to support the activities of those taxed), much like gasoline taxes that pay for roads, and not as a “sin” tax, such as those on alcohol and tobacco that go into the general fund.

**Figure 1. Pittman-Robertson Receipts and Distributions, FY1991-FY2013**

(\$ in millions)



**Source:** Steve Barton, acting deputy assistant director, and chief, Division of Administration and Information Management, Wildlife and Sport Fish Restoration Program, FWS. Personal email to (name redacted), February 13, 2013. FWS tabular data converted to bar graph by CRS. FY2013 expenditures shown here do not reflect the effects of sequestration. See text.

**Notes:** Funds become available in the year following collection, so each year of collection is paired with the following year's distribution. Up through FY1995, collections for the sale of firearms and ammunition were lumped together, and so are shown together above. In FY1996, collections from ammunition and firearms began to be tabulated separately, as reflected in the chart.

(...continued)

previously housed in Treasury's Bureau of Alcohol, Tobacco and Firearms (ATF). In the act, Congress also changed the title of ATF to include explosives—the Bureau of Alcohol, Tobacco, Firearms and Explosives (still ATF)—and transferred it to the Department of Justice. While ATF remains responsible for most all aspects of regulating and enforcing firearms and explosives laws, as well as enforcing some aspects of alcohol and tobacco laws, Congress charged TTB with administering the P-R firearms, ammunition, and archery equipment excise tax provisions.

## The Pittman-Robertson Fund: Allocation and Use

The revenues from these excise taxes go into a special account called the Wildlife Restoration Fund or P-R Fund, administered by the Fish and Wildlife Service (FWS) in the Department of the Interior.<sup>5</sup> Amounts are available for expenditure in the year following their collection.

Appropriations from the fund are mandatory spending to the extent of receipts; FWS may deduct administrative expenses from the receipts. There is currently a limit of 3% specified in law for administrative expenses, and the law limits the types of administrative expenses that may be charged to the fund.<sup>6</sup> Any interest that may accrue on moneys in the fund before they are spent is allocated to the North American Wetlands Conservation Fund (NAWCF), rather than being retained in the P-R Fund.

Distribution of moneys in the fund is by formula. First, \$8 million is set aside for Enhanced Hunter Education, which provides for the construction or maintenance of public target ranges, with limits on the maximum and minimum amounts a state or territory may receive. States and territories must match at least 25% of the cost of a project, although the match requirement may be waived for some territories.<sup>7</sup> In some cases, states provide more than the minimum match. Second, \$3 million is set aside to supplement projects that involve cooperation between or among states. Third, one-half of the excise tax on pistols, revolvers, bows, and arrows (but not firearms) is to be set aside for Basic Hunter Education. In FY2013, this amount is estimated at \$71.5 million.<sup>8</sup> This portion is also allocated according to a formula among the states and territories, with the same minimum matching requirements.

The remaining amount forms the bulk of the program. A small percent of the remainder is allocated first to the territories of American Samoa, Guam, Puerto Rico, Virgin Islands, and Northern Mariana Islands. Then the remainder of the fund is divided in half, with one half allocated in proportion to the area of the state, and the other half in proportion to the number of paid hunting licenses in the state relative to paid hunting licenses in the entire country.<sup>9</sup> Together, the Basic Hunter Education program and the Wildlife Restoration grants were \$388.2 million in FY2012, and are estimated at \$533.8 million in FY2013, again not accounting for the effect of sequestration. (See **Figure 1**.) A preliminary apportionment is made to the states and territories each October based on early data concerning receipts; a final apportionment of the remainder is made in the following February. With reports of surges in gun sales due to current controversies over guns rights and gun-related violence,<sup>10</sup> substantially more funds seem likely to be available in FY2014.

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<sup>5</sup> For further information about the fund, see the FWS website at [http://wsfrprograms.fws.gov/Subpages/GrantPrograms/WR/WR\\_Funding.htm](http://wsfrprograms.fws.gov/Subpages/GrantPrograms/WR/WR_Funding.htm).

<sup>6</sup> 16 U.S.C. 669h.

<sup>7</sup> The waiver provision for territories is found in 48 U.S.C. 1469a(d). U.S. territories eligible for the waiver American Samoa, Guam, Commonwealth of the Northern Mariana Islands, and Virgin Islands. Puerto Rico is not eligible for the waiver; the District of Columbia is not eligible for the P-R program.

<sup>8</sup> FWS *Budget Justification and Performance Information for Fiscal Year 2013*, pp. WR-9 –WR-10. Estimate does not include the effect of sequestration.

<sup>9</sup> This formula does not distinguish between in-state and out-of-state hunters. A hunting license purchased by a non-resident would count the same under this formula as one purchased by a resident.

<sup>10</sup> Michael Cooper, "Sales of Guns Soar in U.S. as Nation Weighs Tougher Limits," *New York Times*, January 11, 2013, available at [http://www.nytimes.com/2013/01/12/us/as-us-weighs-new-rules-sales-of-guns-and-ammunition-surge.html?\\_r=0](http://www.nytimes.com/2013/01/12/us/as-us-weighs-new-rules-sales-of-guns-and-ammunition-surge.html?_r=0).

## History of Increased Sales

Among the sportsmen's community and among state wildlife agencies, the P-R program is not considered controversial, because the link between these users who pay the tax and the beneficiaries is clear. Even those who purchase taxable items that are never used in hunting may benefit from the portion of the P-R program devoted to shooting ranges and the training offered under the hunter education program. Moreover, while game species and their habitats are the primary or direct beneficiaries of the program, non-game species, such as native plants, non-game birds, and other species, may benefit incidentally through conservation of the habitats they share with hunted species. The result is additional support from groups outside the traditional hunting community. While some items subject to the tax are rarely used in hunting, their inclusion in the program is not known to be an issue. As a result of these and other factors, the P-R program has been relatively noncontroversial through much of its 75-year history. The increase in sales of guns and related items in the months before the passage of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322), in the months before the elections of 2008 and 2012, and during the current debate over gun rights and gun violence have all benefitted wildlife conservation via the P-R program. However, as the amounts available under P-R grants increase, and as state budgets are constrained, some states may be unable to make full use of available funds because they cannot supply the minimum local match.

## Sequestration of Pittman-Robertson Fund

The Office of Management and Budget, based on the Budget Control Act of 2011 (BCA, P.L. 112-25), determined that P-R (as a non-exempt, nondefense mandatory program) is subject to sequestration. The *OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013* states:

The Balanced Budget and Emergency Deficit Control Act, as amended (BBEDCA), 2 U.S.C. § 901a, requires the Office of Management and Budget (OMB) to calculate, and the President to order on March 1, 2013, reductions in budgetary resources triggered by the failure of the Joint Select Committee on Deficit Reduction to propose, and the Congress to enact, legislation to reduce the deficit by \$1.2 trillion (Joint Committee sequestration). This report provides OMB's calculations of the percentage and dollar amount of the reduction for each non-exempt budget account and an explanation of the calculations.

OMB calculates that the Joint Committee sequestration requires a [reduction of] ... 5.1 percent to other non-exempt nondefense mandatory programs.<sup>11</sup>

In the appendix to the report, OMB estimates that the P-R budget authority for FY2013 is \$413 million.<sup>12</sup> With a 5.1% reduction, \$21 million would be sequestered under current law (OMB report, p. 35). It is unclear what happens to the sequestered amount—it may become available in subsequent years.<sup>13</sup>

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<sup>11</sup> *OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013*, p. 1, available at [http://www.whitehouse.gov/sites/default/files/omb/assets/legislative\\_reports/fy13ombjcsequestrationreport.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/fy13ombjcsequestrationreport.pdf).

<sup>12</sup> The OMB estimate of P-R budget authority for FY2013 appears to be conservative, and differs from the \$555.3 million that FWS estimated in collections for FY2012. The reason for this difference is unclear.

<sup>13</sup> P-R is called, technically, a *special account*. Under the BCA Section 256(k)(6) of the Balanced Budget and (continued...)

The ultimate reduction to P-R could differ from what is listed in the report. Some in Congress have objected to the BCA reductions. Consequently, the sequestration rules specified in P.L. 112-25 might be changed in a new law, or an agreement might be reached on alternative changes to the federal budget that would meet required targets. The effects of such actions on P-R could differ from the sequestered amounts projected in the OMB Report.

Those who receive the benefits of the P-R program (the state wildlife agencies and, through them, hunters and other wildlife enthusiasts) strongly overlap the group of people who pay for it (purchasers of guns, ammunition, and archery equipment). The payers will continue to pay the current excise taxes on the specified items, but the expenditures for the program will be reduced under sequestration, so that 94.9% of the taxes collected will be available to the program and 5.1% are sequestered. State wildlife agencies and hunting organizations have objected to this outcome,<sup>14</sup> and the controversy may become part of the larger debate over sequestration.

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Emergency Deficit Control Act of 1985, as amended (2 U.S.C. 906(k)(6)): “(6) Budgetary resources sequestered in revolving, trust, and special fund accounts and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.”

<sup>14</sup> For example, see National Rifle Association, “OMB Threatens Pittman-Robertson Funds,” at <http://www.nrahuntersrights.org/Article.aspx?id=7299>. Viewed on March 12, 2013.

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