

[BATF Chief Counsel Memorandum dated August 4, 1978. Produced to Eric Larson by BATF on 5/21/98 in response to a FOIA demand for "capture documents" regarding registration of (NFA) war trophies.]

AUG 4 1978

CC-23,024 [illegible initials]

MEMORANDUM TO: Acting Chief, Technical Services Division

FROM: Assistant Chief Counsel (Technical)

SUBJECT: Status of a Dewat in the National Firearms Registration and Transfer Record

Reference is made to your memorandum of June 9, [illegible] in which you requested our advice as to whether a Dewat which is on file on a Form 1, Form 1A, Form 4, Form 5, or Form 6, in the National Firearms Registration and Transfer Record, is a registered firearm under the provisions of the National Firearms Act. Your memorandum did point out that each of the above-mentioned forms contained the statement that the Dewat had been removed from the classification of a firearm by reason of a permanent alteration rendering the weapon unserviceable.

As expressed in your memorandum, a Dewat could be removed from the classification of a firearm under the procedures established by Revenue Ruling 57-227, 1957-1 C.B. 433, or Revenue Procedure 58-8, 1958-1 C.B. 690. Under each such procedure, the Dewat could be removed only after an application was filed and its removal approved by the Bureau.

Under section 5841 of the National Firearms Act (Title 26, U.S.C., Chapter 53), as amended by Title II of the Gun Control Act of 1968, all National Firearms Act firearms, including Dewats and unserviceable firearms, must be registered in the National Firearms Registration and Transfer Record. See *United States v. Whalen*, 337 F.Supp. 1012 (S.D. N.Y. 1972). After the amendment of the National Firearms Act in 1968, all Dewats previously removed pursuant to Revenue Rulings 55-590 and 57-227 and Revenue Procedure 58-8 from the classification of firearm under the Act were again considered firearms subject to the provisions of the Act.

However, section 5841(d) provides that any person shown as possessing a firearm by the records maintained by the Secretary of the Treasury or his delegate pursuant to the National Firearms Act in force on the day immediately prior to the effective date of the

National Firearms Act of 1968 shall be considered to have registered under section 5841 the firearms in his possession which are disclosed by that record as being in his possession. As the removal of Dewats from the classification of firearm under the procedures provided by Revenue Rulings 55-590 and 57-227 and Revenue Procedure 58-8 was accomplished through the submission of forms to this Bureau which reflected the possession of the Dewats by the person filing such forms, the Dewats so removed from the classification of firearm are registered under the requirements of section 5841.

/s1 [illegible]/WTH