

# Internal Revenue Bulletin

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with "bullet cartridges" for the reason that the weapon is designed to function most proficiently from a ballistics standpoint when discharging "shot," equaling the potential of shotguns with comparable specifications. Therefore, a smooth bore handgun is not a "pistol or revolver" as defined in the regulatory definitions referred to above and is not entitled to exception from the provisions of chapter 53 of the Code. Accordingly, it is held that such a weapon is a firearm as defined in section 5848 (1) and (5) of the Code and as such is subject to the provisions of the National Firearms Act (chapter 53 of the Code).

Revenue Ruling 54-159, C. B. 1954-1, 251, is hereby revoked. However, under the authority of section 7805(b) of the Code, this ruling will be applied without retroactive effect.

(Also Part II, Federal Firearms Act, Section 1; Rev. Rul. 57-227  
Section 315.27.)

Only those firearms covered by section 5848 of the Internal Revenue Code of 1954 which have been deactivated in the manner prescribed in Revenue Ruling 55-590, C. B. 1955-2, 483, under the supervision of an investigator of the Alcohol and Tobacco Tax Division, may be considered in the category of a "DEWAT." Notwithstanding its operating condition, any firearm covered by such section which has not been deactivated in the prescribed manner under the supervision of such officer comes within the purview of Chapter 53 of the Code inasmuch as the exemption afforded "unserviceable" firearms is conditional and applicable only in respect to the transfer tax imposed under section 5811(a) of the Code.

The Internal Revenue Service emphasizes the distinction between an "unserviceable" firearm and a "DEWAT" as defined in Revenue Ruling 55-590, C. B. 1955-2, 483, for purposes of Chapter 53 of the Internal Revenue Code of 1954, and announces that such distinction will be enforced in order to avoid abuses of the ruling in respect of DEWATS.

The minimum requirements for the process of transforming a firearm into a DEWAT were established with the assistance of recognized ordnance experts, and the Internal Revenue Service has consistently held that the deactivation must be witnessed by the investigator who certifies as to the condition of the DEWAT. To insure that the minimum requirements would be met, investigators of the Alcohol and Tobacco Tax Division were instructed to make the necessary arrangements to have firearms deactivated by experienced welders under their supervision. Such deactivation has ordinarily been accomplished at no expense to the individual owners of the firearms. This procedure was adopted, and has been continued, (1) since experience has shown that improper welding increases the possibility of reactivating a DEWAT and, (2) to eliminate any possibility of substitute brazing, soldering, or other process to simulate steel welding in "deactivating" firearms.

It is the position of the Internal Revenue Service that only such firearms covered by section 5848 of the Internal Revenue Code of 1954 which have been deactivated in the prescribed manner under the supervision of Alcohol and Tobacco Tax investigators may be considered in the category of DEWATS. Any firearms which have not been deactivated in the prescribed manner under the supervision of

such officers come within the purview of Chapter 53 of the Internal Revenue Code of 1954 notwithstanding their operating condition, inasmuch as the exemption afforded "unserviceable" firearms is conditional and applicable *only* in respect to the transfer tax imposed under section 5811(a) of the Code.

A "DEWAT" and an "unserviceable" firearm under Chapter 53 of the Code are both firearms under the Federal Firearms Act, 15 U. S. C. 901-909, and, accordingly, are subject to the applicable provisions of the Federal Firearms Act and the regulations issued pursuant thereto since "any part or parts" of a weapon is a "firearm" as defined therein.

26 CFR 179.31: Muffler or silencer.  
(Also Part II, Federal Firearms Act,  
Section 1; Section 315.27.)

Rev. Rul. 57-34

A barrel extension, having a diameter of four inches, an overall length of 16 inches, and no baffle plates, for a standard industrial gun produced by a domestic manufacturer, but which neither silences nor appreciably diminishes the explosive report of the gun, is not a "muffler or silencer" within the purview of the National Firearms Act or of the Federal Firearms Act.

Any similar device, designed for use with an industrial gun, should be submitted for classification purposes prior to general production thereof.

Advice has been requested whether a barrel extension designed to reduce the risk of injury to the hearing of operators of industrial guns is a muffler or silencer within the purview of the National Firearms Act (chapter 53 of the Internal Revenue Code) and the Federal Firearms Act, title 15, U. S. C., chapter 18.

The Internal Revenue Service has examined the brochures, plans, and specifications relating to a particular barrel extension, having a diameter of four inches, an overall length of 16 inches, and no baffle plates, designed for use with a standard industrial gun of a domestic manufacturer, and has witnessed demonstrations of the device. The stated purpose of the device is to reduce the risk of injury to the hearing of operators of industrial guns by projecting the report of discharge of the explosive away from such operator.

Section 5848 of the Internal Revenue Code of 1954 includes as a part of the definition of a firearm a "muffler or silencer for any firearm," whether or not such firearm is included within the definition of a firearm as contained therein. Pursuant thereto, section 179.31 of the Regulations relating to Machine Guns and Certain other Firearms defines a "muffler" or "silencer" as any device for silencing or diminishing the report of any portable weapon, such as a rifle, carbine, pistol, revolver, machine gun, submachine gun, shotgun, fowling piece, or other device from which a shot, bullet, or projectile may be discharged by an explosive. Similarly, section 1 of the Federal Firearms Act, 15 U. S. C. 901, includes in the definition of a firearm a "firearm muffler or firearm silencer."

The demonstrations of the device described above conclusively established that it neither silenced nor appreciably diminished the explosive report. Therefore, it is held that this barrel extension for industrial guns, conforming to the plans and specifications examined,