

26 CFR 179.96: Rate of tax.

Rev. Rul. 67 317

Transfer tax liability is not incurred where a shotgun or rifle coming within the purview of the National Firearms Act is returned to the manufacturer for conversion into a weapon not coming within the provisions of the Act.

S.T. 787, C.B. XIII-2, 438 (1934), superseded.

Advice has been requested whether the return to the manufacturer of a shotgun having a barrel or barrels of less than 18 inches or a rifle having a barrel or barrels of less than 16 inches for the purpose of refitting such shotgun with a barrel or barrels of more than 18 inches or such rifle with a barrel or barrels of more than 16 inches constitutes a transfer subject to the taxing provisions imposed by section 5811(a) of the Internal Revenue Code of 1954.

Section 5811(a) of the Code reads as follows:

There shall be levied, collected and paid on firearms transferred in the United States a tax at the rate of \$200 for each firearm: *Provided*, That the transfer tax on any gun with combination shotgun and rifle barrels, 12 inches or more but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and on any gun classified as

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“any other weapon” under section 5848(5), shall be at the rate of \$5. The tax imposed by this section shall be in addition to any import duty imposed on such firearm.

Section 5848(1) of the Code specifies that a shotgun having a barrel or barrels of less than 18 inches in length or a rifle having a barrel or barrels of less than 16 inches in length is a firearm which comes within the purview of the National Firearms Act.

Section 5848(10) of the Code provides that the term “transferred” includes to sell, assign, pledge, lease, loan, give away, or otherwise dispose of a firearm.

It has been determined that where a shotgun or rifle having a short barrel or barrels causing it to come within the purview of the National Firearms Act is returned to the manufacturer for refitting with a barrel or barrels of sufficient length to remove it from the provisions of the Act, liability for the transfer tax imposed by section 5811(a) of the Code is not incurred since the weapon is not transferred within the intent and meaning of section 5848(10) of the Code. In such case, the person returning the shotgun or rifle must immediately notify the Director, Alcohol and Tobacco Tax Division, of the return of the firearm. This notice must show the kind of firearm returned, the serial number, model, and caliber thereof, and the date appearing on registration Form 1 (Firearms), Application for Registration of Firearm. The manufacturer must immediately report the receipt of the shotgun or rifle on Form 2 (Firearms), Return of Firearms Manufactured, Imported or Received. When a new barrel (or barrels) is fitted on a shotgun or rifle returned for that purpose, Form 3 (Firearms), Return of Firearms Transferred or Otherwise Disposed of, showing the disposition made of the old barrel (or barrels), must be filed by the manufacturer with the Director, Alcohol and Tobacco Tax Division.

Accordingly, it is held that transfer tax liability is not incurred where a shotgun or rifle coming within the purview of the National Firearms Act is returned to the manufacturer for conversion into a weapon not coming within the provisions of the Act.

S.T. 787, C.B. XIII-2, 498 (1934), is hereby superseded.