

SECTION 5848.—DEFINITIONS

26 CFR 179.20: Firearm.

Rev. Rul. 61 203

A hand gun of the Luger or semi-automatic Mauser type, as well as the Fiala Arms and Equipment Company, Inc., .22 caliber pistol, with a barrel of less than 16 inches in length is a "firearm," if it has an attached or attachable shoulder stock.

However, where a hand gun of this type has a barrel of 16 inches or more in length, it is not a "firearm" even though such weapon has an attached or attachable shoulder stock.

Advice has been requested whether semi-automatic hand guns, such as Luger and Mauser pistols, and single shot .22 caliber pistols made by the Fiala Arms and Equipment Company, Inc., with attached or attachable shoulder stocks are "firearms" as defined in section 5848(1) of the National Firearms Act (Chapter 53 of the Internal Revenue Code of 1954).

Basically, such types of weapons were originally designed as pistols. However, they are also designed to function as rifles when shoulder stocks are attached.

Section 5848(1) of the National Firearms Act defines the term "firearm" as follows:

The term "firearm" means 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, or any weapon made from a rifle or shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition.

Accordingly, a hand gun of the Luger or semi-automatic Mauser type, as well as the Fiala Arms and Equipment Company, Inc., .22 caliber pistol, with a barrel of less than 16 inches in length, is held to be a "firearm," as that term is defined in section 5848(1) of the Act, if such weapon has an attached or attachable shoulder stock. See also Rev. Rul. 61-45, C.B. 1961-1, 663.

Conversely, where one of the above described pistols has a barrel of 16 inches or more in length, it is held not to be a "firearm," within the definition of section 5848(1) of the Act, even though such weapon has an attached or attachable shoulder stock. With the shoulder stock attached, such weapon is a rifle. When the shoulder stock is detached, such weapon is a pistol and is deemed not to have been made from a rifle.

On the other hand, certain types of weapons are not designed to function as pistols. This category includes semi-automatic weapons with folding shoulder stocks such as the U.S. Carbine, caliber 30,

model MIAI, and the Marble Game Getter Gun. These weapons were originally designed to be fired from the shoulder.

Therefore, any such weapon with a folding shoulder stock is held not to be a "firearm," as that term is defined in section 5848(1) of the Act, if it has either a rifled barrel of 16 inches or more in length or a combination of a rifled bore and smooth bore barrels of 18 inches or more in length. However, if the shoulder stock is removed from such a weapon it will be classified as a "firearm," as that term is defined in section 5848(1) of the Act, if its overall length is less than 26 inches.