

REGULATIONS 88, SECTION 319.12: Firearm.
(Also Federal Firearms Act, Section 1;
Regulations 131, Section 315.2.)

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Section 1(3) of the Federal Firearms Act and section 315.2 of Regulations 131 define a firearm as "any weapon, by whatever name known, which is designed to expel a projectile or projectiles by action of an explosive and a firearm muffler or firearm silencer, or any part or parts of such weapon."

A telescopic sight or riflescope for a firearm is considered in the category of an accessory and not a part of a firearm within the above definition. Therefore, a person may import and sell telescopic sights, or riflescopes, for firearms without obtaining a license to deal in firearms under the Federal Firearms Act. There is no provision of law that imposes an excise tax on the manufacturer, producer, or importer of such product.

Section 2733(a) of the Internal Revenue Code defines a firearm as "a shotgun or rifle having a barrel of less than eighteen inches in length, 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, but does not include any rifle which is within the foregoing provisions solely by reason of the length of its barrel if the caliber of such rifle is .22 or smaller and if its barrel is sixteen inches or more in length."

The X Corporation manufactures a tool powered by blank .22 and .38 cartridges which is used for setting studs or driving anchors into masonry or metal. The tool is manufactured in two sizes, one for light duty and one for heavy duty. It is held that such tool is not a firearm within the definition of the Federal Firearms Act or section 2733(a) of the Internal Revenue Code. Accordingly, a dealer is not required to obtain a license to sell such tool nor is he liable for the special tax imposed by section 3260 of the Internal Revenue Code.