

26 CFR 179.82: Registered manufacturers.

Rev. Rul. 67-306

(Also 179.29, 179.106.)

(Also Sections 5801, 5811, 5812, 5848; 179.45.)

A Class 1 manufacturer may reactivate an unserviceable firearm for the purpose of sale or other disposition without incurring firearms "making" tax liability.

The tax-exempt provisions of the National Firearms Act do not apply to the transfer of an unserviceable firearm by a person who is not a properly qualified manufacturer or dealer to a Class 1 manufacturer who intends to reactivate the firearm for the purpose of sale or other disposition.

Advice has been requested whether a Class 1 manufacturer may alter a firearm from an unserviceable to a serviceable condition for the purpose of sale or other disposition without incurring firearms "making" tax liability.

A Class 1 manufacturer is a person who has paid the special (occupational) tax of \$500 to engage in the business of manufacturing firearms for sale or disposition (sections 5801(a)(1) and 5848(7) of the Internal Revenue Code of 1954). He may make a firearm by any means, whether by manufacture, putting together of parts, alteration, any combination thereof, or otherwise, or by any process of manipulation or transformation of any firearm (26 CFR 179.29). Such manufacturing by a Class 1 manufacturer is exempt from the firearms "making" tax imposed by section 5821(a) of the Code (section 5821(b) of the Code).

An unserviceable firearm is a weapon which is incapable of discharging a shot by means of an explosive and is incapable of being readily restored to a firing condition (26 CFR 179.45). An unserviceable firearm may be transferred as a curiosity or ornament without incurring the transfer tax of \$5 or \$200, whichever is applicable, imposed by section 5811 of the Code (section 5812(a)(3) of the Code). However, before a tax-free transfer of an unserviceable firearm is made, a transferor not properly qualified as a manufacturer or a dealer under the National Firearms Act should satisfy himself of the exempt status of the transferee and the bona fides of the transaction, and if an unwarranted tax-free transfer is made, tax and penal liability may be incurred (26 CFR 179.106).

It has been determined that the reactivation of an unserviceable firearm for the purpose of sale or other disposition comes within the business in which a Class 1 manufacturer may engage without incurring firearms "making" tax liability. It further has been determined that an unserviceable firearm is not transferred to a Class 1 manufacturer as a curiosity or ornament when such manufacturer intends to reactivate the weapon for the purpose of sale or other disposition. Therefore, a Class 1 manufacturer may acquire an unserviceable firearm from a person not properly qualified as a manufacturer or a dealer under the National Firearms Act with the intention of returning the firearm to a serviceable condition for the purpose of sale or other disposition only when the firearm is properly registered to the transferor, and the transfer of the firearm to the Class 1 manufacturer is made in accordance with the taxing provisions contained in section 5811 of the Code.