

Rev. Rul. 56-597

A .38 caliber "pen" gun and a 20 gauge weapon ostensibly designed as tear gas devices, both described herein, are classified as firearms within the purview of the National Firearms Act (Chapter 53 of the Internal Revenue Code of 1954).

Revenue Ruling 55-529, C. B. 1955-2, 482, superseded.

The Internal Revenue Service has had the occasion to examine two tear gas devices for the purpose of determining whether they are firearms within the purview of the National Firearms Act (Chapter 53 of the Internal Revenue Code of 1954).

Two devices ostensibly designed to expel a gas mist but chambered to accommodate fixed shotgun shells or pistol and revolver ammunition were examined and tested by the Internal Revenue Service. A description of each and the results of the tests are as follows:

A .38 caliber "pen" gun, approximately $4\frac{3}{4}$ inches in overall length with a $1\frac{1}{8}$ inch tapered barrel and a slip bolt firing pin, bearing no manufacturer's or patent identification, was test fired using a caliber .38 special CF cartridge with 158 gr. lead bullet of standard make. It was found to perform satisfactorily. No structural damage to the device was evident as a result of the test.

A 20 gauge weapon, $6\frac{5}{8}$ inches in overall length with barrel length of $2\frac{3}{4}$ inches and a slip bolt action encased in the handgrip, was test fired using a 20 gauge $2\frac{1}{4}$ - $\frac{7}{8}$ -8 Xpert shotgun shell of standard make. It also was found to perform satisfactorily and no structural damage to the device was evident as a result of the test. This weapon was accompanied by a removable 410 gauge steel insert chamber, $2\frac{7}{8}$ inches in length, and was also test fired utilizing the supplemental chamber with a 410 gauge, $2\frac{1}{2}$ inch superspeed shotgun shell loaded with No. 4 shot of standard make. It was also found to perform satisfactorily with no structural damage to the device evidenced as a result of the test.

Since the devices are capable of being concealed on the person, they are held to be firearms as defined in sections 5848(1) and 5848(5) of the Internal Revenue Code of 1954.

[ERROR'S NOTE.—This is a complete restatement of Revenue Ruling 55-529, C. B. 1955-2, 482, necessitated by reason of printing errors in paragraphs 3 and 4 thereof. Accordingly, Revenue Ruling 55-529, *supra*, is hereby superseded.]