



# HOT TOPICS FROM THE NSSF HOTLINE

**2023 Firearm Industry  
Compliance Webinar Series**



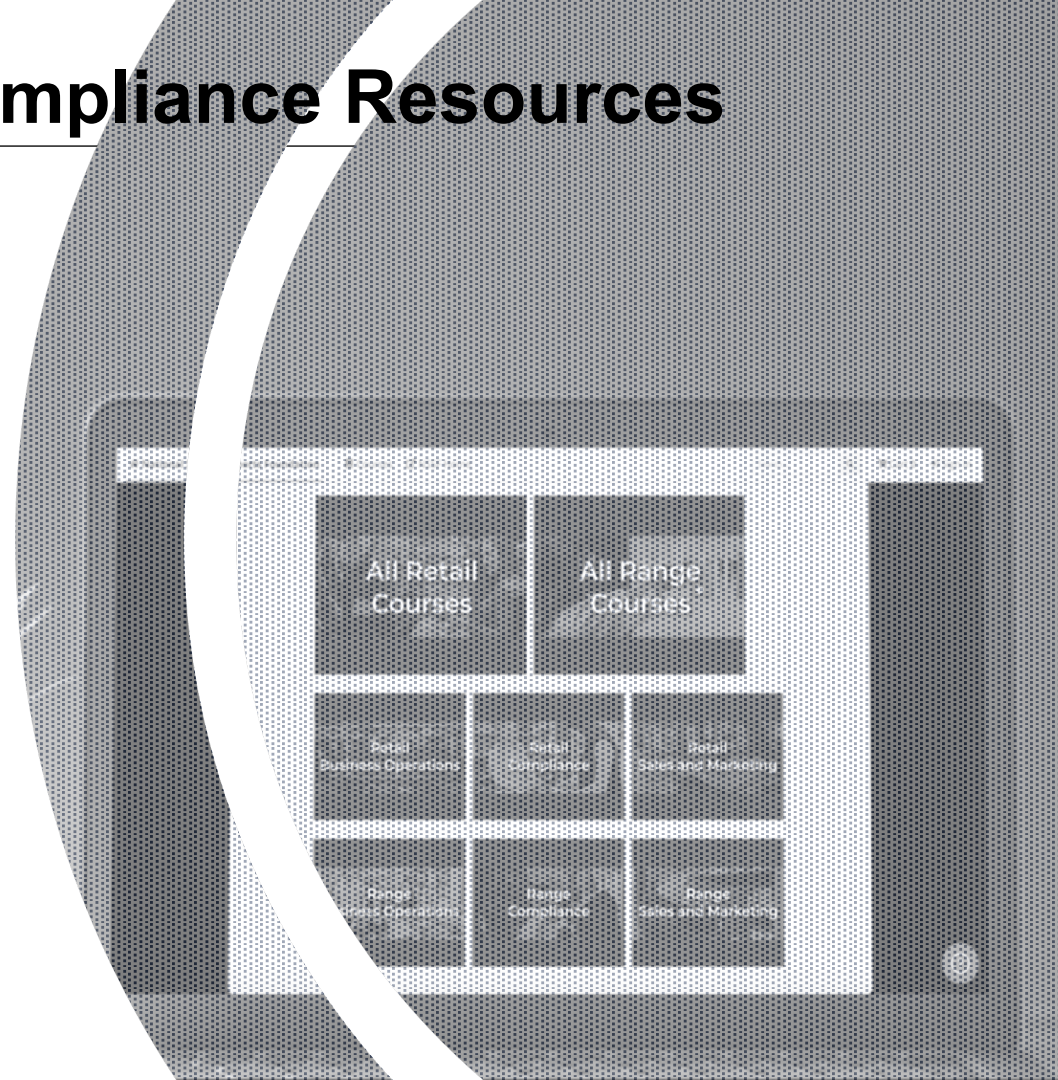
# Additional NSSF Compliance Resources



Industry Compliance courses:

- “Zero Tolerance” Policy
- Winning at ATF Inspections
- Completing the Form 4473
- Multiple Sales Report
- and more

**[NSSF.org/Education](https://www.nssf.org/Education)**



# The NSSF Compliance Hotline

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- NSSF's Retail Member Hotline is a tollfree service that was designed to answer FFLs ATF compliance questions rapidly. Manufacturer and importer FFLs can use it as well
- NSSF has other resources available that can be contacted through the Hotline. NSSF has consultants that can handle California DOJ compliance questions, import/export questions, OSHA and EPA questions and FAET questions.
- The hotline - **855-FFL-NSSF (335-6773)** - will record calls to NSSF headquarters on a 24/7 basis. The goal is to respond to all questions within 24 hours (though calls placed on Saturday may not be addressed until the following Monday).
- Sometimes, questions are complex, and the consultant may have to do research to respond fully.





# HOT TOPICS FROM THE NSSF HOTLINE

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# Today's Program

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- We are going through a list of actual hotline questions. In many cases, the questions are often asked over and over.
- The top line will be the general topic of the question.
- We are going to read the question and then provide our response.
- We are going to start with Form 4473 questions, which constitute the largest share of the questions that come in on the hotline.
- We are going to conclude with types of questions from the Hotline that we cannot fully answer.

# ATF FORM 4473

- Q:** I have Forms 4473 that are started by one employee and after the NICS response is 'delayed' have another employee complete Section E and transfer the firearm. Which employee should sign the form?
- A:** Per ATF the person who transfers the firearm should sign the form. We recommend, as a business practice, that when transferring a firearm after a 'delayed' NICS response, the employee completing the form and handling the transfer should verify the ID document of the customer to make sure it is the same person. Then, whoever last verified the ID will sign the Form 4473.

# ATF FORM 4473

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- Q:** How do I facilitate a transfer of multiple firearms to a Security Company who wants to issue the firearms to their Security Officers?
- A:** When the buyer of a firearm is a corporation or other business entity, they can designate an officer or employee of the company to complete the 4473 on behalf of the company and they must provide a written statement, executed under penalties of perjury, stating the firearm is being acquired for the use of and will be the property of the business entity. The statement must include the company's name and address. This requirement can be found at 27 CFR 478.124(g).



# ATF FORM 4473

**Q:** A customer wanted to buy three firearms, which we listed in Section A of Form 4473. After the NICS check was completed, the customer declined to buy one of the firearms. What do I do on Form 4473?

**A.** You can line out the declined firearm and date and initial the deletion. You should also record happened in block 32. If you are utilizing a computer program that automatically logs out firearms, make sure that the declined firearm is not logged out.

Instructions for Question 10.1

prevent misidentification)

In addition to ethnicity, select one or more race in 10.1

☐ Black or African American

☐ Native Hawaiian or

☐ Indian or Alaska Native

marking "yes" or "no" in the boxes to the right of the firearm(s) listed on this form? Warning: You are not the actual transferor of the firearm(s) if you are not the actual transferor. If you are not the actual transferor, you are picking up a repaired firearm(s) for another person. (See Instructions for Question 11.a.)

in any court for a felony, or any other crime for which the person was convicted or is on probation? (See Instructions for Question 11.b.)

any court of a felony, or any other crime for which the person was convicted or is on probation? (See Instructions for Question 11.c.)

ed a shorter sentence including probation? (See Instructions for Question 11.d.)

or addicted to, marijuana or any depressant, stimulant, or narcotic drug remains unlawful under Federal, state, or local laws or regulations in the state where you reside? (See Instructions for Question 11.e.)

ated as a mental defective OR have you ever been convicted of a crime involving the use of a firearm?

d from the Armed Forces under dishonorable conditions? (See Instructions for Question 11.f.)

rt order restraining you from harassing, stalking, or threatening you or your immediate family member? (See Instructions for Question 11.g.)

onvicted in any court of a misdemeanor crime of domestic violence? (Check/List more than one if applicable. National Firearms Act (N.F.A.) applies to all states.)

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**A: No!** There are many things wrong with this scenario. Transferring a firearm without completing a 4473 or background check

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# ATF FORM 4473

**Q:** What do I do when the address on the customer's DL does not agree with the address they entered on Form 4473?

**A:** The required identification document (DL or State ID) showing photo, name and date of birth may be supplemented by a valid government document, issued to the customer, that has their name and the address shown on Form 4473. Usually this is a DMV registration, car title or a government owned public utility bill.

Remember to record the issuing authority and type of identification in block 26 b of Form 4473.

# ATF FORM 4473

**Q:** If my FFL is held as a Corporation, LLC, or Partnership, as the owner of the Corporation, LLC, or Partnership, do I have to complete an ATF Form 4473 when I buy a firearm for myself?

**A:** Yes, you must complete a 4473 and undergo a background check every time you transfer a firearm to yourself because the license is held by the business, not you as an individual.

- Only sole proprietors are exempt from completing a 4473 or undergoing a background check because the license is in their name.

prevent misidentification)

Instructions for

In addition to ethnicity, select one or more race in 10.1

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☐ Native Hawaiian or

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making or marking "yes" or "no" in the boxes to the rig

the firearm(s) listed on this form? Warning: You are

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? (See Instructions for Question 11.d.)

or addicted to, marijuana or any depressant, stimulant,

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onvicted in any court of a misdemeanor crime of dom

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America (U.S.A.) ☐ Other (Specify)

States citizen

States?

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# ATF FORM 4473

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- Q:** We received a trace request from ATF, and we cannot find the Form 4473 for the transfer. What can we do?
- A:** Advise the ATF NTC that you have been unable to locate the Form 4473, and that will conduct a thorough and diligent search of your premises and make a call to the customer to verify that he did not mistakenly take it with him.

If you still cannot locate it, you must let the NTC know immediately. As best you can, reconstruct the missing Form 4473, identify it as such and attach a statement concerning the loss of the original form. You can submit that to NTC and file the form in your normal 4473 files.

In cases where all of your files of Forms 4473 are missing or stolen, you should promptly notify your local ATF field office of the loss or theft and get guidance on record reconstruction.

# ATF FORM 4473

**Q:** MY customer wants us to explain what a “Fugitive of Justice” means. What should I do?

**A:** If your customer does not understand what constitutes a prohibited person in questions 21.c-l, have them read the definitions that are found in the “Notices, Instructions, and Definitions” section of the ATF Form 4473. If they are still unclear, it is their responsibility to find an answer by contacting the Clerk of Courts or an attorney. Do NOT try to interpret the definition of a prohibited person question for your customer.

# ATF FORM 4473

- Q:** ATF is coming to conduct an inspection. Should we remove copies of drivers' licenses from the 4473s?
- A:** You should not attach copies of DLs or any document that is not required by ATF to the 4473. If ATF sees there are differences between the information on the ID and what was recorded on the 4473, they will cite a violation.
- We recommend you keep copies of DLs and other documents, e.g., e-NICS printouts, in a separate file for your use. If you find a mistake or missing information on a 4473, you can refer to your copies to find the information and make a correction.

prevent misidentification)

Instructions for Question 10.c.

In addition to ethnicity, select one or more race in 10.d.

☐ Black or African American

☐ Native Hawaiian or other Pacific Islander

☐ Indian or Alaska Native

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addicted to, marijuana or any depressant, stimulant, or other controlled substance remains unlawful under Federal or state law for any purpose in the state where you reside or are picking up the firearm(s) for another person. (See Instructions for Question 11.d.)

ated as a mental defective OR have you ever been convicted of a crime involving the use of a firearm? (See Instructions for Question 11.e.)

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# ATF FORM 4473

- Q:** My customers do not understand questions 21.b. and c. on the ATF Form 4473
- A:** Questions 21.b. and c. on the December 2022 version of the 4473 are difficult to understand. ATF revised the December 2022 version and in the new version questions 21.b. and c. are now 21.b. and n. and easier to read and understand. Advise your customer to read the questions very carefully prior to answering. ATF did not provide any definitions for these questions at the back of the form. You must begin using the August 2023 version of the form on 2/1/2024.

Instructions for Question 11.a.)

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in Indian or Alaska Native ☐ Black or African American ☐ Native Hawaiian or Other Pacific Islander ☐

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any court of a felony, or any other crime for which you were sentenced to a term of imprisonment or probation? (See Instructions for Question 11.c.)

or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other substance? (See Instructions for Question 11.d.)

of marijuana remains unlawful under Federal, State, or local laws? (See Instructions for Question 11.e.)

ated as a mental defective OR have you ever been committed to a mental institution? (See Instructions for Question 11.f.)

d from the Armed Forces under dishonorable conditions? (See Instructions for Question 11.g.)

rt order restraining you from harassing, stalking, or threatening another person? (See Instructions for Question 11.h.)

onvicted in any court of a misdemeanor crime of domestic violence? (See Instructions for Question 11.i.)

ship? (Check/List more than one if applicable. National Firearms Act (NFA) (U.S.A.) ☐ Other (See Instructions for Question 11.j.)

States citizen? ☐ Other (See Instructions for Question 11.k.)

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You might be cited for being late, but that is a lot better than being cited for not filing the report at all.

# MULTIPLE HANDGUN SALE REPORTS

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**Q:** What constitutes a day for the purpose of filing ATF Form 3310.4?

**A:** For Form 3310.4, a day is a day that your FFL is open for business. The report is required when you sell or transfer two or more handguns to the same person on the same day or within five consecutive days that your business is open. For example, if you were only open on Saturdays, five consecutive days would be five Saturdays.

Remember that you must file Form 3310.4 on the day the transfer requiring the report occurred.

# ACQUISTION AND DISPOSTION RECORDS

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**Q:** Can I maintain more than one bound book.

**A:** Yes, you are not limited to one bound book, Many FFLs have a separate bound book for pawned firearms and for sale firearms, or for gunsmithing or NFA firearms. FFLs that utilize a computer program for their A&D record can have separate 'tabs' in many systems that allow them to keep separate records for different types of firearms or business activities.

Keep in mind that FFLs using computer programs must have all their firearms records recorded in the computer program. Many times we see gunsmithing records kept on a paper record, when sales records are maintained via a computer program.

# ACQUISITION AND DISPOSITION RECORDS

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**Q:** I have received an integrally suppressed rifle. How should I enter it into my A&D record?

**A:** This firearm is actually two firearms, a silencer and a rifle. Each should be entered on a separate line in the A&D record. The rifle first and then the silencer.



# ACQUISITION AND DISPOSITION RECORDS

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**Q:** I have received firearms from the police department. How do I log them into my A&D record?

**A.** You log them in just like any other firearms. You enter the name and address of the police department on the acquisition side.

# ACQUISITION AND DISPOSITION RECORDS

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**Q:** I took inventory and found three firearms that were not logged into the A&D record. What do I need to do?

**A:** Log the firearms in immediately and use the actual date you received the firearms as the date of acquisition. These firearms will be out of chronological order.

Firearms are supposed to be logged in by the close of business of the next business day. It is possible that you will be cited by ATF for not entering these firearms timely but is much better than ATF discovering unlogged firearms when they take inventory on an inspection.

# PERSONAL FIREARMS

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**Q:** Can I keep personal firearms on my business premises? If so, how should they be kept?

**A:** Generally, corporations and partnerships formed for business purposes cannot possess “personal” firearms.

If an FFL possesses firearms prior to obtaining a license, but intends to sell them in the future, the FFL is required to include the firearms in the records prior to commencing business.

However, as long as the FFL does not intend to sell them, there is no obligation to include them in the records, but they must be kept apart from the business inventory.

Personal firearms should be appropriately identified and tagged  
“NOT FOR SALE”

# REPORTING A THEFT OR LOSS

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**Q:** How do I report the theft or loss of a firearm?

**A:** Must report firearms stolen, missing or lost in transit to ATF and local law enforcement within 48 hours of the discovery.

**Note:** it is the “shippers” responsibility to report a firearm lost in transit.

Complete ATF Form 3310.11, Firearms Theft/Loss Report and submit it to ATF.

Record the incident number ATF provides as the disposition of the firearm in your A&D record.

If the firearm is later found, contact ATF so they can remove the firearm from their “stolen guns” database.

Log the firearm back into the A&D record.

# IDENTIFICATION DOCUMENTS

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**Q:** Customer's DL is marked "Not for Federal Identification." Can the customer acquire a firearm with this ID?

**A:** A DL marked "Not for Federal Identification" is still a valid DL and acceptable for a person to acquire a firearm.

"Not for Federal Identification" refers that the DL does not have the REAL ID enhancements, which include airline travel, visiting a military installation, federal buildings or nuclear sites. Without a REAL ID a person is required to have a passport or other valid documents when flying or visiting federal or nuclear facilities.

# RAFFLES

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**Q:** Can I sell a firearm to an organization who wants to hold a raffle?

**A:** Yes. A licensee can transfer a firearm to the organization sponsoring the raffle. The representative acting on behalf of the organization must complete the ATF Form 4473 and undergo a NICS background check.

When the buyer of a firearm is other than an individual, an officer or other representative authorized to act on behalf of the organization must complete the form with his or her personal information and attach a written statement, executed under penalties of perjury, that the firearm is being acquired for the use of the organization and provide the name and address of the organization.

Once the firearm had been transferred to the organization, the organization can subsequently transfer the firearm to the raffle winner without an ATF Form 4473 being completed or a NICS check being conducted. This is because the organization is not a licensee.

However, the organization cannot transfer the firearm to a person who is not a resident of the organization's state of residence, nor can the organization knowingly transfer the firearm to a prohibited person.



# NFA

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**Q:** I am going out of business, and I possess post-86 machine guns. Can I keep them?

**A:** No. See ATF regulation 27 CFR 479.105 (f). Manufacturers, importers and dealers must, prior to going out of business, transfer any machine gun manufactured or imported after May 19, 1986, to a Federal, State or local governmental entity on an ATF Form 5, along with a bona fide law letter. Or a qualified manufacturer, importer, or dealer who has paid special occupational tax.

# NFA

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**Q:** I have an NFA problem. Could someone call me?

**A:** This FFL changed its legal status and applied and received a new FFL. However, they did not arrange for the transfer of NFA firearms on hand with the old business to new business PRIOR to the old FFL going out of business. So, the FFL was in possession of NFA firearms not registered to it. ATF advised that he had to pay a \$200 transfer tax for each of them to register them with the new FFL or ATF would seize them or he could destroy them. He was advised to contact a firearms attorney for legal guidance as this was a legal issue. Ultimately, he destroyed the NFA firearm.

# NFA

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**Q:** A sole proprietor FFL passed away. His widow obtained her own FFL and now wants help in getting his NFA firearms transferred to her.

**A:** In this case, because the FFL is a sole proprietor (and only because of that), the estate can transfer the NFA weapons to her as a lawful heir on a Form 5 (except post-86 machine guns). She can transfer each of them to the business on a Form 4.

The larger point here for all FFLs is that you need to do estate planning and advise your heirs of what they need to do with the FFL business in the event of your death.

# DIFFICULT QUESTIONS

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- We strive to answer all questions, or at least provide guidance to get you headed in the right direction.
- We are not lawyers, and we cannot answer legal questions; including divorce proceedings, estate laws, zoning ordinances, etc.
- The legality of a sale to an out of state resident is a difficult problem. The firearm must be legal in both states, and it must be legal for the out of state resident to buy a firearm in the state of the FFL and for the FFL to transfer the firearm to a resident of their state. Waiting periods must be observed.
- An excerpt from the GCA is on the next slide, which we will review. You will understand why we always say, if you do not know if the sale is legal DO NOT MAKE IT.

# DIFFICULT QUESTIONS

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- The GCA at 18 U.S.C. 922 (b) (3) provides as follows:
- 922 (b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—
- (3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and **the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States),**

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# QUESTIONS

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## Additional Questions?

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