

GOVERNOR ALLOWS CONTRACTORS TO PERFORM ROOFING WORK

On July 19, 2005, due to the effects of Hurricane Dennis, Florida Governor Jeb Bush signed an Executive Order allowing a wide range of contractors to perform roofing work. Effective immediately, state-licensed general contractors, building contractors, and residential contractors may repair and install roofs made of wood shakes, asphalt shingles, or fiberglass shingles. This Order applies to all counties in the State of Florida, and it expires September 17, 2005. Work not completed by that date will be allowed to finish as long as the permit was pulled prior to September 17th.

Important workers' comp note: If you have workers' comp insurance and you do roofing work under this Order, you will be required to pay the appropriate roofing premium for that part of your payroll applicable to the roofing jobs. The current premium for roofing work is \$37.58 for each \$100 of payroll. Please inform your workers' comp carrier of any roofing jobs you perform. If you are insured with FUBA Workers' Comp, you can call our Policy Services Department at 888-262-4483 to report roofing work.

ATTENTION CONTRACTORS: LEGISLATIVE UPDATE

The Florida Legislature recently approved the following two bills of interest to contractors:

Prompt Pay/Retainage: This bill revises and renames the Florida Prompt Payment Act as the Local Government Prompt Payment Act. The bill also creates the Florida Prompt Payment Act to apply to the state. It provides procedures for payment of

retainage and for settling disputes relating to these acts. Highlights of the new law include:

- Retainage is capped at the traditional 10%.
- The contractor, at 50% completion, is allowed to request release of up to ½ of the retainage that has been held.
- After 50% completion retainage is 5%.
- More than 5% can be held only on a case-by-case basis if the contractor notifies the subcontractor in writing of the reasons for making that determination (based on past performance, etc).
- There is an exception for small cities (population less than 25,000) and small counties (population less than 100,000) who are allowed to hold 10% until project completion.
- Retainage cannot be held to cover insurance premiums under an owner-controlled or contractor-controlled insurance program (also called "OCIP"), and that payment cannot be delayed while the wrap-up insurance carrier or its representative performs a final premium audit for the project.
- The difference between punch list items and warranty items is clarified.
- The new law implements procedures for a "final punch list" and sets time periods for payment within a reasonable time after completion of those items.
- If a contract is for construction of more than 1 building or structure, or if construction involves a multi-phased project, each building or phase must be treated separately for purposes of the punch list, final payment, and release of retainage.
- All payments not made within the applicable time limits bear interest at the rate of 1% per month.
- Contracts cannot prohibit the collection of this interest on late payments.

NO SALES TAX HOLIDAY THIS YEAR

For the second straight year, there will not be a sales tax holiday for back-to-school shoppers. Starting in 1998, the Florida Legislature authorized a tax-free period in late summer during which clothing, footwear, and related items were exempt from sales tax. The last “happy shopper” week was in 2001. Due to budgetary constraints lawmakers were not able to offer the sales tax holiday in 2002 and 2003. Retailers should collect sales tax as usual this July and August.

TAX AMNESTY AVAILABLE THROUGH OCTOBER 31, 2003

Governor Bush and Florida lawmakers have authorized a 4-month tax amnesty period starting July 1, 2003, and running through October 31, 2003. This is a one-time opportunity for taxpayers to voluntarily disclose and pay back taxes with no penalty and reduced interest rates. Amnesty applies to all taxes administered by the state Department of Revenue, except unemployment tax. Taxes included in the amnesty are:

- sales tax
- fuel taxes
- corporate income tax
- gross receipts tax, and
- Florida intangible tax

Amnesty is available to anyone who owes back taxes that were due on or before June 30, 2003. Taxpayers who are under criminal investigation or who have been convicted of violating a revenue law are not eligible to participate in the amnesty program. Also excluded are taxes where the taxpayer has entered into a settlement or payment agreement with the Department of Revenue prior to July 1, 2003.

Even under the amnesty, taxpayers will still owe 100 percent of the tax due. However, taxpayers who take part in the amnesty program will:

- **Pay significantly reduced interest.** Taxpayers who identify a tax liability unknown to the Department of Revenue will be required to pay only half as much interest as they would if DOR found the unpaid tax later. If DOR has already identified the tax liability in a bill, audit, or other assessment, the taxpayer will be eligible for a one-fourth cut in interest charges.

- **Pay no penalty.** Taxpayers will receive a complete waiver of penalty for liabilities disclosed under the amnesty program. Under normal circumstances, penalties can equal up to 50% of the tax due.
- **Reduce the chances of future audits.** Taxpayers who accurately disclose all of their tax liabilities during the amnesty will tend to lower their chances of being audited in the future. However, some amnesty participants would have been audited with or without amnesty.

Taxpayers who owe tax will lose a significant financial advantage if they wait until after the tax amnesty expires on October 31, 2003. After that date, the interest rate will double, from 4% to 8%, and full penalties will be charged. Also, taxpayers who owe tax but fail to take advantage of tax amnesty will be the focus of increased enforcement activity by the Department of Revenue after October 31st. After the amnesty expires, DOR will launch enhanced compliance-enforcement efforts aimed at collecting unpaid taxes in several areas, including:

- sales tax on commercial rentals
- sales and use tax on purchases of business equipment
- purchases from out-of-state vendors for which tax is not paid

For more information on the amnesty program, call Taxpayer Services at 1-800-352-3671 (Florida only) or 850-488-6800 from 8 a.m. to 7 p.m. ET, Monday through Friday. Complete amnesty information is available from the Department of Revenue’s website at www.myflorida.com/dor. You can also take advantage of the amnesty program using the Department’s online file-and-pay system at www.myflorida.com/dor/amnesty/fileandpay. This system will automatically calculate the interest owed on amnesty payments. If you do not want to pay online, you can still use this system to automatically calculate the interest and then pay by check. However, you must know how much tax you owe, and for what periods, before you can take advantage of tax amnesty.