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MILITARY LEAVE RIGHTS FOR EMPLOYEES CALLED TO ACTIVE DUTY

With the recent activation of troops from Florida, it is important for small business owners to understand the federal law governing leave for service members called to duty.

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) guarantees the rights of military service members to take a leave of absence from their civilian jobs for active military service and to return to their jobs with accrued seniority and other employment positions.

Employer Obligations to Employees Requesting Military Leave:

- National Guard and Reserve members are entitled to a leave of absence from their civilian employers for the period necessary to perform military service, whether that service is voluntary or involuntary. They are not required to use their earned personal vacation during the period of service.
- Upon return from active duty, employees are entitled to reinstatement to the position that the employee would have held if his or her continuous employment had not been interrupted.
- Upon return from active duty, employees must be given all seniority, rights and benefits as if the employee had remained continuously employed. Typical benefits include vacation allowances, pension credits and 401(k) contributions. Employees are also entitled to all other rights and benefits that are generally provided to individuals of similar status that are on a leave of absence (if any).

- If military service is 31 days or less, employees must have their medical benefits continued under the same terms and conditions as when actively employed.
- Employees on active leave have protection from firing upon return to work, except for cause, for a period of time depending on the length of military service.
- Persons are not to be discriminated against in hiring, retention in employment, promotions, or other benefits of employment because of past or present military affiliation or obligations, or because they intend to join the military, whether it be active, reserve, or National Guard.

Employee Obligations to Employers:

To be entitled to the above benefits, employees must:

- Give timely notice of their need to perform military service, except as required by military necessity;
- Apply for reemployment within a set time after release from military service. If service is less than 31 days, the individual must normally return to work on the first work day after release from military service. If service lasts between 31 and 180 days, the individual must reapply for work within 14 days after completing military service. If military service lasts more than 180 days, the individual must reapply within 90 days after completion of service;
- Be released from active military service under honorable conditions.

Employers are not required to pay employees while on military leave, and an employer cannot require an employee to use earned vacation time while on leave.

REMINDER: SALES TAX REPORTS AND PAYMENTS DUE ELECTRONICALLY IN JANUARY

Sales Tax: Beginning this month, certain businesses must begin sending in their monthly sales tax reports electronically, as well as making sales tax payments electronically. If your business collected \$30,000 or more in sales tax last year, this new requirement applies to you. Sales tax payments are due the first of each month and are considered late if made by the 20th of the month. If filing electronically, you must initiate the transmission by 5:00 p.m. on the business day prior to your due date. This means that if the 20th is on a Saturday, you must initiate your electronic transmission by the previous Thursday by 5:00 p.m. in order to be considered timely filed. If your submission is late and the circumstances were under your or your bank's control, you may be assessed a late fee. If the circumstances were not under your control, you may be requested to provide proof that you attempted to transfer the funds in a timely manner.

Taxpayers who are required to file tax returns electronically will not receive a coupon book in the mail. If you do not use a computer at your business, you can get a waiver from the electronic reporting, but you still must make payments electronically.

Unemployment Tax: Starting with the first quarter of 2003, you must send your quarterly unemployment tax data (UCT-6 forms) as well as your unemployment tax if your business had 10 or more employees in any quarter from June 30, 2001 to June 30, 2002.

Please note: Due to a computer glitch at the Department of Revenue, approximately 1500 businesses with fewer than 10 employees received a notice saying they will need to file unemployment data electronically. **You only need to file electronically if you have 10 or more employees at any time during the last calendar year.** If you are unsure if the new electronic filing requirements apply to your business, you can call the Department of Revenue at 1-800-482-8293, and they can tell you whether you qualify or not.

No business is required to buy a computer or a modem to comply with this new law. If your business does not have Internet access or does not use a computer with a modem routinely, you are eligible for a waiver from these electronic filing requirements. However, even if you are granted a waiver from filing your tax returns electronically, the law still requires you to remit your tax electronically, through Electronic Funds Transfer. You will need to enroll in EFT by calling the Department of Revenue at 1-800-352-3671.

FUBA has these waiver forms available. If you would like one, please call us at 1-800-262-4483 and ask for Karen or Lance. Also, if you need help complying with these new requirements, please call us.

ATTENTION RESTAURANTS: CHOKING POSTER REQUIRED

Chapter 509.213, Florida Statutes, requires all restaurants in Florida to post a sign that illustrates and describes the Heimlich Maneuver procedure for giving emergency first aid to a choking victim. This notice must be placed in a conspicuous area in the restaurant which is accessible to employees.

Unfortunately, FUBA does not have these posters available. However, the Heimlich Institute, which is a non-profit organization, does offer these posters. For a laminated copy, the cost is a \$21.00 contribution, which is tax-deductible. For a non-laminated copy, the cost is a \$17.00 tax-deductible contribution. A 5% shipping and handling charge is added to each order.

To request a poster, send a check to the Heimlich Institute Foundation, Inc., 311 Straight Street, Cincinnati, OH, 45219. Posters are usually mailed out the next day after receiving the check.

If you have questions about this or any other poster required by law, please call the FUBA offices at 1-800-262-4483 and ask for Karen or Lance.