



FUBA

Florida United Businesses Association

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OUR BUSINESS IS SMALL BUSINESS

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ATTENTION RESIDENTIAL BUILDERS: OSHA HAS A NEW REQUIREMENT FOR FALL PROTECTION

Because falling from a roof continues to be the leading cause of fatalities at residential construction sites, OSHA has announced that residential builders must start using standard fall protection requirements like guardrails, safety nets, and other personal fall arrest systems on all job sites. Contractors will no longer be allowed to use alternative methods of fall protection, like slide guards or safety monitor systems, unless they can demonstrate that the use of standard fall protection is not feasible or would create a greater hazard.

Under this new requirement, residential construction employers must ensure that employees working 6 feet or more above lower levels use guardrails, safety nets, or personal fall arrest systems. Employers must also ensure that each employee who might be exposed to fall hazards has been trained to minimize the risk of falling.

The new requirement applies to all residential construction jobs, defined as:

- The structure being built will be used as a home or dwelling, and
- The structure is being constructed using traditional wood frame construction materials and methods. The limited use of structural steel in a predominantly wood-framed home, such as an I-beam, does not prevent a structure from being considered "residential construction."

This new requirement becomes effective June 16, 2011. Construction and roofing companies will have up to 6 months to fulfill the requirements of the new directive, which requires standard fall protection at each jobsite. For more information on complying with the new law, please visit www.OSHA.gov and click on Compliance Guidance for Residential Construction.

IS YOUR BUSINESS RESPONSIBLE FOR COLLECTING STATE SALES TAX?

In Florida, sales tax applies to the sale, rental, lease or license to use goods, certain services and commercial property in Florida (unless the transaction is exempt). If your business has taxable transactions, you must register with the Department of Revenue.

The sales tax is added to the price of the taxable goods or services and should be collected from the purchaser at the time of sale. For example, sales tax is added as a separate item to the price of:

- Retail goods (new and used).
- Prepared foods and meals.
- Commercial pest control services.
- Non-residential building cleaning services.
- Commercial and residential burglary and security services and detective services.
- Repair or alteration of tangible personal property.
- Sales of prepaid telephone calling cards.
- The rental, lease or license to use commercial property.
- Transient (6 months or less) rental of living or sleeping accommodations such as hotel/motel rooms, condominium units, beach or vacation houses, campground sites, and trailer or RV park accommodations.

Florida's general sales tax rate is 6 percent. In addition, most counties impose a discretionary sales tax, sometimes called a county tax. The 6 percent tax (plus any local county tax) is imposed on each whole dollar of price. When sales fall below or in between whole dollar amounts, Florida law requires businesses to use the bracket system to calculate the tax. Sometimes the amount of tax must be rounded up to the next whole penny of tax when a fraction of a penny of tax is due.

Some businesses think the bracket system applies only when the total amount of the transaction is less

than one dollar – this is not correct. The brackets apply to all taxable transactions that fall between whole dollar amounts.

The Department of Revenue has bracket cards for the state sales tax rate, plus all local county taxes. The link to the tax bracket page is available on our website at www.FUBA.org – Click on the Small Business Alert screen. For more information on the state sales tax, please contact the Department of Revenue at 800-352-3671.

ARE YOU INSURED WITH FUBA WORKERS' COMP?

If your workers' comp insurance policy is with us, we are required by Florida law to do a payroll audit of your policy. For those members whose policies just renewed, premium audits will be conducted in May and June of this year. We know audits are very detailed and sometimes confusing for policyholders, so we have put together some information to help answer any questions you may have.

- Payroll audits are a review of the total payroll during a policy period. Audits also make sure that officers, employees and subcontractors are properly classified.
- Florida law requires us to perform payroll audits on all policyholders. Your workers' comp policy is written based on an estimated premium provided when the policy was bound. During the policy period, your payroll may have increased or decreased. The audit allows us to evaluate the actual payroll and premium for during the policy period.
- The auditor will need to see detailed records to verify your payroll. These records include: payroll records, journals, general ledgers, check stubs, profit/loss statements, overtime records, subcontracting exposure, as well as certificates of insurance or exemptions for all owners, officers and subcontractors used during the policy period.
- If you are in the construction industry and you paid a subcontractor who does not have a valid insurance policy or an exemption, you are responsible for paying the workers' comp premium for him, and that amount will be included as payroll on your policy.
- Even if your company has had no payroll

during the policy period, you still need to comply with the audit and provide any relevant financial documentation.

Special note to policyholders in the construction industry who hire a sub who has an exemption: It has been our experience that, in the construction industry, work done by subcontractors often requires more than one worker to complete the job. If you hire an exempt, one-man sub to do a job and that sub has help from non-exempt workers, your policy will be charged additional premium for those workers, because we as the workers' comp provider will be liable for any workplace injuries for these workers. For this reason, we will closely scrutinize our policyholders in the construction industry who make large payments to exempt individuals.

While we will honor exemptions held by subcontractors, we will also require documentation proving that the exempt sub worked alone. **In cases where the policyholder cannot show the exempt sub worked alone and yet he/she was paid a large amount of money, we are entitled to charge a reasonable premium to cover our liability for this exposure.** If a payment to an exempt sub with no employees exceeds **\$50,000** in a given policy period, it will trigger the need for this additional documentation, which includes:

- A Profit and Loss Statement for the policy period from the exempt subcontractor; and
- A General Ledger for the policy period from the subcontractor, if necessary; and
- If materials were included in payments to a subcontractor, a detailed breakdown of actual labor and material cost.

The easiest way to avoid problems when you pay exempt subs is to communicate with us and your premium auditor as much as possible. We will always work with you to the best of our abilities.

If you have any questions, please call our Audit Department at 888-262-4483.

LEGISLATIVE UPDATE NEXT MONTH

The 2011 Regular Session of Florida's Legislature ended on May 6th. In the June edition of ISSUES, we will provide you with detailed information about new legislation affecting your business.