

NLRB POSTER REQUIREMENT INDEFINITELY POSTPONED

In last month's newsletter, we provided you with a new poster from the National Labor Relations Board (NLRB). The NLRB is an agency of the federal government that oversees employees' rights to form unions in the workplace. This poster, which advises employees of their right to unionize, was scheduled to be a new poster requirement for all private businesses April 30, 2012.

A court in Washington, D.C. has temporarily stopped the NLRB from requiring this new poster, so the new poster requirement will not take effect until this court decision is resolved. Until we receive further notice, you do not have to put up this poster. There is still a chance that, in the future, the poster could be required, but this poster requirement will not take effect April 30th and may never become effective. We will certainly keep you informed if this changes, but for now, please know that you do not have to post the NLRB notice at your workplace.

DO YOU FILE AND PAY YOUR FLORIDA SALES TAX ELECTRONICALLY? IF NOT, YOU WILL LOSE YOUR COLLECTION ALLOWANCE

Under a new Florida law, starting with tax returns and payments due in July 2012, only businesses that file and pay their sales tax electronically can keep a collection allowance. Businesses that are required to collect the state sales tax are allowed under law to keep 2.5% of the amount of tax due as a "collection allowance" intended to compensate them for the work they do in collecting and remitting the tax to the state.

Effective July 1, 2012, businesses that continue to file paper tax returns and/or pay their sales tax to the State by check, cash or money order will not receive this 2.5% credit on their tax return. In June, the Florida Department of Revenue will mail replacement coupon books to all businesses that use coupons to file quarterly and monthly tax returns. If you choose

not to switch to electronic filing and payment, you should use the DR-15 or DR-15EZ payment coupons included in your replacement book.

This change will affect returns and payments due beginning in July 2012 for:

- **Monthly** filers' June 2012 tax returns and payments;
- **Quarterly** filers' April-June 2012 returns and payments; and
- **Semi-annual** filers' January-June 2012 returns and payments.

If you are not already filing and remitting sales tax electronically and you want to continue receiving your collection allowance, you can enroll for the Department of Revenue's e-Services at **DOR.MyFlorida.com**. Under e-Services, click on "Enroll for tax e-Services." Then, you will be able to file and pay your taxes electronically using the Department of Revenue's free online filing application.

ATTENTION CONTRACTORS: FALL PROTECTION REQUIREMENT DELAYED

In 2011, the Occupational Safety & Health Administration (OSHA) issued a new requirement for residential builders to begin using increased fall protection measures like guardrails, safety nets and other personal fall arrest systems on all job sites to provide greater protection for workers on roofs. This requirement has now been delayed until September 15, 2012. For the next 5 months, OSHA will focus on providing voluntary compliance assistance instead of automatically penalizing contractors not using these new fall protection systems. Requests from residential construction businesses for assistance with fall protection will be OSHA's highest priority for on-site visits.

At a minimum, residential contractors should be already complying with the old OSHA requirements for fall protection that requires alternative fall protection methods like slide guards or safety monitor systems for any person working six feet or more above lower levels.

For contractors complying with the old OSHA requirement on fall protection but who have not yet instituted the new fall protection methods (guardrails, safety nets, or personal fall arrest systems), this six-month extension means that if you receive a visit to your jobsite from OSHA:

- You can receive a good faith reduction in OSHA penalties of up to 10%. In assessing penalties, OSHA will examine whether the employer is making good faith attempts to comply with the new fall protection standard, such as requesting an on-site visit from OSHA or ordering fall protection for employees. The good faith reduction will not apply if a fatality or serious injury results from a fall during residential construction activities; and
- You will have at least 30 days to correct any fall protection violations OSHA identifies during the site visit.

Residential contractors not comply with either the old or new fall protection requirements will be penalized. For more information on these requirements, please go to **[OSHA.gov/stopfalls](https://www.osha.gov/stopfalls)**.

ARE YOU INSURED THROUGH FUBA WORKERS' COMP?

If your workers' comp insurance policy is through us, we are required by Florida law to do a payroll audit of your policy. For those members whose policies renewed in April, 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 workers' compensation insurance policy or an exemption from workers' compensation coverage, 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 subcontractor with 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 your workers' compensation carrier can 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 you 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
- A detailed breakdown of actual labor and materials cost, if materials were included in your payments to the subcontractor.

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 are one of our policyholders and have any questions, please call our Audit Department at 888-262-4483.