FUBA issues
Legislative News Affecting Florida Employers

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ATTENTION CORPORATIONS AND LLC'S: DID YOU FILE YOUR ANNUAL REPORT THIS YEAR?

Every corporation ("INC") and limited liability company ("LLC") in the state of Florida must **annually** update their information on file with the Division of Corporations. You do this by filing an Annual Report each year. This Annual Report is simply the way you tell the State of Florida if there are any changes to your company's information, like a new address, new owners/officers, etc. [If your company's officers want to get an exemption from workers' comp insurance, they must be listed as an officer of your company on the Division of Corporation's website before the State will grant them an exemption.]

There is a fee you have to pay when you file this form. It is $150 if you are a corporation and $50 if you are an LLC.

This Annual Report was due back to the state by May 1st. If your business is a corporation or an LLC and you did not file this form, you are in jeopardy of losing your corporate or LLC status. **In mid-September, the Division of Corporations is going to dissolve those corporations and LLC's who have not yet returned their Annual Reports.**

If your corporation or LLC is dissolved by the state, you will have to pay a large penalty to have it reinstated. The fee to reinstate a corporation is $600 plus the $150 owed for the late Annual Report, for a total of $750. The fee to reinstate an LLC is $175 plus $50 for the late Annual Report, for a total of $225.

If you did not get a postcard from the Department of State telling you that your Annual Report was due, you may be able to have the late fees waived. You need to call the Division of Corporations at 850-245-6056 (press 4) and tell them you did not receive notice about your Annual Report.

If you have not yet filed your Annual Report, there is no time to delay. **If your company is dissolved by the state, you and your company's officers will lose your workers' compensation exemptions.**

NEW LAWS ADDRESS UNEMPLOYMENT TAX EVASION

Florida lawmakers have adopted new rules to crack down on strategies that reduce unemployment tax through schemes known as "State Unemployment Tax Act dumping" (also called "SUTA dumping").

Most states have recognized the problems and the loss of state unemployment compensation taxes associated with SUTA dumping. Most frequently, SUTA dumping involves company mergers, acquisitions, or restructuring schemes, especially those that shift workforce or payroll. The legality of these schemes varies, depending on state laws. Under Florida's new law, tax evasions using certain SUTA dumping strategies may now be subject to serious sanctions, including criminal prosecution.

In an effort to assist states, the U.S. Department of Labor recently notified all states of a federal law change that will affect the Unemployment Compensation program. Congress has adopted the "SUTA Dumping Prevention Act of 2004" which is intended to prohibit the following two methods of SUTA dumping:

- An employer escapes a high unemployment tax rate (brought on by a poor unemployment history) by setting up a new shell company and then transferring some or all of its workforce (and the accompanying payroll) to the shell company after the shell has earned a low unemployment tax rate. The transferred payroll is then taxed as the shell company's lower tax rate.
- An entity purchases an existing small business with a low unemployment compensation tax rate. Instead of being assigned the higher unemployment tax rate for new businesses, the entity receives the lower rate assigned to the existing small business. Typically, the new business does not perform the business activity of the purchased small business and instead commences a totally different type of business activity.

The new law:

- Prohibits the transfer of the unemployment experience/tax rate of an acquired business when a determination is made that a person, who is not an employer liable for contributions, acquired the business primarily for the purpose of obtaining a lower unemployment tax rate than the initial rate assigned to new businesses.
- Requires a new business to be assigned the new employer tax rate.
- Imposes penalties on any person who knowingly violates or attempts to violate the state unemployment compensation law related to determining the assignment of a tax rate.
- Makes it a third degree felony to establish a fictitious employing unit by submitting fraudulent records relating to the business, including tax and wage reports.

ROOFING UPDATE

As we told you in last month's newsletter, Governor Bush issued an Executive Order on July 19, 2005, that allows state-licensed contractors to perform certain roofing repair and installation work. The Governor issued this Order in response to Hurricane Dennis, and it applies in all Florida counties. However, this Order was only good for 90 days, and it expires September 17th, so no new roofing work can be started after that date. Any work not completed by September 17th under a permit issued prior may be finished after the 17th.

ATTENTION CONTRACTORS: GRANDFATHERING APPLICATION PERIOD EXTENDED

A bill passed during this year's legislative session extends the grandfathering application period for locally registered contractors to become state certified. The new deadline is November 1, 2005. Applications must be postmarked by that date to be considered.

Contractors with a local license in the following areas are eligible for grandfathering: General; Building; Residential; Roofing; Air Conditioning Class A, B or C; Mechanical; Plumbing; Sheet Metal; Commercial Pool/Spa; Residential Pool/Spa; Swimming Pool/Spa Servicing; Underground Utility; Pollutant Storage Systems; or Solar.

To be state-certified, you must be able to demonstrate the following:

- You have passed a written exam that the Licensing Board finds is substantially similar to the exam required to be licensed as a certified contractor.
- You have at least 5 years of experience as a registered contractor in your contracting category, or as a licensed inspector or building administrator with oversight over that category. Any length of time spent on probation will not count toward the 5 years. If you do not have 5 years of experience by November 1, 2004, you will not qualify to grandfather your license. However, your registered license will remain valid.
- You have not had your contractor's license revoked at any time, suspended within the last 5 years, or been assessed a fine more than $500 within the last 5 years.
- You are in compliance with the insurance and financial responsibility requirements in the law.

Applications are available on the Construction Industry Licensing Board's website at www.myflorida.com/dbpr/pro/cilb/cilb_index.shtml. Or, you can call the FUBA offices at 1-800-262-4483 and ask for Karen or Lance.