



Important Notice

This notice supersedes Notice N-98-16 sent to you in January 1999. Please disregard the earlier notice.

New Filing Requirements for Construction Employers

Workers' compensation reform legislation enacted in 1998 (Chapter 135 of the Laws of 1998) imposes new filing requirements on construction employers. The legislation:

- requires that construction employers file the new return quarterly. The new return is to be filed with such employers' *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return* (Form NYS-45). Construction employers must begin collecting data for the calendar quarter commencing October 1, 1999. The due date for the initial construction employer return is **February 28, 2000**.
- requires construction employers to report, for each of three geographic locations within New York State, aggregate information concerning the number of employees during the quarter, the total hours worked by such employees during the quarter, the total gross wages paid to such employees each week during the quarter and the total annual gross wages subject to withholding paid to such employees;
- exempts construction employers from filing to the extent they are involved in the construction of one- or two- family homes. Construction employers involved exclusively in the construction of one- or two- family homes need not file the new return;
- provides that construction employees need not be included on the new return to the extent they engage in the construction of one- or two- family homes. If such employees engage in the construction of both one- or two- family homes and other types of structures, only the other construction activities must be reported. Further, only employees engaged in actual construction activities must be reported. Other employees, such as those providing accounting, secretarial or clerical services, need not be reported; and
- authorizes matching of the information reported to the Department with similar information reported to workers' compensation insurance carriers to ensure that construction employers receive the experience ratings to which they are entitled under the legislation.

The penalty for failure to file the *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return* (Form NYS-45) or any portion thereof, including the new construction employer return, is equal to the greater of \$1000 or the product of \$50 multiplied by the number of employees shown on the last quarterly return, or if no such return has been filed, the number of employees estimated by the Department from any information in its possession. The maximum penalty for any such failure cannot exceed \$10,000 (§ 685 (v) (1) (A) of the Tax Law).

A draft copy of new Form NYS-45-CC, *Quarterly Supplemental Return for Construction Employers*, and its instructions and Publication 57, *Questions and Answers for Construction Employers*, are enclosed with this notice.