



Indiana Department of Revenue

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General Tax Information Bulletin #104

Subject: Dishonored Check Penalty Provisions

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References: IC 6-8.1-10-5

Replaces Bulletin #104, dated December 2019

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Summary of Changes

Apart from technical, nonsubstantive changes, this bulletin has been changed to include a new introduction section and to note that the penalty has changed from a 10% penalty to a \$35 penalty.

Introduction

The purpose of this bulletin is to provide guidance regarding the dishonored check penalty provision, which the department may impose when the Indiana Department of Revenue cannot obtain payment from a taxpayer's payment instrument for the full amount of the attempted payment.

Application of the Dishonored Check Penalty Provision

The dishonored check penalty provision applies to payment instruments, such as those made by check, credit card, debit card, electronic funds transfer, or any other instrument in payment by any commercially allowable means. If a taxpayer makes a payment by such a payment instrument, and the department is unable to obtain payment on the instrument for its full face amount when the payment is presented through normal banking channels, a penalty of \$35 is imposed not more than 30 days after the department was unable to obtain payment.

However, if the department determines that the person made a payment fraudulently or otherwise knowing that the department would be unable to obtain payment on the payment instrument for

the full amount of the attempted payment when the payment instrument is presented for payment through normal banking channels, the penalty is equal to 100% of the amount on which the department was unable to obtain payment, but not less than \$35. A 100% penalty assessment shall be made not more than three years after the department was unable to obtain payment. The 100% penalty shall not be made in addition to the \$35 penalty. However, the department is not prohibited from issuing a 100% penalty regarding a payment after a \$35 penalty was issued if it is discovered after the issuance of the \$35 penalty that the payment was made fraudulently. Further, if a 100% penalty is reduced to \$35, the department may issue a new assessment for the penalty within 30 days after the final determination of the penalty reduction.

When the \$35 penalty is imposed, the department shall notify the taxpayer by mail that the instrument was not honored and that the taxpayer has 20 days after the date the notice is mailed to pay the tax and penalty by cash, certified check, or other guaranteed payment. If the taxpayer fails to make the \$35 payment within the 20-day period, the department may file a tax warrant for the unpaid portion of the penalty in the manner provided under IC 6-8.1-8-2.

If a person receives a 100% penalty, the penalty shall be treated as a proposed assessment as provided in IC 6-8.1-5-1. However, if the person pays the 100% penalty and files a claim for refund of the penalty, notwithstanding IC 6-8.1-9-1, the payment of the penalty shall not be refunded unless the person protested the penalty pursuant to IC 6-8.1-5-1 in a timely manner.

If the taxpayer can show reasonable cause for the payment instrument not being honored, the department may waive the penalty. However, if the department determines that the penalty shall not be waived, including reducing the 100% penalty to \$35, the determination is not subject to administrative or judicial review. On the other hand, nothing shall prohibit judicial review of a penalty in cases where the penalty was imposed on a payment instrument upon which the department was actually able to collect the full amount of the payment instrument upon presentation of the payment through the normal banking channels.

If a person has been subject to either the \$35 or 100% penalty more than one time during a 24 month period, or has been subject to a \$35 penalty that has not been reduced or waived, the department may require all future payments remitted by the taxpayer to be remitted with guaranteed funds.

If you have any questions concerning this bulletin, please contact the Tax Policy Division at taxpolicy@dor.in.gov.



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