

COMMISSIONER'S DIRECTIVE #37

SEPTEMBER 2009

(Replaces Commissioner's Directive #37 dated October 2008)

DISCLAIMER: Commissioner's directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Dishonored Check Penalty Provisions

EFFECTIVE DATE: July 1, 2009

REFERENCES: IC 6-8.1-10-5 and HEA 1001-2009(ss) SECTION 259

HEA 1001-2009(ss) amended IC 6-8.1-10-5 to provide that if a payment made to the Department cannot be collected in full by the Department, and if the person is assessed a 100 percent bad check penalty, the Department may require all future payments remitted by the taxpayer to be remitted with guaranteed funds.

The dishonored check provision includes payments made by check, credit cards, debit cards, or electronic funds transfer. If a taxpayer makes a payment by check, credit card, debit card, or electronic funds transfer and the Department is unable to obtain payment on the check, credit card, debit card, or electronic funds transfer for its full face amount when the payment is presented through normal banking channels, a penalty of 10 percent is imposed based on the unpaid tax or value of the instrument, whichever is smaller.

When the 10 percent penalty is imposed, the Department shall notify the taxpayer by mail that the instrument was not honored and that the taxpayer has 10 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 payment within the 10-day period, the penalty is increased to 100 percent multiplied by the face value of the check, credit card, debit card, or electronic funds transfer.

If the taxpayer can show reasonable cause for the check, credit card, debit card, or electronic funds transfer not being honored, the Department may waive the penalty.

A handwritten signature in black ink that reads "John Eckart". The signature is written in a cursive style with a large, looping initial "J".

John Eckart
Commissioner