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DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0013P
Gross Income Tax
Fiscal Years Ended 03/31/93, 03/31/94, and 03/31/95

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, incorporated in Delaware, is a manufacturer of constant velocity universal joints for automobiles. Taxpayer's sales are substantially made to companies under common ownership within its group of companies, both American and Foreign. The taxpayer has one manufacturing facility located in Indiana.

An audit completed on August 14, 1998 assessed low rate gross income tax for sales where title to the product was transferred within Indiana.

Taxpayer protests the penalty and states it erroneously reported the sales to destinations outside of Indiana; the error was inadvertent, reasonable, and not attributable to a lack of good faith reporting by the taxpayer.

ISSUE

I. **Tax Administration** –Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for failure to report low rate income from sales made in Indiana.

Taxpayer states, the error was inadvertent and reasonable and at the time the taxpayer submitted the information required to complete its tax returns, certain sales which were ordered by an out-of-state (Illinois) customer for delivery to the customer's Indiana purchasers were inadvertently attributed to the state in which the orders arose. Taxpayer states the misallocations were due to reasonable error, and were not attempts by the taxpayer to avoid Indiana taxes.

The Indiana Code and Regulations are clear regarding sales receipts that are subject to gross income tax at the low rate. Taxpayer did not pick up any sales receipts as being subject to Indiana Gross Income Tax. The taxpayer has not demonstrated reasonable cause for failing to report Indiana income.

FINDING

Taxpayer's protest is denied.