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DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0157P
Withholding Tax
November 30, 1997

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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 protests the penalty assessed for the late filing of its WH-1 for the tax period ending November 1997. Taxpayer requested a hearing but did not call nor attend the hearing scheduled for Thursday, March 25, 1999. The department makes its decision based upon information contained in the file, taxpayer's protest letter dated February 28, 1998, and taxpayer's accountant's letter received by the Department on April 8, 1998. Taxpayer states it has been timely with its deposits for many years and in its early history a couple deposits were filed late due to a public accountant's negligence in processing the payroll. The Company changed accountants and implemented procedures to overcome these problems. Further the company had no intentions to delay the payment of its payroll deposits. The oversight was due to reasons explained in the office manager's letter dated February 28, 1998.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in timely filing its WH-1 return.

Taxpayer failed to mail its WH-1 return timely for November 1997.

Taxpayer requests that the penalty be abated due to reasonable cause. An oversight in processing payment is not considered reasonable cause. Taxpayer's statement, that it was their intent to pay tax on a timely basis, does not relieve it of the penalty assessed. In addition, taxpayer had other late payments on record since 1990.

FINDING

Taxpayer's protest is denied.