

DEPARTMENT OF STATE REVENUE

04-20070459P.LOF

Letter of Findings Number: 07-0459P
Sales Tax-Penalty
For the Period June 2007

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ISSUE**I. Tax Administration–Penalty.**

Authority: IC § 6-8.1-10-5.

Taxpayer protests the imposition of the ten percent penalty for remitting a dishonored check.

STATEMENT OF FACTS

Taxpayer was assessed a ten-percent penalty for issuing a check that was subsequently dishonored. The Indiana Department of Revenue ("Department") had issued a one-hundred percent penalty; however, that penalty was issued in error and the Department cancelled that penalty, but not the previously-issued ten-percent penalty. Taxpayer protested the imposition of the ten-percent penalty.

The Department sent correspondence dated February 12, 2008, with respect to additional evidence supporting penalty waiver. Taxpayer did not reply to the Department's letter. Due to Taxpayer's failure to reply, this Letter of Findings is written based on the information in Taxpayer's protest file and other Department records relating to Taxpayer.

I. Tax Administration–Penalty.**DISCUSSION**

Taxpayer protests the imposition of a penalty for issuing a subsequently-dishonored check.

Under IC § 6-8.1-10-5, a person who issues a check upon which the Department is unable to obtain payment—in whole or in part—is subject to penalties based on the amount upon which the Department is unable to collect. IC § 6-8.1-10-5 (a) provides for a ten-percent penalty. Under IC § 6-8.1-10-5 (b), the Department is required to then give the person ten days in which to pay the tax and penalty, or the penalty increases to one hundred percent. However, the penalties can be waived upon a showing of reasonable cause.

Taxpayer asserts that the tax data was submitted eight days prior to the due date, "but the flow of transactions at taxpayer's bank was such that the funds were insufficient at the point of attempted application." However, Taxpayer does not address the reasonableness of its lack of funds during the period in which the attempted payment was outstanding. Taxpayer has not provided any other legal or factual grounds upon which penalty waiver should be granted.

FINDING

Taxpayer's protest is denied.

Posted: 07/02/2008 by Legislative Services Agency

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