

**Letter of Findings Number: 08-0139P  
Sales Tax-Penalty  
For the Period October 2007**

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**ISSUE**

**I. Tax Administration–Penalty.**

**Authority:** IC § 6-8.1-10-5.

Taxpayer protests the imposition of the one-hundred 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") later issued a one-hundred percent penalty for the dishonored check. Taxpayer protested the imposition of the penalty. Additional facts will be supplied as necessary.

**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 a customer dishonored a check prior to sales tax payment in question. Taxpayer asserts that, because the customer dishonored its check, Taxpayer in turn had insufficient funds to pay the sales tax in question. Taxpayer has provided documentation to substantiate the chain reaction it asserted. But for the chain reaction asserted by Taxpayer, Taxpayer's check would have been paid in the normal course of business. Due to the unforeseen nature of the events leading to Taxpayer's dishonored check, Taxpayer has provided sufficient information to justify penalty waiver.

**FINDING**

Taxpayer's protest is sustained.

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