

## DEPARTMENT OF STATE REVENUE

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**Letter of Findings Number: 08-0429P  
Withholding Tax-Penalty  
For the Period 2006**

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

**Authority:** IC § 6-8.1-10-6; [45 IAC 15-11-2](#).

Taxpayer protests the imposition of the penalty for late filing of information returns.

**STATEMENT OF FACTS**

Taxpayer is a corporation doing business in Indiana. Taxpayer filed its employees' W-2 forms after the due date for filing such returns. Taxpayer was assessed a \$10 penalty per each W-2 form filed after the due date. Taxpayer protested the imposition of the penalty.

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

Taxpayer protests the imposition of the penalty on Taxpayer's failure to timely file forms W-2 on behalf of its employees. This penalty was imposed pursuant to IC § 6-8.1-10-6, which provides for a ten dollar (\$10) penalty for each information return submitted late. A form W-2 is an information return within the scope of the statute.

Taxpayer protests that it did not receive the required tax forms in the mail. Department records confirm an incorrect address listed for Taxpayer during this period. Furthermore, Taxpayer's actions—based on a different filing deadline for an affiliated corporation—indicate that it acted with reasonable care under [45 IAC 15-11-2](#) for the period in question. However, Taxpayer is reminded of the statutory deadlines for filing and remitting withholding tax returns.

**FINDING**

Taxpayer's protest is sustained on the penalty assessment.

*Posted: 02/18/2009 by Legislative Services Agency*

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