

## DEPARTMENT OF STATE REVENUE

03-20080503P.LOF

**Letter of Findings Number: 08-0503P**  
**Sales Tax-Penalty**  
**For the Periods September 2007 and October 2007**

**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 It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register.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**

**I. Tax Administration—Penalty.**

**Authority:** IC § 6-8.1-10-5; IC § 6-8.1-10-1.

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 an electronic 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 argues that it used an erroneous routing number in submitting its payment to the Department. Taxpayer asserted that it used the routing number for its regular checking account and that it later discovered that it should have used a separate routing number for electronic funds transfers. Taxpayer has provided sufficient information to establish reasonable cause for the dishonored payment.

Taxpayer further protests interest on its October 2007 sales tax payment. Taxpayer has provided sufficient information to conclude that it made the payment prior to the November 20, 2007, statutory deadline, and therefore interest was not due pursuant to IC § 6-8.1-10-1.

**FINDING**

Taxpayer's protest is sustained.

*Posted: 03/25/2009 by Legislative Services Agency*

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