

**Letter of Findings Number: 09-0357P  
Individual Income Tax-Penalty  
For the Year 2007**

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**ISSUE**

**I. Tax Administration—Estimated Tax Penalty.**

**Authority:** I.R.C. § 6654; IC § 6-3-4-4.1; IC § 6-8.1-10-2.1; [45 IAC 15-11-2](#).

Taxpayers protest the imposition of the ten percent penalty for failure to make sufficient estimated tax payments during the year in question.

**STATEMENT OF FACTS**

Taxpayers are a married couple filing a joint return and are hereinafter simply referred to as "Taxpayer." Taxpayer filed an individual income tax return for the year in question and paid the total Indiana income tax liability prior to April 15 of the next year. However, the Indiana Department of Revenue ("Department") determined that Taxpayer had not paid sufficient estimated taxes required for the year in question. The Department assessed a ten-percent penalty based on the insufficient estimated tax payments. Taxpayer protested the penalty.

**I. Tax Administration—Estimated Tax Penalty.**

**DISCUSSION**

Taxpayer protests the imposition of the ten percent penalty on Taxpayer's failure to make sufficient estimated tax payments as required pursuant to IC § 6-3-4-4.1, which provides for a ten-percent penalty for failure to make sufficient estimated payments during the tax year.

Under IC § 6-3-4-4.1(a) and (b), a taxpayer was required to make estimated payments equal to a percentage of the current year's Indiana income tax liability or the prior year's Indiana income tax liability if the taxpayer determines that the taxpayer's tax liability not otherwise paid by withholding was greater than \$400 (effective for taxable years beginning after December 15, 2007, the amount was increased to \$1,000). The percentage requirements for the minimum estimated tax payments are set forth in I.R.C. § 6654(d)(1)(B). The estimated tax payments must be made in four installments, on the dates specified by I.R.C. § 6654(c). Failure to make sufficient estimated tax payments is subject to a ten (10) percent penalty in the amount of the underpayment.

For purposes of this Letter of Findings, it is assumed that estimated tax penalties can be waived under IC § 6-8.1-10-2.1(d) and [45 IAC 15-11-2](#). However, penalty waiver under IC § 6-8.1-10-2.1(d) and [45 IAC 15-11-2](#) requires a showing on the part of Taxpayer that Taxpayer acted with ordinary business care with regard to the taxpayer's failure to pay the appropriate taxes.

With regard to the tax year in question, Taxpayer knew the previous year's Indiana income tax liability. Taxpayer could have made estimated payments throughout the tax year, even if the current year's Indiana income tax liability was unknown. By making estimated payments based on the previous year's Indiana income tax liability—a number known to Taxpayer—Taxpayer would not have been subject to the penalty in question. Taxpayer has not provided a reason for the failure to make estimated payments based on the prior year's Indiana income tax liability, and thus Taxpayer has not established reasonable care that could permit potential penalty waiver.

**FINDING**

Taxpayer's protest is denied.

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