

Letter of Findings: 09-0510P
Corporate Income Tax
For the Year 2006

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ISSUE

I. Tax Administration – Estimated Tax Penalty.

Authority: IC § 6-3-4-4.1.

Taxpayer protests the imposition of the estimated tax penalty.

STATEMENT OF FACTS

Taxpayer is an out-of-state company conducting business in Indiana. Taxpayer properly remitted to the Indiana Department of Revenue ("Department") estimated tax for its Indiana 2005 Corporation Income Tax. Subsequently, Taxpayer amended its 2005 return (first 2005 amended return), claiming an Economic Development for a Growing Economy (EDGE) credit. Sometime after Taxpayer filed the first 2005 amended return, the Internal Revenue Service ("IRS") made an adjustment on Taxpayer's 2005 taxable income ("RAR"), resulting in an increase of Taxpayer's tax liabilities. Taxpayer subsequently filed another Indiana 2005 amended return (second 2005 amended return) with the Department reporting the RAR changes. Taxpayer's estimated tax for the following year, 2006, became insufficient after the filing of the second 2005 amended return. The Department assessed Taxpayer an estimated tax penalty for the underpayment of estimated tax in 2006.

Taxpayer protests the imposition of the estimated tax penalty. Taxpayer requested that the Department make its determination based on the documentation Taxpayer submitted and the Department's record. Additional facts will be provided as necessary.

I. Tax Administration – Estimated Tax Penalty.

DISCUSSION

The Department assessed Taxpayer estimated tax penalty for failure to remit sufficient estimated tax for 2006. Taxpayer protests the imposition of the underpayment of estimated tax penalty. Taxpayer claimed that it met the statutory requirement either based on the calculation of the original return filing or the calculation of the amended returns filings.

IC § 6-3-4-4.1, in relevant part, provides:

(c) Every corporation subject to the adjusted gross income tax liability imposed by this article shall be required to report and pay an estimated tax equal to the lesser of:

- (1) twenty-five percent (25 [percent]) of such corporation's estimated adjusted gross income tax liability for the taxable year; or
- (2) the annualized income installment calculated in the manner provided by Section 6655(e) of the Internal Revenue Code as applied to the corporation's liability for adjusted gross income tax.

A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated adjusted gross income tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year that does not end on December 31, the due dates for filing estimated adjusted gross income tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year. The department shall prescribe the manner and forms for such reporting and payment.

(d) The penalty prescribed by [IC 6-8.1-10-2.1\(b\)](#) shall be assessed by the department on corporations failing to make payments as required in subsection (c) or (f). However, no penalty shall be assessed as to any estimated payments of adjusted gross income tax which equal or exceed:

- (1) the annualized income installment calculated under subsection (c); or
- (2) twenty-five percent (25 [percent]) of the final tax liability for the taxpayer's previous taxable year.

In addition, the penalty as to any underpayment of tax on an estimated return shall only be assessed on the difference between the actual amount paid by the corporation on such estimated return and twenty-five percent (25 [percent]) of the corporation's final adjusted gross income tax liability for such taxable year.

Taxpayer has provided sufficient documentation showing that its payment of the estimated tax for the 2006 tax year met the statutory requirement. Taxpayer's protest is sustained.

FINDING

Taxpayer's protest on the imposition of estimated tax penalty is sustained.

Posted: 11/25/2009 by Legislative Services Agency

