

**Letter of Findings Number: 10-0401P**  
**Partnership Income Tax-Penalty**  
**For the Tax Year Ending September 30, 2008**

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**ISSUE**

**I. Tax Administration–Penalty.**

**Authority:** IC § 6-8.1-6-1; IC § 6-8.1-10-2.1.

Taxpayer protests the imposition of the penalty for failure to file a partnership income tax return.

**STATEMENT OF FACTS**

Taxpayer is a partnership. For the fiscal year ending September 30, 2008, Taxpayer filed an extension for its federal partnership return. On May 9, 2009, Taxpayer filed its 2008 partnership return. Taxpayer was assessed a penalty for late filing of the return, which Taxpayer protested.

**I. Tax Administration–Penalty.**

**DISCUSSION**

Taxpayer protests the imposition of a \$250 per year penalty for failure to file a partnership tax return in a timely manner. The return showed no liability; however, the return was filed after the due date for the return.

IC § 6-8.1-10-2.1(g) provides:

A person who fails to file a return for a listed tax that shows no tax liability for a taxable year, other than an information return (as defined in section 6 of this chapter), on or before the due date of the return shall pay a penalty of ten dollars (\$10) for each day that the return is past due, up to a maximum of two hundred fifty dollars (\$250).

IC § 6-8.1-6-1(c) provides:

If the Internal Revenue Service allows a person an extension on his federal income tax return, the corresponding due dates for the person's Indiana income tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days. However, the person must pay at least ninety percent (90[percent]) of the Indiana income tax that is reasonably expected to be due on the original due date by that due date, or he may be subject to the penalties imposed for failure to pay the tax.

In Taxpayer's case, the federal extension extended the due date of the federal partnership tax return from December 15, 2008, to May 15, 2009. Thus, for Indiana, the due date for the partnership tax return was extended to June 15, 2009—30 days after the federal extended deadline. Taxpayer filed its return prior to June 15, 2009, and thus filed the return in a timely manner. Because the tax return was filed in a timely manner, the penalty under IC § 6-8.1-10-2.1(g) should not have been assessed.

**FINDING**

Taxpayer's protest is sustained.

*Posted: 12/22/2010 by Legislative Services Agency*

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