

DEPARTMENT OF STATE REVENUE

04-20100566P.LOF
04-20100567P.LOF
04-20100568P.LOF
04-20100569P.LOF
04-20100573P.LOF

Letters of Findings Number: 10-0566P; 10-0567P; 10-0568P; 10-0569P; 10-0573P

**Sales Tax-Penalty
For the Period July 2010**

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 It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register.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 ten-percent penalty for remitting a dishonored payment.

STATEMENT OF FACTS

Taxpayer was assessed a ten-percent penalty for issuing a payment that was subsequently dishonored. The Indiana Department of Revenue ("Department") later issued a ten percent penalty for the dishonored check. Taxpayer protested the imposition of the penalty and interest on the payment. Additional facts will be supplied as necessary.

I. Tax Administration–Penalty.

DISCUSSION

Taxpayer protests the imposition of a penalty for issuing a subsequently-dishonored payment.

Under IC § 6-8.1-10-5, a person who issues a check or other payment draft 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 changed checking accounts prior to the July 2010 payment. Taxpayer erroneously used the old checking account for its monthly tax payments rather than the new account. The new account contained sufficient funds for payment of the taxes due. Taxpayer has provided sufficient information to establish reasonable cause for the dishonored payment, and thus the penalty is waived.

Taxpayer further protests interest on the tax payments. While the penalty is waived, IC § 6-8.1-10-1 provides for interest for any tax payment made after the due date for such payments. Under IC § 6-8.1-10-1(e), interest cannot be waived.

FINDING

Taxpayer's protest is sustained with regard to the penalty and denied with regard to the interest.

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