

**Letter of Findings Number: 02-20100611P
Corporate Income Tax-Penalty
For the Fiscal Year Ending April 30, 2009**

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ISSUE

I. Tax Administration—Estimated Tax Penalty.

Authority: IC § 6-3-4-4.1; I.R.C. § 6655.

Taxpayer protests the imposition of the ten percent penalty for failure to make sufficient estimated tax payments during the tax year.

STATEMENT OF FACTS

Taxpayer is a C corporation operating in Indiana. For tax year 2008, Taxpayer reported a corporate income tax liability of roughly \$123,000. For tax year 2008, Taxpayer made a third quarter estimated payment of \$134,000. Prior to the statutory deadline for payments for the 2008 tax year, Taxpayer made another payment sufficient to satisfy its 2008 Indiana income tax liability, which was reported at \$1,261,000 and later adjusted to \$1,468,500.

Taxpayer reported a 2009 Indiana tax liability of \$1,503,000; however, its 2009 estimated payments totaled \$1,172,600. The Indiana Department of Revenue ("Department") assessed a penalty for failure to make sufficient quarterly estimated tax payments for the first two quarters of 2008 and a late payment penalty for 2009. Taxpayer protested the penalty assessments.

I. Tax Administration—Estimated Tax Penalty.

DISCUSSION

Taxpayer protests the imposition of the ten percent penalty imposed because of Taxpayer's failure to make sufficient estimated tax payments as required pursuant to IC § 6-3-4-4.1(d).

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

(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 asserts that it used an annualization method for computing its estimated tax liabilities. Taxpayer provided a federal calculation representing an annualization computation. Taxpayer provided sufficient information to conclude that an annualized computation allowable under I.R.C. § 6655(e) was proper.

Based on the use of the annualization method under I.R.C. § 6655(e), Taxpayer made estimated tax payments during each quarter of the 2009 fiscal year sufficient to meet the minimum amount required under IC § 6-3-4-4.1. Thus, Taxpayer's protest is sustained with regard to the estimated tax penalty imposed for 2009.

FINDING

Taxpayer's protest is sustained.

Posted: 02/23/2011 by Legislative Services Agency

