

**Letter of Findings Number: 02-20110006**  
**Corporate Income Tax-Penalty**  
**For the Fiscal Year Ending June 30, 2008**

**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 It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register.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—Estimated Tax Penalty.**

**Authority:** IC § 6-3-4-4.1.

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 2007, Taxpayer reported a corporate income tax liability of roughly \$148,000. For tax year 2008, Taxpayer made two estimated tax payments, one of \$13,600 for the first quarter and one of \$42,600 for the second quarter. Taxpayer's 2008 tax year ended on June 30, 2008.

Taxpayer acknowledges the penalty for the first quarter of 2008. However, for the second quarter, the Indiana Department of Revenue ("Department") imposed an estimated tax penalty, which Taxpayer protested.

**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 argues that its second quarter 2008 payment should be based on twenty-five percent of its 2007 liability rather than fifty percent of the 2007 liability. In other words, Taxpayer asserts that the estimated payment for each quarter should be \$37,000 rather than \$74,000.

IC § 6-3-4-4.1(d) states that, in order to avoid the penalty for estimated tax payments, a timely estimated tax payment of twenty-five percent of the previous year's liability—in this case, a \$37,000 payment—is sufficient to avoid the statutory penalty. Taxpayer's second quarter payment was in excess of the required \$37,000. Thus, based on Taxpayer's payment being in excess of the minimum amount required by statute, Taxpayer has provided sufficient information to conclude that its estimated tax penalty for the second quarter of 2008 should be abated.

**FINDING**

Taxpayer's protest of the estimated tax penalty imposed for the second quarter of 2008 is sustained.

*Posted: 04/27/2011 by Legislative Services Agency*

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