

**Letter of Findings Number: 02-20110087P**  
**Corporate Income Tax-Penalty**  
**For the Fiscal Year Ending March 31, 2009**

**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 It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register.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; 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 ending March 31, 2008, Taxpayer reported a corporate income tax liability. For tax year ending March 31, 2009, Taxpayer made no estimated tax payments.

Taxpayer reported its 2009 Indiana tax liability of \$540,000. The Indiana Department of Revenue ("Department") assessed a penalty for failure to make sufficient quarterly estimated tax payments for each quarter in the 2009 tax year. Taxpayer protested the penalty assessments for the first three quarters of the 2009 tax year; for the fourth quarter of the 2009 tax year, Taxpayer appears to have acknowledged that a penalty was proper for that quarter.

**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 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 for the first three quarters of the 2009 tax 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 the first three quarters of the 2009 tax year, and thus the penalty should be reduced to \$14,290.63.

**FINDING**

Taxpayer's protest is sustained.

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