

**Letter of Findings Number: 03-20140086
Tax Administration
For Tax Year 2012**

NOTICE: IC §6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded by the publication of another document in the Indiana Register.

ISSUE

I. Tax Administration—Penalty and Interest.

Authority: IC § 6-8.1-10-1; IC § 6-8.1-10-2.1; [45 IAC 15-11-2](#).

Taxpayer protests the imposition of a penalty and interest.

STATEMENT OF FACTS

Taxpayer is a corporation. The Indiana Department of Revenue ("Department") determined that Taxpayer had not timely remitted withholding tax for the tax year 2012. The Department imposed a penalty and interest, which Taxpayer protests. An administrative hearing was held, and the following Letter of Findings results. Further facts will be supplied as necessary.

I. Tax Administration—Penalty and Interest.

DISCUSSION

The Department imposed a penalty and interest for the 2012 tax year for failure to remit withholding tax. Taxpayer protests the imposition of the penalty and interest.

A taxpayer who fails to pay outstanding taxes "is subject to a penalty." IC § 6-8.1-10-2.1(a). The Department shall waive the penalty if the taxpayer demonstrates that the failure to pay the outstanding taxes "was due to reasonable cause and not due to willful neglect." IC § 6-8.1-10-2.1(d); see also [45 IAC 15-11-2](#). The taxpayer may demonstrate reasonable cause by showing affirmatively that it used "ordinary business care and prudence" in not paying the outstanding taxes. Whether a taxpayer demonstrates reasonable cause for penalty purposes is a fact-sensitive question and determined on a case-by-case basis. [45 IAC 15-11-2](#)(b) and (c).

In this case, Taxpayer demonstrated that it had a reasonable cause for its failure to pay the proper amount of withholding tax for the 2012 tax year. Consequently the penalty is waived.

The Department may waive interest only in particular cases. IC § 6-8.1-10-1(e). This is not one of those cases; therefore the interest cannot be waived.

FINDING

Taxpayer's protest is sustained regarding the penalty and denied regarding the interest.

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