

**REPORT OF THE AUDIT OF THE  
BREATHITT COUNTY  
SHERIFF'S SETTLEMENT - 2016 TAXES**

**For The Period  
April 16, 2016 Through April 17, 2017**



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**MIKE HARMON**  
**AUDITOR OF PUBLIC ACCOUNTS**

To the People of Kentucky

The Honorable Matthew G. Bevin, Governor  
William M. Landrum III, Secretary  
Finance and Administration Cabinet  
The Honorable John Lester Smith, Breathitt County Judge/Executive  
The Honorable Ray Clemons, Breathitt County Sheriff  
Members of the Breathitt County Fiscal Court

Independent Auditor's Report

**Report on the Financial Statement**

We have audited the Breathitt County Sheriff's Settlement - 2016 Taxes for the period April 16, 2016 through April 17, 2017 - Regulatory Basis, and the related notes to the financial statement.

**Management's Responsibility for the Financial Statement**

Management is responsible for the preparation and fair presentation of the financial statement in accordance with accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting as described in Note 1. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of a financial statement that is free from material misstatement, whether due to fraud or error.

**Auditor's Responsibility**

Our responsibility is to express an opinion on the financial statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and the *Audit Guide for Sheriff's Tax Settlements*, issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



To the People of Kentucky

The Honorable Matthew G. Bevin, Governor

William M. Landrum III, Secretary

Finance and Administration Cabinet

The Honorable John Lester Smith, Breathitt County Judge/Executive

The Honorable Ray Clemons, Breathitt County Sheriff

Members of the Breathitt County Fiscal Court

### **Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles**

As described in Note 1 of the financial statement, the financial statement is prepared by the Breathitt County Sheriff on the basis of accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

The effects on the financial statement of the variances between the regulatory basis of accounting described in Note 1 and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

### **Adverse Opinion on U.S. Generally Accepted Accounting Principles**

In our opinion, because of the significance of the matter discussed in the Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles paragraph, the financial statement referred to above does not present fairly, in accordance with accounting principles generally accepted in the United States of America, the taxes charged, credited, and paid of the Breathitt County Sheriff, for the period April 16, 2016 through April 17, 2017.

### **Opinion on Regulatory Basis of Accounting**

In our opinion, the financial statement referred to above presents fairly, in all material respects, the taxes charged, credited, and paid for the period April 16, 2016 through April 17, 2017 of the Breathitt County Sheriff, in accordance with the basis of accounting practices prescribed or permitted by the Commonwealth of Kentucky as described in Note 1.

### **Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated January 11, 2018, on our consideration of the Breathitt County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the sheriff's internal control over financial reporting and compliance.

Based on the results of our audit, we have presented the accompanying Schedule of Findings and Responses, included herein, which discusses the following report comments:

- 2016-001 The Sheriff's Office Did Not Have Adequate Segregation Of Duties
- 2016-002 The Sheriff Has A Deficit Of \$313 In His 2009 Tax Account

Respectfully submitted,



Mike Harmon  
Auditor of Public Accounts

January 11, 2018

BREATHITT COUNTY  
RAY CLEMONS, SHERIFF  
SHERIFF'S SETTLEMENT - 2016 TAXES

For The Period April 16, 2016 Through April 17, 2017

<u>Charges</u>	<u>County Taxes</u>	<u>Special Taxing Districts</u>	<u>School Taxes</u>	<u>State Taxes</u>
Real Estate	\$ 345,806	\$ 1,078,447	\$ 1,359,522	\$ 357,529
Tangible Personal Property	57,177	181,048	143,176	127,700
Fire Protection	5,080			
Increases Through Exonerations	10	32	44	10
Franchise Taxes	71,230	229,442	229,902	
Additional Billings	4,354	13,576	18,920	4,500
Oil Property Taxes	379	1,182	1,647	392
Gas Property Taxes	3,877	12,089	16,853	4,008
Bank Franchises	33,319			
Penalties	1,982	6,116	7,761	2,071
Adjusted to Sheriff's Receipt	(165)	(21)	3	(20)
Gross Chargeable to Sheriff	<u>523,049</u>	<u>1,521,911</u>	<u>1,777,828</u>	<u>496,190</u>
 <u>Credits</u>				
Exonerations	3,420	10,611	13,396	3,531
Discounts	6,590	18,342	21,473	6,462
Delinquents:				
Real Estate	52,178	161,049	211,405	53,391
Tangible Personal Property	9,797	31,021	19,042	42,676
Franchise Taxes	1,583	5,830	5,980	
Total Credits	<u>73,568</u>	<u>226,853</u>	<u>271,296</u>	<u>106,060</u>
Taxes Collected	449,481	1,295,058	1,506,532	390,130
Less: Commissions *	19,103	55,040	45,196	16,581
Taxes Due	430,378	1,240,018	1,461,336	373,549
Taxes Paid	430,271	1,239,647	1,460,266	373,311
Refunds (Current and Prior Year)	198	601	623	216
Due Districts (Refunds Due Sheriff) as of Completion of Audit	<u>\$ (91)</u>	<u>\$ (230)</u>	<u>\$ 447</u>	<u>\$ 22</u>
		**		

\* and \*\* See next page.

The accompanying notes are an integral part of this financial statement.

BREATHITT COUNTY  
RAY CLEMONS, SHERIFF  
SHERIFF'S SETTLEMENT - 2016 TAXES  
For The Period April 16, 2016 Through April 17, 2017  
(Continued)

\* Commissions:

4.25% on	\$	2,134,669
3% on	\$	1,506,532

\*\* Special Taxing Districts:

Library District	\$	(89)
Health District		(67)
Extension District		(47)
Soil Conservation		<u>(27)</u>
(Refunds Due Sheriff)	\$	<u>(230)</u>



BREATHITT COUNTY  
NOTES TO FINANCIAL STATEMENT

April 17, 2017

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

The sheriff's office tax collection duties are limited to acting as an agent for assessed property owners and taxing districts. A fund is used to account for the collection and distribution of taxes. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

B. Basis of Accounting

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a special purpose framework. Basis of accounting refers to when charges, credits, and taxes paid are reported in the settlement statement. It relates to the timing of measurements regardless of the measurement focus.

Charges are sources of revenue which are recognized in the tax period in which they become available and measurable. Credits are reductions of revenue which are recognized when there is proper authorization. Taxes paid are uses of revenue which are recognized when distributions are made to the taxing districts and others.

C. Cash and Investments

KRS 66.480 authorizes the sheriff's office to invest in obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

Note 2. Deposits

The Breathitt County Sheriff maintained deposits of public funds with depository institutions insured by the FDIC as required by KRS 66.480(1)(d). According to KRS 41.240, the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the sheriff's deposits may not be returned. The sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 66.480(1)(d) and KRS 41.240. As of April 17, 2017, all deposits were covered by FDIC insurance or a properly executed collateral security agreement. However, as of December 6, 2016, public funds were exposed to custodial credit risk because the bank did not adequately collateralize the sheriff's deposits in accordance with the security agreement.

- Uncollateralized and Uninsured                      \$331,712

BREATHITT COUNTY  
 NOTES TO FINANCIAL STATEMENT  
 April 17, 2017  
 (Continued)

Note 3. Tax Collection Period

A. Property Taxes

The real and personal property tax assessments were levied as of January 1, 2016. Property taxes were billed to finance governmental services for the fiscal year ended June 30, 2017. Liens are effective when the tax bills become delinquent. The collection period for these assessments was October 12, 2016 through April 17, 2017.

B. Oil and Gas Property Taxes

The oil and gas property tax assessments were levied as of January 1, 2016. Property taxes are billed to finance governmental services. Liens are effective when the tax bills become delinquent. The collection period for these assessments was November 16, 2016 through May 17, 2017.

C. Franchise Taxes

The franchise tax assessments were levied by the Department of Revenue for various tax years. Property taxes are billed to finance governmental services. Liens are effective when the tax bills become delinquent. The collection period for these assessments was April 16, 2016 through April 17, 2017.

Note 4. Interest Income

The Breathitt County Sheriff earned \$409 as interest income on 2016 taxes. As of January 11, 2018, the sheriff owed \$24 in interest to the school district and \$78 in interest to his fee account.

Note 5. Sheriff's 10% Add-On Fee

The Breathitt County Sheriff collected \$14,714 of 10% add-on fees allowed by KRS 134.119(7). This amount was used to operate the sheriff's office

Note 6. Unrefundable Duplicate Payments And Unexplained Receipts

The sheriff deposited unrefundable duplicate payments and unexplained receipts in an interest-bearing account. The sheriff's escrowed amounts were as follows:

2014	\$287
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KRS 393.090 states that if the funds have not been claimed after three years, they are presumed abandoned. Abandoned funds are required to be sent to the Kentucky State Treasurer pursuant to KRS 393.110 and its accompanying regulations.

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND  
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL  
STATEMENT PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

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**MIKE HARMON**  
**AUDITOR OF PUBLIC ACCOUNTS**

The Honorable John Lester Smith, Breathitt County Judge/Executive  
The Honorable Ray Clemons, Breathitt County Sheriff  
Members of the Breathitt County Fiscal Court

Report On Internal Control Over Financial Reporting And On  
Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With *Government Auditing Standards*

Independent Auditor's Report

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Breathitt County Sheriff's Settlement - 2016 Taxes for the period April 16, 2016 through April 17, 2017 - Regulatory Basis and the related notes to the financial statement and have issued our report thereon dated January 11, 2018. The Breathitt County Sheriff's financial statement is prepared on a regulatory basis of accounting, which demonstrates compliance with the Commonwealth of Kentucky's regulatory basis of accounting and budget laws, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

**Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statement, we considered the Breathitt County Sheriff's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Breathitt County Sheriff's internal control. Accordingly, we do not express an opinion on the effectiveness of the Breathitt County Sheriff's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying Schedule of Findings and Responses, we identified a certain deficiency in internal control that we consider to be a material weakness.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statement will not be prevented, or detected and corrected on a timely basis. We consider the deficiency described in the accompanying Schedule of Findings and Responses as item 2016-001 to be a material weakness.



Report On Internal Control Over Financial Reporting And On  
Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With *Government Auditing Standards*  
(Continued)

**Compliance And Other Matters**

As part of obtaining reasonable assurance about whether the Breathitt County Sheriff's financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matters that is required to be reported under *Government Auditing Standards* and which is described in the accompanying Schedule of Findings and Responses as item 2016-002.

**Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Harmon", with a long horizontal flourish extending to the right.

Mike Harmon  
Auditor of Public Accounts

January 11, 2018

SCHEDULE OF FINDINGS AND RESPONSES

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BREATHITT COUNTY  
RAY CLEMONS, SHERIFF  
SCHEDULE OF FINDINGS AND RESPONSES

For The Period April 16, 2016 Through April 17, 2017

INTERNAL CONTROL - MATERIAL WEAKNESS:

2016-001 The Sheriff's Office Did Not Have Adequate Segregation Of Duties

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The sheriff's office lacks adequate segregation of duties due to the responsibilities of receiving, recording, depositing, disbursing, and reconciling funds being delegated to the same individual. This is a repeat finding and was included in the prior year audit report as finding 2015-001.

The sheriff's bookkeeper receives payments for taxes, records receipts, prepares deposits, prepares checks for payments, records disbursements, prepares monthly tax reports, and completes monthly bank reconciliations. The sheriff is aware of the risk associated with inadequate segregation of duties. However, due to a small staff size and budget constraints, the sheriff has decided to accept these risks and has not implemented compensating controls to offset this weakness.

Since only one person performs all the accounting functions, there is no assurance that financial transactions are accurate, complete, and free of error/misstatement. A lack of adequate segregation of duties increases the risk of undetected misappropriation of funds, misstatements, errors, and fraud.

Good internal controls require the duties of receiving, recording, depositing, disbursing, and reconciling to be separated when possible. If, due to a small staff size, these duties cannot be separated, the official should provide strong oversight and implement compensating controls to decrease the risk associated with inadequate segregation of duties.

We recommend the sheriff segregate the duties of receiving, recording, depositing, disbursing, and reconciling tax funds or implement and document compensating controls to offset this control deficiency. Examples of compensating controls include: the sheriff comparing the daily checkout sheet to the receipts ledger and bank deposit, reviewing bank reconciliations for accuracy, performing surprise cash counts, and reviewing all financial reports. The sheriff should document his review process by initialing reports and supporting documentation.

*Sheriff's Response: The sheriff did not provide a response.*

STATE LAWS AND REGULATIONS:

2016-002 The Sheriff Has A Deficit Of \$313 In His 2009 Tax Account

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The sheriff has a deficit of \$313 in his 2009 tax account because the sheriff still owes tax distributions from that year to the extension taxing district. The sheriff must deposit personal funds to cover the deficit. This is a repeat finding and was included in the prior year audit report as finding 2015-002.

The sheriff has failed to take corrective action regarding this deficit for several years. The taxing district has been deprived of much needed resources for a significant time period.

KRS 134.192 requires the sheriff to "annually settle his or her accounts with the department, the county, and any district for which the sheriff collects taxes on or before September 1 of each year."

We recommend the sheriff take corrective action to settle and close the 2009 tax account immediately. We will refer this matter to the Breathitt County Attorney to pursue collection.

*Sheriff's Response: The sheriff did not provide a response.*