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Harmon Releases Audit of Breckinridge County Sheriff's Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2015 taxes for Breckinridge County Sheriff Todd Pate. State law requires the auditor to annually audit the accounts of each county sheriff. In compliance with this law, the auditor issues two sheriff's reports each year: one reporting on the audit of the sheriff's tax account, and the other reporting on the audit of the fee account used to operate the office.

Auditing standards require the auditor's letter to communicate whether the sheriff's settlement presents fairly the taxes charged, credited and paid in accordance with accounting principles generally accepted in the United States of America. The sheriff's settlement is prepared on the regulatory basis, which is described in the auditor's opinion letter. Regulatory basis reporting for the sheriff's settlement is an acceptable reporting methodology, and this reporting methodology is followed for all 120 sheriff settlements in Kentucky.

Our report presents a modified opinion because the Breckinridge County Sheriff did not maintain sufficient accounting records for subscription fees for volunteer fire departments. Because sufficient accounting records were not maintained to support exonerated subscription fees, the tax settlement financial information presented for the volunteer fire departments, including exonerations, total credits, taxes due, taxes collected and amounts due districts cannot be determined to be reasonably accurate. In all other respects, the sheriff's financial statement is fairly presented in accordance with the regulatory basis of accounting for the period April 16, 2015 through April 15, 2016 in conformity with the regulatory basis of accounting.

As part of the audit process, the auditor must comment on non-compliance with laws, regulations, contracts and grants. The auditor must also comment on material weaknesses involving the internal control over financial operations and reporting.

The audit contains the following comments:

The sheriff did not have sufficient policies and procedures or internal controls over fire dues exonerations processing. According to a fiscal court ordinance, taxpayers can choose not to pay fire dues subscriber fees (fire dues) by completing a Notice of Subscriber Fee Non Payment form and providing the completed form to the sheriff when they pay their tax bill each year. The form should be completed and maintained on file by the sheriff to support the fire dues that are exonerated or removed from tax bills.

For the 2015 tax collection period, the sheriff included \$240,480 on his settlement as fire dues that were exonerated. There should have been a properly completed form on file for each \$40 fire due, or approximately 6,012 forms. The sheriff's staff said they did not require each taxpayer to fill out a form and if the bill payment was short by \$40, they assumed the taxpayer was "opting out." Furthermore, many of the forms were incomplete, with some having an illegible signature. Because of this, sufficient audit evidence could not be obtained to determine whether \$240,480 in fire dues were legitimately exonerated. The auditor was also told that any person in the sheriff's office that accepts tax payments could exonerate or remove \$40 from a bill without secondary or supervisory approval. This lack of internal controls leaves \$240,480 at increased risk of fraud or material error. Because of this increased risk, the lack of internal controls, and lack of documentation, audit procedures could not be performed on these exonerations and auditors could not determine whether the financial statement was free from fraud or material errors.

The sheriff has not implemented policies and procedures or internal controls over the exoneration process, leaving a material amount of money susceptible to fraud or material errors. Good internal controls require clear policies and procedures to address the process and documentation of exonerating any part of a tax bill. The process of exonerating a bill should be documented and should be limited to only certain personnel.

We recommend the sheriff implement sufficient internal controls to ensure accurate processing of fire dues exonerations. The sheriff should develop standardized policies and procedures for staff to follow, including:

- Maintaining properly completed opt out forms for each taxpayer;
- Documenting the forms in an orderly, consistent manner to provide an audit trail;
- Limiting the ability to exonerate to only certain personnel; and
- Periodic reviewing or spot-checking exonerations against opt out forms.

Sheriff's Response: Policies have been implemented to correct the deficiencies. Had the 2014 Audit comments been made available to us prior to the 2015 tax collection period, I feel that we could have made the proper changes and avoided these comments in this audit.

Auditor Reply: It is the sheriff's responsibility to implement sufficient policies and procedures and internal controls for his tax settlement process regardless of when audit findings are presented.

The sheriff did not adequately segregate duties or provide sufficient oversight to ensure an accurate tax settlement process for tax year 2015. During tax year 2015, the bookkeeper accepted tax payments, recorded taxes paid, prepared the daily deposit, prepared monthly tax reports, prepared monthly disbursements checks, and co-signed monthly disbursements checks. There was no documented review or approval by another individual to provide evidence of oversight. There were also numerous errors noted in the settlement, including:

- The incorrect tangible multiplier rate was used for the county on five franchise bills. There were various other tangible tax calculation errors for the remaining taxing districts on the same five franchise bills.
- Commissions were calculated incorrectly for the February and March oil tax reports for the library and the March oil tax report for soil conservation.
- The bank did not provide backs of cancelled checks.
- There was not a documented reconciliation of the tax account to the tax bank accounts.

The sheriff has not provided sufficient oversight of the tax settlement process to ensure all taxes collected are recorded and disbursed accurately. Most of the errors could have been prevented or detected if the sheriff had developed standard policies and procedures for the tax settlement process based on requirements documented in state statutes and the *Property Tax Duties of the Sheriff's Office* manual provided by the Office of Property Valuation. The lack of oversight could result in misappropriation of assets and inaccurate financial reporting to external agencies such as the Department of Revenue and taxing districts. Undetected errors or fraud could also occur. Proper segregation of duties over receipts and disbursements is essential for providing protection of asset misappropriation and inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities. Good internal controls dictate that management be sufficiently involved in the day to day operations to ensure internal controls are in place and working to prevent and detect errors or fraud. Policies and procedures should be developed to identify and address routine tax settlement issues.

We recommend the sheriff become sufficiently familiar with the tax settlement processing to be able to identify areas where policies and procedures are lacking and where internal controls should be strengthened. The sheriff should ensure sufficient records are maintained and that staff responsible for this activity understand the complexities of the tax settlement process. The sheriff should seek additional training or guidance if necessary. We also recommend the following compensating controls be implemented to offset the lack of segregation of duties:

- The sheriff should require an employee that does not accept tax payments to prepare the bank reconciliation. The sheriff should compare the bank reconciliation to the balance in the checkbook and any differences should be reconciled. The sheriff should document his oversight by initialing the bank reconciliation and the balance in the checkbook.
- The sheriff should compare total tax collections per the monthly reports to the total of the monthly disbursement checks. Any discrepancies should be resolved and the review should be documented by initialing and dating the monthly reports.

Sheriff's response: Policies have been implemented to correct the deficiencies. Had the 2014 Audit comments been made available to us prior to the 2015 tax collection period, I feel that we could have made the proper changes and avoided these comments in this audit.

Auditor reply: It is the sheriff's responsibility to implement sufficient policies and procedures and internal controls for his tax settlement process regardless of when audit findings are presented.

The sheriff did not have sufficient internal controls or policies and procedures in place for reconciling and settling the tax account. We reviewed the sheriff's tax settlement and bank statements and noted the following control deficiencies:

- Credit card payments deposited into the bank account were not tracked, posted timely to the tax accounting system, or reconciled regularly to ensure all payments were posted accurately.
- The bookkeeper did not document her monthly reconciliations of the 2015 tax account, franchise account, and money market bank accounts.
- There are funds in the 2015 tax account from prior tax years.

The sheriff's office does not have policies and procedures in place to ensure all receipts are accounted for by reconciling the bank statements and credit card payments monthly to the tax accounting system. Without these policies and procedures, the risk of misstatements in reconciling of receipts and disbursements significantly increases due to error or fraud.

KRS 68.210 gives the State Local Finance Officer the authority to prescribe a uniform system of accounts. County officials are provided guidelines for minimum accounting and reporting standards for the county receipts in the *County Budget Preparation and State Local Finance Officer Policy Manual*. Those standards include monthly bank reconciliations.

Strong internal controls and proper accounting procedures dictate that all receipts and disbursements should be accounted for, maintained with supporting documentation, and reconciled to the bank accounts. A sheriff's tax settlement account should balance to zero every year, as all funds received are paid out to districts or to the sheriff's fee account in the form of commissions, penalties, and interest. Monthly bank reconciliations are essential to detect any errors made the previous month, payments not posted to the tax accounting system, or credit card payment issues.

We recommend the sheriff implement the following procedures:

- Credit card payments should be processed timely, tracked, reconciled, and accurately maintained with supporting documentation.
- All monthly reconciliations of bank accounts to the tax accounting system should be documented.
- Tax collections should be maintained separately for each tax year.

Sheriff's response: Policies have been implemented to correct the deficiencies. Had the 2014 Audit comments been made available to us prior to the 2015 tax collection period, I feel that we could have made the proper changes and avoided these comments in this audit.

Auditor reply: It is the sheriff's responsibility to implement sufficient policies and procedures and internal controls for his tax settlement process regardless of when audit findings are presented.

The sheriff did not follow the minimum requirements for handling public funds in the 2015 tax settlement. The following control deficiencies were noted:

- Taxpayer overages are put into a petty cash drawer and used for stamps for the sheriff's office or if another taxpayer's payment is short.
- Cash and check totals per daily tax collection reports do not always agree to cash and check totals on the bank deposit tickets.

The sheriff's office does not follow procedures to ensure all receipts are accounted for by balancing cash and checks collected to the accounting system and deposit tickets to the ledger. Without appropriate policies and procedures, the risk of misstatements in reporting of tax receipts significantly increases due to error or fraud. The risk of receipts being collected and not deposited also increases.

KRS 68.210 gives the State Local Finance Officer the authority to prescribe a uniform system of accounts. The Department for Local Government (DLG) *County Budget Preparation & State Local Finance Officer Policy Manual* requires daily deposits intact into a federally insured banking institution. Additionally, adequate internal controls over deposits and cash receipts are essential to providing protection from asset misappropriation, and helping prevent inaccurate financial reporting. We recommend the sheriff comply with DLG's requirements and implement procedures to ensure deposits are made intact daily, and cash and checks per the daily tax collection reports agree to the bank deposit tickets.

Sheriff's response: Policies have been implemented to correct the deficiencies. Had the 2014 Audit comments been made available to us prior to the 2015 tax collection period, I feel that we could have made the proper changes and avoided these comments in this audit.

Auditor reply: It is the sheriff's responsibility to implement sufficient policies and procedures and internal controls for his tax settlement process regardless of when audit findings are presented.

Interest was not properly distributed. The sheriff did not properly distribute the interest earned on all his tax accounts. The bookkeeper failed to distribute the interest earned from May to November of 2015 from the franchise tax account. She also failed to calculate commissions on the school's portion of the interest earned. By not properly disbursing interest each month, the fee account and the board of education have not received all funds that are due to them. This also can create reconciliation issues since all funds received for the month are not distributed.

KRS 134.140 details how the sheriff is to distribute tax commissions received in all tax accounts each month between his fee account and the local board of education based on the amount of taxes collected during the month. Also, KRS 160.500 gives the sheriff the authority to keep a four percent commission on the board of education's portion of the interest. The sheriff should properly distribute interest earned on all tax accounts on a monthly basis per KRS 134.140 and KRS 160.500.

Sheriff's response: The sheriff did not respond.

The form provided to taxpayers to allow opting out of fire dues did not contain all of the required information. The 2015 Fire Dues Opt Out Forms mailed to taxpayers with their tax bill does not meet the criteria set out in the county's ordinance. The ordinance requires specific information about the taxpayer as well as a statement that the taxpayer understands that by not paying the fire dues subscription fee they will be charged for any fire protection service or emergency service as allowed by state law. The sheriff's form includes only a name, bill number, signature, and date. By not using a form that documents all of the required elements of the ordinance, the sheriff is causing any taxpayer that did not pay the fire dues to be out of compliance with the ordinance. Furthermore, taxpayers are not provided the statement that alerts them to the requirement that they must pay for fire protection and emergency services if they opt out of paying the fire dues subscription fee. This could lead to substantial costs to taxpayers who may not be aware of the consequences of opting out.

The fiscal court passed Ordinance Number 2011-0314 allowing fire dues, or annual membership charges and/or subscriber fees to be added to the property tax bills collected by the sheriff. The ordinance allows taxpayers to "opt out" of paying the fee if the property owner follows the procedures outlined in the ordinance. Section V of the ordinance reads, in part: "In order to delete any parcel(s) of property from membership charges/subscriber fees, the owner shall, upon payment of his property taxes, and no later than the date the Breckinridge County Sheriff files the delinquent tax claims in the Breckinridge County Clerk's Office, pursuant to Chapter 134 of KRS, for any particular tax year, provide a statement to the Breckinridge County Sheriff's Office (on form titled "Notice of Subscriber Fee Non Payment") that contains the following: a. Name of owner including mailing address. b. Name of the fire department servicing the parcel. c. Parcel number from tax bill. d. A statement will be provided on the form that in lieu of subscriber fees the owner will be responsible for charges for fire protection service or other emergency per state law. e. Signature of subscriber/property owner."

We recommend the sheriff revise the opt out form to meet the requirements of the Notice of Subscriber Fee Non Payment form as documented in Fiscal Court Ordinance 2011-0314.

Sheriff's response: The sheriff did not respond.

The sheriff's responsibilities include collecting property taxes, providing law enforcement and performing services for the county fiscal court and courts of justice. The sheriff's office is funded through statutory commissions and fees collected in conjunction with these duties.

The audit report can be found on the [auditor's website](#).

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