Auditor of Public Accounts
Mike Harmon

FOR IMMEDIATE RELEASE **Contact: Michael Goins**
Michael.Goins@ky.gov
502.564.5841
502.209.2867

Harmon Releases Audit of Fleming County Sheriff's Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2015 taxes for Fleming County Sheriff Gary Kinder. 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.

The sheriff's financial statement fairly presents the taxes charged, credited and paid 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 report and pay monthly taxes to districts timely. The sheriff's monthly tax reports and payments were often late, depriving the taxing districts of timely receipt of their tax collections.

The following table illustrates when regular tax payments were made:

Month	Total Taxes Due Districts		Date Payments Due Districts	Check Dates	Dates Checks Cleared Bank
November (School only)	$	180,299	12/10/15	12/17/15	12/22/15
December	$	544,881	1/10/16	1/13/16	1/15/16 - 1/29/16
January	$	153,064	2/10/16	2/12/16	2/16/16 - 3/2/16
February	$	87,436	3/10/16	3/16/16	3/30/16 - 5/2/16

The following table illustrates when franchise tax payments were made:

Month	Total Taxes Due Districts		Date Due	Check Dates	Dates Checks Cleared Bank
May	$	100	6/10/2015	9/30/2015	11/9/15 - 11/17/15
June	$	21,995	7/10/2015	9/30/2015	11/9/15 - 11/17/15
September	$	516	10/10/2015	None	N/A
November	$	59,437	12/10/2015	12/17/2015	12/21/15 - 12/23/15
January	$	86,925	2/10/2016	2/12/2016	2/16/16 - 2/22/16

The sheriff did not ensure his office complied with the requirement to report and pay taxes collected to districts by the tenth of each month. Also, rather than mailing payments to the taxing districts, an employee of the sheriff's office delivers the payments. It appears from the sheriff's records that the delivery date is often later than the day the reports were prepared, causing the receipt of payments by the districts to be further delayed. Taxing districts rely on tax collections to fund a significant portion of their budgeted services. Not receiving these payments timely can lead to cash flow problems for taxing districts.

As indicated in the tables, some payments were over a week late, and one month of franchise tax collections was not paid. The tables also indicate the May and June franchise checks, although written on September 30, 2015, appeared to have not been delivered until November 2015. While the sheriff cannot control when districts deposit their checks, he can control when he distributes the checks. KRS 134.191 requires the sheriff to provide monthly reports by the tenth day of each month. KRS 134.191(4) states "[a]ny sheriff failing to pay over taxes collected as required by law shall be subject to a penalty of one percent (1%) for each thirty (30) day period or fraction thereof that the payment is not made, plus interest. . ." Furthermore, the governing body of a county or taxing district shall charge the sheriff with penalties and interest. The county judge/executive may grant an extension of time, not to exceed fifteen (15) days, for filing the monthly reports. Penalties and interest would be suspended during an extension, but would apply at the expiration of the extension.

We recommend the sheriff ensure monthly tax reports are prepared and paid by the tenth of each month. There should be monthly reports for any month that regular or franchise taxes are collected. We also recommend the sheriff consider mailing tax collection payments to the districts. As long as the payments are postmarked by the tenth of the month, the sheriff is in compliance with KRS 134.191. This would also give the districts a more consistent timeframe in which to expect their payments.

Sheriff's response: No response.

The sheriff's 2015 tax settlement presented to the fiscal court was misstated. The sheriff's 2015 tax settlement was misstated, as it contained five significant reporting errors. The settlement presented to fiscal court contained the following errors:

- Two refunds were included as both exonerations and refunds - $707.
- An overstated amount of commission returned by the school - $6,433.
- May 2016 monthly report payments were not included in total payments - $2,264.
- Delinquent tangible tax was included in delinquent real estate tax for all districts other than the state - $508.
- May 2015 and June 2015 franchise tax collections, commissions and payments were not included - $22,958, $863, and $22,095, respectively.

The sheriff's 2015 tax settlement presented to the fiscal court was inaccurate, and could be misleading to users of the information. If taxing districts and the sheriff do not receive the correct amount of taxes and commissions, their budgets can be negatively impacted. While these errors can be corrected during the audit, typically there is a significant amount of time that passes before that occurs, which could create budgeting difficulties for those agencies.

The sheriff's tax settlement provides important financial information to the fiscal court and the taxing districts, and therefore should be as accurate as possible when presented to the fiscal court. In order to present the most accurate information possible to the public, the sheriff should implement procedures for determining the accuracy of the tax settlement before it is presented to the fiscal court.

Sheriff's response: No response.

The sheriff did not pay the correct amount of commissions or add-on fees. The sheriff did not pay the correct amount of commissions to the 2015 fee account and add-on fees to the 2016 fee account. The sheriff did not have procedures in place to ensure the December 2015 commissions had been returned by the school and deposited to the 2015 fee account. The sheriff did not have procedures in place to ensure February 2016 add-on fees were paid and deposited to the 2016 fee account. The sheriff's 2015 tax account is owed $8,831 in commissions. The sheriff's 2016 fee account is owed $7,830 in add-on fees. The sheriff's 2015 and 2016 fee accounts had to borrow funds to operate, and the fiscal court contributes funds to the sheriff's office to repay borrowed funds. If these payments had been made to the respective fee accounts timely, the sheriff could have reduced the amounts borrowed and the fiscal court could have reduced its contributions. KRS 160.510 requires the sheriff's monthly payment to the school to include the sheriff's commission, which is later returned by the school.

Auditors compared commissions paid to the school with deposits from the school to the fee account, and found that the December 2015 commission was not returned. KRS 134.119(7) entitles the sheriff to additional (add-on) fees of twenty-one percent (21%). They are collected during the ten percent (10%) penalty collection months, usually February, March, and April, and should be paid to the fee account for any month they are collected. Auditors compared add-on fees collected per monthly reports to the checks written to the sheriff's fee account, and found that no check was written for February 2016. We recommend the sheriff establish procedures to ensure the commission paid to the school is returned each month. We also recommend the sheriff establish procedures to ensure add-on fees are paid for each month they are collected. Making payments timely will improve the cash flow for the fee account.

Sheriff's response: No response.

The sheriff's office lacks adequate segregation of duties and internal controls over tax receipts and disbursements. The sheriff's office lacks adequate segregation of duties and internal controls over tax receipts and disbursements. The bookkeeper, deputy clerk, and occasionally the sheriff, all collect tax receipts. The bookkeeper and deputy clerk each prepare a daily bank deposit and reconcile the daily receipts to the daily collection report, and post items to the receipts ledger. There are initials on the deposit ticket, but no explanation of which initials are the preparer, and which belong to the reviewer. The bookkeeper prepares the month-end tax reports. The bookkeeper prepares checks for tax distribution based on the month-end tax reports, and posts checks to the disbursements ledger. The bookkeeper signs the majority of tax distribution checks, with the sheriff signing only occasionally. Only one signature is required on the checks. The bookkeeper prepares the monthly bank reconciliation, although there is nothing documented to determine who prepared the reconciliation or that it was reviewed. Also, the reconciliation is only a restatement of bank activity, and is not reconciled to the receipts ledger, disbursements ledger, or monthly financial statements. Reporting errors would have been found on a monthly basis if a true reconciliation had been performed by the sheriff's office.

Without internal controls in place, there is no way to know that the tax account financial information is accurate. Internal controls should be implemented and duties should be segregated to decrease the risk of misappropriation of assets, errors, and inaccurate financial reporting to external agencies. By not segregating these duties, there is an increased risk of misappropriation of assets either by undetected error or fraud. Internal controls and proper segregation of duties protect employees and the sheriff in the normal course of performing their daily responsibilities. Good internal controls dictate the same employee should not receive payments, prepare deposits, and post to the receipts ledger. The same employee should not prepare monthly reports, sign checks and post to the disbursements ledger, and the same employee should not deposit funds, sign checks, post to ledgers, and prepare bank reconciliations and monthly reports.

We recommend the sheriff's office implement internal controls and segregate duties as much as possible. Employees receiving payments and preparing deposits should not be posting to the receipts ledger and preparing bank reconciliations. Employees preparing and signing checks should not be posting to the disbursements ledger and preparing bank reconciliations. A proper segregation of duties may not be possible with a limited number of employees, and in that case, the sheriff could take on the responsibility of preparing or reviewing the daily deposits, receipts and disbursements ledgers, monthly reports, and bank reconciliations. These reviews must be documented in a way that indicates what was reviewed, by whom, and when, because signing off on inaccurate information does not provide internal control. Furthermore, the sheriff could require dual signatures on all checks, with one signature being the sheriff's.

Sheriff's response: No response.

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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