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Harmon Releases Audit of Lawrence County Sheriff's Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2015 taxes for Lawrence County Sheriff Garrett Roberts. 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 noncompliance with laws, regulations, contracts, and grants. The auditor must also comment on material weaknesses involving internal control over financial operations and reporting.

The audit contains the following comments:

The sheriff did not pay the correct amount of commissions or add-on fees to the 2016 fee account: The sheriff did not pay the correct amount of commissions or add-on fees to the 2016 fee account. In addition, unmined coal taxes collected in May and June 2016 were incorrectly deposited into the 2017 fee account. A transfer from the 2017 fee account to the 2016 fee account will be required to correct the error.

The following table is a compilation of the commissions and add-on fees due to the 2016 fee account:

<u>Tax and Add-On Fee Date</u>	<u>Add-on Fees Amount Due Per Tax Reports</u>	<u>Commission Amount Received From School</u>	<u>Date Deposited To Fee Account</u>
July 2015 - Supplemental Tax	\$	\$ 99	11/09/2017
July 2015 - Franchise Tax		36	11/27/2017
Jan 2016 - Regular Tax		31,178	11/27/2017
Feb 2016 - Regular Tax		2,034	11/27/2017
Jan 2016 - Oil & Gas		1,669	11/27/2017
Feb 2016 - Oil & Gas		1,353	11/27/2017
May 2016 - Unmined Coal Taxes		793	6/28/2017
June 2016 - Unmined Coal Taxes		63	6/28/2017
April 2016 - Add-On Fees - Regular Tax	14,020		Unpaid
April 2016 - Add-On Fees - Gas & Oil Tax	5,369		Unpaid
Total Due 2016 Fee Account	<u>\$ 19,389</u>	<u>\$ 37,225</u>	

The sheriff did not have procedures in place to ensure the commissions had been returned by the school and deposited to the 2016 fee account. The sheriff did not have procedures in place to ensure add-on fees were paid and deposited to the 2016 fee account.

The sheriff's 2016 fee account is owed \$37,225 in commissions. The sheriff's 2016 fee account is owed \$19,389 in add-on fees. The total amount due the 2016 fee account is \$56,614. The school commissions returned by the school were deposited in the 2016 fee account after the end of calendar year 2016. The add-on fees which have not been paid and deposited to the 2016 fee account are a liability of the 2015 tax account and will be paid when the 2015 tax account is settled. Since the commissions have been, and add-on fees will be, deposited into the 2016 fee account after December 31, 2016, the opportunity to use these funds to operate the sheriff's office has passed. The fiscal court will receive \$56,614 from the 2016 fee account as excess fees.

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. Commissions paid to the school were compared with deposits from the school to the fee account, and found that the commissions noted in the table above were not returned.

KRS 134.119(7) entitles the sheriff to additional (add-on) fees. They are collected during the 10 percent penalty collection months, usually February, March, and April, and should be paid to the fee account for any month they are collected. We 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 regular taxes or gas and oil taxes for April 2016.

We recommend the sheriff establish procedures to ensure the commission paid to the school is returned each month. We recommend the sheriff establish procedures to ensure add-on fees are paid to the fee account for each month they are collected. This will improve the cash flow for the fee account, as payments would be made timely. We recommend excess fees totaling \$56,614 be paid to the fiscal court from the 2016 fee account and transfer the unmined coal tax commissions collected in May and June 2016 in the amount of \$856 to the 2016 fee account from the 2017 fee account.

Sheriff's Response: Completed.

The sheriff did not report and pay taxes to districts timely: This is a repeat finding and was included in the prior year audit report as Finding 2014-003. 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
July 2015	\$ 6,875	8/10/2015	10/19/2017	10/24/17 - 10/27/17
December 2015	897,582	1/10/2016	1/15/2016	1/20/16 - 2/03/16
January 2016 - County Only	315,754	2/10/2016	2/12/2016	2/17/2016
January 2016	1,657,402	2/10/2016	3/28/2016	3/30/16 - 4/15/16
February 2016	144,521	3/10/2016	3/29/2016	3/29/16 - 4/15/16
March 2016	311,270	4/10/2016	4/25/2016	5/02/16 - 5/16/16
April 2016	152,891	5/10/2016	5/10/2016	6/07/16 - 6/29/16

The following table illustrates when unmined coal tax payments were made:

Month	Total Taxes Due Districts	Date Payments Due Districts	Check Dates	Dates Checks Cleared Bank
May 2016	\$ 54,410	6/10/2016	4/24/2017	5/05/17 - 5/24/17
June 2016	4,334	7/10/2016	4/24/2017	5/05/17 - 5/24/17
July 2016	26	8/10/2016	4/24/2017	5/05/17 - 5/24/17

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. The sheriff mails payments to the fire district and fire and rescue district, and delivers the payments to the other districts. It appears from the sheriff's records that the delivery date is often later than the day the reports were prepared, making the receipt of payments by the districts 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 257 days late, and the July 2015 tax collections were not paid or reported on the sheriff’s tax settlement. On October 19, 2017, the sheriff paid the July 2015 collections to the taxing districts after auditors determined the tax collections had not been paid. The tables also indicate the April 2016 regular tax checks, while written on May 10, 2016, appeared to have not been delivered until later based on the time frame the checks cleared the bank. 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. Any sheriff failing to pay over taxes collected shall be subject to a penalty of 1 percent for each 30 day period or fraction thereof that the payment is not made, plus interest. 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 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 10th of each month. There should be monthly reports for any month that regular, franchise, gas and oil, and unmined coal taxes are collected.

Sheriff’s Response: Computer Program Error

The sheriff did not deposit receipts daily: This is a repeat finding and was included in the prior year audit report as Finding 2014-001. Funds are not deposited daily. Five days of tax receipts were selected to determine if the funds were deposited daily. As noted in the table below, receipts were not deposited daily four out of the five days tested.

Date Receipts Collected	Amount Collected	Bank Deposit Date
1/6/2016	\$ 74,823	1/7/2016
1/7/2016	86,511	1/20/2016
1/8/2016	1,616,308	1/20/2016
1/11/2016	6,706	1/20/2016
1/13/2016	6,559	1/20/2016

It appears the sheriff often holds several daily deposits and then takes them to the bank rather than making daily deposits. Furthermore, policies and procedures are not in place to ensure that tax receipts are deposited daily.

Receipts not deposited daily are susceptible to misappropriation or theft. Such occurrences could materially affect the financial statements.

Under the authority of KRS 68.210, the Department for Local Government has established requirements for all local government officials handling public funds. These requirements include “daily deposits intact into a federally insured banking institution.”

We recommend that the sheriff implement policies and procedures to ensure that tax receipts are deposited intact daily.

Sheriff's Response: Ok

The sheriff did not remit interest payments to the school and fee account monthly: This is a repeat finding and was included in the prior year audit report as Finding 2014-004. The sheriff did not distribute interest earned on tax collections to the school or the fee account monthly. The sheriff earned \$1,838 of interest on his 2015 tax collections, and made no payments to the school or fee account.

Policies and procedures are not currently in place to ensure that interest earned from tax collection deposits are paid to the school district and fee account timely.

Failure to distribute interest earnings monthly deprives the school district and sheriff's office of funds needed for daily operations. The sheriff owes \$846 to the school district and \$992 to the fee account.

The sheriff should distribute the investment earnings at the same time as monthly tax collections. KRS 134.140(2) requires the sheriff to pay monthly "that part of the investment earnings for the month which are attributable to the investment of school taxes[.]" According to KRS 134.140(4), the balance of investment income should be paid to the sheriff's operating account.

We recommend the sheriff comply with KRS 134.140 by remitting the interest due to the school district and fee account monthly.

Sheriff's Response: Ok

The sheriff did not promptly transfer certificates of delinquency to the county clerk's office: This is a repeat finding and was included in the prior year audit report as Finding 2014-002. Delinquent unmined coal tax bills were not promptly transferred to the county clerk's office. The sheriff neglected to perform this duty.

Unmined coal tax collections began on May 1, 2016, became delinquent on August 1, 2016, and should have been transferred by October 15, 2016. However, the delinquent unmined coal transfer was not completed until May 3, 2017. The delay in transferring the delinquent unmined coal certificates to the county clerk meant that the taxpayers were unable to pay the delinquent bills during that time period. The delinquent bills were also incurring interest charges during that time period that the taxpayer would be responsible for paying.

KRS 134.122(1)(a) states, "[t]he sheriff shall, on April 15 or three (3) months and fifteen (15) days from the date the taxes were due under an alternative collection schedule, file all tax claims on real and personal property remaining in his or her possession with the county clerk[.]" KRS 134.122(1)(d), states, "the sheriff shall be liable on his or her bond for the aggregate amount of the tax claims not filed with the clerk."

We recommend the sheriff turn the delinquent unmined coal tax bills over to the county clerk timely.

Sheriff's Response: Ok

The sheriff's office lacks adequate segregation of duties and internal controls over tax receipts and disbursements: This is a repeat finding and was included in the prior year audit report as Finding 2014-005. 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 checkout sheet and reconcile the daily receipts to the daily collection report. The bookkeeper posts items to the receipts ledger. There are no initials on the deposit ticket documenting who prepared and reviewed the deposit ticket.

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 and sheriff sign the tax distribution checks. The deputy clerk is also authorized to sign checks. All checks require a dual signature.

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, risk increases that the tax account financial information is inaccurate. 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 undetected misappropriation of assets either by 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. Also 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. 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 the internal control.

Sheriff's Response: Would be nice to have extra Office personnel if the money was there to elevate this.

Auditor's Reply: In the absence of additional staff, compensating controls may be implemented, including oversight and review by the sheriff, as stated.

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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