



Auditor of Public Accounts
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Harmon Releases Audit of Magoffin County Sheriff's Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2018 taxes for Magoffin County Sheriff Carson Montgomery. 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 17, 2018 through April 15, 2019 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 the internal control over financial operations and reporting.

The audit contains the following comments:

The Magoffin County Sheriff's Office lacks adequate segregation of duties: This is a repeat finding and was included in the prior year audit report as Finding 2017-010. The sheriff's office lacks adequate segregation of duties and internal controls over tax receipts and disbursements. The bookkeeper and/or office manager and deputy clerks collect tax receipts. The bookkeeper and/or office manager or a deputy clerk prepares a daily bank deposit and reconcile the daily receipts to the daily collection report and post items to the receipts ledger. The bookkeeper and/or office

manager prepares the month-end tax reports, prepares checks for tax distribution based on the month-end tax reports and posts checks to the disbursements ledger. The bookkeeper and/or office manager and the sheriff sign tax distribution checks. The bookkeeper and/or office manager prepares the monthly bank reconciliation, although there is nothing documented to determine who prepared the reconciliation or that it was reviewed by the sheriff.

According to the sheriff, the lack of segregation of duties is attributed to limited resources. 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. Also, the same employee should not deposit funds, sign checks, post to ledgers, prepare bank reconciliations, and prepare monthly reports.

We recommend the sheriff 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 should 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.

County Sheriff's Response: Due to limited staff, we cannot segregate duties as requested. However, we do our best to ensure that all duties are performed and completed accurately.

Auditor's Reply: As noted in the finding, when staffing limitations prevent adequate segregation of duties, compensating controls and strong management oversight should be put into place to mitigate the risks.

The Magoffin County Sheriff failed to settle his 2018 tax accounts: The sheriff failed to settle his 2018 property and unmined coal taxes by September 1, 2019. Additionally, the following receivables and liabilities are due to be collected and paid to completely settle the 2018 property and unmined coal tax accounts.

Assets

| | | |
|--|----|--------------|
| Cash in Bank (All Tax Accounts) | \$ | 90 |
| Receivables Per Draft: | | |
| County | | 1,049 |
| School | | 1,259 |
| Library | | 334 |
| Health | | 224 |
| Extension | | 310 |
| Soil | | 5 |
| Interest Overpaid to School | | 3 |
| Amount Due Back from 2018 Fee for Overpaid Commissions | | <u>1,710</u> |
| Total Assets | \$ | <u>4,984</u> |

Liabilities

| | | |
|---|----|--------------|
| Unpaid Obligations Per Draft - | | |
| State | \$ | 1,679 |
| Interest Due Sheriff's Fee Account | | <u>34</u> |
| Total Unpaid Obligations | | <u>1,713</u> |
| Total Fund Balance as of April 15, 2019 | \$ | <u>3,271</u> |

Failure to pay liabilities timely causes taxing districts and other governmental agencies to be deprived of funds for significant time periods.

KRS 134.192(1) states, “[e]ach sheriff shall 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.” KRS 134.192(5) states, “[t]he report of the state and local settlement shall be filed in the county clerk's office and approved by the governing body of the county no later than September 1 of each year.” Additionally, good internal controls ensure that all receivables and liabilities are settled for each tax year.

We recommend the sheriff complete the settlement activity above. The resulting surplus should be remitted to the county treasurer.

County Sheriff's Response: 2018 tax accounts will be settled according to auditor's instructions.

The Magoffin County Sheriff failed to settle taxes associated with the 2017, 2014, and 2013 tax years: The Magoffin County Sheriff failed to completely settle the 2017, 2014, and 2013 tax accounts. Per prior year audits, there are outstanding receivables and liabilities that need to be collected and paid out to the appropriate districts. The sheriff has not settled the 2017 property and unmined coal tax accounts due to the following reasons:

- The 2018 fee account owes \$1,078 to the 2017 franchise account.

- Overpayments to the county and the following districts need to be billed and collected:

| | |
|-----------|---------------|
| County | \$ 416 |
| School | 311 |
| Library | 49 |
| Health | 66 |
| Extension | 96 |
| Total | <u>\$ 938</u> |

- The 2017 franchise account owes payments to the following state, district, and fee account:

| | |
|------------------|-----------------|
| State | \$ 1,499 |
| Soil | 176 |
| 2017 Fee Account | 55 |
| Total | <u>\$ 1,730</u> |

The sheriff has not settled the 2014 property tax account due to the following reasons:

- The 2014 property tax account now has a deficit of \$622. In an effort to settle the account, the sheriff made a deposit but to the wrong account. On January 15, 2019, a deposit of \$622 was made into to the 2014 fee account (ending 5435) instead of the 2014 property tax account (ending 5526).
- The sheriff has not collected a receivable from the soil district for \$24. In addition, there were no follow- up collection actions performed in accordance with the 2014 determination of fund balance.

The sheriff has not settled the 2013 unmined coal tax account and the fee account due to the following reason:

- The 2013 unmined coal tax account and the 2014 fee account have been closed and the remaining funds were transferred into the 2017 fee account.
- The sheriff has not paid the \$2,772 owed to the county.
- The sheriff has not collected \$71 from the state. In addition, there were no follow-up collection actions performed in accordance with the 2013 determination of fund balance

The sheriff failed to oversee the daily operations of his tax office. As a result, receivables and liabilities were not addressed as part of the settlement process. Failure to pay liabilities timely causes taxing districts and other governmental agencies to be deprived of funds for significant time periods.

KRS 134.192 states, “[e]ach sheriff shall 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.” KRS 134.192(5) states, “[t]he report of the state and local settlement shall be filed in the county clerk's office and approved by the governing body of the county no later than September 1 of each year. The settlement shall show the amount of ad valorem tax collected for the county, the school district, and all taxing districts, and an itemized statement of the money disbursed to or on behalf of the county, the school district, and all taxing districts.” Additionally, good internal controls ensure that all receivables and liabilities are settled for each tax year.

We recommend the sheriff take the necessary steps to ensure his prior years property and unmined coal tax accounts collect and disburse the items listed above to completely settle these accounts.

County Sheriff's Response: All accounts except for 2018 have been settled to the best of my (office manager) ability.

The Magoffin County Sheriff failed to remit all state taxes due to incorrectly computing commissions earned on state tax collections: This is a repeat finding and was included in the prior year audit report as Finding 2017-004. The sheriff's compensation for collecting property taxes was more than what is allowed per KRS. During our audit of the 2018 property tax settlement, we noted that the sheriff retained 4.81 percent of collection for the state for his commission rather than the 4.25 percent per the KRS and collected \$1,691 more than allowable. The total amount of overpayment to the sheriff's 2018 fee account was \$1,710, including the \$1,691 above.

The sheriff failed to implement proper control procedures to ensure the sheriff's commission was computed correctly. Due to this error, the sheriff underpaid state taxes \$1,691 and incurred a 10% penalty. The Commonwealth is not receiving all the taxes due to the Department of Revenue.

KRS 134.119(6)(a)(1) requires as compensation for collecting property taxes the sheriff shall be paid the following amounts, regardless of whether the amounts are collected by the sheriff prior to filing the tax claims with the county clerk, or by the county clerk after the tax claims become certificates of delinquency or personal property certificates of delinquency: 1. From the Commonwealth the sheriff shall be paid four and one-quarter percent (4.25%) of the amount collected on behalf of the Commonwealth.

We recommend the sheriff's office put controls in place to ensure that the sheriff's office is compliant with KRS 134.119(6)(a)(1).

County Sheriff's Response: This has been addressed by the tax software provider.

The Magoffin County Sheriff failed to properly bill franchise taxes: This is a repeat finding and was included in the prior year audit report as Finding 2017-009. The sheriff's office improved upon a previously stated finding regarding franchise collections and exemplify improved internal controls over collections and preparation; however, the sheriff's office failed to bill franchise tax to one company and failed to bill two other companies franchise tax for the soil conservation district only, thereby demonstrating a continuous lack of internal control.

The sheriff's office and county clerk's office operate two different tax systems. Therefore, when the county clerk's office gives the sheriff's office the franchise bills, the sheriff's office re-creates these bills in their system. During this process, the sheriff's office failed to bill two companies.

In reviewing the franchise bills from the county clerk's office, it was noted that two companies were not billed franchise tax for the soil conservation district. When the sheriff's office re-created the franchise tax bills, the county clerk's office error was not noticed or corrected.

The total amount due to the taxing districts from these errors are the following amounts:

| Taxing District | Amount Not Billed |
|--------------------|----------------------|
| County | \$ 89 |
| School | 77 |
| Library | 25 |
| Health | 10 |
| Extension | 24 |
| Soil | 14 |
| Total | <u>\$ 239</u> |

Due to lack of internal controls, the sheriff’s office failed to bill one company when re-calculating the franchise tax bills in the sheriff’s office tax system and during the re-calculation, the sheriff’s office failed to notice the county clerk’s office error in not billing franchise tax to two other companies for the soil conservation district.

When companies are not billed and/ or properly billed, the taxing districts are not receiving all the funds that they have a legal right to and the companies are not paying their share of taxes due.

KRS 133.220(4) states, “[u]pon delivery to him or her of the tax bills, the sheriff or collector shall mail a notice to each taxpayer, showing the total amount of taxes due the state, county, school district, and any other taxing district for which the sheriff collects taxes, the date on which the taxes are due, and any discount to which the taxpayer may be entitled upon payment of the taxes prior to a designated date. The sheriff shall not mail tax notices prior to September 15.”

Proper internal controls require a review system to be in place to check for and correct errors in the operation of the sheriff’s office.

We recommend the sheriff’s office implement proper internal controls to ensure that every franchise bill is prepared and without error. In addition, we recommend that the sheriff’s office bill these three companies the franchise tax that they are legally obligated to pay.

County Sheriff’s Response: Franchise bills will be created per auditor’s instructions.

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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