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

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2015 taxes for Marion County Sheriff Jimmy Clements. 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 adequately segregate duties or provide sufficient oversight to ensure an accurate tax settlement process for 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 partial payments from taxpayers that were cashed in the tax drawer, and maintained in the safe until the whole tax bill was paid in full. When the tax bill was paid in full, the cash was then deposited. No documentation was maintained to show which bills were paid in multiple payments or when each payment was made.

The sheriff has not provided sufficient oversight of the tax settlement process to ensure all taxes collected are recorded and disbursed accurately. The sheriff should have 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.

A lack of oversight could result in undetected 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 including partial payments.

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 and guidance if necessary. If the sheriff continues to accept partial payments, sufficient documentation should be maintained to document which bills were paid in multiple payments and when each payment was made. Additionally we 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: None.

The sheriff did not follow the minimum requirements for handling public funds in the 2015 tax settlement. We reviewed receipt daily checkout reports and noted the following control deficiencies:

- Taxpayer check overages are given back change.
- Deposits are not made intact daily.

- Cash and check totals per daily deposit report do not always agree to cash and check totals on the bank deposit ticket.
- Personal funds were included in the bank deposit ticket; however they were not included in the daily checkout sheets.
- Sheriff employees routinely cashed checks in the sheriff’s office cash drawers.
- Checks for partial payments are cashed in the deposit, not recorded in the system, and payments are held in the safe until the whole tax bill is paid and then deposited.
- Taxpayer money was included in the bank deposit ticket, but was not included on the daily deposit report.
- Money collected for researching tax bills are being cashed in the sheriff’s office and used for personal funds.

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 64.850 states “[i]t shall be unlawful for any county official to deposit public funds with individual or private funds in any bank or other depository or for any such official to withdraw public funds for any purpose other than that for which they were received and deposited.” Strong internal controls and proper accounting procedures dictate that all receipts collected should be accounted for with a supporting receipt ticket, an entry into the accounting system to the taxpayer’s bill, and reconciliation to the deposit ticket and receipts ledger. Receipts collected should have adequate support maintained.

We recommend the sheriff’s office comply with KRS 64.850 and implement the following procedures:

- All monies collected should be accounted for with receipt tickets being batched daily and reconciled to the cash and checks collected per the daily collection report and daily deposit ticket. After daily receipts are accounted for, tax bill overages should be mailed back to the taxpayer by check, and tax bill shortages should be put on the tax bill as partially paid or the check should be sent back to the taxpayer with a request for the correct payment amount.
- Deposits should be made intact daily.
- Cash and checks per the daily deposit report should be reconciled daily and agree to the system and the bank deposit ticket.
- Personal funds should not be deposited into the tax bank accounts.
- Sheriff employees should not cash personal checks in the sheriff’s office.
- Researching tax bill monies should be deposited into the fee account.

Sheriff’s response: None.

The sheriff did not provide sufficient oversight for franchise bill processing. As part of normal audit procedures, auditors recalculated franchise bills and distilled spirits bills. The following issues and errors were noted during this testing:

- The sheriff deposited $31,949 in franchise bills from May, June and July of 2015. These funds were not distributed to districts until September 2015.
- There was a math error on one franchise bill calculation.
- Franchise bills were created by the sheriff instead of the clerk.
- Inventory in transit taxes on two distilled spirits bills were not billed correctly. The incorrect preparation of these bills resulted in the taxpayer being overcharged $10,359. The sheriff distributed $17,310 too much to the school district and $3,431 too much to the county. The sheriff distributed too little to the special taxing districts: the Air Board distribution was short $882, the Health district distribution was short $2,406, the Extension district distribution was short $2,522, and the Library district distribution was short $4,572.In addition, the amount of commission earned on these incorrect bills totaled $342. This amount should be returned to the tax account from the fee account in order to refund the overage to the companies.
- Upon further review, two bills were not prepared correctly in the prior year, resulting in $8,367 in undercharges to the taxpayer and due to the districts.
- Discounts were given on franchise bills that are not subject to discounts. This resulted in $4,826 underpayment by taxpayers and tax distributions to districts shorted.

Errors in franchise billings seem to be caused by the lack of oversight and review of franchise bills by the sheriff or someone else knowledgeable about the intricacies of franchise tax billing. Errors in the preparation of bills and payments not distributed timely cause delays in the distribution of needed money to taxing districts and can cause taxpayers to over or under pay tax bills. Giving discounts on bills where discounts are not allowed deprives taxing districts of collections.

KRS 134.191 requires the sheriff to distribute tax collections by the 10th of the month following the month of collection to the taxing districts. This requirement also applies to franchise tax payments collected before the regular tax collection period begins. The *Real Property Tax Duties of the County Clerk* manual issued by the Department of Revenue Office of Property Valuation requires franchise bills to be prepared by the county clerk's office. The sheriff should then review or designate a knowledgeable employee to review the bills for accuracy before mailing the bills to taxpayers. We have the following recommendations for the sheriff:

- Distribute the taxes collected to taxing districts by the 10th of the month following the month of collection as required by state law.
- Seek additional training and guidance from the state Department of Revenue for personnel so that franchise bills are accurately billed.
- Contact taxing districts and the taxpayer affected by the distilled spirits bill errors noted above and collect and distribute funds to rectify the errors.
- We further recommend the sheriff work with the clerk to ensure all franchise bills are prepared correctly and are billed and mailed timely.

Sheriff's response: None.

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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