

**REPORT OF THE AUDIT OF THE  
MERCER COUNTY  
SHERIFF'S SETTLEMENT - 2018 TAXES**

**For The Period  
April 17, 2018 Through April 15, 2019**



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**MIKE HARMON**  
**AUDITOR OF PUBLIC ACCOUNTS**

To the People of Kentucky  
The Honorable Andy Beshear, Governor  
Holly M. Johnson, Secretary  
Finance and Administration Cabinet  
The Honorable Milward Dedman, Mercer County Judge/Executive  
The Honorable Ernie Kelty, Mercer County Sheriff  
Members of the Mercer County Fiscal Court

Independent Auditor's Report

**Report on the Financial Statement**

We have audited the Mercer County Sheriff's Settlement - 2018 Taxes for the period April 17, 2018 through April 15, 2019 - Regulatory Basis, and the related notes to the financial statement.

**Management's Responsibility for the Financial Statement**

Management is responsible for the preparation and fair presentation of the financial statement in accordance with accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting as described in Note 1. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of a financial statement that is free from material misstatement, whether due to fraud or error.

**Auditor's Responsibility**

Our responsibility is to express an opinion on the financial statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and the *Audit Guide for Sheriff's Tax Settlements*, issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



To the People of Kentucky  
The Honorable Andy Beshear, Governor  
Holly M. Johnson, Secretary  
Finance and Administration Cabinet  
The Honorable Milward Dedman, Mercer County Judge/Executive  
The Honorable Ernie Kelty, Mercer County Sheriff  
Members of the Mercer County Fiscal Court

### **Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles**

As described in Note 1 of the financial statement, the financial statement is prepared by the Mercer County Sheriff on the basis of accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

The effects on the financial statement of the variances between the regulatory basis of accounting described in Note 1 and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

### **Adverse Opinion on U.S. Generally Accepted Accounting Principles**

In our opinion, because of the significance of the matter discussed in the Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles paragraph, the financial statement referred to above does not present fairly, in accordance with accounting principles generally accepted in the United States of America, the taxes charged, credited, and paid of the Mercer County Sheriff, for the period April 17, 2018 through April 15, 2019.

### **Opinion on Regulatory Basis of Accounting**

In our opinion, the financial statement referred to above presents fairly, in all material respects, the taxes charged, credited, and paid for the period April 17, 2018 through April 15, 2019 of the Mercer County Sheriff, in accordance with the basis of accounting practices prescribed or permitted by the Commonwealth of Kentucky as described in Note 1.

### **Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated February 27, 2020, on our consideration of the Mercer County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Mercer County Sheriff's internal control over financial reporting and compliance.

To the People of Kentucky

The Honorable Andy Beshear, Governor

Holly M. Johnson, Secretary

Finance and Administration Cabinet

The Honorable Milward Dedman, Mercer County Judge/Executive

The Honorable Ernie Kelty, Mercer County Sheriff

Members of the Mercer County Fiscal Court

**Other Reporting Required by *Government Auditing Standards* (Continued)**

Based on the results of our audit, we have presented the accompanying Schedule of Findings and Responses, included herein, which discusses the following report comment:

2018-001 The Sheriff Did Not Maintain Adequate Controls And Oversight Over Tax Collection Procedures

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Harmon", with a long horizontal line extending to the right.

Mike Harmon  
Auditor of Public Accounts

February 27, 2020

MERCER COUNTY  
 ERNIE KELTY, SHERIFF  
SHERIFF'S SETTLEMENT - 2018 TAXES

For The Period April 17, 2018 Through April 15, 2019

	Special Taxing			
	County	Districts	School	State
<u>Charges</u>				
Real Estate	\$ 1,530,156	\$ 2,702,244	\$ 7,204,341	\$ 1,530,156
Tangible	95,685	123,505	344,455	920,904
Total Per Sheriff's Official Receipt	1,625,841	2,825,749	7,548,796	2,451,060
<u>Other Taxes &amp; Charges</u>				
Court Ordered Increases	1,455	2,458	6,697	183
Franchise Taxes	288,389	480,704	1,206,664	
Additional Billings				1,954
Limestone, Sand, and Gravel				198
Bank Franchises	59,572			
Penalties	7,537	13,370	35,322	7,394
Gross Chargeable to Sheriff	1,982,794	3,322,281	8,797,479	2,460,789
<u>Credits</u>				
Exonerations	5,831	10,191	26,616	5,943
Discounts	27,542	46,509	125,330	42,934
Delinquent Real Estate	22,918	40,254	110,905	22,917
Delinquent Tangible	1,037	1,324	4,094	1,839
Total Credits	57,328	98,278	266,945	73,633
Taxes Collected	1,925,466	3,224,003	8,530,534	2,387,156
Less: Sheriff's Commissions*	81,832	119,207	191,937	101,454
Taxes Due Districts	1,843,634	3,104,796	8,338,597	2,285,702
Taxes Paid	1,831,488	3,086,085	8,246,309	2,223,093
Refunds (Current and Prior Year)	6,425	10,640	28,571	62,609
Taxes Due Districts	\$ 5,721	\$ 8,071	\$ 63,717	\$ 0

\*\*

\* and \*\* See next page.

The accompanying notes are an integral part of this financial statement.



MERCER COUNTY  
ERNIE KELTY, SHERIFF  
SHERIFF'S SETTLEMENT - 2018 TAXES  
For The Period April 17, 2018 Through April 15, 2019  
(Continued)

\* Commissions:

4.25% on	\$	6,989,684
2.25% on	\$	8,530,534
1% on	\$	546,941

\*\* Special Taxing Districts:

Library	\$	2,643
Extension		2,643
Health		1,632
Fire		1,144
Soil		<u>9</u>
Due Districts	\$	<u><u>8,071</u></u>

MERCER COUNTY  
NOTES TO FINANCIAL STATEMENT

April 15, 2019

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

The sheriff's office tax collection duties are limited to acting as an agent for assessed property owners and taxing districts. A fund is used to account for the collection and distribution of taxes. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

B. Basis of Accounting

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a special purpose framework. Basis of accounting refers to when charges, credits, and taxes paid are reported in the settlement statement. It relates to the timing of measurements regardless of the measurement focus.

Charges are sources of revenue which are recognized in the tax period in which they become available and measurable. Credits are reductions of revenue which are recognized when there is proper authorization. Taxes paid are uses of revenue which are recognized when distributions are made to the taxing districts and others.

C. Cash and Investments

KRS 66.480 authorizes the sheriff's office to invest in obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

D. Preparation of State Settlement

The Kentucky Department of Revenue conducts the settlement relating to taxes collected for the state under the provision of KRS 134.192(2)(a). This is reported as the "State Taxes" column on the financial statement.

Note 2. Deposits

The Mercer County Sheriff maintained deposits of public funds with depository institutions insured by the FDIC as required by KRS 66.480(1)(d). According to KRS 41.240, the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the sheriff's deposits may not be returned. The Mercer County Sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 66.480(1)(d) and KRS 41.240. As of April 15, 2019, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

MERCER COUNTY  
NOTES TO FINANCIAL STATEMENT  
April 15, 2019  
(Continued)

Note 3. Tax Collection Period

A. Property Taxes

The real and personal property tax assessments were levied as of January 1, 2018. Property taxes were billed to finance governmental services for the fiscal year ended June 30, 2018. Liens are effective when the tax bills become delinquent. The collection period for these assessments was October 10, 2018 through April 15, 2019.

B. Limestone, Sand, and Gravel Reserves

The limestone, sand, and gravel property tax assessments (LSG) were levied as of January 1, 2018. Property taxes are billed to finance governmental services. Liens are effective when the tax bills become delinquent. The collection period for these assessments was January 17, 2019 through April 15, 2019. LSG taxes for the county, special taxing districts, and the school are included in court ordered increases.

C. Franchise Taxes

The franchise tax assessments were levied by the Department of Revenue for various tax years. Franchise taxes are billed to finance governmental services. Liens are effective when the tax bills become delinquent. The collection period for these assessments was April 17, 2018 through April 15, 2019.

Note 4. Interest Income

The Mercer County Sheriff earned \$1,206 in interest income on 2018 taxes. As of February 27, 2020, the sheriff owed \$104 in interest to his fee account.

Note 5. Sheriff's 10% Add-On Fee

The Mercer County Sheriff collected \$52,261 of 10% add-on fees allowed by KRS 134.119(7). This amount was used to operate the sheriff's office. As of February 27, 2020, the sheriff owed \$223 in 10% add-on fees to his fee account.

Note 6. Escrow Account

The sheriff deposited unrefundable payments in an interest-bearing account. The sheriff's escrowed beginning balance was \$530. The sheriff had no disbursements or receipts in the account for 2019. The ending balance consists of escrowed of:

2018 \$530

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND  
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL  
STATEMENT PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

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**MIKE HARMON**  
**AUDITOR OF PUBLIC ACCOUNTS**

The Honorable Milward Dedman, Mercer County Judge/Executive  
The Honorable Ernie Kelty, Mercer County Sheriff  
Members of the Mercer County Fiscal Court

Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With *Government Auditing Standards*

Independent Auditor's Report

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Mercer County Sheriff's Settlement - 2018 Taxes for the period April 17, 2018 through April 15, 2019 - Regulatory Basis and the related notes to the financial statement and have issued our report thereon dated February 27, 2020. The Mercer County Sheriff's financial statement is prepared on a regulatory basis of accounting, which demonstrates compliance with the Commonwealth of Kentucky's regulatory basis of accounting and budget laws, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

**Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statement, we considered the Mercer County Sheriff's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Mercer County Sheriff's internal control. Accordingly, we do not express an opinion on the effectiveness of the Mercer County Sheriff's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statement will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified. We identified certain a deficiency in internal control, which is described in the accompanying Schedule of Findings and Responses as item 2018-001 that we consider to be a significant deficiency.



Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With *Government Auditing Standards*  
(Continued)

**Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the Mercer County Sheriff's financial statement is free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

**Views of Responsible Official and Planned Corrective Action**

The Mercer County Sheriff's views and planned corrective action for the finding identified in our audit are described in the accompanying Schedule of Findings and Responses. The Mercer County Sheriff's response was not subjected to the auditing procedures applied in the audit of the financial statement and, accordingly, we express no opinion on it.

**Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Respectfully submitted,



Mike Harmon  
Auditor of Public Accounts

February 27, 2020



## SCHEDULE OF FINDINGS AND RESPONSES

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MERCER COUNTY  
ERNIE KELTY, SHERIFF  
SCHEDULE OF FINDINGS AND RESPONSES

For The Period April 17, 2018 Through April 15, 2018

INTERNAL CONTROL - SIGNIFICANT DEFICIENCY:

2018-001 The Sheriff Did Not Maintain Adequate Controls And Oversight Over Tax Collection Procedures

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During testing, the following issues were noted:

- Banks paid the face value of the franchise tax when they should have paid a discounted rate for paying the franchise taxes by December 31, 2019.
- The amount owed to the school district for one franchise bill collected was not recorded or paid to the school district.
- The amount owed to the soil conservation district for one franchise bill collected was not recorded or paid to the soil conservation district.
- The amount collected for one franchise tax bill was not accurately recorded in the monthly franchise tax reports or paid it out to the districts.
- The sheriff transposed the number for tangible taxes collected on the sheriff's settlement.
- The sheriff used the wrong commission rate for several months for the tax amounts owed to the school districts.
- The sheriff did not include the commission amount when paying the monthly taxes owed to the school district for May 2018.
- The total amount disbursed for taxes was recorded incorrectly in the sheriff monthly tax reports.

Due to the errors listed above, the sheriff's 2018 tax account is showing balances due to taxing districts and balances due from taxing districts in order to complete the 2018 tax settlement. The forms sent to the banks stating the amount of bank franchise tax owed had the wrong cutoff printed on them for which banks may pay the discounted franchise tax rate due to the sheriff being unable to change the form in their system. The sheriff remitted \$21,973 to the fee account which was later remitted to the fiscal court, so the fiscal court will need to return this amount to the sheriff who will then remit it to the school district in order to settle the account.

The sheriff lacked adequate controls over monthly and financial reporting to prevent, detect, or deter these errors. The sheriff did not accurately reconcile his tax account monthly.

The issues noted above resulted in the following items needing to be collected or distributed by the sheriff in order to complete his 2018 tax settlement:

MERCER COUNTY  
 ERNIE KELTY, SHERIFF  
 SCHEDULE OF FINDINGS AND RESPONSES  
 For The Period April 17, 2018 Through April 15, 2019  
 (Continued)

INTERNAL CONTROL - SIGNIFICANT DEFICIENCY: (Continued)

2018-001 The Sheriff Did Not Maintain Adequate Controls And Oversight Over Tax Collection Procedures (Continued)

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Collect From:

County	\$ 21,973
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Distribute To:

Whitaker Bank	330
First Financial Bank	141
Community Trust Bank	171
County	5,721
School	63,717
Library	2,643
Helath	1,632
Extention	2,643
Soil	9
Fire	1,144
Sheriff's fee account	1,724

Maintaining internal controls and oversight over tax collections and financial reporting are essential for providing protection from asset misappropriation and inaccurate financial reporting.

KRS 136.575(3) states that, “[t]he taxing authority shall issue bills to the financial institution by December 1 and require payment, with a two percent (2%) discount by December 31, or without discount by January 31 of the next year.”

KRS 134.191(1) states that, “[t]he sheriff shall provide monthly reports by the tenth day of each month to the chief executive of the county, the department, and any other district for which the sheriff collects taxes. The governing body of the county may require the sheriff to report and pay on a more frequent basis if necessary for bonding requirements; however, the sheriff shall not be required to report and pay more frequently than weekly.”

KRS 134.191(3) states that, “[a]t the time of making the report, the sheriff shall pay to the county treasurer or other officer designated by the governing body of a county, to the department, and to any other district for which the sheriff collects taxes, all funds belonging to the county, the state, or the district that were collected during the period covered by the report.

KRS 134.192(7) states that “On the final settlement, the sheriff shall pay to the county treasurer all money that remains in his or her hands attributable to amounts charged against the sheriff relating to the collection of property taxes, and shall take receipts as provided in KRS 134.160. The sheriff shall pay any additional amounts charged against him or her as a result of the settlements.”

We recommend the sheriff collect and distribute the amounts as listed above. Any remaining funds in the 2018 tax account should be put into an escrow account.

MERCER COUNTY  
ERNIE KELTY, SHERIFF  
SCHEDULE OF FINDINGS AND RESPONSES  
For The Period April 17, 2018 Through April 15, 2019  
(Continued)

INTERNAL CONTROL - SIGNIFICANT DEFICIENCY: (Continued)

2018-001 The Sheriff Did Not Maintain Adequate Controls And Oversight Over Tax Collection Procedures (Continued)

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We recommend:

- The sheriff change the date printed on the bills for the date that the banks will receive a discount by.
- The sheriff ensure accurate monthly franchise tax reports are maintained in order to ensure all franchise taxes collected are accounted for accurately, and that the sheriff ensure franchise taxes collected are posted in accurate line item categories.
- The tax account should be reconciled monthly.
- The sheriff ensure that accurate financial reporting is maintained through adequate oversight.

*County Sheriff's Response: Until recently the Mercer County Sheriff's Office bookkeeper has maintained franchise tax records by hand. GUTS, the company that provides the regular tax collection computer program, has provided us with a computer franchise tax collection program. This should eliminate some mistakes that were being made and ensure more accurate monthly franchise tax reports are being made and taxes collected are accounted for and disbursed more accurately.*