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Harmon Releases Audit of Former Leslie County Sheriff's Unmined Coal Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2017 unmined coal taxes for former Leslie County Sheriff Delano Huff. 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 former sheriff's settlement presents fairly the taxes charged, credited and paid in accordance with accounting principles generally accepted in the United States of America.

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 statements are free from material misstatement. Because of the matters described in the Basis for Disclaimer of Opinion paragraph, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

The former Leslie County Sheriff did not prepare the 2017 Unmined Coal Tax Settlement, which presents the taxes charged, credited, and paid for the period September 17, 2017 through August 15, 2018, and did not maintain adequate accounting records. This prohibited us from applying procedures to obtain sufficient appropriate audit evidence necessary to render an opinion.

Because of the significance of the matter described in the Basis for Disclaimer of Opinion paragraph, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, we do not express an opinion on the financial statements.

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 former Leslie County Sheriff's Office did not have adequate segregation of duties over receipts, disbursements, and reconciliations: This is a repeat finding and was included in the prior year audit report as Finding 2016-001. The former Leslie County Sheriff's Office did not have adequate segregation of duties over receipts, disbursements, and bank reconciliations. The bookkeeper opened mail, collected tax payments, prepared the daily checkout sheet and the daily deposit, opened bank statements, and prepared bank reconciliations. In addition, the bookkeeper was also responsible for preparing the monthly tax reports and all disbursements. These incompatible duties created a lack of segregation of duties over receipts, disbursements, and the reconciliation process.

The lack of adequate segregation of duties within the former sheriff's office was the result of limited staff size which prevented the former sheriff from segregating accounting duties to different individuals within the office. The former sheriff stated he could not hire additional employees to allow segregation of duties due to a limited budget. A lack of segregation of duties could result in undetected misappropriation of assets or inaccurate financial reporting to local taxing districts. The segregation of duties over various accounting functions such as opening mail, preparing deposits, and recording payments and disbursements, is essential for providing protection from asset misappropriation or inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities. The former sheriff could have implemented oversight when duties could not have been segregated.

We recommend the sheriff's office segregate duties or implement compensating controls. The following are examples of compensating controls the sheriff's office could implement:

- The sheriff, or his designee, could compare the daily checkout sheet to tax reports and bank deposit receipts and document his review.
- The sheriff, or his designee, could reconcile the bank statement or examine the bank reconciliation prepared by the bookkeeper, resolve any discrepancies, and document the review by initialing the bank reconciliation and the bank statement.
- The sheriff could examine checks prepared by the bookkeeper and compare checks to the monthly tax reports, resolve any discrepancies, and document the review by initialing and dating the monthly tax reports.

Former Sheriff's Response: The former sheriff did not provide a response.

The former Leslie County Sheriff did not prepare an annual settlement for 2017 unmined coal taxes and did not maintain accounting records: The former Leslie County Sheriff did not prepare an annual settlement for 2017 unmined coal tax collections and did not maintain records such as monthly reports or daily checkout sheets supporting the collection of the 2017 unmined coal taxes.

According to the former sheriff, he was unaware the physical records were missing and electronic records were not backed up. He was also not aware the annual settlement had not been prepared.

Due to the settlement not being completed and the lack of financial records available, auditors are unable to express an opinion on the former sheriff's settlement. Also, the former sheriff was not in compliance with state laws and regulations.

KRS 134.215(3) states in part, "[e]ach outgoing sheriff shall make a final settlement with the department, the fiscal court, and all districts for which his or her office collected taxes by March 15 immediately following the expiration of his or her term of office."

Proper accounting procedures require that financial reports be supported with underlying accounting records such as daily receipts and payment reports. KRS 43.075(3) states in part, "[t]he uniform audit standards and procedures promulgated by the Auditor shall include but need not be limited to the requirement that each person performing an audit shall determine whether the fiscal court or county official is complying with the requirements of the uniform system of accounts adopted under KRS 68.210, whether there is accurate recording of receipts by source and expenditures by payee[.]"

We recommend the sheriff's office ensure a complete settlement of taxes collected is prepared as required and records are properly maintained to support the settlement.

Former Sheriff's Response: The former sheriff did not provide a response.

The former Leslie County Sheriff did not distribute one month of unmined coal tax collections to districts: During collection of 2017 unmined coal taxes, the former sheriff did not remit collections totaling \$60,449 for the month of June 2018 to the state, county, and special taxing districts. In addition, the former sheriff did not remit commissions earned of \$1,880 due his fee account for these collections.

The former sheriff did not have controls in place to ensure taxes collected and sheriff's commissions were properly distributed each month of collections. As a result of not properly remitting tax collections due, the districts and the former sheriff's office had less funds to operate on. Additionally, the former sheriff is in noncompliance with KRS 134.191.

KRS 134.191(1) states in part, "[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."

KRS 134.191(3) states, “[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, state, or the district that were collected during the period covered by the report.”

We recommend the sheriff’s office implement internal controls to ensure monthly tax reports are properly prepared and taxes collected are remitted timely as required by KRS 134.191. We recommend the former sheriff remit the amounts due to the state, county, special taxing districts, and the fee account for 2017 unmined coal tax collections for the month of June 2018.

Former Sheriff’s Response: The former sheriff did not provide a response.

The former Leslie County Sheriff did not have back up procedures in place for tax collection data: In 2019, the Leslie County Sheriff’s office lost all documentation pertaining to 2017 tax collections. The former sheriff did not have back-up procedures in place for electronic tax collection data; therefore, recovery of data pertaining to the 2017 unmined coal tax collections was not possible.

The former sheriff was under the impression that the vendor for the tax collection software provided backup services, but learned that this was a service that had to be purchased separately. As a result, all information concerning 2017 tax collections was lost and unable to be recovered and he was unable to prepare a tax settlement. Good internal controls require that the former sheriff ensure that procedures are in place to protect tax collection data.

The sheriff’s office should develop a disaster recovery plan which includes procedures for backing up digital data on a regular basis and store the backups offsite. The sheriff’s office should also test the disaster and recovery plan on a regular basis to ensure it works in the event of an emergency.

Former Sheriff’s Response: The former sheriff did not provide a 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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