



Auditor of Public Accounts
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Harmon Releases Audit of Adair County Sheriff's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2021 financial statement of Adair County Sheriff Josh Brockman. 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 financial statement presents fairly the receipts, disbursements and excess fees of the Adair County Sheriff in accordance with accounting principles generally accepted in the United States of America. The sheriff's financial statement did not follow this format. However, the sheriff's financial statement is fairly presented in conformity with the regulatory basis of accounting, which is an acceptable reporting methodology. This reporting methodology is followed for all 120 sheriff audits in Kentucky.

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 comment:

The Adair County Sheriff did not properly remit federal tax deposits to the Internal Revenue Service (IRS) resulting in penalties and interest: The Adair County Sheriff's payroll tax liabilities to the Internal Revenue Service (IRS) for calendar year 2021 were not paid accurately or timely, resulting in penalties and interest for failure to make proper federal tax deposits.

- The March 31, 2021 tax period notice from the IRS dated August 16, 2021, showed 2021 unpaid taxes of \$60. This was paid on September 13, 2021, from the sheriff's payroll account, along with \$2 in penalty and interest.
- The December 31, 2021 tax period notice from the IRS dated April 25, 2022, showed 2021 unpaid taxes of \$362. This was paid on April 26, 2022, from the sheriff's 2022 fee and payroll account, along with \$1,422 in penalties and interest for failure to make timely deposits.

As a result, the sheriff paid \$2 in penalty and interest from the payroll account in 2021 for the late payment of first quarter 2021 taxes due (4 months late) and also paid \$1,422 in penalties and interest from the 2022 fee and payroll account for late payment of 2021 taxes.

Strong internal controls over the payroll process are essential in ensuring that employee withholdings and employer contributions are turned over to the appropriate taxing authorities timely to avoid penalties and interest charges.

According to the IRS *Circular E Employer's Tax Guide Publication 15*, every employer is required by federal law to file each quarter an Employer's Quarterly Federal Tax Return with the IRS by the last day of the month that follows the end of the quarter. The returns should include total wages for all employees, income tax withheld from all wages, and FICA withheld. In addition, the IRS requires employers who are semiweekly schedule depositors to deposit federal taxes accumulated on taxes for payroll paid on Wednesday, Thursday, or Friday by the following Wednesday and federal taxes accumulated on taxes for payroll paid on Monday or Tuesday by the following Friday.

In Funk v. Milliken, 317 S. W. 2d 499 (Ky. 1958), Kentucky's highest court ruled that county fee officials' expenditures of public funds will be allowed only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not primarily personal in nature.

This occurred due to the lack of controls over the payroll account. One person performs reconciliations and prepares payroll reports without documented review by another employee or sheriff to ensure accuracy. In addition, the sheriff's office payroll reports are run in software which is a date driven program; therefore, any time the date is not run correctly for a pay period, this causes errors in the amount paid for tax liabilities due on the payroll reports.

We recommend the sheriff properly reconcile the payroll reports to the tax returns each pay period. Strong internal controls over the payroll account should be implemented to ensure amounts are paid correctly and timely to avoid penalties and interest being paid. We also recommend the sheriff deposit personal funds of \$1,424 to reimburse the fee accounts for the disallowed penalties and interest paid.

County Sheriff's Response: All payments were made to IRS in accordance with procedure that has been used by office in all previous years. The matter is currently being disputed however measures have been took to prevent the recurrence of the issue.

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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