



Auditor of Public Accounts
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FOR IMMEDIATE RELEASE

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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 – 2019 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 16, 2019 through May 15, 2020 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 sheriff's annual settlement was not submitted in a timely manner: This is a repeat finding and was included in the prior year audit report as Finding 2018-002. The sheriff's 2019 property and unmined coal tax accounts were not settled or approved by the fiscal court on or before September 1, 2020. The following receivables and liabilities are due to be collected and paid to settle the 2019 property and unmined coal accounts. The settlement activity will result in a surplus of \$26 that should be put in an escrow account.

The sheriff's office did not submit the tax settlement to the fiscal court for approval to meet the deadline set by KRS 134.192.

Failure to pay liabilities timely causes taxing districts and other governmental agencies to be deprived of necessary funds. After all receivables are collected and all liabilities are paid, the sheriff will be able to close his 2019 property, franchise, and unmined coal tax accounts.

Assets

| | | |
|---|----|--------------|
| Cash in Bank (All Tax Accounts) | \$ | 152 |
| Receivables: | | |
| Unpaid Obligations Per Draft- | | |
| State | | 129 |
| County | | 478 |
| School | | 411 |
| Library | | 147 |
| Health | | 66 |
| Extension | | 138 |
| Interest Overpaid Sheriff's Fee Account | | <u>60</u> |
| Total Assets | \$ | <u>1,581</u> |

Liabilities

| | | |
|---------------------------------|----|--------------|
| Tax Commissions Due Fee Account | \$ | 1,545 |
| Interest Due School | | <u>9</u> |
| Total Unpaid Obligations | | <u>1,554</u> |
| Total Fund Balance | \$ | <u>26</u> |

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. 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."

Good internal controls ensure that all receivables and liabilities are settled for each tax year.

We recommend the sheriff's office comply with KRS 134.192 by presenting the tax settlement to the fiscal court by September 1. The remaining surplus should be put into an escrow account.

County Sheriff's Response: Due to the late release of mineral bills, we were unable to finish with disbursements and bank reconciliations by Sept. 1st.

The sheriff's office failed to bill franchise tax to one company: This is a repeat finding and was included in the prior year audit report as Finding 2018-005. The sheriff's office failed to bill franchise tax to one company. The sheriff's office and county clerk's office operate two separate systems for generating tax bills. Therefore, when the county clerk's office gives the sheriff's office the franchise bills, the sheriff's office recreates these bills in their system. During this process, the sheriff's office failed to bill one company.

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

| Taxing District | Amount Not Billed |
|--------------------|----------------------|
| County | \$ 36 |
| School | 36 |
| Library | 12 |
| Health | 6 |
| Extension | 10 |
| Soil | - |
| | <u>\$ 100</u> |

Due to lack of internal controls, the sheriff's office failed to bill a company when recalculating the franchise tax bills in the sheriff's office tax system. When companies are not billed and/or properly billed, the taxing districts are not receiving all of the funds to which they are entitled and the company is not paying its 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 the company the franchise tax that it is legally obligated to pay.

County Sheriff's Response: I did not receive an assessment for this bill, therefore I could not create it. I will be speaking with revenue cabinet regarding this matter. Bill will be created when I receive the assessment.

The sheriff did not settle his 2018, 2017, 2014, and 2013 tax accounts: This is a repeat finding and was included in the prior year audit report as Finding 2018-003. 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> |

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 following districts need to be billed and collected:

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

Collection efforts have been made, but with no follow up on billing.

- 2017 franchise account owes payments to the following districts and account:

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

The sheriff has not settled the 2014 property tax accounts due to the following reason:

- The sheriff has not collected on its bill to the soil district for \$24. In addition, there were no follow up collection actions performed.

The sheriff has not settled the 2013 unmined coal tax accounts due to the following reason:

- The 2013 unmined coal tax account and the 2014 fee account has 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.

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. After all receivables are collected and all liabilities are paid, the sheriff will be able to close his prior years' property and unmined coal tax accounts.

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. 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."

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 collected and the items listed above disbursed in order to completely settle these accounts. The remaining surplus should be put into an escrow account.

County Sheriff's response: These accounts have been settled to zero and this will be reflected in future audits.

The sheriff's office lacks adequate segregation of duties: This is a repeat finding and was included in the prior year audit report as Finding 2018-001. The sheriff's office lacks adequate segregation of duties and internal controls over tax receipts and disbursements. The office manager and deputy clerks collect tax receipts. The 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 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 sheriff and his office manager sign tax distribution checks. The 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. As stated previously, much of the lack of segregation of duties is attributed to limited resources. As such, the sheriff and office manager should consider various methods to increase segregation of duties while working within a restricted budget.

The sheriff was unable to implement an adequate internal control system to improve segregation of duties.

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's office 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 must 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: This is a problem in all small offices, but we will try to comply.

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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