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Harmon Releases Audit of Former Pendleton County Sheriff's Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2021 taxes for former Pendleton County Sheriff Edwin Quinn. 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. The former sheriff's settlement is prepared on the regulatory basis, which is described in the auditor's opinion letter. Regulatory basis reporting for the former sheriff's settlement is an acceptable reporting methodology, and this reporting methodology is followed for all 120 sheriff settlements in Kentucky.

The former sheriff's financial statement fairly presents the taxes charged, credited and paid for the period April 16, 2021 through August 31, 2022 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 findings:

The former Pendleton County Sheriff's Office did not have adequate segregation of duties:

This is a repeat finding and was included in the prior year audit report as Finding 2020-001. The former sheriff's office did not have adequate segregation of duties over receipts, disbursements, and reconciliations. The former sheriff or his office manager received, processed, and recorded receipts, prepared checks for tax distribution, and posted payments to the disbursements ledger. The former sheriff reconciled the bank account. According to the former sheriff, due to the office having a small staff, it was very difficult to segregate duties over receipts and disbursements.

Inadequate segregation of duties allows one person to have a significant role in processing and recording receipts and disbursements which could increase the risk that misappropriation of assets and inaccurate financial reporting will occur and be undetected.

Good internal controls dictate that the same employee should not handle, record, and reconcile receipts and disbursements. Segregation of duties over these tasks, or the implementation of compensating controls when limited by staff, is essential for providing protection from asset misappropriation and helping prevent inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

We recommend the sheriff's office implement internal controls or segregate duties as much as possible. If these duties cannot be segregated due to a limited number of staff or a limited budget, the sheriff could implement compensating controls to offset this control weakness. Examples of compensating controls include:

- The sheriff or independent person could compare daily bank deposit to the daily checkout sheet. This could be documented by having the reviewer initial the deposit slip.
- An independent person could review monthly bank reconciliations prepared by the sheriff. The reviewer could sign or initial the reconciliation to document this review.
- To document delivery of tax payments to the taxing districts, the sheriff could have each taxing district sign and date a sheet.
- Dual signatures could be required on all checks.

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

The former Pendleton County Sheriff's office did not have adequate internal controls over prior year tax collection funds: The former Pendleton County Sheriff transferred \$1,123 from his 2020 tax collections bank account to his 2021 tax collections account to pay a taxpayer's 2021 tax bill. Also, there were \$477 in 2021 credit card tax receipts deposited in the 2020 tax account that were not transferred to the 2021 tax account and ultimately were turned over to the Pendleton Fiscal Court as part of the 2020 tax unexplained overage.

According to the former sheriff, the taxpayer's 2020 bill was erroneously transferred to the Pendleton County Clerk as delinquent after it was paid by the taxpayer's mortgage company and the payment was misallocated and lost in the tax software. After the former sheriff was made aware of the taxpayer's claim of an erroneous delinquent tax bill in 2020, the former sheriff paid the taxpayer's 2021 tax bill on March 23, 2022. Upon inquiry by the auditor, the former sheriff

was not able to locate any documentation to demonstrate the taxpayer's 2020 bill was paid by his mortgage company.

The former sheriff did not open a 2021 tax collection bank account until September 22, 2021 and did not update his credit card processor to deposit 2021 credit card tax receipts into that account until November 11, 2021. This resulted in \$63,283 in 2021 credit card tax receipts being deposited into the 2020 tax collection bank account. Due to management oversight, only \$62,806 in these funds were transferred to the 2021 tax collection bank account netting a \$477 omission.

By paying a taxpayer's bill in a subsequent period for a potentially erroneous delinquent tax bill, the sheriff was not following the proper procedure for refunding of duplicate payments. Further, by making this payment without sufficient documentation that the 2020 bill was previously paid, the former sheriff may have been negligent in his duties as the Pendleton County tax collector. In addition, by comingling funds between tax collection periods, the former sheriff was unable to properly account for amounts in the correct period.

Strong internal controls dictate oversight and procedures to ensure taxes due are collected and accounted for in the proper period. Further, strong internal controls dictate that refunds of duplicate/overpayments of tax bills be refunded by check from the account from which the duplicate/overpayment was received.

KRS 134.119(1) states, in part, "(a) The sheriff shall be the collector of all state, county, county school district, and other taxing district property taxes unless the payment is directed by law to be made to some other person." Nowhere in this statute or any other statute the auditor is aware of, is a sheriff authorized to unilaterally discharge a taxpayer's bill or make payment on behalf of a taxpayer with tax collections from a prior period.

KRS 134.160(2) states, in part, "(a) The sheriff shall keep an accurate account of all moneys received and all disbursements made, showing: 1. The amount; 2. The date and time of payment or disbursement; 3. The name of the person making the payment or to whom the disbursement was made; and 4. The account the payment was credited to or the disbursement deducted from."

KRS 134.160(3) states, "[a]ll payments received by the sheriff shall be entered immediately by the sheriff on his or her books. The sheriff may provide a receipt specifying the amount and to what account the payment was credited to the person making the payment."

KRS 134.192(7) states, "[o]n 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 Pendleton County Sheriff's Office strengthen internal controls and management oversight to ensure that tax collection receipts are accounted for in the proper period. This includes and is not limited to the following:

- The sheriff should promptly and accurately record all payments received on his books, including:
 - tax accounting software,
 - daily checkout sheet paperwork with a detailed listing of all tax bills paid, and
 - a receipts ledger.
- The sheriff should pay to the county treasurer any unexplained overage in his tax collection account after settlement, that is not caused by uncleared checks.
- The sheriff should open a tax collection receipts bank account each year immediately after the completion of the prior tax collection period.
- The sheriff should update his bank account information with any credit card or online bill processors for direct deposits.
- The sheriff should obtain and retain documentation from a taxpayer claiming an erroneous delinquent tax bill before accepting the validity of such claim.
- The sheriff should upon the receipt of sufficient documentation validating a claim of an erroneous delinquent tax bill:
 - record the tax bill as paid in the proper period,
 - amend his delinquent tax list, and
 - file an amended delinquent tax list with the county clerk.
- If such claim of an erroneous delinquent tax bill is validated after a taxpayer pays it as delinquent with the county clerk, the sheriff should forward such validating information with the amended tax list to the clerk to process a refund.

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

The former Pendleton County Sheriff's office did not have adequate internal controls over the preparation and billing of franchise bills: The former Pendleton County Sheriff billed an incorrect amount for an additional 2018 franchise tax bill and failed to send an amended 2018 franchise tax bill. For 2018 additional franchise bill GNC #5180, the county clerk's prepared tax bill was incorrectly calculated as \$14,667 instead of the correct amount of \$17,469. This incorrect additional bill was forwarded to the former sheriff on September 20, 2019. The former sheriff also prepared and sent out an incorrect amount bill of \$14,662 (not matching the clerk's incorrect amount although closely approximating it). The former sheriff failed to catch the mistake on the clerk's bill and return it for recalculation and reprinting.

On September 28, 2020, the Department of Revenue sent an amended certification for 2018 GNC #5180 to the Pendleton County Clerk. On October 22, 2020, the county clerk prepared an amended bill, using the erroneous information from the prior additional bill and making additional errors in calculation of the amended amounts, resulting in an incorrectly billed amount of \$189,366 versus the correct amount of \$54,054. The former sheriff has no record of receiving or mailing out this amended bill. The county clerk has no signed receipt of this bill from the former sheriff.

By not verifying the accuracy of the county clerk's additional bill, the former sheriff billed and collected incorrect amounts. By not billing the amended bill, the former sheriff failed to collect amounts due to districts within his jurisdiction.

Strong internal controls dictate oversight and procedures to ensure the correct amounts are being billed and all bills are being mailed for franchise taxes.

KRS 136.180(1) states, in part, "...the department shall immediately certify, unless otherwise specified, to the county clerk of each county in which any of the operating property or nonoperating tangible property assessment of the corporation is liable to local taxation, the amount of property liable for county, city, or district tax."

KRS 136.180(5) states, in part, "[t]he certification of valuation shall be filed by each county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection."

KRS 134.119(1) states, in part, "(a) The sheriff shall be the collector of all state, county, county school district, and other taxing district property taxes unless the payment is directed by law to be made to some other person."

We recommend the Pendleton County Sheriff's Office strengthen internal controls and management oversight to ensure that all franchise tax bills are accurate and collected.

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

The former Pendleton County Sheriff did not have adequate internal controls over bank franchise bills: The Pendleton County Fiscal Court has elected to institute an optional bank franchise tax. For 2021, one of the bank franchise bills in the amount of \$13,128 was not collected. Due to management oversight, this bank franchise tax was not properly handled. The Department of Revenue sends the bank franchise tax assessments to the Pendleton County Treasurer. The treasurer prepares the bank franchise tax bills and sends them directly to the bank and forwards a copy to the sheriff's office. These bills are paid to the sheriff's office which then disburses these receipts less commission. For 2021, this uncollected bill was not followed-up on by the former sheriff's office or fiscal court until it was brought to their attention by the former sheriff's 2021 tax collection auditor. By not following up on unpaid bank franchise bills, the former sheriff was not effectively executing his role as the county tax collector and potentially resulting in a loss of revenue for the fiscal court.

Strong internal controls dictate oversight and procedures to ensure bank franchise bills are collected.

KRS 134.119(1) states, in part, "(a) The sheriff shall be the collector of all state, county, county school district, and other taxing district property taxes unless the payment is directed by law to be made to some other person."

KRS 136.575(2) states, in part, "[c]ounties, cities, and urban-county governments may impose a franchise tax on financial institutions measured by the deposits in the institutions located within the jurisdiction of the county, city, or urban-county government at a rate not to exceed twenty-five thousandths of one percent (0.025%) of the deposits if imposed by counties and cities and at a rate

not to exceed fifty thousandths of one percent (0.050%) of the deposits if imposed by urban-county governments.”

We recommend the Pendleton County Sheriff’s Office strengthen internal controls and management oversight to ensure that all bank franchise tax bills are collected.

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

The former Pendleton County Sheriff’s tax settlement was not accurate and required numerous adjustments: The former Pendleton County Sheriff prepared and submitted an inaccurate 2021 tax settlement to the Pendleton County Fiscal Court. The former sheriff had errors resulting in \$60,003 in charges being omitted and \$67,038 in credits being omitted. The former sheriff did not have adequate internal controls in place to ensure accurate financial reporting on his settlement and did not accurately record all receipts and disbursements.

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.”

We recommend the Pendleton County Sheriff’s Office strengthen internal controls and management oversight to ensure that the annual tax settlement is accurate.

Former Sheriff’s Response: The official 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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