



Auditor of Public Accounts
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Harmon Releases Audit of Powell County Sheriff's Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2021 taxes for Powell County Sheriff Danny Rogers. 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, 2021 through August 31, 2022 in conformity with the regulatory basis of accounting.

Finding two of the audit report will be referred to the Kentucky Office of the Attorney General and the Kentucky Department of Revenue for further review.

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 Powell County Sheriff's Office does 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 sheriff's office does not have adequate segregation of duties. The sheriff's bookkeeper collects payments

from customers, prepares deposits, writes checks, posts transactions to the receipts ledger, posts checks to the disbursements ledger and prepares monthly and quarterly reports. The sheriff or another employee did not document oversight of any of these activities. A lack of oversight could result in misappropriation of assets or inaccurate financial reporting to external agencies such as the Department of Revenue. The segregation of duties over various accounting functions such as opening mail, preparing deposits, recording receipts and disbursements, and preparing monthly reports, or the implementation of compensating controls is essential for providing protection from asset misappropriation and inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

We recommend the sheriff separate the duties involved in receiving cash, preparing deposits, writing checks, posting to ledgers, preparing monthly bank reconciliations, and comparing financial reports to ledgers. If this is not feasible due to budgetary constraints, cross checking procedures could be implemented and documented by the individual performing the procedure.

Sheriff's Response: I disagree that the Sheriff was not involved in the daily financial activities of his office. Someone could not make that assumption only by being here a couple of times a year. I do discuss daily activities with my staff however it may not be documented by handwriting but I am involved in my office and the activities. I not only work the road but I do help in the office taking payments and preparing receipts for fees and property taxes.

At what point would auditors consider me involved in my office daily?

**We are a small office and the daily duties are shared.*

Auditor's Reply: As noted, the oversight and checks and balances the sheriff performs are not documented; therefore, auditors were unable to verify that oversight had occurred.

The Powell County Sheriff did not have adequate internal controls in place to ensure guidelines for penalty and add-on fee waivers were followed and did not apply discounts properly: This is a repeat finding and was included in the prior year audit report as Finding 2020-002. The Powell County Sheriff did not have adequate internal controls in place to ensure compliance with the proper guidelines for granting penalty and add-on fee waivers to certain taxpayers. Additionally, the sheriff applied discounts to collections that did not meet the criteria to receive a discount, specifically, six instances were noted in which the discount was applied on the last day of collections or afterward, including bills in the sheriff's name and the sheriff's bookkeeper's name. Finally, the sheriff failed to maintain proper documentation of waiver forms.

KRS 134.015(3) states, "[i]f the regular collection schedule established by subsections (1) and (2) of this section is delayed, the department may establish an alternative collection schedule. Taxes shall be due two (2) full months from the date the tax bills are mailed. The alternative collection schedule shall allow a two percent (2%) discount for all tax bills paid in full within one (1) full month of the date the tax bills were mailed. Upon expiration of the discount period, the face amount reflected on the tax bill without discount or penalty shall be due for the next full month. Payments made within one (1) month following the face amount period shall be subject to a penalty

of five percent (5%) of the taxes due and unpaid. Payments made after the five percent (5%) penalty period shall be subject to a penalty of ten percent (10%) of the taxes due and unpaid.”

Additionally, KRS 134.119(7) states, “[a]s additional compensation for the collection of delinquent taxes, the sheriff shall be entitled to an amount equal to ten percent (10%) of the total taxes due plus ten percent (10%) of the ten percent (10%) penalty for all delinquent taxes. This fee shall be added to the total amount due, and shall be paid by the person paying the tax claim if payment is made to the sheriff, or the certificate of delinquency or personal property certificate of delinquency if payment is made after the tax claim has been filed with the county clerk.”

The sheriff can accept bills that are received in the mail with a proper postmark as if those bills were actually paid on that date. Therefore, there will inevitably be bills that are received a few days after the cut-off date of the collection periods that are processed as if those bills were received in a different period. Our test results account for postmarked bills and these have not been reported in the totals as erroneous.

Since the sheriff’s office established an alternative collection schedule, the tax collection schedule for the Powell County Sheriff was as follows:

Discount Period: if paid by November 30, 2021
Face Period: if paid by December 31, 2021
5% Penalty Period: if paid by January 31, 2022
21% Penalty Period: if paid after January 31, 2022

As outlined in the table below, numerous tax bills were noted in which a discount was applied outside the applicable discount period or a penalty/add-on fee was waived without showing reasonable cause as is required to be documented when waivers are granted. Specifically, there were 43 documented instances of erroneous discounts and waivers totaling \$2,047. Of this, we noted several erroneous discounts and waived penalties/add-on fees for the Sheriff and taxpayers that have a personal connection to the sheriff’s office such as sheriff’s office employees, sheriff’s special deputies, and relatives of the sheriff, employees, or special deputies.

Add-on fees waived without proper documentation	\$ 843
5% penalties waived without proper documentation	232
10% penalties waived without proper documentation	746
Discounts misapplied in face/penalty period	<u>227</u>
Total undocumented waivers of add-on fees/penalties and misapplied discounts	<u>\$ 2,048</u>

According to the sheriff, he was unaware of the statutory, regulatory, and manual guidelines in place for penalty waivers or discounts. By waiving penalties and add-on fees of persons not having shown reasonable cause, the sheriff has denied taxing districts and his office monies that could have been used for governmental services and operating the sheriff’s office. Additionally, penalties waivers, add-on fee waivers, and discounts have not been applied consistently to all taxpayers.

It is the responsibility of the sheriff's office to implement internal controls to ensure all property taxes and all applicable penalties are collected in accordance with statutes. The sheriff can consider the 10% penalty and 10% sheriff's fee for a waiver under certain guidelines.

KRS 131.175 allows for the waiver of penalties when there is shown reasonable cause. KRS 131.010(9) defines reasonable cause as "an event, happening, or circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of money due the department pursuant to law or administrative regulation."

Further, 103 KAR 1:040 clarifies "reasonable cause" and outlines specific circumstances that constitute reasonable cause. If a waiver is granted, the waiver form should be maintained by the sheriff's office at least until that particular collection year has been audited by the State Auditor's Office.

KRS 134.015 outlines the tax collection schedule, and the circumstances under which discounts may be applied to property tax bills.

We recommend the sheriff establish internal control procedures and implement proper oversight to ensure the requirements of KRS 131.175 and KRS 134.015 are followed. This finding is being referred to the Kentucky Office of the Attorney General and the Kentucky Department of Revenue for further review.

Sheriff's Response: See response 001. We would love to hire more employees however they do not stay here due to not being able to compete with other counties salaries and their benefits.

**I go over the bank statements along with both clerks each month when accounts are reconciled dated and initialed by myself and both clerks if able.*

Auditor's Reply: As recommended the Powell Sheriff should comply with the applicable statutes and procedures for penalty and add-on fee waivers.

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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