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

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2017 taxes for former Breathitt County Sheriff Ray Clemons. 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 18, 2017 through April 16, 2018 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 former sheriff has a deficit of \$313 in his 2009 tax account: This is a repeat finding and was included in the prior year audit report as Finding 2016-002. The former sheriff has a deficit of \$313 in his 2009 tax account because the sheriff still owes tax distributions from that year to the extension taxing district. **The former** sheriff must deposit personal funds to cover the deficit.

The former sheriff has failed to take corrective action regarding this deficit for several years. As a result, the taxing district has been deprived of much needed resources for a significant time period.

KRS 134.192 requires the sheriff to, “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.”

We recommend the former sheriff take corrective action to settle and close the 2009 tax account immediately. This matter will be referred to the Breathitt County Attorney to pursue collection.

Former Sheriff's Response: We will correct it and make corrections.

The former 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 2016-001. The former sheriff's office lacked adequate segregation of duties due to the responsibilities of receiving, recording, depositing, disbursing, and reconciling funds being delegated to the same individual.

The former sheriff's bookkeeper received payments for taxes, recorded receipts, prepared deposits, prepared checks for payments, recorded disbursements, prepared monthly tax reports, and completed monthly bank reconciliations. The former sheriff was aware of the risk associated with inadequate segregation of duties; however, due to small staff size and budget constraints, the former sheriff decided to accept these risks and did not implement compensating controls to offset this weakness.

Since only one person performed all the accounting functions, there was no assurance that financial transactions were accurate, complete, and free of error and misstatement. The lack of adequate segregation of duties increased the risk of undetected misappropriation of funds, misstatements, errors, and fraud.

Good internal controls require the duties of receiving, recording, depositing, disbursing, and reconciling to be separated when possible. If these duties cannot be separated due to small staff size, the official should provide strong oversight and implement compensating controls to decrease the risk associated with inadequate segregation of duties.

We recommended the sheriff's office segregate the duties of receiving, recording, depositing, disbursing, and reconciling tax funds or to implement and document compensating controls to offset this control deficiency. Examples of compensating controls include: the sheriff comparing the daily checkout sheet to the receipts ledger and bank deposit, reviewing bank reconciliations for accuracy, performing surprise cash counts, and reviewing all financial reports. The sheriff could document this review process by initialing reports and supporting documentation.

Former Sheriff's Response: Working to change this in 2018.

The former sheriff did not complete an accurate franchise settlement: The former sheriff did not prepare a complete and accurate franchise tax settlement. The settlement reported some bills

as delinquent that were not actually delinquent as of April 16, 2018. The settlement was also materially misstated and inaccurate.

A lack of internal controls over the reporting of franchise taxes and a lack of understanding of the reporting requirements by KRS 134.122(1)(a) caused this error. As a result, the franchise settlement was materially misstated and included bills that were not delinquent.

Good internal controls are necessary to ensure accurate and complete financial reporting as well as ensure that the person responsible for report preparation understands the reporting requirements.

We recommend the sheriff's office strengthen internal controls over preparing the franchise tax settlement to ensure the settlement is complete and accurate.

Former Sheriff's Response: This will be corrected.

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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