

**REPORT OF THE AUDIT OF THE  
MAGOFFIN COUNTY  
SHERIFF'S SETTLEMENT - 2015 GAS AND OIL TAXES**

**For The Period  
June 16, 2015 Through May 24, 2016**



**MIKE HARMON  
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**MIKE HARMON**  
**AUDITOR OF PUBLIC ACCOUNTS**

To the People of Kentucky

The Honorable Matthew G. Bevin, Governor

William M. Landrum III, Secretary

Finance and Administration Cabinet

The Honorable Matthew Wireman, Magoffin County Judge/Executive

The Honorable Carson Montgomery, Magoffin County Sheriff

Members of the Magoffin County Fiscal Court

Independent Auditor's Report

**Report on the Financial Statement**

We have audited the Magoffin County Sheriff's Settlement - 2015 Gas and Oil Taxes for the period June 16, 2015 through May 24, 2016 - Regulatory Basis, and the related notes to the financial statement.

**Management's Responsibility for the Financial Statement**

Management is responsible for the preparation and fair presentation of the financial statement in accordance with accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting as described in Note 1. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of a financial statement that is free from material misstatement, whether due to fraud or error.

**Auditor's Responsibility**

Our responsibility is to express an opinion on the financial statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and the *Audit Guide for Sheriff's Tax Settlements* issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



To the People of Kentucky  
The Honorable Matthew G. Bevin, Governor  
William M. Landrum III, Secretary  
Finance and Administration Cabinet  
The Honorable Matthew Wireman, Magoffin County Judge/Executive  
The Honorable Carson Montgomery, Magoffin County Sheriff  
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### **Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles**

As described in Note 1 of the financial statement, the financial statement is prepared by the Magoffin County Sheriff on the basis of accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

The effects on the financial statement of the variances between the regulatory basis of accounting described in Note 1 and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

### **Adverse Opinion on U.S. Generally Accepted Accounting Principles**

In our opinion, because of the significance of the matter discussed in the Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles paragraph, the financial statement referred to above does not present fairly, in accordance with accounting principles generally accepted in the United States of America, the taxes charged, credited, and paid of the Magoffin County Sheriff, for the period June 16, 2015 through May 24, 2016.

### **Opinion on Regulatory Basis of Accounting**

In our opinion, the financial statement referred to above presents fairly, in all material respects, the taxes charged, credited, and paid for the period June 16, 2015 through May 24, 2016 of the Magoffin County Sheriff, in accordance with the basis of accounting practices prescribed or permitted by the Commonwealth of Kentucky as described in Note 1.

### **Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated October 1, 2018, on our consideration of the Magoffin County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Magoffin County Sheriff's internal control over financial reporting and compliance.

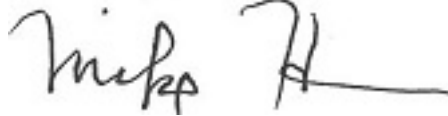
To the People of Kentucky  
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The Honorable Carson Montgomery, Magoffin County Sheriff  
Members of the Magoffin County Fiscal Court

**Other Reporting Required by *Government Auditing Standards* (Continued)**

Based on the results of our audit, we have presented the accompanying Schedule of Findings and Responses, included herein, which discusses the following report comments:

- 2015-001 The Sheriff's Office Lacks Adequate Segregation Of Duties
- 2015-002 The Sheriff Did Not Distribute Interest Payments To The School and The Fee Account
- 2015-003 The Sheriff Overpaid Tax Commissions To The Fee Account
- 2015-004 The Sheriff Did Not Prepare The Annual Settlement Of Tax Collections Timely And Accurately

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Harmon", with a long horizontal line extending to the right.

Mike Harmon  
Auditor of Public Accounts

October 1, 2018

MAGOFFIN COUNTY  
CARSON MONTGOMERY, SHERIFF  
SHERIFF'S SETTLEMENT - 2015 GAS AND OIL TAXES

For The Period June 16, 2015 Through May 24, 2016

<u>Charges</u>	Special			
	<u>County Taxes</u>	<u>Taxing Districts</u>	<u>School Taxes</u>	<u>State Taxes</u>
Oil Property Taxes	\$ 43,644	\$ 28,328	\$ 47,748	\$ 12,212
Gas Property Taxes	29,937	19,432	32,752	8,377
Penalties	186	121	204	52
Gross Chargeable to Sheriff	<u>73,767</u>	<u>47,881</u>	<u>80,704</u>	<u>20,641</u>
 <u>Credits</u>				
Discounts	1,067	692	1,168	298
Delinquents:				
Gas & Oil	<u>4,581</u>	<u>2,973</u>	<u>5,011</u>	<u>1,282</u>
Total Credits	<u>5,648</u>	<u>3,665</u>	<u>6,179</u>	<u>1,580</u>
Taxes Collected	68,119	44,216	74,525	19,061
Less: Commissions *	<u>2,895</u>	<u>1,879</u>	<u>2,981</u>	<u>810</u>
Taxes Due	65,224	42,337	71,544	18,251
Taxes Paid	<u>65,224</u>	<u>42,337</u>	<u>71,544</u>	<u>18,251</u>
Due Districts as of Completion of Audit	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>

\* Commissions:

4.25% on \$ 131,396

4% on \$ 74,525

The accompanying notes are an integral part of this financial statement.



MAGOFFIN COUNTY  
NOTES TO FINANCIAL STATEMENT

May 24, 2016

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

The sheriff's office tax collection duties are limited to acting as an agent for assessed property owners and taxing districts. A fund is used to account for the collection and distribution of taxes. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

B. Basis of Accounting

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a special purpose framework. Basis of accounting refers to when charges, credits, and taxes paid are reported in the settlement statement. It relates to the timing of measurements regardless of the measurement focus.

Charges are sources of revenue which are recognized in the tax period in which they become available and measurable. Credits are reductions of revenue which are recognized when there is proper authorization. Taxes paid are uses of revenue which are recognized when distributions are made to the taxing districts and others.

C. Cash and Investments

KRS 66.480 authorizes the sheriff's office to invest in obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

Note 2. Deposits

The Magoffin County Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240, the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the Sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the sheriff's deposits may not be returned. The Magoffin County Sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 66.480(1)(d) and KRS 41.240. As of May 24, 2016, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

MAGOFFIN COUNTY  
NOTES TO FINANCIAL STATEMENT  
May 24, 2016  
(Continued)

Note 3. Tax Collection Period

The oil and gas property tax assessments were levied as of January 1, 2015. Property taxes were billed to finance governmental services for the fiscal year ended June 30, 2016. Liens are effective when the tax bills become delinquent. The collection period for these assessments was November 13, 2015 through May 24, 2016.

Note 4. Interest Income

The Magoffin County Sheriff earned \$11 as interest income on 2015 gas and oil taxes. The sheriff did not distribute the appropriate amount to the school district as required by statute. As of October 1, 2018, the sheriff owed \$4 in interest to the school district and \$7 in interest to his fee account.

Note 5. Sheriff's 10% Add-On Fee

The Magoffin County Sheriff collected \$40 of 10% add-on fees allowed by KRS 134.119(7). This amount was used to operate the sheriff's office. As of October 1, 2018, the sheriff owed \$2 in 10% add-on fees to his fee account.

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND  
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL  
STATEMENT PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

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**MIKE HARMON**  
**AUDITOR OF PUBLIC ACCOUNTS**

The Honorable Matthew Wireman, Magoffin County Judge/Executive  
The Honorable Carson Montgomery, Magoffin County Sheriff  
Members of the Magoffin County Fiscal Court

Report On Internal Control Over Financial Reporting And On  
Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With *Government Auditing Standards*

Independent Auditor's Report

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Magoffin County Sheriff's Settlement - 2015 Gas and Oil Taxes for the period June 16, 2015 through May 24, 2016 - Regulatory Basis and the related notes to the financial statement and have issued our report thereon dated October 1, 2018. The Magoffin County Sheriff's financial statement is prepared on a regulatory basis of accounting, which demonstrates compliance with the Commonwealth of Kentucky's regulatory basis of accounting and budget laws, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

**Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statement, we considered the Magoffin County Sheriff's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Magoffin County Sheriff's internal control. Accordingly, we do not express an opinion on the effectiveness of the Magoffin County Sheriff's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying Schedule of Findings and Responses, we identified certain deficiencies in internal control that we consider to be material weaknesses.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statement will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies described in the accompanying Schedule of Findings and Responses as items 2015-001, 2015-003, and 2015-004 to be material weaknesses.



Report On Internal Control Over Financial Reporting And On  
Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With *Government Auditing Standards*  
(Continued)

**Compliance And Other Matters**

As part of obtaining reasonable assurance about whether the Magoffin County Sheriff's financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in the accompanying Schedule of Findings and Responses as items 2015-002, 2015-003, and 2015-004.

**Views of Responsible Official and Planned Corrective Action**

The Magoffin County Sheriff's views and planned corrective action for the findings identified in our audit are described in the accompanying Schedule of Findings and Responses. The sheriff's responses were not subjected to the auditing procedures applied in the audit of the financial statement and, accordingly, we express no opinion on them.

**Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Respectfully submitted,



Mike Harmon  
Auditor of Public Accounts

October 1, 2018

SCHEDULE OF FINDINGS AND RESPONSES

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MAGOFFIN COUNTY  
CARSON MONTGOMERY, SHERIFF  
SCHEDULE OF FINDINGS AND RESPONSES

For The Period June 16, 2015 Through May 24, 2016

FINANCIAL STATEMENT FINDINGS:

2015-001 The Sheriff's Office Lacks Adequate Segregation Of Duties

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The sheriff's office lacks adequate segregation of duties and internal controls over tax receipts and disbursements because the sheriff failed to implement proper internal control procedures. The bookkeeper and deputies collect tax receipts. The bookkeeper or a deputy prepares a daily bank deposit and reconciles the daily receipts to the daily collection report and posts items to the receipts ledger. The bookkeeper 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 bookkeeper and the sheriff sign tax distribution checks. The county treasurer prepares the monthly bank reconciliation, although there is nothing documented to determine who prepared the reconciliation or that it was reviewed by the sheriff. This was previously communicated in the prior year audit report as finding 2014-003.

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, and the same employee should not deposit funds, sign checks, post to ledgers, and prepare bank reconciliations and 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.

*Sheriff's Response: Due to the size of our budget and the number of staff, we cannot be expected to segregate duties at the level expected.*

Auditor's Reply: As noted in the comment, when faced with limited staff, the sheriff should implement compensating controls to mitigate the risk.

2015-002 The Sheriff Did Not Distribute Interest Payments To The School And The Fee Account

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The sheriff did not distribute interest earned on tax collections to either the school or the fee account. The sheriff did not implement proper internal control procedures that ensured interest was paid to the fee and tax account monthly. By not paying interest monthly, the sheriff was not in compliance with statutes. KRS 134.140(2) requires the sheriff to pay monthly "that part of his investment earnings for the month which is attributable to the investment of school taxes[.]" KRS 134.140(4) requires the remaining monthly interest to be transferred to the sheriff's fee account. We recommend the sheriff implement procedures to ensure the sheriff pay the amount of interest due to the school and fee account on a monthly basis.

*Sheriff's Response: The sheriff did not provide a response.*

MAGOFFIN COUNTY  
 COMMENTS AND RECOMMENDATIONS  
 For The Period June 16, 2015 Through May 24, 2016  
 (Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2015-003 The Sheriff Overpaid Tax Commissions To The Fee Account

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The sheriff overpaid tax commissions to the fee account. The tax program utilized by the sheriff's office automatically applies compensation rates to taxes collected. It then shows total tax commissions due to the sheriff's fee account on the monthly reports. An error in the tax software program caused the state taxing district commissions to be calculated incorrectly.

The sheriff did not implement proper internal control procedures to ensure that the monthly tax reports were completed accurately. Due to the incorrect commission rate, not only was the sheriff not in compliance with tax collection statutes, the state taxing district was also underpaid, causing penalties to be assessed. KRS 134.119(6)(a)(1) states, "[f]rom the Commonwealth the sheriff shall be paid four and one-quarter percent (4.25%) of the amount collected on behalf of the Commonwealth[.]"

We recommend the sheriff implement procedures to ensure the accurate commissions are assessed for tax collections.

*Sheriff's Response: We are working diligently to correct this matter by the date listed below. (12/21/18)*

2015-004 The Sheriff Did Not Prepare The Annual Settlement Of Tax Collections Timely And Accurately

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The annual tax settlement was materially misstated and was not presented to the fiscal court timely. It was approved by the fiscal court on October 25, 2016. The sheriff did not implement proper control procedures to ensure the county settlement was prepared timely and as a reasonably accurate representation of tax activity. By not preparing the county settlement timely, the sheriff was not in compliance with statutes. In addition, reasonable accuracy assists in the fiscal court's ability to hold the sheriff's office accountable for tax collections and disbursements.

KRS 134.192 requires each sheriff to annually settle his tax accounts on or before September 1 of each year. Furthermore, the annual 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 taxes collected and disbursed for the county, school district, and all tax districts.

We recommend the sheriff's office prepare an accurate annual tax settlement and comply with KRS 134.192 by presenting it in a timely manner.

*Sheriff's Response: This matter has been addressed and corrected. Our quarter doesn't end until September 30<sup>th</sup>. We cannot have accurate information available for the September court meeting. We give our report at the first meeting after our quarter ends.*

**Auditor's Reply:** The sheriff's annual tax settlement of tax collections is due on or before September 1 of each year. Tax collections ended on July 20, 2015, for 2014 unmined coal taxes. The sheriff had over a month to prepare the tax settlement and present it to the fiscal court.