



Auditor of Public Accounts
Mike Harmon

FOR IMMEDIATE RELEASE

Contact: Michael Goins
Michael.Goins@ky.gov
502.564.5841
502.209.2867

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 – 2017 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 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 sheriff has unpaid liabilities of \$18,808 and a deficit in his 2014 tax account: The sheriff has a deficit of \$622 in his 2014 tax account. This was previously communicated in the prior year audit report as Finding 2016-001. Deficits are primarily due to undeposited receipts. The 2014 tax account cannot be closed until all receivables and liabilities are resolved. In order to settle the account, the sheriff should collect and pay the following:

Assets

| | | |
|---|----|--------|
| Cash in Bank | \$ | 15,330 |
| Due From School District | | 2,832 |
| Due From Soil District | | 24 |
| | | <hr/> |
| Total Assets | | 18,186 |
| Unpaid Obligations: | | |
| Other Taxing Districts- | | |
| County | \$ | 13,550 |
| Library | | 407 |
| Health | | 149 |
| Extension | | 316 |
| Add on fees due 2015 Fee Account-Property | | 3,840 |
| Add on fees due 2015 Fee Account-Gas & Oil | | 42 |
| Interest Due Sheriff's Fee Account | | 88 |
| Interest Due School | | 47 |
| Deposit Errors Due 2015 Fee Account | | 369 |
| | | <hr/> |
| Total Unpaid Obligations | | 18,808 |
| | | <hr/> |
| Total Fund Deficit as of Exit Conference Date | \$ | (622) |
| | | <hr/> |

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 2014 tax account. KRS 134.192 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.” Good internal controls ensure that all receivables and liabilities are settled for each tax year. Furthermore, KRS 64.820 states:

- (1) The fiscal court shall collect any amount due the county from county officials as determined by the audit of the official conducted pursuant to KRS 43.070 and 64.810 if the amount can be collected without suit.
- (2) In the event the fiscal court cannot collect the amount due the county from the county official without suit, the fiscal court shall then direct the county attorney to institute suit for the collection of the amount reported by the Auditor or certified public accountant to be due the county within ninety (90) days from the date of receiving the Auditor's or certified public accountant's report.

In order to pay the liabilities due the districts and the other accounts noted above, \$622 should be collected from the sheriff personally and deposited into the 2014 tax account. We recommend the sheriff collect all receivables and pay all the liabilities to close this account.

Sheriff's Response: We are waiting on funds from the soil conservation district and then we will settle this account. In the meantime, Sheriff Montgomery deposited \$622 from his personal funds

to insure there would not be a deficit after all monies have been collected and disbursed in the proper manner.

The sheriff did not distribute interest payments to the school and the fee account: The sheriff did not distribute \$156 of interest earned on tax collections of which the school portion of interest is \$55 and the fee account portion of interest is \$101. This was previously communicated in the prior year audit report as Finding 2016-002. The sheriff did not implement proper internal control procedures that ensured interest was paid to the school and fee account monthly. As a result, the sheriff is not in compliance with KRS 134.140. KRS 134.140(3) states, “the sheriff shall pay to the county treasurer the investment earnings, other than those paid to the board of education in compliance with subsection (2) of this section, at the time of his or her monthly distribution of taxes to the county required by KRS 134.191.” KRS 134.140(4) states, “the sheriff may use investment earnings, other than those which must be paid to the board of education in compliance with subsection (2) of this section, to pay lawful expenses of his or her office.” Good internal controls ensure that interest is remitted in accordance with state law. We recommend the sheriff implement procedures to ensure the sheriff pays the amount of interest due to the school and fee account on a monthly basis.

Sheriff's Response: Interest payments are now being made and will continue to be made as required.

The sheriff's annual settlement was materially misstated: The sheriff's annual settlement was materially misstated and was not presented to the fiscal court in a timely manner. The sheriff's annual settlement did not include the following:

- Taxes Paid of \$3,841,687
- Tax Commissions of \$167,278
- Discounts of \$59,606
- Penalties of \$21,201

Since these items were not included, the amount owed or due the taxing districts cannot be determined. The annual settlement was approved by the fiscal court on September 27, 2018. This was previously communicated in the prior year audit report as Finding 2016-003.

The sheriff did not implement proper control procedures to ensure the annual tax settlement was prepared timely. Due to poor oversight, the tax settlement was materially misstated. By not preparing the annual tax settlement timely, the sheriff was not in compliance with statutes. In addition, having an accurate tax settlement assists 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 each taxing district.

While the sheriff agreed with the recommended adjustments to his tax settlement to make it accurate, we recommend that in the future, the sheriff's office prepare an accurate annual tax settlement and comply with KRS 134.192 by presenting it to fiscal court by September 1.

Sheriff's Response: Sheriff's settlements are now being prepared by a CPA and will contain all information needed.

The sheriff over paid tax commissions to the fee account: The sheriff overpaid tax commissions to the fee account by \$1,078. 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 compensation rate, not only was the sheriff not in compliance with tax collection statutes, the state taxing district was also under paid 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[.]" Good internal controls ensure that commissions are properly remitted to the fee account. We recommend the sheriff implement procedures to ensure the accurate commissions are assessed for tax collections.

Sheriff's Response: Procedures are now in place to make sure disbursements and commissions are being calculated correctly. Should a problem arise, we will handle it immediately.

The sheriff did not settle his 2013 tax account: This was previously communicated in the prior year audit report as Finding 2016-005. The sheriff failed to oversee the daily operations of his tax office. As a result, the following receivables and liabilities should be collected and paid:

| | | | |
|---|----|------------|--------------|
| Cash in Bank | | \$ | 0 |
| Due From 2016 Fee Account | | | 6 |
| Receivables: | | | |
| State | \$ | 769 | |
| County | | 2,108 | |
| School | | 2,854 | |
| Library | | 415 | |
| Extension | | 490 | |
| Soil Conservation | | 89 | |
| 2014 Fee Account For Commission Overpayment | | 1,652 | |
| 2014 Fee Account For Check Purchase | | <u>242</u> | |
| Total Assets | | | 8,619 |
| Unpaid Obligations: | | | |
| Health | | 5,633 | |
| State Gas and Oil | | 498 | |
| County Gas and Oil | | 586 | |
| Health Gas and Oil | | 303 | |
| Extension Gas and Oil | | 1,294 | |
| Interest Due Sheriff's 2014 Fee Account | | 199 | |
| Interest Due School | | <u>112</u> | |
| Total Unpaid Obligations | | | <u>8,625</u> |
| Total Fund Balance | | \$ | <u>0</u> |

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 2013 tax account. KRS 134.192 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.” 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 the 2013 tax account collects and disburses the items listed above in order to completely settle the account.

Sheriff's Response: Bookkeeper is waiting on funds from state in order to finish settling this account. Every other district has paid. Funds will be disbursed as soon as they become available.

The sheriff did not settle his 2015 tax account: The sheriff’s 2015 property tax account has not been closed out. The following receivables and liabilities are due to be collected and paid. The settlement activity will result in a surplus of \$560 that should be put into an escrow account. This was previously communicated in the prior year audit report as Finding 2016-006.

| | |
|---|----------------------|
| Cash in Bank (Property Tax Account) | \$ 331 |
| Due from 2016 Fee Account for overpaid commission | 2,649 |
| Due from State | 71 |
| Due from Fiscal Court | 559 |
| Due from School District | 384 |
| Due From Library District | 126 |
| Due From Health District | 67 |
| Due From Extension District | <u>151</u> |
| Total Assets | <u>4,338</u> |
| <u>Liabilities</u> | |
| Unpaid Obligations- | |
| Add on fees due 2016 Fee Account | 747 |
| Due to 2016 Fee for Deposit Error | 458 |
| Due To 2015 UMC For Deposit Error | 2,462 |
| Interest Due Sheriff's Fee Account | 76 |
| Interest Due School | <u>35</u> |
| Total Unpaid Obligations | <u>3,778</u> |
| Total Fund Balance as of April 16, 2016 | <u><u>\$ 560</u></u> |

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 2015 tax account.

KRS 134.192 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.” Good internal controls ensure that all receivables and liabilities are settled for each tax year. Furthermore, KRS 64.820 states:

- (1) The fiscal court shall collect any amount due the county from county officials as determined by the audit of the official conducted pursuant to KRS 43.070 and 64.810 if the amount can be collected without suit.
- (2) In the event the fiscal court cannot collect the amount due the county from the county official without suit, the fiscal court shall then direct the county attorney to institute suit for the collection of the amount reported by the Auditor or certified public accountant to be due the county within ninety (90) days from the date of receiving the Auditor's or certified public accountant's report.

We recommend the sheriff take the necessary steps to ensure the 2015 tax account collects and disburses the items listed above in order to completely settle the account. The remaining surplus should be put into an escrow account.

Sheriff's Response: Bookkeeper is in the process of settling this account. We are currently waiting on funds from the state and extension districts. Account will be settled as soon as those monies are received.

The sheriff has not settled his 2013 unmined coal tax account: This was previously communicated in the prior year audit report as Finding 2016-007. The sheriff failed to oversee the daily operations of his tax office. As a result, the following receivables and liabilities should be collected and paid:

| <u>Assets:</u> | | <u>Liabilities:</u> | |
|----------------------------------|---------------------|-----------------------|---------------------|
| Cash in bank | \$ 1,862 | Due to County | \$ 2,772 |
| Receivables: | | | |
| State | 71 | | |
| County | 191 | | |
| Commission from 2014 fee account | <u>648</u> | | |
| Total Assets | <u>\$ 2,772</u> | Total Liabilities | <u>\$ 2,772</u> |

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 the liabilities are paid, the sheriff will be able to close his 2013 unmined coal tax account.

KRS 134.192 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.” Good internal controls ensure that all receivables and liabilities are settled for each tax year. Furthermore, KRS 64.820 states:

- (1) The fiscal court shall collect any amount due from county officials as determined by the audit of the official conducted pursuant to KRS 43.070 and 64.810 if the amount can be collected without suit.
- (2) In the event the fiscal court cannot collect the amount due the county from the county official without suit, the fiscal court shall then direct the county attorney to institute suit for the collection of the amount reported by the Auditor or certified public accountant to be due the county within ninety (90) days from the date of receiving the Auditor's or certified public accountant's report.

After the above amounts are collected and the liabilities noted above are paid, we recommend the sheriff close his 2013 unmined coal tax account.

Sheriff's Response: Account will be settled as soon as state funds due are received.

The sheriff has a surplus of \$267 in his 2014 unmined coal tax account: The sheriff has a surplus of \$267 in his 2014 unmined coal tax account. This was previously communicated in the report as Finding 2016-008. The following amounts should be collected and paid from the 2014 unmined coal tax account:

| | |
|--|---------------|
| Assets | |
| Cash in Bank (All Tax Accounts) | \$ 125 |
| Receivables: | |
| Due From 2015 Fee Account (overpaid commissions) | 192 |
| Due From School | <u>11</u> |
| Total Assets | <u>328</u> |
| <u>Liabilities</u> | |
| Unpaid Obligations- | |
| State | 9 |
| County | 27 |
| Library | 5 |
| Health | 6 |
| Extension | 6 |
| Soil | 1 |
| Interest Due School | 3 |
| Interest Due Sheriff's Fee Account | <u>4</u> |
| Total Unpaid Obligations | <u>61</u> |
| Total Fund Balance as of Audit Date | <u>\$ 267</u> |

A tax surplus is due to unrefundable duplicate payments or unexplained receipts in the 2014 unmined coal tax account. The sheriff's staff did not mark all bills collected for 2014 unmined coal tax paid in the computer system. Two unmined coal bills collected on February 14, 2015 and February 24, 2014 were not marked paid in the computer system. Two taxpayers notified the county clerk that they paid their tax bills in the sheriff's office after receiving delinquent tax notices in the mail.

There is no way to determine how many bills the sheriff's office received but did not mark paid for 2014 unmined coal collections. As a result, the 2014 unmined coal tax account owes \$267 to the Kentucky State Treasurer for 2014 unmined coal tax surplus funds. Failure to pay liabilities timely causes governmental agencies to be deprived of funds for significant time periods. After all liabilities are paid, the sheriff will have settled his 2014 unmined coal tax account.

KRS 393.090 states that after three years, if the funds have not been claimed, they are presumed abandoned and abandoned funds are required to be sent to the Kentucky State Treasurer by KRS 393.110. In addition, KRS 134.192 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.” Good internal controls ensure that all receivables and liabilities are settled for each tax year.

We recommend the sheriff take the necessary steps to settle his 2014 unmined coal tax account.

Sheriff's Response: Account will be settled as soon as possible.

The sheriff's office lacks adequate internal controls over franchise collections: This was previously communicated in the prior year audit report as Finding 2016-009. The bookkeeper did not maintain a list of franchise bills that were collected during the year. Therefore, there was no knowledge of the bills that were sent out and the bills that were delinquent. These records had to be obtained from the county clerk's files. In addition, deposit tickets did not have details as to the bills that were deposited. The bills that were accepted and mailed out used the wrong tangible taxing rates on three bills, and one taxing district was not included at all on the bills. Twenty-one bills were also not found based upon the franchise certification list provided by the Department of Revenue. Also, the sheriff did not prepare a delinquent list of franchise bills and turn over to the county clerk.

The sheriff's office did not implement adequate internal controls over franchise collections. The sheriff did not maintain copies of the franchise bills that were given to them to collect. In addition, no details were maintained to determine which bills were paid. Bills not prepared properly could result in taxing districts not being paid in a timely manner or not at all.

Good internal controls dictate strong oversight over franchise bill preparation should have been in place, ensuring all bills prepared were accurate. This would have ensured taxpayers paid correct amounts and the taxing districts received the proper amount due. Additionally, KRS 134.122(1)(a) states, “[t]he sheriff shall, on April 15 or three (3) months and fifteen (15) days from the date the taxes were due. . .file all tax claims on real and personal property remaining in his or her possession with the county clerk[.]”

We recommend the sheriff implement adequate internal controls by recomputing tax bills and ensuring that the correct taxing district is listed and all taxing districts are included on the bills before the bills are distributed to taxpayers. Furthermore, we recommend the sheriff prepare a list of delinquent franchise bills for the county clerk at the end of the normal tax collection period.

Sheriff's Response: Current bookkeeper does not accept franchise bills without proper documentation from the state attached. Bills are checked for accuracy before being mailed to the taxpayer. Bookkeeper is in the process of rectifying previous year mistakes. Lists of delinquent or unpaid bills are being turned over to the clerk. As for missing bills, the sheriff does not receive state paperwork, therefore he has no way of knowing how many bills actually need to be created.

The sheriff's office lacks adequate segregation of duties: This was previously communicated in the prior year audit report Finding 2016-010. The sheriff's office lacks adequate segregation of duties and internal controls over tax receipts and disbursements. The bookkeeper and deputy clerks collect tax receipts. The bookkeeper or a deputy clerk 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 sheriff failed to implement proper internal control procedures. 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 office and budget restraints, it is not possible to implement these procedures.

Auditor's Reply: As noted in the comment, when staffing limitations prevent adequate segregation of duties, compensating controls and strong management oversight should be put into place to mitigate the risks.

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](#).

###

The Auditor of Public Accounts ensures that public resources are protected, accurately valued, properly accounted for, and effectively employed to raise the quality of life of Kentuckians.

Call 1-800-KY-ALERT or visit our website to report suspected waste and abuse.



