



Auditor of Public Accounts
Mike Harmon

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

Harmon Releases Audit of Marshall County Sheriff's Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2019 taxes for Marshall County Sheriff Eddie McGuire. 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, 2019 through May 15, 2020 in conformity with the regulatory basis of accounting.

Finding 1 of the report will be referred to the Marshall County Commonwealth Attorney's Office.

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 Marshall County Sheriff failed to obtain a revenue bond in accordance with KRS 134.230: The Marshall County sheriff failed to obtain a revenue bond prior to collection of the 2019 taxes, as required by KRS 134.230(1)(a). The sheriff's internal control system failed to catch this compliance issue. Since the revenue bond was not obtained, the amount of tax collections in

the sheriff's custody was at risk for potential loss and the sheriff was not in compliance with KRS 134.230.

KRS 134.230(1)(a) states “[t]he sheriff shall execute a bond annually to the Commonwealth with one (1) or more sufficient sureties in the minimum sum of ten thousand dollars (\$10,000), conditioned on the faithful performance of his or her duties and to pay over to the proper person and at the proper time all money collected. The bond shall be executed prior to the sheriff collecting taxes for the year in which the bond is executed. The bond shall be approved by order of the governing body of the county, and shall be filed by the governing body of the county with the county clerk and with the department.” This bond is in addition to the sheriff's general performance bond required by KRS 70.020. Additionally, good internal controls require the sheriff to gain an understanding of the legal requirements before collecting taxes.

According to the sheriff, he was unaware of what occurred to have not obtained a revenue bond. Furthermore, the sheriff stated he was under the impression that he had obtained a revenue bond. We recommend the sheriff execute a revenue bond annually, prior to commencing the collection of taxes for that year. The bonds shall be approved by the fiscal court and shall be filed with the county clerk and the Department of Revenue. The sheriff should implement internal controls to determine all legal requirements have been met prior to the collection of taxes. We also recommend the sheriff consult with the county attorney for guidance on this non-compliance. Additionally, this matter will be referred to the Marshall County Commonwealth Attorney's Office.

County Sheriff's Response: The Marshall County Sheriff's office has a fee pool ordinance in place with the Marshall County Fiscal Court. To my knowledge, appropriate bonds were initiated through the fiscal court before officials took office in January 2019.

The 2018 tax audit, which covers part of Sheriff McGuire's first year collecting taxes, states the Sheriff (McGuire) did not have a sufficient value bond in place during the collection season, however, at no time did it state the Sheriff did not have a bond in place.

As soon as the Sheriff was made aware of this issue, a bond was obtained to meet statute.

Finally, the Sheriff accepts ultimate responsibility if there was not a bond in place. The Sheriff will personally ensure in the future his bonds are in place.

The Marshall County Sheriff's settlement was significantly misstated: The Marshall County sheriff's settlement was significantly misstated due to franchise taxes paid and franchise taxes collected not being accounted for properly. Franchise collections were understated by \$561,287 and taxes paid were understated by \$547,346. The sheriff's tax settlement that was presented and approved by the fiscal court was not a complete and accurate reporting of taxes as of May 15, 2020.

KRS 134.192(1) 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.” Strong internal controls dictate the sheriff should be reviewing the settlement prior to presenting to Fiscal Court to ensure accuracy.

The franchise settlement was significantly misstated due to the sheriff not accounting for May 2019 through August 2019 franchise collections and payments, due to being unaware these were to be included on the franchise settlement. In addition, three franchise monthly reports required corrections, but the original monthly reports were used on the settlement. These franchise corrections were due to the formulas not calculating correctly. We recommend the sheriff review the tax settlement to ensure settlement is complete and accurate, including franchise taxes collected and taxes paid, prior to being submitted for approval.

County Sheriff's Response: The initial tax settlement was not accurate based on myself, the bookkeeper, not placing the months of May through August of Franchise collections on the settlement. The tax collection for Franchise revolves around separate dates which caused for the oversight on my part. I have since made that correction to my sheets and this should no longer be a problem. The Sheriff will also have this logged and will be able to check the dates on the next settlement and make sure they are accurate.

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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