



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

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2018 taxes for Mercer County Sheriff Ernie Kely. 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 17, 2018 through April 15, 2019 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 comment:

The sheriff did not maintain adequate controls and oversight over tax collection procedures:
During testing, the following issues were noted:

- Banks paid the face value of the franchise tax when they should have paid a discounted rate for paying the franchise taxes by December 31, 2019.

- The amount owed to the school district for one franchise bill collected was not recorded or paid to the school district.
- The amount owed to the soil conservation district for one franchise bill collected was not recorded or paid to the soil conservation district.
- The amount collected for one franchise tax bill was not accurately recorded in the monthly franchise tax reports or paid it out to the districts.
- The sheriff transposed the number for tangible taxes collected on the sheriff's settlement.
- The sheriff used the wrong commission rate for several months for the tax amounts owed to the school districts.
- The sheriff did not include the commission amount when paying the monthly taxes owed to the school district for May 2018.
- The total amount disbursed for taxes was recorded incorrectly in the sheriff monthly tax reports.

Due to the errors listed above, the sheriff's 2018 tax account is showing balances due to taxing districts and balances due from taxing districts in order to complete the 2018 tax settlement. The forms sent to the banks stating the amount of bank franchise tax owed had the wrong cutoff printed on them for which banks may pay the discounted franchise tax rate due to the sheriff being unable to change the form in their system. The sheriff remitted \$21,973 to the fee account which was later remitted to the fiscal court, so the fiscal court will need to return this amount to the sheriff who will then remit it to the school district in order to settle the account.

The sheriff lacked adequate controls over monthly and financial reporting to prevent, detect, or deter these errors. The sheriff did not accurately reconcile his tax account monthly.

The issues noted above resulted in the following items needing to be collected or distributed by the sheriff in order to complete his 2018 tax settlement:

Collect From:	
County	\$ 21,973
Distribute To:	
Whitaker Bank	330
First Financial Bank	141
Community Trust Bank	171
County	5,721
School	63,717
Library	2,643
Helath	1,632
Extention	2,643
Soil	9
Fire	1,144
Sheriff's fee account	1,724

Maintaining internal controls and oversight over tax collections and financial reporting are essential for providing protection from asset misappropriation and inaccurate financial reporting.

KRS 136.575(3) states that, “[t]he taxing authority shall issue bills to the financial institution by December 1 and require payment, with a two percent (2%) discount by December 31, or without discount by January 31 of the next year.”

KRS 134.191(1) states that, “[t]he sheriff shall provide monthly reports by the tenth day of each month to the chief executive of the county, the department, and any other district for which the sheriff collects taxes. The governing body of the county may require the sheriff to report and pay on a more frequent basis if necessary for bonding requirements; however, the sheriff shall not be required to report and pay more frequently than weekly.”

KRS 134.191(3) states that, “[a]t the time of making the report, the sheriff shall pay to the county treasurer or other officer designated by the governing body of a county, to the department, and to any other district for which the sheriff collects taxes, all funds belonging to the county, the state, or the district that were collected during the period covered by the report.

KRS 134.192(7) states that “On the final settlement, the sheriff shall pay to the county treasurer all money that remains in his or her hands attributable to amounts charged against the sheriff relating to the collection of property taxes, and shall take receipts as provided in KRS 134.160. The sheriff shall pay any additional amounts charged against him or her as a result of the settlements.”

We recommend the sheriff collect and distribute the amounts as listed above. Any remaining funds in the 2018 tax account should be put into an escrow account.

We recommend:

- The sheriff change the date printed on the bills for the date that the banks will receive a discount by.
- The sheriff ensure accurate monthly franchise tax reports are maintained in order to ensure all franchise taxes collected are accounted for accurately, and that the sheriff ensure franchise taxes collected are posted in accurate line item categories.
- The tax account should be reconciled monthly.
- The sheriff ensure that accurate financial reporting is maintained through adequate oversight.

County Sheriff's Response: Until recently the Mercer County Sheriff's Office bookkeeper has maintained franchise tax records by hand. GUTS, the company that provides the regular tax collection computer program, has provided us with a computer franchise tax collection program. This should eliminate some mistakes that were being made and ensure more accurate monthly franchise tax reports are being made and taxes collected are accounted for and disbursed more accurately.

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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