



Auditor of Public Accounts  
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### **Edelen Releases Audit of the Former LaRue County Sheriff's Tax Settlement**

**FRANKFORT, Ky.** – State Auditor Adam Edelen today released the audit of the sheriff's settlement – 2011 taxes for former LaRue County Sheriff Bobby Shoffner. 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.

Recent changes in auditing standards require the auditor's letter to communicate whether the sheriff's settlement presents fairly the taxes charged, credited and paid of the former LaRue County Sheriff in accordance with generally accepted accounting principles in the United States. 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 audit found that the sheriff's financial statement fairly presents the taxes charged, credited and paid, for the period, April 16, 2011 through April 16, 2012 in conformity with the modified cash basis of accounting.

As part of the audit process, the auditor must comment on non-compliance 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 known deficit of \$5,542 in his official 2011 tax account.** Based on available records, our audit determined there is a deficit of \$5,542 in the former Sheriff's official tax account. This deficit resulted primarily from undeposited 2011 tax receipts. Based on testing of daily receipts, it appears that cash was taken out of daily deposits and replaced by corporate franchise tax payments made by check. These payments were never included on a

monthly franchise report for distribution to taxing districts. As collector of property taxes, the Sheriff assumes full responsibility for all tax collections and complete distribution of these collections to the proper taxing authority. In order to properly distribute 2011 tax collections, we recommend the former Sheriff eliminate the deficit in the 2011 tax account with a deposit of \$5,542 from personal funds. We further recommend the former Sheriff take immediate steps to ensure all monies received by his office are immediately deposited into the correct official account.

*Former Sheriff's response: Will settle after corrected audit.*

Auditor's response: Auditor has reviewed all information provided by the former Sheriff subsequent to the exit conference date. The deficit of \$5,542 reported above is accurate and final.

**The former Sheriff deposited \$24,855 of unidentified cash in the 2011 tax account after his settlements were prepared and submitted to fiscal court.** During the audit, the former Sheriff deposited cash totaling \$24,855 on November 5, 2012. The Sheriff did not provide any financial documentation or records supporting the source of the funds, however, we have given the former Sheriff credit for these funds in determining his account deficit. If these funds had not been applied to the 2011 Tax Account, the known deficit would be significantly higher.

Because the former Sheriff deposited franchise collections with regular tax deposits and did not include them on the monthly reports, we cannot eliminate the possibility that these cash deposits were additional 2011 cash collections as these deposits could not be traced to supporting documentation. Furthermore, we question the validity of any and all deposits occurring after the former Sheriff has completed his settlement as no additional funds should be deposited into the tax account after settlement is made. All collections for each business day must be deposited intact daily. Funds received should not remain un-deposited for significant time periods as this increases the risk that the funds will be misappropriated. We recommend the former Sheriff cease unidentified and undocumented cash deposits after year end.

*Former Sheriff's response: Ok.*

**The former Sheriff's office lacked adequate segregation of duties over receipts and disbursements.** While reviewing the former Sheriff's internal control procedures, we identified a lack of adequate segregation of duties over receipts and disbursements. These control deficiencies are present because the former Sheriff's duties include accepting tax payments, recording taxes paid, preparing the deposits, reconciling the bank account, preparing monthly tax reports, preparing monthly tax disbursements, and signing monthly tax disbursements. The County Treasurer is a co-signer on the tax disbursements, however does not review supporting documentation for the disbursements.

Segregation of duties over collecting taxes, preparing daily deposits, preparing monthly reports, and preparing disbursements is essential for providing protection from asset misappropriation and/or inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

In order to achieve a proper segregation of duties, related activities should be assigned to different individuals. Since budget restrictions may limit the number of staff the former Sheriff can hire, it may not be feasible to segregate accounting duties to different individuals. In this situation, the former Sheriff should have had implemented compensating controls to mitigate the effects of the lack of adequate segregation of duties. This oversight would not be effective over these duties performed by the former Sheriff. The former Sheriff should have had delegated these duties to other employees and document his oversight or have someone review supporting documentation for what he prepares and document their oversight.

*Former Sheriff's response: Ok.*

**The former Sheriff should have accurately accounted for all franchise tax collections and distributed all franchise taxes by the tenth of month following collections.** During our review of franchise taxes for tax year 2011, we noted that numerous franchise tax bills were collected but were not reported and paid to the taxing districts by the tenth of the following month. In addition we noted the following:

- Franchise tax collections totaling \$17,090 were never reported and distributed to the taxing districts. As reflected on our Sheriff's Settlement - 2011 Taxes, a significant net amount of franchise taxes are due to taxing districts as the result of these reporting errors. These collections were deposited with regular tax collections to force daily deposits to agree to the daily tax collection report.
- Franchise tax collections totaling \$21,902 were included with regular tax deposits. When franchise collections are deducted from these deposits, the total amount of taxes deposited is short when compared to the tax collection reports.
- Franchise tax bills were not properly marked paid with the date collected. Franchise tax collections were paid to the taxing districts from one (1) to ten (10) months after the date of the taxpayers' checks.
- One (1) paid franchise bill included penalties. The penalties were not included on the 2011 monthly tax report and therefore, were not distributed to the taxing districts.
- Discounts were overstated on monthly reports by \$826, resulting in payments to taxing districts being understated.
- One franchise tax bill was prepared incorrectly resulting in an overpayment by the taxpayer of \$263.
- One franchise certification payment was remitted twice resulting in an overpayment of \$1,734. This was not noted by the Sheriff and has not been resolved.

The former Sheriff was required by KRS 134.140(2) to report and pay to the taxing districts by the tenth of each month all taxes collected during the preceding month. We recommend that the former Sheriff should have implemented controls over the tax collection process. We recommend the former Sheriff should have had properly accounted for all franchise tax collections in a timely manner to the proper accounts, and paying franchise tax collections to the taxing districts by the tenth of the following month as required by statute. Tax collections, including penalties and discounts, should have been properly reported on the monthly franchise

tax reports. In addition, refunds should be issued to franchise companies for the overpayments discussed above.

*Sheriff's response: Ok.*

**The former Sheriff did not properly account for all tax collection receipts.** On April 16, 2012, the former Sheriff transferred delinquent tax bills to the County Clerk as required by KRS 134.122. After the County Clerk mailed notices of delinquency, fourteen (14) taxpayers presented proof of payment to show their bill was in fact paid in the Sheriff's office. Also, during further tests of receipts and voided transactions, auditors noted two (2) more tax bills which also appear to have been paid. These bills should not have been included as delinquent. Based on the comparison of the daily tax collection reports to the bank deposits, there were no surplus amounts deposited. Therefore, should any of the bills that were transferred to the County Clerk's office as delinquent be sold and a determination then made that they had actually paid, the deficit amount would increase and any refunds due would be need to be paid by the Sheriff from personal funds. We recommend that the former Sheriff should have had implemented controls over the tax collection process in his office and provide appropriate oversight in this area. The former Sheriff should have had accurately accounted for all paid tax bills by marking them paid, batching daily paid tax bills, making daily deposits, and reconciling the batched totals to the daily tax collection reports and bank deposits throughout the tax collection period. The former Sheriff should have ensured all daily collections agreed to the deposit amounts and investigate any differences.

*Sheriff's response: Some errors were found in the computer system.*

**The former Sheriff did not document approval of waiver of penalties and fees as required by statute and Department of Revenue guidelines.** During the 2011 tax collection period, the former Sheriff's office granted waivers or reductions of penalties and add-on fees; however, they did not document the reasons for the waivers or maintain documentation to support the waivers. During testing of daily receipts, auditors noted checks from taxpayers dated during the penalty phase and which included penalties in the total payment. These bills were entered in the computer system at face value and there is no documentation or evidence to prove that a refund was issued to the taxpayer. Also, there was no overage noted on the deposit for that days' work.

KRS 134.015 provides Sheriffs with guidance on the tax collection schedules. This statute states, "Taxes paid in full between January 1 and January 31 of the year following the assessment year shall be subject to a penalty of five percent (5%) of the taxes due and unpaid. Taxes paid after January 31 of the year following the assessment year shall be subject to a penalty of ten percent (10%) of the taxes due and unpaid." In addition to this ten percent (10%) penalty, KRS 134.119(7) provides for an additional ten percent (10%) Sheriff's add-on fee for all bills collected from the time the ten percent (10%) penalty becomes applicable bringing the total penalty to twenty one percent (21%).

The Department of Revenue has prepared guidelines stating that reasonable cause as provided for in KRS 131.175 should be used for the waiver of penalties and fees. Under these guidelines, when a tax bill is payable to the Sheriff's office, the Sheriff may waive the penalties that have been added whenever reasonable cause has been demonstrated. The authority to waive or reduce

penalties and fees applies to both the five percent (5%) or ten percent (10%) delinquent penalty and the ten percent (10%) Sheriff's add-on fee. Several circumstances demonstrating reasonable cause are set forth in Sections I and 11 of these guidelines. Section III of the guidelines requires that a form documenting the reasons for waivers of penalties and fees be prepared and signed when such action is taken. A copy can be provided to the taxpayer if it is requested and the original should remain on file in the Sheriff's office. The Department of Property Valuation's field staff will review these forms as part of the settlement process to complete a collection cycle. These forms will also be subject to audit by the State Auditor's Office."

We recommend that the Sheriff should have had followed the guidelines as established by KRS 131.175 by either personally completing or authorizing his bookkeeper to complete and maintain the required forms. If the former Sheriff did not feel comfortable making waiver decisions, he should have had referred the taxpayer to the Revenue Cabinet for a determination to be made.

*Sheriff's response: Ok.*

**The former Sheriff should have distributed interest earned on tax collections monthly.** The former Sheriff did not distribute interest earned on tax collections monthly as required by statute. The former Sheriff only distributed interest one time for the months of November and December together. KRS 134.140(2) states, "As part of the monthly distribution of taxes to a district board of education that part of the investment earnings for the month which are attributable to the investment of school taxes, less an amount not to exceed four percent (4%) of the earned monthly investment income to reimburse the sheriff for the costs of administering the investment." The former Sheriff should have distributed the investment earnings at the same time as the monthly tax collections. The remaining monthly interest is to be transferred to the former Sheriff's fee account. We recommend that the former Sheriff should have complied with KRS 134.140(2) by distributing the amount of interest due to the school district and fee account on a monthly basis.

*Sheriff's response: Ok.*

**The former Sheriff should have transferred delinquent franchise bills to the County Clerk.** The former Sheriff did not transfer uncollected franchise tax bills to the County Clerk. Per KRS 134.122(1)(a) "The sheriff shall, on April 15 or three (3) months and fifteen (15) days from the date the taxes were due under an alternative collection schedule, file all tax claims on real and personal property remaining in his or her possession with the county clerk, except that in a consolidated local government the sheriff shall have fourteen (14) working days from the required filing date to file the delinquent tax claims with the county clerk." We recommend that the former Sheriff should have transferred any uncollected franchise tax bills over to the County Clerk as delinquent as required by statute.

*Sheriff's response: Ok.*

**The former Sheriff should have distributed taxes by the tenth of the month following collections.** During the course of the audit, we noted tax collections for four months were not distributed to the taxing districts in a timely manner. The auditor noted in one instance the taxing districts did not receive their payments until 10 months after collection. KRS 134.191(1)

states, “The 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.” We recommend that all tax collections be properly accounted for and distributed in a timely manner in compliance with KRS 134.191(1).

*Sheriff's response: Ok.*

**The former Sheriff should have deposited funds intact on a daily basis and reconciled deposits to the daily collection journal.** During the test of receipts, we noted that deposits were not made intact on a daily basis and were not reconciled to the daily tax collection journals. There were only four (4) deposits made during the month of December, two (2) deposits in January and February, none in March, and three (3) in April for tax collections. One deposit included 27 business days of collections. Also, franchise collections were included with regular tax deposits in order to agree to the tax collection journal. Tax collection journals were not printed and maintained to document the comparison between tax bills collected and the deposit. There were numerous instances where the cash and/or check totals recorded on the deposit slip did not agree with the total cash and checks presented to the bank for deposit.

The former Sheriff lacked controls over the deposit process and does not provide adequate oversight in this area. The Department for Local Government (DLG) is given the authority by KRS 68.210 to prescribe a uniform system of accounts. The minimum requirements for handling public funds as stated in the Instructional Guide for County Budget Preparation and State Local Finance Office Policy Manual require that deposits be made daily. Additionally, the practice of making daily deposits reduces the risk of misappropriation of cash, which is the asset most subject to possible theft. We recommend the Sheriff implement controls over the deposit process to assure deposits are made daily and intact to comply with KRS 68.210. We further recommend the former Sheriff should have reconciled deposits to collection reports in order to explain and correct deposit shortages timely. Also, the deposit slip preparation process should have included steps to verify the accuracy of information included on deposit slips and that the deposit slip agrees with the daily check out sheet.

*Sheriff's response: Ok.*

**The former Sheriff should have properly accounted for voided transactions.** Based upon the review of the former Sheriff's records, we noted the Sheriff did not properly account for voided transactions. For 2011 taxes, there was \$42,438 in voided transactions. \$18,808 of these transactions were processed on April 30, 2012 and May 1, 2012, which is after the sale date. There was no documentation maintained to support why these transactions were voided and no explanation could be given. Also, any employee can void a transaction. We recommend that the former Sheriff should have implemented controls over voided transactions. The former Sheriff should have approved all voids and documentation should be maintained to support why a transaction was voided.

*Sheriff's response: Ok.*

**The former Sheriff should have settled taxes for all prior years and should have remitted tax escrow monies held for more than three years to the Kentucky State Treasurer.** During the 2011 tax settlement audit for the period April 16, 2011 through April 16, 2012, we followed up on prior year tax settlement audits to determine whether the former Sheriff had settled all receivables and liabilities due. We obtained and reviewed bank statements for the 2004, 2005, 2006, 2007, 2008, 2009 and 2010 tax accounts from the dates the audits were completed through July 2013. We noted the following:

- On February 26, 2009, the former Sheriff remitted \$26,474 to the Kentucky State Treasurer (KST) from the 2004 tax account; however, according to the fund determination he should have remitted \$40,865. Based on our follow-up, receivables of \$15,253 remained uncollected and liabilities totaling \$862 had not been paid. Of the liabilities reported in the 2004 tax audit, the former Sheriff owed the school board \$217 in interest; however, he remitted \$4,694. This resulted in an overpayment of \$4,477. In addition, the former Sheriff disbursed \$859 to a vendor which should have been paid from the fee account. There is no supporting documentation for the refund and will be disallowed.
- On June 21, 2011, the former Sheriff remitted \$1,296 to KST from the 2005 tax account; however, according to the fund determination there should not have been any funds remaining to escrow. After the 2005 tax audit was completed, the former Sheriff deposited unknown receipts of \$1,480 and issued a refund for \$230. The account balance before the deposit was \$18 and the account earned interest of \$28. Based on our follow-up, receivables of \$20,477 remained uncollected and liabilities totaling \$20,477 had not been paid.
- On June 21, 2011, the former Sheriff remitted \$9,483 to KST from the 2006 tax account; however, according to the fund determination \$11,531 should have been escrowed leaving a balance of \$2,048. After the 2006 tax audit was completed, the former Sheriff issued a refund check for \$481 and the account earned additional interest of \$143. Based on our follow-up, receivables of \$13,861 remained uncollected and liabilities totaling \$11,813 had not been paid.
- On June 21, 2011, the former Sheriff remitted \$5,953 to KST from the 2007 tax account. Based on our follow-up, receivables of \$252 remained uncollected and liabilities totaling \$283 had not been paid.
- As of July 31, 2013, the former Sheriff's 2008 tax account had a balance of \$3,552. This balance included \$156 in additional interest earned since the audit was completed. Based on our follow-up, receivables of \$3,619 remains uncollected and liabilities totaling \$3,441 have not been paid. The remaining balance should be remitted to KST.
- As of July 31, 2013, the former Sheriff's 2009 tax account had a balance of \$2,863. This balance included \$226 in additional interest earned and a refund issued for \$179 since the audit was completed. Based on our follow-up, receivables of \$5,196 remains uncollected. In addition, the former Sheriff has not deposited the unexplained surplus of \$4,970 into an interest bearing escrow account. After depositing the uncollected receivables of \$2,154 and paying interest of \$226 to fiscal court, the former Sheriff should remit the remaining balance to KST.
- As of July 31, 2013, the former Sheriff's 2010 tax account had a balance of \$2,007. This balance included \$102 in additional interest earned since the audit was completed. Based

on our follow-up, all receivables and liabilities were settled with exception of \$18 underpaid to the state. In addition, the former Sheriff has not deposited the unexplained surplus of \$1,887 into an interest bearing escrow account. The former Sheriff should remit the remaining balance to KST and interest earned should be remitted to Fiscal Court.

The former Sheriff should have deposited any unrefundable duplicate payments and unexplained receipts in an interest-bearing account. According to KRS 393.110, the Sheriff should properly report annually to the Kentucky State Treasury Department any unclaimed moneys. After three years, if the funds have not been claimed, the funds should be submitted to the Kentucky State Treasurer. As of the audit date, the former Sheriff has unrefundable duplicate payments and unexplained receipts from 2009 and 2010 taxes after collecting all receivables and remitting all liabilities.

We recommend the former Sheriff settle all prior year taxes by obtaining refunds for all amounts due from the taxing districts, paying all amounts due, and transferring amounts due from other accounts for each tax year. We also recommend that once all amounts due to the 2009 and 2010 tax accounts have been deposited and all liabilities paid, the former Sheriff transfer the surplus to the new Sheriff to hold until due to the Kentucky State Treasurer as required by statute.

*Sheriff's response: Bullets one through four were at the direction of the APA who was the auditor at the time. I just followed these directions. For bullets five through seven, these accounts are closed and the funds transferred to the LaRue County General Fund as excess fees at the direction of the State Local Finance Officer.*

Auditor's Response: Amounts reported herein were obtained from fund determinations prepared in prior audits. We follow up on all activity occurring in prior year open accounts and determined the former Sheriff failed to collect all receivables and pay all liabilities as directed by the audits. Although these accounts are closed, the monies were not paid as directed by the audit. Furthermore, tax monies should never be paid to the General Fund as excess fees.

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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