



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 Former Jackson County Sheriff's Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement-2014 taxes for former Jackson County Sheriff Denny Peyman. 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.

This audit found that the former sheriff did not maintain adequate accounting records of tax revenues and expenditures for the period of April 16, 2014 through December 31, 2014. Also, auditors were unable to obtain the required representation letter from the former sheriff. Therefore, due to an unacceptably high audit risk, an audit opinion could not be expressed and the audit report presents a disclaimer of opinion.

This audit will be referred to the Attorney General.

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 failed to manage the financial activities of his office. The former sheriff failed to manage the financial activities of his office by not maintaining complete and accurate financial records. The settlement was not supported by the receipts and disbursements ledgers and did not agree to the bank activity for the period.

Due to numerous errors noted in the following comments and recommendations, we could not verify the accuracy of the financial statement.

Inaccurate and incomplete financial reports can lead to improper financial decision making as well as increase the risk of undetected errors or fraud.

The former sheriff needed to improve his financial practices and internal controls, as discussed in comments 2014-002 and 2014-003, to ensure that proper information was submitted in a timely manner and was not misleading to users of the information. Additionally, complete and accurate financial records would have ensured disbursements were made only when sufficient funds were available. The former sheriff's poor financial practices and weak internal control structure put taxpayer monies at risk, which resulted in a known deficit of \$8,910, as discussed in comment 2014-006. These practices also created an environment for other potential material misstatements to occur in the financial statement. In addition, the various local and state agencies that rely on and monitor the financial and program activities of the former sheriff cannot rely on nor have any confidence in the reports submitted by the former sheriff.

KRS 68.210 states, in part, "The administration of the county uniform budget system shall be under the supervision of the state local finance officer who may inspect and shall supervise the administration of accounts and financial operations and shall prescribe and shall install, by July 1, 1985, a system of uniform accounts for all counties and county officials." Therefore, the former sheriff should have prepared complete and accurate financial reports that were supported by the ledgers and bank activity of his office.

Former sheriff: No response.

The former sheriff's office lacked adequate segregation of duties over tax receipts, disbursements, and reconciliations. The former sheriff's office lacked adequate segregation of duties over tax receipts, tax disbursements, and reconciliations of tax collections to bank deposits. A review of internal control noted that one individual was primarily responsible for most receipt, disbursement, and reconciliation functions including opening incoming mail, receiving and recording cash, writing checks, reconciling tax collections to bank deposits, preparing bank deposits, preparing the daily checkout sheets, and preparing the financial reports.

A limited budget placed restrictions on the number of employees the former sheriff could hire or delegate duties to. When faced with a limited number of staff, strong compensating controls should be in place to offset the lack of segregation of duties.

Lack of oversight could have resulted in undetected misappropriation of assets or inaccurate financial reporting to external agencies such as the Department of Revenue and other taxing districts

Segregation of duties over accounting functions or the implementation of compensating controls is essential for providing protection from asset misappropriation and inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

The former sheriff should have separated the duties of collecting taxes, preparing daily deposits, preparing and mailing disbursements, and preparing financial reports. If these duties could not be segregated due to a limited number of staff or a limited budget, then strong oversight should have been provided to the employee responsible for these duties and this oversight should have been documented.

Former sheriff: No response.

The former sheriff did not strengthen internal controls over daily checkout procedures and deposits were not made intact on a daily basis. The former sheriff's office made only three deposits into the 2014 tax account for the period of April 16, 2014 through December 31, 2014, and two deposits were made into the 2013 tax account in error for the same time period. After testing the five deposits and daily checkout sheets, we identified a material weakness related to the preparation of the daily deposits that suggests deposits were not made intact. In addition, the following issues were noted:

- Deposit 533-
 - Discrepancies exist between the cash/checks listed on the daily check out sheets and what was deposited. Deposit 533 included an additional \$514.01 in checks that were not listed on the daily checkout sheet.
 - Deposits totaling \$43,088.52 went into the 2013 tax account in error and were not noted by the former sheriff or corrected.
 - Deposit was not made daily or intact as indicated by this deposit which included two deposits from one daily checkout sheet which covered the period of 6/3/14 to 12/1/14.
 - Deposit one was on 7/14/14 for \$40,786.13 and deposit two was made on 9/22/14 for \$2,302.39
 - Taxpayer due a refund for overpayment on tax bill by \$13.09.
 - One tax bill was not marked paid however the funds were received.
- Deposit 534-
 - Discrepancies exist between the cash/checks listed on the daily check out sheets and what was deposited. Deposit 534 had \$259.07 less cash and \$254.06 more in checks than what the daily checkout sheet reflected.
 - Checks included in this deposit for \$355.31 were applied to a tax bill included in deposit 536.
 - Two bills totaling \$104.93 were marked paid by check, but could not be traced to a check and could not be traced to the corresponding details.
 - Deposit was not made daily or intact as indicated by this deposit report, which was for the period of 12/1/14 to 12/8/14, with the deposit to the bank made on 12/15/14.

- Deposit 535-
 - Discrepancies exist between the cash/checks listed on the daily check out sheets and what was deposited. Deposit 535 had \$3,662.46 less cash and \$2,803.81 more checks than what the daily checkout sheet reflected.
 - Checks totaling \$4,319.22 were collected but not properly applied to taxpayers' bills.
 - Overpayments of \$145.36 were improperly accounted for.
 - Refunds of \$136.30 are due to taxpayers for overpayments.
 - Eight taxpayer's bills totaling \$1,659.22 marked paid by check could not be traced to a check and could not be traced to the corresponding details.
 - Deposit was not made daily or intact as indicated by this deposit report, which was for the period of 12/8/14 to 12/17/14, with the funds deposited on 1/5/15.
 - Eight taxpayer's bills totaling \$1,659.22 annotated paid with insufficient supporting payment documentation.

- Deposit 536-
 - Discrepancies exist between the cash/checks listed on the daily check out sheets and what was deposited. Deposit 536 had \$1,382.12 less cash and \$1,420.60 less in checks than what the daily checkout sheet reflected.
 - Three taxpayer's bills marked paid could not be reconciled to check payments received, which indicates insufficient funds of \$462.60 to cover the tax bills annotated paid.
 - Tax bills included in report totaling \$510.76 while checks for same tax bills were included in deposit 534 and 535.
 - Four taxpayers' bills totaling \$866.06 marked paid by check could not be traced to a check and could not be traced to the corresponding details.
 - Refunds due to overpayments due to the taxpayers are \$52.80.
 - Deposit was not made daily or intact as indicated by this deposit report, which was for the period of 12/17/14 to 1/2/15, with the funds deposited on 1/5/15.

The findings listed above were caused by a lack of controls and proper procedures regarding the processing and reconciliation of daily tax collections.

The lack of control allowed for numerous errors to go undetected by the former sheriff and his staff which included deposits to the wrong tax accounts, under and overpayments of taxpayers' bills, refunds not being properly distributed, and districts not receiving taxes collected in a timely manner.

Effective internal control procedures over daily deposits require that deposits be made intact and contain all cash and checks received for payments. KRS 134.160(2)(a) states, in part, "The sheriff shall keep an accurate account of all moneys received and all disbursements made...." The Department for Local Government was also 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* requires that deposits be made daily and properly documented by a daily checkout sheet.

The practice of making daily deposits reduces the risk of misappropriation of cash, which is the asset most subject to possible theft. Also, when deposits are not made timely, the risk that the bank account can be overdrawn is increased.

In addition, batches of receipts should agree to daily deposits and checkout sheets and should be reconciled to computerized records. Reconciliation procedures should be sufficient to verify computerized records agree to manual records, such as triplicate receipts and daily deposits.

The former sheriff should have ensured checkout sheets were prepared and agreed to manual and computerized records so that deposits were made intact and on a daily basis.

Former sheriff: No response.

Reconciliation procedures were not performed to ensure adequate monitoring of tax receipts and tax disbursements. The former sheriff's 2014 tax account was overdrawn by \$4,758.

The former sheriff collected tax bills for the month of December and was required to disburse the taxes collected by the 10th of the month. When he wrote the checks for December, the State Treasurer was issued one for \$98,278, which was for December tax collections. However, due to the following issues the check was returned to the former sheriff's tax account due to insufficient funds to cover the check. In addition, the districts were not properly paid for franchises collected during the year due totaling \$43,089.

- Daily checkout sheets were not reconciled to the deposits.
- Tax accounts were not reconciled monthly, which allowed receipts and disbursements to be improperly accounted for during the 2014 tax year.
- Non-sufficient fund checks totaling \$904 received by the former sheriff were not properly handled, causing the monthly reports to overstate the amount of funds received and due to each district.
- The former sheriff issued a non-sufficient fund check totaling \$98,278, while the account only contained \$93,023, which caused additional fees to be charged to the sheriff's department.
- Funds totaling \$43,089 were deposited into the wrong account which went unnoticed by anyone in the sheriff's office. These improperly deposited funds were not distributed to the appropriate districts.

The nature of tax collections is such that all amounts collected should be distributed monthly; thus, the account should zero out each month.

KRS 134.191 states, in part, "(1) 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.... (3) At 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. (4) Any sheriff failing to pay over taxes collected as required by law shall be subject to a penalty of one percent (1%) for each thirty (30) day period or fraction thereof that the payment is not made, plus interest at the tax interest rate provided in KRS 131.183 on such amounts. The governing body of a county, the department, or the other district for which the sheriff collects taxes, in its settlement with the sheriff, shall charge him or her with such penalties and interest.”

KRS 160.510 also states, in relevant part, “The tax collector shall, on or before the tenth day of each month, pay to the depository of the district board of education the amount of school tax collected up to and including the last day of the preceding month....”

The former sheriff should have reconciled tax accounts monthly to have ensured proper recognition of revenue and proper disbursement of said funds. Additional fees charged for non-sufficient funds checks issued and/or collected by the former sheriff totaling \$179 will be disallowed in the tax audit settlement.

Former sheriff: No response.

The former sheriff did not ensure the sheriff’s receipt for unpaid and partially paid tax bills was complete and accurate before submitting to the incoming sheriff. The *Receipt for Unpaid and Partially Paid Tax Bills* presented to the incoming sheriff included tax bills that had been paid by the taxpayers during the 2014 tax season. After the county’s second notice and delinquent list was published in the paper, three taxpayers produced evidence that their tax bills totaling \$4,249 had been paid and the funds had been deposited into the former sheriffs’ tax account, but their bills had been turned over to the county clerk as delinquent. A franchise bill totaling \$500.88 had also been paid but was not marked as being paid nor was it turned over as delinquent by the former sheriff.

The former sheriff did not reconcile the daily check out sheets to the deposits, which allowed numerous errors to go unnoticed and uncorrected by the former sheriff’s office.

Due to the lack of controls in place and the lack of reconciliation of the daily checkout sheets taxpayers did not get proper credit for paid tax bills, and it is not unreasonable that more taxpayers could come forward with proof of payment.

KRS 134.119(3)(b) states, “All payments received by the sheriff shall be entered immediately by the sheriff on his or her books. Partial payments shall be credited against the total amount due and shall be apportioned by the sheriff among the entities included on the tax bill in the same proportion the amount due to each bears to the amount paid.”

The former sheriff should have kept accurate receipts and records of tax bills being paid and then verified and checked that the sheriff’s *Receipt for Unpaid and Partially Paid Tax Bills* list was accurate before submitting it to the incoming sheriff.

Former sheriff: No response.

The former sheriff has a known deficit of \$8,910 in his 2014 official tax account. Based upon audit procedures, the former sheriff has a known deficit of \$8,910 in his official 2014 tax account. As collector of property taxes, the sheriff assumes full responsibility for all tax collections and complete distribution of these collections to the proper taxing districts.

Internal control procedures were not designed to detect discrepancies in daily and monthly accounting records, reconciliations of manual records to computerized records were not performed, and deposits were not made intact.

KRS 134.215(3) states, in part, “Each outgoing sheriff shall make a final settlement with the department, the fiscal court, and all districts for which his or her office collected taxes by March 15 immediately following the expiration of his or her term of office. The settlement shall address all charges of taxes made against the sheriff and all money received by him or her as sheriff, and shall include all of the information required for the annual settlement pursuant to KRS 134.192.” KRS 134.192(7) states, in part, “The sheriff shall pay any additional amounts charged against him or her as a result of the settlements.” 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.”

The former sheriff should settle his 2014 tax account by collecting and disbursing funds as determined by the audit. In order to properly distribute 2014 tax collections, we recommend the former sheriff eliminate the deficit in the 2014 tax account with a deposit of \$8,910 from personal funds, and pay an additional \$179 for disallowed fees charged to the tax account.

Former sheriff: No response.

The former sheriff did not distribute interest earned on tax collections to either the school or the fee account. The former Sheriff has not disbursed \$71.49 in interest received for the 2014 tax season to the proper entities.

Due to poor financial management and the lack of segregation of duties within the former sheriff's office this instance of noncompliance was allowed to occur and not be detected.

As a result, the school and the fee account did not receive their share of interest in a timely manner.

KRS 134.140(2) states, in part, “As part of the monthly distribution of taxes to a district board of education as required by KRS 134.191, the sheriff shall pay to the board of education that part of the investment earnings for the month which are attributable to the investment of school

taxes....” KRS 134.140 allows the remaining monthly interest to be transferred to the Sheriff’s fee account to pay the lawful expenses of his office.

The former sheriff should have distributed the interest earned on a monthly basis as is prescribed by KRS 134.140(2). We recommend the sheriff distribute the interest earned to the school board and the fee account based on the sheriff’s 2014 tax settlement.

Former sheriff: No response.

The former sheriff should escrow outstanding checks. The former sheriff had two outstanding checks in the 2013 tax account. These checks are now stale dated.

- Check #151 for \$432.37 written on 3/1/2014.
- Check #152 for \$425.71 written on 3/1/2014.

The former sheriff has not settled his prior year tax account and has therefore not followed up on the prior audit recommendations, which included escrowing the outstanding checks.

As a result, the taxpayer noted above has overpaid the sheriff’s office by \$858.08.

Pursuant to KRS 393.090 and KRS 393.110, unclaimed outstanding checks at year end should be escrowed and held for three years. After three years if the amount is unclaimed, the sheriff should turn this over to the State Treasury as property assumed abandoned. Failure to do so would result in the sheriff being non-compliant with the above statutes.

The former sheriff should try to contact the customer and issue a replacement check. If contact cannot be made or checks are still not cashed, then the former sheriff should escrow the checks for three years, after which if unclaimed, the funds go to the State Treasury as property assumed abandoned per KRS 393.090 and KRS 393.110.

Former sheriff: No response.

The former sheriff did not properly handle non-sufficient funds checks. The former sheriff has three non-sufficient fund checks totaling \$904 that have not been collected, and the tax bills have not been paid.

The former sheriff’s office did not properly address non-sufficient fund checks when they were returned by the bank. As a result, the monthly reports overstated the amount of funds due to each district.

The monthly tax reports should have reflected accurate and correct information and should have been adjusted for non-sufficient funds received by the former sheriff in order to ensure proper payments to the districts. The former sheriff should have then sent a registered letter to the taxpayer informing them that the bill was considered unpaid.

The former sheriff should have followed up on non-sufficient fund checks received by his office.

Former sheriff: No response.

The former Sheriff did not turn over all delinquent or uncollected tax bills. The former sheriff has not turned over all delinquent and uncollected tax bills to the incoming sheriff or the county clerk. There is one delinquent franchise bill for \$16 and three non-sufficient fund checks for \$904 which were used to pay tax bills.

The former sheriff has not signed the proper paperwork required to turn over the delinquent and uncollected tax bills to the proper authority.

Since the former sheriff has not turned over the delinquent and uncollected tax bills, this leaves him responsible for an additional \$920 in revenue due to the districts.

KRS 134.122(1)(a) states, in part, “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....”

The former sheriff should fill out the proper paperwork to turn over the delinquent or uncollected tax bills as required by the KRS.

Former sheriff: No response.

The former sheriff did not settle his 2011 through 2013 tax audits which include a deficit of \$20,638. The former sheriff has not settled his prior year tax accounts for 2011 through 2013. These audited settlements include a deficit of \$20,638 due from the former sheriff and \$21,995 due to various districts.

The former sheriff has chosen not to comply with the KRS which required him to settle his audits annually.

Taxing districts have not received revenue to which they are entitled.

KRS 134.215(3) states, in part, “Each outgoing sheriff shall make a final settlement with the department, the fiscal court, and all districts for which his or her office collected taxes by March 15 immediately following the expiration of his or her term of office. The settlement shall address all charges of taxes made against the sheriff and all money received by him or her as sheriff, and shall include all of the information required for the annual settlement pursuant to KRS 134.192.”

KRS 134.192(1) states, in part, “Each 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.”

KRS 134.191 states, in relevant part, “(1) 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.... (3) At 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. (4) Any sheriff failing to pay over taxes collected as required by law shall be subject to a penalty of one percent (1%) for each thirty (30) day period or fraction thereof that the payment is not made, plus interest at the tax interest rate provided in KRS 131.183 on such amounts. The governing body of a county, the department, or the other district for which the sheriff collects taxes, in its settlement with the sheriff, shall charge him or her with such penalties and interest.”

The former Sheriff should settle his 2011 through 2013 tax settlements by collecting and disbursing funds as noted on the combined deficit statement shown below which includes \$20,638 due from the former Sheriffs personal account.

Jackson County
Denny Peyman, Former Sheriff
Combined Determination of Fund Balance
For the period of April 16, 2011 through April 13, 2014

Assets

Cash In Bank	\$ 58,837.06
Collected Receivables:	
2014 Franchises	43,088.52
Uncollected Receivables:	
2011 Fee Account	19,265.27
2012 Tax Account	579.48
State	381.66
Former Sheriff- Denny Peyman	<u>21.00</u>
Total Assets	122,172.99

Liabilities

Paid Liabilities	476.14
Outstanding Checks	858.08
2011 Tax Account	579.47
2012 Fee Account	24,295.69
2014 Tax Account	43,088.52
2013 Fee Account	46,133.56
2014 Fee Account	5,385.43
Jackson County Fiscal Court	1,535.41
School	12,996.30
Ambulance	1,742.50
Library	2,634.40
Health	1,096.43
Extension Service	1,397.96
Soil Conservation	569.15
Red Lick Conservation	<u>22.50</u>
Total Liabilities	<u>142,811.54</u>

Total Deficit As Of December 31, 2014 (20,638.55)

Former sheriff: No response.

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.

