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Harmon Releases Audit of Magoffin County Sheriff's Gas and Oil Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2014 gas and oil tax settlement 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 June 27, 2014 through June 15, 2015 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 did not distribute 10 percent add-on fees on a monthly basis: The sheriff did not distribute 10 percent add-on fees on a monthly basis. The bookkeeper distributed a portion of add-on fees collected to the school district. The bookkeeper did not know how to determine the amount of monthly add-on fees collected and how to distribute the add-on fees. As a result, the sheriff owes the 2015 fee account $42 in add-on fees collected for 2014 gas and oil tax collections.

KRS 134.119(7) states, "the sheriff shall be entitled to an amount equal to ten percent (10%) of the total taxes due plus ten percent (10%) of the ten percent (10%) penalty for all delinquent taxes." This fee shall be added to the total amount due and paid by the person paying the delinquent tax bill and then distributed to the sheriff's fee account monthly.

We recommend the sheriff distribute add-on fees to the fee account on a monthly basis and pay the 2015 fee account $42 in add-on fees collected for 2014 gas and oil taxes.

Sheriff's Response: Excess fees affect only the sheriff's commission. Our tax program did not factor in excess fees. Money is still in the accounts and no monies are unaccounted for.

The sheriff did not prepare the annual settlement of tax collection timely: The annual tax settlement was not presented to and approved by the fiscal court until October 8, 2015. The sheriff did not implement proper control procedures to ensure the county settlement was prepared timely. By not preparing the county settlement timely, the sheriff was not in compliance with statutes.

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 all tax districts. We recommend the sheriff's office comply with KRS 134.192 by timely preparing an annual tax settlement.

Sheriff's Response: This matter has been addressed and corrected. Our quarter ends on September 30th, therefore we cannot always have financial information available at the Sept court meeting. We present at the first meeting after our quarter ends.

Auditor's Reply: The sheriff's annual tax settlement of tax collections is due on or before September 1 of each year. Tax collections ended on July 20, 2015, for 2014 unmined coal taxes. The sheriff had over a month to prepare the tax settlement and present it to the fiscal court.

The sheriff's office lacks adequate segregation of duties: The sheriff's office lacks adequate segregation of duties and internal controls over tax receipts and disbursements because the sheriff failed to implement proper internal control procedures. The bookkeeper and deputies collect tax receipts. The bookkeeper or a deputy prepares a daily bank deposit, 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 county treasurer prepares the monthly bank reconciliation, although there is nothing documented to determine who prepared the reconciliation or that it was reviewed by the sheriff. 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 the budget and the limited number of staff, we cannot be expected to segregate duties at the level expected.

Auditor's Reply: As noted in the comment, when faced with limited staff, the sheriff should implement compensating controls to mitigate the risk.

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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