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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 – 2015 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 16, 2015 through May 24, 2016 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'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 and 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. This was previously communicated in the prior year audit report as Finding 2014-003.

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 our budget and the 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 did not distribute interest payments to the school and the fee account: The sheriff did not distribute interest earned on tax collections to either the school or the fee account. The sheriff did not implement proper internal control procedures that ensured interest was paid to the fee and tax account monthly. By not paying interest monthly, the sheriff was not in compliance with statutes. KRS 134.140(2) requires the sheriff to pay monthly "that part of his investment earnings for the month which is attributable to the investment of school taxes[.]" KRS 134.140(4) requires the remaining monthly interest to be transferred to the sheriff's fee account. We recommend the sheriff implement procedures to ensure the sheriff pay the amount of interest due to the school and fee account on a monthly basis.

Sheriff's Response: The sheriff did not provide a response.

The sheriff overpaid tax commissions to the fee account: The sheriff overpaid tax commissions to the fee account. The tax program utilized by the sheriff's office automatically applies

compensation rates to taxes collected. It then shows total tax commissions due to the sheriff's fee account on the monthly reports. An error in the tax software program caused the state taxing district commissions to be calculated incorrectly.

The sheriff did not implement proper internal control procedures to ensure that the monthly tax reports were completed accurately. Due to the incorrect commission rate, not only was the sheriff not in compliance with tax collection statutes, the state taxing district was also underpaid, causing penalties to be assessed. KRS 134.119(6)(a)(1) states, “[f]rom the Commonwealth the sheriff shall be paid four and one-quarter percent (4.25%) of the amount collected on behalf of the Commonwealth[.]”

We recommend the sheriff implement procedures to ensure the accurate commissions are assessed for tax collections.

Sheriff's Response: We are working diligently to correct this matter by the date listed below. (12/21/18)

The sheriff did not prepare the annual settlement of tax collections timely and accurately: The annual tax settlement was materially misstated and was not presented to the fiscal court timely. It was approved by the fiscal court on October 25, 2016. The sheriff did not implement proper control procedures to ensure the county settlement was prepared timely and as a reasonably accurate representation of tax activity. By not preparing the county settlement timely, the sheriff was not in compliance with statutes. In addition, reasonable accuracy assists in the fiscal court's ability to hold the sheriff's office accountable for tax collections and disbursements.

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 prepare an accurate annual tax settlement and comply with KRS 134.192 by presenting it in a timely manner.

Sheriff's Response: This matter has been addressed and corrected. Our quarter doesn't end until September 30th. We cannot have accurate information available for the September court meeting. We give our report 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 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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