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Harmon Releases Audit of Breckinridge County Sheriff's Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2016 taxes for Breckinridge County Sheriff Todd Pate. 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 16, 2016 through April 17, 2017 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 internal control over financial operations and reporting.

The audit contains the following comments:

The sheriff did not ensure documentation was complete for waivers of tax penalties: During the current period, there were 79 tax bills which had penalties removed during the months of February, March, and April. Of those 79 tax bills, 23 did not have either a penalty waiver form or a postmarked envelope to justify removing these penalties. Two penalty waiver forms were not signed by the sheriff. Three bills had the penalties removed due to "postmark," but the sheriff failed to maintain the postmarked envelopes.

The sheriff has not implemented a documentation and approval process for waiver requests; it appears that prior to the 2016 tax collections, waiver forms had never been used. According to the former bookkeeper and former office clerk, they were not aware of this requirement until the performance of the 2014 Sheriff's Tax Settlement Audit.

The effect of this is that some waivers have been granted without sufficient documentation. By not using a waiver form that documents why the penalties are being waived, the sheriff allowed some taxpayers that did not pay during the discount or face amount period to pay at a discount or without paying penalties as required by law.

The Kentucky 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. 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 guidelines require that a form documenting the reasons for waivers of penalties be prepared and signed when such action is taken. The original form should remain on file in the sheriff's office.

We recommend the sheriff maintain sufficient documentation for all waivers of penalties.

Sheriff's Response: As the new office manager since July 1, 2017, I and the Sheriff are working closely together on the penalty waiver process and to ensure all waivers are maintained, documented, and signed properly by the Sheriff. All waivers of tax penalties for the 2017 tax year will be properly signed by the Sheriff for his approval.

The sheriff did not adequately segregate duties or provide sufficient oversight to ensure an accurate tax settlement process for tax year 2016: This is a repeat finding and was included in the prior year audit report as Finding 2015-002. During the 2016 tax collections, the former bookkeeper accepted tax payments, recorded taxes paid, prepared daily deposits, prepared monthly tax reports, prepared monthly disbursement checks, and co-signed monthly disbursement checks. There was no documented review or approval by another individual to provide evidence of oversight. There were also numerous errors noted in the settlement, including:

- The incorrect tangible multiplier rate was used for the county on one franchise bill. There were various other tangible tax calculation errors for the remaining tax districts on the same tax bill.
- March and April add-on fees from oil collections were paid out to the taxing districts.
- The bank did not image backs of cancelled checks.
- There was not a documented reconciliation of tax (property, franchise, and money market) accounts to the tax (property, franchise, and money market) bank statements.

The sheriff has not provided sufficient oversight of the tax settlement process to ensure all taxes collected are recorded and disbursed accurately. Most of the errors could have been prevented or detected if the sheriff had developed standard policies and procedures for the tax settlement process based on requirements documented in state statutes and the *Property Tax Duties of the Sheriff's Office* manual provided by the Office of Property Valuation.

The lack of oversight could result in misappropriation of assets or inaccurate financial reporting to external agencies such as the Department for Local Government and taxing districts. Additionally, the risk of undetected errors and fraud increases.

Proper segregation of duties over receipts and disbursements is essential for providing protection of asset misappropriation and inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities. Good internal controls dictate that management be sufficiently involved in the day to day operations to ensure internal controls are in place and working to prevent and detect errors and fraud. Policies and procedures should be developed to ensure identify and address routine tax settlement issues.

We recommend the sheriff become sufficiently familiar with the tax settlement processing to be able to identify areas where policies and procedures are lacking and where internal controls should be strengthened. The sheriff should ensure sufficient records are maintained and that staff responsible for this activity understand the complexities of the tax settlement process. The sheriff should seek additional training and guidance if necessary. Additionally, we recommend the following compensating controls be implemented to offset the lack of segregation of duties:

- The sheriff could require an employee that does not accept tax payments to prepare the bank reconciliation. The sheriff should compare the bank reconciliation to the balance in the checkbook and any differences should be reconciled. The sheriff should document his oversight by initialing the bank reconciliation and the balance in the checkbook.
- The sheriff could compare total tax collections per the monthly reports to the total of the monthly disbursement checks. Any discrepancies should be resolved and the review should be documented by initialing and dating the monthly reports.

Sheriff's Response: The previous office manager who retired June 30, 2017 implemented additional segregation of duties during the first half of 2017. The previous warrant clerk retired July 31, 2017 and the previous account clerk retired December 31, 2017. The office is working with an all new staff for the 2017 tax year. Additional segregation and documentation of duties have been implemented. Although there are few office employees to segregate duties, efforts are being taken to ensure a standard process of duties and that they are overseen to prevent any possible misappropriation of tax receipts. Procedures are being implemented in segregation to help ensure no one person has complete control over handling and receipting monies received in the Sheriff's office. Also, efforts are being made for the Sheriff to review transactions and reports to have more oversight in the tax collection process and reporting.

The sheriff did not have sufficient policies and procedures or internal controls over fire dues "Opt-Out" process: This is a repeat finding and was included in the prior year audit report as Finding 2015-001. According to Breckinridge County Fiscal Court Ordinance 2011-0314, taxpayers can choose not to pay membership charges/subscriber fees (fire dues) by completing a form to "Opt-Out" of Breckinridge County fire department membership charges/subscriber fees and providing the completed form to the sheriff when they pay their tax bill each year. The form should be completed and maintained on file by the sheriff to document the fire dues that were removed from tax bills. Auditors examined 353 "Opt-Out" forms, of which, 22 were not signed by taxpayers.

According to the bookkeeper, there are instances when taxpayers refuse to sign the "Opt-Out" forms or they are mailed in without signatures.

Six percent of "Opt-Out' forms were not properly signed by taxpayers who were given credit for unpaid fire dues. Because the forms are not properly signed, they do not constitute the required documentation for credit of unpaid fire dues.

Good internal controls require clear policies and procedures to address the process and documentation of removing "opted-out" fire dues from a tax bill. Additionally, Breckinridge County Ordinance 2011-0314 states "In order to delete any parcel(s) or property from membership charges/subscriber fees, the owner shall, upon payment of his property taxes, and no later than the date the Breckinridge County Sheriff files the delinquent tax claims in the Breckinridge County Clerk's Office, pursuant to Chapter 134 of KRS, for any particular tax year, provide a statement to the Breckinridge County Sheriff's Office (on form titled "Notice of Subscriber Fee Non Payment") that contains the following:

a. Name of owner including mailing address.
b. Name of the fire department servicing the parcel.
c. Parcel number from tax bill.
d. A statement will be provided on the form that in lieu of subscriber fees the owner will be responsible for charges for fire protection service or other emergency per state law.
e. Signature of subscriber/property owner."

We recommend the sheriff implement sufficient internal controls to ensure accurate processing of fire dues "opt-outs." The sheriff should develop standardized policies and procedures for staff to follow, including:

- Maintaining properly completed "opt-out" forms for each taxpayer (including taxpayer signature);
- Limiting the ability to adjust tax bills for the "opt-out" to designated personnel; and
- Periodic reviewing or spot-checking of "opt-out" credits against the "opt-out" forms.

Sheriff's Response: The previous office manager who retired on June 30, 2017 implemented additional improvements in 2016 to process fire department dues opt out forms to abide by the confines of the county ordinance. These forms created much more work to the property tax collection process on a small staff during an already busy time of year in order to properly account for fire dues on each tax bill. We are working to both maintain proper opt out records and get *each taxpayer to understand why they must sign the form to have fire dues removed from their bill. For 2017, we are reviewing opt out forms at the end of each month's collections to try to ensure that all are signed and obtained. We continue to work on solutions to document for ourselves and ease the burden on the taxpayers.*

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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