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

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2017 gas and oil tax settlement for former Lawrence County Sheriff Garrett Roberts. 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 former 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 former sheriff's settlement is prepared on the regulatory basis, which is described in the auditor's opinion letter. Regulatory basis reporting for the former sheriff's settlement is an acceptable reporting methodology, and this reporting methodology is followed for all 120 sheriff settlements in Kentucky.

The former sheriff's financial statement fairly presents the taxes charged, credited, and paid for the period May 16, 2017 through May 15, 2018 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 former sheriff's office did not make deposits timely: Funds are not deposited daily. Our procedures for testing receipts included selecting six days of tax receipts to determine if the funds were deposited on daily basis. During the week sampled in January 2018, deposits were not made daily five out of the six days tested. This is a repeat finding and was included in the prior year audit report as Finding 2016-002. It appears the former sheriff often held several daily deposits and then took them to the bank rather than making daily deposits. Furthermore, policies and procedures were not in place to ensure that tax receipts were deposited daily. Receipts not deposited daily are susceptible to misappropriation or theft. Such occurrences could materially affect the financial statements.

Under the authority of KRS 68.210, the Department for Local Government (DLG) has established requirements for all local government officials handling public funds. These requirements include "daily deposits intact into a federally insured banking institution."

We recommend the sheriff's office implement policies and procedures to ensure that tax receipts are deposited intact, daily.

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

The former sheriff did not remit interest payments to the school and fee account monthly: The former sheriff did not distribute interest earned on tax collections to the school or the fee account on a monthly basis. The sheriff earned $153 in interest on his 2017 gas and oil tax account and none was distributed to the fee account or school. This is a repeat finding and was included in the prior year audit report as Finding 2016-003.

Policies and procedures were not in place to ensure that interest earned from tax collection deposits were paid to the school district and fee account timely. Failure to distribute interest earnings monthly results in a noncompliance. Based on the amount of interest earned, the former sheriff owes $75 to the school district and $78 to the fee account.

KRS 134.140(2) requires the sheriff to pay monthly, "that part of the investment earnings for the month which are attributable to the investment of school taxes[.]" According to KRS 134.140(4), the balance of investment income should be paid to the sheriff's operating account.

We recommend the sheriff's office comply with KRS 134.140 by remitting the interest due to the school and fee account on a monthly basis.

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

The former sheriff did not transfer delinquent gas and oil bills to the county clerk in accordance with KRS 134.122(1)(a): The former sheriff transferred delinquent gas and oil tax bills to the county clerk on April 16, 2018, according to the requirements of KRS 134.122(1)(a) delinquent gas and oil bills should have been filed with the county clerk on May 15, 2018. The former bookkeeper stated this was an oversight. Taxpayers were denied the opportunity to pay their tax bill according to the tax payment schedule to avoid the additional cost of payment in the county clerk's office. In addition, the sheriff could have collected commissions and fees.

KRS 134.122(1)(a) states that “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 the sheriff’s office only file all tax claims on real and personal property tax remaining in their possession with the county clerk when the requirements of KRS 134.122(1)(a) have been met.

Former Sheriff’s Response: The former sheriff did not provide a response.

The former sheriff’s office lacked adequate segregation of duties and internal controls over tax receipts and disbursements: The former sheriff’s office lacked adequate segregation of duties and internal controls over tax receipts and disbursements. This is a repeat finding and was included in the prior year audit report as Finding 2016-004.

The former bookkeeper, deputy clerk, and occasionally the former sheriff, all collected tax receipts. The former bookkeeper and deputy clerk each prepared a daily checkout sheet and reconciled the daily receipts to the daily collection report. The former bookkeeper posted items to the receipts ledger. There were no initials on the deposit ticket documenting who prepared and reviewed the deposit ticket. The former bookkeeper prepared the month-end tax reports. The former bookkeeper prepared checks for tax distribution based on the month-end tax reports, and posted checks to the disbursements ledger. The former bookkeeper and former sheriff signed the tax distribution checks. The deputy clerk was also authorized to sign checks. All checks required a dual signature. The former bookkeeper prepared the monthly bank reconciliation, although there is nothing documented to determine who prepared the reconciliation or that it was reviewed. Also, the reconciliation was only a re-statement of bank activity, and was not reconciled to the receipts ledger, disbursements ledger, or monthly financial statements. Reporting errors would have been found on a monthly basis if a true reconciliation had been performed by the former sheriff’s office.

Without internal controls in place, there is no way to know that the tax account financial information is accurate. Internal controls should be implemented and duties should be segregated to decrease the risk of misappropriation of assets, errors, and inaccurate financial reporting to external agencies. By not segregating these duties, there is an increased risk of undetected misappropriation of assets either by error or fraud.

Internal controls and proper segregation of duties protect employees and the former 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.

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

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