



Auditor of Public Accounts  
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**FOR IMMEDIATE RELEASE**

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### **Harmon Releases Audit of Fleming County Sheriff's Tax Settlement**

**FRANKFORT, Ky.** – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2016 taxes for Fleming County Sheriff Gary Kinder. 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 report and pay monthly taxes to districts timely:** This is a repeat finding and was included in the prior year audit report as Finding 2015-001. The sheriff's monthly tax reports and payments were often late, depriving the taxing districts of timely receipt of their tax collections.

The following table illustrates when regular tax payments were made:

Month	Total Taxes		Check Dates	Dates Checks
	Due Districts	Date Due		Cleared Bank
October	\$ 3,704,950	11/10/2016	11/15/2016	11/18/2016 - 11/29/2016
February	\$ 68,161	3/10/2017	3/13/2017	3/17/2017 - 3/28/2017
April	\$ 106,703	5/10/2017	5/11/2017	5/12/2017 - 5/22/2017

The following table illustrates when franchise tax payments were made:

Month	Total Taxes		Check Dates	Dates Checks
	Due Districts	Date Due		Cleared Bank
February	\$ 1,686	3/10/2017	3/13/2017	3/17/2017 - 3/28/2017
March (school only)	\$ 13,376	4/10/2017	4/25/2017	4/26/2017

The sheriff is not ensuring his office is complying with the requirement to report and pay taxes collected to districts by the tenth of each month. Also, rather than mailing payments to the taxing districts, an employee of the sheriff's office delivers the payments. It appears from the sheriff's records that the delivery date is often later than the day the reports were prepared, making the receipt of payments by the districts further delayed. Taxing districts rely on tax collections to fund a significant portion of their budgeted services. Not receiving these payments timely can lead to cash flow problems for taxing districts.

As indicated in the tables, payments were delayed ranging from one to 15 days. While the sheriff cannot control when districts deposits their checks, he can control when he distributes the checks. KRS 134.191 requires the sheriff to provide monthly reports by the tenth day of each month. Any sheriff failing to pay over taxes collected shall be subject to a penalty of 1 percent for each thirty day period or fraction thereof that the payment is not made, plus interest. The governing body of a county or taxing district shall charge the sheriff with penalties and interest. The county judge/executive may grant an extension of time, not to exceed fifteen days, for filing the monthly reports. Penalties and interest would be suspended during an extension, but would apply at the expiration of the extension.

We recommend the sheriff ensure monthly tax reports are prepared and paid by the tenth of each month. We also recommend the sheriff consider mailing tax collection payments to the districts. As long as the payments are postmarked by the tenth of the month, the sheriff would be in compliance with KRS 134.191. This would also give the districts a more consistent timeframe in which to expect their payments.

*Sheriff's Response: We corrected this issue in 2017.*

**The sheriff's settlement presented to the fiscal court was inaccurate:** This is a repeat finding and was included in the prior year audit report as Finding 2015-002. The sheriff's 2016 tax settlement presented to the fiscal court included April 2016 franchise taxes totaling \$73,467 that were accounted for in the 2015 sheriff's tax settlement. The sheriff did not ensure that he or his staff provided the correct reports to the person paid to complete the tax settlement. The sheriff's 2016 tax settlement presented to the fiscal court was inaccurate, and could be misleading to users

of the information. If taxing districts and the sheriff did not receive the correct amount of taxes and commissions, their budgets could be negatively impacted. While these errors can be corrected during the audit, typically there is a significant amount of time that passes before that occurs, which could create budgeting difficulties for those agencies. The sheriff's tax settlement provides important financial information to the fiscal court and the taxing districts, and therefore should be as accurate as possible when presented to the fiscal court. In order to present the most accurate information possible to the public, the sheriff should ensure the correct information is provided to the tax settlement preparer.

*Sheriff's Response: We will be more careful in the future with presenting information.*

**The sheriff did not pay the correct amount of add-on fees:** This is a repeat finding and was included in the prior year report as Finding 2015-003. The sheriff did not pay the correct amount of add-on fees to the 2017 fee account. The sheriff did not have procedures in place to ensure February 2017 add-on fees were deposited to the 2017 fee account. The sheriff collected \$23,332 of 10 percent add-on fees for 2016 collections. Of this amount, \$17,503 has been paid over to the sheriff's fee account. The sheriff's 2017 fee account is owed \$5,829 in additional add-on fees. The sheriff's 2017 fee account had to borrow funds to operate and the fiscal court contributes funds to the sheriff's office to repay borrowed funds. If these payments had been made to the respective fee account timely, the sheriff could have reduced the amount borrowed and the fiscal court could have reduced its contributions. 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 shall be paid by the person paying the tax claim[.]" This amount should be distributed to the sheriff's fee account monthly. Auditors compared add-on fees collected per monthly reports to the checks written to the sheriff's fee account, and found that no check was written for February 2017. We recommend the sheriff establish procedures to ensure add-on fees are paid for each month they are collected. This will improve the cash flow for the fee account, as payments would be made timely.

*Sheriff's Response: We are currently paying these monthly to the sheriff fee account.*

**The sheriff's office lacks internal controls over tax receipts and disbursements:** This is a repeat finding and was reported in the prior year audit report as Finding 2015-004. The sheriff's office lacks adequate segregation of duties and internal controls over tax receipts and disbursements. The bookkeeper, deputy clerk, and the sheriff collect tax receipts. The bookkeeper or deputy clerk prepares the daily bank deposit. The bookkeeper 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 signs the majority of tax distribution checks, with the sheriff signing occasionally. The bookkeeper prepares the monthly bank reconciliation. As previously described, the sheriff has not structured his office in a way that segregates duties and responsibilities. The sheriff has also not provided sufficient oversight of the financial reporting process.

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 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 reviewing the daily deposits, receipts and disbursements ledgers, monthly reports, and bank reconciliations. These reviews should be documented in a way that indicates what was reviewed, by whom, and when, because signing off on inaccurate information is not an effective internal control. The sheriff could also choose to prepare the bank reconciliations and other reports himself. Furthermore, the sheriff could require dual signatures on all checks, with one signature being the sheriff's.

*Sheriff's Response: The 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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