



Auditor of Public Accounts
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Harmon Releases Audit of Magoffin County Sheriff's Unmined Coal Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2014 unmined coal taxes 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 October 16, 2014 through July 20, 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 prepare the annual settlement of tax collections timely: The annual tax settlement for unmined coal tax collections was not presented to and approved by the fiscal court until February 3, 2016. 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 provide an accurate report at the September fiscal court meeting. We present our report at the October meeting, which is the first one 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 failed to eliminate the deficit in his 2010 unmined coal tax account: The sheriff has a deficit of \$3,128 in his 2010 tax account. On September 7, 2016, the sheriff's bookkeeper transferred the remaining cash balance of \$32 from the 2010 unmined coal tax account to his 2016 operating account. The remaining tax money should have been allocated to the taxing districts detailed in the Magoffin County 2010 tax settlement audit. Deficits are primarily due to undeposited receipts. In order to settle the account, the sheriff should collect and pay the following:

Assets

Receivables:

Due From 2016 Fee Account For Overpayment of Commissions	\$ 32
Personal Funds Due From Sheriff	<u>3,128</u>
Total Assets	<u>3,160</u>

Liabilities

Unpaid Obligations-

Interest Due School	23
Commission Due 2011 Fee Account	<u>3,137</u>
Total Liabilities	<u>3,160</u>

Total Fund Balance	<u><u>\$ 0</u></u>
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Because the sheriff transferred 2010 unmined coal tax account money into his 2016 operating account, the 2016 fee account owes the 2010 tax account \$32. In addition, failure to pay liabilities timely causes taxing districts and other governmental agencies to be deprived of funds for significant time periods. After all receivables are collected and all liabilities are paid, the sheriff will be able to close his 2010 unmined coal tax account. KRS 134.192 states, "[e]ach sheriff shall annually settle his or her accounts with the department, the county, and any district for which the sheriff collects taxes on or before September 1 of each year." In order to pay the liabilities due the

districts and the other accounts noted above, \$3,128 should be collected from the sheriff personally and deposited into the 2010 unmined coal tax account. We recommend the sheriff collect all receivables and pay all the liabilities to close this account.

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

The sheriff failed to eliminate the deficit in his 2012 unmined coal tax account: The sheriff has a deficit of \$972 in his 2012 unmined coal tax account. Deficits are primarily due to undeposited receipts. In order to settle the account, the sheriff should collect and pay the following:

Assets

Receivables:

Personal Funds Due From Sheriff	\$ 972
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Total Assets	<u>972</u>
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Liabilities

Unpaid Obligations-

Due Taxing Districts-

County	331
School	54
Library	8
Health	11
Extension	10
Soil	2

Tax Commissions Due 2013 Fee Account	496
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Due Sheriff's 2013 Fee Account For Penalties Paid	49
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Interest Due 2013 Fee Account	4
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Interest Due School	<u>7</u>
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Total Liabilities	<u>972</u>
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Total Fund Balance	<u>\$ -</u>
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Failure to pay liabilities timely causes taxing districts and other governmental agencies to be deprived of funds for significant time periods. After all receivables are collected and all liabilities are paid, the sheriff will be able to close his 2012 unmined coal tax account. KRS 134.192 states, "[e]ach sheriff shall annually settle his or her accounts with the department, the county, and any district for which the sheriff collects taxes on or before September 1 of each year." In order to pay the liabilities due the districts and the other accounts noted above, \$972 should be collected from the sheriff personally and deposited into the 2012 unmined coal tax account. We recommend the sheriff collect all receivables and pay all the liabilities to close this account.

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

The sheriff has not settled his 2013 unmined coal tax account: The sheriff did not settle his 2013 unmined coal tax account. The sheriff failed to oversee the daily operations of his tax office. As a result, the following receivables and liabilities should be collected and paid:

<u>Assets:</u>		<u>Liabilities:</u>	
Cash in bank	\$ 1,862	Due to County	\$ 2,772
Receivables:			
State	71		
County	191		
Commission from 2014 fee account	<u>648</u>		
Total Assets	<u>\$ 2,772</u>	Total Liabilities	<u>\$ 2,772</u>

Failure to pay liabilities timely causes taxing districts and other governmental agencies to be deprived of funds for significant time periods. After all receivables are collected and the liabilities are paid, the sheriff will be able to close his 2013 unmined coal tax account. KRS 134.192 states, “[e]ach sheriff shall annually settle his or her accounts with the department, the county, and any district for which the sheriff collects taxes on or before September 1 of each year.” Furthermore, KRS 64.820 states:

- (1) The fiscal court shall collect any amount due from county officials as determined by the audit of the official conducted pursuant to KRS 43.070 and 64.810 if the amount can be collected without suit.
- (2) In the event the fiscal court cannot collect the amount due the county from the county official without suit, the fiscal court shall then direct the county attorney to institute suit for the collection of the amount reported by the Auditor or certified public accountant to be due the county within ninety (90) days from the date of receiving the Auditor's or certified public accountant's report.

After the above amounts are collected and paid the liabilities noted above, we recommend the sheriff close his 2013 unmined coal tax account.

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

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. The bookkeeper and deputy clerks collect tax receipts. The bookkeeper or a deputy clerk 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.

The sheriff failed to implement proper internal control procedures. 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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