



Auditor of Public Accounts  
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**FOR IMMEDIATE RELEASE**

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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 – 2015 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 July 21, 2015 through July 18, 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. This comment was previously reported in the prior year audit report as Finding 2014-005. The bookkeeper and deputies collect tax receipts.

The bookkeeper or a deputy prepares a daily bank deposit, 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. 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: The sheriff did not provide a response.*

**The sheriff did not prepare the annual settlement of tax collections timely:** The annual tax settlement was materially misstated when compared to the financial statement. This comment was previously reported in the prior year audit report as Finding 2014-001. The annual tax settlement was not presented to and approved by the fiscal court until November 22, 2016. The sheriff did not implement proper control procedures to ensure the county settlement was prepared timely with all charges, credits, collections, and payments properly reflected. Charges as stated on the official receipt were combined with any credits that existed, along with commissions due to the sheriff's office, and the resulting collection total was applied to the settlement. Neglecting to complete a comprehensive annual settlement negates the ability to compare the sheriff's settlement to the audited financial statement. The lack of a detailed breakdown that a comprehensive annual settlement provides creates an environment more susceptible to misappropriation or fraud. By not preparing the county settlement timely, the sheriff was not in compliance with statutes. Annual settlements should utilize the official receipt to account for charges, the delinquent tax reports to account for credits to charges, as well as any recorded exonerations, penalties, refund etc.

KRS 134.192 states, "[e]ach sheriff shall annually settle his or her tax accounts with the department, the county, and any district for which the sheriff collects taxes 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 complete a comprehensive annual settlement and comply with KRS 134.192 by timely preparing an annual tax settlement.

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

**The sheriff did not ensure that timely and accurate bank reconciliations were completed:** The sheriff did not ensure that timely and accurate bank reconciliations were completed. The lack of reconciliation leaves accounts unbalanced and increases the risk of fraud, misappropriation of funds, and inaccurate financial records. The sheriff relied on accounting staff and did not provide sufficient oversight of accounting and reporting functions to ensure safeguards such as reconciliations were being performed accurately. Because the sheriff did not ensure that accurate bank reconciliations were completed, the accounts were unbalanced and the 2015 unmined coal account was \$2,988 overdrawn. To correct the issue, the same amount was deposited from the 2016 fee account. Timely and accurate bank reconciliations would have prevented the account from being overdrawn.

Management has a responsibility to provide reasonable assurance regarding the reliability of financial reporting. KRS 68.210 gives the state local finance officer the authority to prescribe a uniform system of accounts. The minimum requirements for handling public funds as stated in the *County Budget Preparation and State Local Finance Officer Policy Manual* include making deposits daily and intact, preparing monthly bank reconciliations, and having original books of entry for receipts and disbursements. Additionally, KRS 134.160 requires the following:

- (2)(c) The sheriff shall balance all accounts on a monthly basis unless otherwise provided by law. The cost of maintaining records and accounts in whatever form shall be paid for as other county records.
- (3) All payments received by the sheriff shall be entered immediately by the sheriff on his or her books. The sheriff may provide a receipt specifying the amount and to what account the payment was credited to the person making the payment.
- (4) The sheriff shall obtain a receipt for all disbursements made by the sheriff.
- [ . . . ]
- (6) The sheriff shall keep all books and accounts in the manner and form required by the department.

We recommend that receipts and disbursements ledgers are maintained to ensure that they are both complete and up to date. In addition, monthly bank reconciliations should be performed agreeing the receipts and disbursements ledgers to bank activity.

*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 in the amount of \$944. 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 program caused the state taxing district to be calculated with an inflated compensation rate.

The sheriff did not implement proper internal control procedures to ensure that the monthly tax reports were completed accurately. Due to the inflated compensation rate, not only was the sheriff not in compliance with tax collection statutes, the state taxing district was also underpaid \$415 causing penalties in the amount of \$41 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: The sheriff did not provide a response.*

**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. This was previously communicated in the prior year audit report as Finding 2014-002. 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:	
Due from 2016 fee account	\$ 32
Personal funds due from sheriff	<u>3,128</u>
Total Assets	<u>\$ 3,160</u>
Unpaid Obligations:	
Interest due school	\$ 23
Commission due 2011 fee account	<u>3,137</u>
Total Liabilities	<u>\$ 3,160</u>

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: The sheriff did not provide a response.*

**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. This comment was previously reported as Finding 2014-004. Deficits are primarily due to undeposited receipts. In order to settle the account, the sheriff should collect and pay the following:

<u>Due From:</u>		<u>Due To:</u>	
Personally from sheriff	\$ 972	County	\$ 331
		School	61
		Library	8
		Health	11
		Extension	10
		Soil	2
		2013 fee account	549
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Total Due From	<u>\$ 972</u>	Total Due To	<u>\$ 972</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 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.” 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.

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: The sheriff did not provide a response.*

**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 the liabilities noted above are paid, we recommend the sheriff close his 2013 unmined coal tax account.

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

**The sheriff has a surplus of \$267 in his 2014 unmined coal tax account:** The sheriff has a surplus of \$267 in his 2014 unmined coal tax account. The following amounts should be collected and paid from the 2014 unmined coal tax account:

<u>Assets:</u>	
Cash in bank	\$ 125
<u>Receivables:</u>	
Due from 2015 fee account (overpaid commissions)	192
Due from school	11
	<hr/>
Total Assets	328
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<u>Liabilities:</u>	
<u>Unpaid obligations:</u>	
State	\$ 9
County	27
Library	5
Health	6
Extension	6
Soil	1
Interest due school	3
Interest due fee account	4
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Total Unpaid Obligations	61
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Total Fund Balance as of Audit Date	\$ 267
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A tax surplus is due to unrefundable duplicate payments or unexplained receipts in the 2014 unmined coal tax account. The sheriff's staff did not mark all bills collected for 2014 unmined coal tax paid in the computer system. Two unmined coal bills collected on February 14, 2015 and February 24, 2014, were not marked paid in the computer system. Two taxpayers notified the county clerk that they paid their tax bills in the sheriff's office after receiving delinquent tax notices in the mail.

There is no way to determine how many bills the sheriff's office received but did not mark paid for 2014 unmined coal collections. As a result, the 2014 unmined coal tax account owes \$267 to the Kentucky State Treasurer for 2014 unmined coal tax surplus funds. Failure to pay liabilities timely causes governmental agencies to be deprived of funds for significant time periods. After all liabilities are paid, the sheriff will have settled his 2014 unmined coal tax account. KRS 393.090 states that after three years, if the funds have not been claimed, they are presumed abandoned. Abandoned funds are required to be sent to the Kentucky State Treasurer by KRS 393.110. In addition, 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." We recommend the sheriff take the necessary steps to settle his 2014 unmined coal tax account.

*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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