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Harmon Releases Audit of Incoming Martin County Sheriff's Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2014 taxes for incoming Martin County Sheriff John Kirk. 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 January 1, 2015 through June 11, 2015 in conformity with the regulatory basis of accounting.

As part of the audit process, the auditor must comment on non-compliance 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 require the depository institution to pledge or provide sufficient collateral and did not enter into a written agreement to protect deposits. The sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC). The sheriff failed to enter into a written agreement with the depository institution to ensure collateralization of deposits until May 31, 2016. On March 9, 2015, the sheriff's deposits of public funds were uninsured and unsecured in the amount of $1,766,521. According to KRS 66.480(1)(d) and KRS 41.240, financial institutions maintaining deposits of public funds are required to pledge securities or provide surety bonds as collateral to secure these deposits if the amounts on deposit exceed the $250,000 amount of insurance coverage provided by the FDIC.

We recommend the sheriff require the depository institution to pledge or provide collateral in an amount sufficient to secure deposits of public funds at all times. We also recommend the sheriff enter into a written agreement with the depository institution to secure the sheriff's interest in the collateral pledged or provided by the depository institution. According to federal law, 12 U.S.C.A. § 1823(e), this agreement, in order to be recognized as valid by the FDIC, should be (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Sheriff's Response: We were assured by the bank that this was being done. We were unaware that there were inadequate pledges and will follow up with the bank regarding this matter.

The sheriff did not have adequate controls over franchise bills and did not review franchise tax bills received from the county clerk before mailing. The sheriff did not review all franchise tax bills before mailing to the taxpayer and any tax bills that are found with errors should be given back to the county clerk to correct and reissue. A lack of adequate controls over franchise billing caused three franchise tax bills to have the following issues:

- One amended franchise tax bill was calculated using the full assessment amounts instead of the amended tax assessment.
- One franchise tax bill charged real estate taxes when the assessment was for tangible only.
- One franchise tax bill overcharged penalties.

These errors resulted in taxpayer refunds totaling $71,748.

Good internal controls dictate the sheriff implement procedures to ensure the accuracy of franchise bills. In order to review and recalculate franchise tax bills, the sheriff should do the following:

1. Obtain a copy of the certification from the Department of Revenue from the county clerk's office. If the certification has been amended, obtain both the original certification and the amended certification to determine the correct amount to be billed.
2. Review the certification.
3. Review the tax bill to determine if all districts have been included with the proper assessments for both real estate and tangible. It is important that the correct assessments are applied to either real estate or tangible because tax rates are different for each.
4. Determine if tax rates are accurate based on the appropriate tax year.
5. After determining if tax rates are correct and assessments are correct, recalculate the tax bill.

6. If an amended bill is issued, determine the amounts due the districts for the amended amount collected by calculating the difference between the original certification and the amended certification. Recalculate the bill.
7. After collecting the taxes, include these amounts on the monthly report and distribute to the taxing districts.

We recommend the sheriff review each franchise bill for accuracy before mailing to the taxpayer. The sheriff should notify the county clerk when an error is noted so that the bill can be corrected before being sent out.

Sheriff's response: We will validate the accuracy of the clerk's calculations and follow recommended procedures.

The sheriff did not review the official receipt before signing. During the audit we found that 235 tax bills included tangible tax for the city of Inez that should not have been charged to taxpayers. When the data was interpreted by the tax software, there was an error in coding which caused taxpayers to be overcharged for tangible taxes for the city of Inez. This error resulted in taxpayer refunds totaling $32,791.

According to the Kentucky Department of Revenue, Office of Property Valuations *Property Tax Duties of the Sheriff's Office* handbook, "…since the receipt is the basis for charges of property taxes to the sheriff's office for the collection year, the sheriff also needs to be sure that the amounts on the receipt are correct." Good internal controls dictate the sheriff implement procedures to review the official receipt for accuracy before signing it.

We recommend the sheriff work with the PVA and review the official receipt before signing, comparing prior official receipts, and discuss any large or unusual variances with the PVA. The sheriff should also recalculate a sample of bills and compare them to the tax roll to verify that tax assessments and districts are correct.

Sheriff's response: These bills were sent out before we took office and thus were beyond our control; however we will follow these recommendations for future years.

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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