



Auditor of Public Accounts
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Harmon Releases Audit of Martin County Sheriff's Tax Settlement

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2019 taxes for 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 May 1, 2019 through June 15, 2020 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 Martin County Sheriff's Office does not have adequate segregation of duties: This is a repeat finding and was included in the prior year audit report as Finding 2018-001. The sheriff's office does not have adequate segregation of duties over receipts and disbursements. Two deputy clerks collect tax payments from customers and prepare daily bank deposits. One deputy clerk prepares monthly tax reports, writes checks for distribution and the sheriff signs the checks. The bookkeeper posts to the receipts and disbursement ledger and prepares monthly bank

reconciliations, although there is nothing documented to determine who prepared the reconciliation or that it was reviewed.

The sheriff has not structured his office in a way to ensure that bookkeeping functions are segregated over receipts, disbursements, and the reconciliation process. A lack of oversight could result in undetected misappropriation of assets and inaccurate financial reporting to external agencies such as the Department of Revenue and other taxing districts.

Good internal controls dictate that certain accounting functions should be performed by several different employees to provide reasonable assurance the financial activity is properly accounted for and accurately reported. In order to achieve a proper segregation of duties, the sheriff should assign different employees to be responsible for preparing daily deposits, disbursing tax collections, recording tax transactions, and monthly bank reconciliations.

We recommend the sheriff's office implement internal controls and segregate duties as much as possible. The sheriff could take on the responsibility of reviewing the daily deposits, receipts and disbursements ledgers, and monthly tax reports. These reviews must be documented in a way that indicates what was reviewed, by whom, and when.

County Sheriff's Response: The Sheriff currently approves and signs all monthly reports and disbursement checks, as well as reviewing and approving monthly bank reconciliations. Due to a limited budget, adequate staff is not available to completely segregate all functions. The Sheriff will attempt to review as much as possible; however due to budgetary constraints, he is often the only law enforcement officer on duty and is not available to perform administrative tasks on a daily basis.

The sheriff has not settled the 2014 tax account: The sheriff issued refunds to taxpayers for the overpayment of 2014 city tangible tax. The 2014 tax bills charged city tangible tax to taxpayers who should not have been charged. The sheriff has not successfully refunded overpayments, but resolved all other issues for the 2014 tax account. The sheriff deposited the remaining funds into his escrow account.

The sheriff's office does not have proper internal controls in place to prevent errors within his tax account. The errors occurred because of a software issue that the sheriff and the PVA did not correct before the tax bills were mailed. Once refunds were not collected, the sheriff's office deposited this money into an escrow account.

As a result taxpayers overpaid 2014 tangible taxes and are due a refund. The remaining balance of \$16,614 was deposited into the escrow account and will be turned over to the Kentucky State Treasurer when statutorily required.

KRS 134.590(3) states, [i]f a taxpayer pays city, urban-county, county, school district, consolidated local government, or special district ad valorem taxes to a city, urban-county, county, school district, consolidated local government, or special district when no taxes were due or the amount paid exceeded the amount finally determined to be due, the taxes shall be refunded to the person who paid the tax."

We recommend the sheriff continue to reimburse 2014 tangible tax to the taxpayers who overpaid from the escrow account. After one year the money held in the escrow account should be turned over to the state. Furthermore, we recommend the sheriff strengthen internal controls to prevent undetected errors and properly settle his tax account.

County Sheriff's Response: The Sheriff was not in office when the bills containing these errors were generated. We have collected all monies owed by the districts and made all taxpayer refunds as directed; however some checks were returned and/or stale dated. This money was transferred to escrow and the bank account closed in February 2021, we will remit to the state after one year has passed.

The sheriff has not settled the 2015 tax account: In March 2016, the sheriff incorrectly withheld \$32,009 from 2015 franchise tax collection payments to the districts for a prior 10% add on-fee that was incorrectly applied to a 2014 franchise bill. After the sheriff withheld money due to the districts, the sheriff collected the appropriate amounts from the taxing districts for the overpayment of the 2014 franchise bill.

The sheriff's office does not have proper internal controls in place to prevent errors within his tax account. The sheriff's bookkeeper thought she was correcting an overpayment in the prior year to the taxing district for add-on fees. As a result the taxing districts were shorted \$32,009 from the March 2016 franchise tax collection and the sheriff overpaid 2016 excess fees to the fiscal court in the amount of \$32,009. In order to settle the 2015 tax account, the sheriff should collect and pay the following:

Bank Balance:		\$	391
Due From:			
Fiscal Court			32,009
Less: Outstanding Checks			(207)
Liabilities:			
County	\$	(3,436)	
School		(22,390)	
Library		(3,285)	
Health		(1,182)	
Extension		(1,682)	(31,975)
Amount To Be Escrowed		\$	<u>218</u>

KRS 134.192(1) 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. If any sheriff resigns, dies, or otherwise vacates his or her office, the books and records shall be made available to the department, the county, and any other district for which the sheriff collects taxes within thirty (30) days from the date that the office is vacated. The annual settlement of the sheriff shall be audited in accordance with KRS 43.070 and 64.810.”

We recommend the sheriff request the fiscal court to reimburse the overpayment of 2015 excess fees. After collecting the fees from the fiscal court, the sheriff's office needs to follow the schedule above and settle the 2015 tax account. Furthermore, we recommend the sheriff strengthen internal controls to prevent undetected errors and properly settle his tax account.

County Sheriff's Response: We have just received this check from the county and will deposit on 6-22-21. The payables will be processed with the checks in July.

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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