



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 – 2013 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 September 2, 2013 through October 15, 2014 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 comply with the uniform system of accounts: The sheriff failed to maintain receipts and disbursements ledgers for his tax account. The sheriff also failed to prepare monthly bank reconciliations. KRS 68.210 requires the state local finance officer to implement a system of

uniform accounts that details minimum requirements for the handling of public funds, which includes, but is not limited to, maintaining books of original entry for receipts and disbursements and preparing monthly bank reconciliations.

The preparation of receipts and disbursements ledgers along with monthly bank reconciliations ensures that all tax receipts and disbursements have been properly accounted for. By not maintaining the proper records, it allowed the sheriff to overpay tax commissions causing the account to overdraw and funds having to be transferred back from the fee account.

The sheriff should comply with KRS 68.210 by maintaining receipts and disbursements ledgers along with monthly bank reconciliations.

Sheriff's Response: New staff have been delegated specific task. The preparation of receipts and disbursements ledger along with monthly bank reconciliations ensures that all tax receipts and disbursement have been properly accounted for. All errors have been corrected and a maintaining of books of original entry for receipts and disbursements and prepared monthly bank reconciliations is prepared appropriately and timely.

The sheriff did not distribute 10% add-on fees on a monthly basis: 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.” Add-on fee are to be distributed to the sheriff’s fee accounted monthly. Since the sheriff failed to comply with KRS 134.119(7), the fee account was deprived of resources that could have been utilized by the sheriff for other activities of the office. The sheriff collected \$1,085 for 10% add on fees for 2013 collections. We recommend the sheriff pay add-on fees as required.

Sheriff's Response: We have purchased a new tax system that is calculating add-on fees and penalty's properly now. The account was deprived because the old system over calculated add-on fees and penalty's. This error has been corrected.

The annual settlement of tax collections was not prepared timely: The annual tax settlement was not presented to and approved by the fiscal court until December 29, 2014. 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. The sheriff’s lack of oversight and inadequate internal controls resulted in the failure to prepare a timely settlement of tax collections. A timely settlement of tax collections can detect overpayments and underpayments to taxing districts and allow these issues to be resolved in a timely manner. We recommend the sheriff’s office comply with KRS 134.192 by timely preparing an annual tax settlement.

Sheriff's Response: This is prepared by a CPA outside of our office. It is out of our control as to when they have it prepared and ready. We try to retrieve any and all information they require timely and mannerly.

The sheriff's office did not report and distribute taxes collected by the tenth of each month: KRS 134.191 requires the sheriff's office to report and distribute taxes collected by the 10th of each month. By not preparing monthly reports and paying the districts timely, the sheriff was not in compliance with statutes and taxing districts were deprived of much needed resources for significant time periods. We recommend the sheriff report and distribute taxes collected by the tenth of each month.

Sheriff's Response: A new office manager has been hired fulltime to handle tax collection disbursement. This has been corrected and all tax disbursements are done timely and mannerly.

The sheriff did not settle his 2010 unmined coal account: The sheriff did not settle his 2010 unmined coal account. During the 2010 tax collections, there were penalties paid to the state in the amount of \$899 and undeposited receipts which caused a deficit in the amount of \$3,128. The \$3,128 is owed to the 2011 fee account, which is closed and should be turned over to the fiscal court as remaining 2011 excess fees.

This was caused by poor record keeping. As a result, the sheriff is required to deposit personal funds in the amount of \$3,128.

KRS 64.820 states, "[T]he fiscal court shall collect any amount due the county from county officials as determined by the audit of the official[.]"

We recommend the sheriff resolve this deficit as soon as possible and settle his 2010 unmined coal account.

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

The sheriff did not settle his 2012 unmined coal account: The sheriff did not settle his 2012 unmined coal account. The account was in a deficit in the amount of \$972. 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	<u>549</u>
 Total Due From	 <u>\$ 972</u>	 Total Due To	 <u>\$ 972</u>

We were unable to determine the cause of this deficit. As a result, the sheriff is required to deposit personal funds in the amount of \$972.

KRS 64.820 states, “[T]he fiscal court shall collect any amount due the county from county officials as determined by the audit of the official[.]”

We recommend the sheriff resolve this deficit as soon as possible and settle his 2012 unmined coal account.

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

The sheriff's office lacks adequate segregation of duties: The sheriff's office lacks adequate segregation of duties for receipts and disbursements. The sheriff has not implemented proper internal control procedures. Good internal controls dictate the same employee should not be handling receipts and disbursements, recording in the ledger, and preparing monthly reports.

The 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.

Additionally, because a lack of adequate segregation of duties existed and because the sheriff did not provide strong oversight over the office, the following occurred:

- The sheriff's office did not report and did not distribute tax collections timely to the taxing districts.
- The sheriff's office did not distribute interest income timely to the school district.
- The sheriff's office did not distribute add-ons fees timely.
- Tax commissions were not calculated properly for unmined coal taxes for the state, county, and extension districts.

If the sheriff cannot adequately segregate duties we recommend he implement compensating controls such as periodically performing surprise cash counts, reviewing the bank reconciliations, and comparing the daily deposits to the daily checkouts and the receipts ledger, reconciling any differences. In addition, the sheriff could compare the monthly reports to the receipts and disbursements ledger for accuracy. Compensating controls that are performed should be documented by initialing and dating the bank reconciliations, bank deposits, daily checkout sheets, receipts and disbursements ledger, and reports.

Sheriff's Response: New staff has been placed in new positions and the distributions are now handled by the office manager timely, interest is being distributing timely, the school district. Add on fees are also handled timely and the new tax master system is calculating properly for Tax Commission for Unmined Coal Taxes for the county and state.

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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