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

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the sheriff's settlement – 2018 taxes for former Lawrence County Sheriff Garrett Roberts. 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 former 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 former sheriff's settlement is prepared on the regulatory basis, which is described in the auditor's opinion letter. Regulatory basis reporting for the former sheriff's settlement is an acceptable reporting methodology, and this reporting methodology is followed for all 120 sheriff settlements in Kentucky.

The former sheriff's financial statement fairly presents the taxes charged, credited and paid for the period April 17, 2018 through December 31, 2018 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 former sheriff has not collected receivables or paid liabilities of the 2012, 2015, and 2016 Tax Years: This is a repeat finding and was included in the prior year audit report as Finding 2017-003. The former sheriff did not collect receivables and pay liabilities as determined by audits for the 2012, 2015, and 2016 tax years. The former sheriff had paid some of the liabilities. The following cumulative amounts remain unresolved as of the end of the 2018 tax year.

Receivables				Liabilities		
Personal Funds from Former Sheriff	$	963		2016 Fee Account	$	1,047
Surplus Account		263		Soil Conservation		1,071
Additional Taxes Due from Franchisee		258		2016 Tax Account		49
County		68		2017 Fee Account		9,229
2012 Tax Account		49				
State		9,967				
Fire Department Fee		2,291				
Big Sandy Fire		111				
Board of Education		1,000				
Total Receivables	$	14,970		Total Liabilities	$	11,396

Furthermore, the ending cumulative surplus of $4,262 was to be escrowed upon resolution of the above items and this has not occurred. The former sheriff has not ensured recommendations from prior years' audits were followed. Because the former sheriff did not collect the amounts due, he was not been able to pay the amounts owed to taxing districts. By not collecting these receivables and paying these liabilities timely, entities have been deprived of funds owed to them. By not following the recommended collection and payment schedules per the 2012, 2015, and 2016 audits, it is more difficult to determine the amounts that need to be collected and paid.

KRS 134.192 requires the sheriff to "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 former sheriff take the necessary action to collect the cumulative receivables that will enable him to pay the remaining cumulative liabilities of the 2012, 2015, and 2016 tax accounts as listed above. Once this is completed, the remaining account balances should be escrowed for three years, then if unclaimed, turned over to the state as unclaimed property.

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

The former sheriff did not report and pay monthly taxes to districts timely: This is a repeat finding and was included in the prior year audit report as Finding 2017-001. The former sheriff's monthly tax reports and payments were often late, depriving the taxing districts of timely receipt of their tax collections.

The following table illustrates when tax payments were made:

Month	Date Payments Due District	Check Dates	Dates Checks Cleared Bank
May 2018 Franchise Tax	6/10/2018	7/8/2018	7/11/2018 - 7/30/2018
October 2018 (Property & Franchise Tax)	11/10/2018	11/27/2018	11/28/2018 - 12/7/2018
November 2018 (Property & Franchise Tax)	12/10/2018	12/20/2018	12/21/2018 - 1/11/2019

The former sheriff did not have procedures in place to ensure that monthly reports were prepared and districts were paid timely. As indicated in the table, some districts received their tax collections weeks later after than were to be distributed. While the former sheriff could not control when districts deposit their checks, he could control when he distributed the checks.

KRS 134.191 requires the sheriff to provide monthly reports by the tenth day of each month. KRS 134.191(4) states “[a]ny sheriff failing to pay over taxes collected as required by law shall be subject to a penalty of one percent (1%) for each thirty (30) day period or fraction thereof that the payment is not made, plus interest[.]” Furthermore, the governing body of a county or taxing district shall charge the sheriff with penalties and interest. The county judge/executive may grant an extension of time, not to exceed 15 days, for filing the monthly reports. Penalties and interest would be suspended during an extension, but would apply at the expiration of the extension.

We recommend the monthly tax reports are prepared and paid by the tenth of each month. There should be monthly reports for any month that property, franchise, gas & oil, and unmined coal taxes are collected.

Former Sheriff’s Response: The former sheriff did not provide a response.

The former sheriff’s office acked adequate segregation of duties and internal controls over tax receipts and disbursements: This is a repeat finding and was included in the prior year audit report as Finding 2017-004. The former sheriff’s office lacked adequate segregation of duties and internal controls over tax receipts and disbursements. The former bookkeeper, deputy clerk, and occasionally the sheriff, all collected tax receipts. The former bookkeeper and deputy clerk each prepared a daily checkout sheet and reconciled the daily receipts to the daily collection report. The former bookkeeper posted items to the receipts ledger. There were no initials on the deposit ticket documenting who prepared and reviewed the deposit ticket. The former bookkeeper prepared the month-end tax reports and prepared checks for tax distribution based on the month-end tax reports, and posted checks to the disbursements ledger. All checks required a dual signature. The former sheriff and former bookkeeper signed the tax distribution checks. The deputy clerk was also authorized to sign checks when needed.

According to the former bookkeeper, the former sheriff’s office had a limited number of staff that prevented adequate segregation of duties over most accounting functions of the office. Without internal controls in place, there is no way to know that the tax account financial information is accurate. Internal controls should be implemented and duties should be segregated to decrease the risk of misappropriation of assets, errors, and inaccurate financial reporting to external agencies. By not segregating these duties, there is an increased risk of undetected misappropriation of assets either by error or fraud could occur.

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.

Former Sheriff’s Response: The former 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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