



JENNIFER R. ASHWORTH
CLERK OF THE CIRCUIT COURT
FOR THE
COUNTY OF HENRY

FOR THE PERIOD
APRIL 1, 2017 THROUGH SEPTEMBER 30, 2018

Auditor of Public Accounts
Martha S. Mavredes, CPA
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(804) 225-3350



COMMENTS TO MANAGEMENT

We noted the following matters involving internal control and its operation that has led or could lead to the loss of revenues, assets, or otherwise compromise the Clerk's fiscal accountability.

Properly Bill and Collect Court Fines and Costs

Repeat: No

The Clerk and her staff did not properly bill and collect court fines and costs. In 42 cases tested, we noted the following errors.

- In two cases, the defendants were overcharged \$1,350 in court costs.
- In one case, the public defender fee and fine, totaling \$280, were miscoded as local rather than state. Additionally, the locality was incorrectly billed for public defender fees of \$60.
- In one local case, the public defender fee of \$158 was miscoded as state rather than local.

The Clerk and her staff should correct the specific cases noted above and institute a more diligent system of review to minimize the likelihood of billing errors going undetected. In all cases, the Clerk should bill and collect court costs in accordance with the Code of Virginia.

Obtain Appropriation and Deduct Payroll Taxes For Bonuses

Repeat: No

The Clerk paid bonuses directly to her employees using non-reverting funds, without an appropriation and without deducting the applicable federal, state, social security, and Medicare taxes.

The Clerk should work with the County to have funds appropriated for staff bonuses. In addition, the Clerk should consult with the County to determine how to ensure the taxes that should have been withheld can be recovered and remitted to the proper taxing authorities. In the future, the Clerk should ensure there is an appropriation for any proposed bonuses prior to payment and have the County disburse the bonuses to ensure appropriate taxes are withheld.

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Martha S. Mavredes, CPA
Auditor of Public Accounts

Commonwealth of Virginia

Auditor of Public Accounts

P.O. Box 1295
Richmond, Virginia 23218

January 4, 2019

The Honorable Jennifer R. Ashworth
Clerk of the Circuit Court
County of Henry

Jim Adams, Board Chairman
County of Henry

Audit Period: April 1, 2017 through September 30, 2018
Court System: County of Henry

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of this locality for the period noted above. Our primary objectives were to test the accuracy of financial transactions recorded on the Court's financial management system; evaluate the Court's internal controls; and test its compliance with significant state laws, regulations, and policies.

Management's Responsibility

Court management has responsibility for establishing and maintaining internal controls and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations. Deficiencies in internal controls could possibly lead to the loss of revenues or assets, or otherwise compromise fiscal accountability.

We noted matters involving internal control and its operation necessary to bring to management's attention. These matters are discussed in the section titled "Comments to Management." Any response and written corrective action plan to remediate these matters provided by the Clerk are included as an enclosure to this report.

We discussed these comments with the Clerk and we acknowledge the cooperation extended to us by the Clerk and her staff during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

MSM:vks

cc: The Honorable David V. Williams, Chief Judge
Tim Hall, County Administrator
Robyn M. de Socio, Executive Secretary
Compensation Board
Paul F. DeLosh, Director of Judicial Services
Supreme Court of Virginia



Circuit Court of Henry County
Jennifer Ashworth, Clerk
3160 Kings Mountain Road, Suite B
Martinsville, Virginia 24112
276-634-4880



TO: Martha Mavredes
Auditor of Public Accounts
FROM: Jennifer Ashworth, Clerk
Henry County Circuit Court
SUBJECT: Audit April 1, 2017 through September 30, 2018
DATE: January 18, 2019 ***AMENDED: February 4, 2019***

The following is in response to the audit report draft received by email on January 16, 2019.

Properly Bill and Collect Court Fines and Costs

The Clerk and her staff did not properly bill and collect court fines and costs. In 42 cases tested, we noted the following errors:

- In two cases, the defendants were overcharged \$1,350 in court costs

RESPONSE TO CASE ONE:

The attorney submitted a list of allowances to be paid for 9 charges. One of the charges the defendant was found not guilty. The fee of \$445 was mistakenly added to the defendant's costs.

The deputy processing this paperwork is very well trained in processing such paperwork. This particular process was quite complicated. The deputy worked diligently to ensure the attorney did not charge more than what was allowed on these cases. For example, the attorney had requested \$1,235 for one of the charges, when in fact was only allowed \$445. Had she not been properly trained the state would have lost money in this instance.

Additionally, the attorney was granted a waiver for his services as these charges were quite difficult. The deputy processed that paperwork accurately and only assessed the amount allowed by statute to the defendant, not mistakenly adding the amount allowed by waiver.

I am confident that the deputy is very well trained in processing DC-40's and assessing the costs accurately.

RESPONSE TO CASE TWO:

This is clearly a mistake and I am thankful that it has now been deducted from the defendant's costs.

Auditor Randy Johnson tested seven cases in which waivers were involved. Two of which were found not guilty, leaving five to be considered for cost assessment. Only one case was found to have had the waiver amount mistakenly assessed to the defendant.

Again, this was a mistake. However, I am confident that the deputy is trained to only assess the amount allowed by statute. The fact that one out of five cases tested proves this point.

The deputy clerks in the criminal division will double check each list of allowance, time sheet and waiver filed to eliminate mistakes.

- In one case, the public defender fee and fine, totaling \$280, were miscoded as local rather than state. Additionally, the locality was incorrectly billed for public defender fees of \$60.

RESPONSE:

This office has taken great effort to ensure that local and state fees are charged accurately. A system has been in place for several years to accomplish this goal. The office stamps the warrant or summons, and other documents, from the lower courts as "County of Henry" so fees are assessed properly.

This office uses the transmittal sheet provided to us from the lower court that will indicate if a charge is local. The deputy who files the charges and arranges the paperwork refers to the transmittal as a tool, as trained, to ensure that a local charge is not overlooked.

In this instance the transmittal indicated "L" for local charge and the summons was stamped "County of Henry". However, the lower court incorrectly listed the charge as local.

To ensure this does not happen again the deputy and clerk will both double-check the charges looking for the 12-400 code for those appealed indicating local.

- In one local case, the public defender fee of \$158 was miscoded as state rather than local.

RESPONSE:

On occasion, a defendant will have offenses that include both state and local charges. For this type of situation, this office has developed a procedure to require the attorney to complete separate time sheets or DC-40's to ensure fees are assessed properly and to ensure the proper entity is billed.

The deputy in this instance followed procedure accurately. She required separate time sheets and she billed the county for the local charges and the state on the state charges. However, when adding the fees to the individual account she mistakenly added both amounts under account code #120.

From the ten cases tested, this is the only one found to be miscoded.

This has been corrected on the individual account.

The deputies will continue to double check each other's work.

I would like to point out that each of these instances were corrected while Auditor Johnson was present in the office. There was no loss to the state or county.

I would further mention that Auditor Johnson noted on several occasions to different staff members that he "couldn't find any errors". Auditor Johnson continued to request more criminal cases to test until these instances were reported.

.....

Obtain Appropriation and Deduct Payroll Taxes For Bonuses

- The Clerk paid bonuses directly to her employees using non-reverting funds, without an appropriation and without deducting the applicable federal, state, social security, and Medicare taxes.

RESPONSE:

I have attached a document titled "Employee Bonus Tax Laws" which states the following:

"employers are not required to submit a 1099 if an employee's bonus was less than \$600, though employees still must claim the income at the end of the year."

Each bonus was less than \$600.

Each employee has signed a statement acknowledging that they are required by law to report their bonus as "other income" on line 21 of Form 1040 when filing taxes for 2018.

After inquiring with the County Finance Department it was determined that all income for 2018 has already been submitted to the IRS and W2 forms have been delivered to each employee.

In the future I will ask the County Finance Department to run these bonuses through the payroll system to ensure proper taxes are withheld at the time the bonus is awarded.

FINAL REMARKS:

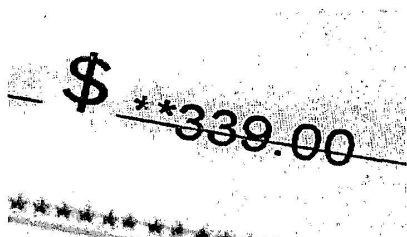
As Clerk of this Court I am confident that internal controls are in place to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.



Employee Bonus Tax Laws

By Wilhelm Schnotz

check in macro image by Alexey Klementiev from Fotolia.com



Bonuses, whether they're a year-end holiday tradition or an incentive system, aren't tax-free money. They're income -- and in the eyes of the Internal Revenue Service they must be treated as such. Whether your employer withholds taxes when you receive your bonus or provides you with a lump-sum amount that's reported to the IRS, you can expect the take-home amount to be reduced by Uncle Sam.

Immediate Withholding

If your employer gives you a bonus and chooses to withhold payroll taxes from it, it may be taxed at a higher rate than normal income and, if withholdings are quickly calculated, withheld at a rate higher than necessary. A large bonus may push an employee's earnings into a higher tax bracket for the month, and the amount of the bonus is taxed at the next rate in the graduated income tax brackets. Because these brackets are calculated to annualize withholding as if taxpayers consistently earn that amount every month, a one-month spike in income may be taxed in a bracket that calculates withholdings at a higher income level. For example, if your monthly salary is \$4,000 and you received a \$3,000 bonus, you'll be taxed as if you earn \$7,000 a month, or \$84,000 a year. This method withholds more from the bonus than necessary, though the surplus is returned to the employee as an income tax refund.

No Withholding

Other employers may simplify their bookkeeping by providing employees with a lump-sum bonus and reporting the amount to the IRS on a 1099-MISC form. When preparing tax returns, employees receive a copy of the 1099 and must declare it as income at the end of the year. In this situation, if payroll tax surpluses do not cover the tax liability for the bonus, the employee must pay the balance when filing taxes. Employers are not required to submit a 1099 if an employee's bonus was less than \$600, though employees still must claim the income at the end of the year.

Unreported Bonuses

Cash bonuses also are income subject to withholding. The value of any cash bonuses, prizes or compensatory gifts given to an employee during the year must be claimed on line 21 of the employee's 1040 as "Other Income." It is a federal crime to receive payment in the form of cash bonuses and not report it as income on your taxes at the end of the year.

- References**
- Internal Revenue Service: Publication 525 Taxable and Nontaxable Income--Employee Compensation
 - Business.com: Guide to Giving Employee Gifts and Bonuses Legally

About the Author



Wilhelm Schnotz has worked as a freelance writer since 1998, covering arts and entertainment, culture and financial stories for a variety of consumer publications. His work has appeared in dozens of print titles, including "TV Guide" and "The Dallas Observer." Schnotz holds a Bachelor of Arts in journalism from Colorado State University.



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Circuit Court of Henry County
Jennifer Ashworth, Clerk
3160 Kings Mountain Road, Suite B
Martinsville, Virginia 24112
276-634-4880



December 13, 2018

Name:

Bonus amount:

I acknowledge the following statements:

Cash bonuses are income subject to withholding.

Pursuant to IRS form 1099 instructions, an employer is not required to report cash bonuses in any amount less than \$600 in a tax year. It is the employee's responsibility to report it as income.

I am required by the Internal Revenue Service to report the above amount as "Other Income" on line 21 of Form 1040 when filing my taxes.

It is a federal crime to receive payment in the form of cash bonuses and not report it as income on my taxes at the end of the year.

Signature

Witness - Jennifer Ashworth