

**CHARLES V. MASON
CLERK OF THE CIRCUIT COURT
FOR THE
COUNTY OF KING GEORGE**

**REPORT ON AUDIT
FOR THE PERIOD
JULY 1, 2009 THROUGH DECEMBER 31, 2010**



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Commonwealth of Virginia

Walter J. Kucharski, Auditor

**Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23218**

May 17, 2011

The Honorable Charles V. Mason
Clerk of the Circuit Court
County of King George

Board of Supervisors
County of King George

Audit Period: July 1, 2009 through December 31, 2010
Court System: County of King George

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court for this Court System and 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 matter 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 court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK: clj

cc: The Honorable Gordon F. Willis, Chief Judge
Travis Quesenberry, County Administrator
Robyn M. de Socio, Executive Secretary
Compensation Board
Paul F. DeLosh, Director of Judicial Services
Supreme Court of Virginia
Director, Admin and Public Records
Department of Accounts

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.

Report Unpaid Court Debt to the Department of Taxation's Tax Set-Off Program

For the past four years, the Clerk has not used the Virginia Department of Taxation under the Debt Set-Off Program because he does not want to provide the necessary information required by Taxation to obtain a user id and password for accessing the system. Beginning in 2006, the Department of Taxation converted this program from a manual process to an automated process, and neither the Clerk nor any of the court staff have taken the actions necessary to use the automated system.

Section 58.1-521 of the Code of Virginia, requires that all Courts use Debt Set-Off Program to collect unpaid court debt. Both the Supreme Court of Virginia and the Department of Taxation have developed processes for accessing the new automated system, Integrated Revenue Management System. Failing to use the system for the past two fiscal years to collect on delinquent court debt, resulted in a potential loss of revenue to both the local government and the Commonwealth of Virginia of approximately \$475,074.

The Clerk should take immediate corrective action that will allow him and his staff to participate in the Department of Taxation Debt Set-Off Program and make every effort to assist in the collections of fees, fines and other costs on behalf of the local government and the Commonwealth of Virginia.

Properly Record and Collect Criminal Court Costs

The Clerk does not properly record and collect criminal court costs as required by Sections 19.2-163, 19.2-340 and 17.1-275 of the Code of Virginia. Specifically, we tested 31 cases, both paid and unpaid accounts, and determined ten cases had errors.

- In one case, the Clerk charged the defendant a fixed fee for a misdemeanor instead of the appropriate fixed fee for a felony charge reduced to a misdemeanor, resulting in a loss of \$132 to the Commonwealth.
- In three cases, the Clerk did not charge defendant for the 'tried-in-absence' fee certified by the General District Court, resulting in a loss of \$75 to the Commonwealth.
- In one case, the Clerk did not charge defendant for the 'ignition interlock' fee, resulting in a loss of \$20 to the Commonwealth.
- In two cases, the Clerk did not charge defendant for public defender fees certified by the General District Court, resulting in a loss of \$180 to the locality.
- In one case, the Clerk did not charge defendant for a local fine, resulting in a loss of \$100 to the locality.
- In one case, the Clerk incorrectly entered a local attorney fee as a state fee, resulting in an overpayment to the Commonwealth of \$112.50.
- In one case, the Clerk overcharged defendant for the 'jail admission fee' resulting in overpayment of \$25 to the locality.

We recommend the Clerk research all similar cases, make the appropriate corrections to case paperwork, refund overpayments to defendants, and where appropriate, bill the locality for the applicable public defender fees.

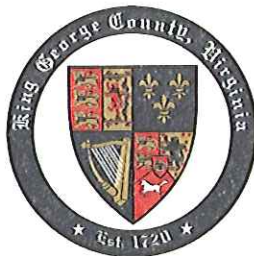
Improve Accounts Receivable Management

The Clerk does not review the *Cases Concluded without Receivables Report* as required by the Financial Management System User's Guide. The report identifies all concluded criminal cases and indicates if the defendants have an accounts receivable established in the court's automated accounting system. Failure to review this report could lead to a loss of revenue to the Commonwealth and the locality. The Clerk should properly review the report in order to maximize collections.

King George County, Virginia

CHARLES V. MASON, CLERK
AND
GENERAL RECEIVER

PHONE: 540-775-3322



Clerk's Office

KING GEORGE COUNTY CIRCUIT COURT
9483 Kings Highway, Suite 3
King George, Virginia 22485

March 04, 2011

In Re: March 04, 2011 King George Circuit Court Audit

Mrs. Vaughan,

In response to your March 04, 2011 audit memorandum requesting that I send a corrective action plan to address the non-compliance finding that this Court does not Report Unpaid Debt to the Department of Taxation's Tax Set-Off Program I answer accordingly.

While I agree that his Court has not reported unpaid Court debt to The Virginia Department of Taxation I disagree that it should be noted as a Compliance Finding as I have repeatedly attempted to sign up for the IRMS program. The Dept of Taxation has refused to allow me to participate as I would not supply them with my personal Social Security #or the SS#s of my staff. I have requested that the Department of Taxation supply me with their authority under the Code of Virginia requiring me in my capacity as Clerk of the Circuit Court to supply the Dept. of Taxation with my personal SS# or any authority allowing me to require my staff to supply their SS#s. The Circuit Court acts in the capacity of a "Claimant Agency" and in such capacity I am in no way am a debtor. It also appears that the VA Dept of Taxation requirement is in violation of VA Code 2.2-3808. I have referenced VA Code sections 2.2-3808, 58.1-520 and 58.1-521 below.

As a result of the position taken by the VA Dept of Taxation a meeting was held in June 23, 2009 at the VA Dept of Taxation in an attempt to resolve this issue. Present were myself, the VCCA counsel and Janie Bowen and members of her staff. The Department of Taxation indicated that they would review

the SS# issue and contact us in a couple of weeks with their results. I have since contacted their office on 2 occasions and a member of Mr. Dick's staff contacted their office on at least 1 occasion. To date we have had no response. I have made a good faith attempt to resolve this issue. Below I have cited the applicable Code of Virginia code sections.

§ 58.1-520. Definitions.

As used in this article:

"Claimant agency" means any administrative unit of state, county, city or town government, including department, institution, commission, authority, or the office of Executive Secretary of the Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and institutions shall participate in the setoff program.

"Debtor" means any individual having a delinquent debt or account with any claimant agency which obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

§ 58.1-521. Remedy additional; mandatory usage; obtaining identifying information.

A. The collection remedy under this article is in addition to and not in substitution for any other remedy available by law.

B. Except for county, city or town governments, which may utilize the provisions of this article, all claimant agencies shall submit, for collection under the procedure established by this article, all delinquent debts which they are owed.

C. All claimant agencies, whenever possible, shall obtain the full name, social security number, address, and any other identifying information, required by rules promulgated by the Tax Commissioner for implementation of this article, from any person for whom the agencies provide any service or transact any business and who the claimant agencies can foresee may become a debtor under the terms of this article.

§ 2.2-3808. (Effective until July 1, 2009) Disclosure or display of social security number.

A. It shall be unlawful for any agency to require an individual to disclose or furnish his social security account number not previously disclosed or furnished, for any purpose in connection with any activity, or to refuse any service, privilege or right to an individual wholly or partly because the individual does not disclose or furnish such number, unless the disclosure or furnishing of such number is specifically required by federal or state law.

§ 2.2-3808. (Effective July 1, 2009) Collection, disclosure, or display of social security number.

A. No agency shall require an individual to furnish or disclose his social security number or driver's license number unless the furnishing or disclosure of such number is (i) authorized or required by state or federal law and (ii) essential for the performance of that agency's duties. Nor shall any agency require an individual to disclose or furnish his social security account number not previously disclosed or furnished, for any purpose in connection with any activity, or to refuse any service,

privilege or right to an individual wholly or partly because the individual does not disclose or furnish such number, unless the disclosure or furnishing of such number is specifically required by federal or state law.

It is also my position that I am exempt from IRMS pursuant to 58.1-522. The collection through the Department of Taxation's Tax Set-Off Program between 2000 and 2005 were between \$200 to \$800 per year. The administrative costs have exceeded the debt collected and it is thereby economically infeasible.

§ 58.1-522. Participation in setoff program not permitted where debt below certain levels.

If the claimant agency determines that the administrative cost, as defined in the rules promulgated by the Tax Commissioner, of utilizing this article will exceed the amount of the delinquent debt, then such claimant agency shall not participate in the setoff program below such levels determined economically infeasible.

I have repeatedly raised these issues with the APA but have had no response from the APA regarding the Department of Taxation's requirements which directly conflict with the above referenced codes. Neither has the APA addressed the issue of 58.1-522.

In closing I would like to commend the APA audit team led by Stephanie Serbia. They at all times were courteous, professional and thorough in dealing with myself and my staff and represent your agency well. If you need any additional information or have any questions please feel free to contact me.

Charles V. Mason, Clerk

A handwritten signature in black ink, appearing to read "Charles V. Mason", followed by a horizontal line extending to the right.

King George County, Virginia

CHARLES V. MASON, CLERK
AND
GENERAL RECEIVER

PHONE: 540-775-3322



Clerk's Office

KING GEORGE COUNTY CIRCUIT COURT
9483 Kings Highway, Suite 3
King George, Virginia 22485

March 04, 2011

Corrective Action Plan

I have met with staff and reviewed the noted cases in which the fines and costs were incorrectly applied. A majority of the errors were in cases appealed from General District Court. The staff, after having reviewed the errors, have been directed to take corrective actions to more carefully review all cases that costs are charged, especially the appeals from General District Court.

A handwritten signature in black ink, appearing to read 'Charles V. Mason', is written in a cursive style.

King George County, Virginia

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I disagree with the Internal Control finding that the failure to review the CR32 could **be reasonably expected to lead to loss of revenue, assets or otherwise compromise fiscal accountability**. While the monthly review of the CR32 may help identify a concluded case that no FMS receivable account has been set up there are no known instances of concluded cases without an FMS receivables account in this Court that would sustain that finding.