



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

FOR THE PERIOD  
APRIL 1, 2019 THROUGH DECEMBER 31, 2020

Auditor of Public Accounts  
Staci A. Henshaw, CPA

[www.apa.virginia.gov](http://www.apa.virginia.gov)

(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.

### **Report Unpaid Court Debt to the Department of Taxation Tax Set-Off Program**

**Repeat:** Yes (first issued in 2008)

For the past 12 years, the Clerk has not reported unpaid Court debt to the Virginia Department of Taxation (Taxation) under the Tax Set-Off Program. Beginning in 2006, 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 the Tax Set-Off Program to collect unpaid fines and costs. Both the Supreme Court of Virginia and Taxation have developed processes for accessing the automated system.

The Clerk should take immediate corrective action that will allow him and his staff to participate in Taxation's Tax 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. Lack of participation greatly undermines the Court's ability to collect unpaid fees, fines, and other costs, and results in a loss of revenues to both the local government and the Commonwealth of Virginia.

### **Properly Bill and Collect Court Costs**

**Repeat:** Yes (first issued in 2019)

The Clerk and his staff did not properly bill and collect court costs in six of 37 cases tested (16%). We noted for four cases the Clerk did not charge defendants \$2,530 in Commonwealth costs and for two local cases, the Clerk did not bill the locality for public defender fees of \$316.

The Clerk should correct the specific cases noted during the audit and should establish a 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 Code of Virginia.

## **-TABLE OF CONTENTS-**

### Pages

COMMENTS TO MANAGEMENT

AUDIT LETTER

1-2

CLERK'S RESPONSE AND CORRECTIVE ACTION PLAN

3-6

APPENDIX A – APA'S COMMENTS TO THE CLERK'S RESPONSE

7



Staci A. Henshaw, CPA  
Auditor of Public Accounts

# Commonwealth of Virginia

*Auditor of Public Accounts*

P.O. Box 1295  
Richmond, Virginia 23218

February 19, 2021

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

Ann C. Cupka, Board Chairman  
County of King George

Audit Period: April 1, 2019 through December 31, 2020  
Court System: County of King George

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.

The Clerk has taken adequate corrective action with respect to the internal control finding reported in the prior year that is not repeated in this letter.

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

Staci A. Henshaw  
AUDITOR OF PUBLIC ACCOUNTS

SAH: clj

cc: The Honorable Herbert M. Hewitt, Chief Judge  
Neiman C. Young, PhD, 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

# 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

May 18, 2021

In Re: February 18, 2021 King George Circuit Court Audit (Amended)

Staci A. Henshaw,

In response to your February 18, 2021 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 this 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 number or the Social Security numbers of my staff. Myself and my staff are acting in our capacity as Clerks and Deputy Clerks and in no way are acting as individuals. I have requested that the Department of Taxation issue us a unique 7 digit identifying number in place of a Social Security number and they have refused to do so. To my knowledge the Department of Taxation is the only State agency that requires someone acting in their official capacity to submit their personal Social Security number in order to enroll in their non-voluntary program.

\*\*\*\*The Virginia Department of Taxation Integrated Revenue Management System (IRMS) System Authorization Request form states: Completion of this form is voluntary, however, failure to complete the form as instructed will prevent us from granting access to the TAX systems. The use of the SSN is required in order to enforce accountability and compliance with the Commonwealth of Virginia Security Standard SEC2001-01.1, and the disclosure of Official Tax information Handbook. Their own statements are contradictory.

I have previously filled out and faxed the Integrated Revenue Management System (IRMS) System Authorization Request their form, sans Social Security Number, to the Virginia Department of Taxation and once again requested to be added to the system.

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.

I have made a good faith effort with the Department of Taxation in an attempt to resolve this issue to no avail as they continue to implement 2 separate requirements to access the same database. 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 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.

- B. If my staff and myself supply their Social Security numbers then any and all persons utilizing the Tax Set-Off database will have access to their SSN's.
- C. If the Department of Taxation were indeed concerned about protecting the confidentiality of the taxpayers and collecting the individuals Social Security number accessing the system is the best and most error free method of doing so then anyone accessing the system would be required to supply their Social Security number. That is NOT the case.
- D. The integrity of taxpayer information were indeed a top priority the design of the software would not allow users of the system to access any information other than that required by intent of the legislation. Properly designed and implemented software would limit Circuit Court users to only the data necessary for each individual Court to fulfill their requirements.

In order to fully protect the personal data of individuals that Tax Set-Off is requiring to use the system a 7 digit personal ID could be implemented.

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 satisfactory 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.

#### Properly Bill and Collect Court Costs

I have reviewed the errors found with staff and the Deputy Clerk assessing Court Costs. She will enroll courses offered by the Supreme Court to improve our accuracy.

In closing I would like to commend the APA auditor Tracy Vaughan. She, at all times, was efficient, courteous, professional and thorough in dealing with myself and my staff and represents your agency in a professional manner. If you need any additional information or have any questions please feel free to contact me.

Charles V. Mason, Clerk



In closing I would like to commend the APA audit team of Stephanie Serbia and Dee Chamberlain. They at all times were efficient, 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

## APA COMMENTS TO THE CLERK'S RESPONSE

The Clerk's response to our report contained information that is factually incorrect regarding the granting of access to the Department of Taxation Setoff Debt Collection System. Regarding access to the system, the Clerk made the following statement.

- *The Department of Taxation uses a unique seven-digit Agency number for State Agencies and Sub-State Agencies.*

According to our inquiries of the Department of Taxation (TAX) there is no provision for anyone to access TAX's system with a seven-digit number in lieu of a social security number. All users are required to supply their social security numbers, not just Clerks of Court and their staff. This requirement is in place in order to protect taxpayer information.

The Clerk's response also states that the APA has not addressed his contention that he is exempt from participating in the Setoff program based on §58.1-522. The Clerk has not provided sufficient information and documentation for the APA to evaluate this position.