



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

REPORT ON AUDIT  
FOR THE PERIOD  
APRIL 1, 2013 THROUGH DECEMBER 31, 2014

Auditor of Public Accounts  
Martha S. Mavredes, CPA  
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## COMMENTS TO MANAGEMENT

We noted the following matter 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**

For the past seven years, the Clerk has not reported unpaid Court debt to the Virginia Department of Taxation under the Tax Set-Off Program. 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 the Tax Set-Off Program to collect unpaid fines and costs. Both the Supreme Court of Virginia and the Department of Taxation have developed processes for accessing the new automated system, Integrated Revenue Management System.

The Clerk should take immediate corrective action that will allow him and his staff to participate in the Department of Taxation 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.

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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

May 14, 2015

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

Joseph W. Grzeika, Board Chairman  
County of King George

Audit Period: April 1, 2013 to December 31, 2014  
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 a matter involving internal control and its operation necessary to bring to management's attention. The matter is discussed in the section titled Comments to Management. Any response and written corrective action plan to remediate this matter provided by the Clerk are included as an enclosure to this report.

We discussed this comment with the Clerk and we acknowledge the cooperation extended to us by the court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

MSM:alh

cc: The Honorable Joseph J. Ellis, 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

March 03, 2015

In Re: March 02, 2015 King George Circuit Court Audit

Mrs. Mavredes,

In response to your March 02, 2015 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. The Department of Taxation uses a unique seven digit Agency number for State Agencies and Sub-State Agencies. I would gladly follow the same procedures as the State Agencies and Sub-Agencies. 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 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 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. **The November 18, 2010 response to Frank Hargrove , President of the VCCA, by Craig M. Burns, Tax Commissioner, smells just the same as of the farmer who has spread too much male bovine manure on his fields. The Code of Virginia applies equally to all. If my staff and myself must supply their Social Security numbers then any and all persons working for anyone accessing the database.**
- 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 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.**

Representatives of the OES have approached the Department of Taxation and requested that they consider issuing a nine digit identification number and they refused.

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 official response from the APA regarding the Department of Taxations 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 auditor, Delores Chamberlain. She was at all times efficient, courteous, professional and thorough in dealing with myself and my staff and represents your agency well. If you need any additional information or have any questions please feel free to contact me.

Charles V. Mason, Clerk

## APPENDIX A – 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 statements.

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

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.