



JOHN H. GRAHAM  
CLERK OF THE CIRCUIT COURT  
FOR THE  
COUNTY OF SMYTH

FOR THE PERIOD  
APRIL 1, 2021 THROUGH SEPTEMBER 30, 2022

Auditor of Public Accounts  
Staci A. Henshaw, CPA

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

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## COMMENTS TO MANAGEMENT

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

### **Promptly Allocate Tax Set-Off Revenues**

**Repeat:** No

The Clerk did not allocate tax set-off collections promptly. At the end of the audit period, the Clerk was holding \$1,334 in tax refunds that the Clerk should have allocated to defendants' accounts. The oversight is the result of the Clerk not properly reviewing the general ledger and, therefore, being unaware of the balance in the tax set-off account.

Courts recover some delinquent fines and costs through Department of Taxation Set-Off Collection Program. Upon receipt, Clerks record tax set-off collections in one general ledger account. The Clerks must then credit the defendants' individual accounts before the Commonwealth and locality can recognize the revenues and to ensure appropriate collection activity and interest accrual.

The Clerk should allocate the amount noted during the audit and, going forward, the Clerk should review the general ledger each month to identify accounts, like the tax set-off account, requiring action and make the necessary adjustments and corrections.

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Staci A. Henshaw, CPA  
Auditor of Public Accounts

# Commonwealth of Virginia

*Auditor of Public Accounts*

P.O. Box 1295  
Richmond, Virginia 23218

February 3, 2023

The Honorable John H. Graham  
Clerk of the Circuit Court  
County of Smyth

Charles E. Atkins, Board Chairperson  
County of Smyth

Audit Period: April 1, 2021, through September 30, 2022  
Court System: County of Smyth

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 lead to noncompliance with laws and regulations, the loss of assets or revenues, or otherwise compromise the Clerk's 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 these comments with the Clerk, and we acknowledge the cooperation extended to us by the Clerk and his staff during this engagement.

Staci A. Henshaw  
AUDITOR OF PUBLIC ACCOUNTS

LJH:vks

cc: The Honorable Deanis L. Simmons, Chief Judge  
Shawn Utt, County Administrator  
Robyn M. de Socio, Executive Secretary  
Compensation Board  
Paul F. DeLosh, Director of Judicial Services  
Supreme Court of Virginia

art by Virginia M. Greer



## Clerk's Office Circuit Court of Smyth County

John H Graham, Esq.  
Clerk of Court

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April 6, 2023

Staci A. Henshaw, CPA  
Auditor of Public Accounts  
Post Office Box 1295  
Richmond, Virginia 23218

RE: Audit for the Period of April 1, 2021 through September 30, 2022

Dear Ms. Henshaw:

I appreciate the opportunity to provide this formal response to the above-referenced audit of our office.

As you know, the tax-set off process is one mechanism that circuit court clerks employ to aid in the collection of fees due to the court. Several times a week, one of my staff members logs into a database of the Virginia Department of Taxation to see if any of the persons who have been identified to receive state tax refunds have financial obligations to our court. If they do, we place a hold on those funds and intercept them before they are refunded to the tax-payer, and the appropriate credit is then made to the person's account with the court.

Your audit correctly identified funds that we had successfully intercepted, but we allowed those set-off funds to remain in our holding account for several months. When we intercepted those funds from two tax-payers, I directed a staff member to credit their respective accounts, and we found a contemporaneous sticky note from me directing them to do that, but I failed to ensure that it was finalized. Even though there's no law or rule mandating that tax set-offs be credited within a specific period of time, these funds were not processed upon receipt, as they should have been.



Letter to Staci A. Henshaw  
April 6, 2023  
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As the person ultimately responsible for this, I have instituted procedures to ensure that the holding account is checked on a monthly basis by no fewer than two staff members and me. Accordingly, funds from this holding account will be distributed more promptly in the future.

Having acknowledged responsibility, I also want to point out some facts and circumstances that are relevant to this finding. Most importantly, there was never a loss of assets or revenue caused by this delay. The funds were timely and properly collected and were always accounted for and available.

In addition, it is relevant to know that, because of staff turn-over, this office went three months without a bookkeeper during the time period covered by this audit. That staffing issue, combined with fewer training opportunities because of covid concerns, created some real challenges for us. As a court with receivables (fines and costs owed) over \$6.8 million, there are plenty of opportunities for mistakes and oversights. Despite these challenges, I'm proud that my dedicated team of deputy clerks rallied through that difficult time without any loss of assets or revenue.

Wishing you well, I am

Sincerely yours,

SIGNATURE ON FILE FOR  
JOHN H. GRAHAM