

## Circuit Court Audit Update



Karen Helderman, CPA CISA  
September 16, 2011

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## Topics to Cover

- Most common audit findings “Simple Seven”
- TTF Changes
- Fraud Responsibilities
- Local Ordinance Study

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## Audit Statistics

- 85 Circuit Courts completed this year
  - 40 (47%) had one or more findings
  - 45 (53%) had no findings
- Of 40 with findings, 27 of them had prior findings (68%)
- Of 45 with no findings, 19 of them had prior findings (42%)

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## Why does the Auditor Report Findings?

2011 Appropriations Act Item 67.70(I) :

For audits of clerks of the circuit court completed after July 1, 2004, the Auditor of Public Accounts shall report **any** internal control matter that could be **reasonably expected** to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability. The Auditor of Public Accounts **will** also report on compliance with appropriate law and other financial matters of the clerks' office.

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For internal control matters that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability, the Clerk shall provide the Auditor of Public Accounts a written corrective action plan to any such audit findings within 10 business days of the audit exit conference, which will state what actions the clerk will take to remediate the finding. The clerk's response may also address the other matters in the report. During the next audit, the Auditor of Public Accounts shall determine and report if the clerk has corrected the finding related to internal control matters that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability.

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Notwithstanding the provisions of Item 469, the Compensation Board shall not provide any salary increase to any circuit court clerk identified by the Auditor of Public Accounts who has not taken corrective action for the matters reported above.

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## Simple Seven

- #7 – Properly Delete Access to FMS/CMS
- #6 – Invest Money and Post Interest Timely
- #5 – Perform Reconciliations
- #4 – Request IRMS Tax Refunds and Have a Backup
- #3 – Remit Copy Fees to County and/or State
- #2 – Escheat to Unclaimed Property
- #1 – Properly Record Fines and Costs

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## #7 Properly Delete Access to FMS/CMS

- Clerks are responsible for controlling access.
- Virginia's security standard ([www.vita.virginia.gov](http://www.vita.virginia.gov)) and industry best practices require entities to immediately disable user accounts upon employee termination.

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## #6 Invest Money Under Court Control and Post Interest Timely

- Money under Court Control § 8.01-600
  - Clerk must invest money within sixty days of the court order creating the fund. The clerk must credit interest to the fund and must keep an accurate account of these funds. Since interest is earned monthly then posting interest monthly ensures the accounts are kept accurate.

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## #5 Perform Reconciliations

CIRCUIT FINANCIAL MANAGEMENT SYSTEM USER'S GUIDE;  
CHAPTER 9 - GENERAL ACCOUNTING PROCEDURES  
XII. MONTHLY CLOSING

- The clerk of court is required to perform the monthly closing to include the reconciliation of liability and receivable accounts and the reconciliation of the bank statement. The monthly closing process is designed to maintain control over the entire financial management system and to tie together related accounting records by reconciling major account balances.

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## #4 – Request IRMS Tax Refunds and Have a Backup

Three items here:

1. If you use IRMS then have a backup so setoffs can be claimed in your absence.
2. If you use IRMS, please claim your setoffs.
3. If you do not use IRMS and cite SSN concerns, know that Taxation already has your SSN. Also, please be aware of the 11/18/2010 letter from Taxation to Frank Hargrove, Clerks Association President.

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### COMMONWEALTH of VIRGINIA

Department of Taxation

November 18, 2010

Mr. Frank D. Hargrove, Jr., President  
Clerks Association of Virginia  
P.O. Box 39  
Hanover, Virginia 23069

Re: Social Security Number Requirement  
Setoff Debt Collection System Registration

Dear Mr. Hargrove:

You have inquired about the basis for our requirement that every person who seeks access to our system provide a social security number ("SSN"). Specifically, in order for Clerks and their employees to enter data about debts into the Department of Taxation Setoff Debt Collection system, each person must provide his or her personal social security number. This information is provided only when registering for access. Thereafter, the person will use an ID and password to access the system instead of their name and SSN.

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**COMMONWEALTH of VIRGINIA**  
 Office of the Governor  
 June 15, 2011

P.O. Box 1475  
 Richmond, Virginia 23211

Following your letter to me dated February 22, 2010, TAX responded to a similar inquiry by the Honorable Frank D. Hargrove, Jr., President, Clerks Association of Virginia, regarding your concern as to the use of the Clerks' social security numbers to access TAX's Set-Off Collection system. At this time based on the legal authority and appropriate safeguards in place, we are not seeking a change in policy as to the mechanics or operations of TAX's set-off system.

Sincerely,  
  
 Richard D. Brown

Auditor of Public Accounts 13

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### #3 – Remit Copy Fees to County and/or State

- Fees for Copies of Records § 17.1-275(A)(8)
- Clerk to charge a fee of fifty cents per page or image, if an electronic record, for copies. The locality shall be reimbursed for the actual cost of making the copies and the governing body shall appropriate funds to support the cost of copies. Any remaining fees should be sent to the Commonwealth.

Auditor of Public Accounts 14

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### #2 – Escheat to Unclaimed Property

- When Owner of Money Under Court Control is Unknown § 8.01-602, 55-210.9:2
  - Distributable or payable funds unclaimed for one (1) year to be reported and paid to State Treasurer. Clerk shall identify money and petition court to remit to State Treasurer.

Auditor of Public Accounts 15

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## #1 – Properly Record Fines and Costs

- Clerk's Fees § 17.1-275
  - Sets fees for various services performed by clerk, including civil and criminal cases.
  - Local ordinances may create additional fees.
  - Court Appointed Attorneys and Public Defender timesheets continue to be a problem. Blank orders have helped.

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## TTF Changes

- Beginning in FY 11 reimbursements of budgeted TTF was contingent upon cash collections.
- Some clerks started FY 11 with a negative balance.
- Negative balance was caused by Comp Board previously paying TTF based on budgets not collections.
- Economic downturn caused some clerks TTF collections to be less than what they had received from Comp Board, causing them to owe money to the Comp Board.

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## TTF Changes

- After negative balances were repaid in FY11, locality could request TTF reimbursement up to 50 percent of their budget and then the remainder is reimbursable monthly based on actual contributions.
- Should be no more negative balances in FY12 but reimbursement based on actual collections versus budget continues.

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## TTF Changes

- The 2011 Appropriations Act authorizes the Compensation Board to use up to \$3.98 million of TTF money in both FY 11 and 12 for operating expenses of Clerk's offices. This amount is considered before approving Clerk's TTF budgets.
- The use of TTF to offset potential operating expense reimbursement reductions was agreed to by the Clerk's Association in lieu of cutting Clerk operating budgets, which would have likely resulted in staff layoffs.

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## Fraud Reporting

- Suspected Fraudulent Transactions § 30-138
  - Requires the clerk to promptly report any information of circumstances suggesting a reasonable probability that a fraudulent transaction has occurred to Auditor of Public Accounts and Department of State Police and to cooperate with investigation. Willful failure to make a report shall constitute a Class 3 misdemeanor.

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## Fraud Reporting

Mr. Walter J. Kucharski  
Auditor of Public Accounts  
Post Office Box 1295  
Richmond, Virginia 23218-1295

Colonel W. Steven Flaherty  
Superintendent, Virginia State Police  
Post Office Box 27472  
Richmond, Virginia 23261

Dear Mr. Kucharski and Colonel Flaherty:

Pursuant to §30-138 of the Code of Virginia of 1950 as amended, this communication is to report the recent discovery that a reasonable possibility exists that fraudulent transactions may have occurred involving funds from financial receipting in the [REDACTED] Circuit Court Clerk's Office.

I offer my full cooperation in assisting with any investigation or audit that may occur as a result of this communication.

You may contact me at [REDACTED] for purposes of proceeding with this matter.

Thank you for your cooperation.

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## Local Ordinances Study

2011 Appropriations Act item 2.E. requires:  
The Auditor of Public Accounts shall audit the extent to which localities are enforcing local ordinances and collecting fines related to those ordinances, which parallel state statutes and related penalties for the same offense. A report on this audit shall be provided to the Chairmen of the Senate Finance and House Appropriations Committees by October 1, 2011.

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## Local Ordinances Study

We will examine the background behind localities having the authority to establish local ordinances that parallel state statutes. Our review will study the extent to which localities are establishing these local ordinances, and also the process courts follow for determining where to direct fine collections when a local ordinance and state statute relate to the same offense.

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Virginia Auditor of Public Accounts  
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### Judicial Team Leaders

Tidewater – Stephanie Serbia  
Shenandoah – Linda Gray  
Capital and Southside – Tracy Vaughn  
Southwest – Randy Johnson

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