

State of South Carolina



Office of the State Auditor

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DEPUTY STATE AUDITOR

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September 30, 2015

The Honorable Hugh K. Leatherman, Sr., Chairman
Senate Finance Committee
and
The Honorable W. Brian White, Chairman
House Ways and Means Committee

Dear Sirs:

Section 105.4 of the Fiscal Year 2015–2016 Appropriation Act requires the State Auditor to annually report its findings of the jurisdictions audited to the Senate Finance Committee and the House Ways and Means Committee by October 1st. When reports are completed and issued, notification is provided to the chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, the Governor, members and management of the local government, the State Treasurer, the Chief Justice, and State Office of Victim Assistance in accordance with Section 14-1-210 of the South Carolina Code of Laws, as amended. Attachment 1 provides summary of the findings, by jurisdiction.

The Office of the State Auditor contracted with a private certified public accountant (CPA) firm to conduct the court engagements. Eighteen reports were issued during the period July 1, 2014 through June 30, 2015.

Should you have any questions, please contact me at (803) 253-4160.

Sincerely,

Richard H. Gilbert, Jr., CPA
Deputy State Auditor

RHGjr/trb

Abbeville County General Sessions Court

Issue Date: April 2, 2015

Schedule of (Over)/Under Reported Fees: None

Summary of Findings

Mandatory DUI Sentence

Section 56-5-2945(A) of the 1976 South Carolina Code of Laws, as amended, states, "(A) A person who, while under the influence of alcohol, ... drives a motor vehicle and when driving a motor vehicle does any act ... which act ... proximately causes ... death ..., is guilty of the offense of felony driving under the influence, and, upon conviction, must be punished: (2) by a mandatory fine of not less than ten thousand one hundred dollars nor more than twenty-five thousand one hundred dollars and mandatory imprisonment for not less than one year nor more than twenty-five years when death results." Section 2945(A) further states "A part of the mandatory sentences required to be imposed by this section must not be suspended, and probation must not be granted for any portion."

The Court sentenced the defendant to 20 years in prison reduced to seven years with five years' probation in a felony DUI which resulted in a death.

Public Defender Application Fee

Section 17-3-30(B) of the 1976 South Carolina Code of Laws, as amended, states, "A forty dollar application fee for public defender services must be collected from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the clerk of court or other appropriate official for a waiver or reduction in the application fee. If the clerk or other appropriate official determines that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge upon sentencing and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation." Section 17-3-45(B) of the 1976 South Carolina Code of Laws, as amended, further states that the application fee must be paid "by a time payment method if probation is not granted or appropriate."

The Court did not assess and/or collect a \$40 public defender application fee from fourteen defendants that applied for a public defender.

Timely Submission of State Treasurer Revenue Remittance Form

Section 14-1-206(B) of the 1976 South Carolina Code of Laws, as amended, requires the County to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The County did not submit twelve of twelve State Treasurer Revenue Remittance Forms timely. The forms were submitted from two to twenty-one days late.

Abbeville County General Sessions Court (Continued)

Supplementary Schedule

Section 14-1-206(E)(1) of the 1976 South Carolina Code of Laws, as amended, states, "The supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the court of general sessions; (b) all assessments collected by the clerk of court for the court of general sessions; (c) the amount of fines retained by the county treasurer; (d) the amount of assessments retained by the county treasurer; (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward." In addition, Section 14-1-208(E)(2) and 14-1-211(D)(2) of the 1976 South Carolina Code of Laws, as amended, states, "The supplementary schedule must be included in the external auditor's report by an "in-relation-to" paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents.."

The County's supplementary schedule did not report how victims' services funds were expended nor did it report victim services' fund balances carried forward. The auditors' opinion was qualified and no form of assurance was given on the supplementary schedule.

Town of Bonneau Municipal Court

Issue Date: September 30, 2014

Schedule of (Over)/Under Reported Fees: \$38,916 – Due to the State; \$8,215 – Due to Victim Assistance

Summary of Findings

Adherence of Fine Guidelines

The Municipal Judge did not process the following violations in accordance with State law:

- Town Resolution 6, Section 1 specifies that violators of Resolution 6, Section 1 will be fined between \$100 and \$500. Three individuals were fined in excess of the maximum.
- Section 56-1-460(A)(1) of the South Carolina Code of Laws, as amended, states, "...a person...be punished as follows: ...(a) for first offense, fined three hundred dollars or imprisoned for up to thirty days, or both." and ..." (b) for a second offense, fined six hundred dollars or imprisoned for up to sixty consecutive days, or both." Two individuals were fined \$299.76 for DUS – 1st offense and one individual was fined \$597.59 for DUS – 2nd offense.
- Section 56-5-1520(G) states, "A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction of a first offense, must be fined ... (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars; (2) in excess of ten miles an hour but less than fifteen miles an hour above the posted limit by a fine of not less than twenty-five dollars;". One individual was fined \$25.26 for speeding less than 10 miles per hour over the limit and another individual was fined \$50.60 for speeding in excess of 10 miles per hour but less than 15 miles per hour.

Town of Bonneau Municipal Court (Continued)

- Section 56-5-2933(A) of the 1976 South Carolina Code of Laws, as amended, states, “A person who violates the provisions of this section... must be punished as follows: (1) for a first offense If the person's alcohol concentration is sixteen one-hundredths of one percent or more, then the person must be punished by a fine of one thousand dollars or imprisonment for not less than thirty days nor more than ninety days. ...”. One individual was fined \$1,000.24 for driving with an unlawful alcohol concentration of greater than 0.16.

Calculation and Remittance of Assessments, Surcharges and Fees

107.5 Percent Assessment

Section 14-1-208(A) of the 1976 South Carolina Code of Laws, as amended, states, “A person who is convicted of, or pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in municipal court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. The assessment is based upon that portion of the fine that is not suspended, and assessments must not be waived, reduced, or suspended.”

The Municipal Court did not properly calculate and remit the 107.5 percent assessment on fines as required by State law on 25 of the tickets tested.

Conviction Surcharge

Section 14-1-211 (A)(1) of the 1976 South Carolina Code of Laws, as amended, states, “In addition to all other assessments and surcharges...a twenty-five dollar surcharge is imposed on all convictions obtained in magistrates and municipal courts in this State. No portion of the surcharge may be waived, reduced, or suspended.” This section does not apply to misdemeanor traffic offenses or parking violations.

The Municipal Court did not properly calculate and remit the \$25 conviction surcharge on five tickets tested.

Breathalyzer Fee

Section 56-5-2950 (E) of the 1976 South Carolina Code of Laws, as amended, states, “... if the person is subsequently convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945, then, upon conviction, the person must pay twenty-five dollars for the costs of the tests.”

The Court did not assess and remit the \$25 breathalyzer test fee from two defendants in which the test was utilized and the defendants were subsequently convicted.

DUI Pullout

Section 56-5-2930 (F) and 56-5-2933 (F) of the 1976 South Carolina Code of Laws, as amended, states, “One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol.”

The Court did not assess and remit the \$100 pullout for one driving under the influence (DUI) case and one driving under suspension (DUS) case.

Allocation of Installment Payments

Section 14-1-209 of the 1976 South Carolina Code of Laws, as amended, provides guidance when the fines and assessments are paid in installments. The Court Administration Fee Memorandum dated June 29, 2012 states “The intent of Section 14-1-209(C) is that each installment payment be allocated on a pro rata basis to each applicable fine, assessment, and surcharge.” The memo further states “Funds collected

Town of Bonneau Municipal Court (Continued)

as installments should not be held until full payment is received but must be remitted each month...”

The Municipal Court did not allocate installment payments on a pro rata basis in eleven of twenty-five payments tested. We also noted that it was the Municipal Court’s policy to report installment payments when the payments exceeded \$100 otherwise it held the payments until the fine was paid in full.

Timely Submission of State Treasurer’s Revenue Remittance Form

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the Town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The Town submitted ten of the twelve State Treasurer Revenue Remittance Forms (STRRF) between seven and two hundred thirty-one days late. The remaining two forms were not submitted.

Victim Assistance Funds

Section 14-1-208(B) states ”The city treasurer must remit 11.16 percent of the revenue generated by the assessment imposed in subsection (A) to the municipality to be used for the purposes set forth in subsection (D)...” and Section 14-1-211(B) states, “The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law.”

The Town does not maintain a separate bank account for Victim Assistance Funds nor has it established a separate general ledger fund/account for its Victim Assistance Funds.

Supplementary Schedule

South Carolina Code of Laws Section 14-1-208(E) requires the municipality have an audited supplementary schedule indicating all fines and assessments collected by the municipal court, the amount of fines and assessments retained and the amount of fines and assessments remitted to the State Treasurer. It should also include the total funds by source that are allocated to victims’ services activities, how those funds were expended and any balances carried forward.

The Town did not provide an audited financial statement which included a schedule of fines and assessments for our procedures testing. They did however provide a schedule that included a letter from a public accountant with no form of assurance. There was no reconciliation available with this schedule and it did not reconcile to the general ledger or to the STRRF.

Town of Branchville Municipal Court

Issue Date: May 19, 2015

Schedule of (Over)/Under Reported Fees: \$676 – Due to the State; \$47 – Due to Victim Assistance

Summary of Findings

Timely Processing by the Clerk of Court

Section 14-1-208(A) of the 1976 South Carolina Code of Laws, as amended, states, "...This assessment must be paid to the municipal clerk of court and deposited with the Town treasurer for remittance to the State Treasurer." Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The former Town Clerk of Court did not deposit ten defendant remittances. When the omissions were discovered by the current Clerk of Court the fines were deposited, however, because of the delay in depositing the receipts, some of the checks were not honored by the bank (e.g., payee bank account was closed) or the Town did not receive full payment because the bank assessed service charges.

Adherence of Fine Guidelines

Speeding

Section 56-5-1520(G) of the 1976 South Carolina Code of Laws, as amended, states "A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars; (2) in excess of ten miles an hour but less than fifteen miles an hour above the posted limit by a fine of not less than twenty-five dollars nor more than fifty dollars;"

- The Court fined seven individuals either \$25.06 or \$28.43 for driving in excess of the posted limit, but not in excess of 10 miles per hour.
- The Court fined one individual \$71.33 for driving in excess of 10 miles per hour in excess of the posted limit, but less than fifteen miles per hour.

Seatbelt

Section 56-5-6540(A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who is adjudicated to be in violation of the provisions of this article must be fined not more than twenty-five dollars, no part of which may be suspended."

The Court fined one individual \$82 for a seatbelt violation.

Handicapped Parking

Section 56-3-1970 (C) states, "A person violating the provisions of this section ... must be fined not less than five hundred dollars nor more than one thousand dollars ...".

The Court fined one individual \$100 for a handicapped parking violation.

Town of Branchville Municipal Court (Continued)

Local Ordinance Violations

The Court fined three individuals different amounts for violating a local ordinance (unlawful operation of a motor vehicle). The discrepancies occurred because the fine amount was based upon the fine listed on the ticket instead of the local ordinance.

Installment Fee not Collected

Section 14-17-725 of the 1976 South Carolina Code of Laws, as amended, states, "Where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court, magistrate, or municipal court from the defendant...".

The Court did not assess the three percent installment fee on one of tickets tested.

Timely Submission of State Treasurer Revenue Remittance Form

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the Town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The Town Treasurer did not submit 10 of the twelve State Treasurer Revenue Remittance Forms by the fifteenth day of the month as required by State law. The forms were submitted between four and seventeen days late.

Supplementary Schedule

Section 14-1-208(E)(2) and 14-1-211(D)(2) of the 1976 South Carolina Code of Laws, as amended, states, "The supplementary schedule must be included in the external auditor's report by an "in relation to" paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents."

The Town's audited financial statements for the fiscal year ended December 31, 2012 included the required supplemental schedule, however the auditor's opinion did not include an "in-relation-to" opinion. In fact, no form of assurance was given on the supplementary schedule.

Section 14-1-208(E)(1) of the 1976 South Carolina Code of Laws, as amended, states, "The supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the municipal court; (b) all assessments collected by the clerk of court for the municipal court; (c) the amount of fines retained by the municipal treasurer; (d) the amount of assessments retained by the municipal treasurer; (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward."

Amounts reported by the Town on its supplemental schedule for court assessments and court surcharges collected and remitted to the State Treasurer did not agree with the Town's accounting records.

Town of Branchville Municipal Court (Continued)

Victim Assistance Funds

Section 14-1-211(B) of the 1976 South Carolina Code of Laws, as amended, states, "The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the Town or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any funds retained by the county or Town treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision."

The following exceptions, with respect to Victim Assistance Funds, were noted:

- The Town has established a separate bank account for Victim Assistance funds as required by State law however, no deposits were made into this account from July 1, 2011 until January 2014. Instead, the Town has comingled the money in the general fund bank account.
- The Town's Victim Assistance bank account balance at December 31, 2012 did not agree with the schedule of fines and assessments fund balance carry forward for Victim Assistance. The balance was \$34,412 below the required amount.
- By comingling the money in the general fund account, not having a Victims' Advocate funded position and not having the required carry forward fund balance available in cash in the Victim Assistance account, the Town has by default spent Victim Assistance money on unallowable, undocumented expenses of the general fund.
- The Town did not make deposits since the December 31, 2012 carry forward balance was calculated. The January 2013 through June 2013 balance due Victim Assistance is \$2,328.87.
- The Town also did not make deposits for July 2013 through November 2013 during the procedures period. The balance due Victim Assistance for this period is \$1,600.74.

Town of Cheraw Municipal Court

Issue Date: July 9, 2014

Schedule of (Over)/Under Reported Fees: \$8,027 – Due to the State

Summary of Findings

Adherence of Fine Guidelines

Section 56-1-460(A)(1) of the 1976 South Carolina Code of Laws, as amended, states, "a person...be punished as follows: (a) for a first offense, fined three hundred dollars or imprisoned for up to thirty days, or both;..."

- The Court fined three individuals less than \$300.

Section 56-5-1520(G) of the 1976 South Carolina Code of Laws, as amended, states, "A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars;..."

- The Court fined one individual \$49.64 for driving above the posted speed limit but not in excess of ten miles per hour above the posted speed limit.

Town of Cheraw Municipal Court (Continued)

Section 614-50(A) states “It is unlawful for a person to sell beer, ale, porter, wine, or other similar malt or fermented beverage to a person under twenty-one years of age. A person who makes a sale in violation of this section, upon conviction: (1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both;...”

- The Court fined one individual \$197.56 for selling beer to a minor.

Assessments and Surcharges

- Section 14-1-208 “requires any person who is convicted of, pleading guilty or nolo contendere to, or forfeiting bond for an offense tried in municipal court to pay an assessment....”
- Section 14-1-211 requires “In addition to all other assessments and surcharges, a twenty-five dollar surcharge is imposed on all convictions obtained in municipal court, including municipal ordinances.”
- Section 14-1-212 requires “In addition to all other assessments and surcharges, a twenty-five dollar surcharge is levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in municipal court for misdemeanor traffic offenses or non-traffic (criminal) convictions, including municipal ordinances. No portion of the surcharge may be waived, reduced, or suspended.”
- Section 90.5, Part 1B Temporary Provisos requires “In addition to all other assessments and surcharges during the current fiscal year, a five dollar surcharge to fund training at the SC Criminal Justice Academy is also levied on all fines and monetary penalties imposed in the municipal court for misdemeanor traffic offenses or for non-traffic violations.”

The Town has not assessed the 107.5 percent assessment and other surcharges on specific local ordinances as required by the various assessment and surcharge laws.

Opinion on Supplementary Schedule

Section 14-1-208(E)(2) and 14-1-211(D)(2) of the 1976 South Carolina Code of Laws, as amended, states, “The supplementary schedule must be included in the external auditor's report by an “in relation to” paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents...”

The Town’s audited financial statements for the fiscal year ended June 30, 2012 included the required supplementary schedule of court fines, assessments and surcharges. However, the auditors’ opinion did not include the required “in-relation-to” paragraph on the supplemental schedule. In fact, no form of assurance was given on the supplemental schedule.

Cherokee County General Sessions Court

Issue Date: July 1, 2014

Schedule of (Over)/Under Reported Fees: (\$140) – Due from the State

Summary of Findings

Assessment and Collection of Fees

Public Defender Application Fee

Section 17-3-30(B) of the 1976 South Carolina Code of Laws, as amended, states, “A forty dollar application fee for public defender services must be collected from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the clerk of court or other appropriate official for a waiver or reduction in the application fee. If the clerk or other appropriate official determines that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge upon sentencing and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation.” Section 17-3-45(B) of the 1976 South Carolina Code of Laws, as amended, further states that the application fee must be paid “by a time payment method if probation is not granted or appropriate.”

The Court waived the public defender application fee for thirteen defendants that applied and qualified for a public defender but did not document the waiver on the sentencing sheet or in the court record.

Installment Fee

Section 14-17-725 of the 1976 South Carolina Code of Laws, as amended, states, “...where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court.”

The Court assessed and collected the three percent installment fee from one individual that paid the total fine after the plea date.

Breathalyzer Fee

Section 56-5-2950(B) of the 1976 South Carolina Code of Laws, as amended, states, “No tests may be administered ... unless ... the person has been given a written copy of and verbally informed that: (1) he does not have to take the test.”

The Court assessed the \$25 breathalyzer test fee for a DUI case in which the defendant refused the breathalyzer test and was subsequently convicted.

Timely Remittance of Court Generated Revenue

Section 14-1-206(B) of the 1976 South Carolina Code of Laws, as amended, states, in part that “The county treasurer must remit ... on a monthly basis by the fifteenth day of each month...”

The Court did not remit three State Treasurer Revenue Remittance Forms (STRRF) timely. The STRRFs were submitted from one to seven days late. A similar finding was reported in the State Auditors’ Report for the period ended June 30, 2008 and dated October 9, 2008.

Cherokee County General Sessions Court (Continued)

Accurate Reporting – Probate Court

Section 20-1-375 of the 1976 South Carolina Code of Laws, as amended, states “... there is imposed an additional twenty dollar fee for each marriage license applied for. This additional fee must be remitted to the State Treasurer...”

The Probate over reported the actual number of marriage licenses applied for by seven and therefore over remitted seven Domestic Violence fees to the State Treasurer.

Town of Clio Municipal Court

Issue Date: April 21, 2015

Schedule of (Over)/Under Reported Fees: \$66,861 – Due to the State; \$7,651 – Due to Victim Assistance

Summary of Findings

Adherence of Fine Guidelines

Section 56-5-1520(G) of the 1976 South Carolina Code of Laws, as amended, states, “A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars; (2) in excess of ten miles an hour but less than fifteen miles an hour above the posted limit by a fine of not less than twenty-five dollars nor more than fifty dollars”

- The Court fined one individual \$25.06 for speeding in excess of the posted speed limit, but not in excess of 10 miles per hour.
- The Court fined one individual \$50.06 for speeding in excess of 10 miles per hour of the posted speed limit, but not in excess of 15 miles per hour.

Timely Submission of State Treasurer Revenue Remittance Form

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The Town has not submitted the State Revenue Remittance Forms to the State Treasurer for the 36 month period ended June 30, 2014.

Supplementary Schedule

Section 5-7-240 of the South Carolina Code of Laws, as amended, states, “The council shall provide for an independent annual audit of all financial records and transactions of the municipality and any agency funded in whole by municipal funds...”

The Town provided its audited financial statements for the fiscal year ended June 30, 2008, the latest available year audited. The audit included the schedule of fines and assessments, as required and included the required “in-relation-to” opinion. However, the Town’s fiscal year 2008 general ledger was not available and the Town could not provide other documentation demonstrating that the schedule reconciled to the Town’s accounting records.

Town of Clio Municipal Court (Continued)

Victim Assistance Funds

Section 14-1-211(B) of the 1976 South Carolina Code of Laws, as amended, states, "The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any funds retained by the county or city treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision."

The following exceptions, with respect to Victim Assistance Funds, were noted:

- The Town has not established a separate fund or bank account for Victim Assistance funds as required by State law.
- The Town does not track Victim Assistance deposits, disbursements or cash balances manually or electronically. Victim Assistance transactions are commingled with the Town's general operating fund deposits in its general fund bank account.
- The June 30, 2008 schedule of fines and assessments had a Victim Assistance carry forward balance of \$77,677. The Town could not provide documentation to support the individual accounts (receipts, expenditures, etc.) that comprise this balance.
- The general fund cash balance is not sufficient to cover the amounts due Victim Assistance, therefore, the Town has expended Victim Assistance funds to pay Town operating costs.

Court Cash Receipt Procedures

Supreme Court Justice Toal issued a court order to county magistrates, dated March 13, 2007. Section II, item C. states, "At the end of each day, all receipts issued shall be totaled, and the total indicated on the Daily Cash Summary Report." Section III, item C states further "...deposit slips shall be prepared for each separate account These deposit slips shall include: List of checks deposited (name of Defendant and amount of check must be included), total cash deposited, the starting and ending receipt numbers ..." While this order is directed to county magistrate courts, it could also be applied to municipal courts to improve overall internal control over financial activity.

The Town Clerk does not remit court receipts to the Town Treasurer daily. In addition, the Town Clerk does not include a detail list (i.e., name of payee, ticket/docket reference, amount paid, etc.) that comprises the remittance package when it remits cash receipts to the Town Treasurer. The Town Treasurer does not maintain a detail list (i.e., name of payee, receipt number, check number, check amount, etc.) of the individual receipts that comprise its bank deposit. As a result ticket payments could not be traced to validated bank deposits.

Town of Cross Hill Municipal Court

Issue Date: June 25, 2015

Schedule of (Over)/Under Reported Fees: None

Summary of Findings

Adherence of Fine Guidelines

Section 56-5-6540(A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who is adjudicated to be in violation of the provisions of this article must be fined not more than twenty-five dollars, no part of which may be suspended."

The Town Clerk assessed one defendant \$55 for a seatbelt violation instead of \$25.

Assessment Allocation

The Court Administration Fee Memorandum dated June 28, 2013, states, "The amount collected as assessments must be forwarded each month to the Municipal Treasurer, who shall retain 11.16% of the revenue generated by the assessment for the municipality and transmit the remaining 88.84% by the fifteenth of each month to the State Treasurer on forms and in a manner prescribed by him. The 11.16% retained by the municipality must be used exclusively for providing victim services ..."

The Town incorrectly allocated the 107.5% assessment 93% - State and 7% - Victim Assistance. This error resulted in an overpayment to the State of \$365.37 and an underpayment to Victim Assistance of \$365.37 during the period July 1, 2013 through June 30, 2014.

Supporting Documentation

Section 14-1-208 (E)(4) of the 1976 South Carolina Code of Laws, as amended, states, "The clerk of court and municipal treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection in the format determined by the municipal governing body and make those records available for review."

The Town was unable to provide two of the twenty-five tickets selected for testing.

Supplementary Schedule

Section 14-1-208(E) of the 1976 South Carolina Code of Laws, as amended, states, "(1) To the extent that records are made available in the format determined pursuant to subsection (E)(4), the supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the municipal court; ... (c) the amount of fines retained by the municipal treasurer;"

The Town's December 31, 2011 audited financial statements (latest available audit) omitted certain required information for Victim Assistance (i.e., total fines collected and retained).

Victim Assistance Funds

Section 14-1-208 (B) of the 1976 South Carolina Code of Laws, as Amended, states, "The city treasurer must remit 12 percent of the revenue generated by the assessment imposed in subsection (A) to the municipality to be used for the purposes set forth in subsection (D) and remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer."

Town of Cross Hill Municipal Court (Continued)

The Town did not timely deposit funds collected for victim assistance into a separate account as required by State law.

Segregation of Duties and Cross-Training

In Supreme Court Justice Toal's March 13, 2007 order regarding Magistrate Court Financial Accounting, Section II, item F. states, "Unless a magistrate court has only one employee, receiving of funds shall be done by a person not responsible for maintaining and reconciling financial records" and Section VII, item A. "All magistrates and their staff shall be cross-trained so as to ensure that proper procedures are followed in the absence of a staff member or a magistrate."

The Town Treasurer is also the Clerk of Court and maintains all Town and Court finance and court records and as well as other finance duties for the Town.

Greenville County General Sessions Court

Issue Date: September 30, 2014

Schedule of (Over)/Under Reported Fees: None

Summary of Findings

Assessment and Collection of Fees

Public Defender Application Fee

Section 17-3-30(B) of the 1976 South Carolina Code of Laws, as amended, states, "A forty dollar application fee for public defender services must be collected from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the clerk of court or other appropriate official for a waiver or reduction in the application fee. If the clerk or other appropriate official determines that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge upon sentencing and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation." Section 17-3-45(B) of the 1976 South Carolina Code of Laws, as amended, further states that the application fee must be paid "by a time payment method if probation is not granted or appropriate."

The Court should have assessed and collected the Public Defender Application fee for eight defendants that applied for and qualified for public defender. We could not trace the collection of the fee through the Clerk of Court's Office, because that function is carried out by an independent county Indigent Defense Office, which assigns the cases to the Public Defender's Office.

Public Defender Fee

Section 47.7 of the fiscal year 2012-13 Appropriations Act states, "Every person placed on probation on or after July 1, 2003, who was represented by a public defender or appointed counsel, shall be assessed a fee of five hundred dollars ... This assessment shall be collected and paid over before any other fees."

The Court did not assess and collect the \$500 public defender fee.

Greenville County General Sessions Court (Continued)

Breathalyzer Fee

Section 56-5-2950(B) of the 1976 South Carolina Code of Laws, as amended, states, "No tests may be administered ... unless ... the person has been given a written copy of and verbally informed that: (1) he does not have to take the test..."

The Court assessed the \$25 breathalyzer test fee in two cases where the defendants refused the breathalyzer test and were subsequently convicted.

Accurate Reporting

Section 14-1-206(B) of the 1976 South Carolina Code of Laws, as amended, states, "The county treasurer must...make reports on a form and in a manner prescribed by the State Treasurer." Due to the nature of these reporting errors, we calculated the STRRF amendment necessary for the 12 months ended June 30, 2013.

The Court did not report the DUI Breathalyzer Test fee on Line VA – DUI Breathalyzer Test Fee on the State Treasurer Revenue Remittance Form. The breathalyzer test fee was reported on Line V – General Session DUI SLED Pullout-3rd Offense \$200.

Town of Hampton Municipal Court

Issue Date: June 2, 2015

Schedule of (Over)/Under Reported Fees: \$32 – Due to the State; (\$49) – Due from Victim Assistance

Summary of Findings

Adherence of Fine Guidelines

Section 56-5-2933(A) (1) of the 1976 South Carolina Code of Laws, as amended, states, "If the person's alcohol concentration is at least ten one-hundredths of one percent but less than sixteen one-hundredths of one percent, then the person must be punished by a fine of five hundred dollars..."

- The Court fined one individual \$512.05 for Driving Under the Influence (DUI) greater than .10 but less than .16, 1st Offense.

Section 38-216 of the Town of Hampton Ordinances states "the violation of any section of this Code shall be punishable by a fine of not more than \$200.00."

- The Court fined one individual \$272.29 for a local ordinance violation.

Improper Classification of Offenses

South Carolina Code of Laws Section 14-1-211(A)(1) states, "... a twenty-five dollar surcharge is imposed on all convictions obtained in ... municipal court. The surcharge must not be imposed on convictions for misdemeanor traffic offenses."

The Clerk of Court misclassified two traffic cases as non-traffic criminal in the court software system. As a result, the conviction surcharge, fine and assessment were incorrectly allocated.

Town of Hampton Municipal Court (Continued)

Breathalyzer Test Fee

Section 56-5-2950 (E) of the 1976 South Carolina Code of Laws, as amended, states, "... if the person is subsequently convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945, then, upon conviction, the person must pay twenty-five dollars for the costs of the tests."

The Court did not assess one individual the breathalyzer test fee even though the breathalyzer test was administered and the individual was subsequently convicted.

Remittance Form Changes Subsequent to Submission

The Clerk of Court (or Town Treasurer) provided copies of all State Treasurer Revenue Remittance Forms (STRRF). The STRRFs provided by the Town were compared to copies of the STRRFs received by the State Treasurer's Office. Based on this comparison it was determined that line item amounts and summary total amounts on two Town STRRFs did not agree with the State Treasurer's copies. In both months it appeared that the Town had added adjudicated cases to their copy subsequent to their original submission, but had failed to submit an amended STRRF to the State Treasurer's Office.

The Clerk stated the Court database had crashed and the software engineers were called in to rebuild it. In the course of rebuilding the database not all tickets were restored to the original months in which they were reported causing the variations from the original reports when these reports were subsequently rerun for the procedures period.

Allocation of Installment Payments – 3% Collection Fee

Section 14-1-209 of the 1976 South Carolina Code of Laws, as amended, provides guidance when the fine and assessment are paid in installments. The Court Administration Fee Memorandum dated June 28, 2013, states, "The intent of Section 14-1-209(B) is that each installment payment be allocated on a pro rata basis to each applicable fine, assessment, and surcharge."

Nine of the twenty-five cases tested were paid on installment. The Court did not allocate the three percent collection in accordance with State law.

Supplemental Schedule In-Relation-To Paragraph

Section 14-1-208(E)(2) and 14-1-211(D)(2) of the 1976 South Carolina Code of Laws, as amended, states, "The supplementary schedule must be included in the external auditor's report by an "in relation to" paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents.."

The Town's audited financial statements for the fiscal year ended February 28, 2014 included the required supplementary schedule of court fines, assessments and surcharges. However, the auditors' opinion did not include the required "in-relation-to" paragraph on the supplemental schedule. In fact, no form of assurance was given on the supplemental schedule.

Town of Hampton Municipal Court (Continued)

Final Docket Offense Descriptions

Section B.11 of the South Carolina Bench Book for Magistrates and Municipal Court Judges states, "While the Order of the Chief Justice did not specifically include municipal courts ... the accounting provisions contained therein are sound and would comply with S.C. Code Ann. § 22-1-80" Regardless of the docket design chosen, all judges should use a system which reflects the defendant's name, charge(s), charging paper number, disposition of case, sentence (a breakdown of court costs is helpful), and bond information.

The offense description on the final docket for five cases did not agree with the charge on the adjudicated ticket.

Town of Iva Municipal Court

Issue Date: May 19, 2015

Schedule of (Over)/Under Reported Fees: \$450 – Due to the State; (\$118) – Due from Victim Assistance

Summary of Findings

Timely Reporting by the Clerk of Court

Section 14-1-208(A) of the 1976 South Carolina Code of Laws, as amended, states, "...This assessment must be paid to the municipal clerk of court and deposited with the city treasurer for remittance to the State Treasurer." Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The Town Clerk of Court did not submit eleven of twelve State Treasurer Revenue Remittance Forms timely. The forms were submitted from 36 to 111 days late. A similar finding was reported in the State Auditor's Report for the period ended June 30, 2008, dated July 15, 2008.

Payment Omissions

Section 14-1-220 of the 1976 South Carolina Code of Laws, as amended, states, "Each...municipal clerk of court or other person who receives monies from the cost of court assessments in criminal or traffic cases in the municipal courts shall transmit all these monies to the Office of the State Treasurer." and further "The municipal clerk of court or county treasurer shall then forward the total sum collected to the State Treasurer ...".

Court fine payments from individuals using credit cards were excluded from the monthly collections reported to the State Treasurer.

Town of Iva Municipal Court (Continued)

Adherence to Fine Guidelines

Moving Violations

Section 56-5-1520(G) of the 1976 South Carolina Code of Laws, as amended, states, "A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars; (2) in excess of ten miles an hour but less than fifteen miles an hour above the posted limit by a fine of not less than twenty-five dollars nor more than fifty dollars;"

- The Court fined one individual \$26.51 for speeding in excess of the posted speed limit, but not in excess of ten miles per hour.
- The Court fine one individual \$74.69 for speeding in excess of ten miles per hour above the posted speed limit, but less than fifteen miles per hour.

Driving Under Suspension

Section 56-01-460 (A)(1) of the 1976 South Carolina Code of Laws, as amended, states, "Except as provided in item (2), a person who drives a motor vehicle on a public highway of this State when the person's license to drive is canceled, suspended, or revoked must, upon conviction, be punished as follows: (a) for a first offense, fined three hundred dollars or imprisoned for up to thirty days, or both;"

The Court fined one individual \$299.76 for Driving Under Suspension not for DUI 1st offense.

Seatbelt Violation

Section 56-5-6540 (A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who is adjudicated to be in violation of the provisions of this article must be fined not more than twenty-five dollars, no part of which may be suspended."

- The Court fined one individual \$30 for a seatbelt violation.

Other Violations

Section 63-19-2440 of the 1976 South Carolina Code of Laws, as amended, states, "(A) ... A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than two hundred dollars or must be imprisoned for not more than thirty days, or both."

- The Court fined one individual \$97.83 for possession of beer when under 21 years of age.

Section 56-1-500 of the 1976 South Carolina Code of Laws, as amended, states, "Every person convicted ... shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days."

- The Court fined one individual \$200 for allowing an unlicensed driver to operate a vehicle.

Improper Classification of Offenses

South Carolina Code of Laws Section 14-1-211(A)(1) states, "... a twenty-five dollar surcharge is imposed on all convictions obtained in ... municipal court The surcharge must not be imposed on convictions for misdemeanor traffic offenses." The Court Administration Fee Memorandum dated June 28, 2013, states, "The assessment

Town of Iva Municipal Court (Continued)

may not be imposed on convictions for violations of Sections 56-3-1970, 56-5-2510, and 56-5-2530, or another State law or municipal ordinance restricting parking” and further states in regards to the Law Enforcement and Criminal Justice Surcharges, “The surcharge does not apply to state or local laws regulating parking.”

The Court did not always classify following violations correctly:

- “Open Container” offense as a criminal offense
- “No South Carolina Driver’s License” offense as a traffic offense
- “Parking” violations as a non-assessed violation

When violations are misclassified, the conviction surcharge and other assessments are not allocated in accordance with State law. A similar finding was reported in the State Auditor’s Report for the period ended June 30, 2008, dated July 15, 2008.

State Treasurer Revenue Remittance Form Errors

The Town did report the following on its monthly State Treasurer Revenue Remittance Form (STRRF):

- The \$100 “Driving Under Suspension” (DUS) pullouts on its August 2013 and February 2014 STRRF.
- The \$150 Drug Surcharge on its July 2013 STRRF.
- The November 2013 through April 2014 STRRF reported Victim Assistance surcharges on line OA instead of line O.

Similar findings were reported in the State Auditor’s Report for the period ended June 30, 2008, dated July 15, 2008.

Manual Assessment Worksheet Erratum

Civil Drug Violations Surcharge

The Town assesses “Civil Drug Violation” surcharge on its manual assessment allocation worksheet. State law does not allow municipalities to impose a civil drug violation surcharge. An Attorney General Opinion dated May 8, 1984, states, “the recovery and allowance of cost rests entirely on statutory provisions...no right to or liability for cost exists in the absence of statutory authorization.” A similar finding was reported in the State Auditor’s Report for the period ended June 30, 2008, dated July 15, 2008.

Drug Surcharge

Section 14-1-213 (A) of the 1976 South Carolina Code of Laws, as amended, states, “In addition to all other assessments and surcharges required to be imposed by law, a one hundred fifty dollar surcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in general sessions court or in magistrates or municipal court for misdemeanor or felony drug offenses. No portion of the surcharge may be waived, reduced, or suspended.”

The Town recorded a Drug Surcharge of \$100 in its manual assessment worksheet.

Installment Payments

Section 14-1-209 of the 1976 South Carolina Code of Laws, as amended, provides guidance when the fine and assessment are paid on installments. The Court Administration Fee Memorandum dated June 28, 2013, states, “The intent of Section 14-1-209(A) is that each installment payment be allocated on a pro rata basis to each

Town of Iva Municipal Court (Continued)

applicable fine, assessment, and surcharge.” The memo further states “Funds collected as installments should not be held until full payment is received but must be remitted each month...”

The Town did not allocate installment payments on a pro rata basis and submit them to the State Treasurer when collected. A similar finding was reported in the State Auditor’s Report for the period ended June 30, 2008, dated July 15, 2008.

Installment Payment Fee

Section 14-17-725 of the 1976 South Carolina Code of Laws, as amended, states, “...where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court, magistrate, or municipal court from the defendant...”

The Town assessed and collected a three percent installment fee from individuals who paid the total fine amount due in one payment after the court date. A similar finding was reported in the State Auditor’s Report for the period ended June 30, 2008, dated July 15, 2008.

Timely Submission of State Treasurer Revenue Remittance Form

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The Town did not submit eleven of twelve State Treasurer Revenue Remittance Forms timely. A similar finding was reported in the State Auditor’s Report for the period ended June 30, 2008, dated July 15, 2008.

Accuracy in Submitted State Treasurer Revenue Remittance Forms

South Carolina Code of Laws Section 14-1-208(B) states, “the city treasurer must remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner proscribed by the State Treasurer.”

The Town Clerk made errors and omissions, incorrect calculations, and errors when transferring data from the manual system to the State Treasurer Revenue Remittance Forms. A similar finding was reported in the State Auditor’s Report for the period ended June 30, 2008, dated July 15, 2008.

Supplementary Schedule

Section 5-7-240 of the South Carolina Code of Laws, as amended, states, “The council shall provide for an independent annual audit of all financial records and transactions of the municipality and any agency funded in whole by municipal funds...” In addition, Section 14-1-208(E) states, “To ensure that fines and assessments imposed pursuant to this section and Section 14-1-209(A) are properly collected...the annual independent external audit required to be performed for each municipality ...must include...a supplementary schedule detailing all fines and assessments collected...”

Town of Iva Municipal Court (Continued)

The Town provided its financial statements (unaudited) for the fiscal year ended June 30, 2012, the latest available financial statements. The statements included a schedule of fines and assessments, which were tested to ensure compliance with State law. Based on the procedures performed it was determined that the schedule contained the items required by State law. However, the Town's financial statements were compiled by a certified public accountant and not audited as required by State law. In addition, the Town could not provide documentation demonstrating that the schedule reconciled to the Town's accounting records. A similar finding was reported in the State Auditor's Report for the period ended June 30, 2008, dated July 15, 2008.

Victim Assistance

Section 14-1-211(B) of the 1976 South Carolina Code of Laws, as amended, states, "The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any funds retained by the county or city treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision."

The following exceptions, with respect to Victim Assistance Funds, were noted:

- The Town has established a separate bank account for Victim Assistance funds as required by State law however, the bank balance at June 30, 2014 was \$-0- because the Town discontinued the Victim Assistance program as of January 31, 2014. Even though the Town discontinued the program it continued to collect Victim Assistance money after January 31, 2014. The Town's subsequent collections for the procedures period ending June 30, 2014 were \$905.38.
- During the procedures period the Town deposited \$97.63 of its installment payments three percent fee in Victim Assistance funds in error.

A similar finding was reported in the State Auditor's Report for the period ended June 30, 2008, dated July 15, 2008.

Manual Calculations

In Supreme Court Justice Toal's March 13, 2007 court order regarding Magistrate Court Financial Accounting, section V, item B. it states, "Remittances must balance with the appropriate docket sheet(s)."

The Town performs manual calculations to allocate amounts due to the State Treasurer, the Town and Victims' Assistance. The sum of these individual calculations often do not equal the total amount allocated due to rounding. The rounding errors occur because formulas used are not precise. While the amount of the difference is immaterial, the rounding errors cause differences between the amount remitted and the amount due to each entity.

Lack of Collections Reconciliation

Section V, item B. of Justice Toal's March 13, 2007 court order to county magistrates states, "The remittance must include a full and accurate statement of all monies collected ... on account of fines during the past month together with the title of each case in which a fine, fee, or cost has been paid. Remittances must balance with the appropriate docket sheet(s)." While this order is directed to county magistrate courts, it could also be applied to municipal courts to improve overall internal control over financial activity.

Town of Iva Municipal Court (Continued)

Collections of court fines paid with a credit card were omitted from the STRRF during the month end close process. The Court uses the Town's Water Department credit card machine to process fine payments paid by credit card. The Town does not reconcile Water Department collections with the Water Department accounts subsidiary ledger. If the Town performed this reconciliation it may have identified the additional credit card payments and may have realized that it was not including the court fine credit card payments on its State Treasurer Revenue Remittance Form.

Segregation of Duties and Cross-Training

Section II, item F of Supreme Court Justice Toal's March 13, 2007 court order to county magistrates states, "Unless a magistrate court has only one employee, receiving of funds shall be done by a person not responsible for maintaining and reconciling financial records". Section VII, item A. states, "All magistrates and their staff shall be cross-trained so as to ensure that proper procedures are followed in the absence of a staff member or a magistrate." This order is directed to county magistrate courts, but it could also be applied to municipal courts to improve overall internal control over financial activity.

The Town Treasurer also functions as the Clerk of Court and in this capacity maintains all court finance and court records. The Town Treasurer duties include preparing the State Treasurer Revenue Remittance Forms and performing other allocation and reconciliation tasks for the Court.

Town of Lamar Municipal Court

Issue Date: April 23, 2015

Schedule of (Over)/Under Reported Fees: None

Summary of Findings

Timely Reporting by the Clerk of Court

Section 14-1-208(A) of the 1976 South Carolina Code of Laws, as amended, states "...This assessment must be paid to the municipal clerk of court and deposited with the city treasurer for remittance to the State Treasurer." Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The Town Clerk of Court did not prepare and submit three of twelve State Treasurer Revenue Remittance Forms timely. A similar finding was reported in the State Auditor's Report for the period ended June 30, 2008, dated September 15, 2008.

Adherence of Fine Guidelines

Section 56-5-1520(G) of the 1976 South Carolina Code of Laws, as amended, states "A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars;"

Town of Lamar Municipal Court (Continued)

The Court fined one individual \$28.43 and another \$14.94 for speeding in excess of the posted speed limit, but not in excess of 10 miles per hour of the posted speed limit. A similar finding was reported in the State Auditor's Report for the period ended June 30, 2008, dated September 15, 2008.

Improper Classification of Offenses

South Carolina Code of Laws Section 14-1-211(A)(1) states, "... a twenty-five dollar surcharge is imposed on all convictions obtained in ... municipal court ... The surcharge must not be imposed on convictions for misdemeanor traffic offenses."

The Town input collections for "Open Container" and "Simple Possession" incorrectly in its court accounting software. As a result the conviction surcharge and surcharge allocation were incorrectly classified and allocated. A similar finding was reported in the State Auditor's Report for the period ended June 30, 2008, dated September 15, 2008.

Timely Submission of the State Treasurer Revenue Remittance Form

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The Town did not submit seven of twelve State Treasurer Revenue Remittance Forms timely. In addition, it was noted that the Town did not remit \$445.01 to the State Treasurer. A similar finding was reported in the State Auditor's Report for the period ended June 30, 2008, dated September 15, 2008.

Victim Assistance Funds

Section 14-1-211(B) of the 1976 South Carolina Code of Laws, as amended, states, "The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any funds retained by the county or city treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision."

The following exceptions, with respect to Victim Assistance Funds, were noted:

- The Town has established a separate bank account for Victim Assistance funds as required by State law however, at June 30, 2013, the bank balance is \$1,134.41 lower than the carry forward ledger balance.
- The Town does not timely deposit Victim Assistance funds.
- The Town did not make December 2013, May or June 2014 deposits during the procedures period.

A similar finding was reported in the State Auditor's Report for the period ended June 30, 2008, dated September 15, 2008.

Town of Lamar Municipal Court (Continued)

Cash Receipts

Supreme Court Justice Toal issued a court order to county magistrates, dated March 13, 2007. Section II, item C. states, "At the end of each day, all receipts issued shall be totaled, and the total indicated on the Daily Cash Summary Report." While this order is directed to county magistrate courts, it could also be applied to municipal courts to improve overall internal control over financial activity.

The Town Treasurer could not provide the original cash receipts register along with individual receipts that comprised the bank deposit for the months of November 2013 and December 2013. As a result ticket payments could not be traced to the validated bank deposit.

Marlboro County General Sessions Court

Issue Date: September 30, 2014

Schedule of (Over)/Under Reported Fees: None

Summary of Findings

Adherence of Fine Guidelines

Bench Warrants

Section 14-17-260 of the 1976 South Carolina Code of Laws, as amended, states, "The clerk shall (a) issue every execution, bench warrant or other process issuable or directed to be issued by the courts of sessions, in the name of the Attorney General or solicitor of the circuit,..."

The judge sentenced the defendant in accordance with State law and additionally stated that court fees must be paid within 30 days or a bench warrant would be issued. The defendant did not pay within 30 days, however the court did not issue a bench warrant upon the defendant's failure to pay.

Assessment and Collection of Fees

Installment Fee

Section 14-17-725 of the 1976 South Carolina Code of Laws, as amended, states, "...where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court."

The Court did not assess the three percent installment fee on one individual who elected to pay on installment.

Public Defender Application Fee

Section 17-3-30(B) of the 1976 South Carolina Code of Laws, as amended, states, "A forty dollar application fee for public defender services must be collected from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the clerk of court or other appropriate official for a waiver or reduction in the application fee. If the clerk or other appropriate official determines that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge upon sentencing and the trial judge shall order the remainder of the fee paid during probation if the person is granted

Marlboro County General Sessions Court (Continued)

probation.” Section 17-3-45(B) of the 1976 South Carolina Code of Laws, as amended, further states that the application fee must be paid “by a time payment method if probation is not granted or appropriate.”

The Court did not assess and collect the public defender application fee from three defendants that applied and qualified for a public defender.

Newberry County General Sessions Court

Issue Date: July 9, 2014

Schedule of (Over)/Under Reported Fees: \$175 – Due to the State

Summary of Findings

Adherence of Fine Guidelines

Section 44-53-375(C)(1) of the 1976 South Carolina Code of Laws, as amended, states, “(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars; ...”

The Court sentenced one defendant who pled guilty to drug trafficking, 3rd offense 100 months.

Section 56-5-2930(A) of the 1976 South Carolina Code of Laws, as amended, states, “...must be punished as follows: (1) for a first offense, by a fine of four hundred dollars or imprisonment for not less than forty-eight hours nor more than thirty days.”

The Court fined one defendant, guilty of DUI 1st offense, less than .10 \$500.

Section 56-5-2930(A) of the 1976 South Carolina Code of Laws, as amended, states, “...must be punished as follows: (1) for a first offense ... If the person's alcohol concentration is sixteen one-hundredths of one percent or more, then the person must be punished by a fine of one thousand dollars or imprisonment for not less than thirty days nor more than ninety days.” Section 56-5-2930 (C) further states, “The fine for a first offense must not be suspended. The court is prohibited from suspending a monetary fine below that of the next preceding minimum monetary fine.” The next preceding minimum monetary fine is \$500.

The Court fined one defendant who pled guilty to DUI 1st offense, greater than .16 \$350.

Assessment and Collection of Fees

Breathalyzer Fee

Section 56-5-2950(E) of the 1976 South Carolina Code of Laws, as amended, states, “The costs of the tests administered at the direction of the law enforcement officer must be paid from the general fund of the state. However, if the person is subsequently convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945, then, upon conviction, the person must pay twenty-five dollars for the costs of the tests.”

The Court did not assess the \$25 breathalyzer test fee for a DUI case in which the defendant took the breathalyzer test and was subsequently convicted.

Newberry County General Sessions Court (Continued)

DUI Pullout

Section 56-5-2930(F) of the 1976 South Carolina Code of Laws, as amended, states, "One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol."

The Court did not assess the \$100 DUI Pullout in a DUI case.

Accurate Reporting – Probate Court

Section 20-1-375 of the 1976 South Carolina Code of Laws, as amended, states "... there is imposed an additional twenty dollar fee for each marriage license applied for. This additional fee must be remitted to the State Treasurer and credited to the Domestic Violence Fund...."

The Probate Court did not correctly report the actual number of marriage licenses applied for and therefore under remitted marriage license fees by \$175 to the State Treasurer.

Supplementary Schedule

Section 14-1-206(E)(1) of the 1976 South Carolina Code of Laws, as amended, states, "The supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the court of general sessions; (b) all assessments collected by the clerk of court for the court of general sessions; (c) the amount of fines retained by the county treasurer, (d) the amount of assessments retained by the county treasurer, (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward."

The County's audited financial statements for the fiscal year ended June 30, 2013 included the required supplementary schedule of court fines, assessments and surcharges. The amounts reported on the supplementary schedule for Assessments, Beginning Fund Balance and Ending Fund Balance did not agree to amounts recorded in the County's general ledger. The schedule did not include amounts submitted by entities that the county contracts with for victim advocate services that collect and remit victim advocate funds to the County.

Town of Olanta Municipal Court

Issue Date: June 9, 2015

Schedule of (Over)/Under Reported Fees: \$1,006 – Due to the State; \$82 – Due to Victim Assistance

Summary of Findings

Payment Omissions

Section 14-1-220 of the 1976 South Carolina Code of Laws, as amended, states, "Each...municipal clerk of court or other person who receives monies from the cost of court assessments in criminal or traffic cases in the municipal courts shall transmit all these monies to the Office of the State Treasurer." and further "The municipal clerk of court or county treasurer shall then forward the total sum collected to the State Treasurer ...".

Town of Olanta Municipal Court (Continued)

The Town did not input all Non-Resident Violator Compact (NRVC) tickets in the court system software. As a result the fine payments were excluded from the monthly collections.

Adherence to Fine Guidelines

Section 56-5-1520(G) of the 1976 South Carolina Code of Laws, as amended, states, "A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars; (2) in excess of ten miles an hour but less than fifteen miles an hour above the posted limit by a fine of not less than twenty-five dollars nor more than fifty dollars..."

- The Court fined one individual \$25.06, another individual \$27.41, and a third individual \$28.92 for speeding in excess of the posted speed limit, but not in excess of ten miles an hour.
- The Court fined four individuals either \$77.11 or \$77.41 for speeding in excess of ten miles an hour, but not in excess of fifteen miles an hour.

Section 56-01-460 (A)(1) of the 1976 South Carolina Code of Laws, as amended, states, "Except as provided in item (2), a person who drives a motor vehicle on a public highway of this State when the person's license to drive is canceled, suspended, or revoked must, upon conviction, be punished as follows: (a) for a first offense, fined three hundred dollars or imprisoned for up to thirty days, or both; (b) for a second offense, fined six hundred dollars or imprisoned for up to sixty consecutive days, or both;

- The Court fined one individual \$302.41 and another individual \$601.45 for Driving Under Suspension not for DUI 1st offense.
- The Court fined one individual \$601.45 for Driving Under Suspension not for DUI 2nd offense.

Section 44-53-370(d)(4) of the 1976 South Carolina Code of Laws, as amended, states, "A person who violates this subsection with respect to twenty-eight grams or one ounce or less of marijuana or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two hundred dollars."

- The Court fined one individual \$202.41 for Simple Possession of Marijuana.

Section 61-4-110 of the 1976 South Carolina Code of Laws, as amended, states "A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days."

- The Court fined one individual \$135.90 for Open Container of Alcohol in a vehicle.

Section 56-3-1970 of the 1976 South Carolina Code of Laws, as amended, states, "(C) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days for each offense".

- The Court fined one individual \$100 for parking in a Handicapped Parking Zone.

Town of Olanta Municipal Court (Continued)

Criminal Justice Academy Surcharge

The Court Administration Fee Memorandum from Robert L. McCurdy dated June 28, 2013, states, "1. **Effective July 1, 2013**, Section 118.5 of the Temporary Provisions of the 2013 - 2014 General Appropriations Act requires that, in addition to all other assessments and surcharges, a \$5.00 surcharge to fund training at the South Carolina Criminal Justice Academy is also levied on all fines ... **This proviso has been included in the last several General Appropriations Acts and is repeated verbatim in this year's Appropriations Act and is not an addition to collections.**"

The Town added five dollars to every fine. As a result eight of the twenty-five violations tested exceeded the fine guidelines.

Driving Under Suspension Pullouts

Section 56-1-460 (C) of the 1976 South Carolina Code of Laws, as amended, states "One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol."

Two of the three Driving Under Suspension (DUS) not for DUI offenses tested did not include the mandatory \$100 DUS Pullout.

Timely Submission of State Treasurer Revenue Remittance Form

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The Town submitted one of the twelve monthly State Treasurer Revenue Remittance Forms four days late.

Opinion on Supplementary Schedule

Section 14-1-208(E)(2) and 14-1-211(D)(2) of the 1976 South Carolina Code of Laws, as amended, states, "The supplementary schedule must be included in the external auditor's report by an "in relation to" paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents.."

The Town's audited financial statements for the fiscal year ended June 30, 2014 included the required schedule of court fines, assessments and surcharges. However the auditors' opinion did not include an "in-relation-to" opinion as required by State law. In fact, the auditor provided no assurance on the supplementary schedule.

Town of Sellers Municipal Court

Issue Date: April 2, 2015

Schedule of (Over)/Under Reported Fees: None

Summary of Findings

Timely Submission of State Treasurer Revenue Remittance Form

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The Town submitted ten of twelve State Treasurer Revenue Remittance Forms late. The forms were submitted from two to eighty-one days late.

Victim Assistance Funds

Section 14-1-211(B) of the 1976 South Carolina Code of Laws, as amended, states, "The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any funds retained by the county or city treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision."

The following exceptions were noted while testing Victim Assistance Funds:

- The Town did not timely deposit funds collected for victim assistance into a separate account as required by State law.
- Funds collected for victims assistance during November 2013 were not deposited into the victims' assistance bank account. The town owes the victims' assistance fund \$126.

State Treasurer Revenue Remittance Form Errors

The Town's November 2013 and May 2014 State Treasurer Revenue Remittance Forms contained the following errors:

- Line L was under-reported \$23.86
- Line N was under-reported \$3.00
- Line K was over-reported \$25.00
- Line KA was over-reported \$5.00

Court Bank Account

Supreme Court Justice Toal issued a court order to county magistrates, dated March 13, 2007. Section VI, item F. states, "Each month the magistrate court shall reconcile the bank statement to the dockets by adding the total of the disposed traffic docket, the total of the disposed criminal docket, the total pending civil docket, the total of the outstanding bond list, and other monies on deposit. The total of these items should equal the total of the bank account or bank accounts." While this order is directed to county magistrate courts, it could also be applied to municipal courts to improve overall internal control over financial activity.

Town of Sellers Municipal Court (Continued)

The Court's bank account has a book balance of approximately \$18,000 at June 30, 2014. The Town Clerk could not provide a list of individual defendants and the amount remitted by the defendants that comprise the account balance.

Court System Software and Procedures

Section 14-1-208(E)(4) of the 1976 South Carolina Code of Laws, as amended, states, "The clerk of court and municipal treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection in the format determined by the municipal governing body and make those records available for review."

The Town's accounting software system does not provide all the reports needed to properly account for court funds in accordance with suggested minimum standards. In addition to the system's reporting deficiency the following deficiencies were noted:

- The software does not include controls to prevent unauthorized changes.
- The system cannot provide a receipt report for a given period.
- The system purportedly assigns receipt numbers in sequence automatically, however; significant gaps in the numerical sequence of cash receipts were noted.
- Dates are easily changed. Date changes affect report totals of funds due the State, Town and Victims' Assistance. Sometimes dates are changed after the reports have already been filed.

Separation of Duties and Cross-Training

Section II, item F of Supreme Court Justice Toal's March 13, 2007 court order to county magistrates states, "Unless a magistrate court has only one employee, receiving of funds shall be done by a person not responsible for maintaining and reconciling financial records". Section VII, item A. states, "All magistrates and their staff shall be cross-trained so as to ensure that proper procedures are followed in the absence of a staff member or a magistrate." This order is directed to county magistrate courts, but it could also be applied to municipal courts to improve overall internal control over financial activity.

The judge functions as the clerk of court and in this capacity maintains all court finance and court records. The clerk of court duties includes preparing the payroll and performing other finance tasks for the Town.

Manual Calculations

In Supreme Court Justice Toal's March 13, 2007 court order regarding Magistrate Court Financial Accounting, section V, item B. it states, "Remittances must balance with the appropriate docket sheet(s)."

The Town performs manual calculations to allocate amounts due to the State Treasurer, the Town and Victims' Assistance. The sum of these individual calculations often do not equal the total amount allocated due to rounding. The rounding errors occur because formulas used are not precise. While differences are immaterial, the rounding errors cause differences between the amount remitted and the amount due to each entity.

Town of Sellers Municipal Court (Continued)

Monthly Reconciliations

Section V, item B. of Justice Toal's March 13, 2007 court order to county magistrates states, "The remittance must include a full and accurate statement of all monies collected ... on account of fines during the past month together with the title of each case in which a fine, fee, or cost has been paid. Remittances must balance with the appropriate docket sheet(s)." While this order is directed to county magistrate courts, it could also be applied to municipal courts to improve overall internal control over financial activity.

The Court does not perform timely reconciliations between the court docket of adjudicated tickets and bank deposits made during the month.

Town of Society Hill Municipal Court

Issue Date: June 2, 2015

Schedule of (Over)/Under Reported Fees: \$30,088 – Due to the State; \$2,645 – Due to Victim Assistance

Summary of Findings

Adherence of Fine Guidelines

Seatbelts

Section 56-5-6540(A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who is adjudicated to be in violation of the provisions of this article must be fined not more than twenty-five dollars, no part of which may be suspended."

The Court fined one individual \$30 for a seatbelt violation.

Speeding

Section 56-5-1520 (G) of the 1976 South Carolina Code of Laws, as amended, states, "A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (2) in excess of ten miles an hour but less than fifteen miles an hour above the posted limit by a fine of not less than twenty-five dollars nor more than fifty dollars; ... (4) in excess of twenty-five miles an hour above the posted limit by a fine of not less than seventy-five dollars nor more than two hundred dollars or imprisoned for not more than thirty days".

- The Court fined one individual \$60.24 and another individual \$75 for driving in excess of 10 miles per hour over the posted speed limit, but not in excess of 15 miles per hour.
- The Court fined two individuals \$202.41 and a third individual \$204.82 for driving 25 miles per hour or more above the posted speed limit.

Driving Without a License

Section 56-1-450 of the 1976 South Carolina Code of Laws, as amended, states, "Any person not licensed under this article ... who shall thereafter operate a motor vehicle in this State ... shall be punished by a fine of one hundred dollars or imprisonment for thirty day...".

The Court fined one individual \$99.76 for Driving Without a License.

Town of Society Hill Municipal Court (Continued)

Adherence to Uniform Traffic Ticket Laws

Section 56-7-10 of the 1976 South Carolina Code of Laws, as amended, states, “(A) there will be a uniform traffic ticket used by all law enforcement officers in arrests for traffic offenses ... (C) No other ticket may be used for these offenses. The service of the uniform traffic ticket shall vest all ... courts with jurisdiction to hear and to dispose of the charge for which the ticket was issued and served.

The Court did not process the following violations in accordance with State law,

- Five of the tickets documented “Nolle Prossed” as the disposition. A “Nolle Prossed” disposition applies to tickets in which the officer drops the charge and does not prosecute the ticket. In each of the five tickets, a fine was paid, a guilty verdict entered into the Town’s court system software and the fine was correctly allocated by the Town. The Town could not provide me with another charging document (e.g., local ordinance violation) to support the recording of the fine assessment.
- Four of the twenty-five tickets documented 56-01-0020 in the related violation law reference section of the UTT. Three of these tickets documented a “Driving Under Suspension [DUS]” violation and one documented a “No South Carolina Driver’s License” violation in the violation description narrative section of the UTT. DUS’s reference is 56-1-460. The Clerk recorded the violations in the court system software as DUS 1st for three violations and “Driving Without a License” for one violation. The fines levied by the Court in two cases did not correspond to either a 56-01-0020 violation penalty, the violation recorded in the court system fine description penalty or the UTT narrative description penalty. The other two penalties levied did correspond to one of the three possible options listed on the UTT or court system.

Conviction Surcharge

Section 14-1-211 (A)(1) of the 1976 South Carolina Code of Laws, as amended, states, “In addition to all other assessments and surcharges...a twenty-five dollar surcharge is imposed on all convictions obtained in magistrates and municipal courts in this State. No portion of the surcharge may be waived, reduced, or suspended.” (This section does not apply to misdemeanor traffic offenses or parking violations)

The Court did not assess one individual the \$25 conviction surcharge.

Timely Submission of State Treasurer Revenue Remittance Form

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The Town did not submit the State Treasurer Revenue Remittance Form (STRRF) timely as required by State law. Eight STRRF forms were from thirty to three hundred seventy-seven days late. The Town could not provide documentation to demonstrate that the remaining four STRRF forms were submitted.

Supplemental Schedule

Section 14-1-208(E)(1) of the 1976 South Carolina Code of Laws, as amended, states, “The supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the municipal court; (b) all assessments collected by the clerk of court for the municipal court; (c) the amount of fines retained by the municipal treasurer; (d) the amount of assessments retained by the municipal treasurer; (e) the amount of

Town of Society Hill Municipal Court (Continued)

finances and assessments remitted to the State Treasurer pursuant to this section; and (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward.”

The Town’s audited financial statements for the fiscal year ended June 30, 2012 included the required supplementary schedule of court fines, assessments and surcharges. However, the amounts reported in the audited financial statements for court fines retained, court assessments remitted to the State Treasurer, court surcharges collected, and court surcharges remitted to the State Treasurer did not agree with the Town’s accounting records or court supporting documents.

Supplemental Schedule In-Relation-To Paragraph

Section 14-1-208(E)(2) and 14-1-211(D)(2) of the 1976 South Carolina Code of Laws, as amended, states, “The supplementary schedule must be included in the external auditor's report by an "in relation to" paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents..”

The Town’s audited financial statements for the fiscal year ended June 30, 2012 included the required supplementary schedule of court fines, assessments and surcharges. However, the auditors’ opinion did not include the required “in-relation-to” paragraph on the supplementary schedule. In fact, no form of assurance was given on the schedule.

Victim Assistance Funds

Section 14-1-211(B) of the 1976 South Carolina Code of Laws, as amended, states, “The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any funds retained by the county or city treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision.” Further expenditure guidance is contained in the State Office of Victim Assistance *Fines, Fees and Assessments VSCC Approved Guidelines, December 2013* edition.

The following exceptions, with respect to Victim Assistance Funds, were noted:

- The Town has not established a separate bank account or a separate general ledger fund to account for Victim Assistance activities as required by State law. The Town’s independent auditor provided me with a schedule which documented Victim Assistance revenues and expenditures since June 30, 2001.
- The Town cannot substantiate the Victim Assistance beginning and ending fund balances reported in its supplementary schedule because it has not established a separate general ledger account or subsidiary ledger to account for Victim Assistance activities.
- The Town records Victim Assistance revenue in a separate general ledger revenue account. However, the revenue account balance did not agree with court system supporting documentation or amounts reported on the STRRFs.
- The Town charged the following expenditures to Victim Assistance: a prorated share each of the Police Chief’s salary, other employee salaries, audit fees and cell phone charges. Total expenditures for the 36 month period ended June 30, 2014 was \$50,678.06. To be allowable under the South Carolina Judicial Department guidance

Town of Society Hill Municipal Court (Continued)

contained in their Court Fees Memorandum-Attachment L the expenditures must be supported by statistical research supporting any cost allocation (e.g., Time and Activity Forms) and the Town must obtain prior written approval from the State Office of Victim Assistance. The Town could not provide documentation supporting its cost allocation or written approval from the State Office of Victim Assistance.

- Amounts reported on the supplementary schedule of fines, assessments and surcharges included in the Town's fiscal year ended June 30, 2014 audited financial statements for Victim Assistance revenues did not reconcile to the court supporting documents, the STRRF or the Victim Assistance general ledger revenue account.

Town of Springfield Municipal Court

Issue Date: June 12, 2015

Schedule of (Over)/Under Reported Fees: \$51,108 – Due to the State; \$4,276 – Due to Victim Assistance

Summary of Findings

Timely Reporting by the Clerk of Court

Section 14-1-208(A) of the 1976 South Carolina Code of Laws, as amended, states "...This assessment must be paid to the municipal clerk of court and deposited with the city treasurer for remittance to the State Treasurer." Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

The Clerk of Court did not submit nine of the twelve State Treasurer's Revenue Remittance Forms (STRRF) timely. The forms were submitted from twenty-five to eighty-six days late.

Improper Classifications of Offenses

South Carolina Code of Laws Section 14-1-211(A)(1) states, "... a twenty-five dollar surcharge is imposed on all convictions obtained in...municipal court ... The surcharge must not be imposed on convictions for misdemeanor traffic offenses."

Twenty-five cases were selected from the court docket. Based on the tests performed it was determined that the Town Clerk/treasurer misclassified the "Thoughtless Driving" offense as a criminal offense and an "Open Container" offense as a traffic offense. As a result the conviction surcharge and surcharge allocations were incorrectly allocated.

Installment Fee Not Collected

Section 14-17-725 of the 1976 South Carolina Code of Laws, as amended, states, "Where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court, magistrate, or municipal court from the defendant..."

The Court did not assess and collect the three percent installment fee from one individual who paid on installment.

Town of Springfield Municipal Court (Continued)

Timely Submission of the State Treasurer's Revenue Remittance Form

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the Town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

It was determined that the Town did not timely submit the monthly STRRF forms during the period August 2012 through June 2014.

Supplementary Schedule

Section 14-1-208(E) of the 1976 South Carolina Code of Laws, as amended, states, "(1) To the extent that records are made available in the format determined pursuant to subsection (E)(4), the supplementary schedule must include the following elements: ...".

The Town's audited financial statements for the year ended June 30, 2013 included the required schedule of court fines, assessments and surcharges, however, the amount presented in the supplementary schedule for fines and assessments collected and victim services revenues, fund balances and expenditures did not agree to amounts recorded in the Town's general ledger.

Victim Assistance Funds

Section 14-1-211(B) of the 1976 South Carolina Code of Laws, as amended, states, "The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any funds retained by the county or city treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision." Also Section 14-1-208(D) states, "All unused funds must be carried forward from year to year." In addition, the South Carolina Court Administration Memorandum, Attachment L, dated June 30, 2011, and the South Carolina Victim Service Coordinating Council, Approved Guide for Expenditures of Monies Collected for Crime Victim Service in Municipalities and Counties, effective January 2010, set forth guidelines for expenditures of monies collected for crime victim services.

The following exceptions were noted:

- The Town has established a separate bank account for Victim Assistance funds as required by State law however, at June 30, 2013 and 2014, the bank balance is \$3.47 lower than the carry forward ledger balance.
- The information in the schedule of fines and assessments regarding Victim Assistance carry forward fund balance is \$28,594 higher than the bank account balance at June 30, 2013. The Town has not reconciled the schedule balance with the bank balance to determine the correct reconciled fund balance.
- The Town did not deposit funds allocable to Victim Assistance in the Victim Assistance bank account during the procedures period.
- The Town did not deposit funds allocable to Victim Assistance in the Victim Assistance bank account from February 2013 to June 2013.
- The Town expended \$2,735 for a vehicle. The vehicle is used by the police department but not exclusively by a full-time Victims Advocate as the Town does not have one. The Town allocated 100% of this cost to the Victims Fund. There were other expenses allocated 100% as well which appeared to be allocable to other activities.

Sumter County General Sessions Court

Issue Date: September 24, 2014

Schedule of (Over)/Under Reported Fees: None

Summary of Findings

Adherence of Fine Guidelines

Section 56-5-2930(A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who violates the provisions of this section is guilty of the offense of driving under the influence and, upon conviction, entry of a plea of guilty or of nolo contendere, or forfeiture of bail must be punished as follows: (2) for a second offense, by a fine of not less than two thousand one hundred dollars nor more than five thousand one hundred dollars, and imprisonment for not less than five days nor more than one year. However, the fine imposed by this item must not be suspended in an amount less than one thousand one hundred dollars".

The Court fined one defendant who pled guilty to DUI 2nd offense, greater than .16. The fine was not recorded properly in the CMS court software so it appeared that the defendant was not charged in accordance with the sentencing guidelines. The Clerk of Court corrected the error upon notification.

Public Defender Application Fee

Section 17-3-30(B) of the 1976 South Carolina Code of Laws, as amended, states, "A forty dollar application fee for public defender services must be collected from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the clerk of court or other appropriate official for a waiver or reduction in the application fee. If the clerk or other appropriate official determines that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge upon sentencing and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation." Section 17-3-45(B) of the 1976 South Carolina Code of Laws, as amended, further states that the application fee must be paid "by a time payment method if probation is not granted or appropriate."

The Court did not assess and collect the public defender application fee from fourteen defendants who applied and qualified for a public defender

Month-end Report Processing

The State Treasure Revenue Remittance Form instructions specify that fines, fees, assessments and surcharges due to the State Treasurer are to be entered in their respective lines on the form relating to that specific fine, fee, assessment or surcharge for proper distribution.

The County's policies and procedures transfer daily and month end amounts related to court revenues from the CMS court system to the general ledger. However the process does not include procedures to ensure that the amounts transferred from CMS to the general ledger agree.