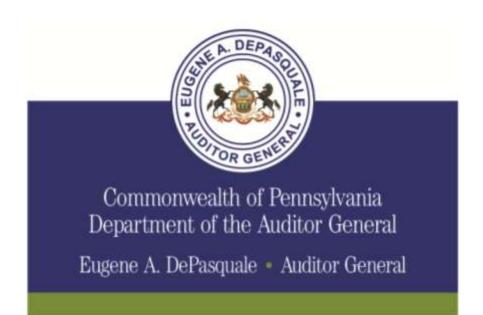
ATTESTATION ENGAGEMENT

Borough of Ashley Luzerne County, Pennsylvania 40-401 Liquid Fuels Tax Fund For the Period January 1, 2013 to December 31, 2013

March 2015





Commonwealth of Pennsylvania Department of the Auditor General Harrisburg, PA 17120-0018 Facebook: Pennsylvania Auditor General Twitter: @PAAuditorGen

EUGENE A. DEPASQUALE AUDITOR GENERAL

Independent Auditor's Report

The Honorable Leslie Richards Acting Secretary Department of Transportation Harrisburg, PA 17120

We examined the accompanying Form MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Borough of Ashley, Luzerne County, for the period January 1, 2013 to December 31, 2013. The municipality's management is responsible for the Form MS-965. Our responsibility is to express an opinion on the Form MS-965 With Adjustments based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. An examination includes examining, on a test basis, evidence supporting the Borough of Ashley, Luzerne County's Form MS-965 for the period January 1, 2013 to December 31, 2013 and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are mandated by Section 403 of *The Fiscal Code*, 72 P.S. § 403, to audit each municipality's Liquid Fuels Tax Fund to ensure that funds received are expended in accordance with applicable laws and regulations. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Section 403 of *The Fiscal Code*.

As described in Note 4, the adjustments included on the Form MS-965 With Adjustments are made by the Department of the Auditor General.

Independent Auditor's Report (Continued)

As discussed in the Finding No. 2, the municipality expended \$5,735.88 during 2013 from the Liquid Fuels Tax Fund for nonpermissible items. Additionally, as discussed in the Summary of Prior Examination Recommendations section of this report, in our prior examination period the municipality expended \$19,713.35 for payroll expenditures without maintaining supporting documentation, \$5,539.55 for nonpermissible expenditures, and \$5,426.30 for expenditures in excess of the approved amount for street lighting. The Department of Transportation will require the municipality to reimburse \$19,160.98 to its Liquid Fuels Tax Fund for the reimbursement of these expenditures. Repayment is scheduled to begin on June 30, 2015.

In our opinion, except for the matters discussed in the preceding paragraph, the Form MS-965 With Adjustments presents, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Borough of Ashley, Luzerne County, for the period January 1, 2013 to December 31, 2013, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Form MS-965; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Form MS-965. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Form MS-965 is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over reporting on the Form MS-965 or on compliance and other matters; accordingly, we express no such opinions.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Form MS-965 will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Independent Auditor's Report (Continued)

Our consideration of the internal control was for the limited purpose of expressing an opinion on whether the Form MS-965 is presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified. We did identify certain deficiencies in internal control, described in the finding listed below, that we consider to be a significant deficiencies in internal control:

• A Complete Record Of Borough Council Meeting Minutes Was Not Available For Examination.

As part of obtaining reasonable assurance about whether the Form MS-965 is free from material misstatement, we performed tests of the Borough of Ashley, Luzerne County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of amounts on the Form MS-965. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed the following instance of noncompliance that is required to be reported under *Government Auditing Standards*:

• Nonpermissible Expenditures - Recurring.

We are concerned that the municipality failed to correct a previously reported finding regarding nonpermissible expenditures. During our current examination, we noted that a complete record of borough council meeting minutes was not available for examination and the municipality made nonpermissible expenditures. The municipality should implement the recommendations and corrective actions noted in this report.

This report is intended solely for the information and use of the Pennsylvania Department of Transportation and the management of Borough of Ashley, Luzerne County and is not intended to be and should not be used by anyone other than these specified parties.

We appreciate the courtesy extended by the Borough of Ashley, Luzerne County, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.

Eugent: O-Pager

October 24, 2014

Eugene A. DePasquale Auditor General

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BOROUGH OF ASHLEY LUZERNE COUNTY LIQUID FUELS TAX FUND BACKGROUND FOR THE PERIOD JANUARY 1, 2013 TO DECEMBER 31, 2013

Background

The Liquid Fuels Tax Municipal Allocation Law, Title 72 P.S. § 2615.5, provides municipalities other than counties (townships, boroughs, cities, towns, home rule, and optional plan governments) with an annual allocation of liquid fuels taxes from the state's Motor License Fund to be used for the maintenance and repair of streets, roads, and bridges for which the municipality is responsible. The allocation of these funds to municipalities is based: (1) 50 percent on the municipality's proportion of local road mileage to the total local road mileage in the state, and (2) 50 percent on the proportion of a municipality's population to the total population in the state.

The Vehicle Code, Title 75 P.S. § 9511, provides municipalities with annual maintenance payments to be received from the Motor License Fund for functionally local highways that were transferred to a municipality from the Commonwealth of Pennsylvania.

Each municipality must deposit the Liquid Fuels Tax Fund money and annual maintenance payments that it receives into a special fund called the Municipal Liquid Fuels Tax Fund or State Fund. A municipality may not deposit any other monies into this fund except when the municipality does not have enough money in the special fund to meet the payments called for by its current annual budget for road and bridge purposes. In this case, the municipality may borrow money or transfer money from its General Fund to its Liquid Fuels Tax Fund.

The Department of Transportation has been given the regulatory authority for the administration of these funds. To qualify for its annual allocation, each municipality shall submit the following documents and information to the Department of Transportation:

- 1. Evidence that the treasurer is bonded in accordance with the law, or that its treasurer is a bank requiring no bond by January 31 of each year.
- 2. A report indicating the manner in which its liquid fuels tax allocation was expended in the previous year (Form MS-965) by January 31 of each year.
- 3. A report of elected and appointed officials by January 31 of each year.
- 4. A Survey of Financial Condition by March 15 of each year.

Department of Transportation *Publication 9* contains the policies and procedures that govern the use of Liquid Fuels Tax Fund money. However, if there is a difference between *Publication 9* and any legislation, the legislation shall govern.

BOROUGH OF ASHLEY LUZERNE COUNTY LIQUID FUELS TAX FUND 2013 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	Reported		Adjustments (Note 4)		Adjusted Amount	
Major equipment purchases	\$	32,171.88	\$	-	\$	32,171.88
Minor equipment purchases		125.00		-		125.00
Computer/Computer related training		-		-		-
Agility projects		-		-		-
Cleaning streets and gutters		-		-		-
Winter maintenance services		13,451.63		-		13,451.63
Traffic control devices		13,468.19		2,339.00		15,807.19
Street lighting		-		-		-
Storm sewers and drains		220.00		-		220.00
Repairs of tools and machinery		3,708.90		-		3,708.90
Maintenance and repair of						
roads and bridges		3,912.03		(2,339.00)		1,573.03
Highway construction and						
rebuilding projects		-		-		-
Miscellaneous (Bank service charges)		63.81		-		63.81
Total (To Section 2, Line 5)	\$	67,121.44	\$		\$	67,121.44

Notes to Form MS-965 With Adjustments are an integral part of this report.

BOROUGH OF ASHLEY LUZERNE COUNTY LIQUID FUELS TAX FUND 2013 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported		Reported		Adjustments		Adjusted Amount	
1. Balance, January 1, 2013	\$	112,094.62	\$	-	\$	112,094.62		
Receipts: 2. State allocation 2a. Turnback allocation 2b. Interest on investments (Note 3) 2c. Miscellaneous		51,708.03 - 50.01 -		- - - -		51,708.03 - 50.01 -		
3. Total receipts		51,758.04		-		51,758.04		
4. Total funds available		163,852.66		-		163,852.66		
5. Expenditures (Section 1)		67,121.44		-		67,121.44		
6. Balance, December 31, 2013	\$	96,731.22	\$	-	\$	96,731.22		

Notes to Form MS-965 With Adjustments are an integral part of this report.

BOROUGH OF ASHLEY LUZERNE COUNTY LIQUID FUELS TAX FUND 2013 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance		Reported	Adj	ustments	Adjusted Amount
1. Prior year equipment balance	\$	44,349.14	\$	-	\$ 44,349.14
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	1	10,341.61		-	10,341.61
3. PENNDOT approved adjustments		_			
4. Total funds available for equipment acquisition		54,690.75		-	54,690.75
5. Less: Major equipment expenditures		32,171.88		-	 32,171.88
6. Remainder		22,518.87		-	 22,518.87
 Fusion Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero) 	\$	22,518.87	\$	_	\$ 22,518.87
		,			 ,

Notes to Form MS-965 With Adjustments are an integral part of this report.

1. <u>Criteria</u>

Section 1

This section of Form MS-965 With Adjustments provides a summary of Liquid Fuels Tax Fund expenditures by category. Categories requiring explanation include:

• Major equipment purchases are purchases of road machinery and road equipment with varying yearly costs in excess of the amounts indicated below:

Prior To 2012	2012	2013	2014
\$4,000.00	\$10,000.00	\$10,200.00	\$10,300.00

• Minor equipment purchases are purchases of road machinery and road equipment with varying yearly costs, or less, than the amounts indicated below:

Prior To 2012	2012	2013	2014
\$4,000.00	\$10,000.00	\$10,200.00	\$10,300.00

• Agility projects are exchanges of services with the Department of Transportation.

Section 2

This section of Form MS-965 With Adjustments provides information on the fund balance. Categories requiring explanation include:

- The state allocation is generally received from the Department of Transportation during the first week in April of each year. The amount the municipality receives is based half on its population and half on its road mileage.
- The turnback allocation is generally received from the Department of Transportation during the first week in April of each year. A municipality receives a yearly turnback allocation based on road mileage for all roads that were transferred to the municipality from the Commonwealth of Pennsylvania through the Highway Transfer Program.

1. <u>Criteria (Continued)</u>

Section 2 (Continued)

• Expenditures include the total transferred from Section 1.

Section 3

This section of Form MS-965 With Adjustments determines if the municipality expended Liquid Fuels Tax Fund money in excess of the permissible amount for equipment and the balance that the municipality may carry forward for the purchase of equipment to the subsequent year.

Department of Transportation *Publication 9* requires that the amount expended for equipment purchases in a given year not exceed the sum of the equipment balance carried forward from the previous year and 20 percent of the current year's Liquid Fuels Tax Fund allocation and, if applicable, 20 percent of the turnback allocation plus other Department of Transportation approved adjustments.

If the municipality spent in excess of the amount listed on Line 4, the excess must be reimbursed to the Liquid Fuels Tax Fund.

The equipment balance to be carried forward for the subsequent year is the lesser of the amount on Line 6 or the ending fund balance on Line 6 of Section 2, but not less than zero.

Basis Of Presentation

The financial activities of the municipality are accounted for in separate funds. The Liquid Fuels Tax Fund is used to account for state aid revenues from the Pennsylvania Department of Transportation used primarily for building and improving local roads and bridges. The Forms MS-965 have been prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation as a result of the Fuels Tax Act 655, dated 1956 and as amended, which does not constitute a complete presentation of the entity's assets, liabilities, expenses, and fund balance. Accordingly, the presentation of Forms MS-965 With Adjustments is restricted to the Liquid Fuels Tax Fund, which represents a segment of the entity.

1. <u>Criteria (Continued)</u>

Section 3 (Continued)

Basis Of Accounting

The accompanying Forms MS-965 With Adjustments are prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation. Under this method, revenues are recognized when received and expenditures are recorded when paid.

General Fixed Assets

General fixed assets are recognized as expenditures at the time of purchase. No depreciation has been provided on the heavy equipment used to maintain and repair roads and bridges.

2. Deposits

The Borough Code, Title 53 P.S § 46316, authorizes the borough to deposit its funds in the following:

- Deposits in savings accounts or time deposits, other than certificates of deposit or share accounts of institutions having their principal place of business in the Commonwealth of Pennsylvania and insured by the Federal Deposit Insurance Corporation (FDIC) or other like insurance. For any amount above the insured maximum, the depository shall pledge approved collateral.
- Certificates of deposit purchased from institutions insured by the FDIC or other like insurance to the extent that such accounts are so insured. For any amounts in excess of the insured maximum, such deposits shall be collateralized by a pledge or assignment of assets. Certificates of deposit may not exceed 20 percent of a bank's total capital surplus or 20 percent of a savings and loan or savings bank's assets minus liabilities.

Deposits consist of receipts and deposits in a financial institution. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral as defined.

2. <u>Deposits (Continued)</u>

There were no deposits exposed to custodial credit risk as of December 31, 2013. Custodial credit risk, as defined by GASB No. 40, includes deposits that are not covered by depository insurance and the deposits are uncollateralized, collateralized with securities held by the pledging financial institution, or collateralized with securities held by the pledging financial institution's trust department or agent but not in the municipality's name.

Fund Balance

The fund balance consists of the following:

Cash

\$96,731.22

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$50.01 during 2013, thus providing additional funds for road maintenance and repairs.

4. Adjustments

Section 1

Adjustments were made to "Traffic control devices" and "Maintenance and repair of roads and bridges" because expenditures of \$2,339.00 were misclassified.

BOROUGH OF ASHLEY LUZERNE COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2013 TO DECEMBER 31, 2013

<u>Finding No. 1 - A Complete Record Of Borough Council Meeting Minutes Was Not</u> <u>Available For Examination</u>

Our examination disclosed that the published minutes of the borough council's meetings for October, November, and December of 2013 were not available for our review.

Section 1111 of *The Borough Code* states, in part, that "the secretary shall attend all meetings of the borough council and keep full minutes of its proceedings. The secretary shall certify copies of any book, paper, bylaw, rule, regulation, resolution, ordinance or proceeding of the borough, under the seal, when so certified, shall be admissible in Commonwealth Court." Furthermore, Section 1113 states, in part, that "the minute book shall be open to inspection of any taxpayer."

The primary purpose of the minutes is to provide an official record of council meetings. Without a complete record of minutes, we were unable to determine if there were any references to road projects or other information regarding expenditures from the Liquid Fuels Tax Fund.

Recommendation

We recommend that, in the future, transcribed minutes for council meetings be available for public review within a reasonable period of time after each meeting.

Management's Response

The municipal officials offered no formal response at this time.

Auditor's Conclusion

During our next examination we will determine if the municipality complied with our recommendation.

BOROUGH OF ASHLEY LUZERNE COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2013 TO DECEMBER 31, 2013

Finding No. 2 - Nonpermissible Expenditures - Recurring

In our prior report, for the period January 1, 2011 to December 31, 2012, we cited the municipality for expending Liquid Fuels Tax Fund money for repairs to a garbage truck, which is a nonpermissible expenditure. Our current examination disclosed that the municipality expended \$5,735.88 during 2013 from the Liquid Fuels Tax Fund for the following nonpermissible items:

Description	Amount
No parking and borough code signs	\$1,236.70
Sanitary sewer cast cover	150.00
Maintenance of garbage truck	3,708.90
Road flares and safety glasses for police	640.28
Total	\$5,735.88

The Liquid Fuels Tax Municipal Allocation Law, 72 P.S. § 2615.4, provides, in part, that monies herein allocated may be used only for construction, reconstruction, maintenance, and repairs of such public roads or streets, including bridges, culverts and drainage structures, for which they are legally responsible. Also permitted are expenditures involving acquisition, maintenance, repairs and operation of street signs, traffic signs, traffic signal control systems, road equipment, and snow fences.

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including those described above, are outside the scope of permissible expenditures.

This condition occurred because the municipality failed to comply with our prior examination recommendation to comply with the Liquid Fuels Tax Municipal Allocation Law and Department of Transportation Regulations regarding permissible expenditures.

The failure to follow the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations as noted above could result in the municipality having to reimburse \$5,735.88 to its Liquid Fuels Tax Fund.

BOROUGH OF ASHLEY LUZERNE COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2013 TO DECEMBER 31, 2013

Finding No. 2 - Nonpermissible Expenditures - Recurring (Continued)

Recommendations

We recommend that the municipality reimburse \$5,735.88 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We again recommend that, in the future, the municipality comply with the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations regarding permissible expenditures.

Management's Response

The municipal officials offered no formal response at this time.

Auditor's Conclusion

This is a recurring finding. We strongly recommend that the municipality comply with our recommendations. During our next examination we will determine if the municipality complied with our recommendations.

BOROUGH OF ASHLEY LUZERNE COUNTY LIQUID FUELS TAX FUND SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2013 TO DECEMBER 31, 2013

Summary Of Prior Examination Recommendations

In our prior report we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$30,679.20 to its Liquid Fuels Tax Fund. This amount consists of \$19,713.35 for payroll expenditures without maintaining supporting documentation, \$5,539.55 for nonpermissible expenditures, and \$5,426.30 for expenditures in excess of the approved amount for street lighting.

During our current examination we reviewed a letter dated June 30, 2014, from the Department of Transportation informing the municipality that \$19,160.28 of the \$30,679.20 would be required to be reimbursed to the Liquid Fuels Tax Fund. Additionally, the municipality and the Department of Transportation agreed on a payment schedule for the reimbursement of \$19,160.98 as follows:

June 30, 2015 - \$4,790.25 - Unpaid
June 30, 2016 - 4,790.25 - Unpaid
June 30, 2017 - 4,790.24 - Unpaid
June 30, 2018 - <u>4,790.24</u> - Unpaid
-

Total <u>\$19,160.98</u>

In our prior report we also recommended:

- That the municipality complies with Commonwealth of Pennsylvania Management Directive 210.11 by obtaining images of both the front and back of canceled checks from its financial institutions.
- That the municipality ensure good internal control over payroll by maintaining daily time sheets that identify the nature of work performed and the location of work assignments.
- That the municipality follows the Department of Transportation's Regulations by limiting their street lighting expenditures from the Liquid Fuels Tax Fund only to lighting costs which exceed the tax amount collected for street lighting.
- That the municipality complies with the Liquid Fuels Tax Municipal Allocation Law and Department of Transportation Regulations regarding permissible expenditures.

BOROUGH OF ASHLEY LUZERNE COUNTY LIQUID FUELS TAX FUND SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS FOR THE PERIOD JANAURY 1, 2013 TO DECEMBER 31, 2013

Summary Of Prior Examination Recommendations (Continued)

During our current examination we noted that the municipality complied with our first three bulleted recommendations. The municipality did not comply with our fourth bulleted recommendation. A finding for nonpermissible expenditures was also written in our current report (see Finding No. 2).

BOROUGH OF ASHLEY LUZERNE COUNTY LIQUID FUELS TAX FUND SUMMARY OF EXIT CONFERENCE FOR THE PERIOD JANUARY 1, 2013 TO DECEMBER 31, 2013

An exit conference was held September 12, 2014. Those participating were:

BOROUGH OF ASHLEY

Mr. Greg Gulick, Township Manager/Chief Administrator

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Robert A. Bauder, Auditor

The results of the examination were presented and discussed in their entirety.

BOROUGH OF ASHLEY LUZERNE COUNTY LIQUID FUELS TAX FUND REPORT DISTRIBUTION FOR THE PERIOD JANUARY 1, 2013 TO DECEMBER 31, 2013

This report was initially distributed to:

The Honorable Leslie Richards Acting Secretary Department of Transportation

> Borough of Ashley Luzerne County 10 North Main Street Ashley, PA 18706

The Honorable Donald Sipple

President of Council

Mr. Greg Gulick

Township Manager/Chief Administrator

This report is a matter of public record and is available online at <u>www.PaAuditor.gov</u>. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: <u>news@auditorgen.state.pa.us</u>.