

ATTESTATION ENGAGEMENT

Borough of Colwyn
Delaware County, Pennsylvania
23-406
Liquid Fuels Tax Fund
For the Period
January 1, 2013 to December 31, 2013

July 2015



Commonwealth of Pennsylvania
Department of the Auditor General
Eugene A. DePasquale • Auditor General



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

EUGENE A. DEPASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Leslie Richards
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 Colwyn, Delaware 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 Colwyn, Delaware 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 Finding No. 3, the municipality transferred \$23,000.00 from its Liquid Fuels Tax Fund to its General Fund on September 26, 2013. Additionally, as discussed in the Summary Of Prior Examination Recommendations section of this report, during our prior examination period the municipality expended \$8,070.30 without maintaining documentation for payroll expenditures from its Liquid Fuels Tax Fund, loaned \$50,350.00 of Liquid Fuels Tax Fund money to the General Fund, and expended \$23,000.00 for nonpermissible expenditures from its Liquid Fuels Tax Fund. As of February 19, 2015, the exit conference date of this examination, the municipality had not reimbursed these amounts to its Liquid Fuels Tax Fund.

Although management of the municipality provided us with a management representation letter on the date of our exit conference of February 19, 2015, held at the municipality, they did not respond to our request for an updated management representation letter including the disclosure of any subsequent events that affected the Form MS-965 through the date of this report.

In our opinion, except for the effects of \$23,000.00 transferred to the General Fund, the municipality's failure to reimburse \$81,420.30 to its Liquid Fuels Tax Fund for prior examination findings, and the possible effects of the municipality's failure to provide an updated management representation letter, 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 Colwyn, Delaware 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 are 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.

Our consideration of internal control was for the limited purpose of expressing an opinion on whether the Form MS-965 are 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. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses and other deficiencies that we consider to be significant deficiencies.

Independent Auditor's Report (Continued)

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 a 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. We consider the deficiency below to be a material weakness.

- Internal Control Over Receipts Should Be Improved.

As part of obtaining reasonable assurance about whether the Form MS-965 are free from material misstatement, we performed tests of the Borough of Colwyn, Delaware 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 instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Late Receipt Of Allocation And Allocation Deposited Into The General Fund - Recurring.
- Liquid Fuels Money Transferred Into The General Fund.
- A Complete Record Of Borough Council Meeting Minutes Was Not Available For Examination.

We are concerned that the municipality failed to comply with our prior examination finding for late receipt of allocation. During our current examination the municipality failed to establish adequate internal control over receipts, received its allocation late and deposited it into the General Fund, transferred Liquid Fuels Tax Fund money to the General Fund, and failed to maintain a complete record of borough council meeting minutes.

Independent Auditor's Report (Continued)

These findings had the following effects:

- The failure to properly complete Form MS-965 increases the risk that errors or misappropriations may occur and remain undetected. Additionally, because documentation for a receipt totaling \$29,506.03 was not maintained, we were unable to determine if this money should have been deposited into the Liquid Fuels Tax Fund.
- Because the municipality failed to file documents and information timely, the municipality did not have use of the 2013 Liquid Fuels Tax Fund allocation for more than three months.
- The risk that Liquid Fuels Tax Fund money may be used for unauthorized purposes increases when liquid fuels money is commingled with other funds.
- Without a complete record of readable minutes, we were unable to determine whether there were any references to road projects, whether any additional information would have had an impact on the propriety of liquid fuels expenditures, and whether litigation or related party transactions were noted.

The municipality should strive to comply with 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 the Borough of Colwyn, Delaware 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 Colwyn, Delaware 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.



Eugene A. DePasquale
Auditor General

June 3, 2015

CONTENTS

	<u>Page</u>
Background	1
Financial Section:	
2013 Form MS-965 With Adjustments	2
Notes To Form MS-965 With Adjustments	5
Findings And Recommendations:	
Finding No. 1 - Internal Control Over Receipts Should Be Improved.....	9
Finding No. 2 - Late Receipt Of Allocation And Allocation Deposited Into The General Fund - Recurring	10
Finding No. 3 - Liquid Fuels Money Transferred Into The General Fund.....	12
Finding No. 4 - A Complete Record Of Borough Council Meeting Minutes Was Not Available For Examination	13
Summary Of Prior Examination Recommendations.....	14
Summary Of Exit Conference.....	15
Report Distribution	16

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

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	300.00	1,718.91	2,018.91
Traffic control devices	-	-	-
Street lighting	16,046.73	(1,718.91)	14,327.82
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	-	-	-
Highway construction and rebuilding projects	-	-	-
Miscellaneous (Finding No. 2)	<u>23,000.00</u>	<u>-</u>	<u>23,000.00</u>
 Total (To Section 2, Line 5)	 <u>\$ 39,346.73</u>	 <u>\$ -</u>	 <u>\$ 39,346.73</u>

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

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

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2013	\$ 27.75	\$ -	\$ 27.75
Receipts:			
2. State allocation	40,914.90	-	40,914.90
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	3.54	-	3.54
2c. Miscellaneous (Finding No. 1)	29,506.03	-	29,506.03
3. Total receipts	<u>70,424.47</u>	<u>-</u>	<u>70,424.47</u>
4. Total funds available	<u>70,452.22</u>	<u>-</u>	<u>70,452.22</u>
5. Expenditures (Section 1)	<u>39,346.73</u>	<u>-</u>	<u>39,346.73</u>
6. Balance, December 31, 2013	<u>\$ 31,105.49</u>	<u>\$ -</u>	<u>\$ 31,105.49</u>

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

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

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 27.75	\$ -	\$ 27.75
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	8,182.98	-	8,182.98
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	8,210.73	-	8,210.73
5. Less: Major equipment expenditures	<u>-</u>	<u>-</u>	<u>-</u>
6. Remainder	<u>8,210.73</u>	<u>-</u>	<u>8,210.73</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 8,210.73</u>	<u>\$ -</u>	<u>\$ 8,210.73</u>

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

BOROUGH OF COLWYN
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 NOTES TO FORM MS-965 WITH ADJUSTMENTS
 FOR THE PERIOD
 JANUARY 1, 2013 TO DECEMBER 31, 2013

1. Criteria

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.

BOROUGH OF COLWYN
DELAWARE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2013

1. Criteria (Continued)

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.

BOROUGH OF COLWYN
DELAWARE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2013

1. Criteria (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.

BOROUGH OF COLWYN
DELAWARE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2013

2. Deposits (Continued)

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	<u>\$31,105.49</u>
------	--------------------

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$3.54 during 2013, thus providing additional funds for road maintenance and repairs.

4. Adjustments

Section 1

Adjustments were made to "Winter maintenance services" and "Street lighting" because expenditures of \$1,718.91 were misclassified.

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

Finding No. 1 - Internal Control Over Receipts Should Be Improved

Our examination disclosed that there was no explanation on Form MS – 965 or supporting documentation for a receipt of \$29,506.03 that was received on May 21, 2013.

Good internal controls ensure that the municipality complete its Form MS-965 accurately and completely, including descriptions of the source of and purpose for all receipts. Additionally, good internal accounting controls ensure that there is documentation to support all receipts. The failure to properly complete Form MS-965 increases the risk that errors or misappropriations may occur and remain undetected. Additionally, because documentation for the receipt totaling \$29,506.03 was not maintained, we were unable to determine if this money should have been deposited into the Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality ensure that its Form MS-965 is complete and accurate.

We further recommend that the municipality maintain adequate documentation to support all receipts.

Management's Response

The borough manager stated:

Internal Control of automatically depositing Liquid Fuels money into the Liquid Fuels account has been implemented as of January, 2014. This has been corrected.

Auditor's Conclusion

The municipality should ensure that it maintains a descriptions of the source and purpose of all receipts along with any supporting documentation. During our next examination we will determine if the municipality complied with our recommendations.

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

Finding No. 2 - Late Receipt Of Allocation And Allocation Deposited Into The General Fund - Recurring

We cited the municipality for late receipt of allocation in our prior examination report for the period January 1, 2010 to December 31, 2012. Our current examination disclosed that the 2013 Liquid Fuels Tax Fund allocation of \$40,914.90, which should have been distributed from the Department of Transportation to the municipality during the first week of April of that year, was not received until July 18, 2013 because the municipality failed to comply with the Department of Transportation's *Publication 9*, Chapter Two, Section 2.4, which states:

To qualify for the annual liquid fuels tax allocation, a municipality shall:

- Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks).
- Make deposits and payments or expenditures in compliance with the Act 655. Failure to do so may result in not receiving allocations from PENNDOT until all discrepancies are resolved.
- Submit the Pennsylvania Department of Community and Economic Development's (DCED) Report of Elected and Appointed Officials by January 31st and the Survey of Financial Condition by March 15th.
- Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.

Because the municipality failed to file documents and information timely as noted above, the municipality did not have use of the 2013 allocation for more than three months. Furthermore, had the allocation been received timely, money may have been available for investment purposes, potentially earning interest income which could have been used for road maintenance and repairs.

Additionally, our examination disclosed that the municipality deposited its 2013 Liquid Fuels Tax Fund allocation of \$40,914.90 into the General Fund on July 18, 2013, which is in noncompliance with the Liquid Fuels Tax Municipal Allocation Law. The municipality transferred this amount from its General Fund to its Liquid Fuels Tax Fund on August 7, 2013.

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

Finding No. 2 - Late Receipt Of Allocation And Allocation Deposited Into The General Fund - Recurring (Continued)

The practice of depositing liquid fuels money into any account other than the Liquid Fuels Tax Fund account is contrary to the Act of June 1, 1956, P.L. (1955) 1944, 72 P.S. § 2615.5, known as the Liquid Fuels Tax Municipal Allocation Law, which states:

. . .each city, borough, town and township, shall . . . Establish and maintain a special fund into which the moneys [liquid fuels tax funds] . . . shall be deposited and into which no other moneys may be deposited or commingled . . .

The risk that Liquid Fuels Tax Fund money may be used for unauthorized purposes increases when liquid fuels money is commingled with other funds.

This condition occurred because the municipality failed to comply with our prior examination recommendation to file documents and information timely to receive its allocation during the first week in April.

Recommendations

We again recommend that, in the future, the municipality comply with the Department of Transportation's *Publication 9* to ensure that the allocations are received during the first week in April as outlined above.

We also recommend that, in the future, the municipality deposit all liquid fuels tax allocations promptly into the Liquid Fuels Tax Fund.

Management's Response

The borough manager stated:

Internal Control measures have been implemented to eliminate this problem. This will not occur again.

Auditor's Conclusion

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

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

Finding No. 3 - Liquid Fuels Money Transferred Into The General Fund

Our examination disclosed that the municipality transferred \$23,000.00 of Liquid Fuels Tax Fund money into the General Fund on September 26, 2013, which is in noncompliance with the Liquid Fuels Tax Municipal Allocation Law.

The practice of transferring liquid fuels money into any account other than the Liquid Fuels Tax Fund account is contrary to the Act of June 1, 1956, P.L. (1955) 1944, 72 P.S. § 2615.5, known as the Liquid Fuels Tax Municipal Allocation Law, which states:

. . . each city, borough, town and township, shall . . . Establish and maintain a special fund into which the moneys [liquid fuels tax funds] . . . shall be deposited and into which no other moneys may be deposited or commingled . . .

The risk that Liquid Fuels Tax Fund money may be used for unauthorized purposes increases when liquid fuels money is commingled with other funds.

The failure to follow the Liquid Fuels Tax Municipal Allocation Law as noted above could result in the municipality having to reimburse \$23,000.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$23,000.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality only transfer liquid fuels money into the General Fund for eligible expenditures and these transfers should be documented.

Management's Response

The borough manager stated:

Internal Control method of automatically depositing Liquid Fuels money into Liquid Fuels account has been implemented as of January, 2014. This has been corrected.

Auditor's Conclusion

The municipality should ensure that it maintains documentation for all future transfers to the General Fund. During our next examination we will determine if the municipality complied with our recommendations.

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

Finding No. 4 - A Complete Record Of Borough Council Meeting Minutes Was Not Available For Examination

Our examination revealed that minutes reflecting advertised meetings of council were not available at the examination site for September, October, November, and December 2013.

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 readable minutes, we were unable to determine if there were any references to the road projects or if any additional information would have had an impact on the propriety of liquid fuels expenditures. Additionally, we were unable to determine if litigation or related party transactions were noted.

Recommendations

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.

The Borough Code does require the borough secretary to maintain a hard copy of the minutes under the seal of the borough.

Management’s Response

The borough manager stated:

We agree with the finding and have corrected this deficiency as of January 16, 2014. Prior administration did not take minutes from September 2013 to January 2014. New employees have corrected this.

Auditor’s Conclusion

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

BOROUGH OF COLWYN
DELAWARE 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 findings to determine if the municipality should reimburse \$81,420.30 to its Liquid Fuels Tax Fund. This amount consists of \$8,070.30 for a failure to maintain documentation for payroll expenditures, \$50,350.00 for loaning Liquid Fuels Tax Fund money to the General Fund, and \$23,000.00 for nonpermissible expenditures.

During our current examination we reviewed a letter dated May 6, 2014, which was subsequent to our current examination period, from the Department of Transportation informing the municipality to reimburse \$81,420.30 to its Liquid Fuels Tax Fund. As of February 19, 2015, the exit conference date of this examination, the municipality had not reimbursed this amount to its Liquid Fuels Tax Fund.

In our prior report we also recommended:

- 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 discontinue the practice of loaning liquid fuels money to other funds or accounts.
- That the municipality comply with the Liquid Fuels Tax Municipal Allocation Law regarding permissible expenditures.
- That the municipality comply with the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations regarding permissible expenditures.
- That the municipality continue to comply with the Department of Transportation's *Publication 9* to ensure that the allocations are received during the first week in April as outlined above.

During our current examination we noted that the municipality complied with our first four recommendations but did not comply with our fifth recommendation (see Finding No. 2).

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

An exit conference was held February 19, 2015. Those participating were:

BOROUGH OF COLWYN

Ms. Paula M. Brown, Borough Manager

DEPARTMENT OF THE AUDITOR GENERAL

Mr. John C. Socket, Auditor

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

BOROUGH OF COLWYN
DELAWARE 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
Secretary
Department of Transportation

Borough of Colwyn
Delaware County
221 Spruce Street
Colwyn, PA 19023

The Honorable Michael Blue

Mayor

Ms. Paula M. Brown

Borough Manager

This report is a matter of public record and is available online at www.PaAuditor.gov. 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: news@PaAuditor.gov.