

ATTESTATION ENGAGEMENT

Delaware County

Pennsylvania

23-000

Liquid Fuels Tax Fund

And ACT 44 Tax Fund

For the Period

January 1, 2010 to December 31, 2013

December 2015



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DEPASQUALE
AUDITOR GENERAL

Independent Auditor's Report

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

We examined the accompanying Forms MS-991 With Adjustments for the Liquid Fuels Tax Fund and the Reports of Act 44 Tax Fund With Adjustments of Delaware County for the period January 1, 2010 to December 31, 2013. The county's management is responsible for the Forms MS-991 and the Reports of Act 44 Tax Fund. Our responsibility is to express an opinion on the Forms MS-991 With Adjustments and the Reports of Act 44 Tax Fund 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 Delaware County's Forms MS-991 and Reports of Act 44 Tax Fund for the period January 1, 2010 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 county's Liquid Fuels Tax Fund and Act 44 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 Finding No. 1, the adjustments included on the Forms MS-991 With Adjustments and the Reports of Act 44 Tax Fund With Adjustments are made by the Department of the Auditor General.

Independent Auditor's Report (Continued)

As discussed in Finding No. 2 the county's unencumbered balance as of December 31, 2010 was greater than the receipts for the previous twelve months. As a result the county may be required to distribute \$885,304.23 to the municipalities within the county.

In our opinion, except for the matter discussed in the preceding paragraph, the Forms MS-991 With Adjustments and the Reports of Act 44 Tax Fund With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund and Act 44 Tax Fund of Delaware County for the period January 1, 2010 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 Forms MS-991 and the Reports of Act 44 Tax Fund; 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 Forms MS-991 and the Reports of Act 44 Tax Fund. 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 Forms MS-991 and the Reports of Act 44 Tax Fund 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 Forms MS-991 and the Reports of Act 44 Tax Fund 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 Forms MS-991 and the Reports of Act 44 Tax Fund 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.

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 Forms MS-991 and the Reports of Act 44 Tax Fund will not be prevented, or detected and corrected, on a timely basis. We consider the deficiency below to be a material weakness.

- Failure To Properly Prepare Forms MS-991 And Reports Of Act 44 Tax Fund - Recurring.

Independent Auditor's Report (Continued)

As part of obtaining reasonable assurance about whether the Forms MS-991 and the Reports of Act 44 Tax Fund are free from material misstatement, we performed tests of 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 Forms MS-991 and the Reports of Act 44 Tax Fund. 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*:

- Unencumbered Balance Was Greater Than The Receipts For The Previous Twelve Months For 2010 - Recurring.

We are concerned that the county failed to correct prior examination findings for failing to properly prepare Forms MS-991 and maintaining an unencumbered balance that was greater than receipts for the previous twelve months. The failure to properly complete Form MS-991 and the Report of Act 44 Tax Fund increases the risk that errors or misappropriations may occur and remain undetected. The failure to comply with the Liquid Fuels and Fuels Tax Act and the Department of Transportation's *Publication 9* could result in the county having to distribute \$885,304.23 to the political subdivisions within the county. The county 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 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 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

October 16, 2015

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DELAWARE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

Background

The Vehicle Code makes provisions and provides funding for County Liquid Fuels and Act 44 Programs. The Pennsylvania Department of Transportation has regulatory administration and oversight of the funds supporting these county programs. Counties are required to comply with those provisions and to report annually.

The Vehicle Code imposes a state tax on liquid fuels and fuels used or sold and delivered by distributors within the Commonwealth (75 Pa. C.S. § 9004(a)). One-half cent of the tax collected on each gallon of liquid fuels is deposited in the Commonwealth's Liquid Fuels Tax Fund. The Vehicle Code further provides for the disposition and use of this tax, including the allocations to counties in June and December of each year to fund construction, reconstruction, maintenance and repair of county roads, streets and bridges. The allocation to the respective counties is made in the ratio that the average amount returned to each county during the three preceding years bears to the average amount returned to all counties during the three preceding years (75 Pa C.S. § 9010).

The Vehicle Code, as recently amended by Act 44 of 2007 (July 18, 2007, P.L.169), requires the Pennsylvania Turnpike Commission to make annual contributions for the benefit of the Pennsylvania Department of Transportation's Motor License Fund, and further requires the Department of Transportation to distribute \$5,000,000 of the annual contribution to counties (75 Pa. C.S. § 8915.6). The annual distribution to counties is determined based upon the ratio of square footage of deck area of a county's county-owned bridges to the total square footage of deck area of county-owned bridges throughout the Commonwealth. The reporting of the square footage of deck area of a county's county-owned bridges is required as part of the National Bridge Inspection Standards Program.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
2010 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2010	\$ 1,240,901.68	\$ -	\$ 1,240,901.68
<u>Receipts:</u>			
State allocations	1,036,809.30	-	1,036,809.30
Interest (Note 3)	4,014.98	-	4,014.98
Reimbursable agreements	-	-	-
Miscellaneous (Note 4)	-	50,225.95	50,225.95
Total receipts	<u>1,040,824.28</u>	<u>50,225.95</u>	<u>1,091,050.23</u>
Total funds available	<u>2,281,725.96</u>	<u>50,225.95</u>	<u>2,331,951.91</u>
<u>Expenditures:</u>			
Construction	2,822.62	-	2,822.62
Maintenance and repair	36,347.76	246,150.20	282,497.96
Administrative	273,988.23	(246,150.20)	27,838.03
Grants to political subdivisions	537,738.00	-	537,738.00
Miscellaneous (Note 5)	-	50,225.95	50,225.95
Total expenditures	<u>850,896.61</u>	<u>50,225.95</u>	<u>901,122.56</u>
Balance, December 31, 2010	1,430,829.35	-	1,430,829.35
Unpaid encumbrances	<u>883,547.65</u>	<u>(883,547.65)</u>	<u>-</u>
Unencumbered balance, December 31, 2010	<u>\$ 547,281.70</u>	<u>\$ 883,547.65</u>	<u>\$ 1,430,829.35</u>

Notes To Forms MS-991 And Reports Of Act 44 Tax Fund With Adjustments are an integral part of this report.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
2011 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2011	\$ 1,430,829.35	\$ -	\$ 1,430,829.35
<u>Receipts:</u>			
State allocations	1,041,766.62	-	1,041,766.62
Interest (Note 3)	988.55	516.58	1,505.13
Reimbursable agreements	-	-	-
Miscellaneous (Note 4)	-	124,114.32	124,114.32
Total receipts	<u>1,042,755.17</u>	<u>124,630.90</u>	<u>1,167,386.07</u>
Total funds available	<u>2,473,584.52</u>	<u>124,630.90</u>	<u>2,598,215.42</u>
<u>Expenditures:</u>			
Construction	39,421.71	587.59	40,009.30
Maintenance and repair	284,751.64	3,262.50	288,014.14
Administrative	346.87	-	346.87
Grants to political subdivisions	797,215.00	-	797,215.00
Miscellaneous (Note 5)	-	124,114.32	124,114.32
Total expenditures	<u>1,121,735.22</u>	<u>127,964.41</u>	<u>1,249,699.63</u>
Balance, December 31, 2011	1,351,849.30	(3,333.51)	1,348,515.79
Unpaid encumbrances	<u>1,550,145.00</u>	<u>(1,108,185.00)</u>	<u>441,960.00</u>
Unencumbered balance, December 31, 2011	<u>\$ (198,295.70)</u>	<u>\$ 1,104,851.49</u>	<u>\$ 906,555.79</u>

Notes To Forms MS-991 And Reports Of Act 44 Tax Fund With Adjustments are an integral part of this report.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
2012 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2012	\$ (198,295.60)	\$ 1,546,811.39	\$ 1,348,515.79
<u>Receipts:</u>			
State allocations	1,100,350.46	-	1,100,350.46
Interest (Note 3)	79.32	14.87	94.19
Reimbursable agreements	-	-	-
Miscellaneous (Note 4)	-	599,695.97	599,695.97
Total receipts	<u>1,100,429.78</u>	<u>599,710.84</u>	<u>1,700,140.62</u>
Total funds available	<u>902,134.18</u>	<u>2,146,522.23</u>	<u>3,048,656.41</u>
<u>Expenditures:</u>			
Construction	197,122.71	-	197,122.71
Maintenance and repair	870,417.40	(417,318.40)	453,099.00
Administrative	112,923.71	(112,923.71)	-
Grants to political subdivisions	317,111.00	-	317,111.00
Miscellaneous (Note 5)	-	497,181.92	497,181.92
Total expenditures	<u>1,497,574.82</u>	<u>(33,060.19)</u>	<u>1,464,514.63</u>
Balance, December 31, 2012	(595,440.64)	2,179,582.42	1,584,141.78
Unpaid encumbrances	-	441,960.00	441,960.00
Unencumbered balance, December 31, 2012	<u>\$ (595,440.64)</u>	<u>\$ 1,737,622.42</u>	<u>\$ 1,142,181.78</u>

Notes To Forms MS-991 And Reports Of Act 44 Tax Fund With Adjustments are an integral part of this report.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
2013 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2013	\$ -	\$ 1,584,141.78	\$ 1,584,141.78
<u>Receipts:</u>			
State allocations	-	1,009,687.55	1,009,687.55
Interest (Note 3)	-	81.55	81.55
Reimbursable agreements	-	-	-
Miscellaneous (Note 4)	-	423,907.22	423,907.22
Total receipts	-	1,433,676.32	1,433,676.32
Total funds available	-	3,017,818.10	3,017,818.10
<u>Expenditures:</u>			
Construction	-	159,688.91	159,688.91
Maintenance and repair	-	286,945.25	286,945.25
Administrative	-	125,262.92	125,262.92
Grants to political subdivisions	-	839,769.00	839,769.00
Miscellaneous (Note 5)	-	274,849.80	274,849.80
Total expenditures	-	1,686,515.88	1,686,515.88
Balance, December 31, 2013	-	1,331,302.22	1,331,302.22
Unpaid encumbrances (Note 8)	-	441,960.00	441,960.00
Unencumbered balance, December 31, 2013	<u>\$ -</u>	<u>\$ 889,342.22</u>	<u>\$ 889,342.22</u>

Notes To Forms MS-991 And Reports Of Act 44 Tax Fund With Adjustments are an integral part of this report.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
2010 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2010	\$ -	\$ 193,948.90	\$ 193,948.90
<u>Receipts:</u>			
Act 44 Funds	-	189,346.56	189,346.56
Interest (Note 3)	-	229.92	229.92
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Total receipts	<u>-</u>	<u>189,576.48</u>	<u>189,576.48</u>
Total funds available	<u>-</u>	<u>383,525.38</u>	<u>383,525.38</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2010	<u><u>\$ -</u></u>	<u><u>\$ 383,525.38</u></u>	<u><u>\$ 383,525.38</u></u>

Notes To Forms MS-991 And Reports Of Act 44 Tax Fund With Adjustments are an integral part of this report.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
2011 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2011	\$ -	\$ 383,525.38	\$ 383,525.38
<u>Receipts:</u>			
Act 44 Funds	-	95,443.02	95,443.02
Interest (Note 3)	-	-	-
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Total receipts	<u>-</u>	<u>95,443.02</u>	<u>95,443.02</u>
Total funds available	<u>-</u>	<u>478,968.40</u>	<u>478,968.40</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2011	<u><u>\$ -</u></u>	<u><u>\$ 478,968.40</u></u>	<u><u>\$ 478,968.40</u></u>

Notes To Forms MS-991 And Reports Of Act 44 Tax Fund With Adjustments are an integral part of this report.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
2012 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2012	\$ 479,027.82	\$ (59.42)	\$ 478,968.40
<u>Receipts:</u>			
Act 44 Funds	95,338.68	(95,338.68)	-
Interest (Note 3)	1,528.75	59.42	1,588.17
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts (Grant from General Fund)	-	568.98	568.98
Total receipts	<u>96,867.43</u>	<u>(94,710.28)</u>	<u>2,157.15</u>
Total funds available	<u>575,895.25</u>	<u>(94,769.70)</u>	<u>481,125.55</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	290,369.71	468.98	290,838.69
Miscellaneous	-	-	-
Total expenditures	<u>290,369.71</u>	<u>468.98</u>	<u>290,838.69</u>
Balance, December 31, 2012	<u><u>\$ 285,525.54</u></u>	<u><u>\$ (95,238.68)</u></u>	<u><u>\$ 190,286.86</u></u>

Notes To Forms MS-991 And Reports Of Act 44 Tax Fund With Adjustments are an integral part of this report.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
2013 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2013	\$ 285,525.54	\$ (95,238.68)	\$ 190,286.86
<u>Receipts:</u>			
Act 44 Funds	95,834.02	(595.34)	95,238.68
Interest (Note 3)	1,863.13	-	1,863.13
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Total receipts	<u>97,697.15</u>	<u>(595.34)</u>	<u>97,101.81</u>
Total funds available	<u>383,222.69</u>	<u>(95,834.02)</u>	<u>287,388.67</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2013	<u>\$ 383,222.69</u>	<u>\$ (95,834.02)</u>	<u>\$ 287,388.67</u>

Notes To Forms MS-991 And Reports Of Act 44 Tax Fund With Adjustments are an integral part of this report.

DELAWARE COUNTY
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

1. Criteria

A. *The Vehicle Code* prescribes criteria for liquid fuels program funds (75 Pa C.S. § 9010). The Pennsylvania Department of Transportation's *Publication 9* provides more specific policies and procedures to counties for the administration and reporting of the liquid fuels program funds. In the event of any discrepancies between the two, the legislation governs.

(1) Funds received by the counties must be deposited in a special fund designated as the County Liquid Fuels Tax Fund and no other money may be deposited and commingled. Money should be invested to earn interest until expended.

- For purposes of payments under (2), below, the county may borrow and place in the special fund money not in excess of the liquid fuels tax funds to be received during the current calendar year.

(2) Payments from the special fund may be used for:

- construction, reconstruction, maintenance and repair of roads, highways, bridges and curb ramps from a road or highway to provide for access by individuals with disabilities consistent with Federal and State law;
- property damages and compensation of viewers for services in eminent domain proceedings involving roads, highways, and bridges;
- construction, reconstruction, operation and maintenance of publicly owned ferryboat operations;
- interest and principal payments on road, bridge, or publicly owned ferryboat operation bonds or sinking fund charges;
- acquisition, maintenance, repair and operation of traffic signs and signals;
- erection and maintenance of stop and go signal lights, blinkers and other like traffic control devices;
- indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects, not to exceed 10 percent of the yearly allocation to the county; and

DELAWARE COUNTY
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

1. Criteria (Continued)

- individual vehicle liability insurance for equipment purchased under the fund, not to exceed 10 percent of the yearly allocation to the county.
 - (3) Counties may not make expenditures from the special fund for new construction on roads, bridges, curb ramps, or publicly owned ferryboat operations without the approval of the plans for construction by the Pennsylvania Department of Transportation. And, counties may not allocate money from the special fund to political subdivisions within the county until the application and the contracts or plans for the proposed expenditures have been made on a form prescribed by the Pennsylvania Department of Transportation.
 - (4) Counties may encumber current funds for future road and bridge construction, reconstruction, and maintenance projects including viable municipal projects. Counties must redistribute any unencumbered balance in the special fund to political subdivisions if the unencumbered balance is more than the county's receipts during the preceding twelve month period.
 - (5) Counties must submit a report to the Pennsylvania Department of Transportation by January 15 for the period ending December 31 on prescribed Form MS-991, The Report of County Liquid Fuels Tax Fund, showing the receipts and expenditures of the money received by the county from the Commonwealth. Upon failure to file the report or instances of any non-compliant payments, allocations, or expenditures, the Pennsylvania Department of Transportation will withhold further funding until the delinquent report is filed, the money is allocated, or the expenditures for the prior 12 months are approved.
- B. *The Vehicle Code*, as recently amended by Act 44 of 2007 (July 18, 2007, P.L. 169), prescribes the Pennsylvania Department of Transportation with oversight authority of the Act 44 funds distributed to the counties from the Pennsylvania Turnpike Commission's annual contribution of \$5,000,000 to the Commonwealth's Motor License Fund. The County's Act 44 Tax Fund is used to account for the distribution made to the county from the Department of Transportation and the payments made for construction and maintenance of county-owned bridges.

DELAWARE COUNTY
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

1. Criteria (Continued)

Basis Of Presentation

In accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation, the Report of County Liquid Fuels Tax Fund With Adjustments and the Report of Act 44 Tax Fund With Adjustments do not constitute complete financial presentations of the county's assets, liabilities, expenses, and fund balance but include the receipts, expenditures, and fund balances of the County Liquid Fuels Tax Fund and the County Act 44 Tax Fund, respectively.

The Pennsylvania Department of Transportation prescribes that the county report the following on the MS-991 form, *Report of County Liquid Fuels Tax Fund*:

- A. The balance in the County Liquid Fuels Tax Fund at the beginning of the report calendar year.
- B. Receipts which must be itemized and include interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.

Refer to the related Notes: Note 3, Interest Earnings; and Note 4, Miscellaneous Receipts.

- C. Accounts receivable (to be realized within 60 days of the year end).
 - D. Total Liquid Fuels Tax funds available for expenditure and encumbrances.
 - E. Expenditures for county-owned roads, highways, and bridges.
- Refer to related note: Note 5, Miscellaneous Expenditures.*
- F. Accounts payable (accrued wages, accrued payroll taxes, and accounts payable vendors to be realized within 60 days of the year end).
 - G. The balance in the fund at the close of the report calendar year.
 - H. Encumbered and unencumbered balances on hand at the close of the report calendar year.

Refer to related note: Note 8, Encumbrances.

DELAWARE COUNTY
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

2. Deposits

The County Code, Title 16 P.S § 17067, authorizes the county 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 from institutions having their principal place of business in or outside the Commonwealth of Pennsylvania that are insured by the FDIC or other like insurance. 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 financial institutions. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral as defined.

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 county's name.

Fund Balance

The fund balance for the Liquid Fuels Tax Fund consists of the following:

Cash	\$1,331,302.22
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The fund balance for the Act 44 Tax Fund consists of the following:

Cash	\$287,388.67
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DELAWARE COUNTY
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

3. Interest Earnings

Our examination disclosed that the county deposited idle liquid fuels tax money in an interest-bearing account which earned \$4,014.98 during 2010, \$1,505.13 during 2011, \$94.19 during 2012, and \$81.55 during 2013, thus providing additional funds for road maintenance and repairs.

Additionally, the county deposited idle Act 44 tax money in an interest-bearing account which earned \$229.92 during 2010, \$1,588.17 during 2012, and \$1,863.13 during 2013, thus providing additional funds for bridge maintenance and repairs.

4. Miscellaneous Receipts

The following miscellaneous receipts were deposited into the Liquid Fuels Tax Fund during the examination period:

Source	Description	2010	2011	2012	2013
General Fund	Transfers in error (Note 5)	\$45,051.84	\$ 59,046.79	\$497,081.47	\$261,602.76
General Fund	Corrections of transfers in error	5,174.11	65,067.53	100.00	13,247.04
General Fund	Grants	-	-	102,514.50	53,223.40
Commonwealth of Pennsylvania	Deposit in error (Note 7)	-	-	-	95,834.02
Totals		<u>\$50,225.95</u>	<u>\$124,114.32</u>	<u>\$599,695.97</u>	<u>\$423,907.22</u>

5. Miscellaneous Expenditures

Payee	Description	2010	2011	2012	2013
General Fund	Corrections of transfers in error (Note 6)	\$45,051.84	\$ 59,046.79	\$497,081.47	\$261,602.76
Unknown General Fund	Unknown Transfers in error (Note 6)	-	-	.45	-
		5,174.11	65,067.53	100.00	13,247.04
Totals		<u>\$50,225.95</u>	<u>\$124,114.32</u>	<u>\$497,181.92</u>	<u>\$274,849.80</u>

DELAWARE COUNTY
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND
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6. Transfers In Error

The following transfers in error were made from the General Fund to the Liquid Fuels Tax Fund during the examination period:

<u>Date Deposited</u>	<u>Amount</u>	<u>Date Reimbursed</u>	<u>Totals</u>
03/24/10	\$ 5,174.11	04/07/10	
05/17/10	<u>39,877.73</u>	06/08/10	
2010 total			\$ 45,051.84
01/05/11	2,125.69	01/07/11	
02/02/11	1,606.25	02/04/11	
02/07/11	22,923.13	02/07/11	
03/31/11	16,637.89	04/08/11	
06/22/11	<u>15,753.83</u>	06/24/11	
2011 total			59,046.79
01/06/12	53,031.38	01/10/12	
01/10/12	14.20	01/12/12	
03/16/12	27,953.00	03/16/12	
03/19/12	63,441.30	03/21/12	
04/16/12	4,192.29	04/20/12	
04/16/12	3,582.99	04/20/12	
06/22/12	305.82	07/19/12	
07/13/12	87,472.08	07/31/12	
10/09/12	161,849.73	11/01/12	
12/12/12	<u>95,238.68</u>	12/12/12	
2012 total			497,081.47
05/29/13	73,685.79	05/31/13	
07/29/13	79,520.04	08/06/13	
11/08/13	<u>108,396.93</u>	11/18/13	
2013 total			<u>261,602.76</u>
Grand Total			<u><u>\$862,782.86</u></u>

DELAWARE COUNTY
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6. Transfers In Error (Continued)

The following transfers in error were made from the Liquid Fuels Tax Fund to the General Fund during the examination period:

<u>Date Transferred</u>	<u>Amount</u>	<u>Date Reimbursed</u>
04/13/10	\$ 5,174.11	05/07/10
11/21/11	65,067.53	12/06/11
06/28/12	100.00	07/09/12
01/17/13	<u>13,247.04</u>	01/18/13
Total	<u>\$83,588.68</u>	

7. Deposit In Error

On December 6, 2013 the county deposited its Act 44 allocation of \$95,834.02 into its Liquid Fuels Tax Fund in error. As of the exit conference date of June 10, 2015, that amount is still due to the Act 44 Tax Fund.

8. Encumbrances

As of December 31, 2013, \$441,960.00 was encumbered for a county bridge project.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

Finding No. 1 - Failure To Properly Prepare Forms MS-991 And Reports Of Act 44 Tax Fund - Recurring

We cited the municipality for failure to properly prepare Forms MS-991 in our prior report for the period January 1, 2006 to December 31, 2009. Our examination disclosed that there were numerous errors made in the preparation of the county's 2010, 2011, 2012, and 2013 Forms MS-991 and 2010, 2011, 2012, and 2013 Reports of Act 44 Tax Fund. These errors resulted in the following adjustments:

2010 Form MS-991

- An adjustment of \$50,225.95 was made to "Miscellaneous" because these receipts were not reported.
- Adjustments were made to "Maintenance and repair" and "Administrative" because expenditures of \$246,150.20 were misclassified.
- An adjustment of \$50,225.95 was made to "Miscellaneous" because these expenditures were not reported.
- An adjustment of \$(883,547.65) was made to "Unpaid encumbrances" because there were no encumbrances.

2011 Form MS-991

- An adjustment of \$516.58 was made to "Interest" because interest earned was understated.
- An adjustment of \$124,114.32 was made to "Miscellaneous" because these receipts were not reported.
- An adjustment of \$587.59 was made to "Construction" because check Nos. 800045 for \$75.00, 800046 for \$500.00, and 800047 for 12.59 were not reported.
- An adjustment of \$3,262.50 was made to "Maintenance and repair" because check Nos. 810054 for \$3,000.00, 810078 for \$166.10, and 810099 for \$96.40 were not reported.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
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Finding No. 1 - Failure To Properly Prepare Forms MS-991 And Reports Of Act 44 Tax Fund - Recurring (Continued)

2011 Form MS-991 (Continued)

- An adjustment of \$124,114.32 was made to “Miscellaneous” because these expenditures were not reported.
- An adjustment of \$(1,108,185.00) was made to “Unpaid encumbrances” because the encumbrances were overstated.

2012 Form MS-991

- An adjustment of \$1,546,811.39 was made to “Balance, January 1, 2012” because an incorrect fund balance was reported.
- An adjustment of \$14.87 was made to “Interest” because interest earned was understated.
- An adjustment of \$599,695.97 was made to “Miscellaneous” because these receipts were not reported.
- An adjustment of \$(417,318.40) was made to “Maintenance and repair” because these expenditures were overstated.
- An adjustment of \$(112,923.71) was made to “Administrative” because there were no administrative expenditures.
- An adjustment of \$497,181.92 was made to “Miscellaneous” because these expenditures were not reported.
- An adjustment of \$441,960.00 was made to “Unpaid encumbrances” because these encumbrances were not reported.

2013 Form MS-991

- Adjustments were made to this form because the county did not file an approved report with the Department of Transportation.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
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Finding No. 1 - Failure To Properly Prepare Forms MS-991 And Reports Of Act 44 Tax Fund - Recurring (Continued)

2010 Report Of Act 44 Tax Fund

- Adjustments were made to this form because the county did not file an approved report with the Department of Transportation.

2011 Report Of Act 44 Tax Fund

- Adjustments were made to this form because the county did not file an approved report with the Department of Transportation.

2012 Report Of Act 44 Tax Fund

- An adjustment of \$(59.42) was made to “Balance, January 1, 2012” because an incorrect fund balance was reported.
- An adjustment of \$(95,338.68) was made to “Act 44 Funds” because the allocation which was deposited in 2013 was incorrectly reported as deposited in 2012.
- An adjustment of \$59.42 was made to “Interest” because interest earned was understated.
- An adjustment of \$568.42 was made to “Miscellaneous” because a grant from the General Fund was not reported.
- An adjustment of \$468.98 was made to “Maintenance and repair” because these expenditures were understated.

2013 Report Of Act 44 Tax Fund

- An adjustment of \$(95,238.68) was made to “Balance, January 1, 2013” because an incorrect fund balance was reported.
- An adjustment of \$(595.34) was made to “Act 44 Funds” because the Liquid Fuels Tax Fund allocations were overstated.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
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FINDINGS AND RECOMMENDATIONS
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Finding No. 1 - Failure To Properly Prepare Forms MS-991 And Reports Of Act 44 Tax Fund - Recurring (Continued)

Good internal controls ensure that the county completes its Form MS-991 and Report of Act 44 Tax Fund accurately and completely. The failure to properly complete Form MS-991 and Report of Act 44 Tax Fund increases the risk that errors or misappropriations may occur and remain undetected.

This condition occurred because the county failed to comply with our prior examination recommendation to properly prepare Forms MS-991.

Recommendation

We recommend that the county ensure that its Form MS-991 and Report of Act 44 Tax Fund are complete and accurate and are filed timely with the Department of Transportation.

Management's Response

The controller stated:

Delaware County concurs with Finding No. 1. The County's past practice was to roll over (carrying forward) local municipality encumbrance balances on Forms MS-991. Over several years these balances grew large and created negative balances on Form MS-991.

Auditor's Conclusion

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

DELAWARE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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Finding No. 2 - Unencumbered Balance Was Greater Than The Receipts For The Previous Twelve Months For 2010 - Recurring

All counties receive allocations of Liquid Fuels Tax Fund money in June and December of each year. Liquid Fuels Tax Fund money is primarily used for the construction, reconstruction, and maintenance and repair of roads and bridges. Counties may also choose to grant Liquid Fuels Tax Fund money to the political subdivisions within the county. Additionally, if the unencumbered fund balance as of December 31 was greater than the receipts for the previous twelve months, the county **must** disburse a portion of its Liquid Fuels Tax Fund money to the political subdivisions within the county. This condition is referred to as a forced distribution.

Our examination disclosed that the county's unencumbered balance as of December 31, 2010 was \$1,430,829.35, which was greater than the total receipts of \$1,091,050.23 for the preceding twelve months.

The Liquid Fuels and Fuels Tax Act, 75 Pa. C.S.A. § 9010(c) states, in part:

When the unencumbered balance in the County Liquid Fuels Tax Fund is greater than the receipts for the twelve months immediately preceding the date of either of the reports, the county commissioners shall notify the political subdivisions to make application within 90 days for participation in the redistribution of the unencumbered balance. Redistribution shall be effected within 120 days of the date of either of the reports.

In addition, the Department of Transportation's *Publication 9*, Chapter One, Section 1.9.1, states, in part:

...This forced distribution applies only to that portion of the unencumbered balance in excess of fifty percent (50%) of the receipts for the previous twelve months....

The following calculation is how to apply the above formula as it pertains to Delaware County:

Unencumbered balance	\$1,430,829.35
Less 50% of prior 12 months' receipts	(545,525.12)
Amount to be distributed	\$ 885,304.23

DELAWARE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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**Finding No. 2 - Unencumbered Balance Was Greater Than The Receipts For The Previous
Twelve Months For 2010 - Recurring (Continued)**

The failure to comply with the Liquid Fuels and Fuels Tax Act and the Department of Transportation's *Publication 9* could result in the county having to distribute \$885,304.23 to the political subdivisions within the county.

A similar finding was also written in our prior report. However, this condition did not occur during 2011, 2012, and 2013.

Recommendation

Pursuant to the review of the Department of Transportation, we recommend that the Commissioners of Delaware County distribute \$885,304.23 to the political subdivisions within the county in accordance with the provision of the Liquid Fuels and Fuels Tax Act and the Department of Transportation's *Publication 9*.

Management's Response

The county officials offered no formal response at this time.

Auditor's Conclusion

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

DELAWARE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
SUMMARY OF PRIOR EXAMINATIONS' RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

Summary Of 2003 Audit Recommendation

In our 2003 report, we recommended that the Department of Transportation review our audit finding to determine if the county should disburse \$537,784.70 to the political subdivisions within the county because the unencumbered balance as of December 31, 2003 was greater than the receipts for the previous twelve months.

During our prior examination, we reviewed a letter dated May 4, 2011, from the Department of Transportation informing the county that distribution of \$537,784.70 to the municipalities within Delaware County would not be required.

Summary Of 2006-2009 Examination Recommendations

In our 2006-2009 report we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$90,831.83 to its Liquid Fuels Tax Fund for failure to obtain project approval and to determine if the distribution of \$3,028,980.83 to the municipalities within the county would be required because the unencumbered balance was greater than receipts for the preceding twelve months. A finding for unencumbered balance being greater than receipts for the preceding twelve months was also written in our current examination (see Finding No. 2).

During our current examination we reviewed a letter dated January 13, 2012, from the Department of Transportation, informing the municipality that the reimbursement of \$90,831.83 to the municipality's Liquid Fuels Tax Fund and the distribution of \$3,028,980.83 to the municipalities within the county would not be required.

In our prior report we also recommended:

- That the county continue to only transfer Liquid Fuels Tax Fund money to other funds for the reimbursement of Liquid Fuels Tax Fund expenditures.
- That before the county expends money on a project, it applies for and obtains approval of the project, and when the project is completed it obtains approval for the completed work.
- That the county ensures that its Forms MS-991 are complete and accurate.

During our current examination we noted that the county substantially complied with our first bulleted recommendation, complied with our second bulleted recommendation, but did not comply with our third bulleted recommendation.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

An exit conference was held June 10, 2015. Those participating were:

DELAWARE COUNTY

Edward E. O'Lone, CPA, Controller
Mr. Dennis J. Carey, Director of Public Works
Michael L. Madden, Esquire, County Solicitor
Ms. Audrey G. Everett, Bridge Inspector

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Stephen P. Stoppie, Auditor
Mr. Fred Casella, Auditor

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

DELAWARE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

This report was initially distributed to:

The Honorable Leslie Richards
Secretary
Department of Transportation

Delaware County
201 West Front Street
Room 227
Media, PA 19063

The Honorable Mario J. Civera, Jr.

Chairman of County Council

Edward E. O'Lone, CPA

Controller

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, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.