

BOROUGH OF DARBY  
DELAWARE COUNTY  
23-407

LIQUID FUELS TAX FUND  
EXAMINATION REPORT

FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

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BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

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.

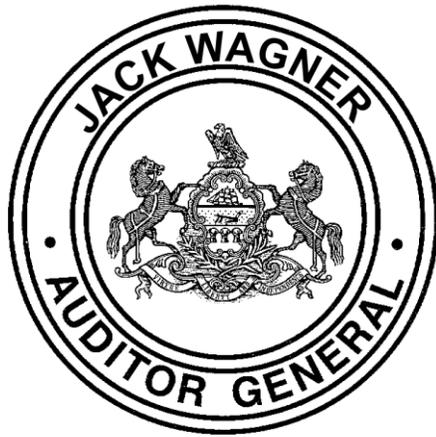
*The Vehicle Code*, Title 75 P.S. § 9511, provides municipalities with annual maintenance payments to be received from the Motor License Fund for functionally local highways that were transferred to a municipality from the Commonwealth of Pennsylvania.

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.



## Independent Auditor's Report

The Honorable Allen D. Biehler, P.E.  
Secretary  
Department of Transportation  
Harrisburg, PA 17120

We examined the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Borough of Darby, Delaware County, for the three years ended December 31, 2007. The municipality's management is responsible for the Forms MS-965. Our responsibility is to express an opinion on the Forms 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 Darby, Delaware County's Forms MS-965 for the three years ended December 31, 2007 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 Forms MS-965 With Adjustments are made by the Department of the Auditor General.

As discussed in Finding No. 1, the borough did not maintain documentation to support an expenditure of \$6,740.16. Additionally, as discussed in Finding No. 2 \$141,758.32 was transferred from the Liquid Fuels Tax Fund to the General Fund on December 28, 2006, for expenditures paid from the General Fund between 2001 and 2005. These expenditures are considered to be retroactive and are not eligible to be paid from the Liquid Fuels Tax Fund.

### Independent Auditor's Report (Continued)

Furthermore, as discussed in Finding No. 3 the borough expended \$208.90 from the Liquid Fuels Tax Fund for light repairs in the police station, which is a nonpermissible expenditure.

As discussed in Comment No. 2 during 2004, the municipality transferred \$80,000.00 from the Liquid Fuels Tax Fund to the General Fund without supporting documentation. The municipality reimbursed this amount to its Liquid Fuels Tax Fund on May 5, 2008, which was subsequent to our examination period.

In our opinion, except for the matters discussed in the preceding two paragraphs, the Forms MS-965 With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Borough of Darby, Delaware County, for the three years ended December 31, 2007, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Forms MS-965 and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Forms 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 Forms MS-965 or on compliance and other matters; accordingly, we express no such opinions.

A control deficiency 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 misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the Borough of Darby, Delaware County's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria such that there is more than a remote likelihood that a misstatement of the Borough of Darby, Delaware County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Borough of Darby, Delaware County's internal control. We consider the deficiency described in the finding below to be a significant deficiency in internal control over reporting on the Forms MS-965:

- Documentation Supporting Expenditures Was Not Available For Examination.

### Independent Auditor's Report (Continued)

A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Forms MS-965 will not be prevented or detected by the Borough of Darby, Delaware County's internal control. Our consideration of the internal control over reporting on the Forms MS-965 would not necessarily disclose all matters in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. We consider the significant deficiency described above to be a material weakness.

The results of our tests disclosed the following instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Retroactive Expenditures.
- Nonpermissible Expenditure.

We also noted an other matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

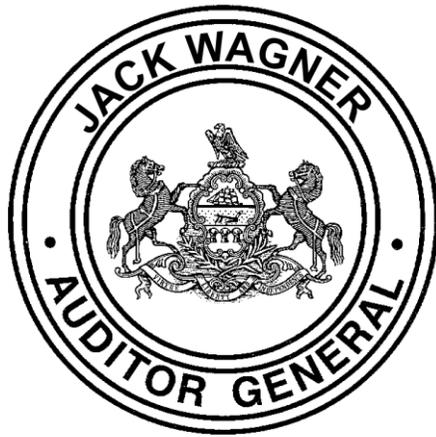
- Late Receipt Of Allocation.

We are concerned in light of the municipality's failure to correct previously reported findings regarding a failure to maintain documentation to support a transfer and a late receipt of allocation. During our current examination the municipality failed to maintain documentation to support an expenditure, made retroactive expenditures, made a nonpermissible expenditure, and received its 2006 allocation late. The municipality should strive to 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 the Borough of Darby, Delaware County, and is not intended to be and should not be used by anyone other than these specified parties.

February 6, 2009

JACK WAGNER  
Auditor General



BOROUGH OF DARBY  
 DELAWARE COUNTY  
 LIQUID FUELS TAX FUND  
 2005 FORM MS-965 – SECTION 1  
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	5,130.22	-	5,130.22
Traffic control devices	6,919.98	-	6,919.98
Street lighting	71,033.78	-	71,033.78
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	-	-	-
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 83,083.98</u>	 <u>\$ -</u>	 <u>\$ 83,083.98</u>

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

BOROUGH OF DARBY  
 DELAWARE COUNTY  
 LIQUID FUELS TAX FUND  
 2005 FORM MS-965 – SECTION 2  
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2005	\$ 15,160.03	\$ 420.74	\$ 15,580.77
Receipts:			
2. State allocation	135,627.35	-	135,627.35
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	2,680.66	-	2,680.66
2c. Miscellaneous (Note 5)	91,870.00	-	91,870.00
3. Total receipts	<u>230,178.01</u>	<u>-</u>	<u>230,178.01</u>
4. Total funds available	<u>245,338.04</u>	<u>420.74</u>	<u>245,758.78</u>
5. Expenditures (Section 1)	<u>83,083.98</u>	<u>-</u>	<u>83,083.98</u>
6. Balance, December 31, 2005	<u><u>\$ 162,254.06</u></u>	<u><u>\$ 420.74</u></u>	<u><u>\$ 162,674.80</u></u>

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

BOROUGH OF DARBY  
 DELAWARE COUNTY  
 LIQUID FUELS TAX FUND  
 2005 FORM MS-965 – SECTION 3  
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 15,160.03	\$ 420.74	\$ 15,580.77
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	27,125.47	-	27,125.47
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	42,285.50	420.74	42,706.24
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>42,285.50</u>	<u>420.74</u>	<u>42,706.24</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 42,285.50</u>	<u>\$ 420.74</u>	<u>\$ 42,706.24</u>

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

BOROUGH OF DARBY  
 DELAWARE COUNTY  
 LIQUID FUELS TAX FUND  
 2006 FORM MS-965 – SECTION 1  
 WITH ADJUSTMENTS

<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	2,491.09	-	2,491.09
Traffic control devices	1,225.00	1,605.04	2,830.04
Street lighting	95,262.11	-	95,262.11
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	598.28	598.28
Maintenance and repair of roads and bridges	5,005.00	6,038.36	11,043.36
Highway construction and rebuilding projects	-	-	-
Miscellaneous (Note 6)	<u>150,025.00</u>	<u>(8,241.68)</u>	<u>141,783.32</u>
 Total (To Section 2, Line 5)	 <u>\$ 254,008.20</u>	 <u>\$ -</u>	 <u>\$ 254,008.20</u>

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

BOROUGH OF DARBY  
 DELAWARE COUNTY  
 LIQUID FUELS TAX FUND  
 2006 FORM MS-965 – SECTION 2  
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2006	\$ 162,254.06	\$ 420.74	\$ 162,674.80
Receipts:			
2. State allocation	145,210.39	-	145,210.39
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	4,985.16	-	4,985.16
2c. Miscellaneous (Note 5)	8,000.00	-	8,000.00
3. Total receipts	<u>158,195.55</u>	<u>-</u>	<u>158,195.55</u>
4. Total funds available	<u>320,449.61</u>	<u>420.74</u>	<u>320,870.35</u>
5. Expenditures (Section 1)	<u>254,008.20</u>	<u>-</u>	<u>254,008.20</u>
6. Balance, December 31, 2006	<u><u>\$ 66,441.41</u></u>	<u><u>\$ 420.74</u></u>	<u><u>\$ 66,862.15</u></u>

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

BOROUGH OF DARBY  
 DELAWARE COUNTY  
 LIQUID FUELS TAX FUND  
 2006 FORM MS-965 – SECTION 3  
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 42,285.50	\$ 420.74	\$ 42,706.24
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	29,042.08	-	29,042.08
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	71,327.58	420.74	71,748.32
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>71,327.58</u>	<u>420.74</u>	<u>71,748.32</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 66,441.41</u>	<u>\$ 420.74</u>	<u>\$ 66,862.15</u>

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

BOROUGH OF DARBY  
 DELAWARE COUNTY  
 LIQUID FUELS TAX FUND  
 2007 FORM MS-965 – SECTION 1  
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	2,482.78	-	2,482.78
Traffic control devices	5,792.61	-	5,792.61
Street lighting	95,433.36	-	95,433.36
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	10,920.00	-	10,920.00
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 114,628.75</u>	 <u>\$ -</u>	 <u>\$ 114,628.75</u>

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

BOROUGH OF DARBY  
 DELAWARE COUNTY  
 LIQUID FUELS TAX FUND  
 2007 FORM MS-965 – SECTION 2  
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2007	\$ 66,441.41	\$ 420.74	\$ 66,862.15
Receipts:			
2. State allocation	150,723.33	-	150,723.33
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	3,221.12	-	3,221.12
2c. Miscellaneous	-	-	-
3. Total receipts	<u>153,944.45</u>	<u>-</u>	<u>153,944.45</u>
4. Total funds available	<u>220,385.86</u>	<u>420.74</u>	<u>220,806.60</u>
5. Expenditures (Section 1)	<u>114,628.75</u>	<u>-</u>	<u>114,628.75</u>
6. Balance, December 31, 2007	<u><u>\$ 105,757.11</u></u>	<u><u>\$ 420.74</u></u>	<u><u>\$ 106,177.85</u></u>

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

BOROUGH OF DARBY  
 DELAWARE COUNTY  
 LIQUID FUELS TAX FUND  
 2007 FORM MS-965 – SECTION 3  
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 66,441.41	\$ 420.74	\$ 66,862.15
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	30,144.67	-	30,144.67
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	96,586.08	420.74	97,006.82
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>96,586.08</u>	<u>420.74</u>	<u>97,006.82</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 96,586.08</u>	<u>\$ 420.74</u>	<u>\$ 97,006.82</u>

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

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

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 that cost in excess of \$4,000.00.
- Minor equipment purchases are purchases of road machinery and road equipment that cost \$4,000.00 or less.
- 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.
- 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.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

1. Criteria (Continued)

Section 3 (Continued)

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.

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.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

1. Criteria (Continued)

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's 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.

There were no deposits exposed to custodial credit risk as of December 31, 2007. 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.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

2. Deposits (Continued)

Fund Balance

The fund balance as of December 31, 2007 consists of the following:

Cash	<u>\$106,177.85</u>
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3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$2,680.66 during 2005, \$4,985.16 during 2006, and \$3,221.12 during 2007, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2005 - Section 2

An adjustment of \$420.74 was made to "Balance, January 1, 2005" because an incorrect fund balance was carried forward.

2005 - Section 3

An adjustment of \$420.74 was made to "Prior year equipment balance" because an incorrect equipment balance was carried forward.

2006 - Section 1

Adjustments were made to "Traffic control devices," "Repairs of tools and machinery," "Maintenance and repair of roads and bridges," and "Miscellaneous" because expenditures of \$8,241.68 were misclassified.

2006 - Section 2

An adjustment of \$420.74 was made to "Balance, January 1, 2006" to reflect the adjustment made in 2005 - Section 2.

BOROUGH OF DARBY  
 DELAWARE COUNTY  
 LIQUID FUELS TAX FUND  
 NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
 FOR THE THREE YEARS ENDED  
 DECEMBER 31, 2007

4. Adjustments (Continued)

2006 - Section 3

An adjustment of \$420.74 was made to "Prior year equipment balance" to reflect the adjustment made in 2005 - Section 2.

2007 - Section 2

An adjustment of \$420.74 was made to "Balance, January 1, 2007" to reflect the adjustment made in 2005 - Section 2.

2007 - Section 3

An adjustment of \$420.74 was made to "Prior year equipment balance" to reflect the adjustment made in 2005 - Section 2.

5. Miscellaneous Receipts

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

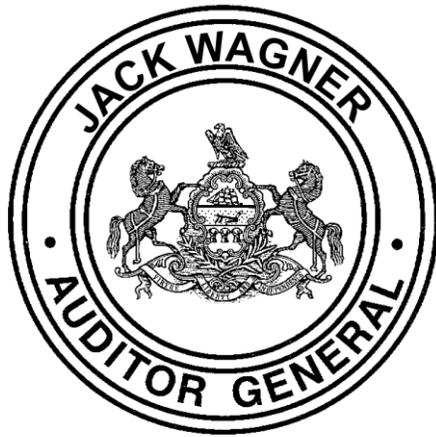
<u>Source</u>	<u>Description</u>	<u>2005</u>	<u>2006</u>
General Fund	Reimbursement (Comment No. 2)	\$70,000.00	\$ -
Delaware County General Fund	County Aid Reimbursement (Comment No. 1)	21,870.00	-
		-	<u>8,000.00</u>
Totals		<u>\$91,870.00</u>	<u>\$8,000.00</u>

BOROUGH OF DARBY  
 DELAWARE COUNTY  
 LIQUID FUELS TAX FUND  
 NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
 FOR THE THREE YEARS ENDED  
 DECEMBER 31, 2007

6. Miscellaneous Expenditures

The following miscellaneous expenditures were paid from the Liquid Fuels Tax Fund during the examination period:

<u>Payee</u>	<u>Description</u>	<u>2006</u>
General Fund	Transfer (see Finding No. 2)	\$141,758.32
Commerce Bank	Bank service charges	<u>25.00</u>
Totals		<u>\$141,783.32</u>



BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

Finding No. 1 - Documentation Supporting Expenditures Was Not Available For Examination

Our examination disclosed that the municipality did not maintain documentation to support an expenditure of \$6,740.16. The municipality should have maintained an invoice to support this expenditure.

Good internal control procedures ensure that there is documentation to support all expenditures.

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 expenditures made without supporting documentation, are outside the scope of permissible expenditures.

Without adequate documentation, we could not determine if the expenditure was permissible according to the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations.

The failure to maintain documentation to support expenditures could result in the municipality having to reimburse \$6,740.16 to its Liquid Fuels Tax Fund.

Similar findings were also written in our 2002-2003 and 2004 reports (see Comment Nos. 1 and 2).

Recommendations

We recommend that the municipality reimburse \$6,740.16 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We again recommend that the municipality ensure good internal control over expenditures by maintaining adequate documentation to support all expenditures.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

Finding No. 1 - Documentation Supporting Expenditures Was Not Available For Examination  
(Continued)

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.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

Finding No. 2 - Retroactive Expenditures

Our examination disclosed that the borough transferred \$150,000.00 from the Liquid Fuels Tax Fund to the General Fund on December 28, 2006 for the reimbursement of expenditures. Liquid Fuels Tax Fund money may only be transferred to other funds for the reimbursement of current year expenditures. However, \$141,758.32 of these expenditures were paid from the General Fund between 2001 and 2005.

The Department of Transportation's, *Publication 9*, contains the policies and procedures for the administration of the Liquid Fuels Tax Fund. *Publication 9*, Chapter Two, Section 2.7.2, states, in relevant part:

Examples of what Liquid Fuels Tax Fund monies may not be expended for are:

8. Repayments of prior year's expenditures.
17. Retroactive expenditures or repayment of other funds for prior period expenditures.

Because these expenditures were paid from the General Fund between 2001 and 2005 and were not reimbursed with Liquid Fuels Tax Fund money until December 28, 2006, the municipality did not comply with the Department of Transportation's *Publication 9*.

The failure to follow the Department of Transportation's *Publication 9* as noted above could result in the municipality having to reimburse \$141,758.32 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$141,758.32 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality comply with the Department of Transportation's *Publication 9* as noted above.

Management's Response

The municipal officials offered no formal response at this time.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

Finding No. 3 - Nonpermissible Expenditure

Our examination disclosed that the municipality expended \$208.90 from the Liquid Fuels Tax Fund for light repairs in the police station, which is a nonpermissible expenditure.

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 light repairs in the police station, are outside the scope of 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 \$208.90 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$208.90 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further 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.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

Finding No. 4 - Late Receipt Of Allocation

Our examination disclosed that the 2006 Liquid Fuels Tax Fund allocation, which should have been distributed during the first week of April of that year, was not received until September 6, 2006, because the municipality failed to comply with the Department of Transportation's Regulation 449.12, which requires the timely filing of particular documents and information, among them:

- Evidence that its treasurer is bonded in accordance with the law or that its treasurer is a bank requiring no bond.
- A report indicating the manner in which its Liquid Fuels Tax Fund was expended in the preceding year.
- Survey of financial condition.
- Roster of municipal officials.

Because the municipality failed to file documents and information timely as noted above, the municipality did not have use of the allocation for five 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.

A similar finding was also written in our prior report.

Recommendation

We again recommend that, in the future, the municipality comply with the Department of Transportation's Regulation 449.12 to ensure that the allocations are received during the first week in April as outlined above.

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 recommendation.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
COMMENTS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

Comment No. 1 - Summary Of 2002-2003 Examination Recommendation

In our 2002-2003 report we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$8,000.00 to its Liquid Fuels Tax Fund for liquid fuels money that was transferred to the General Fund without supporting documentation.

During our prior examination we reviewed a letter dated October 20, 2005, from the Department of Transportation informing the municipality to reimburse \$8,000.00 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on August 4, 2006.

Comment No. 2 - Summary Of 2004 Examination Recommendations

During 2004 the municipality transferred \$150,000.00 from its Liquid Fuels Tax Fund to its General Fund without maintaining documentation to support the transfer. The municipality reimbursed \$70,000.00 of that amount to its Liquid Fuels Tax Fund on January 5, 2005. We recommended that the Department of Transportation review our finding to determine if the municipality should reimburse the remaining \$80,000.00 to its Liquid Fuels Tax Fund. A similar finding was also written in our current report (see Finding No. 1).

During our current examination we reviewed a letter dated January 19, 2007, from the Department of Transportation informing the municipality to reimburse \$80,000.00 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on May 5, 2008, which was subsequent to our examination period.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF EXIT CONFERENCE  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

An exit conference was held February 6, 2009. Those participating were:

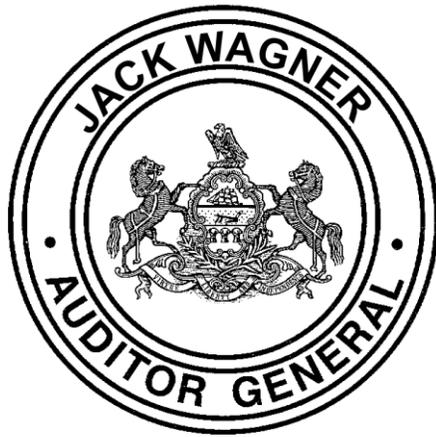
BOROUGH OF DARBY

Mr. Mark Possenti, Borough Manager

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Robert Rosenfeldt, Auditor

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



BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
REPORT DISTRIBUTION  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2007

This report was initially distributed to:

The Honorable Allen D. Biehler, P.E.  
Secretary  
Department of Transportation

Borough of Darby  
Delaware County  
821 Summit Street  
Darby, PA 19023

The Honorable Janice Davis

President of Council

Mr. Mark Possenti

Borough Manager

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 318 Finance Building, Harrisburg, PA 17120. To view this report online or to contact the Department of the Auditor General, please access our web site at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us).