

FAYETTE COUNTY
26-000

LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
EXAMINATION REPORT

FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

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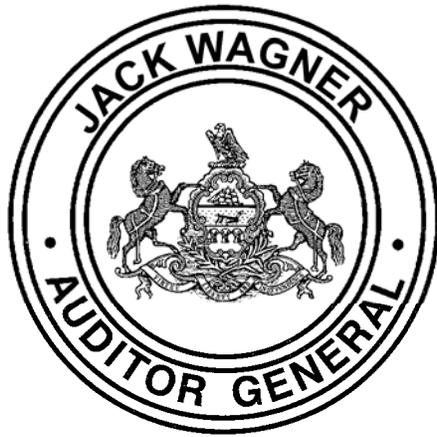
FAYETTE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
BACKGROUND
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

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.





**Department of the Auditor General
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120-0018**

**JACK WAGNER
AUDITOR GENERAL**

Independent Auditor's Report

The Honorable Barry J. Schoch, P.E.
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 Fayette County for the two years ended December 31, 2009. 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 Fayette County's Forms MS-991 and Reports of Act 44 Tax Fund for the two years ended December 31, 2009 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 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-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 transferred \$33,909.90 on April 23, 2009 and \$33,909.90 on August 20, 2009, from its Act 44 Tax Fund to its Liquid Fuels Tax Fund for the reimbursement of the same expenditures. Also, the county transferred \$17,979.70 more than expenditures incurred from its Act 44 Tax Fund to its Liquid Fuels Tax Fund. Additionally, as discussed in Finding No. 3, the county expended \$23,739.81 during 2008 and \$2,202.28 during 2009 for nonpermissible expenditures. On April 24, 2009, and May 14, 2009, the county reimbursed \$1,739.81 and \$22,000.00, respectively, to its Liquid Fuels Tax Fund. Furthermore, as discussed in Finding No. 4, the county expended \$1,819.84 during 2008 and \$9,872.91 during 2009 in excess of the 10 percent limit on indirect/administrative costs. Also as discussed in the Comment section of this report, during 2006 the county expended \$6,677.08 from its Liquid Fuels Tax Fund in excess of the 10 percent limit on indirect/administrative costs. As of the date of this report the county had not reimbursed this amount to its Liquid Fuels Tax Fund.

In our opinion, except for the matters 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 Fayette County for the two years ended December 31, 2009, 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-991 and the Reports of Act 44 Tax Fund 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-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.

Independent Auditor's Report (Continued)

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 Fayette 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 Fayette County's Forms MS-991 and the Reports of Act 44 Tax Fund that is more than inconsequential will not be prevented or detected by Fayette County's internal control. We consider the deficiencies described in the findings below to be significant deficiencies in internal control over reporting on the Forms MS-991 and the Reports of Act 44 Tax Fund:

- Failure To Properly Prepare Form MS-991 And Report Of Act 44 Tax Fund.
- Duplicate And Excess Transfers From The Act 44 Tax Fund To The Liquid Fuels Tax Fund.

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-991 and the Reports of Act 44 Tax Fund will not be prevented or detected by Fayette County's internal control. Our consideration of the internal control over reporting on the Forms MS-991 and the Reports of Act 44 Tax Fund 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 deficiencies described above to be material weaknesses.

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

- Nonpermissible Expenditures.
- Expenditures In Excess Of The 10 Percent Limit On Indirect/Administrative Costs.

Independent Auditor's Report (Continued)

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

December 6, 2010

JACK WAGNER
Auditor General

FAYETTE COUNTY
LIQUID FUELS TAX FUND
2008 FORM MS-991 WITH ADJUSTMENTS

	Reported	Adjustments (Note 4)	Adjusted Amount
Balance, January 1, 2008	\$ 226,373.12	\$ (694.84)	\$ 225,678.28
<u>Receipts:</u>			
State allocations	534,748.37	-	534,748.37
Interest (Note 3)	957.94	-	957.94
Reimbursable agreements (Note 5)	50,374.91	-	50,374.91
Miscellaneous (Note 6)	-	5,380.38	5,380.38
Accounts receivable	82,754.93	(4.98)	82,749.95
Total receipts	668,836.15	5,375.40	674,211.55
Total funds available	895,209.27	4,680.56	899,889.83
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	587,568.03	(45,077.22)	542,490.81
Administrative	51,513.95	3,780.73	55,294.68
Grants to political subdivisions	60,962.47	-	60,962.47
Accounts payable	-	18,627.55	18,627.55
Miscellaneous (Note 7)	350.00	28,452.71	28,802.71
Total expenditures	700,394.45	5,783.77	706,178.22
Balance, December 31, 2008	194,814.82	(1,103.21)	193,711.61
Unpaid encumbrances	158,584.17	18,000.00	176,584.17
Unencumbered balance, December 31, 2008	\$ 36,230.65	\$ (19,103.21)	\$ 17,127.44

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

FAYETTE COUNTY
LIQUID FUELS TAX FUND
2009 FORM MS-991 WITH ADJUSTMENTS

	Reported	Adjustments (Note 4)	Adjusted Amount
Balance, January 1, 2009	\$ 74,410.35	\$ 119,301.26	\$ 193,711.61
<u>Receipts:</u>			
State allocations	506,929.79	-	506,929.79
Interest (Note 3)	387.20	(82.83)	304.37
Reimbursable agreements (Note 5)	69,935.15	(59,010.15)	10,925.00
Miscellaneous (Note 6)	59,560.65	275,053.45	334,614.10
Accounts receivable	12,460.25	(12,460.25)	-
Total receipts	<u>649,273.04</u>	<u>203,500.22</u>	<u>852,773.26</u>
Total funds available	<u>723,683.39</u>	<u>322,801.48</u>	<u>1,046,484.87</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	496,468.96	(26,458.21)	470,010.75
Administrative	54,417.78	6,148.11	60,565.89
Grants to political subdivisions	57,624.94	-	57,624.94
Accounts payable	-	-	-
Miscellaneous (Note 7)	-	225,485.40	225,485.40
Total expenditures	<u>608,511.68</u>	<u>205,175.30</u>	<u>813,686.98</u>
Balance, December 31, 2009	115,171.71	117,626.18	232,797.89
Unpaid encumbrances (Note 8)	<u>65,200.00</u>	<u>(7,700.00)</u>	<u>57,500.00</u>
Unencumbered balance, December 31, 2009	<u>\$ 49,971.71</u>	<u>\$ 125,326.18</u>	<u>\$ 175,297.89</u>

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

FAYETTE COUNTY
LIQUID FUELS TAX FUND
2008 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2008	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds	46,069.98	(3,000.00)	43,069.98
Interest (Note 3)	93.10	11.71	104.81
Accounts receivable	-	-	-
Total receipts	<u>46,163.08</u>	<u>(2,988.29)</u>	<u>43,174.79</u>
Total funds available	<u>46,163.08</u>	<u>(2,988.29)</u>	<u>43,174.79</u>
<u>Expenditures:</u>			
Construction	33,909.90	(33,909.90)	-
Maintenance and repair	-	-	-
Accounts payable	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>33,909.90</u>	<u>(33,909.90)</u>	<u>-</u>
Balance, December 31, 2008	<u>\$ 12,253.18</u>	<u>\$ 30,921.61</u>	<u>\$ 43,174.79</u>

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

FAYETTE COUNTY
LIQUID FUELS TAX FUND
2009 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2009	\$ 9,253.18	\$ 33,921.61	\$ 43,174.79
<u>Receipts:</u>			
Act 44 Funds	42,500.36	-	42,500.36
Interest (Note 3)	90.73	68.72	159.45
Miscellaneous (Note 6)	-	486,053.76	486,053.76
Total receipts	<u>42,591.09</u>	<u>486,122.48</u>	<u>528,713.57</u>
Total funds available	<u>51,844.27</u>	<u>520,044.09</u>	<u>571,888.36</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	12,460.25	55,358.65	67,818.90
Accounts payable	-	-	-
Miscellaneous (Note 7)	-	504,033.46	504,033.46
Total expenditures	<u>12,460.25</u>	<u>559,392.11</u>	<u>571,852.36</u>
Balance, December 31, 2009	<u><u>\$ 39,384.02</u></u>	<u><u>\$ (39,348.02)</u></u>	<u><u>\$ 36.00</u></u>

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

FAYETTE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

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

FAYETTE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

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.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

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; Note 5, Reimbursable Agreements; and Note 6, 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 7, 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 Note 8, Encumbrances.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

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's 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, 2009. 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 as of December 31, 2009 consists of the following:

Cash	\$232,797.89
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The fund balance for the Act 44 Tax Fund as of December 31, 2009 consists of the following:

Cash	\$36.00
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FAYETTE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
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3. Interest Earnings

Our examination disclosed that the county deposited idle liquid fuels tax money in interest-bearing accounts and certificates of deposit which earned \$957.94 during 2008, and \$304.37 during 2009, thus providing additional funds for road maintenance and repairs.

Additionally, the county deposited idle Act 44 tax money in interest-bearing accounts which earned \$104.81 during 2008, and \$159.45 during 2009, thus providing additional funds for bridge maintenance and repairs.

4. Adjustments

2008 Form MS-991

An adjustment of \$(694.84) was made to "Balance January 1, 2008" because of prior report adjustments that were not carried forward in the fund balance.

An adjustment of \$5,380.38 was made to "Miscellaneous" because these receipts were not reported.

An adjustment of \$(4.98) was made to "Accounts receivable" because receivables were overstated.

An adjustment of \$(45,077.22) was made to "Maintenance and repair" because administrative expenditures of \$5,031.30 were misclassified, accounts payable of \$18,334.14 were misclassified, miscellaneous expenditures of \$22,000.00 were misclassified, expenditures of \$300.00 were misclassified as miscellaneous, and these expenditures were overstated by \$11.78.

An adjustment of \$3,780.73 was made to "Administrative" because expenditures of \$5,031.30 were misclassified as maintenance and repair, expenditures of \$50.00 were misclassified as miscellaneous, miscellaneous expenditures of \$1,739.81 were misclassified, accounts payable of \$293.41 were misclassified, and these expenditures were understated by \$732.65.

An adjustment of \$18,627.55 was made to "Accounts payable" because expenditures of \$18,334.14 were misclassified as maintenance and repair and expenditures of \$293.41 were misclassified as administrative.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
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4. Adjustments (Continued)

An adjustment of \$28,452.71 was made to “Miscellaneous” because Act 44 expenditures of \$5,062.90 that were paid from the Liquid Fuels Tax Fund were not reported, expenditures of \$300.00 for maintenance and repair were misclassified, administrative expenditures of \$50.00 were misclassified, expenditures of \$22,000.00 were misclassified as maintenance and repair, and expenditures of \$1,739.81 were misclassified as administrative.

An adjustment of \$18,000.00 was made to “Unpaid encumbrances” because the balances of the following encumbrances were not reported:

<u>Encumbrance No.</u>	<u>Amount</u>
06-26403-09CA	\$ 3,000.00
06-26404-10CA	3,000.00
06-26407-14CA	3,000.00
06-26211-42CA	3,000.00
06-26213-23CA	3,000.00
06-26216-27CA	3,000.00
Totals	<u><u>\$18,000.00</u></u>

2009 Form MS-991

An adjustment of \$119,301.26 was made to “Balance, January 1, 2009” because an incorrect fund balance was reported.

An adjustment of \$(82.83) was made to “Interest” because interest earned was overstated.

An adjustment of \$(59,010.15) was made to “Reimbursable agreements” because bridge inspection reimbursements reported as accounts receivable during 2008 were incorrectly reported as a receipt during 2009.

An adjustment of \$275,053.45 was made to “Miscellaneous” because receipts of \$298,793.26 were not reported and reimbursements for Finding No. 3 of \$23,739.81 were reported as accounts receivable during 2008 but were incorrectly reported as miscellaneous receipts during 2009.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 AND
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4. Adjustments (Continued)

2009 Form MS-991 (Continued)

An adjustment of \$(12,460.25) was made to “Accounts receivable” because there were no accounts receivable.

An adjustment of \$(26,458.21) was made to “Maintenance and repair” because expenditures of \$18,453.33 that were paid during 2008 were incorrectly reported as paid in 2009, these expenditures were understated by \$345.51, administrative expenditures of \$8,250.39 were misclassified, and miscellaneous expenditures of \$100.00 were misclassified.

An adjustment of \$6,148.11 was made to “Administrative” because expenditures of \$8,250.39 were misclassified as maintenance and repair and miscellaneous expenditures of \$2,102.28 were misclassified.

An adjustment of \$225,485.40 was made to “Miscellaneous” because the correction of a deposit in error of \$223,283.12 was not reported, expenditures of \$100.00 were misclassified as maintenance and repair, and expenditures of \$2,102.28 were misclassified as administrative.

An adjustment of \$(7,700.00) was made to encumbrances because the balances for the following encumbrances were reported incorrectly:

<u>Encumbrance No.</u>	<u>Actual</u>	<u>Reported</u>	<u>Adjustment</u>
06-26403-09CA	\$-	\$3,000.00	\$ 3,000.00
07-26223-43CA	-	3,500.00	3,500.00
08-26214-33CA	-	1,200.00	1,200.00
Totals	<u>\$-</u>	<u>\$7,700.00</u>	<u>\$(7,700.00)</u>

FAYETTE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 AND
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4. Adjustments (Continued)

2008 Report Of Act 44 Tax Fund

An adjustment of \$(3,000.00) was made to “Act 44 Funds” because the Act 44 allocation was overstated.

An adjustment of \$11.71 was made to “Interest” because interest earned in December was not reported.

An adjustment of \$(33,909.90) was made to “Construction” because expenditures that were paid during 2009 were incorrectly reported as paid during 2008.

2009 Report Of Act 44 Tax Fund

An adjustment of \$33,921.61 was made to “Balance, January 1, 2009” because an incorrect fund balance was reported.

An adjustment of \$68.72 was made to “Interest” because interest earned was understated.

An adjustment of \$486,053.76 was made to “Miscellaneous” because these receipts were not reported (see Note 6).

An adjustment of \$55,358.65 was made to “Maintenance and repair” because an expenditure of \$67,818.90 was not reported and these expenditures were overstated by \$12,460.25.

An adjustment of \$504,033.46 was made to “Miscellaneous” because these expenditures were not reported (see Note 7).

5. Reimbursable Agreements

During our examination, we noted that the county entered into reimbursement agreements with the Department of Transportation for bridge construction and inspections. During our current examination period, the county received \$50,374.91 during 2008 and \$10,925.00 during 2009 as a result of these agreements and deposited the money into the Liquid Fuels Tax Fund.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
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6. 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>2008</u>	<u>2009</u>
Ferry Boat			
Account	Reimbursement for fuel	\$5,263.20	\$ -
Vendor	Reimbursement for truck parts	117.18	-
Fayette County	Snow removal	-	2,400.00
Vendor	Refund payment	-	202.94
Vendor	Sale of vehicle	-	508.00
Act 44 Fund	Reimbursement for bridge inspection	-	33,909.00
Act 44 Fund	Duplicate reimbursement (see Finding No. 2)	-	33,909.90
Act 44 Fund	Transfer (Note 9)	-	241,262.82
Vendor	Refund for credit balance	-	421.44
Act 70 Fund	Grant	-	22,000.00
	Totals	<u>\$5,380.38</u>	<u>\$334,614.10</u>

The following miscellaneous receipts were deposited into the Act 44 Fund during the examination period:

<u>Source</u>	<u>Description</u>	<u>2009</u>
Commonwealth of Pennsylvania	Deposit in error (Note 9)	\$223,283.12
Commonwealth of Pennsylvania	Deposit in error (Note 9)	<u>262,770.64</u>
	Total	<u>\$486,053.76</u>

FAYETTE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

7. 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>2008</u>	<u>2009</u>
General Fund	Reimbursement for road materials	\$ 5,062.90	\$ -
E911 Project Fund	Correction of a deposit in error (Note 9)	-	223,283.12
Various employees	Labor for bridges on a bicycle/pedestrian trail (Finding No. 3)	22,000.00	-
Vendor	Overpayment of Bridge Department phone bill	1,739.81	-
Vendor	Fire extinguisher parts and repair (Finding No. 3)	-	49.50
Vendor	Electricity for Fayette Fire School (Finding No. 3)	-	2,052.78
Vendor	PortaJohn rentals (Finding No. 3)	-	100.00
	Totals	<u>\$28,802.71</u>	<u>\$225,485.40</u>

The following miscellaneous expenditures were paid from the Act 44 Fund during the examination period:

<u>Payee</u>	<u>Description</u>	<u>2009</u>
Liquid Fuels Tax Fund	Transfer (Note 9)	\$241,262.82
E911 Project Fund	Correction of a deposit in error (Note 9)	<u>262,770.64</u>
	Totals	<u>\$504,033.46</u>

8. Encumbrances

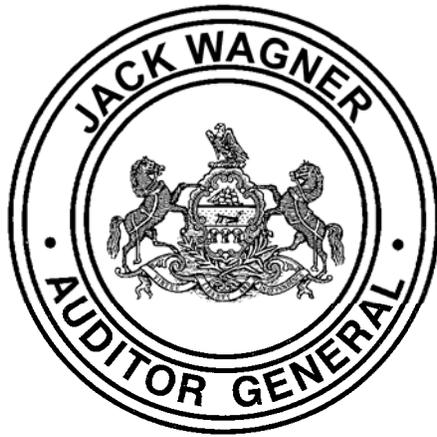
As of December 31, 2009, \$57,500.00 of Liquid Fuels Tax Fund money was encumbered for grants to political subdivisions.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 AND
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9. Deposits In Error

On October 30, 2009, the county deposited \$223,283.12 into the Act 44 Fund that should have been deposited to the E911 Project Fund. On November 16, 2009, the county transferred \$241,262.82 from its Act 44 Tax Fund to its Liquid Fuels Tax Fund. On November 17, 2009, the county transferred \$223,283.12 from its Liquid Fuels Tax Fund to its E911 Project Fund to correct the deposit in error. The balance of \$17,979.70 remained in the Liquid Fuels Tax Fund as of December 31, 2009 (see Finding No. 2).

On December 1, 2009, the county deposited \$262,770.64 to the Act 44 Fund that should have been deposited to the Liquid Fuels Tax Fund. On December 11, 2009 the county transferred \$262,770.64 from the Act 44 Fund to the Liquid Fuels Tax Fund to correct the deposit in error.



FAYETTE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
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Finding No. 1 - Failure To Properly Prepare Forms MS-991 And Report Of Act 44 Tax Fund

Our examination disclosed that there were numerous errors made in the preparation of the county's 2008 and 2009 Forms MS-991. These adjustments, which are disclosed in Note 4, are as follows:

2008 Form MS-991

- An adjustment of \$(694.84) was made to "Balance January 1, 2008" because of prior report adjustments that were not carried forward in the fund balance.
- An adjustment of \$5,380.38 was made to "Miscellaneous" because these receipts were not reported.
- An adjustment of \$(4.98) was made to "Accounts receivable" because receivables were overstated.
- An adjustment of \$(45,077.22) was made to "Maintenance and repair" because administrative expenditures of \$5,031.30 were misclassified, accounts payable of \$18,334.14 were misclassified, miscellaneous expenditures of \$22,000.00 were misclassified, expenditures of \$300.00 were misclassified as miscellaneous, and these expenditures were overstated by \$11.78.
- An adjustment of \$3,780.73 was made to "Administrative" because expenditures of \$5,031.30 were misclassified as maintenance and repair, expenditures of \$50.00 were misclassified as miscellaneous, miscellaneous expenditures of \$1,739.81 were misclassified, accounts payable of \$293.41 were misclassified, and these expenditures were understated by \$732.65.
- An adjustment of \$18,627.55 was made to "Accounts payable" because expenditures of \$18,334.14 were misclassified as maintenance and repair and expenditures of \$293.41 were misclassified as administrative.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
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Finding No. 1 - Failure To Properly Prepare Forms MS-991 And Report Of Act 44 Tax Fund
(Continued)

2008 Form MS-991 (Continued)

- An adjustment of \$28,452.71 was made to “Miscellaneous” because Act 44 expenditures of \$5,062.90 that were paid from the Liquid Fuels Tax Fund were not reported, expenditures of \$300.00 for maintenance and repair were misclassified, administrative expenditures of \$50.00 were misclassified, expenditures of \$22,000.00 were misclassified as maintenance and repair, and expenditures of \$1,739.81 were misclassified as administrative.
- An adjustment of \$18,000.00 was made to “Unpaid encumbrances” because the balances of the following encumbrances were not reported:

<u>Encumbrance No.</u>	<u>Amount</u>
06-26403-09CA	\$ 3,000.00
06-26404-10CA	3,000.00
06-26407-14CA	3,000.00
06-26211-42CA	3,000.00
06-26213-23CA	3,000.00
06-26216-27CA	3,000.00
Totals	<u>\$18,000.00</u>

2009 Form MS-991

- An adjustment of \$119,301.26 was made to “Balance, January 1, 2009” because an incorrect fund balance was reported.
- An adjustment of \$(82.83) was made to “Interest” because interest earned was overstated.
- An adjustment of \$(59,010.15) was made to “Reimbursable agreements” because bridge inspection reimbursements reported as accounts receivable during 2008 were incorrectly reported as a receipt during 2009.
- An adjustment of \$275,053.45 was made to “Miscellaneous” because receipts of \$298,793.26 were not reported and reimbursements for Finding No. 3 of \$23,739.81 were reported as accounts receivable during 2008 but were incorrectly reported as miscellaneous receipts during 2009.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
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Finding No. 1 - Failure To Properly Prepare Forms MS-991 And Report Of Act 44 Tax Fund
(Continued)

2009 Form MS-991 (Continued)

- An adjustment of \$(12,460.25) was made to “Accounts receivable” because there were no accounts receivable.
- An adjustment of \$(26,458.21) was made to “Maintenance and repair” because expenditures of \$18,453.33 that were paid during 2008 were incorrectly reported as paid in 2009, these expenditures were understated by \$345.51, administrative expenditures of \$8,250.39 were misclassified, and miscellaneous expenditures of \$100.00 were misclassified.
- An adjustment of \$6,148.11 was made to “Administrative” because expenditures of \$8,250.39 were misclassified as maintenance and repair and miscellaneous expenditures of \$2,102.28 were misclassified.
- An adjustment of \$225,485.40 was made to “Miscellaneous” because the correction of a deposit in error of \$223,283.12 was not reported, expenditures of \$100.00 were misclassified as maintenance and repair, and expenditures of \$2,102.28 were misclassified as administrative.
- An adjustment of \$(7,700.00) was made to encumbrances because the balances for the following encumbrances were reported incorrectly:

<u>Encumbrance No.</u>	<u>Actual</u>	<u>Reported</u>	<u>Adjustment</u>
06-26403-09CA	\$-	\$3,000.00	\$ 3,000.00
07-26223-43CA	-	3,500.00	3,500.00
08-26214-33CA	-	1,200.00	1,200.00
Totals	<u>\$-</u>	<u>\$7,700.00</u>	<u>\$(7,700.00)</u>

FAYETTE 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 Report Of Act 44 Tax Fund
(Continued)

2008 Report Of Act 44 Tax Fund

- An adjustment of \$(3,000.00) was made to “Act 44 Funds” because the Act 44 allocation was overstated.
- An adjustment of \$11.71 was made to “Interest” because interest earned in December was not reported.
- An adjustment of \$(33,909.90) was made to “Construction” because expenditures that were paid during 2009 were incorrectly reported as paid during 2008.

2009 Report Of Act 44 Tax Fund

- An adjustment of \$33,921.61 was made to “Balance, January 1, 2009” because an incorrect fund balance was reported.
- An adjustment of \$68.72 was made to “Interest” because interest earned was understated.
- An adjustment of \$486,053.76 was made to “Miscellaneous” because these receipts were not reported (see Note 6).
- An adjustment of \$55,358.65 was made to “Maintenance and repair” because an expenditure of \$67,818.90 was not reported and these expenditures were overstated by \$12,460.25.
- An adjustment of \$504,033.46 was made to “Miscellaneous” because these expenditures were not reported (see Note 7).

Good internal controls ensure that the county completes its Form MS-991 accurately and completely. The failure to properly complete Form MS-991 increases the risk that errors or irregularities may occur and remain undetected.

FAYETTE 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 Report Of Act 44 Tax Fund
(Continued)

Recommendation

We recommend that the county ensure that its Form MS-991 is complete and accurate.

Management's Response

The county officials stated:

Internal Controls will be improved due to the hiring of an Account and Auditing Manager that will assume the responsibility of maintaining the report and reconciling to the bank on a monthly basis rather than separating the duties and preparing the report after year end. Corrections and adjustment can be made during the audit year. I agree with the finding.

Auditor's Conclusion

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

FAYETTE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 2 - Duplicate And Excess Transfers From The Act 44 Tax Fund To The Liquid Fuels Tax Fund

Our examination disclosed that the county transferred \$33,909.90 from its Act 44 Tax Fund to its Liquid Fuels Tax Fund on April 23, 2009 for the reimbursement of expenditures paid on behalf of the Act 44 Tax Fund. On August 20, 2009 the county transferred \$33,909.90 from its Act 44 Tax Fund to its Liquid Fuels Tax Fund for the reimbursement of the same expenditures.

Although \$33,909.90 should be reimbursed to the Liquid Fuels Tax Fund, the primary concern is the inadequate internal controls which enabled the duplicate transfer to remain undetected.

Good internal controls ensure that all transfers are reviewed timely to avoid duplicate transfers. The failure to follow this procedure increases the possibility that duplicate transfers can be made and go undetected for long periods of time.

Additionally, on November 16, 2009, the county transferred \$241,262.82 from its Act 44 Tax Fund to its Liquid Fuels Tax Fund. Of that amount \$223,283.12 was transferred to the E911 Project Fund for the reimbursement of a deposit in error (see Note 9). The balance of \$17,979.70 remained in the Liquid Fuels Tax Fund as of December 31, 2009.

The practice of depositing Act 44 Tax Fund money into any account other than the Act 44 Tax Fund account is contrary to the Department of Transportation's *Publication 9*, Chapter Four, Section 4.6, which states:

Each county must deposit the Act 44 funds it receives into a special fund called the County Act 44 Fund, which may be used only for those purposes permitted by the Act.

When Act 44 Tax Fund money is commingled with the Liquid Fuels Tax Fund or other funds, the potential for Act 44 Tax Fund money to be used for unauthorized purposes increases significantly.

Recommendations

We recommend that the county transfer \$51,889.60 from its Liquid Fuels Tax Fund to its Act 44 Tax Fund upon official notification of the Department of Transportation.

We further recommend that the county establish and implement internal controls to ensure interfund transfers are reviewed timely to avoid duplicate and excess transfers.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
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Finding No. 2 - Duplicate And Excess Transfers From The Act 44 Tax Fund To The Liquid
Fuels Tax Fund (Continued)

Management's Response

The county officials stated:

I agree that the bank transfer was done twice in error. The situation was corrected when the bank accounts were combined. The General ledger reflected the correct balances, only one entry was made.

Auditor's Conclusion

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

FAYETTE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 3 - Nonpermissible Expenditures

Our examination disclosed that the county expended \$23,739.81 during 2008 and \$2,202.28 during 2009 from the Liquid Fuels Tax Fund for the following nonpermissible items:

<u>Description</u>	<u>2008</u>	<u>2009</u>
Labor for bridges on a bicycle/pedestrian trail	\$22,000.00	\$ -
Overpayment of Bridge Department phone bill	1,739.81	-
Electricity for Fayette Fire School	-	2,052.78
PortaJohn Rentals	-	100.00
Fire extinguisher parts and repair	-	49.50
Totals	<u>\$23,739.81</u>	<u>\$2,202.28</u>

The Liquid Fuels and Fuels Tax Act of April 17, 1997, P.L. 6, § 12, 75 Pa. C.S.A. § 9010(b)(2)(i)(A-H), provides, in part, that Liquid Fuels Tax Fund money can only be used “for the purposes of construction, reconstruction, maintenance and repair of roads, highways, and bridges. . . .”

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 to improve a bicycle/pedestrian trail, payment for various non-acceptable utility costs and various ferryboat and fire department costs, are outside the scope of permissible expenditures.

On April 24, 2009 and May 14, 2009 the county reimbursed \$1,739.81 and \$22,000.00, respectively, to its Liquid Fuels Tax Fund.

The failure to comply with the Liquid Fuels and Fuels Tax Act and the Department of Transportation’s Regulations could result in the county having to reimburse \$2,202.28 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the county reimburse \$2,202.28 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the county comply with the Liquid Fuels and Fuels Tax Act and the Department of Transportation’s Regulations regarding permissible expenditures.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
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Finding No. 3 - Nonpermissible Expenditures (Continued)

Management's Response

The county officials stated:

When we receive the report and breakdown of nonpermissible expenditures we will correct the situation for the future.

Auditor's Conclusion

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

FAYETTE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 4 - Expenditures In Excess Of The 10 Percent Limit On Indirect/Administrative Costs

Our examination disclosed that the county expended a total of \$55,294.68 from the Liquid Fuels Tax Fund in 2008 and a total of \$60,565.89 from the Liquid Fuels Tax Fund in 2009 calendar years for indirect/administrative costs. These amounts are greater than 10 percent of the yearly Liquid Fuels Tax Fund allocations to the county of \$534,748.37 for 2008 and \$506,929.79 for 2009. This resulted in excess administrative costs of \$1,819.84 during 2008 and \$9,872.91 during 2009 as follows:

<u>Description</u>	<u>2008</u>	<u>2009</u>
Total indirect/administrative costs	\$55,294.68	\$60,565.89
Less 10% permissible amount	<u>53,474.84</u>	<u>50,692.98</u>
Excess expenditures for indirect/administrative costs	<u>\$ 1,819.84</u>	<u>\$9,872.91</u>

The Liquid Fuels and Fuels Tax Act of 75 Pa. C.S.A. § 9010(b)(2)(i)(G) permits the use of county liquid fuels tax funds for “Indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects. . .” However, the use of liquid fuels tax funds for indirect costs “. . . may not exceed 10% of the yearly allocation to the county.”

The failure to comply with the Liquid Fuels and Fuels Tax Act could result in the county having to reimburse \$11,692.75 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the county reimburse \$11,692.75 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the county limit all indirect/administrative costs charged to the Liquid Fuels Tax Fund to the 10 percent maximum permitted by the Liquid Fuels and Fuels Tax Act.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
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Finding No. 4 - Expenditures In Excess Of The 10 Percent Limit On Indirect/Administrative
Costs (Continued)

Management's Response

The county officials stated:

According to the Form MS-991 that we filed, the administrative was over by approximately \$4,000.00. We realize that \$13,432.56 is a two year figure. In order to comply the County Manager would like a list of the administrative charges per this audit in order to make changes. We do agree that the administrative charges were over.

Auditor's Conclusion

The county was provided with a list of administrative expenditures. During our next examination we will determine if the county complied with our recommendations.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
COMMENT
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Comment - Summary Of 2006 Examination

In our 2006 examination we recommended that the Department of Transportation review our audit finding to determine if the county should reimburse \$6,677.08 to its Liquid Fuels Tax Fund for expenditures in excess of the 10 percent limit on indirect/administrative costs.

During our 2007 examination we reviewed a letter dated February 22, 2008, from the Department of Transportation informing the county to reimburse \$6,677.08 to its Liquid Fuels Tax Fund. As of the date of this report, the county had not reimbursed this amount to its Liquid Fuels Tax Fund.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

An exit conference was held December 6, 2010. Those participating were:

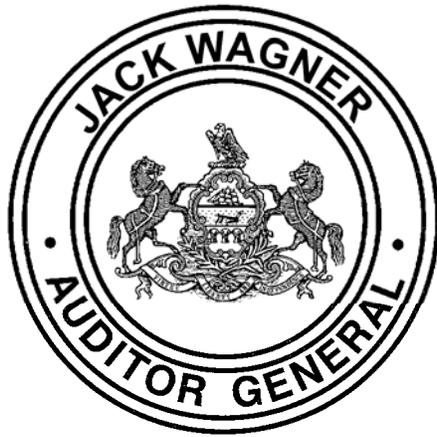
FAYETTE COUNTY

Mrs. Jeanine Wrona, Deputy Controller
Mrs. Joyne Barnett, Accounting and Auditing Manager
Ms. Holly Sumey, Administrative Assistant

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Brian Delaney, Auditor
Ms. Erica DeStefano, Auditor

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



FAYETTE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
REPORT DISTRIBUTION
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

This report was initially distributed to:

The Honorable Barry J. Schoch, P.E.
Secretary
Department of Transportation

Fayette County
61 East Main Street
Uniontown, PA 15401

The Honorable Vincent Zapotosky	Chairman of the Board of Commissioners
The Honorable Sean Lally	Controller
The Honorable Robert F. Danko	Treasurer

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