



TOWNSHIP OF KEATING
POTTER COUNTY
52-212

LIQUID FUELS TAX FUND
EXAMINATION REPORT

FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

Released *March 2013*

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL





TOWNSHIP OF KEATING
POTTER COUNTY
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TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

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.





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EUGENE A. DePASQUALE
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-965 With Adjustments for the Liquid Fuels Tax Fund of the Township of Keating, Potter County, for the three years ended December 31, 2011. 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 Township of Keating, Potter County's Forms MS-965 for the three years ended December 31, 2011 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.

Independent Auditor's Report (Continued)

As discussed in Finding No. 1, the township overexpended its equipment purchase tally during 2010 by \$8,511.24. Additionally, as discussed in Finding No. 2, on October 26, 2010, the municipality transferred \$6,700.78 from its Liquid Fuels Tax Fund to its General Fund for the reimbursement of payroll expenditures paid during 2009, which were retroactive expenditures. Also, as discussed in Finding No. 3, during 2011 the amount transferred from the Liquid Fuels Tax Fund to the General Fund for payroll exceeded permissible Liquid Fuels Tax Fund payroll expenditures by \$1,820.20. Furthermore, as discussed in Finding No. 4, during 2009 the municipality expended \$1,433.82 from its Liquid Fuels Tax Fund for pipe and bands that were purchased from a company owned by the daughter-in-law of the secretary/treasurer.

In our opinion, except for the matters discussed in the preceding paragraph, 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 Township of Keating, Potter County, for the three years ended December 31, 2011, 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 Township of Keating, Potter 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 Township of Keating, Potter County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Township of Keating, Potter County's internal control.

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 Township of Keating, Potter County's internal control.

Our consideration of internal control over reporting on the Forms MS-965 was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any significant deficiencies or material weaknesses, as defined above, in internal control over reporting on the Forms MS-965.

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

- Overexpended Equipment Purchase Tally.
- Retroactive Expenditures.
- Excess Transfer For Payroll.
- Related Party Transactions.

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



March 22, 2012

EUGENE A. DEPASQUALE
Auditor General



TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
2009 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ 19,331.07	\$ -	\$ 19,331.07
Minor equipment purchases	3,588.90	-	3,588.90
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	11,927.54	-	11,927.54
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	4,229.69	-	4,229.69
Repairs of tools and machinery	8,271.43	-	8,271.43
Maintenance and repair of roads and bridges	31,704.49	-	31,704.49
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 79,053.12</u>	 <u>\$ -</u>	 <u>\$ 79,053.12</u>

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

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
2009 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2009	\$ 4,478.38	\$ -	\$ 4,478.38
Receipts:			
2. State allocation	54,951.81	-	54,951.81
2a. Turnback allocation	21,200.00	-	21,200.00
2b. Interest on investments (Note 3)	90.32	-	90.32
2c. Miscellaneous	-	-	-
3. Total receipts	<u>76,242.13</u>	<u>-</u>	<u>76,242.13</u>
4. Total funds available	<u>80,720.51</u>	<u>-</u>	<u>80,720.51</u>
5. Expenditures (Section 1)	<u>79,053.12</u>	<u>-</u>	<u>79,053.12</u>
6. Balance, December 31, 2009	<u><u>\$ 1,667.39</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 1,667.39</u></u>

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

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
2009 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 4,360.47	\$ -	\$ 4,360.47
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	15,230.36	-	15,230.36
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	19,590.83	-	19,590.83
5. Less: Major equipment expenditures	19,331.07	-	19,331.07
6. Remainder	<u>259.76</u>	<u>-</u>	<u>259.76</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 259.76</u>	<u>\$ -</u>	<u>\$ 259.76</u>

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

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
2010 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	\$ 76,611.99	\$ 6,506.08	\$ 83,118.07
Minor equipment purchases	-	-	-
Computer/Computer related training	719.49	-	719.49
Agility projects	-	-	-
Cleaning streets and gutters	1,141.35	-	1,141.35
Winter maintenance services	4,111.78	-	4,111.78
Traffic control devices	126.74	-	126.74
Street lighting	-	-	-
Storm sewers and drains	4,929.24	-	4,929.24
Repairs of tools and machinery	15,138.69	(6,506.08)	8,632.61
Maintenance and repair of roads and bridges	24,508.97	-	24,508.97
Highway construction and rebuilding projects	-	-	-
Miscellaneous (Bank service charges)	153.00	-	153.00
 Total (To Section 2, Line 5)	 <u>\$ 127,441.25</u>	 <u>\$ -</u>	 <u>\$ 127,441.25</u>

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

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
2010 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2010	\$ 1,667.39	\$ -	\$ 1,667.39
Receipts:			
2. State allocation	53,000.37	-	53,000.37
2a. Turnback allocation	21,200.00	-	21,200.00
2b. Interest on investments (Note 3)	13.84	-	13.84
2c. Miscellaneous (Note 5)	74,859.17	-	74,859.17
3. Total receipts	<u>149,073.38</u>	<u>-</u>	<u>149,073.38</u>
4. Total funds available	<u>150,740.77</u>	<u>-</u>	<u>150,740.77</u>
5. Expenditures (Section 1)	<u>127,441.25</u>	<u>-</u>	<u>127,441.25</u>
6. Balance, December 31, 2010	<u><u>\$ 23,299.52</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 23,299.52</u></u>

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

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
2010 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	\$ 259.76	\$ -	\$ 259.76
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	14,840.07	-	14,840.07
3. PENNDOT approved adjustments	<u>59,507.00</u>	<u>-</u>	<u>59,507.00</u>
4. Total funds available for equipment acquisition	74,606.83	-	74,606.83
5. Less: Major equipment expenditures	<u>76,611.99</u>	<u>6,506.08</u>	<u>83,118.07</u>
6. Remainder	<u>(2,005.16)</u>	<u>(6,506.08)</u>	<u>(8,511.24)</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ (2,005.16)</u>	<u>\$ 2,005.16</u>	<u>\$ -</u>

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

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
2011 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	\$ -	\$ 25,451.82	\$ 25,451.82
Minor equipment purchases	823.01	-	823.01
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	7,459.92	-	7,459.92
Traffic control devices	110.57	-	110.57
Street lighting	-	-	-
Storm sewers and drains	669.59	-	669.59
Repairs of tools and machinery	11,814.78	-	11,814.78
Maintenance and repair of roads and bridges	26,545.09	653.41	27,198.50
Highway construction and rebuilding projects	-	-	-
Miscellaneous	46,105.23	(46,105.23)	-
 Total (To Section 2, Line 5)	 <u>\$ 93,528.19</u>	 <u>\$ (20,000.00)</u>	 <u>\$ 73,528.19</u>

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

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
2011 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, 2011	\$ 23,299.52	\$ -	\$ 23,299.52
Receipts:			
2. State allocation	53,898.36	-	53,898.36
2a. Turnback allocation	21,200.00	-	21,200.00
2b. Interest on investments (Note 3)	28.35	-	28.35
2c. Miscellaneous (Note 5)	54,856.22	(20,000.00)	34,856.22
3. Total receipts	<u>129,982.93</u>	<u>(20,000.00)</u>	<u>109,982.93</u>
4. Total funds available	<u>153,282.45</u>	<u>(20,000.00)</u>	<u>133,282.45</u>
5. Expenditures (Section 1)	<u>93,528.19</u>	<u>(20,000.00)</u>	<u>73,528.19</u>
6. Balance, December 31, 2011	<u>\$ 59,754.26</u>	<u>\$ -</u>	<u>\$ 59,754.26</u>

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

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
2011 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	\$ (2,005.16)	\$ 2,005.16	\$ -
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	15,019.67	-	15,019.67
3. PENNDOT approved adjustments	-	23,000.00	23,000.00
4. Total funds available for equipment acquisition	13,014.51	25,005.16	38,019.67
5. Less: Major equipment expenditures	-	25,451.82	25,451.82
6. Remainder	<u>13,014.51</u>	<u>(446.66)</u>	<u>12,567.85</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 13,014.51</u>	<u>\$ (446.66)</u>	<u>\$ 12,567.85</u>

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

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

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.

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

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.

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

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 Second Class Township Code, Title 53 P.S. § 68204, authorizes the township 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 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, 2011. 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.

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

2. Deposits (Continued)

Fund Balance

The fund balance as of December 31, 2011 consists of the following:

Cash	\$59,754.26
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3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in interest-bearing accounts which earned \$90.32 during 2009, \$13.84 during 2010, and \$28.35 during 2011, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2010 - Section 1

Adjustments were made to “Major equipment purchases” and “Repairs of tools and machinery” because expenditures of \$6,506.08 were misclassified.

2010 - Section 3

An adjustment of \$6,506.08 was made to “Major equipment expenditures” to reflect the adjustment made to major equipment purchases in 2010 - Section 1.

2011 - Section 1

An adjustment of \$25,451.82 was made to “Major equipment purchases” because these expenditures were misclassified as miscellaneous.

An adjustment of \$653.41 was made to “Maintenance and repair of roads and bridges” because these expenditures were misclassified as miscellaneous.

An adjustment of \$(46,105.23) was made to “Miscellaneous” because a transfer of \$20,000.00 between two Liquid Fuels Tax Fund accounts was incorrectly reported as an expenditure, expenditures of \$25,451.82 for major equipment purchases were misclassified, and expenditures of \$653.41 for maintenance and repair of roads and bridges were misclassified.

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

4. Adjustments (Continued)

2011 - Section 2

An adjustment of \$(20,000.00) was made to "Miscellaneous" because a transfer between liquid fuels accounts was incorrectly reported as a receipt.

2011 - Section 3

An adjustment of \$2,005.16 was made to "Prior year equipment balance" because an incorrect equipment balance was carried forward.

An adjustment of \$23,000.00 was made to "PENNDOT approved adjustments" because the proceeds from a grant for a truck were not reported as an approved adjustment.

An adjustment of \$25,451.82 was made to "Major equipment expenditures" to reflect the adjustment made to major equipment purchases in 2011 - Section 1.

5. Miscellaneous Receipts

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

Source	Description	2010	2011
North Central Pennsylvania Regional Planning and Development Commission	Grant for computer	\$ 700.00	\$ -
Residents	Sale of equipment	15,202.00	-
Resident	Reimbursement for pipe	125.00	-
General Fund	Reimbursement (Comment)	11,765.37	11,765.36
General Fund	County aid	2,611.80	-
Financial institution	Loan proceeds	44,305.00	-
Vendor	Credit for returned part	-	80.22
D.C.E.D.	Grant for truck	-	23,000.00
Financial institution	Refund for bank service charges	-	10.64
Resident	Sale of snow plow	150.00	-
Total		\$74,859.17	\$34,856.22

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

6. Bank Loan

On December 14, 2004, the municipality borrowed \$30,000.00 from the First National Bank of Port Allegany to purchase a used loader and truck. The term of the loan was for five years at an interest rate of 6.60 percent. Principal and interest payments of \$586.98 are due monthly. Prior years' principal and interest payments from the Liquid Fuels Tax Fund were \$23,179.01 and \$4,996.03, respectively.

During the current examination period the municipality paid principal of \$6,820.99 and interest of \$203.09 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2009 Form MS-965 - Section 1. The loan was paid-in-full on April 6, 2009.

7. Bank Loan

On November 7 2008, the municipality borrowed \$45,168.25 from the First National Bank of Port Allegany to refinance a lease-purchase agreement with Ford Motor Credit Company to purchase a truck. The term of the loan was for four years at an interest rate of 4.5 percent. Principal and interest payments of \$12,306.99 are due annually.

During the current examination period the municipality paid principal of \$45,168.25 and interest of \$3,528.35 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2009, 2010, and 2011 Forms MS-965 - Section 1. The loan was paid-in-full on July 4, 2011.

8. Bank Loan

On December 22, 2010, the municipality borrowed \$44,305.00 from the First National Bank of Port Allegany to purchase a truck. The term of the loan was on demand at an interest rate of 4.0 percent. Interest payments are due quarterly.

During the current examination period the municipality paid interest of \$1,369.20 from the Liquid Fuels Tax Fund. This amount is reflected in major equipment purchases on the 2011 Form MS-965 - Section 1. The outstanding balance of the loan as of December 31, 2011, was \$44,305.00.



TOWNSHIP OF KEATING
 POTTER COUNTY
 LIQUID FUELS TAX FUND
 FINDINGS AND RECOMMENDATIONS
 FOR THE THREE YEARS ENDED
 DECEMBER 31, 2011

Finding No. 1 - Overexpended Equipment Purchase Tally

Our examination disclosed that the municipality expended \$8,511.24 in excess of the amount available for the purchase of equipment for the year ending December 31, 2010, as follows:

<u>2010</u>	<u>Actual</u>
1. Prior year equipment balance	\$ 259.76
2. Current year equipment allocation (20% of Lines 2 + 2A, Section 2)	14,840.07
3. PENNDOT approved adjustments	<u>59,507.00</u>
4. Total funds available for equipment acquisition	74,606.83
5. Less: Major equipment purchases	<u>83,118.07</u>
6. Amount overexpended for equipment - 2010	<u><u>\$(8,511.24)</u></u>

The Department of Transportation's, *Publication 9*, Appendix D, Section 449.11, 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, 20 percent of the current year's Liquid Fuels Tax Fund allocations, and any approved adjustments.

The failure to follow the Department of Transportation's *Publication 9* could result in the municipality having to reimburse \$8,511.24 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$8,511.24 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the municipality only expend up to the approved amount on equipment expenditures in accordance with the Department of Transportation's *Publication 9*.

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
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Finding No. 1 - Overexpended Equipment Purchase Tally (Continued)

Management's Response

The secretary stated:

All the officials of Keating Township were new in 2010. None of them were aware at the time of the 20 percent limit on major equipment purchases.

Auditor's Conclusion

The municipal officials should review the Department of Transportation's *Publication 9* to become familiar with the policies and procedures of the Liquid Fuels Tax Fund. During our next examination we will determine if the municipality complied with our recommendations.

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
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Finding No. 2 - Retroactive Expenditures

Our examination disclosed that on October 26, 2010, the municipality transferred \$6,700.78 from its Liquid Fuels Tax Fund to its General Fund for the reimbursement of payroll expenditures paid during 2009, which were retroactive expenditures.

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 the payroll expenditures were paid during 2009 from the General Fund but were not reimbursed with Liquid Fuels money until October 26, 2010, the expenditures incurred were not reimbursed in a reasonable period of time. Therefore, 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 \$6,700.78 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$6,700.78 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.

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
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Finding No. 2 - Retroactive Expenditures (Continued)

Management's Response

The secretary stated:

We tried to pay back the 2009 payroll during 2010 because of a lack of funds in the Liquid Fuels Tax Fund.

Auditor's Conclusion

As stated above, the Department of Transportation's *Publication 9* does not permit municipalities to use Liquid Fuels Tax Fund money to repay other funds for prior years' expenditures. When the municipality exhausts its Liquid Fuels Tax Fund money in a given year, all permissible Liquid Fuels Tax Fund expenditures should be paid from other funds. During our next examination we will determine if the municipality complied with our recommendations.

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
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Finding No. 3 - Excess Transfer For Payroll

Our examination disclosed that during 2011 the municipality transferred \$11,619.73 from the Liquid Fuels Tax Fund to its General Fund for the reimbursement of payroll. However, during 2011 the municipality only incurred permissible Liquid Fuels payroll expenditures of \$9,799.53. Therefore, the amount transferred from the Liquid Fuels Tax Fund to the General Fund exceeded Liquid Fuels Tax Fund expenditures by \$1,820.20.

The practice of transferring liquid fuels money in excess of the amount incurred for permissible liquid fuels expenditures into any account other than the Liquid Fuels Tax Fund account is contrary to the Liquid Fuels Tax Municipal Allocation Law, 72 P.S. § 2615.5, which states:

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

Good internal accounting controls ensure that disbursements are made from the Liquid Fuels Tax Fund only for expenditures incurred. When Liquid Fuels Tax Fund money is commingled with the General Fund or other funds, the potential for Liquid Fuels Tax Fund money to be used for unauthorized purposes increases significantly.

Additionally, the failure to follow the Liquid Fuels Tax Municipal Allocation Law could result in the municipality having to reimburse \$1,820.20 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$1,820.20 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the township transfer money from the Liquid Fuels Tax Fund to other funds only for expenditures incurred.

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
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Finding No. 3 - Excess Transfer For Payroll (Continued)

Management's Response

The secretary stated:

We overpaid the transfer from the state fund to the payroll account due to an error on the payroll reimbursement sheet and did not notice until after the end of the year.

Auditor's Conclusion

The municipal officials should review all transfers closely to reduce the risk of error of this nature occurring and remaining undetected. During our next examination we will determine if the municipality complied with our recommendations.

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
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Finding No. 4 - Related Party Transactions

Our examination disclosed that the township expended \$1,433.82 during 2009 from the Liquid Fuels Tax Fund for pipe and bands. The pipe and bands were purchased from a company owned by the daughter-in-law of the secretary/treasurer. Due to the daughter-in-law's financial interest in the company and the lack of an open and public award process, these contracts appear to violate *The Second Class Township Code* and The Public Official and Employee Ethics Act. Therefore, they should not have been entered into by the township.

The Second Class Township Code, 53 P.S. § 68102(i), as amended, states, in part:

No township official, either elected or appointed, or township employe who knows, or who by the exercise of reasonable diligence could know, shall be interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any supplies or materials for the use of the township or for any work to be done for such township involving the expenditure by the township of more than five hundred dollars (\$500.00) in any year unless the contract is awarded through the public bid process. This limitation does not apply if the officer or appointee of the township is an employe of the person, firm or corporations to which the money is to be paid in a capacity with no possible influence on the transaction and the officer cannot possibly be benefited thereby, either financially or otherwise. If a supervisor is within this exception, the supervisor shall so inform the board of supervisors and refrain from voting on the payments and shall in no manner participate in the contract. . . .

This information is also published in § 3102(i) of *The Second Class Township Code* as published by the Local Government Commission.

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
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Finding No. 4 - Related Party Transactions (Continued)

The Public Official and Employee Ethics Act (“Ethics Act”), 65 P.S. 1103(f), states, in part:

No public official or public employee or his spouse or child or any business in which the person or his spouse or child is associated shall enter into any contract valued at \$500 or more with the governmental body with which the public official or public employee is associated or any subcontract valued at \$500 or more with any person who has been awarded a contract with the governmental body with which the public official or public employee is associated, unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such a case, the public official or public employee shall not have any supervisory or overall responsibility for the implementation or administration of the contract.

Because these contracts violate *The Second Class Township Code* and the Ethics Act the township could be required by the Pennsylvania Department of Transportation to reimburse \$1,433.82 to its Liquid Fuels Tax Fund.

Copies of this finding will be forwarded to the Pennsylvania Department of Transportation and the State Ethics Commission for their review and whatever action they may deem appropriate.

Similar findings were also written in our 2005-2006 and 2007-2008 reports. We further noted that the municipality discontinued this practice in 2010 and 2011.

Recommendations

We recommend that the township reimburse \$1,433.82 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We again recommend that, in the future, the township continue to comply with *The Second Class Township Code* and the Ethics Act.

Management’s Response

The secretary stated:

The township purchased pipe from a relative of the prior secretary.

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
COMMENT
FOR THE THREE YEARS ENDED
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Comment - Summary Of 2005-2006 and 2007-2008 Examination Recommendations

In our 2005-2006 report we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$20,935.55 to its Liquid Fuels Tax Fund. This amount consists of \$15,354.85 for stone purchases from an uncertified vendor who was not awarded the contract and \$5,580.70 for related party transactions.

In our 2007-2008 report we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$2,595.18 to its Liquid Fuels Tax Fund for related party transactions. A similar finding was also written in our current examination (see Finding No. 4).

During our current examination we reviewed a letter dated August 13, 2010, from the Department of Transportation informing the municipality to reimburse \$23,530.73 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed \$11,765.37 on November 3, 2010 and \$11,765.36 on November 8, 2011 to its Liquid Fuels Tax Fund.

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE THREE YEARS ENDED
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An exit conference was held March 22, 2012. Those participating were:

TOWNSHIP OF KEATING

Ms. Sherry L. Clark, Secretary

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Christopher Heglen, Auditor

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

TOWNSHIP OF KEATING
POTTER COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

This report was initially distributed to:

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

Mr. John J. Contino
Executive Director
Pennsylvania State Ethics Commission

Township of Keating
Potter County
2964 State Route 607
Keating Summit
Austin, PA 16720

The Honorable Michael Tumas

Chairman of the Board of Supervisors

Ms. Sherry L. Clark

Secretary

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.