

LUZERNE COUNTY
40-000

LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
EXAMINATION REPORT

FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

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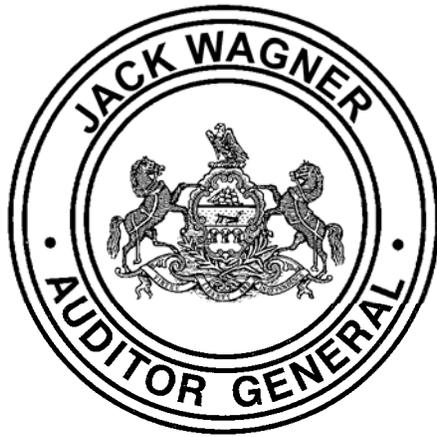
LUZERNE COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
BACKGROUND
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

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 Luzerne 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 Luzerne 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 are made by the Department of the Auditor General.

Independent Auditor's Report (Continued)

As discussed in Finding No. 1 the county expended \$90,874.19 in 2008, and \$55,047.90 in 2009, for the purchase of fuel in bulk quantities. However records for the dispensation of these fuel purchases were not maintained.

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

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 Luzerne 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 Luzerne 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 Luzerne 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:

- Fuel Dispensation Records Not Maintained.

Independent Auditor's Report (Continued)

- Failure To Properly Prepare Forms MS-991.

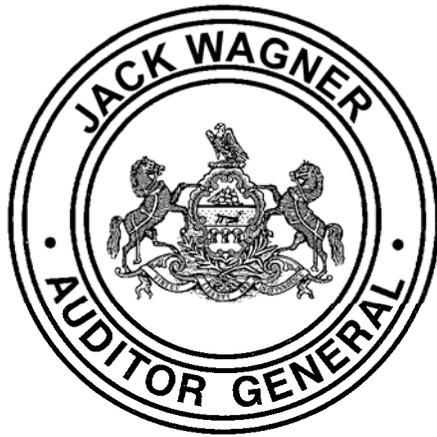
A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Forms MS-991 and the Reports of Act 44 Tax Fund will not be prevented or detected by Luzerne County's internal control. Our consideration 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. However, the significant deficiencies described above are considered to be material weaknesses.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

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

October 25, 2010

JACK WAGNER
Auditor General



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

| | Reported | Adjustments (Note 4) | Adjusted Amount |
|--|-----------------------------|-------------------------------|------------------------------|
| Balance, January 1, 2008 | \$ 1,452,338.89 | \$ - | \$ 1,452,338.89 |
| <u>Receipts:</u> | | | |
| State allocations | 1,078,580.75 | - | 1,078,580.75 |
| Interest (Note 3) | 39,793.62 | - | 39,793.62 |
| Reimbursable agreements (Note 5) | 41,564.36 | - | 41,564.36 |
| Miscellaneous (Note 6) | 50,067.00 | 9,301.75 | 59,368.75 |
| Accounts receivable | - | - | - |
| Total receipts | <u>1,210,005.73</u> | <u>9,301.75</u> | <u>1,219,307.48</u> |
| Total funds available | <u>2,662,344.62</u> | <u>9,301.75</u> | <u>2,671,646.37</u> |
| <u>Expenditures:</u> | | | |
| Construction | - | 395,457.28 | 395,457.28 |
| Maintenance and repair | 1,168,889.69 | 32,074.51 | 1,200,964.20 |
| Administrative | - | 14,435.00 | 14,435.00 |
| Grants to political subdivisions | - | - | - |
| Accounts payable | - | - | - |
| Miscellaneous | - | - | - |
| Total expenditures | <u>1,168,889.69</u> | <u>441,966.79</u> | <u>1,610,856.48</u> |
| Balance, December 31, 2008 | 1,493,454.93 | (432,665.04) | 1,060,789.89 |
| Unpaid encumbrances | <u>1,151,389.73</u> | <u>(8,389.73)</u> | <u>1,143,000.00</u> |
| Unencumbered balance, December 31, 2008 | <u><u>\$ 342,065.20</u></u> | <u><u>\$ (424,275.31)</u></u> | <u><u>\$ (82,210.11)</u></u> |

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

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

| | Reported | Adjustments (Note 4) | Adjusted Amount |
|--|----------------------|-------------------------|----------------------|
| Balance, January 1, 2009 | \$ 1,060,789.89 | \$ - | \$ 1,060,789.89 |
| <u>Receipts:</u> | | | |
| State allocations | 1,032,805.68 | - | 1,032,805.68 |
| Interest (Note 3) | 6,662.29 | 2,029.43 | 8,691.72 |
| Reimbursable agreements (Note 5) | 45,177.48 | - | 45,177.48 |
| Miscellaneous (Note 6) | 51,589.15 | 11,692.70 | 63,281.85 |
| Accounts receivable | - | - | - |
| Total receipts | <u>1,136,234.60</u> | <u>13,722.13</u> | <u>1,149,956.73</u> |
| Total funds available | <u>2,197,024.49</u> | <u>13,722.13</u> | <u>2,210,746.62</u> |
| <u>Expenditures:</u> | | | |
| Construction | 746,035.66 | - | 746,035.66 |
| Maintenance and repair | 773,658.69 | 6,076.99 | 779,735.68 |
| Administrative | 17,231.25 | - | 17,231.25 |
| Grants to political subdivisions | - | - | - |
| Accounts payable | - | - | - |
| Miscellaneous (Note 7) | - | 4,634.73 | 4,634.73 |
| Total expenditures | <u>1,536,925.60</u> | <u>10,711.72</u> | <u>1,547,637.32</u> |
| Balance, December 31, 2009 | 660,098.89 | 3,010.41 | 663,109.30 |
| Unpaid encumbrances (Note 8) | <u>406,409.15</u> | <u>-</u> | <u>406,409.15</u> |
| Unencumbered balance, December 31, 2009 | <u>\$ 253,689.74</u> | <u>\$ 3,010.41</u> | <u>\$ 256,700.15</u> |

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

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

| | <u>Reported</u> | <u>Adjustments</u> | <u>Adjusted Amount</u> |
|----------------------------|-----------------------------|--------------------|-----------------------------|
| Balance, January 1, 2008 | \$ - | \$ - | \$ - |
| <u>Receipts:</u> | | | |
| Act 44 Funds | 151,349.87 | - | 151,349.87 |
| Interest | - | - | - |
| Accounts receivable | - | - | - |
| Total receipts | <u>151,349.87</u> | <u>-</u> | <u>151,349.87</u> |
| Total funds available | <u>151,349.87</u> | <u>-</u> | <u>151,349.87</u> |
| <u>Expenditures:</u> | | | |
| Construction | - | - | - |
| Maintenance and repair | - | - | - |
| Accounts payable | - | - | - |
| Miscellaneous | - | - | - |
| Total expenditures | <u>-</u> | <u>-</u> | <u>-</u> |
| Balance, December 31, 2008 | <u><u>\$ 151,349.87</u></u> | <u><u>\$ -</u></u> | <u><u>\$ 151,349.87</u></u> |

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

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

| | <u>Reported</u> | <u>Adjustments</u> | <u>Adjusted Amount</u> |
|----------------------------|-----------------------------|--------------------|-----------------------------|
| Balance, January 1, 2009 | \$ 151,349.87 | \$ - | \$ 151,349.87 |
| <u>Receipts:</u> | | | |
| Act 44 Funds | 151,918.71 | - | 151,918.71 |
| Interest (Note 3) | 132.16 | - | 132.16 |
| Accounts receivable | - | - | - |
| Total receipts | <u>152,050.87</u> | <u>-</u> | <u>152,050.87</u> |
| Total funds available | <u>303,400.74</u> | <u>-</u> | <u>303,400.74</u> |
| <u>Expenditures:</u> | | | |
| Construction | - | - | - |
| Maintenance and repair | 126,254.10 | - | 126,254.10 |
| Accounts payable | - | - | - |
| Miscellaneous | - | - | - |
| Total expenditures | <u>126,254.10</u> | <u>-</u> | <u>126,254.10</u> |
| Balance, December 31, 2009 | <u><u>\$ 177,146.64</u></u> | <u><u>\$ -</u></u> | <u><u>\$ 177,146.64</u></u> |

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

LUZERNE 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

LUZERNE 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.

LUZERNE 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.

LUZERNE 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 | <u>\$663,109.30</u> |
|------|---------------------|

LUZERNE 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 (Continued)

The fund balance for the Act 44 Tax Fund as of December 31, 2009, consists of the following:

| | |
|------|---------------------|
| Cash | <u>\$177,146.64</u> |
|------|---------------------|

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 \$39,793.62 during 2008, and \$8,691.72 during 2009, thus providing additional funds for road maintenance and repairs.

Additionally, the county deposited idle Act 44 tax money in an interest-bearing account which earned \$132.16 during 2009, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2008 Form MS-991

An adjustment of \$9,301.75 was made to "Miscellaneous" because these receipts were understated.

An adjustment of \$395,457.28 was made to "Construction" because expenditures of \$4,271.13 for project No. 06-40-000-03 and \$391,186.15 for project No. 07-40-000-02 were not reported.

An adjustment of \$32,074.51 was made to "Maintenance and repair" because these expenditures were understated.

An adjustment of \$14,435.00 was made to "Administrative" because these expenditures were not reported.

LUZERNE 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

4. Adjustments (Continued)

2008 Form MS-991 (Continued)

An adjustment of \$(8,389.73) was made to “Unpaid encumbrances” because the balance for encumbrance No. 07-40-000-02 was overstated.

2009 Form MS-991

An adjustment of \$2,029.43 was made to “Interest” because interest earned was understated.

An adjustment of \$11,692.70 was made to “Miscellaneous” because these receipts were understated.

An adjustment of \$6,076.99 was made to “Maintenance and repair” because these expenditures were understated.

An adjustment of \$4,634.73 was made to “Miscellaneous” because these expenditures were not reported.

5. Reimbursable Agreements

During our examination, we noted that the county entered into a reimbursement agreement with the Commonwealth of Pennsylvania for street lighting and maintenance costs on the North Cross Valley Expressway and a K-Route project. The county received \$41,564.36 in 2008, and \$45,177.48 in 2009, as a result of these agreements. As of December 31, 2009, \$186,467.43 is due the Liquid Fuels Tax Fund.

LUZERNE 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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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> |
|---|---|--------------------|--------------------|
| Various | Utility Permit | \$ 4,188.47 | \$ 717.20 |
| Various | Driveway Permits | 819.00 | 375.00 |
| Crestwood School District General Fund | Sale of salt | 2,134.28 | - |
| | Reimbursement for administrative expenditures | 7,145.00 | - |
| Private business | Sale of equipment | 1,282.00 | - |
| Commonwealth of Pennsylvania | Turnback Allocation | 43,800.00 | 43,800.00 |
| Vendor | Reimbursement for overpayment | - | 844.89 |
| Vendor | Reimbursement for payment in error (Note 9) | - | 4,397.51 |
| Vendor | Reimbursement for overpayment | - | 189.48 |
| Insurance company | Reimbursement for damage to lights | - | 12,848.88 |
| Vendor | Reimbursement for overpayment | - | 108.89 |
| | | <u>\$59,368.75</u> | <u>\$63,281.85</u> |

LUZERNE 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:

| Payee | Description | 2009 |
|-----------------------|---------------------------|-------------------|
| General Fund | Payment in error (Note 9) | \$4,397.51 |
| Financial institution | Bank service charges | <u>237.22</u> |
| Total | | <u>\$4,634.73</u> |

8. Encumbrances

As of December 31, 2009, \$406,409.15 was encumbered for county projects.

Our examination further noted that on December 31, 2008 \$1,143,000.00 was encumbered for county projects. The Liquid Fuels Tax Fund balance as of December 31, 2008 was only \$1,060,789.89, leaving an unencumbered balance of a negative \$82,210.11, which is not permitted by the Pennsylvania Department of Transportation's *Publication 9*. However, as of December 31, 2008 the county had \$186,467.43 due the Liquid fuels Tax Fund from the Commonwealth of Pennsylvania for bridge reimbursement agreements which exceeds the negative unencumbered balance of \$82,210.11.

9. Payment In Error

On August 27, 2009, the county expended \$4,397.51 from its Liquid Fuels Tax Fund in error. On September 1, 2009, the county transferred \$4,397.51 from its General Fund to its Liquid Fuels Tax Fund to correct the payment in error.

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

Finding No. 1 - Fuel Dispensation Records Not Maintained

Our examination disclosed that the county used the Liquid Fuels Tax Fund account to purchase \$90,874.19 in 2008, and \$55,047.90 in 2009, for fuel in bulk quantities. However, records for the dispensation of these fuel purchases were not maintained.

To ensure good internal control of fuel purchases and usage, the county should maintain records listing the following information:

- Date.
- Number of gallons pumped.
- License number or identity of the vehicle.
- Intended use.
- Signature of the operator.

Without fuel dispensation records, there is no record that fuel was used for purposes permitted by the Liquid Fuels Tax Municipal Allocation Law. As a result, we could not determine if the expenditures made from the Liquid Fuels Tax Fund to purchase the fuel were permissible.

The failure to maintain records of fuel dispensation as noted above could result in the county having to reimburse \$145,922.09 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the county reimburse \$145,922.09 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the county prepare detailed fuel usage reports to ensure good internal controls over fuel purchases and usage.

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

Finding No. 1 - Fuel Dispensation Records Not Maintained (Continued)

Management's Response

The county officials stated:

This response is intended to apprise you of the corrective action that Luzerne County has already taken to address the fuel dispensation finding in the 2009 Liquid fuels audit. The finding concerns the remote road and bridge department districts and their respective small diesel fuel tanks.

The finding indicates that fuel records need to be developed and maintained including such information as: date, number of gallons pumped, license number of fueling vehicle, intended use and signature of the operator. Luzerne County has been in the process of upgrading the above ground fuel tanks over the last few years. The old tanks did not have electrical service to provide adequate calibrated metering. The new tanks are equipped with a lock at the pump and disconnect switch that is located in the locked district garages. These upgrades should ensure protection against theft. These upgrades have been installed and in use since November 2009.

As a result of the finding, Luzerne County has taken additional corrective actions as recommended to install calibrated meters on the diesel fuel pumps. The County has also developed a fuel dispensation log that will be used to record all dispensation of diesel fuel for highway and bridge maintenance activities.

I trust this explanation will satisfactorily address the finding in the audit. Luzerne County would greatly appreciate the opportunity to address this issue during the next year.

Auditor's Conclusion

The Department of Transportation will determine if the municipality will be required to reimburse \$145,922.09 to its Liquid Fuels Tax Fund. During our next examination we will determine if the municipality complied with our recommendations.

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

Finding No. 2 - Failure To Properly Prepare Forms MS-991

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 \$9,301.75 was made to "Miscellaneous" because these receipts were understated.
- An adjustment of \$395,457.28 was made to "Construction" because expenditures of \$4,271.13 for project No. 06-40-000-03 and \$391,186.15 for project No. 07-40-000-02 were not reported.
- An adjustment of \$32,074.51 was made to "Maintenance and repair" because these expenditures were understated.
- An adjustment of \$14,435.00 was made to "Administrative" because these expenditures were not reported.
- An adjustment of \$(8,389.73) was made to "Unpaid encumbrances" because the balance for encumbrance No. 07-40-000-02 was overstated.

2009 Form MS-991

- An adjustment of \$2,029.43 was made to "Interest" because interest earned was understated.
- An adjustment of \$11,692.70 was made to "Miscellaneous" because these receipts were understated.

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

Finding No. 2 - Finding No. 2 - Failure To Properly Prepare Forms MS-991 (Continued)

2009 Form MS-991 (Continued)

- An adjustment of \$6,076.99 was made to “Maintenance and repair” because these expenditures were understated.
- An adjustment of \$4,634.73 was made to “Miscellaneous” because these expenditures were not reported.

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.

Recommendation

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

Management’s Response

The county officials stated:

The preparation of Form 991 is a yearly challenge. The Liquid Fuels Tax Fund is audited on a cash basis and the county uses an accrual reporting system. The County’s accounting system is locked in a given budget year. Every year previous year payables are paid in the future year and some of the payables do not transfer to the reports used to complete the 991. Every year we get closer to providing accurate reporting but the process is made more difficult by guessing the value of the future year’s bi-annual liquid fuels payments in order to develop an accurate future year budget.

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

Finding No. 2 - Finding No. 2 - Failure To Properly Prepare Forms MS-991 (Continued)

Auditors Conclusion

The Department of Transportation's *Publication 9* permits counties to report payables on its Form 991 as long as they are satisfied within 60 days of year-end. It also permits counties to report accounts receivable as long as they are realized within 60 days of year-end. The county officials should ensure that Forms MS-991 are accurate and complete. During our next examination we will determine if the county complied with our recommendation.

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

Comment – Summary Of Prior Examination Recommendations

In our prior report we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$138,048.49 to its Liquid Fuels Tax Fund for encumbering more than its fund balance.

During our current examination we reviewed a letter dated April 17, 2009, from the Department of Transportation informing the county that the reimbursement of \$138,048.49 would not be required.

In our prior report we also recommended that the county comply with the policies and procedures outlined in the Department of Transportation's *Publication 9* regarding encumbrances.

During our current examination we noted that the county complied with our recommendation.

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

An exit conference was held October 25, 2010. Those participating were:

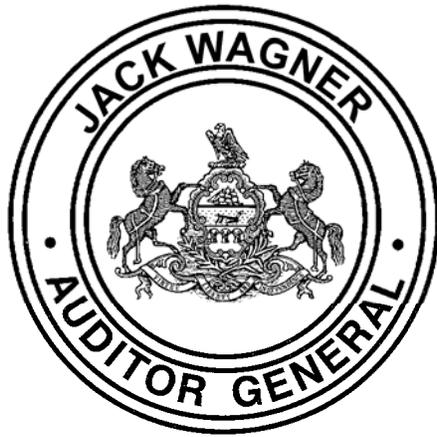
LUZERNE COUNTY

Joseph J. Gibbons, P.E., County Engineer
Ms. Diane Aponte, Executive Secretary/Road and Bridge Department
Ms. Patti Llewellyn, Auditor Controllers Office

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Jerome Werner, Auditor

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



LUZERNE COUNTY
LIQUID FUELS TAX FUND
AND REPORT OF 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

Luzerne County
200 North River Street
Wilkes-Barre, PA 18711

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|---------------------------------------|--|
| The Honorable Maryanne C. Pertrilla | Chairman of the Board of Commissioners |
| The Honorable Michael L. Morreale | Treasurer |
| The Honorable Walter L. Griffith, Jr. | Controller |
| Joseph J. Gibbons, P.E. | County Engineer |
| Mr. Douglas A. Page | County Manager for Legislation/ Chief Clerk |

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.