

# ATTESTATION ENGAGEMENT

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## Township of Black Creek

Luzerne County, Pennsylvania

40-202

Liquid Fuels Tax Fund

For the Period

January 1, 2009 to December 31, 2013

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December 2014



Commonwealth of Pennsylvania  
Department of the Auditor General

Eugene A. DePasquale • Auditor General

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**EUGENE A. DePASQUALE**  
**AUDITOR GENERAL**

### Independent Auditor's Report

The Honorable 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 Black Creek, Luzerne County, for the period January 1, 2009 to December 31, 2013. 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 Black Creek, Luzerne County's Forms MS-965 for the period January 1, 2009 to December 31, 2013 and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are mandated by Section 403 of *The Fiscal Code*, 72 P.S. § 403, to audit each 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 the Finding and Recommendations section of this report, the municipality expended \$730.05 during 2010 for nonpermissible payroll expenditures. Additionally, as discussed in the Comment section of this report, during our prior examination period a municipal supervisor prepared fraudulent payroll records totaling \$96,650.61. As of the date of this report the Department of Transportation had not determined if the reimbursement of \$96,650.61 would be required.

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 Black Creek, Luzerne County, for the period January 1, 2009 to December 31, 2013, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report 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 Black Creek, 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 the Township of Black Creek, Luzerne County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Township of Black Creek, Luzerne County's internal control.

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 Black Creek, Luzerne 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.

Independent Auditor's Report (Continued)

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we did note an other matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

- Nonpermissible Expenditures.

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

We appreciate the courtesy extended by the Township of Black Creek, Luzerne County, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.



Eugene A. DePasquale  
Auditor General

April 2, 2014

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TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2013

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.

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2009 FORM MS-965 – SECTION 1  
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	2,149.17	-	2,149.17
Computer/Computer related training	111.40	-	111.40
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	13,151.39	-	13,151.39
Traffic control devices	77.00	-	77.00
Street lighting	-	-	-
Storm sewers and drains	9,632.00	-	9,632.00
Repairs of tools and machinery	19,263.21	-	19,263.21
Maintenance and repair of roads and bridges	67,873.81	-	67,873.81
Highway construction and rebuilding projects	-	-	-
Miscellaneous (Note 6)	-	31,288.20	31,288.20
 Total (To Section 2, Line 5)	 <u>\$ 112,257.98</u>	 <u>\$ 31,288.20</u>	 <u>\$ 143,546.18</u>

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

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2009 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, 2009	\$ 1,199.46	\$ -	\$ 1,199.46
Receipts:			
2. State allocation	89,220.49	-	89,220.49
2a. Turnback allocation	20,680.00	-	20,680.00
2b. Interest on investments (Note 3)	224.68	-	224.68
2c. Miscellaneous (Note 5)	1,688.78	31,288.20	32,976.98
3. Total receipts	<u>111,813.95</u>	<u>31,288.20</u>	<u>143,102.15</u>
4. Total funds available	<u>113,013.41</u>	<u>31,288.20</u>	<u>144,301.61</u>
5. Expenditures (Section 1)	<u>112,257.98</u>	<u>31,288.20</u>	<u>143,546.18</u>
6. Balance, December 31, 2009	<u>\$ 755.43</u>	<u>\$ -</u>	<u>\$ 755.43</u>

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



TOWNSHIP OF BLACK CREEK  
 LUZERNE 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	\$ 1,199.46	\$ -	\$ 1,199.46
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	21,980.10	-	21,980.10
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	23,179.56	-	23,179.56
5. Less: Major equipment expenditures	<u>-</u>	<u>-</u>	<u>-</u>
6. Remainder	<u>23,179.56</u>	<u>-</u>	<u>23,179.56</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 755.43</u>	<u>\$ -</u>	<u>\$ 755.43</u>

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

TOWNSHIP OF BLACK CREEK  
 LUZERNE 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	\$ -	\$ -	\$ -
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	3,065.90	(3,065.90)	-
Winter maintenance services	34,470.53	3,065.90	37,536.43
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	225.00	2,502.24	2,727.24
Repairs of tools and machinery	19,398.68	(2,502.24)	16,896.44
Maintenance and repair of roads and bridges	61,883.15	-	61,883.15
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total (To Section 2, Line 5)	<u>\$ 119,043.26</u>	<u>\$ -</u>	<u>\$ 119,043.26</u>

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

TOWNSHIP OF BLACK CREEK  
 LUZERNE 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	\$ 755.43	\$ -	\$ 755.43
Receipts:			
2. State allocation	85,677.93	-	85,677.93
2a. Turnback allocation	20,680.00	-	20,680.00
2b. Interest on investments (Note 3)	47.60	-	47.60
2c. Miscellaneous (Note 5)	<u>32,517.30</u>	<u>-</u>	<u>32,517.30</u>
3. Total receipts	<u>138,922.83</u>	<u>-</u>	<u>138,922.83</u>
4. Total funds available	<u>139,678.26</u>	<u>-</u>	<u>139,678.26</u>
5. Expenditures (Section 1)	<u>119,043.26</u>	<u>-</u>	<u>119,043.26</u>
6. Balance, December 31, 2010	<u>\$ 20,635.00</u>	<u>\$ -</u>	<u>\$ 20,635.00</u>

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

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2010 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	\$ 755.43	\$ -	\$ 755.43
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	21,271.59	-	21,271.59
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	22,027.02	-	22,027.02
5. Less: Major equipment expenditures	<u>-</u>	<u>-</u>	<u>-</u>
6. Remainder	<u>22,027.02</u>	<u>-</u>	<u>22,027.02</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 20,635.00</u>	<u>\$ -</u>	<u>\$ 20,635.00</u>

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

TOWNSHIP OF BLACK CREEK  
 LUZERNE 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	\$ -	\$ 6,000.00	\$ 6,000.00
Minor equipment purchases	6,000.00	(6,000.00)	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	59,492.19	(19,770.14)	39,722.05
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	2,143.72	-	2,143.72
Repairs of tools and machinery	5,810.87	-	5,810.87
Maintenance and repair of roads and bridges	55,269.60	19,770.14	75,039.74
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 128,716.38</u>	 <u>\$ -</u>	 <u>\$ 128,716.38</u>

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

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2011 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, 2011	\$ 20,635.00	\$ -	\$ 20,635.00
Receipts:			
2. State allocation	87,683.03	-	87,683.03
2a. Turnback allocation	20,680.00	-	20,680.00
2b. Interest on investments (Note 3)	42.31	-	42.31
2c. Miscellaneous	-	-	-
3. Total receipts	<u>108,405.34</u>	<u>-</u>	<u>108,405.34</u>
4. Total funds available	<u>129,040.34</u>	<u>-</u>	<u>129,040.34</u>
5. Expenditures (Section 1)	<u>128,716.38</u>	<u>-</u>	<u>128,716.38</u>
6. Balance, December 31, 2011	<u><u>\$ 323.96</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 323.96</u></u>

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

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2011 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	\$ 20,635.00	\$ -	\$ 20,635.00
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	21,672.61	-	21,672.61
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	42,307.61	-	42,307.61
5. Less: Major equipment expenditures	-	6,000.00	6,000.00
6. Remainder	<u>42,307.61</u>	<u>(6,000.00)</u>	<u>36,307.61</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 323.96</u>	<u>\$ -</u>	<u>\$ 323.96</u>

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

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2012 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	\$ 11,663.99	\$ -	\$ 11,663.99
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	52,668.61	(29,151.15)	23,517.46
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	8,120.99	-	8,120.99
Maintenance and repair of roads and bridges	40,048.93	29,151.15	69,200.08
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total (To Section 2, Line 5)	<u>\$ 112,502.52</u>	<u>\$ -</u>	<u>\$ 112,502.52</u>

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



TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2012 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, 2012	\$ 323.96	\$ -	\$ 323.96
Receipts:			
2. State allocation	88,106.25	-	88,106.25
2a. Turnback allocation	20,680.00	-	20,680.00
2b. Interest on investments (Note 3)	33.14	-	33.14
2c. Miscellaneous (Note 5)	<u>3,723.59</u>	<u>-</u>	<u>3,723.59</u>
3. Total receipts	<u>112,542.98</u>	<u>-</u>	<u>112,542.98</u>
4. Total funds available	<u>112,866.94</u>	<u>-</u>	<u>112,866.94</u>
5. Expenditures (Section 1)	<u>112,502.52</u>	<u>-</u>	<u>112,502.52</u>
6. Balance, December 31, 2012	<u><u>\$ 364.42</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 364.42</u></u>

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

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2012 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	\$ 323.96	\$ -	\$ 323.96
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	21,757.25	-	21,757.25
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	22,081.21	-	22,081.21
5. Less: Major equipment expenditures	11,663.99	-	11,663.99
6. Remainder	<u>10,417.22</u>	<u>-</u>	<u>10,417.22</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 364.42</u>	<u>\$ -</u>	<u>\$ 364.42</u>

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

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2013 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	\$ 11,663.99	\$ -	\$ 11,663.99
Minor equipment purchases	3,279.00	-	3,279.00
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	21,782.68	-	21,782.68
Traffic control devices	766.50	-	766.50
Street lighting	-	-	-
Storm sewers and drains	6,750.32	-	6,750.32
Repairs of tools and machinery	9,802.82	-	9,802.82
Maintenance and repair of roads and bridges	52,957.70	87.00	53,044.70
Highway construction and rebuilding projects	-	-	-
Miscellaneous	87.00	(87.00)	-
	<u>87.00</u>	<u>(87.00)</u>	<u>-</u>
Total (To Section 2, Line 5)	<u>\$ 107,090.01</u>	<u>\$ -</u>	<u>\$ 107,090.01</u>

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

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2013 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, 2013	\$ 364.42	\$ -	\$ 364.42
Receipts:			
2. State allocation	86,226.68	-	86,226.68
2a. Turnback allocation	20,680.00	-	20,680.00
2b. Interest on investments (Note 3)	12.41	-	12.41
2c. Miscellaneous	-	-	-
3. Total receipts	<u>106,919.09</u>	<u>-</u>	<u>106,919.09</u>
4. Total funds available	<u>107,283.51</u>	<u>-</u>	<u>107,283.51</u>
5. Expenditures (Section 1)	<u>107,090.01</u>	<u>-</u>	<u>107,090.01</u>
6. Balance, December 31, 2013	<u><u>\$ 193.50</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 193.50</u></u>

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

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2013 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	\$ 364.42	\$ -	\$ 364.42
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	21,381.34	-	21,381.34
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	21,745.76	-	21,745.76
5. Less: Major equipment expenditures	<u>11,663.99</u>	<u>-</u>	<u>11,663.99</u>
6. Remainder	<u>10,081.77</u>	<u>-</u>	<u>10,081.77</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 193.50</u>	<u>\$ -</u>	<u>\$ 193.50</u>

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

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
 FOR THE PERIOD  
 JANUARY 1, 2009 TO DECEMBER 31, 2013

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 with varying yearly costs in excess of the amounts indicated below:

Prior To 2012	2012	2013	2014
\$4,000.00	\$10,000.00	\$10,200.00	\$10,300.00

- Minor equipment purchases are purchases of road machinery and road equipment with varying yearly costs, or less, than the amounts indicated below:

Prior To 2012	2012	2013	2014
\$4,000.00	\$10,000.00	\$10,200.00	\$10,300.00

- 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.

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2013

1. Criteria (Continued)

Section 2 (Continued)

- 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.

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.

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2013

1. Criteria (Continued)

Section 3 (Continued)

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.

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 a financial institution. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral as defined.



TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2013

2. Deposits (Continued)

There were no deposits exposed to custodial credit risk as of December 31, 2013. Custodial credit risk, as defined by GASB No. 40, includes deposits that are not covered by depository insurance and the deposits are uncollateralized, collateralized with securities held by the pledging financial institution, or collateralized with securities held by the pledging financial institution's trust department or agent but not in the municipality's name.

Fund Balance

The fund balance as of December 31, 2013 consists of the following:

Cash	\$193.50
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3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$224.68 during 2009, \$47.60 during 2010, \$42.31 during 2011, \$33.14 during 2012, and \$12.41 during 2013 thus providing additional funds for road maintenance and repairs.

4. Adjustments

2009 - Section 1

An adjustment of \$31,288.20 was made to "Miscellaneous" because the correction of deposits in error was not reported (Note 6).

2009 - Section 2

An adjustment of \$31,288.20 was made to "Miscellaneous" because deposits in error were not reported (Note 6).

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2013

4. Adjustments (Continued)

2010 - Section 1

Adjustments were made to “Cleaning streets and gutters” and “Winter maintenance services” because expenditures of \$3,065.90 were misclassified.

Adjustments were made to “Storm sewers and drains” and “Repairs of tools and machinery” because expenditures of \$2,502.24 were misclassified.

2011 - Section 1

Adjustments were made to “Major equipment purchases” and “Minor equipment purchases” because expenditures of \$6,000.00 were misclassified.

Adjustments were made to “Winter maintenance services” and “Maintenance and repair of roads and bridges” because expenditures of \$19,770.14 were misclassified.

2011 - Section 3

An adjustment of \$6,000.00 was made to “Major equipment expenditures” to reflect the adjustment made to major equipment purchases in 2011 - Section 1.

2012 - Section 1

Adjustments were made to “Winter maintenance services” and “Maintenance and repair of roads and bridges” because expenditures of \$29,151.15 were misclassified.

2013 - Section 1

Adjustments were made to “Maintenance and repair of roads and bridges” and “Miscellaneous” because expenditures of \$87.00 were misclassified.

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
 FOR THE PERIOD  
 JANUARY 1, 2009 TO DECEMBER 31, 2013

5. Miscellaneous Receipts

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

<u>Source</u>	<u>Description</u>	<u>2009</u>	<u>2010</u>	<u>2012</u>
General Fund	Reimbursement (Comment)	\$ 1,688.78	\$32,517.30	\$ -
Commonwealth of Pennsylvania P.E.M.A.	Deposit in error (Note 6) Severe weather assistance	31,288.20	-	-
		-	-	3,723.59
Totals		<u>\$32,976.98</u>	<u>\$32,517.30</u>	<u>\$3,723.59</u>

6. Deposits In Error

On October 13, 2009 and October 20, 2009, the Commonwealth of Pennsylvania electronically deposited \$3,639.88 and \$27,648.32, respectively, into the municipality's Liquid Fuels Tax Fund in error. On October 21, 2009, the municipality transferred \$31,288.20 from its Liquid Fuels Tax Fund to its General Fund to correct the deposits in error.

7. Lease-Purchase Agreement

On June 28, 2011, the municipality purchased a 2011 John Deere backhoe/loader for \$78,910.90. The municipality received a trade-in allowance of \$17,500.00 and entered into a lease-purchase agreement with John Deere Credit to finance to the remaining \$61,410.90. The agreement was for a term of six years at an interest rate of 3.80 percent. Principal and interest payments of \$11,663.99 are due annually, plus a \$1.00 buyout. The total amount to be repaid, including principal and interest, is \$69,984.94.

During the current examination period the municipality paid principal and interest of \$23,327.98 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2012 and 2013 Forms MS-965 - Section 1. The outstanding balance of the lease-purchase agreement as of December 31, 2013 was \$46,656.96, plus interest.

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2013

**Finding - Nonpermissible Expenditures**

Our examination disclosed that the municipality expended \$730.05 for payroll expenditures for the pay period ending July 30, 2010 from the Liquid Fuels Tax Fund for work done in parks and a public pool, which are nonpermissible expenditures.

The Liquid Fuels Tax Municipal Allocation Law, 72 P.S. § 2615.4, provides, in part, that monies herein allocated may be used only for construction, reconstruction, maintenance, and repairs of such public roads or streets, including bridges, culverts and drainage structures, for which they are legally responsible. Also permitted are expenditures involving acquisition, maintenance, repairs and operation of street signs, traffic signs, traffic signal control systems, road equipment, and snow fences.

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including payroll expenditures on public parks and pools, are outside the scope of permissible expenditures.

The failure to follow the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations as noted above could result in the municipality having to reimburse \$730.05 to its Liquid Fuels Tax Fund.

A similar finding was also written in our prior examination; however, we did not note any nonpermissible expenditures made during 2011, 2012, and 2013.

**Recommendations**

We recommend that the municipality reimburse \$730.05 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality continue to comply with the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations regarding permissible expenditures.

**Management's Response**

The municipal officials stated:

The error on the \$730.05 was a computer input error that was caused by inputting the wrong account for parks general fund vs. road work state fund.

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2013

**Finding - Nonpermissible Expenditures (Continued)**

Auditor's Conclusion

The municipality should review all payroll entries to ensure they are charged to the correct account. During our next examination we will determine if the municipality complied with our recommendations.

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
COMMENT  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2013

Comment - Summary Of Prior Examination Recommendations

In our prior report we noted that the municipality expended \$1,688.78 in 2008 from the Liquid Fuels Tax Fund for superpave that was used to pave a municipal supervisor's driveway, which is a nonpermissible expenditure.

During our current examination we noted the municipality transferred \$1,688.78 from its General Fund to its Liquid Fuels Tax Fund for the reimbursement of this expenditure on January 8, 2009. This amount had already been reimbursed to the General Fund by the supervisor whose driveway was paved.

Additionally, in our prior report we recommended that the Department of Transportation review our examination findings to determine if the municipality should reimburse \$129,167.91 to its Liquid Fuels Tax Fund. This amount consists of \$96,650.61 for fraudulent payroll records prepared by a municipal supervisor, \$21,507.46 for failing to maintain documentation for price quotations, and \$11,009.84 for the purchase of paving materials without advertising for bids.

During our current examination we reviewed a letter dated November 8, 2010, from the Department of Transportation informing the municipality to reimburse \$32,517.30 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on December 8, 2010. As of the date of this report the Department of Transportation had not determined if the reimbursement of \$96,650.61 would be required.

We further noted that on April 10, 2013, the Pennsylvania State Ethics Commission issued a final adjudication regarding one of the township supervisor's violations of the Ethics Law. Per the Consent Agreement of the parties, the supervisor was directed to make payment of \$3,399.50 as follows: \$1,000.00 payable to the Township of Blackcreek, \$1,250.00 to the Commonwealth of Pennsylvania, and \$1,149.50 payable to the Pennsylvania State Ethics Commission.

In our prior report we also recommended:

- That the municipality ensure good internal control over payroll by maintaining accurate daily time sheets that identify the nature of work performed and the location of work assignments.
- That the municipality complies with *The Second Class Township Code* and the Department of Transportation's *Publication 9* by maintaining documentation for price quotations for purchases between \$4,000.00 and \$10,000.00. The thresholds for obtaining price quotations increased to purchases between \$10,000.00 and \$18,500.00 for 2012, \$10,200.00 and \$18,900.00 for 2013, and \$10,300.00 and \$19,100.00 for 2014.

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
COMMENT  
FOR THE YEARS ENDED  
DECEMBER 31, 2013

Comment - Summary Of Prior Examination Recommendations (Continued)

- That the municipality complies with *The Second Class Township Code* and the Department of Transportation's *Publication 9* by advertising for all purchases over \$10,000.00. The thresholds for advertising and bidding increased to purchases over \$18,500 for 2012, \$18,900.00 for 2013, and \$19,100.00 for 2014.

During our current examination we noted that the municipality complied with our recommendations.

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF EXIT CONFERENCE  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2013

An exit conference was held April 2, 2014. Those participating were:

TOWNSHIP OF BLACK CREEK

The Honorable Bonnie Adams, Chairman of the Board of Supervisors  
The Honorable Dennis D. Feerrar, Supervisor/Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Raymond J. Insalaco, Auditor  
Mr. Martin Lawler, Audit Supervisor

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



TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2013

This report was initially distributed to:

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

Township of Black Creek  
Luzerne County  
1330 Park Street  
Rock Glenn, PA 18246

The Honorable Bonnie Adams	Chairman of the Board of Supervisors
The Honorable Joseph Lescowitch	Supervisor
The Honorable Dennis D. Feerrar	Supervisor/Secretary/Treasurer

This report is a matter of public record and is available online at <http://www.auditorgen.state.pa.us>. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: [news@auditorgen.state.pa.us](mailto:news@auditorgen.state.pa.us).