



TOWNSHIP OF SALEM
LUZERNE COUNTY
40-228

LIQUID FUELS TAX FUND
EXAMINATION REPORT

FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL





Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen

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 Salem, Luzerne County, for the period January 1, 2011 to December 31, 2012. 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 Salem, Luzerne County's Forms MS-965 for the period January 1, 2011 to December 31, 2012 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 Findings and Recommendations and Comment section of this report:

- The municipality expended \$18,500.00 during 2012 from the Liquid Fuels Tax Fund for the dredging of mud from Swamp Creek, which is a nonpermissible expenditure (Finding No. 1).
- The municipality expended \$10,242.50 during 2011 from the Liquid Fuels Tax Fund for the purchase of CRS-2 road oil without advertising for bids (Finding No. 2).
- The municipality expended \$4,200.69 during 2011 from the Liquid Fuels Tax Fund in excess of the approved amount for street lighting costs (Finding No. 3).
- The municipality expended \$750.00 during 2011 from the Liquid Fuels Tax Fund for a used plow and a used trailer from a business owned by a township supervisor (Finding No. 4).
- In our prior examination period the municipality expended \$8,160.00 from its Liquid Fuels Tax Fund without maintaining documentation for price quotations. As of the date of this report the municipality had not reimbursed this amount to the Liquid Fuels Tax Fund (Comment).

In our opinion, except for the bulleted items discussed above, 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 Salem, Luzerne County, for the period January 1, 2011 to December 31, 2012, 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.

Independent Auditor's Report (Continued)

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the Township of Salem, 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 Salem, Luzerne County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Township of Salem, 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 Salem, 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.

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

- Nonpermissible Expenditure.
- Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements.
- Overexpenditure Of Street Lighting Costs.
- 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 Salem, Luzerne County, and is not intended to be and should not be used by anyone other than these specified parties.



EUGENE A. DEPASQUALE
Auditor General

July 25, 2013

CONTENTS

	<u>Page</u>
Background.....	1
Financial Section:	
2011 Form MS-965 With Adjustments	2
2012 Form MS-965 With Adjustments	5
Notes To Forms MS-965 With Adjustments.....	8
Findings And Recommendations:	
Finding No. 1 - Nonpermissible Expenditure.....	14
Finding No. 2 - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements	15
Finding No. 3 - Overexpenditure Of Street Lighting Costs	18
Finding No. 4 - Related Party Transactions	20
Comment.....	23
Summary Of Exit Conference.....	24
Report Distribution	25

TOWNSHIP OF SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

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 SALEM
 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	\$ 4,211.81	\$ -	\$ 4,211.81
Minor equipment purchases	6,249.00	-	6,249.00
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	9,588.06	-	9,588.06
Traffic control devices	2,343.63	(99.00)	2,244.63
Street lighting	17,085.35	-	17,085.35
Storm sewers and drains	1,313.96	-	1,313.96
Repairs of tools and machinery	20,948.63	29.50	20,978.13
Maintenance and repair of roads and bridges	112,360.92	-	112,360.92
Highway construction and rebuilding projects	86,731.44	-	86,731.44
Miscellaneous (Bank service charges)	-	112.17	112.17
 Total (To Section 2, Line 5)	 <u>\$ 260,832.80</u>	 <u>\$ 42.67</u>	 <u>\$ 260,875.47</u>

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

TOWNSHIP OF SALEM
 LUZERNE 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	\$ 286,457.61	\$ 27.00	\$ 286,484.61
Receipts:			
2. State allocation	133,246.57	-	133,246.57
2a. Turnback allocation	31,240.00	-	31,240.00
2b. Interest on investments (Note 3)	3,010.48	204.40	3,214.88
2c. Miscellaneous (Note 5)	632.52	5,317.54	5,950.06
3. Total receipts	<u>168,129.57</u>	<u>5,521.94</u>	<u>173,651.51</u>
4. Total funds available	<u>454,587.18</u>	<u>5,548.94</u>	<u>460,136.12</u>
5. Expenditures (Section 1)	<u>260,832.80</u>	<u>42.67</u>	<u>260,875.47</u>
6. Balance, December 31, 2011	<u><u>\$ 193,754.38</u></u>	<u><u>\$ 5,506.27</u></u>	<u><u>\$ 199,260.65</u></u>

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

TOWNSHIP OF SALEM
 LUZERNE 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	\$ 11,052.20	\$ 67,587.44	\$ 78,639.64
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	32,897.31	-	32,897.31
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	43,949.51	67,587.44	111,536.95
5. Less: Major equipment expenditures	4,211.81	-	4,211.81
6. Remainder	<u>39,737.70</u>	<u>67,587.44</u>	<u>107,325.14</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 39,737.70</u>	<u>\$ 67,587.44</u>	<u>\$ 107,325.14</u>

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

TOWNSHIP OF SALEM
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 2012 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	1,451.90	-	1,451.90
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	1,390.90	-	1,390.90
Traffic control devices	1,012.00	-	1,012.00
Street lighting	-	-	-
Storm sewers and drains	11,690.00	-	11,690.00
Repairs of tools and machinery	17,380.22	-	17,380.22
Maintenance and repair of roads and bridges	50,155.91	-	50,155.91
Highway construction and rebuilding projects	314,015.70	-	314,015.70
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 397,096.63</u>	 <u>\$ -</u>	 <u>\$ 397,096.63</u>

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

TOWNSHIP OF SALEM
 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	\$ 199,260.65	\$ -	\$ 199,260.65
Receipts:			
2. State allocation	135,527.33	-	135,527.33
2a. Turnback allocation	31,240.00	-	31,240.00
2b. Interest on investments (Note 3)	557.65	-	557.65
2c. Miscellaneous (Note 5)	93,396.82	-	93,396.82
3. Total receipts	<u>260,721.80</u>	<u>-</u>	<u>260,721.80</u>
4. Total funds available	<u>459,982.45</u>	<u>-</u>	<u>459,982.45</u>
5. Expenditures (Section 1)	<u>397,096.63</u>	<u>-</u>	<u>397,096.63</u>
6. Balance, December 31, 2012	<u><u>\$ 62,885.82</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 62,885.82</u></u>

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

TOWNSHIP OF SALEM
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 2012 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	\$ 39,737.70	\$ 67,587.44	\$ 107,325.14
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	33,353.47	-	33,353.47
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	73,091.17	67,587.44	140,678.61
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>73,091.17</u>	<u>67,587.44</u>	<u>140,678.61</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 62,885.82</u>	<u>\$ -</u>	<u>\$ 62,885.82</u>

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

TOWNSHIP OF SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

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 prior to 2012 and in excess of \$10,000.00 during 2012 and subsequent years.
- Minor equipment purchases are purchases of road machinery and road equipment that cost \$4,000.00 or less prior to 2012 and \$10,000.00 or less during 2012 and subsequent years.
- 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.

TOWNSHIP OF SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

1. Criteria (Continued)

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.

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 SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

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

There were no deposits exposed to custodial credit risk as of December 31, 2012. 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 SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

2. Deposits (Continued)

Fund Balance

The fund balance as of December 31, 2012 consists of the following:

Cash	\$62,885.82
------	-------------

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$3,214.88 during 2011, and \$557.65 during 2012, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2011 - Section 1

An adjustment of \$(99.00) was made to "Traffic control devices" because these expenditures were overstated.

An adjustment of \$29.50 was made to "Repairs of tools and machinery" because these expenditures were understated.

An adjustment of \$112.17 was made to "Miscellaneous" because bank service charges were not reported.

2011 - Section 2

An adjustment of \$27.00 was made to "Balance, January 1, 2011" because an incorrect fund balance was reported.

An adjustment of \$204.40 was made to "Interest on investments" because interest earnings were understated.

An adjustment of \$5,317.54 was made to "Miscellaneous" because these receipts were understated.

TOWNSHIP OF SALEM
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 NOTES TO FORMS MS-965 WITH ADJUSTMENTS
 FOR THE PERIOD
 JANUARY 1, 2011 TO DECEMBER 31, 2012

4. Adjustments (Continued)

2011 - Section 3

An adjustment of \$67,587.44 was made to “Prior year equipment balance” because an incorrect equipment fund balance was reported.

2012 - Section 3

An adjustment of \$67,587.44 was made to “Prior year equipment balance” to reflect the adjustment made to the equipment balance in 2011 - Section 3.

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>2011</u>	<u>2012</u>
Vendor	Refund of overpayments (Note 6)	\$ 632.52	\$ 774.14
General Fund	Reimbursement for engineering fees	4,425.00	-
General Fund	Reimbursement for advertising costs	742.54	-
General Fund	Reimbursement for legal fees	150.00	-
Insurance company	Reimbursement for damages to truck	-	2,526.61
General Fund	Reimbursement for project No. 11-40-228-03	-	84,349.63
P.E.M.A.	Severe weather assistance	-	5,746.44
		<u>\$5,950.06</u>	<u>\$93,396.82</u>
Total			

TOWNSHIP OF SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

6. Overpayment Of Invoices

On February 7, 2011, the municipality expended \$1,379.52 from the Liquid Fuels Tax Fund to pay vendor invoice No. 19765 for repairs to a truck. However, the amount of the invoice was only \$747.00. On June 22, 2011, the municipality deposited \$632.52 into its Liquid Fuels Tax Fund that was received from the vendor to correct the overpayment of the invoice.

On December 12, 2011, the municipality expended \$1,149.65 from the Liquid Fuels Tax Fund to pay vendor invoice No. 68242 for the purchase of parts for a truck. However, the amount of the invoice was only \$375.51. On March 16, 2012, the municipality deposited \$774.14 into its Liquid Fuels Tax Fund that was received from the vendor to correct the overpayment of the invoice.

TOWNSHIP OF SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

Finding No. 1 - Nonpermissible Expenditure

Our examination disclosed that the municipality expended \$18,500.00 during 2012 from the Liquid Fuels Tax Fund for the dredging of mud from Swamp Creek, which is a nonpermissible expenditure.

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

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including dredging mud from a creek, 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 \$18,500.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$18,500.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

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

Management's Response

The municipal officials offered no formal response at this time.

TOWNSHIP OF SALEM
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 FINDINGS AND RECOMMENDATIONS
 FOR THE PERIOD
 JANUARY 1, 2011 TO DECEMBER 31, 2012

Finding No. 2 - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements

Our examination disclosed that the township expended \$10,242.50 during 2011 from the Liquid Fuels Tax Fund for the purchase of CRS-2 road oil without advertising for bids. These expenditures were as follows:

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Invoice Amount</u>
16579	04/16/11	2364	04/27/11	\$ 1,530.00
16779	05/14/11	2379	05/27/11	1,650.00
16966	05/28/11	2385	06/06/11	1,530.00
17198	06/18/11	2394	06/27/11	705.00
17219	06/25/11	2402	07/08/11	705.00
Various	Various	2408	08/05/11	1,410.00
18089	08/20/11	2421	09/02/11	705.00
18518	10/08/11	2452	10/17/11	<u>2,007.50</u>
Total				<u>\$10,242.50</u>

The above expenditures were not made in compliance with the advertising, bidding, and contract requirements of *The Second Class Township Code*, 53 P.S. § 68102(a), (also found at § 3102(a) of *The Second Class Township Code* as published by the Local Government Commission), which requires that purchases over \$10,000.00 must be advertised, bid, and awarded by contract. *The Second Class Township Code*, 53 P.S. § 68104(a), (also found at § 3104(a) of *The Second Class Township Code* as published by the Local Government Commission) further states that advertising, bidding and contract requirements should not be evaded through piecemeal purchases.

TOWNSHIP OF SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

Finding No. 2 - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements (Continued)

In addition, the above expenditures were not made in compliance with the Department of Transportation's *Publication 9*, Appendix D, Section 449.7(d), which states, in part:

Each municipality shall make an annual estimate of its requirements of road construction and maintenance materials, and shall advertise for bids on all items and groups of like items ordinarily supplied by a single supplier . . . which are estimated to exceed \$10,000 for the year If the cost during the year of an unadvertised item or group of like items ordinarily supplied by a single supplier exceeds \$10,000 . . . the entire cost shall be ineligible for payment from the Liquid Fuels Tax Fund unless it can be shown to the satisfaction of the Secretary [of the Department of Transportation] that it was reasonably believed that the cost of the year's requirements of that item or group of like items would not exceed \$10,000 . . .

The failure to comply with *The Second Class Township Code* and the Department of Transportation's *Publication 9* could result in the township having to reimburse \$10,242.50 to its Liquid Fuels Tax Fund.

During 2012 the township advertised for bids when required.

Recommendations

We recommend that the township reimburse \$10,242.50 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the township continue to comply with *The Second Class Township Code* and the Department of Transportation's *Publication 9* as noted in this finding. The thresholds for advertising and bidding increased to \$18,500.00 in 2012, \$18,900.00 for 2013, and \$19,100.00 for 2014.

TOWNSHIP OF SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

Finding No. 2 - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements (Continued)

Management's Response

The manager/treasurer stated:

I was not employed as the township treasurer in 2011.

Auditor's Conclusion

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

TOWNSHIP OF SALEM
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 FINDINGS AND RECOMMENDATIONS
 FOR THE PERIOD
 JANUARY 1, 2011 TO DECEMBER 31, 2012

Finding No. 3 - Overexpenditure Of Street Lighting Costs

Our examination disclosed that the township expended \$4,200.69 during 2011 from the Liquid Fuels Tax Fund in excess of the approved amount for street lighting costs.

The Second Class Township Code, 53 P.S. § 68205(a)(2), or § 3205(a)(2) of *The Second Class Township Code* as published by the Local Government Commission provides, in part, for “An annual tax not exceeding five mills to light the highway, roads and other public places in the township.”

We noted that the township had levied a real estate tax assessment of 0.224 mills, of which .0900 mills was imposed for street lighting costs for all properties within 250 feet of a street light.

The Department of Transportation’s Regulations permit only those street lighting expenditures in excess of the tax actually collected for street lighting to be expended from the Liquid Fuels Tax Fund.

Our calculations are as follows:

2011 street lighting costs	\$23,344.90
2011 taxes collected for street lighting	<u>(10,460.24)</u>
Permissible amount to be paid from liquid fuels	12,884.66
Less – Amount expended from liquid fuels	<u>(17,085.35)</u>
Overexpenditure – 2011	<u><u>\$(4,200.69)</u></u>

The failure to follow *The Second Class Township Code* and the Department of Transportation’s Regulations as noted above could result in the township having to reimburse \$4,200.69 to its Liquid Fuels Tax Fund.

During 2012, the township did not expend Liquid Fuels Tax Fund money for street lighting costs.

TOWNSHIP OF SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

Finding No. 3 - Overexpenditure Of Street Lighting Costs (Continued)

Recommendations

We recommend that the township reimburse \$4,200.69 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the township continue to follow the Department of Transportation's Regulations by limiting their street lighting expenditures from the Liquid Fuels Tax Fund only to lighting costs which exceed the tax amount collected for street lighting.

Management's Response

The manager/treasurer stated:

I was not employed as the township treasurer in 2011.

Auditor's Conclusion

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

TOWNSHIP OF SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

Finding No. 4 - Related Party Transactions

Our examination disclosed that the township expended \$750.00 during 2011 from the Liquid Fuels Tax Fund for a used plow and a used trailer. These purchases were made from a company that was owned by a township supervisor. Due to the supervisor'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 employee 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 employee 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 SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

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 \$750.00 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.

Recommendations

We recommend that the township reimburse \$750.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

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

Management’s Response

The manager/treasurer stated:

The township supervisor did abstain from voting and submitted paperwork of fair market value on one of the two purchases.

TOWNSHIP OF SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

Finding No. 4 - Related Party Transactions (Continued)

Auditor's Conclusion

Although the township supervisor did abstain from voting, *The Second Class Township Code* and the Ethics Act require contracts involving related parties to be bid through the public bid process. The public bid process requires the township to advertise for bids. The township did not advertise for bids for the plow and trailer. During our next examination we will determine if the municipality complied with our recommendations.

TOWNSHIP OF SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
COMMENT
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

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 municipality should reimburse \$8,160.00 to its Liquid Fuels Tax Fund for failure to maintain documentation for price quotations.

During our current examination we reviewed a letter dated May 28, 2013, from the Department of Transportation informing the municipality to reimburse \$8,160.00 to its Liquid Fuels Tax Fund. As of the date of this report, the municipality had not reimbursed this amount to its Liquid Fuels Tax Fund.

In our prior report we also recommended:

- That the municipality comply with the Commonwealth of Pennsylvania Management Directive 210.11 by obtaining images of both the front and back of canceled checks from its financial institution.
- That the municipality comply with *The Second Class Township Code* and the Department of Transportation's *Publication 9* by obtaining price quotations for all 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 during 2012, \$10,200.00 and \$18,900.00 during 2013, and \$10,300.00 and \$19,100.00 during 2014.

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

TOWNSHIP OF SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

An exit conference was held July 25, 2013. Those participating were:

TOWNSHIP OF SALEM

Mrs. Vicki A. Moyer, Former Manager/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Robert A. Bauder, Auditor

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

TOWNSHIP OF SALEM
LUZERNE COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

This report was initially distributed to:

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

Mr. Rob Caruso
Executive Director
Pennsylvania State Ethics Commission

Township of Salem
Luzerne County
30 Bomboy Lane
Berwick, PA 18603

The Honorable Joshua Kishbaugh

Chairman of the Board of Supervisors

Mrs. Judy Boudman

Manager

This report is a matter of public record and is available online at 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.