



**BOROUGH OF STILLWATER
COLUMBIA COUNTY
19-409**

**LIQUID FUELS TAX FUND
EXAMINATION REPORT**

**FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012**

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE 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 Borough of Stillwater, Columbia County, for the period January 1, 2010 to December 31, 2012. The borough'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 Borough of Stillwater, Columbia County's Forms MS-965 for the period January 1, 2010 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 Finding No. 1, 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 sections of this report:

- The borough expended \$1,500.00 during 2012 from the Liquid Fuels Tax Fund for cinders which were not certified by the Department of Transportation (Finding No. 2).
- The borough expended \$818.45 during 2011 from the Liquid Fuels Tax Fund for various parts, repairs, and maintenance of borough trucks to a business owned by the Council President (Finding No. 3).
- During our prior examination period the borough expended \$1,776.02 from its Liquid Fuels Tax Fund for related party transactions. This amount was reimbursed to its Liquid Fuels Tax Fund on April 15, 2013, which was subsequent to our examination period (Comment).

In our opinion, except for bulleted items 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 Borough of Stillwater, Columbia County, for the period January 1, 2010 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.

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 Borough of Stillwater, Columbia 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 Borough of Stillwater, Columbia County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Borough of Stillwater, Columbia County's internal control.

Independent Auditor's Report (Continued)

We consider the deficiency described in the finding below to be a significant deficiency in internal control over reporting on the Forms MS-965:

- Failure To Properly Prepare Forms MS-965.

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 Borough of Stillwater, Columbia County's internal control. Our consideration of the internal control over reporting on the Forms MS-965 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, we believe that the significant deficiency described above is a material weakness.

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

- Purchase of Uncertified Cinders.
- Related Party Transactions.
- Non-Receipt Of Allocation.
- Payroll Taxes Not Remitted To Proper Authorities.

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



May 6, 2014

EUGENE A. DEPASQUALE
Auditor General

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BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2010 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.

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
2010 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ 5,000.00	\$ -	\$ 5,000.00
Minor equipment purchases	243.80	-	243.80
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	1,923.98	-	1,923.98
Traffic control devices	125.34	-	125.34
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	1,897.74	1.57	1,899.31
Maintenance and repair of roads and bridges	783.60	-	783.60
Highway construction and rebuilding projects	-	-	-
Miscellaneous (Bank service charges)	1.57	(1.57)	-
 Total (To Section 2, Line 5)	 <u>\$ 9,976.03</u>	 <u>\$ -</u>	 <u>\$ 9,976.03</u>

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

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
2010 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2010	\$ 15,336.86	\$ -	\$ 15,336.86
Receipts:			
2. State allocation	17,592.79	-	17,592.79
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	91.17	-	91.17
2c. Miscellaneous (Note 4)	-	90.54	90.54
3. Total receipts	<u>17,683.96</u>	<u>90.54</u>	<u>17,774.50</u>
4. Total funds available	<u>33,020.82</u>	<u>90.54</u>	<u>33,111.36</u>
5. Expenditures (Section 1)	<u>9,976.03</u>	<u>-</u>	<u>9,976.03</u>
6. Balance, December 31, 2010	<u><u>\$ 23,044.79</u></u>	<u><u>\$ 90.54</u></u>	<u><u>\$ 23,135.33</u></u>

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

BOROUGH OF STILLWATER
COLUMBIA 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	\$ 6,397.72	\$ -	\$ 6,397.72
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	3,518.56	-	3,518.56
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	9,916.28	-	9,916.28
5. Less: Major equipment expenditures	5,000.00	-	5,000.00
6. Remainder	<u>4,916.28</u>	<u>-</u>	<u>4,916.28</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 4,916.28</u>	<u>\$ -</u>	<u>\$ 4,916.28</u>

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

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
2011 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ 4,000.00	\$ -	\$ 4,000.00
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	600.57	-	600.57
Traffic control devices	-	-	-
Street lighting	46.84	-	46.84
Storm sewers and drains	-	-	-
Repairs of tools and machinery	5,439.76	-	5,439.76
Maintenance and repair of roads and bridges	4,008.79	(484.73)	3,524.06
Highway construction and rebuilding projects	-	-	-
Miscellaneous (Bank service charges)	-	5.00	5.00
	<u> </u>	<u> </u>	<u> </u>
Total (To Section 2, Line 5)	<u>\$ 14,095.96</u>	<u>\$ (479.73)</u>	<u>\$ 13,616.23</u>

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

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
2011 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2011	\$ 23,044.79	\$ 90.54	\$ 23,135.33
Receipts:			
2. State allocation	17,998.93	-	17,998.93
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	86.32	-	86.32
2c. Miscellaneous (Note 4)	-	750.00	750.00
3. Total receipts	<u>18,085.25</u>	<u>750.00</u>	<u>18,835.25</u>
4. Total funds available	<u>41,130.04</u>	<u>840.54</u>	<u>41,970.58</u>
5. Expenditures (Section 1)	<u>14,095.96</u>	<u>(479.73)</u>	<u>13,616.23</u>
6. Balance, December 31, 2011	<u>\$ 27,034.08</u>	<u>\$ 1,320.27</u>	<u>\$ 28,354.35</u>

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

BOROUGH OF STILLWATER
COLUMBIA 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	\$ 4,916.28	\$ -	\$ 4,916.28
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	3,599.79	-	3,599.79
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	8,516.07	-	8,516.07
5. Less: Major equipment expenditures	4,000.00	-	4,000.00
6. Remainder	<u>4,516.07</u>	<u>-</u>	<u>4,516.07</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 4,516.07</u>	<u>\$ -</u>	<u>\$ 4,516.07</u>

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

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
2012 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ 4,000.00	\$ -	\$ 4,000.00
Minor equipment purchases	-	-	-
Computer/Computer related training	490.44	317.97	808.41
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	1,977.82	-	1,977.82
Traffic control devices	554.30	-	554.30
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	5,315.79	271.65	5,587.44
Maintenance and repair of roads and bridges	13,083.01	(673.18)	12,409.83
Highway construction and rebuilding projects	-	-	-
Miscellaneous (Note 5)	-	1,029.85	1,029.85
	<u>-</u>	<u>1,029.85</u>	<u>1,029.85</u>
Total (To Section 2, Line 5)	<u>\$ 25,421.36</u>	<u>\$ 946.29</u>	<u>\$ 26,367.65</u>

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

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
2012 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2012	\$ 18,645.00	\$ 9,709.35	\$ 28,354.35
Receipts:			
2. State allocation	18,686.00	(18,686.00)	-
2a. Turnback allocation (Finding No. 4)	-	-	-
2b. Interest on investments (Note 3)	26.14	-	26.14
2c. Miscellaneous (Note 4)	-	5,804.18	5,804.18
3. Total receipts	<u>18,712.14</u>	<u>(12,881.82)</u>	<u>5,830.32</u>
4. Total funds available	<u>37,357.14</u>	<u>(3,172.47)</u>	<u>34,184.67</u>
5. Expenditures (Section 1)	<u>25,421.36</u>	<u>946.29</u>	<u>26,367.65</u>
6. Balance, December 31, 2012	<u>\$ 11,935.78</u>	<u>\$ (4,118.76)</u>	<u>\$ 7,817.02</u>

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

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
2012 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 4,516.07	\$ -	\$ 4,516.07
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	3,737.20	(3,737.20)	-
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	8,253.27	(3,737.20)	4,516.07
5. Less: Major equipment expenditures	<u>-</u>	<u>4,000.00</u>	<u>4,000.00</u>
6. Remainder	<u>8,253.27</u>	<u>(7,737.20)</u>	<u>516.07</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 8,253.27</u>	<u>\$ (7,737.20)</u>	<u>\$ 516.07</u>

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

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2010 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.

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2010 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.

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2010 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 Borough Code, Title 53 P.S § 46316, authorizes the borough 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.

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

2. Deposits (Continued)

Fund Balance

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

Cash	<u><u>\$7,817.02</u></u>
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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 \$91.17 during 2010, \$86.32 during 2011, and \$26.14 during 2012, thus providing additional funds for road maintenance and repairs.

4. Miscellaneous Receipts

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

Source	Description	2010	2011	2012
General Fund	Deposits in error (Note 6)	\$90.54	\$750.00	\$ 974.85
Financial institution	Refund for bank service charges	-	-	45.00
General Fund	Grant	-	-	4,523.81
General Fund	Refund for loan overpayment	-	-	260.52
	Total	<u><u>\$90.54</u></u>	<u><u>\$750.00</u></u>	<u><u>\$5,804.18</u></u>

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

5. Miscellaneous Expenditures

The following miscellaneous expenditures were paid from the Liquid Fuels Tax Fund during the examination period:

<u>Payee</u>	<u>Description</u>	<u>2012</u>
Financial institution	Deposit in error (Note 6)	\$ 974.85
Financial institution	Bank service charges	55.00
	Totals	<u>\$1,029.85</u>

6. Deposits In Error

Our examination disclosed that the municipality deposited \$90.54 on May 5, 2010, \$750.00 on December 30, 2011, and \$974.85 on May 2, 2012 into its Liquid Fuels Tax Fund in error. On May 3, 2012 the municipality transferred \$974.85 from its Liquid Fuels Tax Fund to its General Fund to correct the deposit in error that occurred on May 2, 2012.

7. Bank Loan

On May 3, 2007, the municipality borrowed \$28,500.00 from Columbia County Farmers National Bank to purchase a Kubota front loader/mower. The term of the loan was for five years at an interest rate of 4.5 percent. Principal payments of \$5,700.00, plus interest, are due annually. Prior years' principal payments from the Liquid Fuels Tax Fund were \$8,000.00. Additionally, the municipality paid principal of \$3,400.00 and interest of \$2,346.97 from the General Fund.

During the current examination period the municipality paid principal of \$13,000.00 from the Liquid Fuels Tax Fund. This amount is reflected in major equipment purchases on the 2010, 2011, and 2012 Forms MS-965 - Section 1. Additionally, the municipality paid principal of \$4,100.00 and interest of \$1,826.33 from the General Fund. The loan was paid-in-full on May 3, 2012.

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Finding No. 1 - Failure To Properly Prepare Forms MS-965

Our examination disclosed that there were numerous errors made in the preparation of the municipality's 2010, 2011, and 2012 Forms MS-965. These adjustments are as follows:

2010 - Section 1

- Adjustments were made to "Repairs of tools and machinery" and "Miscellaneous" because expenditures of \$1.57 were misclassified.

2010 - Section 2

- An adjustment of \$90.54 was made to "Miscellaneous" because these receipts were not reported.

2011 - Section 1

- An adjustment of \$(484.73) was made to "Maintenance and repair of roads and bridges" because check No. 1907 was voided but was included as an expenditure.
- An adjustment of \$5.00 was made to "Miscellaneous" because bank service charges were not reported.

2011 - Section 2

- An adjustment of \$90.54 was made to "Balance, January 1, 2011" to reflect the adjustment made to the fund balance in 2010 - Section 2.
- An adjustment of \$750.00 was made to "Miscellaneous" because these receipts were not reported.

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Finding No. 1 - Failure To Properly Prepare Forms MS-965 (Continued)

2012 - Section 1

- An adjustment of \$317.97 was made to “Computer/Computer related training” because check No. 1953 was not reported.
- An adjustment of \$271.65 was made to “Repairs of tools and machinery” because check No. 1920 for \$59.40 and check No. 1921 for \$212.25 were not reported.
- An adjustment of \$(673.18) was made to “Maintenance and repair of roads and bridges” because check No. 1952 for \$376.90 was voided but was included as an expenditure and check No. 1955 was reported as \$594.50 but was issued for \$298.22.
- An adjustment of \$1,029.85 was made to “Miscellaneous” because these expenditures were not reported.

2012 - Section 2

- An adjustment of \$9,709.35 was made to “Balance, January 1, 2012” because an incorrect fund balance was reported.
- An adjustment of \$(18,686.00) was made to “State allocation” because the municipality did not receive this allocation (see Finding No. 4).
- An adjustment of \$5,804.18 was made to “Miscellaneous” because these receipts were not reported.

2012 - Section 3

- An adjustment of \$(3,737.20) was made to “Current year equipment allocation” because the state allocation from 2012 - Section 2, which is used to calculate this figure, was not received.
- An adjustment of \$4,000.00 was made to “Major equipment expenditures” because major equipment purchases were not reported.

BOROUGH OF STILLWATER
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LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
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Finding No. 1 - Failure To Properly Prepare Forms MS-965 (Continued)

Good internal controls ensure that the municipality complete its Forms MS-965 accurately and completely. The failure to properly complete Forms MS-965 increases the risk that errors or misappropriations may occur and remain undetected.

Recommendation

We recommend that the municipality ensure that its Forms MS-965 are complete and accurate.

Management's Response

The municipal officials offered no formal response at this time.

Auditor's Conclusion

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

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
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Finding No. 2 - Purchase Of Uncertified Cinders

Our examination disclosed that the municipality expended \$1,500.00 during 2012 from the Liquid Fuels Tax Fund for cinders. However, the cinders were not certified by the materials unit of the Department of Transportation.

The above purchases were not made in compliance with the Department of Transportation's *Publication 408*, Section 106.02(a), which states:

Have the source of the material approved before delivery to a project.

The failure to follow the Department of Transportation's *Publication 408* as noted above could result in the municipality having to reimburse \$1,500.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$1,500.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality comply with the Department of Transportation's *Publication 408* regarding permissible expenditures.

Management's Response

The municipal officials offered no formal response at this time.

Auditor's Conclusion

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

BOROUGH OF STILLWATER
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Finding No. 3 - Related Party Transactions

Our examination disclosed that the municipality expended \$818.45 during 2011 from the Liquid Fuels Tax Fund for various parts, repairs, and maintenance of borough trucks. The Council President is the owner of the garage. Due to the Council President's financial interest in the company and the lack of an open and public award process, these contracts appear to violate *The Borough Code* and The Public Official and Employee Ethics Act. Therefore, they should not have been entered into by the township.

The Borough Code, 53 P.S. § 46404, as amended, states, in part:

. . . no municipality official, either elected or appointed, or township employe who knows, or who by the exercise of reasonable diligence could know, shall be interested to any appreciable degree, either directly or indirectly, in any purchase made or contract entered into or expenditure of money made by the municipality or relating to the business of the municipality, involving the expenditure by the municipality of more than one thousand dollars (\$1,000.00) in any calendar year, but this limitation shall not apply to cases where such officer or appointee of the municipality is an employe of the person, firm or corporation to which the money is to be paid in a capacity with no possible influence on the transaction and in which he cannot be possibly benefited thereby either financially or otherwise. But in the case of a councilman or mayor, if he knows that he is within the exception just mentioned he shall so inform council and shall refrain from voting on the expenditure or any ordinance relating thereto, and shall in no manner participate therein. . . .

This information is also published in § 1404 of *The Borough Code* as published by the Local Government Commission.

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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Finding No. 3 - 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 Borough Code* and the Ethics Act the municipality could be required by the Pennsylvania Department of Transportation to reimburse \$818.45 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.

A similar finding was written in our prior report. However, the borough made no related party transactions over \$500.00 during 2012.

Recommendations

We recommend that the municipality reimburse \$818.45 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We recommend that, in the future, the municipality continue to comply with *The Borough Code* and the Ethics Act.

Management’s Response

The municipal officials offered no formal response at this time.

Auditor’s Conclusion

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

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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Finding No. 4 - Non-Receipt Of Allocation

Our examination disclosed that the 2012 Liquid Fuels Tax Fund allocation of \$18,686.00, which should have been distributed from the Department of Transportation to the municipality during the first week of April of that year was not received, because the municipality failed to comply with the Department of Transportation's *Publication 9*, Chapter Two, Section 2.4, which states:

To qualify for the annual liquid fuels tax allocation, a municipality shall:

- Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks).
- Make deposits and payments or expenditures in compliance with the Act 655. Failure to do so may result in not receiving allocations from PENNDOT until all discrepancies are resolved.
- Submit the Pennsylvania Department of Community and Economic Development's (DCED) Report of Elected and Appointed Officials by January 31st and the Survey of Financial Condition by March 15th.
- Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.

Because the municipality failed to file documents and information timely as noted above, the municipality did not have use of the allocation. Furthermore, had the allocation been received timely, money may have been available for investment purposes, potentially earning interest income which could have been used for road maintenance and repairs.

Recommendation

We recommend that, in the future, the municipality comply with the Department of Transportation's *Publication 9* to ensure that the allocations are received during the first week in April as outlined above.

Management's Response

The municipal officials offered no formal response at this time.

BOROUGH OF STILLWATER
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Finding No. 5 - Payroll Taxes Not Remitted To Proper Authorities

Our examination disclosed that the municipality paid \$1,989.46 for payroll during 2012 from its Liquid Fuels Tax Fund. However, the municipality failed to remit payroll taxes withheld for federal, state, and local taxes to the proper authorities.

Good internal controls ensure that all payroll taxes withheld from employees' wages are remitted timely to the proper authorities.

The failure to timely remit payroll taxes to the proper authorities could result in the municipality having to pay interest and penalties on payroll taxes collected.

Recommendation

We recommend that, in the future, the municipality remit all payroll taxes to the proper authorities in a timely manner.

Management's Response

The municipal officials offered no formal response at this time.

Auditor's Conclusion

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

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
COMMENT
FOR THE PERIOD
JANUARY 1, 2010 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 \$1,776.02 to its Liquid Fuels Tax Fund for related party transactions. A similar finding was also written in our current report (see Finding No. 3).

During our current examination we reviewed a letter dated January 29, 2013, from the Department of Transportation informing the municipality to reimburse \$1,776.02 to its Liquid Fuels Tax Fund. This amount was reimbursed on April 5, 2013, which was subsequent to our examination period.

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
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An exit conference was held October 10, 2013. Those participating were:

MUNICIPALITY OF STILLWATER

Ms. Danyell Smith, Former Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Robert A. Bauder, Auditor

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

BOROUGH OF STILLWATER
COLUMBIA COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

This report was initially distributed to:

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

Mr. Robert P. Caruso
Executive Director
Pennsylvania State Ethics Commission

Municipality of Stillwater
Columbia County
63 McHenry Street
Stillwater, PA 17878

The Honorable Dan McHenry

Mayor

The Honorable John S. Kline, Jr.

President of Council

Ms. Karen Hilley

Secretary

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.