



**BOROUGH OF CASSELMAN
SOMERSET COUNTY
55-405**

**LIQUID FUELS TAX FUND
EXAMINATION REPORT**

**FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011**

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 Casselman, Somerset County, for the period January 1, 2009 to December 31, 2011. The municipality's management is responsible for the Forms MS-965. Our responsibility is to express an opinion on the Forms MS-965 With Adjustments based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. An examination includes examining, on a test basis, evidence supporting the Borough of Casselman, Somerset County's Forms MS-965 for the period January 1, 2009 to December 31, 2011 and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are mandated by Section 403 of *The Fiscal Code*, 72 P.S. § 403, to audit each municipality's Liquid Fuels Tax Fund to ensure that funds received are expended in accordance with applicable laws and regulations. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Section 403 of *The Fiscal Code*.

As discussed in Finding No. 2, the borough expended \$1,720.00 during 2009 and \$2,240.00 during 2010 for snow removal. These amounts were paid to a business owned by the brother of a councilman, which are related party transactions.

Independent Auditor's Report (Continued)

In our opinion, except for the matter 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 Borough of Casselman, Somerset County, for the period January 1, 2009 to December 31, 2011, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Forms MS-965 and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Forms MS-965 are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over reporting on the Forms MS-965 or on compliance and other matters; accordingly, we express no such opinions.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the Borough of Casselman, Somerset 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 Casselman, Somerset County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Borough of Casselman, Somerset County's internal control. We consider the deficiency described in the finding below to be significant deficiency in internal control over reporting on the Forms MS-965:

- One Signature On Liquid Fuels Tax Fund Checks.

Independent Auditor's Report (Continued)

A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Forms MS-965 will not be prevented or detected by the Borough of Casselman, Somerset 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. We consider the significant deficiency described above to be a material weakness.

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

- Related Party Transactions.

We also noted an other matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

- Late Receipt Of Allocations.

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



EUGENE A. DEPASQUALE
Auditor General

April 15, 2013

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BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

Background

The Liquid Fuels Tax Municipal Allocation Law, Title 72 P.S. § 2615.5, provides municipalities other than counties (townships, boroughs, cities, towns, home rule, and optional plan governments) with an annual allocation of liquid fuels taxes from the state's Motor License Fund to be used for the maintenance and repair of streets, roads, and bridges for which the municipality is responsible. The allocation of these funds to municipalities is based: (1) 50 percent on the municipality's proportion of local road mileage to the total local road mileage in the state, and (2) 50 percent on the proportion of a municipality's population to the total population in the state.

The Vehicle Code, Title 75 P.S. § 9511, provides municipalities with annual maintenance payments to be received from the Motor License Fund for functionally local highways that were transferred to a municipality from the Commonwealth of Pennsylvania.

Each municipality must deposit the Liquid Fuels Tax Fund money and annual maintenance payments that it receives into a special fund called the Municipal Liquid Fuels Tax Fund or State Fund. A municipality may not deposit any other monies into this fund except when the municipality does not have enough money in the special fund to meet the payments called for by its current annual budget for road and bridge purposes. In this case, the municipality may borrow money or transfer money from its General Fund to its Liquid Fuels Tax Fund.

The Department of Transportation has been given the regulatory authority for the administration of these funds. To qualify for its annual allocation, each municipality shall submit the following documents and information to the Department of Transportation:

1. Evidence that the treasurer is bonded in accordance with the law, or that its treasurer is a bank requiring no bond by January 31 of each year.
2. A report indicating the manner in which its liquid fuels tax allocation was expended in the previous year (Form MS-965) by January 31 of each year.
3. A report of elected and appointed officials by January 31 of each year.
4. A Survey of Financial Condition by March 15 of each year.

Department of Transportation *Publication 9* contains the policies and procedures that govern the use of Liquid Fuels Tax Fund money. However, if there is a difference between *Publication 9* and any legislation, the legislation shall govern.

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
2009 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	3,522.05	-	3,522.05
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	1,000.00	-	1,000.00
Highway construction and rebuilding projects	-	-	-
Miscellaneous (Bank service charges)	28.95	-	28.95
 Total (To Section 2, Line 5)	 <u>\$ 4,551.00</u>	 <u>\$ -</u>	 <u>\$ 4,551.00</u>

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

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
2009 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2009	\$ 13,841.21	\$ -	\$ 13,841.21
Receipts:			
2. State allocation	5,778.92	-	5,778.92
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	73.25	-	73.25
2c. Miscellaneous	-	-	-
3. Total receipts	<u>5,852.17</u>	<u>-</u>	<u>5,852.17</u>
4. Total funds available	<u>19,693.38</u>	<u>-</u>	<u>19,693.38</u>
5. Expenditures (Section 1)	<u>4,551.00</u>	<u>-</u>	<u>4,551.00</u>
6. Balance, December 31, 2009	<u><u>\$ 15,142.38</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 15,142.38</u></u>

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

BOROUGH OF CASSELMAN
SOMERSET 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	\$ 10,813.60	\$ -	\$ 10,813.60
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	1,155.78	-	1,155.78
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	11,969.38	-	11,969.38
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>11,969.38</u>	<u>-</u>	<u>11,969.38</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 11,969.38</u>	<u>\$ -</u>	<u>\$ 11,969.38</u>

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

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
2010 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	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	750.00	-	750.00
Winter maintenance services	5,840.04	-	5,840.04
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	-	-	-
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total (To Section 2, Line 5)	<u>\$ 6,590.04</u>	<u>\$ -</u>	<u>\$ 6,590.04</u>

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

BOROUGH OF CASSELMAN
SOMERSET 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	\$ 15,142.38	\$ -	\$ 15,142.38
Receipts:			
2. State allocation	5,548.09	-	5,548.09
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	9.20	-	9.20
2c. Miscellaneous (Note 4)	2,038.13	-	2,038.13
3. Total receipts	<u>7,595.42</u>	<u>-</u>	<u>7,595.42</u>
4. Total funds available	<u>22,737.80</u>	<u>-</u>	<u>22,737.80</u>
5. Expenditures (Section 1)	<u>6,590.04</u>	<u>-</u>	<u>6,590.04</u>
6. Balance, December 31, 2010	<u><u>\$ 16,147.76</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 16,147.76</u></u>

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

BOROUGH OF CASSELMAN
SOMERSET 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	\$ 11,969.38	\$ -	\$ 11,969.38
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	1,109.62	-	1,109.62
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	13,079.00	-	13,079.00
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>13,079.00</u>	<u>-</u>	<u>13,079.00</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 13,079.00</u>	<u>\$ -</u>	<u>\$ 13,079.00</u>

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

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
2011 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	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	1,787.55	-	1,787.55
Traffic control devices	-	-	-
Street lighting	1,241.56	-	1,241.56
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	2,500.00	-	2,500.00
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total (To Section 2, Line 5)	<u>\$ 5,529.11</u>	<u>\$ -</u>	<u>\$ 5,529.11</u>

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

BOROUGH OF CASSELMAN
SOMERSET 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	\$ 16,147.76	\$ -	\$ 16,147.76
Receipts:			
2. State allocation	5,677.04	-	5,677.04
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	4.88	-	4.88
2c. Miscellaneous (Note 4)	1,306.00	-	1,306.00
3. Total receipts	<u>6,987.92</u>	<u>-</u>	<u>6,987.92</u>
4. Total funds available	<u>23,135.68</u>	<u>-</u>	<u>23,135.68</u>
5. Expenditures (Section 1)	<u>5,529.11</u>	<u>-</u>	<u>5,529.11</u>
6. Balance, December 31, 2011	<u><u>\$ 17,606.57</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 17,606.57</u></u>

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

BOROUGH OF CASSELMAN
SOMERSET 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	\$ 13,079.00	\$ -	\$ 13,079.00
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	1,135.41	-	1,135.41
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	14,214.41	-	14,214.41
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>14,214.41</u>	<u>-</u>	<u>14,214.41</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 14,214.41</u>	<u>\$ -</u>	<u>\$ 14,214.41</u>

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

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

1. Criteria

Section 1

This section of Form MS-965 With Adjustments provides a summary of Liquid Fuels Tax Fund expenditures by category. Categories requiring explanation include:

- Major equipment purchases are purchases of road machinery and road equipment that cost in excess of \$4,000.00.
- Minor equipment purchases are purchases of road machinery and road equipment that cost \$4,000.00.
- 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 CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

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 CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

1. Criteria (Continued)

General Fixed Assets

General fixed assets are recognized as expenditures at the time of purchase. No depreciation has been provided on the heavy equipment used to maintain and repair roads and bridges.

2. Deposits

The 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, 2011. Custodial credit risk, as defined by GASB No. 40, includes deposits that are not covered by depository insurance and the deposits are uncollateralized, collateralized with securities held by the pledging financial institution, or collateralized with securities held by the pledging financial institution's trust department or agent but not in the municipality's name.

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

2. Deposits (Continued)

Fund Balance

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

Cash	<u>\$17,606.57</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 \$73.25 during 2009, \$9.20 during 2010, and \$4.88 during 2011, 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
P.E.M.A	Severe weather assistance	\$2,038.13	\$ -
General Fund	Reimbursement (Comment)	-	1,306.00
Total		<u>\$2,038.13</u>	<u>\$1,306.00</u>

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

Finding No. 1 - One Signature On Liquid Fuels Tax Fund Checks

Our examination disclosed that only one signature was required to authorize checks drawn on the Liquid Fuels Tax Fund. When only one signature is required there is a significant risk of unauthorized disbursements, errors, or misappropriations occurring and remaining undetected. To decrease this risk, good internal controls require that at least two authorized signatures be required to authorize checks drawn on the Liquid Fuels Tax Fund.

Recommendation

We recommend that the municipality improve internal control procedures over disbursements by requiring at least two signatures on all disbursements from the Liquid Fuels Tax Fund account.

Management's Response

The municipal officials offered no formal response at this time.

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

Finding No. 2 - Related Party Transactions

Our examination disclosed that the borough expended \$1,720.00 during 2009 and \$2,240.00 during 2010 from the Liquid Fuels Tax Fund for snow removal. These amounts were paid to a business owned by the brother of a councilman, which makes these expenditures related party transactions. Due to the president of council's brother'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 borough 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 purchase made or contract entered into or expenditure of money made by the borough or relating to the business of the borough, involving the expenditure by the borough of more than one thousand dollars (\$1000.00) in any calendar year, but this limitation shall not apply to cases where such officer or appointee of the borough is an employee 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.

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.

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

Finding No. 2 - Related Party Transactions (Continued)

Because this contract violates *The Borough Code* and the Ethics Act the borough could be required by the Pennsylvania Department of Transportation to reimburse \$3,960.00 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.

Similar findings were written in our 2005-2006 and 2007-2008 reports. However, there were no related party transactions made from the Liquid Fuels Tax Fund during 2011.

Recommendations

We recommend that the borough reimburse \$3,960.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the borough continue to comply with *The Borough Code* and the Ethics Act.

Management's Response

The secretary/treasurer stated:

In previous years the borough obtained people to plow the snow. When these people were called to come, they either never showed up or when they did there was no need – the snow had melted. Then the borough was being charged for work that was not necessary.

Since the brother of the councilman has taken over, the streets are maintained in a timely and professional manner, because he lives in the borough. He usually waits until the bulk of the storm is over to plow, knowing that the borough is on a budget.

Being such a small borough, no one wanted to come to give us a quote for plowing. As the current borough secretary, I will do my best to obtain more quotes from winter maintenance companies for the upcoming winter season, including an updated quote from the brother of the councilman.

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

Finding No. 2 - Related Party Transactions (Continued)

Auditor's Conclusion

Because the business is owned by the brother of a councilman, the borough cannot just obtain quotes if they choose to use the business for snow removal. The borough must award the bid through the public bid process, which would require advertising for bids for snow removal and awarding them at a public meeting. During our next examination we will determine if the municipality complied with our recommendations.

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

Finding No. 3 - Late Receipt Of Allocations

Our examination disclosed that the 2009 and 2011 Liquid Fuels Tax Fund allocations of \$5,778.92 and \$5,677.04, respectively, which should have been distributed from the Department of Transportation to the municipality during the first week of April of each year, were not received until May 4, 2009, and July 8, 2011, respectively. 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 2009 allocation for one month and the 2011 allocation for three months. Furthermore, had the allocations 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.

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

Finding No. 3 - Late Receipt Of Allocations (Continued)

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 CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
COMMENT
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

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 \$2,650.00 to its Liquid Fuels Tax Fund for related party transactions. A similar finding was also written in our current report (see Finding No. 2).

During our current examination we reviewed a letter dated December 14, 2010, from the Department of Transportation informing the municipality to reimburse \$1,306.00 to its Liquid Fuels Tax Fund. The letter further stated that reimbursement of the remaining \$1,344.00 would not be required. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on March 4, 2011.

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.

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

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

An exit conference was held April 15, 2013. Those participating were:

BOROUGH OF CASSELMAN

Mrs. Lisa A. Purbaugh, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Ms. Erica DeStefano, Auditor

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

BOROUGH OF CASSELMAN
SOMERSET COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

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

Borough of Casselman
Somerset County
202 Grant Street
Rockwood, PA 15557

The Honorable Adam Purbaugh	President of Council
The Honorable Timothy Yuschick	Councilman
Mrs. Lisa A. Purbaugh	Secretary/Treasurer

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