



**CHESTER COUNTY  
15-000**

**LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
EXAMINATION REPORT**

**FOR THE THREE YEARS ENDED  
DECEMBER 31, 2010**

Released *March 2013*

**COMMONWEALTH OF PENNSYLVANIA**

**EUGENE A. DEPASQUALE - AUDITOR GENERAL**

**DEPARTMENT OF THE AUDITOR GENERAL**





CHESTER COUNTY  
15-000

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AND ACT 44 TAX FUND  
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FOR THE THREE YEARS ENDED  
DECEMBER 31, 2010

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CHESTER COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
BACKGROUND  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2010

Background

*The Vehicle Code* makes provisions and provides funding for County Liquid Fuels and Act 44 Programs. The Pennsylvania Department of Transportation has regulatory administration and oversight of the funds supporting these county programs. Counties are required to comply with those provisions and to report annually.

*The Vehicle Code* imposes a state tax on liquid fuels and fuels used or sold and delivered by distributors within the Commonwealth (75 Pa. C.S. § 9004(a)). One-half cent of the tax collected on each gallon of liquid fuels is deposited in the Commonwealth's Liquid Fuels Tax Fund. The Vehicle Code further provides for the disposition and use of this tax, including the allocations to counties in June and December of each year to fund construction, reconstruction, maintenance and repair of county roads, streets and bridges. The allocation to the respective counties is made in the ratio that the average amount returned to each county during the three preceding years bears to the average amount returned to all counties during the three preceding years (75 Pa C.S. § 9010).

*The Vehicle Code*, as recently amended by Act 44 of 2007 (July 18, 2007, P.L.169), requires the Pennsylvania Turnpike Commission to make annual contributions for the benefit of the Pennsylvania Department of Transportation's Motor License Fund, and further requires the Department of Transportation to distribute \$5,000,000 of the annual contribution to counties (75 Pa. C.S. § 8915.6). The annual distribution to counties is determined based upon the ratio of square footage of deck area of a county's county-owned bridges to the total square footage of deck area of county-owned bridges throughout the Commonwealth. The reporting of the square footage of deck area of a county's county-owned bridges is required as part of the National Bridge Inspection Standards Program.





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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-991 With Adjustments for the Liquid Fuels Tax Fund and the Reports of Act 44 Tax Fund With Adjustments of Chester County for the three years ended December 31, 2010. The county's management is responsible for the Forms MS-991 and the Reports of Act 44 Tax Fund. Our responsibility is to express an opinion on the Forms MS-991 With Adjustments and the Reports of Act 44 Tax Fund With Adjustments based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. An examination includes examining, on a test basis, evidence supporting Chester County's Forms MS-991 and Reports of Act 44 Tax Fund for the three years ended December 31, 2010 and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

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

As described in Note 4, the adjustments included on the Forms MS-991 With Adjustments are made by the Department of the Auditor General.

### Independent Auditor's Report (Continued)

As discussed in the Findings and Recommendations section of this report:

- The county's unencumbered balance as of December 31, 2010 was greater than the receipts for the previous twelve months. Therefore, the county may be required to distribute \$475,933.43 to the political subdivisions within the county (Finding No. 1).
- The county expended \$4,211.90 during 2008, \$7,045.25 during 2009, and \$5,494.50 during 2010 for multiple purchases of street signs without maintaining documentation for price quotations (Finding No. 2).
- The county expended \$9,300.00 during 2010 for paving in excess of one inch on Bridge No. 134 and Bridge No. 175 without obtaining approval from the Department of Transportation (Finding No. 3).
- The county expended \$837.79 during 2008, \$5,493.40 during 2009, and \$1,109.74 during 2010 for drinks, uniforms, electric repairs to bridge shop, and repairs to a vehicle, which are nonpermissible expenditures (Finding No. 4).

In our opinion, except for the matters discussed in the preceding paragraph, the Forms MS-991 With Adjustments and the Reports of Act 44 Tax Fund With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund and Act 44 Tax Fund of Chester County for the three years ended December 31, 2010, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Forms MS-991 and the Reports of Act 44 Tax Fund and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Forms MS-991 and the Reports of Act 44 Tax Fund are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over reporting on the Forms MS-991 and the Reports of Act 44 Tax Fund or on compliance and other matters; accordingly, we express no such opinions.

### 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 Chester 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 Chester County's Forms MS-991 and the Reports of Act 44 Tax Fund that is more than inconsequential will not be prevented or detected by Chester 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-991 and the Reports of Act 44 Tax Fund will not be prevented or detected by Chester County's internal control.

Our consideration of internal control over reporting on the Forms MS-991 and the Reports of Act 44 Tax Fund 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-991 and the Reports of Act 44 Tax Fund.

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

- Unencumbered Balance Was Greater Than The Receipts For The Previous Twelve Months.
- Documentation For Price Quotations Was Not Available For Examination.
- Failure To Obtain Project Approval.
- Nonpermissible Expenditures.



Independent Auditor's Report (Continued)

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

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke at the end.

December 21, 2011

**EUGENE A. DEPASQUALE**  
Auditor General

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

	Reported	Adjustments (Note 4)	Adjusted Amount
Balance, January 1, 2008	\$ 132,191.00	\$ 57,873.90	\$ 190,064.90
<u>Receipts:</u>			
State allocations	642,606.11	-	642,606.11
Interest (Note 3)	16,899.10	(403.88)	16,495.22
Reimbursable agreements (Note 5)	218,857.72	(51,255.19)	167,602.53
Miscellaneous (Note 6)	486,461.16	(96,076.83)	390,384.33
Total receipts	<u>1,364,824.09</u>	<u>(147,735.90)</u>	<u>1,217,088.19</u>
Total funds available	<u>1,497,015.09</u>	<u>(89,862.00)</u>	<u>1,407,153.09</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	777,268.18	(85,619.96)	691,648.22
Administrative	58,991.46	(2,000.00)	56,991.46
Grants to political subdivisions	-	-	-
Miscellaneous	2,242.04	(2,242.04)	-
Total expenditures	<u>838,501.68</u>	<u>(89,862.00)</u>	<u>748,639.68</u>
Balance, December 31, 2008	658,513.41	-	658,513.41
Unpaid encumbrances	-	-	-
Unencumbered balance, December 31, 2008	<u>\$ 658,513.41</u>	<u>\$ -</u>	<u>\$ 658,513.41</u>

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

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

	Reported	Adjustments (Note 4)	Adjusted Amount
Balance, January 1, 2009	\$ 263,092.22	\$ 395,421.19	\$ 658,513.41
<u>Receipts:</u>			
State allocations	609,176.22	-	609,176.22
Interest (Note 3)	4,091.39	(362.58)	3,728.81
Reimbursable agreements (Note 5)	158,891.35	(4,966.56)	153,924.79
Miscellaneous (Note 6)	89,624.06	(84,657.00)	4,967.06
Total receipts	861,783.02	(89,986.14)	771,796.88
Total funds available	1,124,875.24	305,435.05	1,430,310.29
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	767,966.29	(89,986.64)	677,979.65
Administrative	60,917.62	-	60,917.62
Grants to political subdivisions	-	-	-
Miscellaneous	-	-	-
Total expenditures	828,883.91	(89,986.64)	738,897.27
Balance, December 31, 2009	295,991.33	395,421.69	691,413.02
Unpaid encumbrances	-	-	-
Unencumbered balance, December 31, 2009	\$ 295,991.33	\$ 395,421.69	\$ 691,413.02

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

CHESTER COUNTY  
LIQUID FUELS TAX FUND  
2010 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2010	\$ 296,593.26	\$ 394,819.76	\$ 691,413.02
<u>Receipts:</u>			
State allocations	652,091.06	-	652,091.06
Interest (Note 3)	2,070.37	(1,633.42)	436.95
Reimbursable agreements (Note 5)	71,129.96	(429.00)	70,700.96
Miscellaneous (Note 6)	179,496.22	(179,067.22)	429.00
Total receipts	<u>904,787.61</u>	<u>(181,129.64)</u>	<u>723,657.97</u>
Total funds available	<u>1,201,380.87</u>	<u>213,690.12</u>	<u>1,415,070.99</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	695,962.95	(181,129.64)	514,833.31
Administrative	62,475.26	-	62,475.26
Grants to political subdivisions	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>758,438.21</u>	<u>(181,129.64)</u>	<u>577,308.57</u>
Balance, December 31, 2010	442,942.66	394,819.76	837,762.42
Unpaid encumbrances	<u>-</u>	<u>-</u>	<u>-</u>
Unencumbered balance, December 31, 2010	<u>\$ 442,942.66</u>	<u>\$ 394,819.76</u>	<u>\$ 837,762.42</u>

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

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

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2008	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds	89,458.12	-	89,458.12
Interest (Note 3)	403.88	-	403.88
Total receipts	<u>89,862.00</u>	<u>-</u>	<u>89,862.00</u>
Total funds available	<u>89,862.00</u>	<u>-</u>	<u>89,862.00</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	89,862.00	-	89,862.00
Miscellaneous	-	-	-
Total expenditures	<u>89,862.00</u>	<u>-</u>	<u>89,862.00</u>
Balance, December 31, 2008	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>

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

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

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2009	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds	89,624.06	-	89,624.06
Interest (Note 3)	362.58	-	362.58
Total receipts	<u>89,986.64</u>	<u>-</u>	<u>89,986.64</u>
Total funds available	<u>89,986.64</u>	<u>-</u>	<u>89,986.64</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	89,986.64	-	89,986.64
Miscellaneous	-	-	-
Total expenditures	<u>89,986.64</u>	<u>-</u>	<u>89,986.64</u>
Balance, December 31, 2009	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>

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

CHESTER COUNTY  
LIQUID FUELS TAX FUND  
2010 REPORT OF ACT 44 TAX FUND  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2010	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds	179,496.22	-	179,496.22
Interest (Note 3)	1,633.42	-	1,633.42
Total receipts	<u>181,129.64</u>	<u>-</u>	<u>181,129.64</u>
Total funds available	<u>181,129.64</u>	<u>-</u>	<u>181,129.64</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	181,129.64	-	181,129.64
Miscellaneous	-	-	-
Total expenditures	<u>181,129.64</u>	<u>-</u>	<u>181,129.64</u>
Balance, December 31, 2010	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>

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

CHESTER COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2010

1. Criteria

A. *The Vehicle Code* prescribes criteria for liquid fuels program funds (75 Pa C.S. § 9010). The Pennsylvania Department of Transportation's *Publication 9* provides more specific policies and procedures to counties for the administration and reporting of the liquid fuels program funds. In the event of any discrepancies between the two, the legislation governs.

(1) Funds received by the counties must be deposited in a special fund designated as the County Liquid Fuels Tax Fund and no other money may be deposited and commingled. Money should be invested to earn interest until expended.

- For purposes of payments under (2), below, the county may borrow and place in the special fund money not in excess of the liquid fuels tax funds to be received during the current calendar year.

(2) Payments from the special fund may be used for:

- construction, reconstruction, maintenance and repair of roads, highways, bridges and curb ramps from a road or highway to provide for access by individuals with disabilities consistent with Federal and State law;
- property damages and compensation of viewers for services in eminent domain proceedings involving roads, highways, and bridges;
- construction, reconstruction, operation and maintenance of publicly owned ferryboat operations;
- interest and principal payments on road, bridge, or publicly owned ferryboat operation bonds or sinking fund charges;
- acquisition, maintenance, repair and operation of traffic signs and signals;
- erection and maintenance of stop and go signal lights, blinkers and other like traffic control devices;
- indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects, not to exceed 10 percent of the yearly allocation to the county; and



CHESTER COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2010

1. Criteria (continued)

- individual vehicle liability insurance for equipment purchased under the fund, not to exceed 10 percent of the yearly allocation to the county.
- (3) Counties may not make expenditures from the special fund for new construction on roads, bridges, curb ramps, or publicly owned ferryboat operations without the approval of the plans for construction by the Pennsylvania Department of Transportation. And, counties may not allocate money from the special fund to political subdivisions within the county until the application and the contracts or plans for the proposed expenditures have been made on a form prescribed by the Pennsylvania Department of Transportation.
- (4) Counties may encumber current funds for future road and bridge construction, reconstruction, and maintenance projects including viable municipal projects. Counties must redistribute any unencumbered balance in the special fund to political subdivisions if the unencumbered balance is more than the county's receipts during the preceding twelve month period.
- (5) Counties must submit a report to the Pennsylvania Department of Transportation by January 15 for the period ending December 31 on prescribed Form MS-991, The Report of County Liquid Fuels Tax Fund, showing the receipts and expenditures of the money received by the county from the Commonwealth. Upon failure to file the report or instances of any non-compliant payments, allocations, or expenditures, the Pennsylvania Department of Transportation will withhold further funding until the delinquent report is filed, the money is allocated, or the expenditures for the prior 12 months are approved.
- B. *The Vehicle Code*, as recently amended by Act 44 of 2007 (July 18, 2007, P.L. 169), prescribes the Pennsylvania Department of Transportation with oversight authority of the Act 44 funds distributed to the counties from the Pennsylvania Turnpike Commission's annual contribution of \$5,000,000 to the Commonwealth's Motor License Fund. The County's Act 44 Tax Fund is used to account for the distribution made to the county from the Department of Transportation and the payments made for construction and maintenance of county-owned bridges.

CHESTER COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2010

1. Criteria (continued)

Basis Of Presentation

In accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation, the Report of County Liquid Fuels Tax Fund With Adjustments and the Report of Act 44 Tax Fund With Adjustments do not constitute complete financial presentations of the county's assets, liabilities, expenses, and fund balance but include the receipts, expenditures, and fund balances of the County Liquid Fuels Tax Fund and the County Act 44 Tax Fund, respectively.

The Pennsylvania Department of Transportation prescribes that the county report the following on the MS-991 form, *Report of County Liquid Fuels Tax Fund*:

- A. The balance in the County Liquid Fuels Tax Fund at the beginning of the report calendar year.
- B. Receipts which must be itemized and include interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.  
  
*Refer to the related Notes: Note 3, Interest Earnings; Note 5, Reimbursable Agreement; and Note 6, Miscellaneous Receipts.*
- C. Accounts receivable (to be realized within 60 days of the year end).
- D. Total Liquid Fuels Tax funds available for expenditure and encumbrances.
- E. Expenditures for county-owned roads, highways, and bridges.
- F. Accounts payable (accrued wages, accrued payroll taxes, and accounts payable vendors to be realized within 60 days of the year end).
- G. The balance in the fund at the close of the report calendar year.
- H. Encumbered and unencumbered balances on hand at the close of the report calendar year.

CHESTER COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2010

2. Deposits

*The County Code*, Title 16 P.S § 17067, authorizes the county to deposit its funds in the following:

- Deposits in savings accounts or time deposits, other than certificates of deposit or share accounts of institutions having their principal place of business in the Commonwealth of Pennsylvania and insured by the Federal Deposit Insurance Corporation (FDIC) or other like insurance. For any amount above the insured maximum, the depository shall pledge approved collateral.
- Certificates of deposit from institutions having their principal place of business in or outside the Commonwealth of Pennsylvania that are insured by the FDIC or other like insurance. For any amounts in excess of the insured maximum, such deposits shall be collateralized by a pledge or assignment of assets. Certificates of deposit may not exceed 20 percent of a bank's total capital surplus or 20 percent of a savings and loan's or savings bank's assets minus liabilities.

Deposits consist of receipts and deposits in financial institutions. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral as defined.

There were no deposits exposed to custodial credit risk as of December 31, 2010. Custodial credit risk, as defined by GASB No. 40, includes deposits that are not covered by depository insurance and the deposits are uncollateralized, collateralized with securities held by the pledging financial institution, or collateralized with securities held by the pledging financial institution's trust department or agent but not in the county's name.

CHESTER COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2010

2. Deposits (continued)

Fund Balance

The fund balance for the Liquid Fuels Tax Fund as of December 31, 2010 consists of the following:

Cash	\$837,762.42
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The fund balance for the Act 44 Tax Fund as of December 31, 2010 consists of the following:

Cash	\$-
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3. Interest Earnings

Our examination disclosed that the county deposited idle liquid fuels tax money in interest-bearing accounts and certificates of deposit which earned \$16,495.22 during 2008, \$3,728.81 during 2009, and \$436.95 during 2010, thus providing additional funds for road maintenance and repairs.

Additionally, the county deposited idle Act 44 tax money in interest-bearing accounts and certificates of deposit which earned \$403.88 during 2008, \$362.58 during 2009, and \$1,633.42 during 2010, thus providing additional funds for bridge maintenance and repairs.

4. Adjustments

2008 Form MS-991

An adjustment of \$57,873.90 was made to "Balance, January 1, 2008" because an incorrect fund balance was reported.

An adjustment of \$(403.88) was made to "Interest" because interest earned on the Act 44 Tax Fund was incorrectly reported as Liquid Fuels Tax Fund interest.

An adjustment of \$(51,255.19) was made to "Reimbursable agreements" because bridge inspection reimbursements were overstated.

CHESTER COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2010

4. Adjustments (Continued)

2008 Form MS-991 (Continued)

An adjustment of \$(96,076.83) was made to “Miscellaneous” because the 2008 Act 44 Tax Fund allocation of \$89,458.12 was incorrectly reported as a miscellaneous receipt and these receipts were overstated by \$6,618.71.

An adjustment of \$(85,619.96) was made to “Maintenance and repair” because Act 44 Tax Fund expenditures were incorrectly reported as Liquid Fuels Tax Fund expenditures.

An adjustment of \$(2,000.00) was made to “Administrative” because Act 44 Tax Fund expenditures were incorrectly reported as Liquid Fuels Tax Fund expenditures.

An adjustment of \$(2,242.04) was made to “Miscellaneous” because Act 44 Tax Fund expenditures were incorrectly reported as Liquid Fuels Tax Fund expenditures.

2009 Form MS-991

An adjustment of \$395,421.19 was made to “Balance, January 1, 2009” because an incorrect fund balance was reported.

An adjustment of \$(362.58) was made to “Interest” because interest earned on the Act 44 Tax Fund was incorrectly reported as Liquid Fuels Tax Fund interest.

An adjustment of \$(4,966.56) was made to “Reimbursable agreements” because reimbursements were overstated.

An adjustment of \$(84,657.00) was made to “Miscellaneous” because the 2009 Act 44 Tax Fund allocation of \$89,624.06 was incorrectly reported as a miscellaneous receipt and these receipts were understated by \$4,967.06.

An adjustment of \$(89,986.64) was made to “Maintenance and repair” because Act 44 Tax Fund expenditures were incorrectly reported as Liquid Fuels Tax Fund expenditures.

2010 Form MS-991

An adjustment of \$394,819.76 was made to “Balance, January 1, 2010” because an incorrect equipment balance was carried forward.

An adjustment of \$(1,633.42) was made to “Interest” because interest earned on the Act 44 Tax Fund was incorrectly reported as Liquid Fuels Tax Fund interest.

CHESTER COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
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4. Adjustments (Continued)

2010 Form MS-991 (Continued)

An adjustment of \$(429.00) was made to “Reimbursable agreements” because miscellaneous receipts of \$429.00 were misclassified.

An adjustment of \$(179,067.22) was made to “Miscellaneous” because 2010 and 2011 Act 44 Tax Fund allocations of \$90,008.44 and \$89,487.78, respectively, were incorrectly reported as miscellaneous receipts and receipts of \$429.00 were incorrectly reported as reimbursable agreements.

An adjustment of \$(181,129.64) was made to “Maintenance and repair” because Act 44 Tax Fund expenditures were incorrectly reported as Liquid Fuels Tax Fund expenditures.

5. Reimbursable Agreement

During our examination, we noted that the county entered into a reimbursement agreement with the Commonwealth of Pennsylvania for bridge inspections. During our current examination period, the county received \$167,602.53 during 2008, \$153,924.79 during 2009, and \$70,700.96 during 2010 as a result of this agreement.

CHESTER COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
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DECEMBER 31, 2010

6. Miscellaneous Receipts

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

Source	Description	2008	2009	2010
F.E.M.A.	Severe weather assistance	\$ 45,730.82	\$ -	\$ -
General Fund	Reimbursement (Comment)	5,524.37	-	-
Vendor	Reimbursement for returned parts	2,855.00	-	-
General Fund	Grant for maintenance and repair	336,274.14	-	-
Insurance company	Reimbursement for damages	-	\$2,367.06	-
Borough of Phoenixville	Reimbursement for damages	-	2,600.00	-
Chester County	Reimbursement for damages	-	-	\$384.00
Restitution Resident	Purchase of documents	-	-	45.00
Total		<u>\$390,384.33</u>	<u>\$4,967.06</u>	<u>\$429.00</u>

CHESTER COUNTY  
LIQUID FUELS TAX FUND  
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FINDINGS AND RECOMMENDATIONS  
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Finding No. 1 - Unencumbered Balance Was Greater Than The Receipts For The Previous  
Twelve Months

All counties receive allocations of Liquid Fuels Tax Fund money in June and December of each year. Liquid Fuels Tax Fund money is primarily used for the construction, reconstruction, and maintenance and repair of roads and bridges. Counties may also choose to grant Liquid Fuels Tax Fund money to the political subdivisions within the county. Additionally, if the unencumbered fund balance as of December 31 was greater than the receipts for the previous twelve months, the county **must** disburse a portion of its Liquid Fuels Tax Fund money to the political subdivisions within the county. This condition is referred to as a forced distribution.

Our examination disclosed that the county's unencumbered balance as of December 31, 2010 was \$837,762.42, which was greater than the total receipts of \$723,657.97 for the preceding twelve months.

The Liquid Fuels and Fuels Tax Act, 75 Pa. C.S.A. § 9010(c) states, in part:

When the unencumbered balance in the County Liquid Fuels Tax Fund is greater than the receipts for the twelve months immediately preceding the date of either of the reports, the county commissioners shall notify the political subdivisions to make application within 90 days for participation in the redistribution of the unencumbered balance. Redistribution shall be effected within 120 days of the date of either of the reports.

In addition, the Department of Transportation's *Publication 9*, Chapter One, Section 1.9.1, states, in part:

...This forced distribution applies only to that portion of the unencumbered balance in excess of fifty percent (50%) of the receipts for the previous twelve months....

The following calculation is how to apply the above formula as it pertains to Chester County:

Unencumbered balance	\$837,762.42
Less 50% of prior 12 months' receipts of \$723,657.97	361,828.99
Amount to be distributed	\$475,933.43



CHESTER COUNTY  
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Finding No. 1 - Unencumbered Balance Was Greater Than The Receipts For The Previous  
Twelve Months (Continued)

The failure to comply with the Liquid Fuels and Fuels Tax Act and the Department of Transportation's *Publication 9* could result in the county having to distribute \$475,933.43 to the political subdivisions within the county.

Recommendation

Pursuant to the review of the Department of Transportation, we recommend that the Commissioners of Chester County distribute \$475,933.43 to the political subdivisions within the county in accordance with the provision of the Liquid Fuels and Fuels Tax Act and the Department of Transportation's *Publication 9*.

Management's Response

The county officials offered no formal response at this time.

CHESTER COUNTY  
LIQUID FUELS TAX FUND  
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Finding No. 2 - Documentation For Price Quotations Was Not Available For Examination

Our examination disclosed that the county expended \$4,211.90 during 2008, \$7,045.25 during 2009, and \$5,494.50 during 2010 from the Liquid Fuels Tax Fund for the purchase of road signs. The county was required to obtain three written or telephonic price quotations for these expenditures. However, documentation for price quotations was not available for examination. The purchases were as follows:

**2008**

<u>Invoice Date</u>	<u>Invoice Number</u>	<u>Date Paid</u>	<u>Check Number</u>	<u>Amount</u>
01/09/08	55981	02/05/08	431709	\$ 351.00
01/14/08	56057	02/05/08	431710	338.00
02/08/08	56230	03/03/08	435395	780.00
02/26/08	56342	04/22/08	442679	642.50
03/11/08	56463	04/22/08	442682	168.00
03/18/08	56466	04/22/08	442681	330.40
05/28/08	57006	06/23/08	451681	120.00
09/08/08	57675	10/09/08	466366	1,482.00
<b>2008 Total</b>				<b>\$4,211.90</b>

**2009**

<u>Invoice Date</u>	<u>Invoice Number</u>	<u>Date Paid</u>	<u>Check Number</u>	<u>Amount</u>
11/12/08	58102	01/29/09	481351	\$1,755.00
12/08/08	58302	02/03/09	481968	48.00
12/31/08	58422	02/03/09	481967	182.00
01/23/09	58538	02/27/09	485617	168.00
02/05/09	58603	03/20/09	488704	1,170.00
05/01/09	59129	06/30/09	502141	78.00
05/21/09	59236	06/30/09	502139	189.00
07/09/09	59513	08/10/09	507445	650.00
07/14/09	59586	08/10/09	507444	52.00
07/17/09	59572	08/10/09	507446	780.00
08/27/09	59837	09/18/09	512209	853.00
09/21/09	59991	10/23/09	516810	687.00
09/24/09	60035	11/06/09	518686	173.25
10/15/09	60146	12/07/09	522773	195.00
10/27/09	102328	12/07/09	522776	65.00
<b>2009 Total</b>				<b>\$7,045.25</b>

CHESTER COUNTY  
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Finding No. 2 - Documentation For Price Quotations Was Not Available For Examination  
(Continued)

**2010**

<u>Invoice Date</u>	<u>Invoice Number</u>	<u>Date Paid</u>	<u>Check Number</u>	<u>Amount</u>
12/03/09	102543	02/01/10	529705	\$ 894.00
12/15/09	102618	02/01/10	529704	63.00
01/25/10	102801	03/08/10	534048	132.00
03/05/10	102948	04/12/10	538762	78.00
03/11/10	102976	05/03/10	541405	78.00
03/18/10	103005	05/03/10	541408	75.00
03/19/10	103023	05/03/10	541407	149.50
04/16/10	103183	06/11/10	546730	1,124.00
04/20/10	103209	05/21/10	543831	268.00
04/26/10	103245	06/11/10	546732	351.00
06/08/10	103506	07/16/10	550803	150.00
06/21/10	103578	07/16/10	550800	117.00
07/09/10	103694	08/20/10	555089	64.00
07/26/10	103801	08/20/10	555087	208.00
08/20/10	103943	09/24/10	559154	608.00
09/07/10	104079	10/18/10	561882	44.00
09/16/10	104116	10/18/10	561881	176.00
09/23/10	104171	10/18/10	561879	371.00
10/27/10	104385	12/03/10	567523	544.00
			<b>2010 Total</b>	<b>\$ 5,494.50</b>
<b>Three Year Total</b>				<b>\$16,751.65</b>

CHESTER COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
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Finding No. 2 - Documentation For Price Quotations Was Not Available For Examination  
(Continued)

The above expenditures were not made in compliance with the contract requirements of *The County Code*, 53 P.S. § 1801(b), as published by the Local Government Commission, which states, in part:

Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts that exceed four thousand dollars (\$4,000.00) but are less than the amount [in excess of \$10,000.00] requiring advertisement and competitive bidding or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotations, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

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:

...For material estimates between \$4,000 and \$10,000, three telephone price quotes shall be obtained prior to the selection of a supplier. In lieu of the price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors service the market area within which it is practicable to obtain quotations. If the cost during the year of an unadvertised item or group of like items ordinarily supplied by a single supplier exceeds \$10,000 or if the cost was between \$4,000 and \$10,000 and three price quotes were not obtained, 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 or be between \$4,000 and \$10,000 as specified above.

The failure to comply with *The County Code* and the Department of Transportation's *Publication 9* could result in the county having to reimburse the \$16,751.65 to its Liquid Fuels Tax Fund.

CHESTER COUNTY  
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Finding No. 2 - Documentation For Price Quotations Was Not Available For Examination  
(Continued)

Recommendations

We recommend that the county reimburse \$16,751.65 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the county comply with *The County Code* and the Department of Transportation's *Publication 9* as noted in this finding.

Management's Response

The county officials offered no formal response at this time.

CHESTER COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
FINDINGS AND RECOMMENDATIONS  
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Finding No. 3 - Failure To Obtain Project Approval

Our examination disclosed that the county expended \$9,300.00 during 2010 for paving in excess of one inch on Bridge No. 134 and Bridge No. 175 without obtaining approval from the Department of Transportation. Before paving of one inch in thickness or greater is done the county must obtain the approval of the Department of Transportation. We further noted that the county did not file an application with the Department of Transportation for the projects and also failed to submit specifications for approval.

The Department of Transportation's *Publication 9* contains the policies and procedures for the administration of the Liquid Fuels Tax Fund. *Publication 9*, Chapter One, Section 6.6.1, states:

County Liquid Fuels Tax Fund monies may not be allocated or expended for construction or reconstruction projects by the county or any of its political subdivisions, without the prior approval of the application, contract or plans for the proposed expenditure by the Department of Transportation.

Furthermore, *Publication 9*, Chapter One, Section 6.6.2, states:

Completed work by the county or one of its political subdivisions must be approved by the Municipal Services district office before payment can be made.

The failure to comply with the Department of Transportation's *Publication 9* could result in the county having to reimburse \$9,300.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the county reimburse \$9,300.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that before the county expends money on a project, it applies for and obtains prior approval of the project, and when the project is completed it obtains approval for the completed work.

Management's Response

The county officials offered no formal response at this time.

CHESTER COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE THREE YEARS ENDED  
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Finding No. 4 - Nonpermissible Expenditures

Our examination disclosed that the county expended \$837.79 during 2008, \$5,493.40 during 2009, and \$1,109.74 during 2010 from the Liquid Fuels Tax Fund for the following nonpermissible items:

2008

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Description</u>	<u>Amount</u>
9631508828	05/05/08	449617	06/09/08	Drinks	\$ 18.95
9691332085	07/22/08	460857	08/29/08	Drinks	34.84
69192	08/15/08	463254	09/18/08	Uniforms	737.50
69192-01	09/16/08	468667	10/27/08	Uniforms	46.50
<b>2008 Total</b>					<b>\$837.79</b>

2009

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Description</u>	<u>Amount</u>
9903670934	05/20/09	504570	07/20/09	Drinks	\$ 18.82
9028438217	07/07/09	511279	09/11/09	Drinks	28.49
74800	04/30/09	502095	06/30/09	Uniforms	939.20
70889	05/08/09	502761	07/06/09	Ford sedan repair	295.37
090470	04/30/09	498490	06/03/09	Electric repairs to bridge shop	2,493.00
090844	08/26/09	513000	09/25/09	Electric repairs to bridge shop	1,718.52
<b>2009 Total</b>					<b>\$5,493.40</b>

2010

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Description</u>	<u>Amount</u>
9286290706	06/28/10	553236	08/06/10	Drinks	\$ 31.04
83000	04/09/10	548175	06/24/10	Uniforms	939.20
86670	08/24/10	561765	10/18/10	Uniforms	139.50
<b>2010 Total</b>					<b>\$1,109.74</b>
<b>Three Year Total</b>					<b>\$7,440.93</b>

CHESTER COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
FINDINGS AND RECOMMENDATIONS  
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Finding No. 4 - Nonpermissible Expenditures (Continued)

The Liquid Fuels and Fuels Tax Act of April 17, 1997, P.L. 6, § 12, 75 Pa. C.S.A. § 9010(b)(2)(i)(A-H), provides, in part, that Liquid Fuels Tax Fund money can only be used “for the purposes of construction, reconstruction, maintenance and repair of roads, highways, and bridges. . . .”

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 drinks, uniforms, non-maintenance vehicle repair, and electric repairs to bridge shop, are outside the scope of permissible expenditures.

The failure to comply with the Liquid Fuels and Fuels Tax Act and the Department of Transportation’s Regulations could result in the county having to reimburse \$7,440.93 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the county reimburse \$7,440.93 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the county comply with the Liquid Fuels and Fuels Tax Act and the Department of Transportation’s Regulations regarding permissible expenditures.

Management’s Response

The county officials offered no formal response at this time.



CHESTER COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
COMMENT  
FOR THE THREE YEARS ENDED  
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Comment - Summary Of 2006 Examination Recommendations

In our 2006 report we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$5,524.37 to its Liquid Fuels Tax Fund for expenditures that exceeded the 10 percent limit on indirect/administrative costs.

During our prior examination we reviewed a letter dated January 18, 2008, from the Department of Transportation informing the county to reimburse \$5,524.37 to its Liquid Fuels Tax Fund. We noted that the county reimbursed this amount to its Liquid Fuels Tax Fund on August 15, 2008.

CHESTER COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
SUMMARY OF EXIT CONFERENCE  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2010

An exit conference was held December 21, 2011. Those participating were:

CHESTER COUNTY

Mr. Terry McConnell, Accountant

Mr. Robert L. Beckershoff, Second Deputy Controller

DEPARTMENT OF THE AUDITOR GENERAL

Ms. Tammy Fleisher, Auditor

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



CHESTER COUNTY  
LIQUID FUELS TAX FUND  
AND REPORT OF ACT 44 TAX FUND  
REPORT DISTRIBUTION  
FOR THE THREE YEARS ENDED  
DECEMBER 31, 2010

This report was initially distributed to:

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

Chester County  
313 West Market Street, Suite 6302  
P. O. Box 2748  
West Chester, PA 19380

The Honorable Terence Farrell	Chairman of the Board of Commissioners
The Honorable Valentino F. DiGiorgio, III	Controller
The Honorable Ann Duke	Treasurer
Mr. Robert L. Beckershoff	Second Deputy Controller

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