

# ATTESTATION ENGAGEMENT

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**Borough of Darby**  
**Delaware County, Pennsylvania**  
**23-407**  
**Liquid Fuels Tax Fund**  
**For the Period**  
**January 1, 2017 to December 31, 2017**

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**June 2019**



Commonwealth of Pennsylvania  
Department of the Auditor General  
Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE  
AUDITOR GENERAL

### Independent Auditor's Report

The Honorable Leslie Richards  
Secretary  
Department of Transportation  
Harrisburg, PA 17120

We examined the accompanying Form MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Borough of Darby, Delaware County, for the period January 1, 2017 to December 31, 2017. The municipality's management is responsible for presenting the Form MS-965 in accordance with the criteria set forth in Note 1. Our responsibility is to express an opinion on the Form 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Form MS-965 is presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the Form MS-965. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Form MS-965, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

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

As described in Note 4, the adjustments included on the Form 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 Summary of Prior Examinations' Recommendations sections of this report:

- The municipality paid principal of \$7,245.86 and interest of \$2,027.87 from its Liquid Fuels Tax Fund on a loan for the implementation of LED street lights and other outdoor lighting improvement measures within the municipality without obtaining the approval of the Department of Transportation. (see Finding No. 1).
- In our 2014-2015 report we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$23,044.00 to its Liquid Fuels Tax Fund. As of the exit conference date of this report of April 22, 2019, this amount had not been reimbursed to the municipality's Liquid Fuels Tax Fund Account. (see Summary of 2014-2015 Examination Recommendations).
- In our 2016 report we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse a total of \$383,520.23 to its Liquid Fuels Tax Fund. The municipality reimbursed \$182,463.23 to its Liquid Fuels Tax Fund on January 22, 2018, which was subsequent to our examination period. As of the exit conference date of this report of April 22, 2019, \$201,057.00 was still due the municipality's Liquid Fuels Tax Fund. (see Summary of 2016 Examination Recommendations).

In our opinion, except for the bulleted matters discussed above, the Form MS-965 With Adjustments presents, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Borough of Darby, Delaware County, for the period January 1, 2017 to December 31, 2017, in accordance with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Form MS-965; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Form MS-965. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Form MS-965 is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Form MS-965 or on compliance and other matters; accordingly, we express no such opinions.

### Independent Auditor's Report (Continued)

A *deficiency in internal control* 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 and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Form MS-965 will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over reporting on the Form MS-965 was for the limited purpose of expressing an opinion on whether the Form MS-965 is presented in accordance with the criteria described above and would not necessarily identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

As part of obtaining reasonable assurance about whether the Form MS-965 is free from material misstatement, we performed tests of the Borough of Darby, Delaware County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of amounts on the Form MS-965. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed the following instance of noncompliance that is required to be reported under *Government Auditing Standards*.

- Failure To Obtain Project Approval.

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

- Idle Funds Held In A Noninterest Bearing Account - Recurring.

The examination finding for idle funds held in a noninterest bearing account contained in this report cites a condition that existed in the operation of the municipality during the previous three engagement periods and was not corrected during the current examination period. The municipality should strive to comply with the recommendations noted in this report.

The purpose of this report is to determine whether the municipality's Liquid Fuels Tax Fund money is spent in accordance with the laws and regulations identified in the Background section of this report and the Department of Transportation's *Publication 9*. This report is not suitable for any other purpose.

Independent Auditor's Report (Continued)

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

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.

Eugene A. DePasquale  
Auditor General

June 4, 2019

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BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2017 TO DECEMBER 31, 2017

Background

The Liquid Fuels Tax Municipal Allocation Law, Act 655 of 1956, as amended, (72 P.S. § 2615.5 et seq.), 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 allocation of Liquid Fuels Tax funds and annual maintenance payments that it receives into a special fund called either 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 such a 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. Department of Transportation's *Publication 9* includes the policies and procedures for the administration of Act 655, as amended, and the Liquid Fuels Tax Fund money. However, if there is a difference between *Publication 9* and any legislation, the legislation shall govern.

To qualify for the annual allocation of Liquid Fuels Tax funds, *Publication 9* indicates that each municipality shall:

1. Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks).
2. Make deposits and payments or expenditures in compliance with Act 655 of 1956, as amended. Failure to do so may result in not receiving allocations from PennDOT until all discrepancies are resolved. *Publication 9*, Section 2.6, includes information about investing Liquid Fuels Tax monies, using loan or bond proceeds, and types of receipts into the Liquid Fuels Tax Fund.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2017 TO DECEMBER 31, 2017

Background (Continued)

3. Submit the Pennsylvania Department of Community and Economic Development's (DCED) Report of Elected and Appointed Officials by January 31<sup>st</sup> and the Survey of Financial Condition By March 15<sup>th</sup>.
4. Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
5. Ensure resolution of all reimbursements required as a result of audits performed by the Department of the Auditor General or monitoring reviews performed by the Department of Transportation's Financial Consultants.



BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
2017 FORM MS-965 – SECTION 1  
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ 41,854.01	\$ -	\$ 41,854.01
Minor equipment purchases	3,063.37	(1,920.52)	1,142.85
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	8,610.43	-	8,610.43
Traffic control devices	74.75	1,920.52	1,995.27
Street lighting	84,360.04	(9,273.73)	75,086.31
Storm sewers and drains	-	-	-
Repairs of tools and machinery	28,145.46	-	28,145.46
Maintenance and repair of roads and bridges	942.05	-	942.05
Highway construction and rebuilding projects	101,511.69	9,273.73	110,785.42
Miscellaneous	-	-	-
Total (To Section 2, Line 5)	<u>\$ 268,561.80</u>	<u>\$ -</u>	<u>\$ 268,561.80</u>

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

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
2017 FORM MS-965 – SECTION 2  
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2017	\$ 111,481.74	\$ 87,530.39	\$ 199,012.13
Receipts:			
2. State allocation	233,897.80	-	233,897.80
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	-	-	-
2c. Miscellaneous	-	-	-
3. Total receipts	<u>233,897.80</u>	<u>-</u>	<u>233,897.80</u>
4. Total funds available	<u>345,379.54</u>	<u>87,530.39</u>	<u>432,909.93</u>
5. Expenditures (Section 1)	<u>268,561.80</u>	<u>-</u>	<u>268,561.80</u>
6. Balance, December 31, 2017	<u>\$ 76,817.74</u>	<u>\$ 87,530.39</u>	<u>\$ 164,348.13</u>

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

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
2017 FORM MS-965 – SECTION 3  
WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Noe 4)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 111,481.74	\$ 87,530.39	\$ 199,012.13
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	46,779.56	-	46,779.56
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	158,261.30	87,530.39	245,791.69
5. Less: Major equipment expenditures	<u>41,854.01</u>	<u>-</u>	<u>41,854.01</u>
6. Remainder	<u>116,407.29</u>	<u>87,530.39</u>	<u>203,937.68</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 76,817.74</u>	<u>\$ 87,530.39</u>	<u>\$ 164,348.13</u>

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

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORM MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2017 TO DECEMBER 31, 2017

1. Criteria

Section 1

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

- Major equipment purchases are purchases of road machinery and road equipment with varying yearly costs in excess of the amounts indicated below:

<u>2013</u>	<u>2014</u>	<u>2015/2016</u>	<u>2017</u>
<u>\$10,200.00</u>	<u>\$10,300.00</u>	<u>\$10,500.00</u>	<u>\$10,700.00</u>

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

<u>2013</u>	<u>2014</u>	<u>2015/2016</u>	<u>2017</u>
<u>\$10,200.00</u>	<u>\$10,300.00</u>	<u>\$10,500.00</u>	<u>\$10,700.00</u>

- 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 available from the Department of Transportation in March of each year. The amount the municipality receives is based half on its population and half on its road mileage.
- Municipalities that transferred roads from the Commonwealth of Pennsylvania to the municipality through the Highway Transfer Program receive annual turnback allocations in March of each year from the Department of Transportation. Turnback allocations are based on the mileage of the roads transferred.
- Expenditures include the total transferred from Section 1.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORM MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2017 TO DECEMBER 31, 2017

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 Form MS-965 has 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 Form MS-965 With Adjustments is restricted to the Liquid Fuels Tax Fund, which represents a segment of the entity.

Basis Of Accounting

The accompanying Form MS-965 With Adjustments is 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 DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORM MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2017 TO DECEMBER 31, 2017

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 or savings bank's assets minus liabilities.

Deposits consist of receipts and deposits in a 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, 2017. Custodial credit risk, as defined by GASB No. 40, as amended, includes deposits that are not covered by depository insurance and the deposits are uncollateralized, collateralized with securities held by the pledging financial institution, or collateralized with securities held by the pledging financial institution's trust department or agent but not in the municipality's name.

Fund Balance

The fund balance as of December 31, 2017, consists of the following:

Cash	<u>\$164,348.13</u>
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BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORM MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2017 TO DECEMBER 31, 2017

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in a noninterest-bearing account (See Finding No. 2).

4. Adjustments

Section 1

Adjustments were made to “Minor equipment purchases” and “Traffic control devices” because expenditures of \$1,920.52 were misclassified.

Adjustments were made to “Street lighting” and “Highway construction and rebuilding projects” because expenditures of \$9,273.73 were misclassified.

Section 2

An adjustment of \$87,530.39 was made to “Balance, January 1, 2017” because of a prior report adjustment that was not carried forward in the fund balance.

Section 3

An adjustment of \$87,530.39 was made to “Prior year equipment balance” because an incorrect equipment balance was carried forward.

5. Lease-Purchase Agreement

On March 13, 2015, the municipality entered into a lease-purchase agreement with Ford Credit Department to purchase a 2015 Ford F350 for \$88,659.00. The agreement was for a term of three years at an interest rate of 6.00 percent. Principal and interest payments of \$31,290.78 are due annually. Prior year’s principal and interest from the General Fund were \$59,139.47 and \$3,442.09, respectively.

During the current examination period, the municipality paid principal of \$29,519.53 and interest of \$1,771.25 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2017 Forms MS-965 - Section 1. On February 21, 2017, the lease-purchase agreement was paid-in-full.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORM MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2017 TO DECEMBER 31, 2017

6. Bank Loan

On February 15, 2017, the municipality borrowed \$208,935.80 from Univest Bank and Trust Co. for the implementation of LED street lights and other outdoor lighting improvement measures within the municipality. The term of the loan was for nine years at an interest rate of 2.95 percent. Principal and interest payments of \$2,318.43 are due monthly.

During the current examination period the municipality paid principal of \$7,245.86 and interest of \$2,027.87 from its Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2017 Forms MS-965 – Section 1. Additionally, the municipality paid interest of \$3,081.78 from the General Fund. The outstanding balance of the loan as of December 31, 2017 was \$201,689.94, plus interest.



BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2017 TO DECEMBER 31, 2017

**Finding No. 1 - Failure To Obtain Project Approval**

Our examination disclosed that on February 15, 2017, the municipality borrowed \$208,935.80 from Univest Bank and Trust Co. for the implementation of LED street lights and other outdoor lighting improvement measures within the municipality. During the current examination period the municipality paid principal of \$7,245.86 and interest of \$2,027.87 from its Liquid Fuels Tax Fund. Before obtaining a loan to install new LED lighting, a municipality must obtain the approval of the Department of Transportation. However, the municipality did not file an application with the Department of Transportation for the project 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 Two, Section 2.7.2, states that nonpermissible expenditures include "Construction and reconstruction projects without prior PENNDOT approval."

Additionally, *Publication 9*, Chapter Two, Section 2.7.3.1, states:

In addition to repaying bond issues, Act 174, enacted August 1965, permits the use of Liquid Fuels Tax funds to repay bank loans as well as bond issues which have been incurred by municipalities for road and bridge purposes. Three requirements must be met:

1. All loans must comply with the Local Government Debt Act . . .
2. Bank loans or bond issues must be used exclusively for highway purposes.
3. All projects must have PENNDOT's prior approval.

All such projects must be reported on the MS-329, Project Approval form and/or MS-339, Application for County Aid form, showing items such as the location, type of work, and estimated cost. In addition, if the job is to be financed wholly or in part by borrowing, it must be clearly stated in the remarks portion of these forms.

The failure to comply with the Department of Transportation's *Publication 9* could result in the municipality having to reimburse \$9,273.73 to its Liquid Fuels Tax Fund.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2017 TO DECEMBER 31, 2017

**Finding No. 1 - Failure To Obtain Project Approval (Continued)**

Recommendations

We recommend that the municipality reimburse \$9,273.73 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

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

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 recommendations.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2017 TO DECEMBER 31, 2017

**Finding No. 2 - Idle Funds Held In A Noninterest-Bearing Account - Recurring**

We cited the municipality for maintaining idle funds in a noninterest-bearing account in our prior three reports with the most recent being for the period of January 1, 2016 to December 31, 2016. Our current examination disclosed that liquid fuels tax money in excess of current needs was deposited in a noninterest-bearing checking account from January 1, 2017 to December 31, 2017 with an average balance of \$206,500.17.

The Department of Transportation's *Publication 9*, Chapter Two, Section 2.6.1, states:

All monies in the Liquid Fuels Tax Fund account should be invested to earn interest until expended. . .

*The Borough Code*, Section 1316, as published by the Local Government Commission, lists the types of permissible investments for borough funds. If the borough had invested the liquid fuels tax funds in interest-bearing accounts, certificates of deposit, or other investments permitted by *The Borough Code*, additional money would have been earned for road maintenance and repairs.

**Recommendation**

We again recommend that the township officials comply with the Department of Transportation's *Publication 9* by reassessing their fiscal policy and consider investing money in excess of current needs in investments outlined in *The Borough Code* as published by the Local Government Commission.

**Management's Response**

The borough officials offered no formal response at this time.

**Auditor's Conclusion**

This is a recurring finding. We strongly recommend that the municipality complies with our recommendation. During our next examination we will determine if the municipality followed our recommendation.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF PRIOR EXAMINATIONS' RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2017 TO DECEMBER 31, 2017

Summary Of 2014-2015 Examination Recommendations

In 2014-2015 report we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$23,044.00 to its Liquid Fuels Tax Fund. This amount consists of \$15,044.00 for liquid fuels money over expended on a project and \$8,000.00 for liquid fuels money transferred to the General Fund.

During our current examination we reviewed a letter dated August 22, 2017, from the Department of Transportation informing the municipality to reimburse \$23,044.00 to its Liquid Fuels Tax Fund. As of the exit conference date of this report of April 22, 2019, this amount had not been reimbursed to the Liquid Fuels Tax Fund.

Summary 2016 Examination Recommendations

In our 2016 report we recommended that the Department of Transportation review our examination findings to determine if the municipality should reimburse a total of \$383,520.23 to its Liquid Fuels Tax Fund. This amount consists of \$382,463.23 for liquid fuels money transferred to the General Fund and \$1,057.00 for nonpermissible expenditures.

The municipality reimbursed \$182,463.23 to its Liquid Fuels Tax Fund on January 22, 2018, which was subsequent to our examination period. As of the exit conference date of this report of April 22, 2019, \$201,057.00 was still due the municipality's Liquid Fuels Tax Fund.

In our 2016 report we also recommended that:

- The municipality maintain all liquid fuels tax money in the Liquid Fuels Tax Fund.
- The municipality complies with the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations regarding permissible expenditures.
- Township officials comply with the Department of Transportation's *Publication 9* by reassessing their fiscal policy and consider and investing money in excess of current needs in investments as outlined in *The Borough Code* as published by the Local Government Commission.
- The municipality complies with the Department of Transportation's *Publication 9* to ensure that the allocations are received during the first week in March of each year.

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF PRIOR EXAMINATIONS' RECOMMENDATIONS  
FOR THE YEAR ENDED  
DECEMBER 31, 2017

Summary 2016 Examination Recommendations (Continued)

During our current examination we noted that the municipality complied with our first, second, and fourth bulleted recommendations but did not comply with our third bulleted recommendation (See Finding No. 2).

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF EXIT CONFERENCE  
FOR THE PERIOD  
JANUARY 1, 2017 TO DECEMBER 31, 2017

An exit conference was held April 22, 2019. Those participating were:

BOROUGH OF DARBY

Mr. Mark Possenti, Borough Manager

DEPARTMENT OF THE AUDITOR GENERAL

Ms. Anne Fota, Auditor

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

BOROUGH OF DARBY  
DELAWARE COUNTY  
LIQUID FUELS TAX FUND  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2017 TO DECEMBER 31, 2017

This report was initially distributed to:

**The Honorable Leslie Richards**  
Secretary  
Department of Transportation

**Borough of Darby**  
Delaware County  
1020 Ridge Avenue  
Darby, PA 19023

**The Honorable Darlene Hill**  
President of Council

**Mr. Mark Possenti**  
Borough Manager

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