



**BOROUGH OF DARBY
DELAWARE COUNTY
23-407**

**LIQUID FUELS TAX FUND
EXAMINATION REPORT**

**FOR THE PERIOD
JANUARY 1, 2008 TO DECEMBER 31, 2011**

Released June 2013

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL





BOROUGH OF DARBY
DELAWARE COUNTY
23-407

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BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2008 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.



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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 Darby, Delaware County, for the period January 1, 2008 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 Darby, Delaware County's Forms MS-965 for the period January 1, 2008 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 described in Note 4, the adjustments included on the Forms MS-965 With Adjustments are made by the Department of the Auditor General.

Independent Auditor's Report (Continued)

As discussed Finding No. 1, the borough transferred \$85,502.00 during 2008 and \$10,698.48 during 2010 from its Liquid Fuels Tax Fund to its General Fund in excess of eligible expenditures.

Additionally, as discussed in Finding No. 2, the municipality expended \$10,935.00 in excess of the approved amounts for road project Nos. 07234011CA, 08234011CA, and 09234011CA. The municipality reimbursed \$10,935.00 to its Liquid Fuels Tax Fund on both February 26, 2009 and August 9, 2010. As of the date of this report, \$10,935.00 was due the Liquid Fuels Tax Fund.

Furthermore, as discussed in Comment No. 2, during our 2005-2007 examination period the municipality failed to maintain documentation for expenditures of \$6,740.16, expended \$141,758.32 for retroactive expenditures, and \$208.90 for nonpermissible expenditures. The municipality was required to reimburse \$119,515.92 to its Liquid Fuels Tax Fund over a two year period. The municipality reimbursed \$59,757.96 to its Liquid Fuels Tax Fund on January 7, 2011 and May 24, 2012, which was subsequent to our examination period.

In our opinion, except for the matters discussed in the three preceding paragraphs, 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 Darby, Delaware County, for the period January 1, 2008 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.

Independent Auditor's Report (Continued)

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

A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Forms MS-965 will not be prevented or detected by the Borough of Darby, Delaware County's internal control.

Our consideration of internal control over reporting on the Forms MS-965 was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any significant deficiencies or material weaknesses, as defined above, in internal control over reporting on the Forms MS-965.

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

- Amount Transferred From The Liquid Fuels Tax Fund To The General Fund Exceeded Eligible Expenditures.
- Liquid Fuels Money Overexpended On Projects.

We are concerned in light of the municipality's failure to correct a previously reported finding regarding transfers from the Liquid Fuels Tax Fund to the General Fund in excess of Liquid Fuels Tax Fund expenditures. During our current examination, amounts transferred from the Liquid Fuels Tax Fund exceeded Liquid Fuels Tax Fund expenditures and the municipality overexpended Liquid Fuels Tax Fund money on projects. The municipality should strive to implement the recommendations and corrective actions noted in this report.

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 the Borough of Darby, Delaware 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.

October 26, 2012

EUGENE A. DEPASQUALE
Auditor General

BOROUGH OF DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2008 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	\$ -	\$ 37,684.66	\$ 37,684.66
Minor equipment purchases	7,532.65	-	7,532.65
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	1,210.55	-	1,210.55
Traffic control devices	-	-	-
Street lighting	120,060.03	-	120,060.03
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	5,994.99	5,994.99
Maintenance and repair of roads and bridges	11,004.00	(10,185.65)	818.35
Highway construction and rebuilding projects	13,000.00	11,004.00	24,004.00
Miscellaneous (Note 6)	130,000.00	(44,498.00)	85,502.00
 Total (To Section 2, Line 5)	 <u>\$ 282,807.23</u>	 <u>\$ -</u>	 <u>\$ 282,807.23</u>

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

BOROUGH OF DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2008 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, 2008	\$ 105,757.11	\$ 420.74	\$ 106,177.85
Receipts:			
2. State allocation	166,183.66	-	166,183.66
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	859.23	-	859.23
2c. Miscellaneous (Note 5)	80,000.00	-	80,000.00
3. Total receipts	247,042.89	-	247,042.89
4. Total funds available	352,800.00	420.74	353,220.74
5. Expenditures (Section 1)	282,807.23	-	282,807.23
6. Balance, December 31, 2008	<u>\$ 69,992.77</u>	<u>\$ 420.74</u>	<u>\$ 70,413.51</u>

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

BOROUGH OF DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2008 FORM MS-965 – SECTION 3
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 96,586.08	\$ 420.74	\$ 97,006.82
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	33,236.73	-	33,236.73
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	129,822.81	420.74	130,243.55
5. Less: Major equipment expenditures	-	37,684.66	37,684.66
6. Remainder	129,822.81	(37,263.92)	92,558.89
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	\$ 69,992.77	\$ 420.74	\$ 70,413.51

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

BOROUGH OF DARBY
 DELAWARE 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	1,620.09	-	1,620.09
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	5,925.28	-	5,925.28
Traffic control devices	-	-	-
Street lighting	96,627.02	-	96,627.02
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	1,440.16	-	1,440.16
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 105,612.55</u>	 <u>\$ -</u>	 <u>\$ 105,612.55</u>

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

BOROUGH OF DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2009 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, 2009	\$ 69,992.77	\$ 420.74	\$ 70,413.51
Receipts:			
2. State allocation	160,134.05	-	160,134.05
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	444.97	37.26	482.23
2c. Miscellaneous (Note 5)	10,935.00	-	10,935.00
3. Total receipts	<u>171,514.02</u>	<u>37.26</u>	<u>171,551.28</u>
4. Total funds available	<u>241,506.79</u>	<u>458.00</u>	<u>241,964.79</u>
5. Expenditures (Section 1)	<u>105,612.55</u>	-	<u>105,612.55</u>
6. Balance, December 31, 2009	<u>\$ 135,894.24</u>	<u>\$ 458.00</u>	<u>\$ 136,352.24</u>

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

BOROUGH OF DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2009 FORM MS-965 – SECTION 3
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 69,992.77	\$ 420.74	\$ 70,413.51
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	32,026.81	-	32,026.81
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	102,019.58	420.74	102,440.32
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>102,019.58</u>	<u>420.74</u>	<u>102,440.32</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 102,019.58</u>	<u>\$ 420.74</u>	<u>\$ 102,440.32</u>

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

BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
2010 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	\$ -	\$ 52,059.28	\$ 52,059.28
Minor equipment purchases	6,434.26	-	6,434.26
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	23,664.88	-	23,664.88
Traffic control devices	-	-	-
Street lighting	121,931.80	-	121,931.80
Storm sewers and drains	-	-	-
Repairs of tools and machinery	4,378.69	12,242.24	16,620.93
Maintenance and repair of roads and bridges	12,980.00	(12,980.00)	-
Highway construction and rebuilding projects	-	12,980.00	12,980.00
Miscellaneous (Note 6)	75,000.00	(64,301.52)	10,698.48
 Total (To Section 2, Line 5)	 <u>\$ 244,389.63</u>	 <u>\$ -</u>	 <u>\$ 244,389.63</u>

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

BOROUGH OF DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2010 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, 2010	\$ 135,931.50	\$ 420.74	\$ 136,352.24
Receipts:			
2. State allocation	154,001.59	-	154,001.59
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	380.39	-	380.39
2c. Miscellaneous (Note 5)	10,935.00	-	10,935.00
3. Total receipts	165,316.98	-	165,316.98
4. Total funds available	301,248.48	420.74	301,669.22
5. Expenditures (Section 1)	244,389.63	-	244,389.63
6. Balance, December 31, 2010	<u>\$ 56,858.85</u>	<u>\$ 420.74</u>	<u>\$ 57,279.59</u>

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

BOROUGH OF DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2010 FORM MS-965 – SECTION 3
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 102,019.58	\$ 420.74	\$ 102,440.32
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	30,800.32	-	30,800.32
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	132,819.90	420.74	133,240.64
5. Less: Major equipment expenditures	-	52,059.28	52,059.28
6. Remainder	<u>132,819.90</u>	<u>(51,638.54)</u>	<u>81,181.36</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 56,858.85</u>	<u>\$ 420.74</u>	<u>\$ 57,279.59</u>

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

BOROUGH OF DARBY
 DELAWARE 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	11,982.30	-	11,982.30
Traffic control devices	-	-	-
Street lighting	95,382.02	-	95,382.02
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	-	-	-
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 107,364.32</u>	 <u>\$ -</u>	 <u>\$ 107,364.32</u>

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

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

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2011	\$ 56,858.85	\$ 420.74	\$ 57,279.59
Receipts:			
2. State allocation	157,443.46	-	157,443.46
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	198.81	15.70	214.51
2c. Miscellaneous (Note 5)	59,757.96	-	59,757.96
3. Total receipts	217,400.23	15.70	217,415.93
4. Total funds available	274,259.08	436.44	274,695.52
5. Expenditures (Section 1)	107,364.32	-	107,364.32
6. Balance, December 31, 2011	\$ 166,894.76	\$ 436.44	\$ 167,331.20

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

BOROUGH OF DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2011 FORM MS-965 – SECTION 3
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 56,858.85	\$ 420.74	\$ 57,279.59
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	31,488.69	-	31,488.69
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	88,347.54	420.74	88,768.28
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>88,347.54</u>	<u>420.74</u>	<u>88,768.28</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 88,347.54</u>	<u>\$ 420.74</u>	<u>\$ 88,768.28</u>

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

BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2008 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 or less.
- 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.

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.

BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2008 TO DECEMBER 31, 2011

1. Criteria (Continued)

Section 3 (Continued)

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 DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2008 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 DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2008 TO DECEMBER 31, 2011

2. Deposits (Continued)

Fund Balance

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

Cash	<u>\$167,331.20</u>
------	---------------------

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$859.23 during 2008, \$482.23 during 2009, \$380.39 during 2010, and \$214.51 during 2011 thus providing additional funds for road maintenance and repairs.

4. Adjustments

2008 - Section 1

Adjustments were made to "Major equipment purchases," "Repairs of tools and machinery," "Maintenance and repair of roads and bridges," "Highway construction and rebuilding projects," and "Miscellaneous" because expenditures of \$54,683.65 were misclassified.

2008 - Section 2

An adjustment of \$420.74 was made to "Balance, January 1, 2008" because of a prior report adjustment that was not carried forward in the fund balance.

2008 - Section 3

An adjustment of \$420.74 was made to "Prior year equipment balance" because of a prior report adjustment that was not carried forward in the equipment balance.

BOROUGH OF DARBY
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LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2008 TO DECEMBER 31, 2011

4. Adjustments (Continued)

2008 - Section 3 (Continued)

An adjustment of \$37,684.66 was made to “Major equipment expenditures” to reflect the adjustment made to major equipment purchases in 2008 – Section 1.

2009 - Section 2

An adjustment of \$420.74 was made to “Balance, January 1, 2009” to reflect the adjustment made to the fund balance in 2008 - Section 2.

An adjustment of \$37.26 was made to “Interest on investments” because interest earnings were understated.

2009 - Section 3

An adjustment of \$420.74 was made to “Prior year equipment balance” to reflect the adjustment made to the equipment balance in 2008 - Section 3.

2010 - Section 1

Adjustments were made to “Major equipment purchases,” “Repairs of tools and machinery,” and “Miscellaneous” because expenditures of \$64,301.52 were misclassified.

Adjustments were made to “Maintenance and repair of roads and bridges” and “Highway construction and rebuilding projects” because expenditures of \$12,980.00 were misclassified.

2010 - Section 2

An adjustment of \$420.74 was made to “Balance, January 1, 2010” because the incorrect fund balance was carried forward.

2010 - Section 3

An adjustment of \$420.74 was made to “Prior year equipment balance” to reflect the adjustment made to the equipment balance in 2009 - Section 3.

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 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 NOTES TO FORMS MS-965 WITH ADJUSTMENTS
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4. Adjustments (Continued)

2010 - Section 3 (Continued)

An adjustment of \$52,059.28 was made to “Major equipment expenditures” to reflect the adjustment made to major equipment purchases in 2010 - Section 1.

2011 - Section 2

An adjustment of \$420.74 was made to “Balance, January 1, 2011” to reflect the adjustment made to the fund balance in 2010 - Section 2.

An adjustment of \$15.70 was made to “Interest on investments” because interest earnings were understated.

2011 - Section 3

An adjustment of \$420.74 was made to “Prior year equipment balance” to reflect the adjustment made to the equipment balance in 2010 - Section 3.

5. Miscellaneous Receipts

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

<u>Source</u>	<u>Description</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
General Fund	Reimbursement (Comment No. 1)	\$80,000.00	\$ -	\$ -	\$ -
Delaware County	County Aid (Finding No. 2)	-	10,935.00	10,935.00	-
General Fund	Reimbursement (Comment No. 2)	-	-	-	<u>59,757.96</u>
Total		<u>\$80,000.00</u>	<u>\$10,935.00</u>	<u>\$10,935.00</u>	<u>\$59,757.96</u>

BOROUGH OF DARBY
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6. Miscellaneous Expenditures

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

<u>Payee</u>	<u>Description</u>	<u>2008</u>	<u>2010</u>
General Fund	Transfer (Finding No. 1)	<u>\$85,502.00</u>	<u>\$10,698.48</u>

BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
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Finding No. 1 - Amount Transferred From The Liquid Fuels Tax Fund To The General Fund Exceeded Eligible Expenditures

Our examination disclosed that the municipality transferred \$130,000.00 from its Liquid Fuels Tax Fund to its General Fund on December 30, 2008 and \$75,000.00 on December 31, 2010. However, the municipality had only expended \$44,498.00 in 2008 and \$64,301.52 for eligible Liquid Fuels Tax Fund expenditures from its General Fund. Therefore, the amounts transferred from the Liquid Fuels Tax Fund to the General Fund exceeded eligible expenditures by \$85,502.00 during 2008 and \$10,698.48 during 2010.

The practice of transferring liquid fuels money in excess of the amount incurred for permissible liquid fuels expenditures into any account other than the Liquid Fuels Tax Fund account is contrary to the Liquid Fuels Tax Municipal Allocation Law, 72 P.S. § 2615.5, which states:

. . . each city, borough, town, and township, shall . . . Establish and maintain a special fund into which the moneys [liquid fuels tax funds] . . . shall be deposited and into which no other moneys may be deposited or commingled . . .

Good internal accounting controls ensure that disbursements are made from the Liquid Fuels Tax Fund only for expenditures incurred. When Liquid Fuels Tax Fund money is commingled with the General Fund or other funds, the potential for Liquid Fuels Tax Fund money to be used for unauthorized purposes increases significantly.

Similar findings were also written in our 2002-2003, 2004, and 2005-2007 reports.

Recommendation

We recommend that the municipality reimburse \$96,200.48 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We again recommend that the municipality establish and implement internal controls to ensure transfers are reviewed timely to avoid excess transfers.

Management's Response

The borough manager stated:

We agree with the finding.

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FINDINGS AND RECOMMENDATIONS
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Finding No. 1 - Amount Transferred From The Liquid Fuels Tax Fund To The General Fund
Exceeded Eligible Expenditures (Continued)

Auditor's Conclusion

This is a recurring finding. We strongly recommend that the municipality comply with our recommendations.

BOROUGH OF DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 FINDINGS AND RECOMMENDATIONS
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Finding No. 2 - Liquid Fuels Money Overexpended On Projects

Our examination disclosed that the municipality expended a total of \$36,984.00 of Liquid Fuels Tax Fund money on three construction projects. However, the amount approved to be expended from the liquid Fuels Tax Fund for these projects was \$4,179.00. The difference of \$32,805.00 should have been paid directly from the General Fund. These construction projects were as follows:

<u>Project No.</u>	<u>PENNDOT Approved Amount</u>	<u>Expended Amount</u>	<u>Overexpended Amount</u>
07234011CA	\$ 69.00	\$ 11,004.00	\$10,935.00
08234011CA	2,065.00	13,000.00	10,935.00
09234011CA	<u>2,045.00</u>	<u>12,980.00</u>	<u>10,935.00</u>
Totals	<u>\$4,179.00</u>	<u>\$36,984.00</u>	<u>\$32,805.00</u>

The Department of Transportation’s Regulations do not permit a municipality to expend Liquid Fuels Tax Fund money in excess of the amount approved on Municipal Services Completion Report Form MS-999.

On February 26, 2009 and August 9, 2010, the municipality deposited its 2007 and 2008 County Aid proceeds of \$10,935.00 each into the Liquid Fuels Tax Fund, leaving a balance due of \$10,935.00.

The failure to comply with the Department of Transportation’s Regulations could result in the municipality having to reimburse \$10,935.00 to its Liquid Fuels Tax Fund.

During 2010 and 2011 the municipality did not overexpend Liquid Fuels Tax Fund money on road projects.

Recommendations

We recommend that the municipality reimburse \$10,935.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality expend only the approved amount of Liquid Fuels Tax Fund money on road construction projects.

BOROUGH OF DARBY
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FINDINGS AND RECOMMENDATIONS
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Finding No. 2 - Liquid Fuels Money Overexpended On Projects (Continued)

Management's Response

The borough manager stated:

We agree with the finding.

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
COMMENTS
FOR THE PERIOD
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Comment No. 1 - Summary Of 2004 Examination Recommendation

During 2004 the municipality transferred \$150,000.00 from its Liquid Fuels Tax Fund to its General Fund without maintaining documentation to support the transfer. The municipality reimbursed \$70,000.00 of that amount to its Liquid Fuels Tax Fund on January 5, 2005. We recommended that the Department of Transportation review our finding to determine if the municipality should reimburse the remaining \$80,000.00 to its Liquid Fuels Tax Fund. A similar finding was also written in our current report (see Finding No. 1).

During our prior examination we reviewed a letter dated January 19, 2007, from the Department of Transportation informing the municipality to reimburse \$80,000.00 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on May 5, 2008.

Comment No. 2 - Summary Of 2005-2007 Examination Recommendations

In our 2005-2007 report we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$148,707.38 to its Liquid Fuels Tax Fund. This amount consists of \$6,740.16 for failure to maintain documentation for expenditures, \$141,758.32 for retroactive expenditures, and \$208.90 for nonpermissible expenditures. A finding similar to a failure to maintain documentation for expenditures was also written in our current report (see Finding No. 1).

During our current examination we reviewed a letter dated March 2, 2010, from the Department of Transportation informing the municipality to reimburse \$119,515.92 over a two year period to its Liquid Fuels Tax Fund. The letter further stated that the reimbursement of the remaining \$29,191.46 would not be required. We noted that the municipality reimbursed \$59,757.96 to its Liquid Fuels Tax Fund on January 7, 2011 and May 24, 2012, which was subsequent to our examination period.

In our 2005-2007 report we recommended:

- That the municipality comply with the Department of Transportation's *Publication 9* regarding retroactive expenditures.
- That the municipality comply with the Liquid Fuels Tax Municipal Allocation Law and Department of Transportation's Regulations regarding permissible expenditures.

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Comment No. 2 - Summary Of 2005-2007 Examination Recommendations (Continued)

- That the municipality file all required documentation timely to receive its allocation during the first week in April.

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

BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
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An exit conference was held October 26, 2012. Those participating were:

BOROUGH OF DARBY

Mr. Mark Possenti, Borough Manager

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Stephen P. Stoppie, Auditor

Mr. John Socket, 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, 2008 TO DECEMBER 31, 2011

This report was initially distributed to:

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

Borough of Darby
Delaware County
821 Summit Street
Darby, PA 19023

The Honorable Janice Davis

President of Council

Mr. Mark Possenti

Borough Manager

This report is a matter of public record and is available online at www.auditorgen.state.pa.us.
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General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to:
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