



TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
53-209

LIQUID FUELS TAX FUND
EXAMINATION REPORT

FOR THE YEAR ENDED
DECEMBER 31, 2009

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TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE YEAR ENDED
DECEMBER 31, 2009

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.





**Department of the Auditor General
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120-0018**

**JACK WAGNER
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 Township of East Union, Schuylkill County, for the year ended December 31, 2009. 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 Township of East Union, Schuylkill County's Forms MS-965 for the year ended December 31, 2009 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 in Finding No. 1 the township expended \$5,363.50 from its Liquid Fuel Tax Fund for fuel but did not maintain dispensation records. Additionally, as discussed in Finding No. 2, the township expended \$15,000.00 for the preparation of a zoning ordinance and zoning maps, which is a nonpermissible expenditure. The municipality reimbursed \$15,000.00 to its Liquid Fuels Tax Fund on June 7, 2010, which was subsequent to our examination period. Also, as discussed in the Comment section of this report, during the prior examination period the township was overcharged \$1,350.53 for materials. We further noted that the vendor reimbursed \$1,350.53 on November 5, 2010, which was subsequent to our examination period.

In our opinion, except for the matters discussed in the preceding paragraph, the Forms MS-965 With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Township of East Union, Schuylkill County, for the year ended December 31, 2009, 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 Township of East Union, Schuylkill 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 Township of East Union, Schuylkill County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Township of East Union, Schuylkill County's internal control. We consider the deficiency described in the finding below to be a significant deficiency in internal control over reporting on the Forms MS-965:

- Fuel Dispensation Records Not Maintained.

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 Township of East Union, Schuylkill County's internal control. Our consideration of the internal control over reporting on the Forms MS-965 would not necessarily disclose all matters in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe that the significant deficiency described above is a material weakness.

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

- Nonpermissible Expenditure.

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 Township of East Union, Schuylkill County and is not intended to be and should not be used by anyone other than these specified parties.

March 29, 2011

JACK WAGNER
Auditor General

TOWNSHIP OF EAST UNION
SCHUYLKILL 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	\$ 87,989.12	\$ -	\$ 87,989.12
Minor equipment purchases	369.00	-	369.00
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	825.00	-	825.00
Winter maintenance services	15,932.94	-	15,932.94
Traffic control devices	-	-	-
Street lighting	4,016.16	-	4,016.16
Storm sewers and drains	-	-	-
Repairs of tools and machinery	6,302.52	-	6,302.52
Maintenance and repair of roads and bridges	21,704.33	-	21,704.33
Highway construction and rebuilding projects	238,931.78	-	238,931.78
Miscellaneous (Finding No. 2)	15,000.00	-	15,000.00
 Total (To Section 2, Line 5)	 <u>\$ 391,070.85</u>	 <u>\$ -</u>	 <u>\$ 391,070.85</u>

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

TOWNSHIP OF EAST UNION
SCHUYLKILL 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	\$ 321,389.98	\$ 3,353.26	\$ 324,743.24
Receipts:			
2. State allocation	51,663.51	-	51,663.51
2a. Turnback allocation	31,840.00	-	31,840.00
2b. Interest on investments (Note 3)	3,685.03	-	3,685.03
2c. Miscellaneous (Note 5)	<u>62,697.51</u>	<u>-</u>	<u>62,697.51</u>
3. Total receipts	<u>149,886.05</u>	<u>-</u>	<u>149,886.05</u>
4. Total funds available	<u>471,276.03</u>	<u>3,353.26</u>	<u>474,629.29</u>
5. Expenditures (Section 1)	<u>391,070.85</u>	<u>-</u>	<u>391,070.85</u>
6. Balance, December 31, 2009	<u><u>\$ 80,205.18</u></u>	<u><u>\$ 3,353.26</u></u>	<u><u>\$ 83,558.44</u></u>

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

TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
LIQUID FUELS TAX FUND
2009 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 94,952.76	\$ -	\$ 94,952.76
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	16,700.70	-	16,700.70
3. PENNDOT approved adjustments	<u>61,075.65</u>	<u>-</u>	<u>61,075.65</u>
4. Total funds available for equipment acquisition	172,729.11	-	172,729.11
5. Less: Major equipment expenditures	<u>87,989.12</u>	<u>-</u>	<u>87,989.12</u>
6. Remainder	<u><u>84,739.99</u></u>	<u><u>-</u></u>	<u><u>84,739.99</u></u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u><u>\$ 80,205.18</u></u>	<u><u>\$ 3,353.26</u></u>	<u><u>\$ 83,558.44</u></u>

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

TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2009

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.

TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE YEAR ENDED
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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 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.

TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2009

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 Second Class Township Code, Title 53 P.S. § 68204, authorizes the township 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, 2009. 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.

TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2009

2. Deposits (Continued)

Fund Balance

The fund balance consists of the following.

Cash	\$39,056.49
Certificate of deposit	44,501.95
Total	\$83,558.44

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account and a certificate of deposit which earned \$3,685.03 during 2009, thus providing additional funds for road maintenance and repairs.

4. Adjustments

Section 2

An adjustment of \$3,353.26 was made to “Balance, January 1, 2009” because an incorrect fund balance was reported.

5. Miscellaneous Receipts

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

Source	Description	Amount
General Fund	Grant for equipment	\$61,075.65
Commonwealth of Pennsylvania	Gas tax refund	1,621.86
Total		\$62,697.51

TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2009

6. Bank Loan

On October 9, 2008, the municipality borrowed \$160,000.00 from First Columbia Bank & Trust Company to purchase a 2009 International truck, Volvo Model B1 70 loader/backhoe, and a snow plow. The term of the loan was for ten years at an interest rate of 4.15 percent. Principal and interest payments of \$1,635.91 are due monthly. Prior years' principal and interest payments from the Liquid Fuels Tax Fund were \$2,150.27 and \$1,121.55, respectively.

During the current examination period the municipality paid principal of \$2,147.46 and interest of \$1,124.36, from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2009 Form MS-965 - Section 1. The loan was combined with an additional purchase of equipment (Note 7). The balance as of February 9, 2009 was \$155,702.27.

7. Bank Loan

On February 5, 2009, the municipality combined the balance of \$155,702.27 from the above loan (Note 6) with the purchase of a 2009 Ford F-550 truck for \$61,075.65. The new loan was for \$216,777.92 and was borrowed from First Columbia Bank & Trust Company. The term of the loan was for ten years at an interest rate of 4.25 percent. Principal and interest payments of \$2,226.63 are due monthly.

During the current examination period the municipality paid principal of \$14,750.38 and interest of \$7,515.92 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2009 Form MS-965 - Section 1. The balance as of December 31, 2009 was \$202,027.54, plus interest.

TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE YEAR ENDED
DECEMBER 31, 2009

Finding No. 1 - Fuel Dispensation Records Not Maintained

Our examination disclosed that the municipality used the Liquid Fuels Tax Fund account to purchase \$5,363.50 of fuel in bulk quantities. However, records for the dispensation of these fuel purchases were not maintained.

To ensure good internal control of fuel purchases and usage, the municipality should maintain records listing the following information:

- Date.
- Number of gallons pumped.
- License number or identity of the vehicle.
- Intended use.
- Signature of the operator.

Without fuel dispensation records, there is no record that fuel was used for purposes permitted by the Liquid Fuels Tax Municipal Allocation Law. As a result, we could not determine if the expenditures made from the Liquid Fuels Tax Fund to purchase the fuel were permissible.

The failure to maintain records of fuel dispensation as noted above could result in the municipality having to reimburse \$5,363.50 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$5,363.50 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the municipality prepare detailed fuel usage reports to ensure good internal controls over fuel purchases and usage.

Management's Response

The municipal officials stated:

As of the beginning of 2011, fuel dispensation records are being kept.

TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE YEAR ENDED
DECEMBER 31, 2009

Finding No. 1 - Fuel Dispensation Records Not Maintained (Continued)

Auditor's Conclusion

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

TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE YEAR ENDED
DECEMBER 31, 2009

Finding No. 2 - Nonpermissible Expenditure

Our examination disclosed that the municipality expended \$15,000.00 from the Liquid Fuels Tax Fund for the preparation of a zoning ordinance and zoning maps, which is a nonpermissible expenditure.

The Liquid Fuels Tax Municipal Allocation Law, 72 P.S. § 2615.4, provides, in part, that monies herein allocated may be used only for construction, reconstruction, maintenance, and repairs of such public roads or streets, including bridges, culverts and drainage structures, for which they are legally responsible. Also permitted are expenditures involving acquisition, maintenance, repairs and operation of street signs, traffic signs, traffic signal control systems, road equipment, and snow fences.

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 the preparation of a zoning ordinance and zoning maps, are outside the scope of permissible expenditures.

The municipality reimbursed \$15,000.00 to its Liquid Fuels Tax Fund on June 7, 2010, which was subsequent to our examination period.

Recommendation

We recommend that, in the future, the municipality comply with the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations regarding permissible expenditures.

Management's Response

The municipal officials stated:

It was paid back on June 7, 2010.

Auditor's Conclusion

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

TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
LIQUID FUELS TAX FUND
COMMENT
FOR THE YEAR ENDED
DECEMBER 31, 2009

Comment - Summary Of Prior Examination Recommendations

In our prior report we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$1,350.53 to its Liquid Fuels Tax Fund for a vendor overcharge.

During our current examination we reviewed a letter dated March 15, 2010, from the Department of Transportation informing the municipality to reimburse \$1,350.53 to its Liquid Fuels Tax Fund. We noted that the vendor reimbursed this amount to the Liquid Fuels Tax Fund on November 5, 2010, which was subsequent to our examination period.

In our prior report we also recommended that the municipality compare invoice prices to contract prices prior to making payments on vendor invoices.

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

TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE YEAR ENDED
DECEMBER 31, 2009

An exit conference was held March 29, 2011. Those participating were:

TOWNSHIP OF EAST UNION

Mrs. Linda Croll, Secretary

DEPARTMENT OF THE AUDITOR GENERAL

Ms. Georgeanne M. Walacavage, Auditor

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



TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE YEAR ENDED
DECEMBER 31, 2009

This report was initially distributed to:

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

Township of East Union
Schuylkill County
10 East Elm Street
Sheppton, PA 18248

The Honorable Edward Shamany

Chairman of the Board of Supervisors

Mrs. Linda Croll

Secretary

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 318 Finance Building, Harrisburg, PA 17120. To view this report online or to contact the Department of the Auditor General, please access our web site at www.auditorgen.state.pa.us.