

TOWNSHIP OF FORKS NORTHAMPTON COUNTY 48-205

LIQUID FUELS TAX FUND EXAMINATION REPORT

FOR THE YEAR ENDED DECEMBER 31, 2009

## **CONTENTS**

<u>Pag</u>	<u>şe</u>
Background1	1
Independent Auditor's Report	3
Financial Section:	
2009 Form MS-965 With Adjustments	7
Notes To Form MS-965 With Adjustments	)
Findings And Recommendations:	
Finding No. 1 – Failure To Properly Prepare Form MS-965	7
Finding No. 2 – Failure To Obtain Project Approval	)
Comment	1
Summary Of Exit Conference	2
Report Distribution	3

TOWNSHIP OF FORKS NORTHAMPTON 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 Forks, Northampton 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 Forks, Northampton 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.

#### <u>Independent Auditor's Report (Continued)</u>

As discussed in Finding No. 2, the municipality expended \$12,945.63 during 2009 for the reconstruction of Newlins Road without obtaining project approval. Additionally, as discussed in the Comment section of this report, the municipality expended \$83,801.93 for a project and failed to obtain project approval. The municipality reimbursed \$83,801.93 to its Liquid Fuels Tax Fund on April 29, 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 Forks, Northampton 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.

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 Forks, Northampton 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 Forks, Northampton County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Township of Forks, Northampton 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:

• Failure To Properly Prepare Form MS-965.

#### Independent Auditor's Report (Continued)

A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Forms MS-965 will not be prevented or detected by the Township of Forks, Northampton County's internal control. Our consideration of the internal control over reporting on the Forms MS-965 would not necessarily disclose all matters in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. We consider the significant deficiency described above to be a material weakness.

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

• Failure To Obtain Project Approval.

We are concerned in light of the municipality's failure to correct previously reported findings regarding the failure to properly prepare its Form MS-965 and a failure to obtain project approval. The municipality should strive to implement the recommendations and corrective actions noted in this report.

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

January 25, 2011

JACK WAGNER Auditor General



## TOWNSHIP OF FORKS NORTHAMPTON COUNTY LIQUID FUELS TAX FUND 2009 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	· ·		djustments (Note 4)	Adjusted Amount		
Major equipment purchases	\$	132,308.62	\$	(9,345.00)	\$	122,963.62
Minor equipment purchases	Ψ	132,300.02	Ψ	(2,313.00)	Ψ	122,703.02
Computer/Computer related training		_		_		_
Agility projects		_		_		_
Cleaning streets and gutters		_		_		_
Winter maintenance services		96,157.12		14,649.16		110,806.28
Traffic control devices		14,870.86		(3,600.63)		11,270.23
Street lighting		58,712.99		(654.92)		58,058.07
Storm sewers and drains		50,712.55		(034.72)		50,050.07
Repairs of tools and machinery		_		_		_
Maintenance and repair of		-		-		-
roads and bridges		74,584.42		(199.24)		74,385.18
<u> </u>		74,364.42		(199.24)		74,363.16
Highway construction and		177 746 69		12 045 62		100 602 21
rebuilding projects		177,746.68		12,945.63		190,692.31
Miscellaneous (Note 6)				25.00		25.00
Total (To Section 2, Line 5)	\$	554,380.69	\$	13,820.00	\$	568,200.69

## TOWNSHIP OF FORKS NORTHAMPTON COUNTY LIQUID FUELS TAX FUND 2009 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	 Reported	djustments (Note 4)	Adjusted Amount
1. Balance, January 1, 2009	\$ 337,587.01	\$ -	\$ 337,587.01
Receipts: 2. State allocation 2a. Turnback allocation	276,727.61	-	276,727.61
2b. Interest on investments (Note 3) 2c. Miscellaneous (Note 5)	1,783.13	12,724.78	1,783.13 12,724.78
3. Total receipts	278,510.74	12,724.78	291,235.52
4. Total funds available	616,097.75	 12,724.78	628,822.53
5. Expenditures (Section 1)	554,380.69	13,820.00	568,200.69
6. Balance, December 31, 2009	\$ 61,717.06	\$ (1,095.22)	\$ 60,621.84

## TOWNSHIP OF FORKS NORTHAMPTON COUNTY LIQUID FUELS TAX FUND 2009 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

	Reported		<b>D</b>		Adjusted Amount
\$	299,331.02	\$	-	\$	299,331.02
n	55,345.52		-		55,345.52
	<u>-</u>				
	354,676.54		-		354,676.54
	132,308.62		(9,345.00)		122,963.62
	222,367.92		9,345.00		231,712.92
\$	61,717.06	\$	(1,095.22)	\$	60,621.84
	\$ n	\$ 299,331.02 n 55,345.52 	Reported \$ 299,331.02 \$  n 55,345.52  - 354,676.54  132,308.62  222,367.92	\$ 299,331.02 \$ -  n 55,345.52 -  354,676.54 -  132,308.62 (9,345.00)  222,367.92 9,345.00	Reported (Note 4)  \$ 299,331.02 \$ - \$  55,345.52 -

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

#### 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.

#### 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.

#### 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. <u>Deposits</u>

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.

#### 2. Deposits (Continued)

#### Fund Balance

The fund balance consists of the following:

Cash \$60,621.84

## 3. <u>Interest On Investments</u>

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$1,783.13 during 2009, thus providing additional funds for road maintenance and repairs.

#### 4. Adjustments

#### Section 1

Adjustments were made to "Major equipment purchases," "Traffic control devices," and "Highway construction and rebuilding projects" because expenditures of \$12,945.63 were misclassified.

An adjustment of \$14,649.16 was made to "Winter maintenance services" because check No. 1895 was not reported.

An adjustment of \$(654.92) was made to "Street lighting" because check No. 1896 for \$254.49 was not reported and check No. 1978 for \$909.41 was issued in 2010, but was incorrectly reported as an expenditure in 2009.

An adjustment of \$(199.24) was made to "Maintenance and repair of roads and bridges" because check No. 1976 was issued in 2010, but was incorrectly reported as an expenditure in 2009.

An adjustment of \$25.00 was made to "Miscellaneous" expenditures because a transfer to the General Fund was not reported.

#### 4. Adjustments (Continued)

#### Section 2

An adjustment of \$12,724.78 was made to "Miscellaneous" because deposits in error of \$12,699.78 and \$25.00 were not reported (Note 6).

#### Section 3

An adjustment of \$(9,345.00) was made to "Major equipment expenditures" to reflect the adjustment made to major equipment purchases in 2009 - Section 1.

### 5. <u>Miscellaneous Receipts</u>

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

Source	<u>Description</u>	Amount
Commonwealth of Pennsylvania	Deposit in error (Note 6)	\$ 25.00
Department of Transportation	Deposit in error (Note 6)	12,699.78
Total		\$12,724.78

#### 6. Deposits In Error

On July 23, 2009, the municipality deposited \$25.00 into the Liquid Fuels Tax Fund in error. On July 24, 2009, the municipality transferred \$25.00 from its Liquid Fuels Tax Fund to its General Fund to correct the deposit in error.

On December 17, 2009 the Department of Transportation erroneously deposited \$12,699.78 into the Liquid Fuels Tax Fund that was received for a winter maintenance agreement in error. The municipality transferred \$12,699.78 from its Liquid Fuels Tax Fund to its General Fund to correct the deposit in error on January 18, 2010, which was subsequent to our examination period.

### 7. General Obligation Bond

On July 9, 2008, the municipality borrowed \$1,020,000.00 from PNC Bank to purchase a new fleet of public works trucks. The term of the loan was for 10 years at an interest rate of 3.54 percent. Principal payments are due annually and interest payments are due semi-annually.

During the current examination period the municipality paid principal of \$86,253.82 and interest of \$36,709.80 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2009 Form MS-965 – Section 1. The outstanding balance of the obligation bond as of March 23, 2010 was \$933,746.18, plus interest.

On March 23, 2010, the township refinanced the obligation bond. The new bond is a \$12,000,000.00 commingling of township debt. As of the date of this report the Liquid Fuels Tax Fund is no longer responsible for any part of this new obligation bond.



### Finding No. 1 – Failure To Properly Prepare Form MS-965

Our examination disclosed that there were numerous errors made in the preparation of the municipality's 2009 Form MS-965. These adjustments, which are disclosed in Note 4, are as follows:

#### Section 1

- Adjustments were made to "Major equipment purchases," "Traffic control devices," and "Highway construction and rebuilding projects" because expenditures of \$12,945.63 were misclassified.
- An adjustment of \$14,649.16 was made to "Winter maintenance services" because check No. 1895 was not reported.
- An adjustment of \$(654.92) was made to "Street lighting" because check No. 1896 for \$254.49 was not reported and check No. 1978 for \$909.41 was issued in 2010, but was incorrectly reported as an expenditure in 2009.
- An adjustment of \$(199.24) was made to "Maintenance and repair of roads and bridges" because check No. 1976 was issued in 2010, but was incorrectly reported as an expenditure in 2009.
- An adjustment of \$25.00 was made to "Miscellaneous" expenditures because a transfer to the General Fund was not reported.

## Section 2

• An adjustment of \$12,724.78 was made to "Miscellaneous" because deposits in error of \$12,699.78 and \$25.00 were not reported (Note 6).

#### Section 3

• An adjustment of \$(9,345.00) was made to "Major equipment expenditures" to reflect the adjustment made to major equipment purchases in 2009 - Section 1.

### Finding No. 1 – Failure To Properly Prepare Form MS-965 (Continued)

Good internal controls ensure that the municipality complete its Form MS-965 accurately and completely. The failure to properly complete Form MS-965 increases the risk that errors or irregularities may occur and remain undetected.

A similar finding was also written in our prior report.

### Recommendation

We again recommend that the municipality ensure that its Form MS-965 is complete and accurate.

#### Management's Response

The municipal officials offered no formal response at this time.

#### Auditor's Conclusion

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

#### <u>Finding No. 2 – Failure To Obtain Project Approval</u>

Our examination disclosed that the municipality expended \$12,945.63 during 2009 for the reconstruction of Newlins Road. Municipalities are required to obtain the approval of the Department of Transportation before reconstructing roads. 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 2.8, states, in part:

The following criteria is used to determine when a project is required for work on local roads utilizing Liquid Fuels Tax Funds, when construction, reconstruction and/or resurfacing work exceeds one inch or more in depth as well as other activities.

Other: Reconstruction, such as removal and replacement of

one inch or more of existing road metal, including base and surface. This would include cold-mill

recycling and reclamation work.

The failure to comply with the Department of Transportation's *Publication 9* could result in the municipality having to reimburse \$12,945.63 to its Liquid Fuels Tax Fund.

A similar finding was also written in our prior report.

#### Recommendations

We recommend that the municipality reimburse \$12,945.63 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

Further, we again 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.

### Finding No. 2 – Failure To Obtain Project Approval (Continued)

## Management's Response

The finance director stated:

This was a leftover issue with the old engineer.

### Auditor's Conclusion

The municipality should comply with the Department of Transportation's *Publication 9* as stated above. During our next examination we will determine if the municipality complied with our recommendations.

TOWNSHIP OF FORKS NORTHAMPTON COUNTY LIQUID FUELS TAX FUND COMMENT FOR THE YEAR ENDED DECEMBER 31, 2009

### Comment – Summary Of Prior Examination Recommendation

In our prior report we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$83,801.93 to its Liquid Fuels Tax Fund for a failure to obtain project approval. A similar finding was also written in our current report (see Finding No. 2).

During our current examination we reviewed a letter dated March 19, 2010, from the Department of Transportation informing the municipality to reimburse \$83,801.93 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on April 29, 2010, which was subsequent to our examination period.

# TOWNSHIP OF FORKS NORTHAMPTON COUNTY LIQUID FUELS TAX FUND SUMMARY OF EXIT CONFERENCE FOR THE YEAR ENDED DECEMBER 31, 2009

An exit conference was held January 25, 2011. Those participating were:

## **TOWNSHIP OF FORKS**

Mr. James Farley, Finance Director

### **DEPARTMENT OF THE AUDITOR GENERAL**

Mrs. Sandra Gichiengo, Auditor Mr. Matthew Hotchkiss, Auditor

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

TOWNSHIP OF FORKS NORTHAMPTON 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 Forks Northampton County 1606 Sullivan Trail Easton, PA 18040

The Honorable C. David Howell Chairman of the Board of Supervisors

Mr. James Farley Finance Director

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.