### ATTESTATION ENGAGEMENT

### Township of Lower Tyrone

Fayette County, Pennsylvania 26-210

Liquid Fuels Tax Fund
For the Period
January 1, 2020 to December 31, 2020

July 2022



Commonwealth of Pennsylvania Department of the Auditor General

Timothy L. DeFoor • Auditor General



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TIMOTHY L. DEFOOR AUDITOR GENERAL

### Independent Auditor's Report

The Honorable Yassmin Gramian, P.E. Secretary
Department of Transportation
Harrisburg, PA 17120

We examined the accompanying Form MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Township of Lower Tyrone, Fayette County, for the period January 1, 2020 to December 31, 2020. The municipality's management is responsible for presenting the Form MS-965 in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*. 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.

As described in the Auditor Description Of Select Transactions section of this report, the adjustments included on the Form MS-965 With Adjustments are made by the Department of the Auditor General.

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

As discussed in the Findings and Recommendations and Summary Of Prior Examinations Recommendations sections of this report:

- The township expended \$35,290.00 during 2020 from the Liquid Fuels Tax Fund for the purchase of stone and hauling and placing stone without advertising for bids (see Finding No. 1).
- The municipality expended \$5,245.09 from its Liquid Fuels on various dates in 2020 for expenditures that were incurred during 2019, which are retroactive expenditures (see Finding No. 2).
- In our prior report, we recommended that the Department of Transportation review our examination findings to determine if the municipality should reimburse \$39,801.86 to its Liquid Fuels Tax Fund. This amount consists of \$27,357.86 for retroactive expenditures and \$12,444.00 for documentation for price quotations not available for examination. The municipality reimbursed \$7,960.37 to its Liquid Fuels Tax Fund on September 20, 2021, which was subsequent to the end of our examination period. As of the exit conference date of this examination of March 18, 2022, \$31,841.49 remained due to the municipality's Liquid Fuels Tax Fund. (see Summary Of Prior Examination Recommendations).

In our opinion, except for the bullet 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 Township of Lower Tyrone, Fayette County, for the period January 1, 2020 to December 31, 2020, in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*.

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.

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

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 Township of Lower Tyrone, Fayette 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 instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Noncompliance With Advertising And Bidding Requirements.
- Retroactive Expenditures Recurring.

The second finding noted above cites a condition that existed in the operation of the municipality during the previous engagement period and was not corrected during the current examination period. The municipality should strive to comply with the recommendations 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 Township of Lower Tyrone, Fayette County, to us during the course of our examination. If you have any questions, please feel free to contact the Bureau of County Audits at 717-787-1363.

Timothy L. DeFoor Auditor General

June 20, 2022

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### Background

The Liquid Fuels Tax Municipal Allocation Law, Act 655 of 1956, as amended, see also 72 P.S. § 2615.5, et sec., provides municipalities other than counties (i.e., 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 upon: (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.

Title 75 Pa.C.S. § 9511 of the Pennsylvania Vehicle Code 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.

### 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.

### Criteria

The criteria for the Form MS-965 With Adjustment are described below.

Section 1 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:

2018	2019	2020	2021
\$10,900.00	\$11,100.00	\$11,300.00	\$11,500.00

• 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:

2018	2019	9 2020	2021
\$10,900	.00 \$11,10	0.00 \$11,300.	00 \$11,500.00

• Agility projects are exchanges of services with the Department of Transportation.

### Background (Continued)

Section 2 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.

Section 3 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.

### **Background** (Continued)

### 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.

### 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.

### TOWNSHIP OF LOWER TYRONE FAYETTE COUNTY LIQUID FUELS TAX FUND 2020 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	Reported		Adjustments		Adjusted Amount	
Minor equipment purchases	\$	_	\$	-	\$	_
Computer/Computer related training		-		-		-
Major equipment purchases		-		-		-
Agility projects		-		-		-
Cleaning streets and gutters		-		-		-
Winter maintenance services		5,946.00		-		5,946.00
Traffic control devices		-		-		-
Street lighting		-		-		-
Storm sewers and drains		-		-		-
Repairs of tools and machinery		11,190.02		(410.00)		10,780.02
Maintenance and repair of						
roads and bridges		89,773.65		1,164.94		90,938.59
Highway construction and						
rebuilding projects		-		-		-
Miscellaneous		1,164.94		(1,164.94)		
Total (To Section 2, Line 5)	\$	108,074.61	\$	(410.00)	\$	107,664.61

### TOWNSHIP OF LOWER TYRONE FAYETTE COUNTY LIQUID FUELS TAX FUND 2020 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported		Adjustments		Adjusted Amount	
1. Balance, January 1, 2020	\$	4,257.15	\$	-	\$	4,257.15
Receipts:						
2. State allocation		102,373.35		-		102,373.35
2a. Turnback allocation		4,040.00	-			4,040.00
2b. Interest on investments		18.45		-		18.45
2c. Miscellaneous						
3. Total receipts		106,431.80		-		106,431.80
4. Total funds available		110,688.95				110,688.95
5. Expenditures (Section 1)		108,074.61		(410.00)		107,664.61
6. Balance, December 31, 2020	\$	2,614.34	\$	410.00	\$	3,024.34

### TOWNSHIP OF LOWER TYRONE FAYETTE COUNTY LIQUID FUELS TAX FUND 2020 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	Reported		Adjustments		Adjusted Amount	
1. Prior year equipment balance	\$	4,257.15	\$	-	\$	4,257.15
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)		21,282.67		-		21,282.67
3. PENNDOT approved adjustments						<u>-</u>
4. Total funds available for equipment acquisition		25,539.82		-		25,539.82
5. Less: Major equipment expenditures						<u>-</u>
6. Remainder		25,539.82				25,539.82
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	\$	2,614.34	\$	410.00	\$	3,024.34

### TOWNSHIP OF LOWER TYRONE FAYETTE COUNTY LIQUID FUELS TAX FUND AUDITOR DESCRIPTION OF SELECT TRANSACTIONS FOR THE PERIOD JANUARY 1, 2020 TO DECEMBER 31, 2020

The following information relates to certain types of transactions for which the Pennsylvania Department of Transportation requested that we provide additional detail:

### **Adjustments**

### Section 1

An adjustment of \$(410.00) was made to "Repairs of tools and machinery" because check No. 1306 was voided but was included as an expenditure.

Adjustments were made to "Maintenance and repair of roads and bridges" and "Miscellaneous" because expenditures of \$1,164.94 were misclassified.

### Finding No. 1 - Noncompliance With Advertising And Bidding Requirements

Our examination disclosed that the township expended \$35,290.00 during 2020 from the Liquid Fuels Tax Fund for the purchase of stone and hauling and placing stone without advertising for bids. These expenditures were as follows:

Invoice Number	Invoice <u>Date</u>	Check <u>Number</u>	Check <u>Date</u>	Amount
7452	01/04/2020	1269	03/04/2020	\$29,310.00
7598	02/24/2020	1275	03/24/2020	1,800.00
7627	03/19/2020	1285	04/14/2020	2,660.00
7662	05/02/2020	1295	05/26/2020	1,520.00
Total			_	\$35,290.00

The above expenditures were not made in compliance with the advertising, bidding, and contract requirements of *The Second Class Township Code*, 53 P.S. § 68102(a), (also found at § 3102(a) of *The Second Class Township Code* as published by the Local Government Commission), which requires that purchases over \$18,500.00 during 2012 must be advertised, bid, and awarded by contract. The bidding threshold increased to purchases over, \$21,000.00 for 2020, \$21,300.00 for 2021, and \$21,900.00 for 2022. *The Second Class Township Code*, 53 P.S. § 68104(a), (also found at § 3104(a) of *The Second Class Township Code* as published by the Local Government Commission) further states that advertising, bidding and contract requirements should not be evaded through piecemeal

The municipal officials stated that there was an emergency situation on River Road that was not documented in the minutes. The township obtained three quotes but the work was required to be bid.

The failure to comply with *The Second Class Township Code* could result in the township having to reimburse \$35,290.00 to its Liquid Fuels Tax Fund.

### Finding No. 1 - Noncompliance With Advertising And Bidding Requirements (Continued)

### Recommendations

We recommend that the township reimburse \$35,290.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the township complies with *The Second Class Township Code* as noted in this finding.

### Management's Response

The township officials stated:

The municipality will comply with the advertising and bidding requirements moving forward and will reflect the information in our minutes.

### **Auditor's Conclusion**

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

### Finding No. 2 - Retroactive Expenditures - Recurring

We cited the municipality for retroactive expenditures in our prior report for the period January 1, 2018 to December 31, 2019. Our current examination disclosed that the municipality expended \$5,245.09 from its Liquid Fuels on various dates in 2020 for expenditures that were incurred during 2019, which are retroactive expenditures.

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, in relevant part:

Examples of what Liquid Fuels Tax Fund monies may not be expended for are:

16. Retroactive expenditures or repayment of other funds for prior period expenditures.

Because these expenditures were incurred in 2019 and were not paid until 2020, the expenditures incurred were not paid in a reasonable period of time. Therefore, the municipality did not comply with the Department of Transportation's *Publication 9*.

The failure to follow the Department of Transportation's *Publication 9* as noted above could result in the municipality having to reimburse \$5,245.09 to its Liquid Fuels Tax Fund.

Municipal officials stated the township did not have the funds to pay the vendors timely and made payment when the funds became available. In this case the invoices should have been paid from the General Fund.

### Recommendations

We recommend that the municipality reimburse \$5,245.09 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We again recommend that, in the future, the municipality complies with the Department of Transportation's *Publication 9* as noted above.

### Finding No. 2 - Retroactive Expenditures - Recurring (Continued)

### Management's Response

The municipal officials stated:

The municipality will comply with expenditures not to exceed ninety days, nor use Liquid Fuels in the future.

### Auditor's Conclusion

This is a recurring finding. We strongly recommend the municipality comply with our recommendations. During our next examination, we will determine if the municipality complied with our recommendations.

### TOWNSHIP OF LOWER TYRONE FAYETTE COUNTY LIQUID FUELS TAX FUND SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2020 TO DECEMBER 31, 2020

### Summary of Prior Examination Recommendations

In our prior report, we recommended that the Department of Transportation review our examination findings to determine if the municipality should reimburse \$39,801.86 to its Liquid Fuels Tax Fund. This amount consists of \$27,357.86 for retroactive expenditures and \$12,444.00 for documentation for price quotations not available for examination.

During our current examination, we reviewed a letter dated October 6, 2020, from the Department of Transportation directing the municipality to reimburse \$39,801.86 to its Liquid Fuels Tax Fund. We also reviewed a letter dated July 27, 2021, from the Department of Transportation approving a repayment plan as follows:

Amount Paid	Date Paid
\$ 7,960.37	09/02/2021
7,960.37	-
7,960.37	-
7,960.37	-
7,960.38	-
\$39,801.86	
	7,960.37 7,960.37 7,960.37 7,960.38

As of the exit conference date of this examination of March 18, 2022, \$31,841.49 remained due to the municipality's Liquid Fuels Tax Fund.

In our prior report, we also recommended that the municipality:

- Complies with the Department of Transportation's *Publication 9* regarding retroactive expenditures.
- Complies with *The Second Class Township Code* by obtaining price quotations for all purchases between \$10,900.00 and \$20,100.00. The thresholds for obtaining price quotations increased to purchases between \$11,300.00 and \$21,000.00 for 2020, \$11,500.00 and \$21,300.00 for 2021, and \$11,800 to \$21,900 for 2022.

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

## TOWNSHIP OF LOWER TYRONE FAYETTE COUNTY LIQUID FUELS TAX FUND SUMMARY OF EXIT CONFERENCE FOR THE PERIOD JANUARY 1, 2020 TO DECEMBER 31, 2020

An exit conference was held March 18, 2022. Those participating were:

### **TOWNSHIP OF LOWER TYRONE**

Mrs. June D. Murtland, Secretary/Treasurer

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

Mrs. Michele Simpson, Auditor

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

This report was initially distributed to:

The Honorable Yassmin Gramian, P.E.

Secretary
Department of Transportation

**Township of Lower Tyrone** 

Fayette County 456 Banning Road Dawson, PA 15428

The Honorable Sean Ferris

Chairman of the Board of Supervisors

The Honorable Cathyrn Acklin

Vice-Chairman of the Board of Supervisors

Mrs. June D. Murtland

Secretary/Treasurer

This report is a matter of public record and is available online at <a href="www.PaAuditor.gov">www.PaAuditor.gov</a>. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: <a href="mailto:news@PaAuditor.gov">news@PaAuditor.gov</a>.