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# COMMONWEALTH OF PENNSYLVANIA

# **EUGENE A. DEPASQUALE - AUDITOR GENERAL**

# **DEPARTMENT OF THE AUDITOR GENERAL**





BOROUGH OF BLAIN PERRY COUNTY 50-401

LIQUID FUELS TAX FUND EXAMINATION REPORT

FOR THE TWO YEARS ENDED DECEMBER 31, 2010

# CONTENTS

Page

Background1
Independent Auditor's Report
Financial Section:
2009 Form MS-965 With Adjustments7
2010 Form MS-965 With Adjustments10
Notes To Forms MS-965 With Adjustments13
Findings And Recommendations:
Finding No. 1 - Authorized Check Signers Are Related17
Finding No. 2 - Related Party Transactions
Comment
Summary Of Exit Conference
Report Distribution

# BOROUGH OF BLAIN PERRY COUNTY LIQUID FUELS TAX FUND BACKGROUND FOR THE TWO YEARS ENDED DECEMBER 31, 2010

#### **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.





Commonwealth of Pennsylvania Department of the Auditor General Harrisburg, PA 17120-0018 Facebook: Pennsylvania Auditor General Twitter: @PAAuditorGen

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 Blain, Perry County, for the two years ended December 31, 2010. 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 Blain, Perry County's Forms MS-965 for the two years ended December 31, 2010 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. 2, the borough expended \$577.50 during 2009 and \$715.00 during 2010 for snow removal that was done by a borough council member and a member of his immediate family.

In our opinion, except for the matter 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 Borough of Blain, Perry County, for the two years ended December 31, 2010, 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 Borough of Blain, Perry 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 Blain, Perry County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Borough of Blain, Perry 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:

• Authorized Check Signers Are Related.

# 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 Borough of Blain, Perry 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*:

• Related Party Transactions.

We are concerned in light of the municipality's failure to correct a previously reported finding regarding authorized check signers being related. The municipality should strive to implement the recommendation 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 Borough of Blain, Perry County, and is not intended to be and should not be used by anyone other than these specified parties.

Eugent: O-Pusper

February 6, 2012

EUGENE A. DEPASQUALE Auditor General



# BOROUGH OF BLAIN PERRY COUNTY LIQUID FUELS TAX FUND 2009 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	 Reported	Adjı	ustments	Adjusted Amount
Major equipment purchases	\$ -	\$	-	\$ -
Minor equipment purchases	-		-	-
Computer/Computer related training	-		-	-
Agility projects	-		-	-
Cleaning streets and gutters	-		-	-
Winter maintenance services	870.00		-	870.00
Traffic control devices	1,878.02		-	1,878.02
Street lighting	2,519.35		-	2,519.35
Storm sewers and drains	-		-	-
Repairs of tools and machinery	-		-	-
Maintenance and repair of				
roads and bridges	11,107.25		-	11,107.25
Highway construction and				
rebuilding projects	-		-	-
Miscellaneous	 -		-	 -
Total (To Section 2, Line 5)	\$ 16,374.62	\$	-	\$ 16,374.62

# BOROUGH OF BLAIN PERRY COUNTY LIQUID FUELS TAX FUND 2009 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported		Adjustments		Adjusted Amount	
1. Balance, January 1, 2009	\$	39,768.55	\$	-	\$	39,768.55
Receipts: 2. State allocation		6,037.92		_		6,037.92
2a. Turnback allocation 2b. Interest on investments (Note 3)		- 281.71		-		- 281.71
2c. Miscellaneous (Note 5)		6,970.00		-		6,970.00
3. Total receipts		13,289.63		_		13,289.63
4. Total funds available		53,058.18		_		53,058.18
5. Expenditures (Section 1)		16,374.62		-		16,374.62
6. Balance, December 31, 2009	\$	36,683.56	\$	-	\$	36,683.56

# BOROUGH OF BLAIN PERRY COUNTY LIQUID FUELS TAX FUND 2009 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	Reported		Adjustments (Note 4)		Adjusted Amount	
1. Prior year equipment balance	\$	25,710.10	\$	9.00	\$	25,719.10
<ul><li>2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)</li></ul>	n	1,207.58		-		1,207.58
3. PENNDOT approved adjustments						
4. Total funds available for equipment acquisition		26,917.68		9.00		26,926.68
5. Less: Major equipment expenditures						
6. Remainder		26,917.68		9.00		26,926.68
<ul><li>7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)</li></ul>	\$	26,917.68	\$	9.00	\$	26,926.68

# BOROUGH OF BLAIN PERRY COUNTY LIQUID FUELS TAX FUND 2010 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	I	Reported	Adju	stments	Adjusted Amount
Major equipment purchases	\$	-	\$	-	\$ -
Minor equipment purchases		-		-	-
Computer/Computer related training		-		-	-
Agility projects		-		-	-
Cleaning streets and gutters		760.00		-	760.00
Winter maintenance services		3,832.50		-	3,832.50
Traffic control devices		1,032.62		-	1,032.62
Street lighting		2,770.81		-	2,770.81
Storm sewers and drains		45.00		-	45.00
Repairs of tools and machinery		-		-	-
Maintenance and repair of					
roads and bridges		15.00		-	15.00
Highway construction and					
rebuilding projects		-		-	-
Miscellaneous		_		-	 -
Total (To Section 2, Line 5)	\$	8,455.93	\$	-	\$ 8,455.93

# BOROUGH OF BLAIN PERRY COUNTY LIQUID FUELS TAX FUND 2010 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported		Adjustments		Adjusted Amount	
1. Balance, January 1, 2010	\$	36,683.56	\$	-	\$	36,683.56
Receipts: 2. State allocation		5,801.94		-		5,801.94
<ul> <li>2a. Turnback allocation</li> <li>2b. Interest on investments (Note 3)</li> <li>2a. Missellemann (Note 5)</li> </ul>		- 195.64 2.105.62		-		- 195.64 2.105.62
<ul><li>2c. Miscellaneous (Note 5)</li><li>3. Total receipts</li></ul>		3,105.63				3,105.63
4. Total funds available		45,786.77		_		45,786.77
5. Expenditures (Section 1)		8,455.93		_		8,455.93
6. Balance, December 31, 2010	\$	37,330.84	\$	-	\$	37,330.84

# BOROUGH OF BLAIN PERRY COUNTY LIQUID FUELS TAX FUND 2010 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	AdjustmentsReported(Note 4)			Adjusted Amount		
1. Prior year equipment balance	\$	26,917.68	\$	9.00	\$	26,926.68
<ol> <li>Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)</li> </ol>	1	1,160.39		-		1,160.39
3. PENNDOT approved adjustments		<u> </u>				
4. Total funds available for equipment acquisition		28,078.07		9.00		28,087.07
5. Less: Major equipment expenditures		-				_
6. Remainder		28,078.07		9.00		28,087.07
<ol> <li>Fusion For Section 2 Balance available</li> <li>For Subsequent year (Lesser of Line 6 or Section 2 Balance, but not less than zero)</li> </ol>	\$	28,078.07	\$	9.00	\$	28,087.07

#### 1. <u>Criteria</u>

### 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. <u>Criteria (Continued)</u>

#### 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.

#### 1. <u>Criteria (Continued)</u>

#### 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 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, 2010. 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. <u>Deposits (Continued)</u>

#### Fund Balance

The fund balance as of December 31, 2010 consists of the following:

Cash

\$37,330.84

#### 3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$281.71 during 2009, and \$195.64 during 2010, thus providing additional funds for road maintenance and repairs.

#### 4. <u>Adjustments</u>

2009 - Section 3

An adjustment of \$9.00 was made to "Prior year equipment balance" because an incorrect equipment balance was carried forward.

#### 2010 - Section 3

An adjustment of \$9.00 was made to "Prior year equipment balance" to reflect the adjustment made in 2009 - Section 3.

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

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

Source	Description	2009	2010
Water Fund	Reimbursement for road repair	\$3,992.00	\$ -
General Fund	Reimbursement for road repair	2,978.00	-
Commonwealth of Pennsylvania	Severe weather assistance	-	1,655.63
General Fund	Reimbursement (Comment)		1,450.00
Totals		\$6,970.00	\$3,105.63

# BOROUGH OF BLAIN PERRY COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE TWO YEARS ENDED DECEMBER 31, 2010

#### Finding No. 1 - Authorized Check Signers Are Related

Our examination disclosed that the president of council and the secretary/treasurer who are husband and wife, respectively, are both authorized to sign Liquid Fuels Tax Fund checks.

Good internal control procedures ensure that at least two unrelated persons are authorized to sign checks drawn on the Liquid Fuels Tax Fund. Without this control, the risk of unauthorized disbursements or misappropriations occurring and remaining undetected increases significantly.

A similar finding was also written in our prior report.

#### Recommendation

We again recommend that the municipality improve internal control procedures over disbursements by requiring at least two signatures of unrelated municipal officials on all disbursements from the Liquid Fuels Tax Fund account.

#### Management's Response

The secretary/treasurer stated:

The president of borough council is the husband of the secretary/treasurer. Even though after being informed of this, the president no longer signs checks from liquid fuels funds. I will have the bank remove his name as an authorized check signer.

#### Auditor's Conclusion

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

# BOROUGH OF BLAIN PERRY COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE TWO YEARS ENDED DECEMBER 31, 2010

#### Finding No. 2 - Related Party Transactions

Our examination disclosed that the borough expended \$577.50 during 2009 and \$715.00 during 2010 for snow removal that was done by a borough council member and a member of his immediate family. Because this money was paid to a borough council member and a member of his immediate family, and there was no open and public award process, these contracts appear to violate The Public Official and Employee Ethics Act. Therefore, they should not have been entered into by the municipality.

The Public Official and Employee Ethics Act ("Ethics Act"), 65 P.S. 1103(f), states, in part:

No public official or public employee or his spouse or child or any business in which the person or his spouse or child is associated shall enter into any contract valued at \$500 or more with the governmental body with which the public official or public employee is associated or any subcontract valued at \$500 or more with any person who has been awarded a contract with the governmental body with which the public official or public employee is associated, unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such a case, the public official or public employee shall not have any supervisory or overall responsibility for the implementation or administration of the contract.

Because these contracts violate the Ethics Act the borough could be required by the Pennsylvania Department of Transportation to reimburse \$1,292.50 to its Liquid Fuels Tax Fund.

Copies of this finding will be forwarded to the Pennsylvania Department of Transportation and the State Ethics Commission for their review and whatever action they may deem appropriate.

A similar finding was also written in our prior report. However, during 2011 the municipality did advertise for bids for the snow removal and the council member with an interest in the bid abstained from voting.

#### Recommendations

We recommend that the borough reimburse \$1,292.50 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We recommend that the borough continue to comply with the Ethics Act.

# BOROUGH OF BLAIN PERRY COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE TWO YEARS ENDED DECEMBER 31, 2010

#### Finding No. 2 - Related Party Transactions (Continued)

#### Management's Response

The secretary/treasurer stated:

As has been stated in our last examination, this is a very small borough with no snow removal equipment. The borough council member removed snow from Borough alleyways in 2009 and 2010. At our last audit, we were instructed to bid out the snow removal. We have complied with this in both 2011 and 2012. By the time we were informed to bid out the snow removal, it was too late to correct this matter for the 2009 and 2010 seasons for snow removal.

# BOROUGH OF BLAIN PERRY COUNTY LIQUID FUELS TAX FUND COMMENT FOR THE TWO YEARS ENDED DECEMBER 31, 2010

#### 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 \$1,450.00 to its Liquid Fuels Tax Fund for related party transactions.

During our current examination we reviewed a letter dated August 13, 2010, from the Department of Transportation informing the municipality to reimburse \$1,450.00 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on September 3, 2010. A similar finding was also written in our current report (Finding No. 2).

# BOROUGH OF BLAIN PERRY COUNTY LIQUID FUELS TAX FUND SUMMARY OF EXIT CONFERENCE FOR THE TWO YEARS ENDED DECEMBER 31, 2010

An exit conference was held February 6, 2012. Those participating were:

# BOROUGH OF BLAIN

Ms. Connie I. Zellers, Secretary/Treasurer

# DEPARTMENT OF THE AUDITOR GENERAL

Ms. Tammy Fleisher, Auditor

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



## BOROUGH OF BLAIN PERRY COUNTY LIQUID FUELS TAX FUND REPORT DISTRIBUTION FOR THE TWO YEARS ENDED DECEMBER 31, 2010

This report was initially distributed to:

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

Mr. John J. Contino Executive Director Pennsylvania State Ethics Commission

> Borough of Blain Perry County 155 East Main Street P.O. Box 9 Blain, PA 17006

The Honorable Terry Zellers

President of Council

The Honorable Melissa Turman

Vice-President of Council

Ms. Connie I. Zellers

Secretary/Treasurer

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.