### ATTESTATION ENGAGEMENT

### Borough of Duboistown

Lycoming County, Pennsylvania 41-401

Liquid Fuels Tax Fund
For the Period
January 1, 2017 to December 31, 2017

February 2019



Commonwealth of Pennsylvania Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DEPASQUALE AUDITOR GENERAL

**Independent Auditor's Report** 

The Honorable Leslie Richards Secretary Department of Transportation Harrisburg, PA 17120

We examined the accompanying Form MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Borough of Duboistown, Lycoming County, for the period January 1, 2017 to December 31, 2017. The municipality's management is responsible for presenting the Form MS-965 in accordance with the criteria set forth in Note 1. 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.

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 Form 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. 1, the borough expended \$31,872.50 for the purchase of a leaf vacuum and \$26,014.00 for the installation of storm sewer catch basins from its Liquid Fuels Tax Fund during 2017 without advertising for bids. Additionally, as discussed in Finding No. 2, the borough failed to obtain the approval of the Department of Transportation for the installation of the storm sewer catch basins discussed in Finding No. 1.

In our opinion, except for the matters discussed in the preceding paragraph, 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 Borough of Duboistown, Lycoming County, for the period January 1, 2017 to December 31, 2017, in accordance with the criteria set forth in Note 1.

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.

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.

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

As part of obtaining reasonable assurance about whether the Form MS-965 is free from material misstatement, we performed tests of the Borough of Duboistown, Lycoming 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.
- Failure To Obtain Project Approval.

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.

We appreciate the courtesy extended by the Borough of Duboistown, Lycoming County, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.

January 31, 2019

Eugene A. DePasquale Auditor General

Eugent O-Pasper

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# BOROUGH OF DUBOISTOWN LYCOMING COUNTY LIQUID FUELS TAX FUND BACKGROUND FOR THE PERIOD JANUARY 1, 2017 TO DECEMBER 31, 2017

### Background

The Liquid Fuels Tax Municipal Allocation Law, Act 655 of 1956, as amended, (72 P.S. § 2615.5 et sec.), 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 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.

# BOROUGH OF DUBOISTOWN LYCOMING COUNTY LIQUID FUELS TAX FUND BACKGROUND FOR THE PERIOD JANUARY 1, 2017 TO DECEMBER 31, 2017

### 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.

### BOROUGH OF DUBOISTOWN LYCOMING COUNTY LIQUID FUELS TAX FUND 2017 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	Reported		Adjustments (Note 4)		Adjusted Amount	
Major equipment purchases	\$	_	\$	31,872.50	\$	31,872.50
Minor equipment purchases	Ψ	_	Ψ	-	Ψ	-
Computer/Computer related training		_		_		_
Agility projects		_		_		_
Cleaning streets and gutters		31,872.50		(31,872.50)		_
Winter maintenance services		7,482.53		-		7,482.53
Traffic control devices		-		-		-
Street lighting		-		-		-
Storm sewers and drains		14,719.50		11,294.50		26,014.00
Repairs of tools and machinery		-		-		-
Maintenance and repair of						
roads and bridges		15,692.05		(11,294.50)		4,397.55
Highway construction and						
rebuilding projects		-		-		-
Miscellaneous						
Total (To Section 2, Line 5)	\$	69,766.58	\$		\$	69,766.58

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

### BOROUGH OF DUBOISTOWN LYCOMING COUNTY LIQUID FUELS TAX FUND 2017 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported	Adj	ustments	Adjusted Amount
1. Balance, January 1, 2017	\$ 203,191.91	\$	-	\$ 203,191.91
Receipts:				
2. State allocation	32,414.58		-	32,414.58
2a. Turnback allocation	5,960.00		-	5,960.00
2b. Interest on investments (Note 3)	563.08		-	563.08
2c. Miscellaneous	 			 
3. Total receipts	 38,937.66			 38,937.66
4. Total funds available	242,129.57			242,129.57
5. Expenditures (Section 1)	69,766.58			69,766.58
6. Balance, December 31, 2017	\$ 172,362.99	\$		\$ 172,362.99

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

### BOROUGH OF DUBOISTOWN LYCOMING COUNTY LIQUID FUELS TAX FUND 2017 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	Reported		Adjustments (Note 4)		Adjusted Amount	
1. Prior year equipment balance	\$	73,517.53	\$	-	\$	73,517.53
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)		7,674.92		-		7,674.92
3. PENNDOT approved adjustments						
4. Total funds available for equipment acquisition		81,192.45		-		81,192.45
5. Less: Major equipment expenditures				31,872.50		31,872.50
6. Remainder		81,192.45		(31,872.50)		49,319.95
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	\$	81,192.45	\$	(31,872.50)	\$	49,319.95

### 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 with varying yearly costs in excess of the amounts indicated below:

2013	2014	2015/2016	2017
\$10,200.00	\$10,300.00	\$10,500.00	\$10,700.00

• 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:

2013	2013 2014		2017		
Ф10 200 00	Ф10 200 00	Φ10.700.00	Φ10. <b>7</b> 00.00		
\$10,200.00	\$10,300.00	\$10,500.00	\$10,700.00		

• 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 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.

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

### Section 2 (Continued)

• 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.

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.

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

### **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.

### 2. Deposits

*The Borough Code*, Title 53 P.S. § 46316, authorizes the borough to deposit its funds in the following:

- Deposits in savings accounts or time deposits, other than certificates of deposit or share accounts, of institutions having their principal place of business in the Commonwealth of Pennsylvania and insured by the Federal Deposit Insurance Corporation (FDIC) or other like insurance. For any amount above the insured maximum, the depository shall pledge approved collateral.
- Certificates of deposit purchased from institutions insured by the FDIC or other
  like insurance to the extent that such accounts are so insured. For any amounts
  in excess of the insured maximum, such deposits shall be collateralized by a
  pledge or assignment of assets. Certificates of deposit may not exceed 20
  percent of a bank's total capital surplus or 20 percent of a savings and loan 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.

### 2. <u>Deposits (Continued)</u>

There were no deposits exposed to custodial credit risk as of December 31, 2017. Custodial credit risk, as defined by GASB No. 40, as amended, 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.

### Fund Balance

The fund balance as of December 31, 2017, consists of the following:

Cash \$172,362.99

### 3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$563.08 during 2017, thus providing additional funds for road maintenance and repairs.

### 4. Adjustments

### Section 1

Adjustments were made to "Major equipment purchases" and "Cleaning streets and gutters" because expenditures of \$31,872.50 were misclassified.

Adjustments were made to "Storm sewers and drains" and "Maintenance and repair of roads and bridges" because expenditures of \$11,294.50 were misclassified.

### Section 3

An adjustment of \$31,872.50 was made to "Major equipment expenditures" to reflect the adjustment made to major equipment purchases in 2017 - Section 1.

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

Our examination disclosed that the borough expended \$31,872.50 for the purchase of a leaf vacuum and \$26,014.00 for the installation of storm sewer catch basins from its Liquid Fuels Tax Fund during 2017 without advertising for bids. The expenditures for the installation of the storm sewer catch basins were as follows:

Invoice <u>Number</u>	Invoice <u>Date</u>	Check <u>Number</u>	Check <u>Date</u>	Amount
18205	08/24/17	10060	10/05/17	\$ 2,921.00
18268	09/12/17	10060	10/05/17	2,703.00
3206	08/20/17	10063	10/05/17	6,167.00
3209	08/26/17	10063	10/05/17	2,017.50
3220	09/08/17	10063	10/05/17	1,817.50
3221	09/15/17	10063	10/05/17	1,595.00
3225	09/20/17	10063	10/05/17	540.00
3226	09/21/17	10063	10/05/17	87.50
3231	09/22/17	10063	10/05/17	577.50
2017-73	09/13/17	10064	10/05/17	1,325.00
24307	08/18/17	10065	10/05/17	1,405.50
24359	08/31/17	10065	10/05/17	420.00
24387	09/07/17	10065	10/05/17	420.00
24420	09/14/17	10065	10/05/17	1,260.00
24479	09/28/17	10065	10/05/17	840.00
3213	08/30/17	10066	10/26/17	1,917.50
Total				\$26,014.00

The above expenditures were not made in compliance with the advertising, bidding, and contract requirements of *The Borough Code*, 53 P.S. § 46402(a), (also found at § 1402(a) of *The Borough Code* as published by the Local Government Commission), which requires that purchases made over \$18,500.00 during 2012 must be advertised, bid, and awarded by contract. The bidding threshold increased to purchases over \$19,700 for 2017, and \$20,100.00 for 2018. *The Borough Code*, 53 P.S. § 46403(a), (also found at § 1403(a) of *The Borough Code* as published by the Local Government Commission) further states that advertising, bidding and contract requirements should not be evaded through piecemeal purchases.

The failure to comply with *The Borough Code* could result in the borough having to reimburse \$57,886.50 to its Liquid Fuels Tax Fund.

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

The expenditures of \$26,014.00 for the installation of storm sewer catch basins are also included in Finding No. 2.

### Recommendations

We recommend that the borough reimburse \$57,886.50 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the borough complies with *The Borough Code* as noted in this finding.

### Management's Response

The municipal officials offered no formal response at this time.

### Auditor's Conclusion

During our next examination we will determine if the borough complies with our recommendations.

### Finding No. 2 - Failure To Obtain Project Approval

Our examination disclosed that the municipality expended \$26,014.00 for the installation of storm sewer catch basins without obtaining the approval of the Department of Transportation. Before replacement of existing inlets, grating, and framing with better or larger type is done, the municipality must obtain the approval of the Department of Transportation. 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.

Guide Rail, Pipe, etc.: New guide rail, pipe and replacement of existing

items with a better or larger type

The failure to comply with the Department of Transportation's *Publication 9* could result in the municipality having to reimburse \$26,014.00 to its Liquid Fuels Tax Fund.

The expenditures in this finding are also included in Finding No. 1.

### Recommendations

If the Department of Transportation does not require reimbursement to the municipality's Liquid Fuels Tax Fund for the installation of storm sewer catch basins in Finding No. 1, we recommend that the municipality reimburse \$26,014.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further 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 municipal officials offered no formal response at this time.

### Auditor's Conclusion

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

### BOROUGH OF DUBOISTOWN LYCOMING COUNTY LIQUID FUELS TAX FUND SUMMARY OF EXIT CONFERENCE FOR THE PERIOD JANUARY 1, 2017 TO DECEMBER 31, 2017

An exit conference was held October 31, 2018. Those participating were:

### **BOROUGH OF DUBOISTOWN**

Ms. Robin Rundio, Secretary/Treasurer

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

Ms. Vicki Baker, Auditor

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

# BOROUGH OF DUBOISTOWN LYCOMING COUNTY LIQUID FUELS TAX FUND REPORT DISTRIBUTION FOR THE PERIOD JANUARY 1, 2017 TO DECEMBER 31, 2017

This report was initially distributed to:

### The Honorable Leslie Richards

Secretary
Department of Transportation

### **Borough of Duboistown**

Lycoming County 2651 Euclid Avenue Duboistown, PA 17702

### The Honorable Larry Campbell

President of Council

Ms. Robin Rundio 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>.