### ATTESTATION ENGAGEMENT

### Township of Ferguson

Centre County, Pennsylvania 14-206

Liquid Fuels Tax Fund
For the Period
January 1, 2018 to December 31, 2018

February 2020



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** 

Yassmin Gramian, P.E. Acting 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 Ferguson, Centre County, for the period January 1, 2018 to December 31, 2018. 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*.

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

In our opinion, 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 Ferguson, Centre County, for the period January 1, 2018 to December 31, 2018, 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 the 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 the internal control 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 was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. 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. We did identify a certain deficiency in internal control, described in the finding listed below, that we consider to be a significant deficiency in internal control:

• Duplicate Transfer To The General Fund.

### **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 Township of Ferguson, Centre 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 no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we did note a matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

### Retroactive Expenditures.

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 Township of Ferguson, Centre 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.

February 6, 2020

Eugene A. DePasquale Auditor General

Eugent O-Pager

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## TOWNSHIP OF FERGUSON CENTRE COUNTY LIQUID FUELS TAX FUND BACKGROUND FOR THE PERIOD JANUARY 1, 2018 TO DECEMBER 31, 2018

### 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.

### TOWNSHIP OF FERGUSON CENTRE COUNTY LIQUID FUELS TAX FUND BACKGROUND FOR THE PERIOD JANUARY 1, 2018 TO DECEMBER 31, 2018

### 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.

### TOWNSHIP OF FERGUSON CENTRE COUNTY LIQUID FUELS TAX FUND 2018 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	Reported	Adj	ustments	 Adjusted Amount
Minor equipment purchases	\$ -	\$	-	\$ -
Computer/Computer related training	-		-	_
Major equipment purchases	_		-	_
Agility projects	-		-	_
Cleaning streets and gutters	-		-	_
Winter maintenance services	105,595.95		-	105,595.95
Traffic control devices	-		-	_
Street lighting	-		-	_
Storm sewers and drains	_		-	_
Repairs of tools and machinery	-		-	_
Maintenance and repair of				
roads and bridges	298,366.50		-	298,366.50
Highway construction and				
rebuilding projects	48,198.06		-	48,198.06
Miscellaneous (Note 5)	32,985.37			 32,985.37
Total (To Section 2, Line 5)	\$ 485,145.88	\$		\$ 485,145.88

### TOWNSHIP OF FERGUSON CENTRE COUNTY LIQUID FUELS TAX FUND 2018 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported	Adjustments	Adjusted Amount
1. Balance, January 1, 2018	\$ 562,720.24	\$ -	\$ 562,720.24
Receipts:			
2. State allocation	619,054.30	-	619,054.30
2a. Turnback allocation	45,120.00	-	45,120.00
2b. Interest on investments (Note 3)	10,000.71	-	10,000.71
2c. Miscellaneous (Note 4)	21,839.77		21,839.77
3. Total receipts	696,014.78	<u> </u>	696,014.78
4. Total funds available	1,258,735.02		1,258,735.02
5. Expenditures (Section 1)	485,145.88		485,145.88
6. Balance, December 31, 2018	\$ 773,589.14	\$ -	\$ 773,589.14

### TOWNSHIP OF FERGUSON CENTRE COUNTY LIQUID FUELS TAX FUND 2018 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	Reported	Adjı	ustments	Adjusted Amount
1. Prior year equipment balance	\$ 562,720.24	\$	-	\$ 562,720.24
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	132,834.86		-	132,834.86
3. PENNDOT approved adjustments	-			-
4. Total funds available for equipment acquisition	695,555.10		-	695,555.10
5. Less: Major equipment expenditures	 		<u>-</u>	 
6. Remainder	 695,555.10			695,555.10
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	\$ 695,555.10	\$		 695,555.10

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

2014	2015/2016	2017	2018
\$10,300.00	\$10,500.00	\$10,700.00	\$10,900.00

• 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:

2014	2015/2016	2017	2018
\$10,300.00	\$10,500.00	\$10,700.00	\$10,900.00
\$10,300.00	\$10,300.00	\$10,700.00	\$10,900.00

• 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.
- Expenditures include the total transferred from Section 1.

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

### 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.

### **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. <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 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 financial institutions. 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, 2018. 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.

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

### Fund Balance

The fund balance as of December 31, 2018, consists of the following:

Cash	\$219,001.37
Certificate of deposit	554,587.77
	·
Total	\$773,589.14

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

Our examination disclosed that the municipality deposited idle liquid fuels tax money in interest-bearing accounts and a certificate of deposit which earned \$10,000.71 during 2018, thus providing additional funds for road maintenance and repairs.

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

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

Source	Description	Amount
Commonwealth of		
Pennsylvania	Deposits in error (Note 6)	\$13,311.97
General Fund	Grant	8,299.80
Financial Institution	Refund of bank service charges	228.00
Total		\$21,839.77

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

The following miscellaneous expenditures were paid from the Liquid Fuels Tax Fund during the examination period:

Payee	Description	Amount
General Fund	Correction of deposits in error (Note 6)	\$13,311.97
Vendor	Advertising costs	177.33
Financial institution	Bank service charges	266.00
General Fund	Reimbursement (Finding No. 1)	11,509.00
General Fund	Reimbursement (Finding No. 2)	7,721.07
Total		\$32,985.37

### 6. <u>Deposits In Error</u>

On March 15, 2018 and July 23, 2018, \$8,196.36 and \$5,115.61, respectively, of state funds were electronically deposited into the Liquid Fuels Tax Fund in error. On April 11, 2018 and July 23, 2018, the municipality transferred \$8,196.36 and \$5,115.61, respectively, from its Liquid Fuels Tax Fund to its General Fund to correct the deposits in error.

## TOWNSHIP OF FERGUSON CENTRE COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2018 TO DECEMBER 31, 2018

### Finding No. 1 - Duplicate Transfer To The General Fund

Our examination disclosed that on December 27, 2018, the municipality transferred \$11,509.00 to the General Fund for the reimbursement of state police fines of \$3,252.00, \$4,128.00, and \$4,129.00, which had been electronically deposited in error to the Liquid Fuels Tax Fund on June 7, 2016, July 21, 2016, and April 27, 2017, respectively. However, during our prior examination, we noted these state police fines totaling \$11,509.00 were already transferred from the Liquid Fuels Tax Fund to the General Fund on May 8, 2017 to correct the deposits in error.

Although this money should be reimbursed to the Liquid Fuels Tax Fund, the primary concern is the inadequate internal controls which enabled the duplicate reimbursement of \$11,509.00 to remain undetected for one year.

Good internal controls ensure that all deposits are reviewed timely to avoid deposits in error to the wrong accounts. The failure to follow this procedure increases the possibility that duplicate reimbursements can be made to correct these deposits in error.

### Recommendations

We recommend that the municipality reimburse \$11,509.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the municipality establish and implement internal controls to ensure duplicate reimbursements are not made in the future.

### Management's Response

The municipal officials stated:

In the future any deposits that are not liquid fuels will be transferred in the same year.

### Auditor's Conclusion

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

# TOWNSHIP OF FERGUSON CENTRE COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2018 TO DECEMBER 31, 2018

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

Our examination disclosed that the municipality transferred \$7,721.07 from its Liquid Fuels Tax Fund to its General Fund on December 27, 2018 for expenditures incurred from January 13, 2016 to July 1, 2016, 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 paid from the General Fund in 2016, and were not reimbursed with Liquid Fuels Tax Fund money until December 27, 2018, the expenditures incurred were not reimbursed 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 \$7,721.07 to its Liquid Fuels Tax Fund.

### Recommendations

We recommend that the municipality reimburse \$7,721.07 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

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

### Management's Response

The municipal officials stated:

We will no longer use "due to / due from" accounts. All payments will be made in the same year.

### TOWNSHIP OF FERGUSON CENTRE COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2018 TO DECEMBER 31, 2018

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

### Auditor's Conclusion

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

### TOWNSHIP OF FERGUSON CENTRE COUNTY LIQUID FUELS TAX FUND SUMMARY OF PRIOR EXAMINATION RECOMMENDATION FOR THE PERIOD JANUARY 1, 2018 TO DECEMBER 31, 2018

### Summary Of Prior Examination Recommendation

In our prior report, we recommended that the municipality file all required documents and information timely to receive its allocation during the first week in March.

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

### TOWNSHIP OF FERGUSON CENTRE COUNTY LIQUID FUELS TAX FUND SUMMARY OF EXIT CONFERENCE FOR THE PERIOD JANUARY 1, 2018 TO DECEMBER 31, 2018

An exit conference was held October 31, 2019. Those participating were:

### TOWNSHIP OF FERGUSON

Mr. Eric R. Endresen, Director of Finance

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

Mr. Joel Long, Auditor

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

TOWNSHIP OF FERGUSON
CENTRE COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2018

This report was initially distributed to:

Yassmin Gramian, P.E.

Acting Secretary
Department of Transportation

**Township of Ferguson** 

Centre County 3147 Research Drive State College, PA 16801

The Honorable Steve Miller

Chairman of the Board of Supervisors

Mr. Eric R. Endresen

Director of Finance

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>.