

ATTESTATION ENGAGEMENT

Township of Henry Clay

Fayette County, Pennsylvania

26-208

Liquid Fuels Tax Fund

For the Period

January 1, 2021 to December 31, 2022

July 2024



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 Michael Carroll
Secretary
Department of Transportation
Harrisburg, PA 17120

We examined the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Township of Henry Clay, Fayette County, for the period January 1, 2021 to December 31, 2022. The municipality's management is responsible for presenting the Forms 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 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Forms MS-965 are presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the Forms 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 Forms 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 required to be independent and to meet our other ethical responsibilities in accordance with ethical requirements relating to the engagement.

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.

Independent Auditor's Report

As discussed in the Findings And Recommendations section of this report:

- The municipality expended \$20,580.25 during 2021 and \$56,348.00 during 2022 from the Liquid Fuels Tax Fund for payroll. However, the municipality did not maintain daily payroll time sheets identifying the nature of work performed and the location of work assignments (see Finding No. 1).
- The municipality expended \$33,671.22 during 2022 from the Liquid Fuels Tax Fund for the rental of equipment without advertising for bids (see Finding No. 2).
- The municipality expended \$250.00 during 2022 from the Liquid Fuels Tax Fund to Pennsylvania State Associations of Township Supervisors (PSATS) which is a nonpermissible expenditure (see Finding No. 3).
- The municipality failed to remit payroll taxes to the proper authorities (see Finding No. 4).

In our opinion, except for the matters discussed in the preceding paragraph, the Forms MS-965 With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Township of Henry Clay, Fayette County, for the period January 1, 2021 to December 31, 2022, 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 Forms MS-965; 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 Forms 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 Forms MS-965 are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Forms 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 Forms 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.

Independent Auditor's Report (Continued)

Our consideration of internal control was for the limited purpose of expressing an opinion on whether the Forms MS-965 are 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. We did identify a certain deficiency in internal control, described in the finding listed below, that we consider to be a material weakness in internal control:

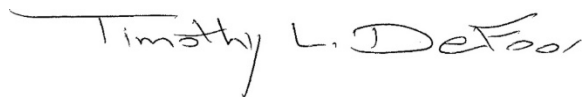
- Documentation Supporting Payroll Expenditures Was Not Available For Examination.

As part of obtaining reasonable assurance about whether the Forms MS-965 are free from material misstatement, we performed tests of the Township of Henry Clay, 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 Forms 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.
- Nonpermissible Expenditures - Recurring.
- Failure To Remit Payroll Taxes.

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 Henry Clay, 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 17, 2024

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TOWNSHIP OF HENRY CLAY
FAYETTE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

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.

TOWNSHIP OF HENRY CLAY
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 BACKGROUND
 FOR THE PERIOD
 JANUARY 1, 2021 TO DECEMBER 31, 2022

Background (Continued)

3. Submit the Pennsylvania Department of Community and Economic Development’s (DCED) Report of Elected and Appointed Officials by January 31st and the Survey of Financial Condition By March 15th.
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:

2019	2020	2021	2022
\$11,100.00	\$11,300.00	\$11,500.00	\$11,800.00

- 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:

2019	2020	2021	2022
\$11,100.00	\$11,300.00	\$11,500.00	\$11,800.00

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

TOWNSHIP OF HENRY CLAY
FAYETTE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

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.

TOWNSHIP OF HENRY CLAY
FAYETTE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

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 Forms 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 HENRY CLAY
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 2021 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Minor equipment purchases	\$ -	\$ -	\$ -
Computer/Computer related training	-	-	-
Major equipment purchases	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	42,022.11	-	42,022.11
Traffic control devices	457.29	-	457.29
Street lighting	-	-	-
Storm sewers and drains	2,372.71	-	2,372.71
Repairs of tools and machinery	2,497.54	-	2,497.54
Maintenance and repair of roads and bridges	35,684.61	-	35,684.61
Highway construction and rebuilding projects	46,436.48	-	46,436.48
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 129,470.74</u>	 <u>\$ -</u>	 <u>\$ 129,470.74</u>

TOWNSHIP OF HENRY CLAY
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 2021 FORM MS-965 – SECTION 2
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2021	\$ 136,752.77	\$ -	\$ 136,752.77
Receipts:			
2. State allocation	198,470.06	-	198,470.06
2a. Turnback allocation	42,560.00	-	42,560.00
2b. Interest on investments	262.79	-	262.79
2c. Miscellaneous	-	-	-
3. Total receipts	<u>241,292.85</u>	<u>-</u>	<u>241,292.85</u>
4. Total funds available	<u>378,045.62</u>	<u>-</u>	<u>378,045.62</u>
5. Expenditures (Section 1)	<u>129,470.74</u>	<u>-</u>	<u>129,470.74</u>
6. Balance, December 31, 2021	<u><u>\$ 248,574.88</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 248,574.88</u></u>

TOWNSHIP OF HENRY CLAY
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 2021 FORM MS-965 – SECTION 3
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 136,752.77	\$ -	\$ 136,752.77
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	48,206.01	-	48,206.01
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	184,958.78	-	184,958.78
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>184,958.78</u>	<u>-</u>	<u>184,958.78</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 184,958.78</u>	<u>\$ -</u>	<u>\$ 184,958.78</u>

TOWNSHIP OF HENRY CLAY
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 2022 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Minor equipment purchases	\$ 763.00	\$ -	\$ 763.00
Computer/Computer related training	160.00	(160.00)	-
Major equipment purchases	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	33,057.84	-	33,057.84
Traffic control devices	2,130.00	-	2,130.00
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	31,093.60	-	31,093.60
Maintenance and repair of roads and bridges	260,165.30	-	260,165.30
Highway construction and rebuilding projects	-	-	-
Miscellaneous	250.00	160.00	410.00
 Total (To Section 2, Line 5)	 <u>\$ 327,619.74</u>	 <u>\$ -</u>	 <u>\$ 327,619.74</u>

TOWNSHIP OF HENRY CLAY
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 2022 FORM MS-965 – SECTION 2
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2022	\$ 248,574.88	\$ -	\$ 248,574.88
Receipts:			
2. State allocation	194,641.81	-	194,641.81
2a. Turnback allocation	42,560.00	-	42,560.00
2b. Interest on investments	2,421.80	-	2,421.80
2c. Miscellaneous	39,762.36	-	39,762.36
3. Total receipts	<u>279,385.97</u>	<u>-</u>	<u>279,385.97</u>
4. Total funds available	<u>527,960.85</u>	<u>-</u>	<u>527,960.85</u>
5. Expenditures (Section 1)	<u>327,619.74</u>	<u>-</u>	<u>327,619.74</u>
6. Balance, December 31, 2022	<u><u>\$ 200,341.11</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 200,341.11</u></u>

TOWNSHIP OF HENRY CLAY
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 2022 FORM MS-965 – SECTION 3
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 184,958.78	\$ -	\$ 184,958.78
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	47,440.36	-	47,440.36
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	232,399.14	-	232,399.14
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>232,399.14</u>	<u>-</u>	<u>232,399.14</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 200,341.11</u>	<u>\$ -</u>	<u>\$ 200,341.11</u>

TOWNSHIP OF HENRY CLAY
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
 FOR THE PERIOD
 JANUARY 1, 2021 TO DECEMBER 31, 2022

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

Adjustments

2021 - Section 1

Adjustments were made to “Computer/Computer related training” and “Miscellaneous” because expenditures of \$160.00 were misclassified.

Miscellaneous Receipts

On April 12, 2022, the municipality deposited \$39,762.36 into its Liquid Fuels Tax Fund that was received from the General Fund for reimbursement of a prior examination finding (see Summary Of Prior Examination Recommendations).

Miscellaneous Expenditures

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

<u>Payee</u>	<u>Description</u>	<u>2022</u>
Pennsylvania State Association of Township Supervisors	Nonpermissible expenditures (see Finding No.3)	\$250.00
Financial institution	Bank service charges	160.00
Totals		<u>\$410.00</u>

TOWNSHIP OF HENRY CLAY
FAYETTE COUNTY
LIQUID FUELS TAX FUND
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

Bank Loan

On October 6, 2014, the municipality borrowed \$300,000.00 from Pennsylvania Infrastructure Bank to pay for a road project. The proceeds of the loan were deposited into the Liquid Fuels Tax Fund. The term of the loan was for ten years at an interest rate of 1.62 percent. Principal and interest payments of \$32,746.05 are due annually. Funds were not received until April 2015 due to the state budget impasse. The municipality was not scheduled to make the first payment until March 7, 2016. Prior years' principal payments from the Liquid Fuels Tax Fund were \$250,000.00. Additionally, the municipality paid principal of \$3,563.52 and interest of \$1,590.30 from the General Fund.

During the current examination period, the municipality paid principal of \$46,436.48 from the Liquid Fuels Tax Fund. This amount is reflected in highway construction and rebuilding projects on the 2021 Form MS-965 - Section 1. Additionally, the municipality paid interest of \$752.50 from the General Fund. The loan was paid-in-full as of April 8, 2021.

TOWNSHIP OF HENRY CLAY
FAYETTE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

Finding No. 1 - Documentation Supporting Payroll Expenditures Was Not Available For Examination

Our examination disclosed that the municipality expended \$20,580.25 during 2021 and \$56,348.00 during 2022 from the Liquid Fuels Tax Fund for payroll. However, the municipality did not maintain daily payroll time sheets identifying the nature of work performed and the location of work assignments.

Good internal control procedures over payroll ensure that there is documentation identifying the nature of the work performed and location of work assignments.

The Liquid Fuels Tax Municipal Allocation Law, 72 P.S. § 2615.4, provides, in part, that monies herein allocated may be used only for construction, reconstruction, maintenance and repairs of such public roads or streets, including bridges, culverts and drainage structures, for which they are legally responsible. Also permitted are expenditures involving acquisition, maintenance, repairs and operation of street signs, traffic signs, traffic signal control systems, road equipment, and snow fences.

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including expenditures made without supporting documentation, are outside the scope of permissible expenditures.

Without payroll documentation that includes daily time sheets that identify the nature of work performed and the location of work assignments, we could not determine if the payroll expenditures were permissible according to the Liquid Fuels Tax Municipal Allocation Law.

We were unable to determine the cause of this condition.

The failure to maintain documentation of payroll expenditures as noted above could result in the municipality having to reimburse \$76,928.25 to its Liquid Fuels Tax Fund.

TOWNSHIP OF HENRY CLAY
FAYETTE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

Finding No. 1 - Documentation Supporting Payroll Expenditures Was Not Available For Examination (Continued)

Recommendations

We recommend that the municipality reimburse \$76,928.25 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the municipality ensure good internal control over payroll by maintaining daily time sheets that identify the nature of work performed and the location of work assignments.

Management's Response

The municipal officials stated:

The municipality will look into a payroll vendor.

Auditor's Conclusion

Whether or not the municipality decides to use a payroll vendor, it is required to maintain time sheets identifying the nature of work performed and the location of work assignments. During our next examination, we will determine if the municipality complied with our recommendations.

TOWNSHIP OF HENRY CLAY
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 FINDINGS AND RECOMMENDATIONS
 FOR THE PERIOD
 JANUARY 1, 2021 TO DECEMBER 31, 2022

Finding No. 2 - Noncompliance With Advertising And Bidding Requirements

Our examination disclosed that the township expended \$33,671.22 during 2022 from the Liquid Fuels Tax Fund for the rental of equipment without advertising for bids. These expenditures were as follows:

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
1848-1	06/08/22	2781	07/06/22	\$ 4,715.00
Various	Various	2788	08/09/22	9,365.00
Various	Various	2793	09/13/22	8,179.54
Various	Various	2806	11/15/22	<u>11,411.68</u>
2022 Total				<u><u>\$33,671.22</u></u>

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 \$21,300.00 for 2021, \$21,900.00 for 2022, and \$22,500.00 for 2023. *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 purchases.

We were unable to determine the cause of this condition.

The failure to comply with *The Second Class Township Code* could result in the township having to reimburse \$33,671.22 to its Liquid Fuels Tax Fund.

TOWNSHIP OF HENRY CLAY
FAYETTE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

Finding No. 2 - Noncompliance With Advertising And Bidding Requirements (Continued)

Recommendations

We recommend that the township reimburse \$33,671.22 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

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

Management's Response

The township officials stated:

We will follow the township code. We will follow bidding requirements.

Auditor's Conclusion

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

TOWNSHIP OF HENRY CLAY
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 FINDINGS AND RECOMMENDATIONS
 FOR THE PERIOD
 JANUARY 1, 2021 TO DECEMBER 31, 2022

Finding No. 3 - Nonpermissible Expenditures - Recurring

We cited the municipality for nonpermissible expenditures in our prior examination for the period January 1, 2020 to December 31, 2020. Our current examination disclosed that the municipality expended \$250.00 during 2022 from the Liquid Fuels Tax Fund for the following nonpermissible items:

<u>Description</u>	<u>Amount</u>
Pennsylvania State Associations of Township Supervisors (PSATS)	\$180.00
Pennsylvania State Associations of Township Supervisors (PSATS)	<u>70.00</u>
2022 Total	<u>\$250.00</u>

The Liquid Fuels Tax Municipal Allocation Law, 72 P.S. § 2615.4, provides, in part, that monies herein allocated may be used only for construction, reconstruction, maintenance, and repairs of such public roads or streets, including bridges, culverts and drainage structures, for which they are legally responsible. Also permitted are expenditures involving acquisition, maintenance, repairs and operation of street signs, traffic signs, traffic signal control systems, road equipment, and snow fences.

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including Pennsylvania State Associations of Township Supervisors (PSATS) expenditures, are outside the scope of permissible expenditures.

This condition occurred because the secretary/treasurer did not know the expenditures were nonpermissible.

The failure to follow the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation’s Regulations as noted above could result in the municipality having to reimburse \$250.00 to its Liquid Fuels Tax Fund.

TOWNSHIP OF HENRY CLAY
FAYETTE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

Finding No. 3 - Nonpermissible Expenditures - Recurring (Continued)

Recommendations

We recommend that the municipality reimburse \$250.00 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 Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations regarding permissible expenditures.

Management's Response

The municipal officials stated:

We will no longer expend nonpermissible items from the Liquid Fuels Tax Fund.

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 HENRY CLAY
FAYETTE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

Finding No. 4 - Failure To Remit Payroll Taxes

Our examination disclosed that the gross amount paid to supervisors from the Liquid Fuels Tax Fund was \$20,580.25 during 2021 and \$56,348.00 during 2022. Although quarterly returns were prepared for the federal and state taxes, the municipality failed to remit payroll taxes to the proper authorities.

The municipality should refer to the following publications and websites for payroll withholding and remitting requirements:

- IRS Publication 15 (Circular E) Employers Tax Guide
www.irs.gov
- Pennsylvania Department of Revenue Rev - 415 Employer Withholding Information Guide
www.revenue.pa.gov

We were unable to determine why the payroll taxes were not remitted to the proper authorities.

The failure to remit payroll taxes could result in the municipality having to pay interest and penalties on uncollected taxes.

Recommendation

We recommend that the municipality remit payroll taxes as prescribed by law.

Management's Response

The municipal officials stated:

We will have our payroll vendor do all payroll and taxes.

Auditor's Conclusion

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

TOWNSHIP OF HENRY CLAY
FAYETTE COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

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 \$39,762.36 to its Liquid Fuels Tax Fund. This amount consists of \$14,048.91 for duplicate transfer for payroll, and \$25,713.45 for nonpermissible expenditures.

During our current examination, we reviewed a letter dated April 4, 2022, from the Department of Transportation directing the municipality to reimburse \$39,762.36 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on April 12, 2022.

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

- Establish and implement internal controls to ensure payroll documents are reviewed timely to avoid duplicate payments.
- Comply with the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations regarding permissible expenditures.

During our current examination, we did not note any duplicate payments for payroll. Additionally, the municipality did not comply with our second bulleted recommendation (see Finding No. 3).

TOWNSHIP OF HENRY CLAY
FAYETTE COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF ONSITE CLOSEOUT MEETING
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

An onsite closeout meeting was held December 20, 2023. Those participating were:

TOWNSHIP OF HENRY CLAY

The Honorable Jesse Bates, Chairman of the Board of Supervisors

The Honorable Charles C Myers, Vice-Chairman of the Board of Supervisors

The Honorable Torrey Witt, Supervisor

DEPARTMENT OF THE AUDITOR GENERAL

Mrs. Michele Simpson, Auditor

TOWNSHIP OF HENRY CLAY
FAYETTE COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

This report was initially distributed to:

The Honorable Michael Carroll
Secretary
Department of Transportation

Township of Henry Clay
Fayette County
156 Martin Road
Markleysburg, PA 15459

The Honorable Jesse Bates
Chairman of the Board of Supervisors

The Honorable Larry Hartman, Jr.
Vice-Chairman of the Board of Supervisors

The Honorable William Hayden
Supervisor

This report is a matter of public record and is available online at www.PaAuditor.gov. 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: news@PaAuditor.gov.