



MONTGOMERY COUNTY
46-000

LIQUID FUELS TAX FUND
EXAMINATION REPORT

FOR THE YEAR ENDED
DECEMBER 31, 2007

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MONTGOMERY COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE YEAR ENDED
DECEMBER 31, 2007

Background

The Liquid Fuels and Fuels Tax Act, Title 75 P.S. § 9010, provides counties with allocations of liquid fuels taxes from the Commonwealth of Pennsylvania's Liquid Fuels Tax Fund in June and December of each year.

The allocations are based on the ratio of a county's average gas consumption in the years 1927, 1928, and 1929 to the total statewide consumption in those years. These allocations must be deposited into a separate fund called the County Liquid Fuels Tax Fund, from which payments may be made for construction, maintenance, and repair of county roads and bridges. Additionally, the Act provides that counties may allocate money from this fund to the political subdivisions within the county for these same purposes. It also allows counties to encumber current funds for future road and bridge construction, reconstruction, and maintenance projects. Furthermore, counties are allowed to use up to ten percent of its Liquid Fuels Tax Fund allocation each year for indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects.

The Department of Transportation has been given the regulatory authority for the administration of these funds. In order to receive Liquid Fuels Tax Funds as scheduled, each county must submit an annual report showing receipts, expenditures, and encumbrances for the preceding 12 months.

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.



Independent Auditor's Report

The Honorable Allen D. Biehler, P.E.
Secretary
Department of Transportation
Harrisburg, PA 17120

We examined the accompanying Form MS-991 With Adjustments for the Liquid Fuels Tax Fund of Montgomery County for the year ended December 31, 2007. The county's management is responsible for the Form MS-991. Our responsibility is to express an opinion on the Form MS-991 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 Montgomery County's Form MS-991 for the year ended December 31, 2007 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 county'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-991 With Adjustments are made by the Department of the Auditor General.

Independent Auditor's Report (Continued)

As discussed in Comment No. 1 of this report, during our 2004 audit we recommended that the Department of Transportation review our audit finding to determine whether the county should reimburse \$105,167.72 to its Liquid Fuels Tax Fund. This amount consists of \$85,354.77 for expenditures in excess of the 10 percent limit on indirect costs and \$19,812.95 for nonpermissible expenditures. As of the date of this report, the Department of Transportation had not determined if reimbursement would be required.

In our opinion, except for the matter discussed in the preceding paragraph, the Form MS-991 With Adjustments presents, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of Montgomery County for the year ended December 31, 2007, 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 Form MS-991 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 Form MS-991 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-991 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 Montgomery 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 Montgomery County's Form MS-991 that is more than inconsequential will not be prevented or detected by Montgomery County's internal control.

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 Form MS-991 will not be prevented or detected by Montgomery County's internal control.

Independent Auditor's Report (Continued)

Our consideration of internal control over reporting on the Form MS-991 was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any significant deficiencies or material weaknesses, as defined above, in internal control over reporting on the Form MS-991.

The results of our tests disclosed the following instance of noncompliance that is required to be reported under *Government Auditing Standards*:

- Expenditures In Excess Of The 10 Percent Limit On Indirect/Administrative Costs.

We are concerned in light of the county's failure to correct the previously reported finding regarding expenditures in excess of the 10 percent limit on indirect/administrative costs. The county 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 Montgomery County and is not intended to be and should not be used by anyone other than these specified parties.

March 5, 2009

JACK WAGNER
Auditor General



MONTGOMERY COUNTY
LIQUID FUELS TAX FUND
2007 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2007	\$ 45,307.41	\$ 762.31	\$ 46,069.72
<u>Receipts:</u>			
State allocations	1,368,178.15	-	1,368,178.15
Interest (Note 3)	22,524.44	-	22,524.44
Reimbursable agreements	-	-	-
Miscellaneous (Note 5)	940,180.65	-	940,180.65
Accounts receivable (Note 1)	73,085.88	-	73,085.88
Total receipts	<u>2,403,969.12</u>	<u>-</u>	<u>2,403,969.12</u>
Total funds available	<u>2,449,276.53</u>	<u>762.31</u>	<u>2,450,038.84</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	1,356,933.24	(13,853.77)	1,343,079.47
Administrative	224,767.73	14,616.08	239,383.81
Grants to political subdivisions	-	-	-
Accounts payable	-	-	-
Miscellaneous (Note 6)	500,000.00	-	500,000.00
Total expenditures	<u>2,081,700.97</u>	<u>762.31</u>	<u>2,082,463.28</u>
Balance, December 31, 2007	367,575.56	-	367,575.56
Unpaid encumbrances (Note 1)	-	-	-
Unencumbered balance, December 31, 2007	<u>\$ 367,575.56</u>	<u>\$ -</u>	<u>\$ 367,575.56</u>

Notes to Form MS-991 With Adjustments are an integral part of this report.

MONTGOMERY COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-991 WITH ADJUSTMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2007

1. Criteria

Form MS-991 With Adjustments provides a summary of Liquid Fuels Tax Fund receipts, expenditures, fund balance, encumbrances and unencumbered balance by category. Categories requiring explanation include:

- State allocations are generally received from the Department of Transportation during June and December of each year. The amount the county receives is based on the ratio of a county's average gas consumption in the years 1927, 1928, and 1929 to the total statewide consumption in those years.
- Reimbursable agreements are agreements with the Commonwealth of Pennsylvania or another entity to reimburse the county for money expended for construction, maintenance, and repairs of county roads and bridges.
- Encumbrances are funds reserved for future county road or bridge projects or grants to political subdivisions for these same purposes.

Basis Of Presentation

The financial activities of the county 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 financial presentation has been prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation as a result of the County Liquid Fuels Tax Act of 1931, which does not constitute a complete presentation of the entity's assets, liabilities, expenses, and fund balance. Accordingly, the presentation of Form MS-991 With Adjustments is restricted to the Liquid Fuels Tax Fund, which represents a segment of the entity.

Basis Of Accounting

The accompanying Form MS-991 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 expenses are recorded when paid except for accounts receivable and accounts payable. In addition, counties are also permitted to encumber funds for county projects and grants to political subdivisions.

MONTGOMERY COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-991 WITH ADJUSTMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2007

1. Criteria (Continued)

Basis Of Accounting (Continued)

Accounts receivable of \$73,085.88 due from the General Fund are as follows:

<u>Description</u>	<u>Amount</u>
Grant	\$70,349.88
Sale of equipment	<u>2,736.00</u>
	<u>\$73,085.88</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. Deposits

The County Code, Title 16 P.S § 17067, authorizes the county 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 from institutions having their principal place of business in or outside the Commonwealth of Pennsylvania that are insured by the FDIC or other like insurance. 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.

MONTGOMERY COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-991 WITH ADJUSTMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2007

2. Deposits (Continued)

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, 2007. 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 county's name.

Fund Balance

The fund balance consists of the following:

Cash	<u>\$367,575.56</u>
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3. Interest Earnings

Our examination disclosed that the county deposited idle liquid fuels tax money in interest-bearing accounts which earned \$22,524.44 during 2007, thus providing additional funds for road maintenance and repairs.

4. Adjustments

An adjustment of \$762.31 was made to "Balance, January 1, 2007" because of prior report adjustments that were not carried forward in the fund balance.

An adjustment of \$(13,853.77) was made to "Maintenance and repair" because administrative expenditures were misclassified.

An adjustment of \$14,616.08 was made to "Administrative" because expenditures of \$13,853.77 were misclassified as maintenance and repair and a transfer of \$762.31 to the General Fund was not reported.

MONTGOMERY COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-991 WITH ADJUSTMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2007

5. Miscellaneous Receipts

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

<u>Source</u>	<u>Description</u>	<u>Amount</u>
General Fund	Temporary loan (Note 6)	\$500,000.00
Various	Permit fees	17,552.97
Insurance company	Insurance settlement	5,610.50
Commonwealth of Pennsylvania	Turnback allocation	5,800.00
General Fund	Reimbursement (Finding)	400,000.00
General Fund	Reimbursement (Comment No. 2)	<u>11,217.18</u>
Total		<u>\$940,180.65</u>

6. Temporary Loan

On January 22, 2007, the county loaned \$500,000.00 from its General Fund to its Liquid Fuels Tax Fund. On December 14, 2007 the county transferred \$500,000.00 from the Liquid Fuels Tax Fund to the General Fund to repay the loan.



MONTGOMERY COUNTY
LIQUID FUELS TAX FUND
FINDING AND RECOMMENDATION
FOR THE YEAR ENDED
DECEMBER 31, 2007

Finding - Expenditures In Excess Of The 10 Percent Limit On Indirect/Administrative Costs

Our examination disclosed that the county expended a total of \$239,393.81 from the Liquid Fuels Tax Fund in the 2007 calendar year for indirect/administrative costs, which is greater than 10 percent of the yearly Liquid Fuels Tax Fund allocation to the county of \$1,368,175.15.

The Liquid Fuels and Fuels Tax Act of 75 Pa. C.S.A. § 9010(b)(2)(i)(G) permits the use of county liquid fuels tax funds for “Indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects. . .” However, the use of liquid fuels tax funds for indirect costs “. . . may not exceed 10% of the yearly allocation to the county.” By way of correspondence to county liquid fuels tax fund administrators dated December 27, 1999, the Department of Transportation explained the use of county Liquid Fuels Tax Fund money for documented, permissible indirect costs as follows:

1. Expenditures for curb ramps from roads of highways to provide access by individuals with disabilities consistent with Federal and State Laws.
2. Indirect costs, including benefits, overhead and other administrative charges for those county employees directly engaged in eligible road and bridge projects according to the following:
 - A. Expenditures must be documented and may be paid directly or charged as a mark-up on direct costs or as part of an indirect cost allocation plan when the basis of the charge is consistent with charges to other county department and the levels of activity of the fund.
 - B. Indirect engineering and/or transportation planning costs.
 - C. Vehicle liability insurance for road and bridge equipment purchased under the fund.

The total indirect costs that may be expended in any year from the county liquid fuels fund is limited to ten (10%) of the county’s annual allocation. Direct engineering costs, either contracted or in house, are not to be considered as part of this limitation.

3. Administrative and Overhead charges include: office salaries (secretary/clerk), office supplies, furniture, telephones, computer and software etc. Computer and software purchases must be pre-approved in writing by the Bureau of Municipal Services.

MONTGOMERY COUNTY
LIQUID FUELS TAX FUND
FINDING AND RECOMMENDATION
FOR THE YEAR ENDED
DECEMBER 31, 2007

Finding - Expenditures In Excess Of The 10 Percent Limit On Indirect/Administrative Costs
(Continued)

The reimbursement of prior years indirect costs is not permitted nor is any carry forward of eligibility allowed.

The indirect/administrative costs charged to the Liquid Fuels Tax Fund by the county during 2007 are as follows:

<u>Description</u>	<u>Amount</u>
Administrative salaries and benefits	\$219,390.60
Sewer and water	1,996.05
Propane	2,448.22
Electric	5,295.85
Telephone	3,288.15
Copier rental	1,220.15
Miscellaneous supplies	1,331.19
Travel expenses	1,770.44
Postage	197.69
Cell phone	<u>2,455.47</u>
Total indirect/administrative costs	239,393.81
Less 10% permissible amount	<u>136,817.52</u>
Excess expenditures for indirect/administrative costs	<u>\$102,576.29</u>

The county deposited a total of \$400,000.00 into the Liquid Fuels Tax Fund for the reimbursement of indirect/administrative costs. This amount consists of deposits of \$200,000.00 on January 11, 2007 and October 12, 2007.

Similar findings were also written in our 1996 through 2006 reports.

Recommendation

We again recommend that, in the future, the county limit all indirect/administrative costs charged to the Liquid Fuels Tax Fund to the 10 percent maximum permitted by the Liquid Fuels and Fuels Tax Act.

MONTGOMERY COUNTY
LIQUID FUELS TAX FUND
FINDING AND RECOMMENDATION
FOR THE YEAR ENDED
DECEMBER 31, 2007

Finding - Expenditures In Excess Of The 10 Percent Limit On Indirect/Administrative Costs
(Continued)

Management's Response

The county officials stated:

We will try to correct the finding for calendar year 2009.

Auditor's Conclusion

This has been a recurring finding since 1996. We strongly recommend that the county take immediate action to comply with our recommendation.

MONTGOMERY COUNTY
LIQUID FUELS TAX FUND
COMMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2007

Comment No. 1 - Summary Of 2004 Audit Recommendations

In our 2004 report we recommended that the Department of Transportation review our audit finding to determine if the county should reimburse \$105,167.72 to its Liquid Fuels Tax Fund. This amount consists of \$85,354.77 for expenditures in excess of the 10 percent limit on indirect costs and \$19,812.95 for nonpermissible expenditures.

As of the date of this report, the Department of Transportation had not determined if the reimbursement of \$105,167.72 would be required.

Comment No. 2 - Summary Of 2005 Examination Recommendation

In our 2005 report we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$11,217.18 to its Liquid Fuels Tax Fund for nonpermissible expenditures.

During our current examination we reviewed a letter dated November 2, 2007, from the Department of Transportation informing the county to reimburse \$11,217.18 to its Liquid Fuels Tax Fund. We noted that the county reimbursed this amount to its Liquid Fuels Tax Fund on November 30, 2007.

Comment No. 3 - Summary Of 2006 Examination Recommendation

In our 2006 report we recommended that the county comply with the Liquid Fuels and Fuels Tax Act and the Department of Transportation's Regulations regarding permissible expenditures.

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

MONTGOMERY COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE YEAR ENDED
DECEMBER 31, 2007

An exit conference was held March 5, 2009. Those participating were:

MONTGOMERY COUNTY

The Honorable Diane B. Morgan, Controller
Ms. Julie Bookheimer, First Deputy Controller

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Christopher Heglen, Auditor
Ms. Michele Eilenberger, Auditor

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



MONTGOMERY COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE YEAR ENDED
DECEMBER 31, 2007

This report was initially distributed to:

The Honorable Allen D. Biehler, P.E.
Secretary
Department of Transportation

Montgomery County
1 Montgomery Plaza
P. O. Box 311
Norristown, PA 19404

The Honorable James R. Matthews	Chairman of the Board of Commissioners
The Honorable Garrett Page	Treasurer
The Honorable Diane B. Morgan	Controller
Ms. Julie Bookheimer	First Deputy Controller

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.