

# ATTESTATION ENGAGEMENT

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## Township of Black Creek

Luzerne County, Pennsylvania

40-202

Liquid Fuels Tax Fund

For the Period

January 1, 2024 to December 31, 2024

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July 2025



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 have examined the accompanying Form MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Township of Black Creek, Luzerne County, for the period January 1, 2024 to December 31, 2024. The municipality's management is responsible for presenting the Form 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 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 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 (Continued)

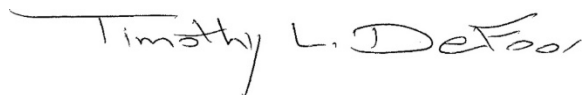
In our opinion, the Form MS-965 With Adjustments presents, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Township of Black Creek, Luzerne County, for the period January 1, 2024 to December 31, 2024, in accordance 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, regulations, contracts, or grant agreements that have a material effect on the Form MS-965; and any other instances that warrant the attention of those charged with governance. 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 the Form MS-965 or on compliance and other matters; accordingly, we express no such opinions. The results of our tests did not disclose any 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:

- Related Party Transaction

The purpose of this report is to provide information related to the municipality's Liquid Fuels Tax Fund to assist the Pennsylvania Department of Transportation in fulfilling its regulatory authority as described in the laws and regulations identified in the Background section of this report and the Pennsylvania Department of Transportation's *Publication 9*. This report is not suitable for any other purpose.

We appreciate the courtesy extended by the Township of Black Creek, Luzerne 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 18, 2025

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TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2024 TO DECEMBER 31, 2024

Background

The Liquid Fuels Tax Municipal Allocation Law<sup>1</sup> 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 maintained by all political subdivisions making application in the county; and (2) 50 percent on the proportion of a municipality's population to the total population of all municipalities making application in the state.<sup>2</sup>

Section 9511 (relating to Allocation of proceeds) of the Pennsylvania Vehicle Code provides municipalities with annual maintenance payments to be received from the Motor License Fund.<sup>3</sup>

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).

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<sup>1</sup> 72 P.S. § 2615.1 *et seq.*, Act 655 of 1956, as amended.

<sup>2</sup> 75 Pa.C.S. § 9010(c)(1)-(2) as last amended by Act 89 of 2013.

<sup>3</sup> 75 Pa.C.S. § 9511, as last amended by Act 89 of 2013 and Act 101 of 2016, *See also* 72 P.S. § 2615.4, as last amended by Act 42 of 2013.

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2024 TO DECEMBER 31, 2024

Background (Continued)

2. Make deposits and payments or expenditures in compliance with Act 655, 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 that can be placed into the Liquid Fuels Tax Fund.
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.

*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:

<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>
<u>\$11,500.00</u>	<u>\$11,800.00</u>	<u>\$12,200.00</u>	<u>\$12,600.00</u>

- 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:

<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>
<u>\$11,500.00</u>	<u>\$11,800.00</u>	<u>\$12,200.00</u>	<u>\$12,600.00</u>

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

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2024 TO DECEMBER 31, 2024

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 BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2024 TO DECEMBER 31, 2024

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, 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's financial activities.

*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.



TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2024 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	-	-	-
Traffic control devices	2,230.22	-	2,230.22
Street lighting	-	-	-
Storm sewers and drains	15,899.73	(1,729.73)	14,170.00
Repairs of tools and machinery	1,785.82	-	1,785.82
Maintenance and repair of roads and bridges	39,340.15	1,729.73	41,069.88
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
Total (To Section 2, Line 5)	<u>\$ 59,255.92</u>	<u>\$ -</u>	<u>\$ 59,255.92</u>

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2024 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, 2024	\$ 176.57	\$ -	\$ 176.57
Receipts:			
2. State allocation	117,918.81	-	117,918.81
2a. Turnback allocation	20,680.00	-	20,680.00
2b. Interest on investments	4,787.47	-	4,787.47
2c. Miscellaneous	-	-	-
3. Total receipts	<u>143,386.28</u>	<u>-</u>	<u>143,386.28</u>
4. Total funds available	<u>143,562.85</u>	<u>-</u>	<u>143,562.85</u>
5. Expenditures (Section 1)	<u>59,255.92</u>	<u>-</u>	<u>59,255.92</u>
6. Balance, December 31, 2024	<u>\$ 84,306.93</u>	<u>\$ -</u>	<u>\$ 84,306.93</u>

TOWNSHIP OF BLACK CREEK  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2024 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	\$ 176.57	\$ -	\$ 176.57
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	27,719.76	-	27,719.76
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	27,896.33	-	27,896.33
5. Less: Major equipment expenditures	<u>-</u>	<u>-</u>	<u>-</u>
6. Remainder	<u>27,896.33</u>	<u>-</u>	<u>27,896.33</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 27,896.33</u>	<u>\$ -</u>	<u>\$ 27,896.33</u>

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS  
FOR THE PERIOD  
JANUARY 1, 2024 TO DECEMBER 31, 2024

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

Adjustments

Section 1

Adjustments were made to “Storm sewers and drains” and “Maintenance and repair of roads and bridges” because expenditures of \$1,729.73 were misclassified.

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2024 TO DECEMBER 31, 2024

**Finding - Related Party Transaction**

We tested 12 expenditures totaling \$45,697.51 and found that the township had one expenditure totaling \$1,785.82 during 2024 from the Liquid Fuels Tax Fund for repairs and labor to the 2004 Mack truck. The vice chairman of the board for supervisors works for the vendor where the truck was repaired and failed to abstain from voting on payment of the bill. Due to the vice chairman's financial interest in the company and the lack of an open and public award process, this contract appears to violate *The Second Class Township Code* and The Public Official and Employee Ethics Act. Therefore, it should not have been entered into by the township.

*The Second Class Township Code*, 53 P.S. § 68102(i), as amended, states, in part:

No township official, either elected or appointed, or township employee who knows, or who by the exercise of reasonable diligence could know, shall be interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any supplies or materials for the use of the township or for any work to be done for such township involving the expenditure by the township of more than five hundred dollars (\$500.00) in any year unless the contract is awarded through the public bid process. This limitation does not apply if the officer or appointee of the township is an employee of the person, firm or corporations to which the money is to be paid in a capacity with no possible influence on the transaction and the officer cannot possibly be benefited thereby, either financially or otherwise. If a supervisor is within this exception, the supervisor shall so inform the board of supervisors and refrain from voting on the payments and shall in no manner participate in the contract. . . .

This information is also published in Section 3102(a) of *The Second Class Township Code* as published by the Local Government Commission.

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

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

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2024 TO DECEMBER 31, 2024

**Finding - Related Party Transaction (Continued)**

The municipality did not have sufficient internal controls to ensure compliance with *The Second Class Township Code* and the Ethics Act.

Because this contract violate *The Second Class Township Code* and the Ethics Act the township could be required by the Pennsylvania Department of Transportation to reimburse \$1,785.82 to its Liquid Fuels Tax Fund.

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

**Recommendations**

We recommend that the township reimburse \$1,785.82 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* and the Ethics Act.

**Management's Response**

The township 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.

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF ONSITE CLOSEOUT MEETING  
FOR THE PERIOD  
JANUARY 1, 2024 TO DECEMBER 31, 2024

An onsite closeout meeting was held May 28, 2025. Those participating were:

TOWNSHIP OF BLACK CREEK

Ms. Jennifer Hall, Secretary

DEPARTMENT OF THE AUDITOR GENERAL

Ms. Eileen Rosen, Auditor

TOWNSHIP OF BLACK CREEK  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2024 TO DECEMBER 31, 2024

This report was initially distributed to:

**The Honorable Michael Carroll**  
Secretary  
Department of Transportation

**Township of Black Creek**  
Luzerne County  
1980 Tomhicken Road  
Bloomsburg, PA 17815

**The Honorable Randall Yacowatz**  
Chairman of the Board of Supervisors

**Ms. Jennifer Hall**  
Secretary

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://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](mailto:news@PaAuditor.gov).