

# ATTESTATION ENGAGEMENT

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## Township of Lower Macungie

Lehigh County, Pennsylvania

39-104

Liquid Fuels Tax Fund

For the Period

January 1, 2023 to December 31, 2023

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December 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 Form MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Township of Lower Macungie, Lehigh County, for the period January 1, 2023 to December 31, 2023. 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 Lower Macungie, Lehigh County, for the period January 1, 2023 to December 31, 2023, 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 Form 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 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 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 Payment Of Invoice.

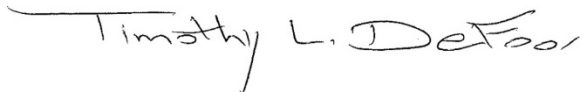
## Independent Auditor's Report (Continued)

As part of obtaining reasonable assurance about whether the Form MS-965 is free from material misstatement, we performed tests of the Township of Lower Macungie, Lehigh 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 matters that, while not required to be included in this report by *Government Auditing Standards*, have been included in the findings below:

- Payment Of Pennsylvania Sales Tax.
- Late Receipt Of Allocation.

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 Lower Macungie, Lehigh 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  
November 5, 2024

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TOWNSHIP OF LOWER MACUNGIE  
LEHIGH COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2023

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 LOWER MACUNGIE  
 LEHIGH COUNTY  
 LIQUID FUELS TAX FUND  
 BACKGROUND  
 FOR THE PERIOD  
 JANUARY 1, 2023 TO DECEMBER 31, 2023

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.

*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:

2020	2021	2022	2023
\$11,300.00	\$11,500.00	\$11,800.00	\$12,200.00

- 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:

2020	2021	2022	2023
\$11,300.00	\$11,500.00	\$11,800.00	\$12,200.00

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

TOWNSHIP OF LOWER MACUNGIE  
LEHIGH COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2023

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 LOWER MACUNGIE  
LEHIGH COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2023

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 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 LOWER MACUNGIE  
 LEHIGH COUNTY  
 LIQUID FUELS TAX FUND  
 2023 FORM MS-965 – SECTION 1  
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Minor equipment purchases	\$ 3,502.15	\$ -	\$ 3,502.15
Computer/Computer related training	-	-	-
Major equipment purchases	89,487.00	-	89,487.00
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	67,750.36	-	67,750.36
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	686,999.43	-	686,999.43
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	58.65	58.65
 Total (To Section 2, Line 5)	 <u>\$ 847,738.94</u>	 <u>\$ 58.65</u>	 <u>\$ 847,797.59</u>

TOWNSHIP OF LOWER MACUNGIE  
 LEHIGH COUNTY  
 LIQUID FUELS TAX FUND  
 2023 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, 2023	\$ 1,015,600.47	\$ -	\$ 1,015,600.47
Receipts:			
2. State allocation	984,247.51	-	984,247.51
2a. Turnback allocation	-	-	-
2b. Interest on investments	22,342.46	-	22,342.46
2c. Miscellaneous	214,542.00	58.65	214,600.65
3. Total receipts	<u>1,221,131.97</u>	<u>58.65</u>	<u>1,221,190.62</u>
4. Total funds available	<u>2,236,732.44</u>	<u>58.65</u>	<u>2,236,791.09</u>
5. Expenditures (Section 1)	<u>847,738.94</u>	<u>58.65</u>	<u>847,797.59</u>
6. Balance, December 31, 2023	<u><u>\$ 1,388,993.50</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 1,388,993.50</u></u>

TOWNSHIP OF LOWER MACUNGIE  
 LEHIGH COUNTY  
 LIQUID FUELS TAX FUND  
 2023 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	\$ 286,664.00	\$ -	\$ 286,664.00
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	196,849.50	-	196,849.50
3. PENNDOT approved adjustments	<u>12,000.00</u>	<u>-</u>	<u>12,000.00</u>
4. Total funds available for equipment acquisition	495,513.50	-	495,513.50
5. Less: Major equipment expenditures	<u>89,487.00</u>	<u>-</u>	<u>89,487.00</u>
6. Remainder	<u><u>406,026.50</u></u>	<u><u>-</u></u>	<u><u>406,026.50</u></u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u><u>\$ 406,026.50</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 406,026.50</u></u>

TOWNSHIP OF LOWER MACUNGIE  
 LEHIGH COUNTY  
 LIQUID FUELS TAX FUND  
 AUDITOR DESCRIPTION OF SELECT TRANSACTIONS  
 FOR THE PERIOD  
 JANUARY 1, 2023 TO DECEMBER 31, 2023

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

An adjustment of \$58.65 was made to “Miscellaneous” because bank service charges were not reported.

Section 2

An adjustment of \$58.65 was made to “Miscellaneous” because refunds for bank service charges were not reported.

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>
Local business	Sale of equipment	\$ 12,000.00
General Fund	Reimbursement (Summary Of Prior Examination Recommendation)	202,542.00
Financial institution	Refund for bank service charges	58.65
Total		<u>\$214,600.65</u>

Miscellaneous Expenditures

During 2023, the municipality expended \$58.65 from the Liquid Fuels Tax Fund for bank service charges.

TOWNSHIP OF LOWER MACUNGIE  
 LEHIGH COUNTY  
 LIQUID FUELS TAX FUND  
 FINDINGS AND RECOMMENDATIONS  
 FOR THE PERIOD  
 JANUARY 1, 2023 TO DECEMBER 31, 2023

**Finding No. 1 - Duplicate Payment Of Invoice**

Our examination disclosed that the municipality paid the following invoice twice:

<u>Invoice Number</u>	<u>First Check No.</u>	<u>First Date Paid</u>	<u>Second Check No.</u>	<u>Second Date Paid</u>	<u>Invoice Amount</u>
38207	900138	12/20/22	900164	12/22/23	<u>\$16,795.00</u>

Although this money was reimbursed to the Liquid Fuels Tax Fund on January 30, 2024, which was subsequent to our current examination period, the primary concern is the inadequate internal controls which enabled the duplicate payment of \$16,795.00 to remain undetected for over one month.

A sufficient system of internal controls includes procedures to avoid duplicate payments. The failure to implement such procedures increases the risk of vendor fraud, misappropriation of funds, and duplicate payments on vendor invoices occurring and remaining undetected.

We were unable to determine the cause of this condition.

Recommendation

We recommend that the municipality establish and implement internal controls to ensure vendor invoices are reviewed timely to avoid duplicate payments.

Management's Response

The municipal officials offered no formal response at this time.

Auditor's Conclusion

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

TOWNSHIP OF LOWER MACUNGIE  
LEHIGH COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2023

**Finding No. 2 - Payment Of Pennsylvania Sales Tax**

Our examination disclosed that the municipality expended \$218.50 during 2023 from the Liquid Fuels Tax Fund for state sales tax on the purchase of anti-skid.

*The Pennsylvania Tax Reform Code* of 1971, 72 P.S. § 7204(12) provides that sales of tangible personal property or services to the Commonwealth, or its instrumentalities or political subdivisions, are not taxable.

We were unable to determine the cause of this condition.

The failure to comply with *The Pennsylvania Tax Reform Code* could result in the municipality having to reimburse \$218.50 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$218.50 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation. We also recommend that the municipality contact the Department of Revenue to obtain a refund for the sales taxes paid.

We further recommend that the municipality review invoices closely before payment is made to ensure that sales tax is not paid in the future.

Management's Response

The municipal officials offered no formal response at this time.

Auditor's Conclusion

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

TOWNSHIP OF LOWER MACUNGIE  
LEHIGH COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2023

**Finding No. 3 - Late Receipt Of Allocation**

Our examination disclosed that the 2023 Liquid Fuels Tax Fund allocation of \$984,247.51, which should have been distributed from the Department of Transportation to the municipality during the first week of March of that year, was not received until October 23, 2023, because the municipality failed to comply with the Department of Transportation's *Publication 9*, Chapter Two, Section 2.4, which states:

To qualify for the annual liquid fuels tax allocation, a municipality shall:

- Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks).
- Make deposits and payments or expenditures in compliance with the Act 655. Failure to do so may result in not receiving allocations from PENNDOT until all discrepancies are resolved.
- 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>.
- Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
- 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.

This condition occurred because the MS-965 Actual Use Report was not submitted to the Department of Transportation until October 5, 2023.

Because the municipality failed to file its Form MS-965 until October 5, 2023, the municipality did not have use of the 2023 allocation for more than seven months. Furthermore, had the allocation been received timely, money may have been available for investment purposes, potentially earning interest income which could have been used for road maintenance and repairs.



TOWNSHIP OF LOWER MACUNGIE  
LEHIGH COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2023

**Finding No. 3 - Late Receipt Of Allocation (Continued)**

Recommendation

We recommend that the municipality comply with the Department of Transportation's *Publication 9* to ensure that the allocations are received during the first week in March as outlined above.

Management's Response

The municipal officials offered no formal response at this time.

Auditor's Conclusion

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

TOWNSHIP OF LOWER MACUNGIE  
LEHIGH COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF PRIOR EXAMINATION RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2023

Summary Of Prior Examination Recommendation

In our prior report we noted that the municipality expended \$202,542.00 from its Liquid Fuels Tax Fund for nonpermissible items. We further noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on October 6, 2023.

We recommended that the municipality comply with the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations regarding permissible expenditures.

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

TOWNSHIP OF LOWER MACUNGIE  
LEHIGH COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF ONSITE CLOSEOUT MEETING  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2023

An onsite closeout meeting was held August 16, 2024. Those participating were:

TOWNSHIP OF LOWER MACUNGIE

Mr. Jeffrey Waltemyer, Finance Director/Treasurer

Ms. Donna Conklin, Assistant Finance Director

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Evan Betzenberger, Auditor

TOWNSHIP OF LOWER MACUNGIE  
LEHIGH COUNTY  
LIQUID FUELS TAX FUND  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2023

This report was initially distributed to:

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

**Township of Lower Macungie**  
Lehigh County  
3400 Brookside Road  
Macungie, PA 18062

**The Honorable Brian P. Higgins**  
President of the Board of Commissioners

**Mr. Jeffrey Waltemyer**  
Finance Director/Treasurer

**Ms. Donna Conklin**  
Assistant Finance Director

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