

COMMONWEALTH OF PENNSYLVANIA



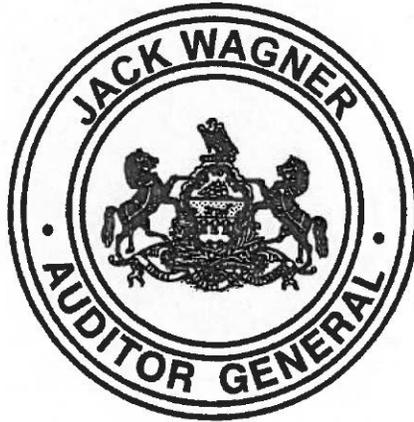
TOWNSHIP OF FAIRVIEW
YORK COUNTY
66-208

LIQUID FUELS TAX FUND
EXAMINATION REPORT

FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

JACK WAGNER, AUDITOR GENERAL

PENNSYLVANIA DEPARTMENT OF THE AUDITOR GENERAL



TOWNSHIP OF FAIRVIEW
YORK COUNTY
66-208

LIQUID FUELS TAX FUND
EXAMINATION REPORT

FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

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TOWNSHIP OF FAIRVIEW
YORK COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Background

The Liquid Fuels Tax Municipal Allocation Law, Title 72 P.S. § 2615.5, provides municipalities other than counties (townships, boroughs, cities, towns, home rule, and optional plan governments) with an annual allocation of liquid fuels taxes from the state's Motor License Fund to be used for the maintenance and repair of streets, roads, and bridges for which the municipality is responsible. The allocation of these funds to municipalities is based: (1) 50 percent on the municipality's proportion of local road mileage to the total local road mileage in the state, and (2) 50 percent on the proportion of a municipality's population to the total population in the state.

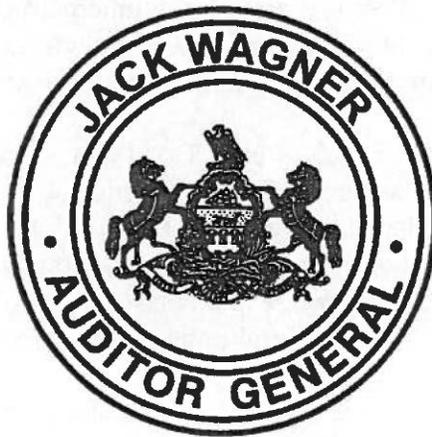
The Vehicle Code, Title 75 P.S. § 9511, provides municipalities with annual maintenance payments to be received from the Motor License Fund for functionally local highways that were transferred to a municipality from the Commonwealth of Pennsylvania.

Each municipality must deposit the Liquid Fuels Tax Fund money and annual maintenance payments that it receives into a special fund called 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 this 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. To qualify for its annual allocation, each municipality shall submit the following documents and information to the Department of Transportation:

1. Evidence that the treasurer is bonded in accordance with the law, or that its treasurer is a bank requiring no bond by January 31 of each year.
2. A report indicating the manner in which its liquid fuels tax allocation was expended in the previous year (Form MS-965) by January 31 of each year.
3. A report of elected and appointed officials by January 31 of each year.
4. A Survey of Financial Condition by March 15 of each year.

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.





**Department of the Auditor General
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120-0018**

**JACK WAGNER
AUDITOR GENERAL**

Independent Auditor's Report

The Honorable Barry J. Schoch, P.E.
Secretary
Department of Transportation
Harrisburg, PA 17120

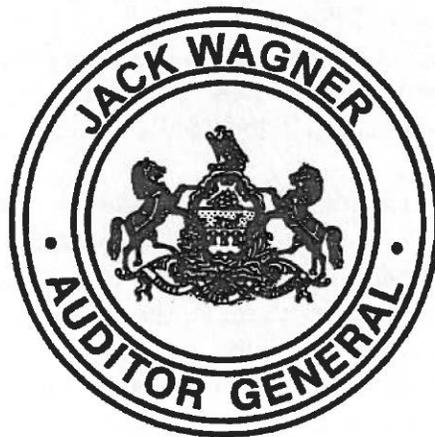
We examined the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Township of Fairview, York County, for the two years ended December 31, 2009. The municipality's management is responsible for the Forms MS-965. Our responsibility is to express an opinion on the Forms MS-965 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. An examination includes examining, on a test basis, evidence supporting the Township of Fairview, York County's Forms MS-965 for the two years ended December 31, 2009 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 municipality's Liquid Fuels Tax Fund to ensure that funds received are expended in accordance with applicable laws and regulations. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Section 403 of *The Fiscal Code*.

As described in Note 4, the adjustments included on the Forms MS-965 With Adjustments are made by the Department of the Auditor General.

As discussed in the Findings and Recommendations section of this report, the township expended \$40,789.95 from its Liquid Tax Fund for project No. C-09-66208-50. However, the township did not file a Final Completion Report for the project.



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TOWNSHIP OF FAIRVIEW
 YORK COUNTY
 LIQUID FUELS TAX FUND
 2008 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	-	-	-
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	-	-	-
Highway construction and rebuilding projects	462,766.60	-	462,766.60
Miscellaneous (Note 5)	-	1,818.00	1,818.00
	<u>462,766.60</u>	<u>1,818.00</u>	<u>464,584.60</u>
Total (To Section 2, Line 5)	<u>\$ 462,766.60</u>	<u>\$ 1,818.00</u>	<u>\$ 464,584.60</u>

Notes to Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF FAIRVIEW
YORK COUNTY
LIQUID FUELS TAX FUND
2008 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2008	\$ 647,123.44	\$ -	\$ 647,123.44
Receipts:			
2. State allocation	406,826.94	-	406,826.94
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	8,444.45	-	8,444.45
2c. Miscellaneous (Note 5)	-	1,818.00	1,818.00
3. Total receipts	<u>415,271.39</u>	<u>1,818.00</u>	<u>417,089.39</u>
4. Total funds available	<u>1,062,394.83</u>	<u>1,818.00</u>	<u>1,064,212.83</u>
5. Expenditures (Section 1)	<u>462,766.60</u>	<u>1,818.00</u>	<u>464,584.60</u>
6. Balance, December 31, 2008	<u>\$ 599,628.23</u>	<u>\$ -</u>	<u>\$ 599,628.23</u>

Notes to Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF FAIRVIEW
 YORK COUNTY
 LIQUID FUELS TAX FUND
 2008 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	\$ 373,945.02	\$ -	\$ 373,945.02
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	81,365.39	-	81,365.39
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	455,310.41	-	455,310.41
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>455,310.41</u>	<u>-</u>	<u>455,310.41</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 455,310.41</u>	<u>\$ -</u>	<u>\$ 455,310.41</u>

Notes to Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF FAIRVIEW
 YORK COUNTY
 LIQUID FUELS TAX FUND
 2009 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	-	-	-
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	-	-	-
Highway construction and rebuilding projects	220,933.55	-	220,933.55
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total (To Section 2, Line 5)	<u>\$ 220,933.55</u>	<u>\$ -</u>	<u>\$ 220,933.55</u>

Notes to Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF FAIRVIEW
YORK COUNTY
LIQUID FUELS TAX FUND
2009 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, 2009	\$ 599,628.23	\$ -	\$ 599,628.23
Receipts:			
2. State allocation	391,854.59	-	391,854.59
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	2,991.33	-	2,991.33
2c. Miscellaneous	-	-	-
3. Total receipts	<u>394,845.92</u>	<u>-</u>	<u>394,845.92</u>
4. Total funds available	<u>994,474.15</u>	<u>-</u>	<u>994,474.15</u>
5. Expenditures (Section 1)	<u>220,933.55</u>	<u>-</u>	<u>220,933.55</u>
6. Balance, December 31, 2009	<u>\$ 773,540.60</u>	<u>\$ -</u>	<u>\$ 773,540.60</u>

Notes to Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF FAIRVIEW
 YORK COUNTY
 LIQUID FUELS TAX FUND
 2009 FORM MS-965 – SECTION 3
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 5)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 330,357.90	\$ 124,952.51	\$ 455,310.41
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	78,370.92	-	78,370.92
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	408,728.82	124,952.51	533,681.33
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>408,728.82</u>	<u>124,952.51</u>	<u>533,681.33</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 408,728.82</u>	<u>\$ 124,952.51</u>	<u>\$ 533,681.33</u>

Notes to Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF FAIRVIEW
YORK COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

1. Criteria

Section 1

This section of Form MS-965 With Adjustments provides a summary of Liquid Fuels Tax Fund expenditures by category. Categories requiring explanation include:

- Major equipment purchases are purchases of road machinery and road equipment that cost in excess of \$4,000.00.
- Minor equipment purchases are purchases of road machinery and road equipment that cost \$4,000.00 or less.
- Agility projects are exchanges of services with the Department of Transportation.

Section 2

This section of Form MS-965 With Adjustments provides information on the fund balance. Categories requiring explanation include:

- The state allocation is generally received from the Department of Transportation during the first week in April of each year. The amount the municipality receives is based half on its population and half on its road mileage.
- The turnback allocation is generally received from the Department of Transportation during the first week in April of each year. A municipality receives a yearly turnback allocation based on road mileage for all roads that were transferred to the municipality from the Commonwealth of Pennsylvania through the Highway Transfer Program.
- Expenditures include the total transferred from Section 1.

Section 3

This section of Form MS-965 With Adjustments determines if the municipality expended Liquid Fuels Tax Fund money in excess of the permissible amount for equipment and the balance that the municipality may carry forward for the purchase of equipment to the subsequent year.

TOWNSHIP OF FAIRVIEW
YORK COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

1. Criteria (Continued)

Section 3 (Continued)

Department of Transportation *Publication 9* requires that the amount expended for equipment purchases in a given year not exceed the sum of the equipment balance carried forward from the previous year and 20 percent of the current year's Liquid Fuels Tax Fund allocation and, if applicable, 20 percent of the turnback allocation plus other Department of Transportation approved adjustments.

If the municipality spent in excess of the amount listed on Line 4, the excess must be reimbursed to the Liquid Fuels Tax Fund.

The equipment balance to be carried forward for the subsequent year is the lesser of the amount on Line 6 or the ending fund balance on Line 6 of Section 2, but not less than zero.

Basis Of Presentation

The financial activities of the municipality are accounted for in separate funds. The Liquid Fuels Tax Fund is used to account for state aid revenues from the Pennsylvania Department of Transportation used primarily for building and improving local roads and bridges. The Forms MS-965 have 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 Forms 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 are 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.

TOWNSHIP OF FAIRVIEW
YORK COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

1. Criteria (Continued)

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 Second Class Township Code, Title 53 P.S. § 68204, authorizes the township to deposit its funds in the following:

- Deposits in savings accounts or time deposits, other than certificates of deposit or share accounts of institutions having their principal place of business in the Commonwealth of Pennsylvania and insured by the Federal Deposit Insurance Corporation (FDIC) or other like insurance. For any amount above the insured maximum, the depository shall pledge approved collateral.
- Certificates of deposit purchased from institutions insured by the FDIC or other like insurance to the extent that such accounts are so insured. For any amounts in excess of the insured maximum, such deposits shall be collateralized by a pledge or assignment of assets. Certificates of deposit may not exceed 20 percent of a bank's total capital surplus or 20 percent of a savings and loans or savings bank's assets minus liabilities.

Deposits consist of receipts and deposits in a financial institution. 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, 2009. 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 municipality's name.

TOWNSHIP OF FAIRVIEW
YORK COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

2. Deposits (Continued)

Fund Balance

The fund balance as of December 31, 2009 consists of the following:

Cash	<u>\$773,540.60</u>
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3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$8,444.45 during 2008, and \$2,991.33 during 2009, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2008 - Section 1

An adjustment of \$1,818.00 was made to "Miscellaneous" because a payment in error was not reported (Note 5).

2008 - Section 2

An adjustment of \$1,818.00 was made to "Miscellaneous" because a reimbursement for a payment in error was not reported (Note 5).

2009 - Section 3

An adjustment of \$124,952.51 was made to "Prior year equipment balance" because an incorrect equipment balance was carried forward.

5. Payment In Error

On April 25, 2008, the municipality expended \$1,818.00 from its Liquid Fuels Tax Fund for a payment in error. On May 14, 2008, the municipality transferred \$1,818.00 from its General Fund to its Liquid Fuels Tax Fund to correct the payment in error.

TOWNSHIP OF FAIRVIEW
YORK COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 1 - Failure To Timely Submit Final Completion Reports

Our examination disclosed that the municipality expended \$65,813.00 for project No. C-08-66208-01, \$301,908.45 for project No. C-08-66208-42, \$76,965.15 for project No. C-0866208-50, and \$40,789.95 for project No. C-09-66208-50. Final payments were made on these projects during 2008 and 2009 although Final Completion Report Forms MS-999 for project Nos. C-08-66208-01, C08-66208-42, and C-08-66208-50 were not filed with the Department of Transportation until February 2011, which is subsequent to this examination period. As of the date of this report, the Final Completion Report Form MS-999 for project No. C-09-66208-50 was not filed with the Department of Transportation.

The Department of Transportation's *Publication 9* outlines the policies and procedures for the administration of the Liquid Fuels Tax Fund. *Publication 9*, Chapter Two, Section 2.8, states, in relevant part:

9. Upon completion of the project, local officials shall complete Form MS-999, Project Completion Report, and submit this form to the Municipal Services Representatives...The MS-999 must reflect actual quantities used and the total cost of the project. It shall also indicate the distribution of costs to the approved funding sources for the project.

Because the municipality failed to file a Final Completion Report for project No. C-09-66208-50, we were unable to determine if the project was completed to the satisfaction of the Department of Transportation. Additionally, we were unable to determine if the municipality expended the approved amount of Liquid Fuels Tax Fund money on the projects.

The failure to comply with the Department of Transportation's *Publication 9* could result in the township having to reimburse \$40,789.95 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the township reimburse \$40,789.95 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality comply with the Department of Transportation's *Publication 9* by submitting a Final Completion Report Form MS-999 for completed projects in a timely manner.

TOWNSHIP OF FAIRVIEW
YORK COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 1 - Failure To Timely Submit Final Completion Reports (Continued)

Management's Response

The township official stated:

We agree the Completion Reports, at the time of your visit, were not complete. We also noted that at the time of your visit PENNDOT was implementing the change to their new computer system. We were not able to file electronically. After meeting with PENNDOT, we used the old excel Completion Reports and submitted same. As you noted, the work was completed with the exception of filing these reports and we feel that in all material matters there should be no reason to make a pay back.

Auditor's Conclusion

The municipality did not file Forms MS-999 with the Department of Transportation for four projects in a timely manner. Additionally, as of the date of this report a Final Completion Report for project No. C-09-66208-50 had not been filed with the Department of Transportation. The municipality should comply with the Department of Transportation's *Publication 9* for future projects and submit a Form MS-999 upon the completion of all road construction projects. During our next examination we will determine if the municipality complied with our recommendation.

TOWNSHIP OF FAIRVIEW
YORK COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 2 - Late Receipt Of Allocation

Our examination disclosed that the 2009 Liquid Fuels Tax Fund allocation, which should have been distributed by the Department of Transportation to the municipality during the first week of April of that year, was not received until May 13, 2009, 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 31st and the Survey of Financial Condition by March 15th.
- Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.

Because the municipality failed to file documents and information timely as noted above, the municipality did not have use of the allocation for more than one month. 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.

Recommendation

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

TOWNSHIP OF FAIRVIEW
YORK COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 2 - Late Receipt Of Allocation (Continued)

Management's Response

The township official stated:

Issues arose with completing forms electronically online. Lost interest income to township was minimal because the allocation was only one month late. Timely reporting is now taking place.

Auditor's Conclusion

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

TOWNSHIP OF FAIRVIEW
YORK COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

An exit conference was held January 12, 2011. Those participating were:

TOWNSHIP OF FAIRVIEW

Mr. Donald F. Martin, Assistant Manager

DEPARTMENT OF THE AUDITOR GENERAL

Mrs. Diane A. Bowman, Auditor

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



TOWNSHIP OF FAIRVIEW
YORK COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

This report was initially distributed to:

The Honorable Barry J. Schoch, P.E.
Secretary
Department of Transportation

Township of Fairview
York County
599 Lewisberry Road
New Cumberland, PA 17070

The Honorable Perry Albert

Chairman of the Board of Supervisors

Mr. Donald F. Martin

Assistant Manager

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.