

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1705 Session of  
2011

INTRODUCED BY GODSHALL, HORNAMAN, MICOZZIE, READSHAW AND  
SCAVELLO, JUNE 21, 2011

REFERRED TO COMMITTEE ON FINANCE, JUNE 21, 2011

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the  
2 Pennsylvania Consolidated Statutes, providing for a natural  
3 gas severance tax.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Title 72 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 15

9 NATURAL GAS SEVERANCE TAX

10 Sec.

11 1501. Short title of chapter.

12 1502. Definitions.

13 1503. Imposition of tax.

14 1504. Return and payment.

15 1505. Natural gas severance tax registration.

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15 1522. Recordkeeping and meters.  
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18 1525. Cooperation with other governments.  
19 1526. Bonds.  
20 1527. Property Tax Assistance Program.  
21 1528. Property Tax Assistance Program Restricted Account.  
22 § 1501. Short title of chapter.

23 This chapter shall be known and may be cited as the Natural  
24 Gas Severance Tax Act.

25 § 1502. Definitions.

26 The following words and phrases when used in this chapter  
27 shall have the meanings given to them in this section unless the  
28 context clearly indicates otherwise:

29 "Accredited laboratory." A facility engaged in the testing  
30 and calibration of scientific measurement devices and certified

1 by the Department of Environmental Protection as having met the  
2 Department of Revenue's standards for accreditation.

3 "Association." A partnership, limited partnership or any  
4 other form of unincorporated enterprise owned or conducted by  
5 two or more persons.

6 "Claimant." An individual who seeks assistance under section  
7 1527 (relating to Property Tax Assistance Program).

8 "Coal bed methane." Gas that can be produced from coal beds,  
9 coal seams, mined-out areas or gob wells.

10 "Corporation." A corporation, joint stock association,  
11 limited liability company, business trust or any other  
12 incorporated enterprise organized under the laws of the United  
13 States, this Commonwealth or any other state, territory or  
14 foreign country or dependency.

15 "Department." The Department of Revenue of the Commonwealth.

16 "Household income." As defined in Chapter 13 of the act of  
17 June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the  
18 Taxpayer Relief Act.

19 "Meter." A device to measure the passage of volumes of gases  
20 or liquids past a certain point.

21 "Municipality." A city, borough, incorporated town or  
22 township.

23 "Natural gas." A fossil fuel consisting of a mixture of  
24 hydrocarbon gases, primarily methane, possibly including ethane,  
25 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and  
26 hydrogen sulfide and other gas species. The term includes  
27 natural gas from oil fields known as associated gas or casing  
28 head gas, natural gas fields known as nonassociated gas, coal  
29 beds, shale beds and other formations. The term does not include  
30 coal bed methane.

1     "Natural gas well." A bore hole drilled or being drilled for  
2     the purpose of or to be used for producing natural gas from  
3     subsurface geological formations.

4     "Nonproducing well." A natural gas well that does not  
5     produce natural gas in excess of 90,000 cubic feet per day.

6     "Operator." A person who engages or continues within this  
7     Commonwealth in the business of severing natural gas for sale,  
8     profit or commercial use. The term does not include a person who  
9     severs natural gas from a storage field.

10    "Person." A natural person or a corporation, fiduciary,  
11    association or other entity, including the Commonwealth, its  
12    political subdivisions, instrumentalities and authorities. When  
13    the term is used in a provision prescribing and imposing a  
14    penalty or imposing a fine or imprisonment, or both, the term  
15    shall include a member of an association and an officer of a  
16    corporation.

17    "Producing well." A natural gas well that produces natural  
18    gas in excess of 90,000 cubic feet of natural gas per day.

19    "Program." The Property Tax Assistance Program established  
20    in section 1527 (relating to Property Tax Assistance Program).

21    "Property tax." A tax levied by a political subdivision on  
22    real property.

23    "Rate." The rate under section 1503(c) (relating to  
24    imposition of tax).

25    "Reporting period." A calendar month in which natural gas is  
26    severed.

27    "Secretary." The Secretary of Revenue of the Commonwealth.

28    "Sever." To extract or otherwise remove natural gas from the  
29    soil or water of this Commonwealth.

30    "Severance." The extraction or other removal of natural gas

1 from the soil or water of this Commonwealth.

2 "Severing." Extracting or otherwise removing natural gas  
3 from the soil or water of this Commonwealth.

4 "Storage field." A natural formation or other site that is  
5 used to store natural gas that did not originate from and has  
6 been injected into the formation or site.

7 "Tax." The natural gas severance tax imposed under this  
8 chapter.

9 "Tax rate adjustment index." The amount calculated under  
10 section 1503(c) (relating to imposition of tax) by which the  
11 rate of the tax imposed under section 1503(c) is adjusted  
12 annually.

13 "Taxpayer." A person, including, but not limited to, a well  
14 operator who is subject to the tax imposed by this chapter.

15 "Unit." A thousand cubic feet of natural gas measured at a  
16 wellhead at a temperature of 60 degrees Fahrenheit and an  
17 absolute pressure of 14.73 pounds per square inch in accordance  
18 with American Gas Association Standards and according to Boyle's  
19 Law for the measurement of gas under varying pressures with  
20 deviations as follows:

21 (1) The average absolute atmospheric pressure shall be  
22 assumed to be 14.4 pounds to the square inch, regardless of  
23 elevation or location of point of delivery above sea level or  
24 variations in atmospheric pressure from time to time.

25 (2) The temperature of the gas passing a wellhead meter  
26 shall be determined by the continuous use of a recording  
27 thermometer installed to properly record the temperature of  
28 gas flowing through the wellhead meter. The arithmetic  
29 average of the temperature recorded each 24-hour day shall be  
30 used in computing gas volumes. If a recording thermometer is

1 not installed or is installed and not operating properly, an  
2 average flowing temperature of 60 degrees Fahrenheit shall be  
3 used in computing gas volume.

4 (3) The specific gravity of the gas shall be determined  
5 by annual tests made by the use of an Edwards or Acme gravity  
6 balance, or at intervals as found necessary in practice.  
7 Specific gravity determinations shall be used in computing  
8 gas volumes.

9 (4) The deviation of the natural gas from Boyle's Law  
10 shall be determined by annual tests or at other shorter  
11 intervals as found necessary in practice. The apparatus and  
12 method used in making the test shall be in accordance with  
13 recommendations of the National Bureau of Standards or Report  
14 No. 3 of the Gas Measurement Committee of the American Gas  
15 Association, or amendments thereto. The results of the tests  
16 shall be used in computing the volume of gas delivered under  
17 this chapter.

18 "Wellhead meter." A meter placed at a producing or  
19 nonproducing site to measure the volume of natural gas severed  
20 for which a wellhead meter certification has been issued.

21 "Wellhead meter certification." A report issued by an  
22 accredited laboratory certifying the accuracy of a wellhead  
23 meter.

24 § 1503. Imposition of tax.

25 (a) Establishment.--Except as otherwise provided in  
26 subsection (b), a natural gas severance tax is levied on every  
27 operator that severs natural gas from a producing well in this  
28 Commonwealth.

29 (b) Exemptions.--The tax shall not be imposed on the  
30 following:

1       (1) Units severed, sold and delivered by an operator at  
2       or within five miles of the producing well for the processing  
3       or manufacture of tangible personal property, as defined  
4       under section 201 of the act of March 4, 1971 (P.L.6, No.2),  
5       known as the Tax Reform Code of 1971, within this  
6       Commonwealth.

7       (2) Units provided free of charge to the owner of the  
8       surface under which the gas is severed if the surface owner  
9       is the end user of the gas.

10       (3) Owners of the surface real property where natural  
11       gas wells are drilled or operated and have leased the rights  
12       to recover natural gas from beneath the surface to an  
13       operator.

14       (c) Rate.--The tax imposed in subsection (a) shall be 1.5%  
15       of the gross value of units severed at the wellhead during a  
16       reporting period for the first 60 months of production and 5% of  
17       the gross value of units severed at the wellhead during a  
18       reporting period thereafter for each producing well.

19       \$ 1504. Return and payment.

20       (a) Requirement.--An operator shall file a return with the  
21       department, on a form prescribed by the department, which shall  
22       include the number of natural gas units severed by the operator  
23       for the reporting period and the amount of tax due.

24       (b) Filing.--The return required by subsection (a) shall be  
25       filed with the department within 30 days following the end of a  
26       reporting period.

27       (c) Deadline.--The tax is due on the day the return is  
28       required to be filed and becomes delinquent if not remitted to  
29       the department by that date.

30       \$ 1505. Natural gas severance tax registration.

1     (a) Application.--Before an operator severs natural gas in  
2 this Commonwealth, the operator shall apply to the department  
3 for a natural gas severance tax registration certificate.

4     (b) Application fee.--The department may charge an  
5 application fee to cover the administrative costs associated  
6 with the application and registration process, in which case the  
7 department shall not issue a registration certificate until the  
8 operator has paid the application fee.

9     (c) Declaration.--

10         (1) The operator shall include in its application a  
11 declaration of all producing wells and nonproducing wells  
12 used by the operator for the severance of natural gas. The  
13 declaration shall include copies of wellhead meter  
14 certifications for each site.

15         (2) The operator shall update the declaration when:

16             (i) the operator adds or removes a producing well or  
17 nonproducing well in this Commonwealth;

18             (ii) there is a change in the status of a producing  
19 well or nonproducing well; or

20             (iii) the operator uses a different accredited  
21 laboratory to issue a wellhead meter certification.

22         (3) The operator shall update the declaration within 30  
23 days after a calendar month in which a change to the  
24 declaration occurs.

25     (d) Issuance.--

26         (1) Except as provided in subsection (e), after the  
27 receipt of an application, the department shall issue a  
28 registration certificate under subsection (a). The  
29 registration certificate shall be nonassignable.

30         (2) All registrants shall renew their registration



1 certificates and wellhead meter certifications on a staggered  
2 renewal system established by the department.

3 (3) After the initial staggered renewal period, a  
4 registration certificate or a wellhead meter certification  
5 issued shall be valid for a period of five years.

6 (e) Refusal, suspension or revocation.--

7 (1) The department may refuse to issue, suspend or  
8 revoke a registration certificate if the applicant or  
9 registrant has not filed required State tax reports and paid  
10 State taxes not subject to a timely perfected administrative  
11 or judicial appeal or subject to a duly authorized deferred  
12 payment plan.

13 (2) The department shall notify the applicant or  
14 registrant of any refusal, suspension or revocation. The  
15 notice shall contain a statement that the refusal, suspension  
16 or revocation may be made public. The notice shall be made by  
17 first class mail.

18 (3) An applicant or registrant aggrieved by the  
19 determination of the department may file an appeal under the  
20 provisions for administrative appeals provided under the act  
21 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code  
22 of 1971.

23 (4) In the case of a suspension or revocation which is  
24 appealed, the registration certificate shall remain valid  
25 pending a final outcome of the appeals process.

26 (5) Notwithstanding sections 274, 353(f), 408(b), 603,  
27 702, 802, 904 and 1102 of the Tax Reform Code of 1971 or any  
28 other provision of law, if no appeal is taken or if an appeal  
29 is taken and denied at the conclusion of the appeal process,  
30 the department may disclose, by publication or otherwise, the

identity of an operator and the fact that the operator's registration certificate has been refused, suspended or revoked under this subsection. Disclosure may include the basis for refusal, suspension or revocation.

(f) Violation.--

(1) A person severing natural gas in this Commonwealth without holding a valid registration certificate under subsection (d) shall be guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$300 nor more than \$1,500. Each day in which a person is guilty of a summary offense under this section shall be deemed to be a separate violation.

(2) In the event the person convicted defaults in the payment of the fine, the person shall be sentenced to a term of imprisonment of not less than five days nor more than 30 days.

(3) The penalties imposed by this subsection shall be in addition to any other penalties imposed by this chapter.

(4) For purposes of this subsection, the severing of natural gas during any calendar day shall constitute a separate violation.

(5) The secretary may designate employees of the department to enforce the provisions of this subsection. The employees shall exhibit proof of and be within the scope of the designation when instituting proceedings as provided by the Pennsylvania Rules of Criminal Procedure.

(g) Failure to obtain registration certificate.--Failure to obtain or hold a valid registration certificate does not relieve a person from liability for the tax.

§ 1506. Assessments.

1     (a) Authorization and requirement.--The department shall  
2 make the inquiries, determinations and assessments of the tax,  
3 including interest, additions and penalties imposed under this  
4 chapter.

5     (b) Notice.--The notice of assessment and demand for payment  
6 shall be mailed to the taxpayer. The notice shall state the  
7 basis of the assessment. The department shall send the notice of  
8 assessment to the taxpayer at its registered address by  
9 certified mail if the assessment increases the taxpayer's tax  
10 liability by \$300. Otherwise, the notice of assessment may be  
11 sent by regular mail.

12 § 1507. Time for assessment.

13     (a) Requirement.--

14         (1) An assessment as provided under section 1506  
15 (relating to assessments) shall be made within three years  
16 after the date when the return provided for by section 1504  
17 (relating to return and payment) is filed or the end of the  
18 year in which the tax liability arises, whichever shall occur  
19 last.

20         (2) For the purposes of this subsection and subsection  
21 (b), a return filed before the last day prescribed for the  
22 filing period shall be considered as filed on the last day.

23     (b) Exception.--If the taxpayer underpays the correct amount  
24 of the tax due by 25% or more, the tax may be assessed within  
25 six years after the date the return was filed.

26     (c) Intent to evade.--Where no return is filed or where the  
27 taxpayer files a false or fraudulent return with intent to evade  
28 the tax, the assessment may be made at any time.

29     (d) Erroneous credit or refund.--Within three years of the  
30 granting of a refund or credit or within the period in which an

assessment or reassessment may have been issued by the  
department for the taxable period for which the refund was  
granted, whichever period shall last occur, the department may  
issue an assessment to recover a refund or credit made or  
allowed erroneously.

§ 1508. Extension of assessment period.

Notwithstanding any other provision of this chapter, the  
assessment period may be extended in the event a taxpayer has  
provided written consent before the expiration of the period  
provided in section 1507 (relating to time for assessment) for a  
tax assessment. The amount of tax due may be assessed at any  
time within the extended period. The period may be extended  
further by subsequent written consents made before the  
expiration of the extended period.

§ 1509. Reassessments.

A taxpayer against whom an assessment is made may petition  
the department for a reassessment under Article XXVII of the act  
of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
1971.

§ 1510. Interest.

The department shall assess interest on any delinquent tax at  
the rate prescribed under section 806 of the act of April 9,  
1929 (P.L.343, No.176), known as The Fiscal Code.

§ 1511. Penalties.

The department shall enforce the following penalties:

(1) The penalty against an operator for severing natural  
gas without a natural gas severance tax registration  
certificate shall be \$1 for every unit severed without a  
valid registration certificate. The department may assess  
this penalty separately from or in conjunction with any

1 assessment of the natural gas tax.

2 (2) The penalty against an operator for failure to  
3 timely file a return as required under section 1504 (relating  
4 to return and payment) or for failure to timely pay the tax  
5 as required by section 1504(c) shall be 5% of the tax  
6 liability to be reported on the return for each day beyond  
7 the due date that the return is not filed or tax is not paid.

8 (3) In addition to the penalty prescribed under  
9 paragraph (2), the penalty against an operator for a willful  
10 failure to file a timely return shall be 200% of the tax  
11 liability required to be reported on the return.

12 § 1512. Criminal acts.

13 (a) Fraudulent return.--Any person, with intent to defraud  
14 the Commonwealth, who willfully makes or causes to be made a  
15 return required by this chapter which is false, commits a  
16 misdemeanor of the third degree and shall, upon conviction  
17 thereof, be sentenced to pay a fine of not more than \$2,000 or  
18 to imprisonment for not more than three years, or both.

19 (b) Other crimes.--

20 (1) Except as otherwise provided by subsection (a), a  
21 person commits a misdemeanor of the third degree and shall,  
22 upon conviction thereof, be sentenced to pay a fine of not  
23 more than \$1,000 and costs of prosecution or to imprisonment  
24 for not more than one year, or both, for any of the  
25 following:

26 (i) Willfully failing to timely remit the tax to the  
27 department.

28 (ii) Willfully failing or neglecting to timely file  
29 a return or report required by this chapter.

30 (iii) Refusing to timely pay a tax, penalty or

interest imposed or provided for by this chapter.

(iv) Willfully failing to preserve its books, papers and records as directed by the department.

(v) Refusing to permit the department or its authorized agents to examine its books, records or papers.

(vi) Knowingly making any incomplete, false or fraudulent return or report.

(vii) Preventing or attempting to prevent the full disclosure of the amount of tax due.

(viii) Providing any person with a false statement as to the payment of the tax with respect to any pertinent facts.

(ix) Making, uttering or issuing a false or fraudulent statement.

(2) The penalties imposed by this section shall be in addition to other penalties imposed by this chapter.

§ 1513. Abatement of additions or penalties.

Upon the filing of a petition for reassessment or a petition for refund by a taxpayer as provided under this chapter, additions or penalties imposed upon the taxpayer by this chapter may be waived or abated in whole or in part where the petitioner establishes that the petitioner acted in good faith, without negligence and with no intent to defraud.

§ 1514. Bulk and auction sales.

A person who sells or causes to be sold at auction or sells or transfers in bulk 51% or more of a stock of goods, wares or merchandise of any kind, fixtures, machinery, equipment, buildings or real estate involved in a business for which the person holds a registration certificate or is required to obtain

a registration certificate under the provisions of this chapter,  
shall be subject to the provisions of section 1403 of the act of  
April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

§ 1515. Collection upon failure to request reassessment, review  
or appeal.

(a) Power of department.--The department may collect the  
tax:

(1) If an assessment of the tax is not paid within 30  
days and no petition for reassessment has been filed, after  
notice to the taxpayer.

(2) Within 60 days of a reassessment, if no petition for  
review has been filed.

(3) If no appeal has been made, within 30 days of:

(i) the Board of Finance and Revenue's decision of a  
petition for review; or

(ii) the expiration of the Board of Finance and  
Revenue's time for acting upon a petition for review.

(4) In all cases of judicial sales, receiverships,  
assignments or bankruptcies.

(b) Limitation of defenses.--In a case for the collection of  
taxes under subsection (a), the taxpayer against whom the taxes  
were assessed may not set up a ground of defense that might have  
been determined by the department, the Board of Finance and  
Revenue or the courts, provided that the defense of failure of  
the department to mail notice of assessment or reassessment to  
the taxpayer and the defense of payment of assessment or  
reassessment may be raised in proceedings for collection by a  
motion to stay the proceedings.

§ 1516. Tax liens.

(a) Lien imposed.--

1       (1) If a taxpayer neglects or refuses to pay the tax for  
2       which the taxpayer is liable under this chapter after demand,  
3       the amount, including interest, addition or penalty, together  
4       with additional costs that may accrue, shall be a lien in  
5       favor of the Commonwealth upon the real and personal property  
6       of the taxpayer, but only after the lien has been entered and  
7       docketed of record by the prothonotary of the county where  
8       the property is situated.

9       (2) The department may, at any time, transmit to the  
10       prothonotaries of the respective counties certified copies of  
11       all liens imposed by this section.

12       (3) (i) The prothonotary who receives the lien shall  
13       enter and docket the same of record to the office of the  
14       prothonotary. The lien shall be indexed as judgments are  
15       now indexed.

16       (ii) No prothonotary shall require as a condition  
17       precedent to the entry of the lien the payment of costs  
18       incidental to its entry.

19       (b) Priority of lien and effect on judicial sale.--Except  
20       for the costs of the sale and the writ upon which the sale was  
21       made and real estate taxes and municipal claims against the  
22       property, a lien imposed under this section shall:

23       (1) Have priority from the date of its recording and  
24       shall be fully paid and satisfied out of the proceeds of any  
25       judicial sale of property subject to the lien, before any  
26       other obligation, judgment, claim, lien or estate to which  
27       the property may subsequently become subject.

28       (2) Be subordinate to mortgages and other liens existing  
29       and duly recorded or entered of record prior to the recording  
30       of the lien.



1 (c) No discharge by sale on junior lien.--

2 (1) In the case of a judicial sale of property subject  
3 to a lien imposed under this section, upon a lien or claim  
4 over which the lien imposed under this section has priority,  
5 the sale shall discharge the lien imposed under this section  
6 to the extent only that the proceeds are applied to its  
7 payment, and the lien shall continue in full force and effect  
8 as to the balance remaining unpaid.

9 (2) There shall be no inquisition or condemnation upon  
10 any judicial sale of real estate made by the Commonwealth  
11 under the provisions of this chapter. The lien shall continue  
12 as provided in the act of April 9, 1929 (P.L.343, No.176),  
13 known as The Fiscal Code, and a writ of execution may  
14 directly issue upon the lien without the issuance and  
15 prosecution to judgment of a writ of scire facias, subject to  
16 the following:

17 (i) Not less than ten days before issuance of any  
18 execution on the lien, notice of the filing and the  
19 effect of the lien shall be sent by registered mail to  
20 the taxpayer at its last known post office address.

21 (ii) The lien shall have no effect upon any stock of  
22 goods, wares or merchandise regularly sold or leased in  
23 the ordinary course of business by the taxpayer against  
24 whom the lien has been entered, unless and until a writ  
25 of execution has been issued and a levy made upon the  
26 stock of goods, wares and merchandise.

27 (d) Violation by prothonotary.--A willful failure of a  
28 prothonotary to carry out any duty imposed on the prothonotary  
29 by this section shall be a misdemeanor of the third degree and,  
30 upon conviction thereof, the prothonotary shall be sentenced to

1 pay a fine of not more than \$1,000 and costs of prosecution or  
2 to imprisonment for not more than one year, or both.

3 (e) Priority.--

4 (1) Except as otherwise provided in this chapter, the  
5 distribution, voluntary or compulsory, in receivership,  
6 bankruptcy or otherwise of the property or estate of any  
7 person, all taxes which are due and unpaid and are not  
8 collectible under the provisions of section 225 of the act of  
9 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
10 1971, shall be paid from the first money available for  
11 distribution in priority to all other claims and liens,  
12 except as the laws of the United States may give priority to  
13 a claim to the Federal Government.

14 (2) A person required to administer or distribute the  
15 property or estate who violates the provisions of this  
16 section shall be personally liable for the taxes which are  
17 accrued and unpaid and chargeable against the person whose  
18 property or estate is being administered or distributed.

19 (f) Construction.--Subject to the limitations contained in  
20 this chapter as to the assessment of taxes, nothing contained in  
21 this section shall be construed to restrict, prohibit or limit  
22 the use by the department in collecting taxes due and payable of  
23 another remedy or procedure available at law or equity for the  
24 collection of debts.

25 § 1517. Tax suit reciprocity.

26 The courts of this Commonwealth shall recognize and enforce  
27 liabilities for natural gas severance or extraction taxes  
28 lawfully imposed by any other state, provided that the other  
29 state recognizes and enforces the tax imposed under this  
30 chapter.

1 § 1518. Service.

2 (a) Appointment of Secretary of the Commonwealth.--An  
3 operator is deemed to have appointed the Secretary of the  
4 Commonwealth its agent for the acceptance of service of process  
5 or notice in a proceeding for the enforcement of the civil  
6 provisions of this chapter and service made upon the Secretary  
7 of the Commonwealth as agent shall be of the same legal force  
8 and validity as if the service had been personally made upon the  
9 operator.

10 (b) Substituted service.--

11 (1) Where service cannot be made upon the operator in  
12 the manner provided by other laws of this Commonwealth  
13 relating to service of process, service may be made upon the  
14 Secretary of the Commonwealth.

15 (2) In that case, a copy of the process or notice shall  
16 be personally served upon any agent or representative of the  
17 operator who may be found within this Commonwealth or, where  
18 no agent or representative may be found, a copy of the  
19 process or notice shall be sent by registered mail to the  
20 operator at the last known address of its principal place of  
21 business, home office or residence.

22 § 1519. Refunds.

23 (a) General rule.--Pursuant to Article XXVII of the act of  
24 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
25 1971, the department shall refund all taxes, interest and  
26 penalties paid to the Commonwealth under the provisions of this  
27 chapter to which the Commonwealth is not rightfully entitled.

28 (b) Payment of refunds.--

29 (1) Subject to the provisions of paragraph (2), the  
30 refunds shall be paid to the person or the person's heirs,

1 successors, assigns or other personal representatives who  
2 paid the tax.

3 (2) No refund shall be made under this section regarding  
4 a payment made by reason of an assessment where a taxpayer  
5 has filed a petition for reassessment under section 2702 of  
6 the Tax Reform Code of 1971 to the extent the petition is  
7 adverse to the taxpayer by a decision which is no longer  
8 subject to further review or appeal.

9 (c) Construction.--Nothing in this chapter shall be  
10 construed to prohibit a taxpayer who has filed a timely petition  
11 for reassessment from amending it to a petition for refund where  
12 the petitioner paid the tax assessed.

13 § 1520. Refund petition.

14 (a) General rule.--Except as provided for in subsection (b),  
15 the refund or credit of tax, interest or penalty provided for by  
16 section 1519 (relating to refunds) shall be made only where the  
17 person who has paid the tax files a petition for refund with the  
18 department under Article XXVII of the act of March 4, 1971  
19 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the  
20 time limits of section 3003.1 of the Tax Reform Code of 1971.

21 (b) Natural gas severance tax.--

22 (1) A refund or credit of tax, interest or penalty paid  
23 as a result of an assessment made by the department under  
24 section 1505 (relating to natural gas severance tax  
25 registration) shall be made only where the person who has  
26 paid the tax files with the department a petition for a  
27 refund under Article XXVII of the Tax Reform Code of 1971  
28 within the time limits of section 3003.1 of the Tax Reform  
29 Code of 1971.

30 (2) The filing of a petition for refund under the

provisions of this subsection shall not affect the abatement of interest, additions or penalties to which the person may be entitled by reason of the person's payment of the assessment.

§ 1521. Rules and regulations.

The department shall enforce the provisions of this chapter and may prescribe, adopt, promulgate and enforce rules and regulations not inconsistent with the provisions of this chapter relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter and the collection of taxes, penalties and interest imposed by this chapter. The department may prescribe the extent, if any, to which any of the rules and regulations shall be applied without retroactive effect.

§ 1522. Recordkeeping and meters.

(a) Duty to maintain records.--

(1) Every person liable for the tax or for the collection of the tax shall keep records, including those enumerated in subsection (b), render statements, make returns and comply with the rules and regulations as the department may prescribe regarding matters pertinent to the person's business.

(2) Whenever it is necessary, the department may require a person, by notice served upon the person or by regulations, to make returns, render statements or keep records as the department deems sufficient to show whether or not the person is liable to pay the tax.

(b) Records.--Every person liable for the tax shall maintain the following records:

(1) Wellhead meter charts for each reporting period and

1 the meter calibration and maintenance records. If turbine  
2 meters are in use, the maintenance records shall be made  
3 available to the department upon request.

4 (2) Records, statements and other instruments furnished  
5 to an operator by a person to whom the operator delivers for  
6 sale, transport or delivery of natural gas.

7 (3) Records, statements and other instruments as the  
8 department may prescribe by regulation.

9 (c) Records of nonresidents.--

10 (1) A nonresident who does business in this Commonwealth  
11 as an operator shall keep adequate records of the business  
12 and of the tax due as a result. The records shall be retained  
13 within this Commonwealth unless retention outside this  
14 Commonwealth is authorized by the department.

15 (2) The department may require a taxpayer who desires to  
16 retain records outside this Commonwealth to assume reasonable  
17 out-of-State audit expenses.

18 (d) Keeping of separate records.--

19 (1) An operator who is engaged in another business which  
20 does not involve the severing of natural gas taxable under  
21 this chapter shall keep separate books and records of the  
22 businesses so as to show the taxable severing of natural gas  
23 under this chapter separately from other business activities  
24 not taxable under this chapter.

25 (2) If any person fails to keep separate books and  
26 records, the person shall be liable for a penalty equaling  
27 100% of tax due for the period where separate records were  
28 not maintained.

29 (e) Type of meters required.--An operator shall provide for  
30 and maintain, according to industry standards, a discrete

1 wellhead meter where natural gas is severed. Any wellhead meter  
2 installed after the effective date of this section shall be a  
3 digital meter.

4 § 1523. Examinations.

5 (a) Powers of department.--The department or any of its  
6 authorized agents may:

7 (1) Examine the books, papers and records of any  
8 taxpayer in order to verify the accuracy and completeness of  
9 any return made or, if no return was made, to ascertain and  
10 assess the tax.

11 (2) Require the preservation of all books, papers and  
12 records for any period deemed proper by it but not to exceed  
13 three years from the end of the calendar year to which the  
14 records relate.

15 (3) Examine any person, under oath, concerning the  
16 taxable severing of natural gas by any taxpayer or concerning  
17 any other matter relating to the enforcement or  
18 administration of this chapter, and to this end may compel  
19 the production of books, papers and records and the  
20 attendance of all persons whether as parties or witnesses  
21 whom it believes to have knowledge of relevant matters. The  
22 procedure for the hearings or examinations shall be the same  
23 as that provided by the act of April 9, 1929 (P.L.343, No.  
24 176), known as The Fiscal Code.

25 (b) Duties of taxpayers.--Every taxpayer shall provide the  
26 department or its agent with the means, facilities and  
27 opportunity for examinations and investigations under this  
28 section.

29 § 1524. Unauthorized disclosure.

30 (a) General rule.--Any information gained by the department

as a result of any return, examination, investigation, hearing or verification required or authorized by this chapter shall be confidential except for official purposes and except in accordance with proper judicial order or as otherwise provided by law.

(b) Penalty for violation.--Any person unlawfully divulging the information commits a misdemeanor of the third degree and shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 and costs of prosecution or to a term of imprisonment for not more than one year, or both.

§ 1525. Cooperation with other governments.

(a) General rule.--Notwithstanding the provisions of section 1517 (relating to tax suit reciprocity), the department may permit the Commissioner of the Internal Revenue Service of the United States, the proper officer of any state or the authorized representative of either of them to inspect the tax returns of any taxpayer, or may furnish to the commissioner or officer or to either of their authorized representative an abstract of the return of a taxpayer, or supply any of them with information concerning any item contained in a return or disclosed by the report of an examination or investigation of the return of a taxpayer.

(b) Applicability.--Subsection (a) shall apply only when the laws of the United States or another state grant substantially similar privileges to the proper officer of the Commonwealth charged with the administration of this chapter.

§ 1526. Bonds.

(a) Taxpayer to file bond.--

(1) The department may require a nonresident natural person or any foreign corporation, association, fiduciary or



1 other entity not authorized to do business within this  
2 Commonwealth or not having an established place of business  
3 in this Commonwealth and subject to the tax to file a bond  
4 issued by a surety company authorized to do business in this  
5 Commonwealth and approved by the Insurance Commissioner as to  
6 solvency and responsibility, in amounts as it may fix, to  
7 secure the payment of any tax or penalties due or which may  
8 become due from a nonresident natural person, corporation,  
9 association, fiduciary or other entity whenever it deems it  
10 necessary to protect the revenues obtained under this  
11 chapter.

12 (2) The department may also require a bond of a person  
13 petitioning the department for reassessment in the case of an  
14 assessment over \$500 or where, in the department's opinion,  
15 the ultimate collection is in jeopardy.

16 (3) For a period of three years, the department may  
17 require a bond of any person who has, on three or more  
18 occasions within a 12-month period, either filed a return or  
19 made payment to the department more than 30 days late.

20 (4) (i) In the event the department determines a  
21 taxpayer must file a bond, the department shall give  
22 notice to the taxpayer specifying the amount of the bond  
23 required.

24 (ii) The taxpayer shall file the bond within five  
25 days after notice is given by the department unless,  
26 within five days, the taxpayer requests in writing a  
27 hearing before the secretary or the secretary's  
28 representative.

29 (iii) At the hearing, the necessity, propriety and  
30 amount of the bond shall be determined by the secretary

1 or the secretary's representative.

2 (iv) The determination shall be final and the  
3 taxpayer shall comply with the determination within 15  
4 days after notice is mailed to the taxpayer.

5 (b) Securities in lieu of bond.--

6 (1) In lieu of the bond required by this section,  
7 securities approved by the department or cash in a prescribed  
8 amount may be deposited.

9 (2) The securities or cash shall be kept in the custody  
10 of the department. The department may apply the securities or  
11 cash to the tax and interest or penalties due without notice  
12 to the depositor. The securities may be sold by the  
13 department to pay the tax, interest or penalties, or any  
14 combination thereof, due at public or private sale upon five  
15 days' written notice to the depositor.

16 (c) Failure to file bond.--

17 (1) The department may file a lien under section 1516  
18 (relating to tax liens) against a taxpayer who fails to file  
19 a bond when required to do so under this section.

20 (2) All funds received upon execution of the judgment on  
21 the lien shall be refunded to the taxpayer with 3% interest,  
22 if the department makes a final determination that the  
23 taxpayer does not owe any payment to the department.

24 § 1527. Property Tax Assistance Program.

25 (a) Establishment.--

26 (1) The Property Tax Assistance Program is established  
27 in the department to assist eligible claimants in the payment  
28 of property tax.

29 (2) The proceeds of the tax imposed under section 1503  
30 (relating to imposition of tax) and penalties and interest

1 imposed under this chapter, less the amounts appropriated  
2 under section 1528(b) (relating to Property Tax Assistance  
3 Program Restricted Account), shall be deposited into the  
4 Property Tax Assistance Program Restricted Account  
5 established in section 1528(a) and used for the program.

6 (b) Eligibility.--To be eligible for participation in the  
7 program, a claimant must be over 65 years of age and have an  
8 annual household income of not more than \$50,000.

9 (c) Application.--In order to participate in the program, a  
10 claimant must submit to the department all of the following  
11 within 45 days of the date the claimant's property tax is due:

12 (1) An application on a form prescribed by the  
13 department establishing eligibility under subsection (b).

14 (2) The property tax bill for which assistance is  
15 sought.

16 (d) Determination.--Within 45 days of receipt of an  
17 application from a claimant under subsection (c), the department  
18 shall determine the claimant's eligibility. If the claimant is  
19 eligible, the department shall make a payment to the claimant  
20 or, if the claimant is determined to be ineligible, the  
21 department shall notify the claimant of such determination.

22 § 1528. Property Tax Assistance Program Restricted Account.

23 (a) Establishment.--The Property Tax Assistance Program  
24 Restricted Account is established within the Property Tax Relief  
25 Fund.

26 (b) Use of restricted account.--The moneys of the restricted  
27 account established in subsection (a) are appropriated to the  
28 department on a continuing basis for the payment of refunds and  
29 the enforcement and administration of the program.

30 Section 2. This act shall take effect in 120 days.