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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 905 Session of  
2009

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INTRODUCED BY MUSTO, TARTAGLIONE, HUGHES, STACK AND DINNIMAN,  
JUNE 4, 2009

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REFERRED TO FINANCE, JUNE 4, 2009

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AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the  
2 Pennsylvania Consolidated Statutes, imposing a tax on the  
3 extraction of natural gas; providing for natural resource  
4 severance tax license, for duties of the Department of  
5 Revenue, for tax assessments and tax liens; imposing  
6 penalties; providing for service of process, for rulemaking,  
7 for cooperation with other governments and for bonds; and  
8 making an appropriation.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

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

13 CHAPTER 15

14 SEVERANCE TAX

15 Sec.

16 1501. Short title of chapter.

17 1502. Definitions.

18 1503. Imposition of tax.

19 1504. Return and payment.

20 1505. Natural resource severance tax registration.

21 1505.1 Meters.

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2 1507. Time for assessment.  
3 1508. Extension of limitation period.  
4 1509. Reassessments.  
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11 or appeal.  
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15 1519. Refunds.  
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17 1521. Rules and regulations.  
18 1522. Recordkeeping.  
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20 1524. Unauthorized disclosure.  
21 1525. Cooperation with other governments.  
22 1526. Bonds.  
23 1527. Appropriation.  
24 § 1501. Short title of chapter.  
25 This chapter shall be known and may be cited as the Natural  
26 Resource Severance Tax Act.  
27 § 1502. Definitions.  
28 The following words and phrases when used in this chapter  
29 shall have the meanings given to them in this section unless the  
30 context clearly indicates otherwise:

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

4 "Corporation." A corporation, joint stock association,  
5 limited liability company, business trust or any other  
6 incorporated enterprise organized under the laws of this  
7 Commonwealth, the United States or any other state, territory or  
8 foreign country or dependency.

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

10 "Gross value." The volume-weighted average market price for  
11 all arms-length transactions that a producer receives at the  
12 sales meter for natural gas during a reporting period.

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

15 "Natural gas." A fossil fuel consisting of a mixture of  
16 hydrocarbon gases, primarily methane, possibly including ethane,  
17 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and  
18 hydrogen sulfide and other gas species. The term includes  
19 natural gas from oil fields known as associated gas or casing  
20 head gas, natural gas fields known as nonassociated gas, coal  
21 beds, shale beds and other formations.

22 "Non-producing site." A point of severance that is not  
23 capable of producing a natural gas in paying quantities.

24 "Paying quantities." Profit to the producer, however small,  
25 over the producer's current operating expenses.

26 "Person." Every natural person, including a corporation,  
27 limited liability company, business trust, trust, guardian or  
28 other fiduciary, association, government entity or corporation.

29 "Producer." A person who engages or continues within this  
30 Commonwealth in the business of severing natural gas for sale,

1 profit or commercial use. The term does not include a person who  
2 severs natural gas from a storage field.

3 "Producing site." A point of severance capable of producing  
4 natural gas in paying quantities.

5 "Reporting period." A calendar month in which natural gas is  
6 severed.

7 "Sales meter." A meter at the point where natural gas is  
8 sold or transported to a purchaser or market.

9 "Sever," "severing" or "severance." The extraction or other  
10 removal of a natural resource from the soil or water of this  
11 Commonwealth.

12 "Tax." The tax imposed under this chapter.

13 "Taxpayer." A person subject to the tax imposed by this  
14 chapter.

15 "Unit." A thousand cubic feet of natural gas measured at the  
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 the meters shall  
26 be determined by the continuous use of a recording  
27 thermometer installed to properly record the temperature of  
28 gas flowing through the meters. The arithmetic average of the  
29 temperature recorded each 24-hour day shall be used in  
30 computing gas volumes. If a recording thermometer is not

1 installed, or if 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 annually by tests made by the use of an Edwards or Acme  
6 gravity balance, or at intervals as found necessary in  
7 practice. Specific gravity determinations shall be used in  
8 computing 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 § 1503. Imposition of tax.

21 (a) Establishment.--There is levied a privilege tax on every  
22 producer who severs natural gas.

23 (b) Rate.--The tax imposed in subsection (a) shall be 5% of  
24 the gross value of units severed at the wellhead during a  
25 reporting period, plus 4.7 cents per unit severed.

26 § 1504. Return and payment.

27 (a) Requirement.--Every producer is required to file a  
28 return with the department, on a form to be prescribed by the  
29 department, reporting all severed natural gas resources per  
30 reporting period and the tax due as imposed under section 1503

1 (relating to imposition of tax).

2 (b) Filing.--The return required by subsection (a) shall be  
3 filed with the department within 15 days following the end of  
4 the second calendar month after a reporting period.

5 (c) Deadline.--The tax imposed under section 1503 is due on  
6 the day required to be filed and becomes delinquent if not  
7 remitted to the department by that date.

8 § 1505. Natural resource severance tax registration.

9 (a) Application.--Before a producer severs natural gas in  
10 this Commonwealth, the producer shall apply to the department  
11 for a severance tax registration certificate.

12 (a.1) Application fee.--The department may charge an  
13 application fee to cover the administrative costs associated  
14 with the application and registration process. If the department  
15 charges an application fee, the department shall not register a  
16 producer or issue a certificate until the producer has paid the  
17 application fee.

18 (a.2) Declaration.--As part of the application for  
19 registration, the producer is required to provide a declaration  
20 of all sites in this Commonwealth used for the severance of  
21 natural gas. The declaration is to include all producing sites  
22 and nonproducing sites. The producer is required to update the  
23 declaration when the producer adds or removes a producing or  
24 nonproducing site in this Commonwealth or when there is a change  
25 in the status of a producing or nonproducing site. The producer  
26 shall update the declaration within 30 days after a calendar  
27 month in which a change to the declaration occurs.

28 (b) Issuance.--After the receipt of an application, the  
29 department shall issue the certificate applied for under  
30 subsection (a), provided that said applicant shall have filed

1 all required State tax reports and paid any State taxes not  
2 subject to a timely perfected administrative or judicial appeal  
3 or subject to a duly authorized deferred payment plan. The  
4 certificate shall be nonassignable. All registrants shall be  
5 required to renew their registration on a staggered renewal  
6 system established by the department. After the initial  
7 staggered period, a certificate issued shall be valid for a  
8 period of five years.

9 (c) Refusal, suspension or revocation.--The department may  
10 refuse to issue, suspend or revoke the certificate if the  
11 applicant or any person holding a certificate has not filed  
12 required State tax reports and paid State taxes not subject to a  
13 timely perfected administrative or judicial appeal or subject to  
14 a duly authorized deferred payment plan. The department shall  
15 notify the applicant or registrant of any refusal, suspension or  
16 revocation. The notice shall contain a statement that the  
17 refusal, suspension or revocation may be made public. The notice  
18 shall be made by first class mail. An applicant or registrant  
19 aggrieved by the determination of the department may file an  
20 appeal under the provisions for administrative appeals in the  
21 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code  
22 of 1971. In the case of a suspension or revocation which is  
23 appealed, the registration and certificate shall remain valid  
24 pending a final outcome of the appeals process. Notwithstanding  
25 sections 274, 353(f), 408(b), 603, 702, 802, 904 and 1102 of the  
26 Tax Reform Code of 1971 or any other provision of law, if no  
27 appeal is taken or if an appeal is taken and denied at the  
28 conclusion of the appeal process the department may disclose, by  
29 publication or otherwise, the identity of a person and the fact  
30 that the person's registration and certificate has been refused,

1 suspended or revoked under this subsection. Disclosure may  
2 include the basis for refusal, suspension or revocation.

3 (d) Violation.--A person severing natural gas in this  
4 Commonwealth without holding a valid registration and  
5 certificate under subsection (b) shall be guilty of a summary  
6 offense and shall, upon conviction, be sentenced to pay a fine  
7 of not less than \$300 nor more than \$1,500. In the event the  
8 person convicted defaults, he shall be sentenced to imprisonment  
9 for not less than five days nor more than 30 days. The penalties  
10 imposed by this subsection shall be in addition to any other  
11 penalties imposed by this chapter. For purposes of this  
12 subsection, the severing of a natural gas during any calendar  
13 day shall constitute a separate violation. The Secretary of  
14 Revenue may designate employees of the department to enforce the  
15 provisions of this subsection. The employees shall exhibit proof  
16 of and be within the scope of the designation when instituting  
17 proceedings as provided by the Pennsylvania Rules of Criminal  
18 Procedure.

19 (e) Failure to obtain license.--Failure to obtain a  
20 registration and certificate does not relieve a person from  
21 liability for the tax imposed by this chapter.

22 § 1505.1. Meters.

23 A producer shall provide for and maintain a discrete wellhead  
24 and sales meters. A producer shall ensure that the meters are  
25 maintained according to industry standards.

26 § 1506. Assessments.

27 (a) Authorization and requirement.--The department is  
28 authorized and shall make the inquiries, determinations and  
29 assessments of the tax, including interest, additions and  
30 penalties imposed under this chapter.

1 (b) Notice.--The notice of assessment and demand for payment  
2 shall be mailed to the taxpayer. The notice shall set forth the  
3 basis of the assessment. The department shall issue a notice of  
4 the assessment to the producer. The notice shall set forth the  
5 department's basis for the assessment. The department shall send  
6 the notice of assessment to the producer at his registered  
7 address via certified mail if the assessment increases the  
8 producer's tax liability by \$300. Otherwise, the notice of  
9 assessment may be sent via regular mail.

10 § 1507. Time for assessment.

11 (a) Requirement.--An assessment as provided under section  
12 1506 (relating to assessments) shall be made within three years  
13 after the date when the return provided for by section 1504  
14 (relating to return and payment) is filed or the end of the year  
15 in which the tax liability arises, whichever shall occur last.  
16 For the purposes of this subsection and subsection (b), a return  
17 filed before the last day prescribed for the filing period shall  
18 be considered as filed on the last day.

19 (b) Exception.--The assessment may be made at any time  
20 within six years after the return is filed if the total tax that  
21 is properly included on the return is in excess of 25% of the  
22 total tax reported on the return.

23 (c) Intent to evade.--Where no return is filed or where the  
24 taxpayer files a false or fraudulent return with intent to evade  
25 the tax imposed by this chapter, the assessment may be made at  
26 any time.

27 (d) Erroneous credit or refund.--Within three years of the  
28 granting of a refund or credit or within the period in which an  
29 assessment or reassessment may have been filed by the department  
30 for the taxable period for which the refund was granted,

1 whichever period shall last occur, the department may file an  
2 assessment to recover a refund or credit made or allowed  
3 erroneously.

4 § 1508. Extension of limitation period.

5 Notwithstanding the provisions of this chapter, the  
6 assessment period may be extended where a taxpayer has provided  
7 written consent before the expiration of the period provided in  
8 section 1507 (relating to time for assessment) for a tax  
9 assessment. The amount of tax due may be assessed at any time  
10 within the extended period. The period extended may be extended  
11 further by subsequent written consents made before the  
12 expiration of the extended period.

13 § 1509. Reassessments.

14 A producer against whom an assessment is made may petition  
15 the department for a reassessment under Article XXVII of the act  
16 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
17 1971.

18 § 1510. Interest.

19 The department shall assess interest on any delinquent tax at  
20 the rate prescribed under section 806 of the act of April 9,  
21 1929 (P.L.343, No. 176), known as The Fiscal Code.

22 § 1511. Penalties.

23 The department shall enforce the following penalties:

24 (1) A penalty against a producer without a natural gas  
25 severance tax registration and certificate. The penalty shall  
26 be \$1 for every unit severed without a registration and  
27 certificate. The department may assess this penalty  
28 separately from or in conjunction with any assessment of tax.

29 (2) A penalty against a producer for failure to file a  
30 return as required under section 1504 (relating to return and

1 payment). The penalty shall be 5% of the tax liability to be  
2 reported on the return for each day beyond the due date that  
3 the return is not filed.

4 (3) In addition to the penalty under paragraph (2), a  
5 penalty against the producer for a willful failure to file a  
6 return. The penalty shall be 200% of the tax liability  
7 required to be reported on the return.

8 (4) A penalty against a producer for failure to timely  
9 pay the tax as required by section 1504(c). The penalty shall  
10 be 5% of the amount of tax due for each day beyond the  
11 payment date that the tax is not paid.

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, is guilty of a  
16 misdemeanor and shall, upon conviction, be sentenced to pay a  
17 fine of not more than \$2,000 or to imprisonment for not more  
18 than three years, or both.

19 (b) Other crimes.--

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

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

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

29 (iii) Refusing to timely pay a tax, penalty or  
30 interest imposed or provided for by this chapter.

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

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

6           (vi) Knowingly make any incomplete, false or  
7           fraudulent return or report.

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

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

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

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

17 § 1513. Abatement of additions or penalties.

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

24 § 1514. Bulk and auction sales.

25           A person that sells or causes to be sold at auction, or that  
26           sells or transfers in bulk, 51% or more of a stock of goods,  
27           wares or merchandise of any kind, fixtures, machinery,  
28           equipment, buildings or real estate or is involved in a business  
29           for which the person is licensed or required to be licensed  
30           under the provisions of this chapter shall be subject to the

1 provisions of section 1403 of the act of April 9, 1929 (P.L.343,  
2 No.176), known as The Fiscal Code.

3 § 1515. Collection upon failure to request reassessment, review  
4 or appeal.

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

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

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

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

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

14 (ii) the expiration of the board's time for acting  
15 upon the petition.

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

18 (b) Prohibition.--In a case for the collection of taxes  
19 under subsection (a), the person against whom they were assessed  
20 shall not be permitted to set up a ground of defense that might  
21 have been determined by the department, the Board of Finance and  
22 Revenue or the courts, provided that the defense of failure of  
23 the department to mail notice of assessment or reassessment to  
24 the taxpayer and the defense of payment of assessment or  
25 reassessment may be raised in proceedings for collection by a  
26 motion to stay the proceedings.

27 § 1516. Tax liens.

28 (a) Lien imposed.--If any person liable to pay a tax  
29 neglects or refuses to pay the tax after demand, the amount,  
30 including interest, addition or penalty, together with

1 additional costs that may accrue, shall be a lien in favor of  
2 the Commonwealth upon the real and personal property of the  
3 person but only after the same has been entered and docketed of  
4 record by the prothonotary of the county where the property is  
5 situated. The department may, at any time, transmit to the  
6 prothonotaries of the respective counties certified copies of  
7 all liens for taxes imposed by this act and penalties and  
8 interest. It shall be the duty of the prothonotary receiving the  
9 lien to enter and docket the same of record to the office of the  
10 prothonotary. The lien shall be indexed as judgments are now  
11 indexed. No prothonotary shall require as a condition precedent  
12 to the entry of the lien the payment of costs incidental to its  
13 entry.

14 (b) Priority of lien and effect on judicial sale.--Except  
15 for the costs of the sale and the writ upon which the sale was  
16 made and real estate taxes and municipal claims against the  
17 property, the lien imposed under this section shall have  
18 priority from the date of its recording and shall be fully paid  
19 and satisfied out of the proceeds of any judicial sale of  
20 property subject to, before any other obligation, judgment,  
21 claim, lien or estate to which the property may subsequently  
22 become subject, but shall be subordinate to mortgages and other  
23 liens existing and duly recorded or entered of record prior to  
24 the recording of the tax lien.

25 (c) No discharge by sale on junior lien.--In the case of a  
26 judicial sale of property subject to a lien imposed under this  
27 section, upon a lien or claim over which the lien imposed under  
28 this section has priority, the sale shall discharge the lien  
29 imposed under this section to the extent only that the proceeds  
30 are applied to its payment, and the lien shall continue in full

1 force and effect as to the balance remaining unpaid. There shall  
2 be no inquisition or condemnation upon any judicial sale of real  
3 estate made by the Commonwealth under the provisions of this  
4 chapter. The lien of the taxes, interest and penalties shall  
5 continue as provided in the act of April 9, 1929 (P.L.343,  
6 No.176), known as The Fiscal Code, and a writ of execution may  
7 directly issue upon the lien without the issuance and  
8 prosecution to judgment of a writ of scire facias, provided that  
9 not less than ten days before issuance of any execution on the  
10 lien, notice of the filing and the effect of the lien shall be  
11 sent by registered mail to the taxpayer at his last known post  
12 office address, provided further that the lien shall have no  
13 effect upon any stock of goods, wares or merchandise regularly  
14 sold or leased in the ordinary course of business by the person  
15 against whom the lien has been entered, unless and until a writ  
16 of execution has been issued and a levy made upon said stock of  
17 goods, wares and merchandise.

18 (d) Duty of prothonotary.--Any willful failure of any  
19 prothonotary to carry out any duty imposed upon him by this  
20 section shall be a misdemeanor. Upon conviction, he shall be  
21 sentenced to pay a fine of not more than \$1,000 and costs of  
22 prosecution or to imprisonment for not more than one year, or  
23 both.

24 (e) Priority.--Except as provided in this chapter, the  
25 distribution, voluntary or compulsory, in receivership,  
26 bankruptcy or otherwise of the property or estate of any person,  
27 all taxes imposed by this chapter which are due and unpaid and  
28 are not collectible under the provisions of section 225 of the  
29 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code  
30 of 1971, shall be paid from the first money available for

1 distribution in priority to all other claims and liens, except  
2 as the laws of the United States may give priority to a claim to  
3 the Federal Government. A person charged with the administration  
4 or distribution of the property or estate who violates the  
5 provisions of this section shall be personally liable for the  
6 taxes imposed by this chapter which are accrued and unpaid and  
7 chargeable against the person whose property or estate is being  
8 administered or distributed.

9 (f) Other remedies.--Subject to the limitations contained in  
10 this chapter as to the assessment of taxes, nothing contained in  
11 this section shall be construed to restrict, prohibit or limit  
12 the use by the department in collecting taxes due and payable of  
13 another remedy or procedure available at law or equity for the  
14 collection of debts.

15 § 1517. Tax suit reciprocity.

16 The courts of this Commonwealth shall recognize and enforce  
17 liabilities for natural gas severance taxes lawfully imposed by  
18 any other state, provided that the other state recognizes and  
19 enforces the tax set forth in this chapter.

20 § 1518. Service.

21 A producer is deemed to have appointed the Secretary of the  
22 Commonwealth its agent for the acceptance of service of process  
23 or notice in a proceeding for the enforcement of the civil  
24 provisions of this chapter and service made upon the Secretary  
25 of the Commonwealth as agent shall be of the same legal force  
26 and validity as if the service had been personally made upon the  
27 person. Where service cannot be made upon the person in the  
28 manner provided by other laws of this Commonwealth relating to  
29 service of process, service may be made upon the Secretary of  
30 the Commonwealth. In that case, a copy of the process or notice

1 shall be personally served upon any agent or representative of  
2 the person who may be found within this Commonwealth or, where  
3 no agent or representative may be found, a copy of the process  
4 or notice shall be sent via registered mail to the person at the  
5 last known address of his principal place of business, home  
6 office or residence.

7 § 1519. Refunds.

8 Under Article XXVII of the act of March 4, 1971 (P.L.6,  
9 No.2), known as the Tax Reform Code of 1971, the department  
10 shall refund all taxes, interest and penalties paid to the  
11 Commonwealth under the provisions of this chapter to which the  
12 Commonwealth is not rightfully entitled. The refunds shall be  
13 made to the person or the person's heirs, successors, assigns or  
14 other personal representatives who paid the tax, provided that  
15 no refund shall be made under this section regarding a payment  
16 made by reason of an assessment where a taxpayer has filed a  
17 petition for reassessment under section 2702 of the Tax Reform  
18 Code of 1971 to the extent the petition is adverse to the  
19 taxpayer by a decision which is no longer subject to further  
20 review or appeal. Nothing in this chapter shall prohibit a  
21 taxpayer who has filed a timely petition for reassessment from  
22 amending it to a petition for refund where the petitioner paid  
23 the tax assessed.

24 § 1520. Refund petition.

25 (a) General rule.--Except as provided for in subsection (b),  
26 the refund or credit of tax, interest or penalty provided for by  
27 section 1519 (relating to refunds) shall be made only where the  
28 person who has paid the tax files a petition for refund with the  
29 department under Article XXVII of the act of March 4, 1971  
30 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the

1 time limits of section 3003.1 of the Tax Reform Code of 1971.

2 (b) Severance tax license.--A refund or credit of tax,  
3 interest or penalty paid as a result of an assessment made by  
4 the department under section 1505 (relating to natural resource  
5 severance tax registration), shall be made only where the person  
6 who has paid the tax files with the department a petition for a  
7 refund with the department under Article XXVII within the time  
8 limits of section 3003.1 of the Tax Reform Code of 1971. The  
9 filing of a petition for refund, under the provisions of this  
10 subsection, shall not affect the abatement of interest,  
11 additions or penalties to which the person may be entitled by  
12 reason of his payment of the assessment.

13 § 1521. Rules and regulations.

14 The department is charged with the enforcement of the  
15 provisions of this chapter and is authorized and empowered to  
16 prescribe, adopt, promulgate and enforce rules and regulations  
17 not inconsistent with the provisions of this chapter relating to  
18 any matter or thing pertaining to the administration and  
19 enforcement of the provisions of this chapter and the collection  
20 of taxes, penalties and interest imposed by this chapter. The  
21 department may prescribe the extent, if any, to which any of the  
22 rules and regulations shall be applied without retroactive  
23 effect.

24 § 1522. Recordkeeping.

25 (a) General rule.--Every person liable for any tax imposed  
26 by this chapter, or for the collection, shall keep records,  
27 including those enumerated in subsection (b), render statements,  
28 make returns and comply with the rules and regulations as the  
29 department may prescribe regarding matters pertinent to the  
30 person's business. Whenever it is necessary, the department may

1 require a person, by notice served upon the person or by  
2 regulations, to make returns, render statements or keep records  
3 as the department deems sufficient to show whether or not a  
4 person is liable to pay tax under this chapter.

5 (a.1) Records.--Records to be maintained are:

6 (1) Wellhead and sales meter charts for each reporting  
7 period and the meter calibration and maintenance records. If  
8 turbine meters are in use, the maintenance records will be  
9 made available to the department upon request.

10 (2) Records, statements and other instruments furnished  
11 to a producer by a person to whom the producer delivers for  
12 sale, transport or delivery of natural gas.

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

15 (b) Records of nonresidents.--A nonresident who does  
16 business in this Commonwealth as a producer shall keep adequate  
17 records of the business and of the tax due as a result. The  
18 records shall be retained within this Commonwealth unless  
19 retention outside this Commonwealth is authorized by the  
20 department. The department may require a taxpayer who desires to  
21 retain records outside this Commonwealth to assume reasonable  
22 out-of-State audit expenses.

23 (c) Keeping of separate records.--A person doing business as  
24 a producer, who at the same time is engaged in another business  
25 or businesses which do not involve the severing of natural gas  
26 taxable under this chapter, shall keep separate books and  
27 records of the businesses so as to show the taxable severing of  
28 natural gas under this chapter separately from other business  
29 activities not taxable hereunder. If any person fails to keep  
30 separate books and records, the person shall be liable for a

1 penalty equaling 100% of tax due under this chapter for the  
2 period where separate records were not maintained.

3 § 1523. Examinations.

4 The department or any of its authorized agents are authorized  
5 to examine the books, papers and records of any taxpayer in  
6 order to verify the accuracy and completeness of any return made  
7 or, if no return was made, to ascertain and assess the tax  
8 imposed by this chapter. The department may require the  
9 preservation of all books, papers and records for any period  
10 deemed proper by it but not to exceed three years from the end  
11 of the calendar year to which the records relate. Every taxpayer  
12 is required to give to the department or its agent the means,  
13 facilities and opportunity for examinations and investigation  
14 under this section. The department is further authorized to  
15 examine any person, under oath, concerning the taxable severing  
16 of natural gas by any taxpayer or concerning any other matter  
17 relating to the enforcement or administration of this chapter,  
18 and to this end may compel the production of books, papers and  
19 records and the attendance of all persons whether as parties or  
20 witnesses whom it believes to have knowledge of relevant  
21 matters. The procedure for the hearings or examinations shall be  
22 the same as that provided by the act of April 9, 1929 (P.L.343,  
23 No. 176), known as The Fiscal Code.

24 § 1524. Unauthorized disclosure.

25 Any information gained by the department as a result of any  
26 return, examination, investigation, hearing or verification  
27 required or authorized by this chapter shall be confidential  
28 except for official purposes and except in accordance with  
29 proper judicial order or as otherwise provided by law, and any  
30 person unlawfully divulging the information shall be guilty of a

1 misdemeanor and shall, upon conviction, be sentenced to pay a  
2 fine of not more than \$1000 and costs of prosecution or to  
3 imprisonment for not more than one year, or both.

4 § 1525. Cooperation with other governments.

5 Notwithstanding the provisions of section 1517 (relating to  
6 tax suit reciprocity), the department may permit the  
7 Commissioner of the Internal Revenue Service of the United  
8 States, the proper officer of any state or the authorized  
9 representative of either officer to inspect the tax returns of  
10 any taxpayer, or may furnish to the officer or to his authorized  
11 representative an abstract of the return of any taxpayer, or  
12 supply him with information concerning any item contained in any  
13 return or disclosed by the report of any examination or  
14 investigation of the return of any taxpayer. This permission  
15 shall be granted only if the statutes of the United States or  
16 another state grant substantially similar privileges to the  
17 proper officer of the Commonwealth charged with the  
18 administration of this chapter.

19 § 1526. Bonds.

20 (a) Taxpayer to file bond.--The department may require a  
21 nonresident natural person or any foreign corporation,  
22 association, fiduciary, partnership or other entity, not  
23 authorized to do business within this Commonwealth or not having  
24 an established place of business in this Commonwealth and  
25 subject to the tax imposed by section 1503 (relating to  
26 imposition of tax), to file a bond issued by a surety company  
27 authorized to do business in this Commonwealth and approved by  
28 the Insurance Commissioner as to solvency and responsibility, in  
29 amounts as it may fix, to secure the payment of any tax or  
30 penalties due or which may become due from a natural person or

1 corporation whenever it deems it necessary to protect the  
2 revenues obtained under this chapter. In order to protect the  
3 revenues obtained under this chapter, the department shall  
4 require a nonresident natural person or a foreign corporation,  
5 association, fiduciary, partnership or entity who is not  
6 authorized to do business or does not have an established place  
7 of business in this Commonwealth and is subject to the tax  
8 imposed by section 1503, to file a bond issued by a surety  
9 company authorized to do business in this Commonwealth and  
10 approved by the Insurance Commissioner as to solvency and  
11 responsibility, in amounts as it may fix, to secure the payments  
12 of any tax or penalties due or which may become due from a  
13 natural person, corporation or other entity. The department may  
14 also require a bond of a person petitioning the department for  
15 reassessment in the case of any assessment over \$500 or where,  
16 in its opinion, the ultimate collection is in jeopardy. For a  
17 period of three years, the department may require a bond of any  
18 person who has, on three or more occasions within a 12-month  
19 period, either filed a return or made payment to the department  
20 more than 30 days late. In the event the department determines a  
21 taxpayer is required to file a bond, it shall give notice to the  
22 taxpayer specifying the amount of the bond required. The  
23 taxpayer shall file the bond within five days after notice is  
24 given by the department unless, within five days, the taxpayer  
25 shall request in writing a hearing before the Secretary of  
26 Revenue or his representative. At the hearing, the necessity,  
27 propriety and amount of the bond shall be determined by the  
28 secretary or the secretary's representative. The determination  
29 shall be final and the taxpayer shall comply with it within 15  
30 days after notice is mailed to the taxpayer.

1 (b) Securities in lieu of bond.--In lieu of the bond  
2 required by this section securities approved by the department  
3 or cash in a prescribed amount may be deposited. The securities  
4 or cash shall be kept in the custody of the department. The  
5 department may apply the securities or cash to a tax and  
6 interest or penalties due without notice to the depositor. The  
7 securities may be sold by the department to pay a tax and/or  
8 interest or penalties due at public or private sale upon five  
9 days' written notice to the depositor.

10 (c) Failure to file bond.--The department may file a lien  
11 under section 1516 (relating to tax liens) against any taxpayer  
12 who fails to file a bond when required to do so under this  
13 section. All funds received upon execution of the judgment on  
14 the lien shall be refunded to the taxpayer with 3% interest,  
15 should a final determination be made that he does not owe any  
16 payment to the department.

17 § 1527. Appropriation.

18 The amount of the proceeds from the tax imposed by this  
19 chapter as shall be necessary for the payment of refunds,  
20 enforcement or administration under this chapter, is hereby  
21 appropriated for such purposes.

22 Section 2. This act shall take effect October 1, 2009.