

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1804 Session of
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AUGUST 22, 2011

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
AUGUST 22, 2011

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the
2 Pennsylvania Consolidated Statutes, providing for taxation of
3 natural gas drilling and for transfers and distributions.

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 EFFECTS OF NATURAL GAS DRILLING

10 Sec.

11 1501. Scope of chapter.

12 1502. Definitions.

13 1503. Imposition of tax.

14 1504. Return and payment.

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16 1520. Refund petition.
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19 1523. Examinations.
20 1524. Unauthorized disclosure.
21 1525. Cooperation with other governments.
22 1526. Bonds.
23 1527. Accounts established.
24 1528. Transfers and distributions.
25 § 1501. Scope of chapter.
26 This chapter shall relate to the ability of all counties
27 within this Commonwealth to ameliorate the effects of natural
28 gas drilling that occur within their borders.
29 § 1502. Definitions.
30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Account." The Natural Gas Severance Tax Account.

4 "Accredited laboratory." A facility engaged in the testing
5 and calibration of scientific measurement devices and certified
6 by the Department of Environmental Protection as having met the
7 department's standards for accreditation.

8 "Association." A partnership, limited partnership or any
9 other form of unincorporated enterprise owned or conducted by
10 two or more persons.

11 "Base rate." The rate under section 1503(b) (relating to
12 imposition of tax).

13 "Coal bed methane." Gas which can be produced from coal
14 beds, coal seams, mined-out areas or gob wells.

15 "Corporation." A corporation, joint stock association,
16 limited liability company, business trust or any other
17 incorporated enterprise organized under the laws of this
18 Commonwealth, the United States or any other state, territory or
19 foreign country or dependency.

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

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

23 "Municipality." A city, borough, incorporated town or
24 township.

25 "Natural gas." A fossil fuel consisting of a mixture of
26 hydrocarbon gases, primarily methane, possibly including ethane,
27 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and
28 hydrogen sulfide and other gas species. The term includes
29 natural gas from oil fields known as associated gas or casing
30 head gas, natural gas fields known as nonassociated gas, coal

beds, shale beds and other formations. The term does not include coal bed methane.

"Nonproducing site." A point of severance that is not capable of producing natural gas in paying quantities.

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

"Person." A natural person or a corporation, fiduciary, association or other entity, including the Commonwealth, its political subdivisions, instrumentalities and authorities. When the term is used in a clause prescribing and imposing a penalty or imposing a fine or imprisonment, or both, the term shall include the members, as applied to an association, and the officers, as applied to a corporation.

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

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

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

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

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

"Severance." The extraction or other removal of natural gas from the soil or water of this Commonwealth.

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

"Storage field." A natural formation or other site that is used to store natural gas that did not originate from and has

1 been injected into the formation or site.

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

3 "Tax rate adjustment index." The amount calculated under
4 section 1503(b) (relating to imposition of tax) by which the
5 rate of the tax imposed under section 1503(b) is adjusted
6 annually.

7 "Taxpayer." A person subject to the tax imposed by this
8 chapter.

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

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

19 (2) The temperature of the gas passing the meters shall
20 be determined by the continuous use of a recording
21 thermometer installed to properly record the temperature of
22 gas flowing through the meters. The arithmetic average of the
23 temperature recorded each 24-hour day shall be used in
24 computing gas volumes. If a recording thermometer is not
25 installed, or is installed and not operating properly, an
26 average flowing temperature of 60 degrees Fahrenheit shall be
27 used in computing gas volume.

28 (3) The specific gravity of the gas shall be determined
29 annually by tests made by the use of an Edwards or Acme
30 gravity balance, or at intervals as found necessary in

1 practice. Specific gravity determinations shall be used in
2 computing gas volumes.

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

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

15 "Wellhead meter certification." A report issued by an
16 accredited laboratory certifying the accuracy of a wellhead
17 meter.

18 § 1503. Imposition of tax.

19 (a) Establishment.--There is levied a privilege tax on every
20 producer that severs natural gas.

21 (b) Rate.--The tax imposed in subsection (a) shall be 5% of
22 the gross value of units severed at the wellhead during a
23 reporting period, plus 4.6¢ per unit severed.

24 § 1504. Return and payment.

25 (a) Requirement.--Every producer is required to file a
26 return with the department, on a form prescribed by the
27 department, which shall include all of the following:

28 (1) The number of natural gas units severed by the
29 producer for the reporting period.

30 (2) The number of producing sites used by the producer

1 for the severance of natural gas in each county and
2 municipality.

3 (3) The amount of tax due under section 1503 (relating
4 to imposition of tax).

5 (b) Filing.--The return required by subsection (a) shall be
6 filed with the department within 15 days following the end of a
7 reporting period.

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

11 § 1505. Natural gas severance tax registration.

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

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

21 (a.2) Declaration.--The producer shall include in its
22 application a declaration of all producing sites and
23 nonproducing sites used by the producer for the severance of
24 natural gas. The declaration shall include copies of wellhead
25 meter certifications for each site. The producer is required to
26 update the declaration when the producer adds or removes a
27 producing site or nonproducing site in this Commonwealth or when
28 there is a change in the status of a producing site or
29 nonproducing site or when the producer uses a different
30 accredited laboratory to issue a wellhead meter certification.

1 The producer shall update the declaration within 30 days after a
2 calendar month in which a change to the declaration occurs.

3 (b) Issuance.--Except as provided in subsection (c), after
4 the receipt of an application, the department shall issue a
5 registration certificate under subsection (a). The registration
6 certificate shall be nonassignable. All registrants shall be
7 required to renew their registration certificates and wellhead
8 meter certifications on a staggered renewal system established
9 by the department. After the initial staggered renewal period, a
10 registration certificate or a wellhead meter certification
11 issued shall be valid for a period of five years.

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

1 conclusion of the appeal process the department may disclose, by
2 publication or otherwise, the identity of a producer and the
3 fact that the producer's registration certificate has been
4 refused, suspended or revoked under this subsection. Disclosure
5 may include the basis for refusal, suspension or revocation.

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

22 (e) Failure to obtain registration certificate.--Failure to
23 obtain or hold a valid registration certificate does not relieve
24 a person from liability for the tax imposed by this chapter.
25 § 1505.1. Meters.

26 A producer shall provide for and maintain a discrete wellhead
27 meter where natural gas is severed. A producer shall ensure that
28 the meters are maintained according to industry standards. Any
29 wellhead meter installed after the effective date of this
30 section shall be a digital meter.

1 § 1506. Assessments.

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

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

13 § 1507. Time for assessment.

14 (a) Requirement.--An assessment as provided under section
15 1506 (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 year
18 in which the tax liability arises, whichever shall occur last.
19 For the purposes of this subsection and subsection (b), a return
20 filed before the last day prescribed for the filing period shall
21 be considered as filed on the last day.

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

25 (c) Intent to evade.--Where no return is filed or where the
26 taxpayer files a false or fraudulent return with intent to evade
27 the tax imposed by this chapter, the assessment may be made at
28 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 the provisions 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) A penalty against a producer without a natural gas
severance tax registration certificate. The penalty 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 assessment of the

1 natural gas severance tax.

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

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

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

15 § 1512. Criminal acts.

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

22 (b) Other crimes.--

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

28 (i) Willfully failing to timely remit the tax to the
29 department.

30 (ii) Willfully failing or neglecting to timely file

1 a return or report required by this chapter.

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

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

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

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

11 (vii) Preventing or attempting to prevent the full
12 disclosure of the amount of natural gas severance tax
13 due.

14 (viii) Providing any person with a false statement
15 as to the payment of the tax imposed under this chapter
16 with respect to any pertinent facts.

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

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

21 § 1513. Abatement of additions or penalties.

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

28 § 1514. Bulk and auction sales.

29 A person that sells or causes to be sold at auction, or that
30 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
imposed under this chapter:

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

(2) Within 60 days of the 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's time for acting
upon the petition.

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

(b) Prohibition.--In a case for the collection of taxes
under subsection (a), the taxpayer against whom they were
assessed shall not be permitted to 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.--If any taxpayer neglects or refuses to pay the tax imposed under this chapter for which the taxpayer is liable under this chapter after demand, the amount, including interest, addition or penalty, together with additional costs that may accrue, shall be a lien in favor of the Commonwealth upon the real and personal property of the taxpayer but only after the same has been entered and docketed of record by the prothonotary of the county where the property is situated. The department may, at any time, transmit to the prothonotaries of the respective counties certified copies of all liens imposed by this section. It shall be the duty of the prothonotary receiving the lien to enter and docket the same of record to the office of the prothonotary. The lien shall be indexed as judgments are now indexed. No prothonotary shall require as a condition precedent to the entry of the lien the payment of costs incidental to its entry.

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

1 (c) No discharge by sale on junior lien.--In the case of a
2 judicial sale of property subject to a lien imposed under this
3 section, upon a lien or claim over which the lien imposed under
4 this section has priority, the sale shall discharge the lien
5 imposed under this section to the extent only that the proceeds
6 are applied to its payment, and the lien shall continue in full
7 force and effect as to the balance remaining unpaid. There shall
8 be no inquisition or condemnation upon any judicial sale of real
9 estate made by the Commonwealth under the provisions of this
10 chapter. The lien shall continue as provided in the act of April
11 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and a writ
12 of execution may directly issue upon the lien without the
13 issuance and prosecution to judgment of a writ of scire facias,
14 provided that not less than ten days before issuance of any
15 execution on the lien, notice of the filing and the effect of
16 the lien shall be sent by registered mail to the taxpayer at its
17 last known post office address, provided further that the lien
18 shall have no effect upon any stock of goods, wares or
19 merchandise regularly sold or leased in the ordinary course of
20 business by the taxpayer against whom the lien has been entered,
21 unless and until a writ of execution has been issued and a levy
22 made upon the stock of goods, wares and merchandise.

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

29 (e) Priority.--Except as provided in this chapter, the
30 distribution, voluntary or compulsory, in receivership,

bankruptcy or otherwise of the property or estate of any person,
all taxes imposed by this chapter which are due and unpaid and
are not collectible under the provisions of section 225 of the
act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
of 1971, shall be paid from the first money available for
distribution in priority to all other claims and liens, except
as the laws of the United States may give priority to a claim to
the Federal Government. A person charged with the administration
or distribution of the property or estate who violates the
provisions of this section shall be personally liable for the
taxes imposed by this chapter which are accrued and unpaid and
chargeable against the person whose property or estate is being
administered or distributed.

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

§ 1517. Tax suit reciprocity.

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

§ 1518. Service.

A producer is deemed to have appointed the Secretary of the
Commonwealth its agent for the acceptance of service of process
or notice in a proceeding for the enforcement of the civil
provisions of this chapter and service made upon the Secretary

of the Commonwealth as agent shall be of the same legal force and validity as if the service had been personally made upon the producer. Where service cannot be made upon the producer in the manner provided by other laws of this Commonwealth relating to service of process, service may be made upon the Secretary of the Commonwealth. In that case, a copy of the process or notice shall be personally served upon any agent or representative of the producer who may be found within this Commonwealth or, where no agent or representative may be found, a copy of the process or notice shall be sent via registered mail to the producer at the last known address of its principal place of business, home office or residence.

§ 1519. Refunds.

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

§ 1520. Refund petition.

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

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

19 § 1521. Rules and regulations.

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

30 § 1522. Recordkeeping.

1 (a) General rule.--Every person liable for any tax imposed
2 by this chapter, or for the collection of the tax, shall keep
3 records, including those enumerated in subsection (b), render
4 statements, make returns and comply with the rules and
5 regulations as the department may prescribe regarding matters
6 pertinent to the person's business. Whenever it is necessary,
7 the department may require a person, by notice served upon the
8 person or by regulations, to make returns, render statements or
9 keep records as the department deems sufficient to show whether
10 or not a person is liable to pay tax under this chapter.

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

12 (1) Wellhead meter charts for each reporting period and
13 the meter calibration and maintenance records. If turbine
14 meters are in use, the maintenance records will be made
15 available to the department upon request.

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

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

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

29 (c) Keeping of separate records.--A producer who is engaged
30 in another business or businesses which do not involve the

1 severing of natural gas taxable under this chapter shall keep
2 separate books and records of the businesses so as to show the
3 taxable severing of natural gas under this chapter separately
4 from other business activities not taxable hereunder. If any
5 person fails to keep separate books and records, the person
6 shall be liable for a penalty equaling 100% of tax due under
7 this chapter for the period where separate records were not
8 maintained.

9 § 1523. Examinations.

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

30 § 1524. Unauthorized disclosure.

1 Any information gained by the department as a result of any
2 return, examination, investigation, hearing or verification
3 required or authorized by this chapter shall be confidential
4 except for official purposes and except in accordance with
5 proper judicial order or as otherwise provided by law, and any
6 person unlawfully divulging the information shall be guilty of a
7 misdemeanor and shall, upon conviction, be sentenced to pay a
8 fine of not more than \$1,000 and costs of prosecution or to
9 imprisonment for not more than one year, or both.

10 § 1525. Cooperation with other governments.

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

25 § 1526. Bonds.

26 (a) Taxpayer to file bond.--The department may require a
27 nonresident natural person or any foreign corporation,
28 association, fiduciary or other entity, not authorized to do
29 business within this Commonwealth or not having an established
30 place of business in this Commonwealth and subject to the tax

1 imposed by section 1503 (relating to imposition of tax), to file
2 a bond issued by a surety company authorized to do business in
3 this Commonwealth and approved by the Insurance Commissioner as
4 to solvency and responsibility, in amounts as it may fix, to
5 secure the payment of any tax or penalties due or which may
6 become due from a nonresident natural person, corporation,
7 association, fiduciary or other entity whenever it deems it
8 necessary to protect the revenues obtained under this chapter.
9 The department may also require a bond of a person petitioning
10 the department for reassessment in the case of any assessment
11 over \$500 or where, in its opinion, the ultimate collection is
12 in jeopardy. For a period of three years, the department may
13 require a bond of any person who has, on three or more occasions
14 within a 12-month period, either filed a return or made payment
15 to the department more than 30 days late. In the event the
16 department determines a taxpayer is required to file a bond, it
17 shall give notice to the taxpayer specifying the amount of the
18 bond required. The taxpayer shall file the bond within five days
19 after notice is given by the department unless, within five
20 days, the taxpayer shall request in writing a hearing before the
21 secretary or his representative. At the hearing, the necessity,
22 propriety and amount of the bond shall be determined by the
23 secretary or the secretary's representative. The determination
24 shall be final and the taxpayer shall comply with it within 15
25 days after notice is mailed to the taxpayer.

26 (b) Securities in lieu of bond.--In lieu of the bond
27 required by this section securities approved by the department
28 or cash in a prescribed amount may be deposited. The securities
29 or cash shall be kept in the custody of the department. The
30 department may apply the securities or cash to the tax imposed

1 by this chapter and interest or penalties due without notice to
2 the depositor. The securities may be sold by the department to
3 pay the tax and/or interest or penalties due at public or
4 private sale upon five days' written notice to the depositor.

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

12 § 1527. Accounts established.

13 (a) Natural Gas Severance Tax Account.--The Natural Gas
14 Severance Tax Account is established as a restricted account
15 within the General Fund.

16 (b) Deposit.--The proceeds of the tax imposed under section
17 1503 (relating to imposition of tax) and penalties and interest
18 imposed under this chapter, less the amounts appropriated under
19 section 1529 (relating to appropriation), shall be deposited
20 into the account.

21 § 1528. Transfers and distributions.

22 (a) Monthly transfers and distributions.--On the last
23 business day of each calendar month, the State Treasurer shall
24 make the transfers and distributions of the money in the Natural
25 Gas Severance Tax Account as directed by the General Assembly.

26 (b) Quarterly distributions.--On the last business day of
27 each period of three calendar months, the State Treasurer shall
28 make the distributions from the money in the Local Government
29 Services Account as directed by the General Assembly.

30 Section 2. This act shall take effect immediately.