

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 113 Session of 2017

INTRODUCED BY HARPER, DEAN, MURT, READSHAW, DAVIS AND RADER,  
JANUARY 23, 2017

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
JANUARY 23, 2017

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated  
2 Statutes, in unconventional gas well fee, repealing  
3 expiration; and providing for imposition of tax, for  
4 registration, for meters, for assessments, for time for  
5 assessment, for extension of assessment period, for  
6 reassessments, for interest, for penalties, for criminal  
7 acts, for abatement of additions or penalties, for bulk and  
8 auction sales, for collection upon failure to request  
9 reassessment, review or appeal, for tax liens, for tax suit  
10 reciprocity, for service, for refunds, for refund petition,  
11 for rules and regulations, for recordkeeping, for  
12 examinations, for unauthorized disclosure, for cooperation  
13 with other governments, for bonds and for deposit of  
14 proceeds.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 Section 1. Section 2318 of Title 58 of the Pennsylvania  
18 Consolidated Statutes is repealed:

19 [§ 2318. Expiration.

20 (a) Notice.--The Secretary of the Commonwealth shall, upon  
21 the imposition of a severance tax on unconventional gas wells in  
22 this Commonwealth, submit for publication in the Pennsylvania  
23 Bulletin notice of the imposition.

1 (b) Date.--This chapter shall expire on the date of the  
2 publication of the notice under subsection (a).]

3 Section 2. Title 58 is amended by adding a part to read:

4 PART IV

5 TAXATION

6 Chapter

7 41. (Reserved)

8 43. Severance Tax

9 CHAPTER 41

10 (Reserved)

11 CHAPTER 43

12 SEVERANCE TAX

13 Sec.

14 4301. Scope of chapter.

15 4302. Definitions.

16 4303. Imposition of tax.

17 4304. Registration.

18 4305. Meters.

19 4306. Assessments.

20 4307. Time for assessment.

21 4308. Extension of assessment period.

22 4309. Reassessments.

23 4310. Interest.

24 4311. Penalties.

25 4312. Criminal acts.

26 4313. Abatement of additions or penalties.

27 4314. Bulk and auction sales.

28 4315. Collection upon failure to request reassessment, review  
29 or appeal.

30 4316. Tax liens.

- 1 4317. Tax suit reciprocity.
- 2 4318. Service.
- 3 4319. Refunds.
- 4 4320. Refund petition.
- 5 4321. Rules and regulations.
- 6 4322. Recordkeeping.
- 7 4323. Examinations.
- 8 4324. Unauthorized disclosure.
- 9 4325. Cooperation with other governments.
- 10 4326. Bonds.
- 11 4327. Deposit of proceeds.
- 12 § 4301. Scope of chapter.

13 This chapter relates to taxation of the severance of natural  
14 gas.

15 § 4302. Definitions.

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

19 "Average price of natural gas." The arithmetic mean of the  
20 market price for arm's-length transactions as reported to the  
21 department for the previous reporting period. Within 20 days  
22 after the end of each reporting period the department shall  
23 calculate and publish the average price of natural gas from  
24 returns received in the prior reporting period based on the  
25 total units of gas severed and the total gross value of gas  
26 reported by all producers for all arm's-length transactions on  
27 returns filed with the department.

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

29 "Gross value." All of the following, calculated prior to the  
30 payment of any royalties or other payments to a lessor and

1 without any other deduction or credit:

2 (1) The volume-weighted average market price for an  
3 arm's-length transaction that a producer receives at the  
4 point of sale for natural gas during a reporting period.

5 (2) The average price of natural gas if:

6 (i) the natural gas is not sold in an arm's-length  
7 transaction, as reported by the producer or as determined  
8 by the department;

9 (ii) if the natural gas is exchanged for something  
10 other than cash; or

11 (iii) if there is no sale or exchange between the  
12 time of severance and the end of the reporting period  
13 during which the natural gas was severed.

14 "Natural gas." As defined in section 2301 (relating to  
15 definitions).

16 "Person." Any natural person, a corporation, fiduciary,  
17 association or other entity. The term includes the Commonwealth  
18 and any political subdivision, instrumentality and authority of  
19 the Commonwealth.

20 "Producer." As defined in section 2301 (relating to  
21 definitions).

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

24 "Sever." Extract or otherwise remove natural gas from the  
25 soil or water of this Commonwealth.

26 "Stripper well." A natural gas well incapable of producing  
27 more than 90,000 cubic feet of gas per day during any calendar  
28 month, including production from all zones and multilateral well  
29 bores at a single well, without regard to whether the production  
30 is separately metered.

1 "Taxpayer." A person subject to the tax imposed by this  
2 chapter.

3 "Unconventional gas well." As defined in section 2301  
4 (relating to definitions).

5 "Unit." One thousand cubic feet of natural gas measured at  
6 the wellhead at a temperature of 60 degrees Fahrenheit and an  
7 absolute pressure of 14.73 pounds per square inch in accordance  
8 with American Gas Association standards and according to Boyle's  
9 law for the measurement of gas under varying pressures with  
10 deviations as follows:

11 (1) The average absolute atmospheric pressure shall be  
12 assumed to be 14.4 pounds to the square inch, regardless of  
13 elevation or location of point of delivery above sea level or  
14 variations in atmospheric pressure.

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

24 (3) The specific gravity of the gas shall be determined  
25 annually by tests made by the use of an Edwards or Acme  
26 gravity balance, or at intervals as found necessary in  
27 practice. Specific gravity determinations shall be used in  
28 computing gas volumes.

29 (4) The deviation of the natural gas from Boyle's law  
30 shall be determined by annual tests or at other shorter

1 intervals as found necessary in practice. The apparatus and  
2 method used in making the test shall be in accordance with  
3 recommendations of the National Bureau of Standards or Report  
4 No. 3 of the Gas Measurement Committee of the American Gas  
5 Association. The results of the tests shall be used in  
6 computing the volume of gas delivered under this chapter.

7 "Wellhead meter." A meter that measures the volume of  
8 natural gas severed from an unconventional gas well.

9 § 4303. Imposition of tax.

10 (a) Establishment.--Beginning July 1, 2017, a natural gas  
11 severance tax is levied and payable on every unconventional gas  
12 well required to pay the fee payable under Chapter 23 (relating  
13 to unconventional gas well fee).

14 (b) Rate.--The tax imposed in subsection (a) shall be 3.5%  
15 of the gross value of units severed at the wellhead during a  
16 reporting period.

17 (c) Return and payment.--A producer subject to the  
18 provisions of this chapter shall file a return with the  
19 department, on a form prescribed by the department. The return  
20 shall include the following:

21 (1) The total number of natural gas units severed by the  
22 producer for the reporting period broken down into:

23 (i) the number of such units sold by the producer  
24 during the reporting period in arm's-length transactions;

25 (ii) the number of such units sold by the producer  
26 during the reporting period in non-arm's-length  
27 transactions or exchanged for something other than cash;

28 and

29 (iii) the number of such units not yet sold or  
30 exchanged as of the end of the reporting period.

1           (2) The gross value of the units identified in paragraph  
2 (1).

3           (3) The amount of tax due under subsection (b).

4           (4) Other information reasonably required by the  
5 department.

6 (d) Filing.--

7           (1) The return required by subsection (c) shall be filed  
8 with the department within 15 days following the end of a  
9 reporting period. The tax is due on the day the return is  
10 required to be filed under this subsection and shall become  
11 delinquent if not remitted to the department by the required  
12 date.

13           (2) A producer shall commence filing the returns  
14 required under subsection (c) within 75 days following the  
15 effective date of this section. The initial return shall  
16 include the information required by subsection (c) for the  
17 reporting periods that occurred between July 1, 2017, and the  
18 75th day following the effective date of this section.

19           (3) An initial return that requires a calculation based  
20 upon the average price of natural gas shall be due within 15  
21 days following the first full reporting period for which such  
22 data is available.

23 (e) Exemptions.--The tax shall not be imposed on the  
24 following:

25           (1) A stripper well.

26           (2) A unit severed, sold and delivered by an operator at  
27 or within five miles of the producing well for the processing  
28 or manufacture of tangible personal property, as defined  
29 under section 201 of the act of March 4, 1971 (P.L.6, No.2),  
30 known as the Tax Reform Code of 1971, within this

1 Commonwealth.

2 (3) A unit provided free of charge to the owner of the  
3 surface under which the gas is severed if the surface owner  
4 is the end user of the gas.

5 (4) An owner of the surface real property where a  
6 natural gas well is drilled or operated and that has leased  
7 the rights to recover natural gas from beneath the surface to  
8 an operator.

9 § 4304. Registration.

10 (a) Application.--

11 (1) Before a producer severs natural gas or continues to  
12 sever natural gas in this Commonwealth after the date  
13 occurring 60 days following the effective date of this  
14 section, the producer shall apply to the department for a  
15 registration certificate.

16 (2) The department may charge an application fee to  
17 cover the administrative costs associated with the  
18 application and registration process.

19 (b) Issuance.--

20 (1) Except as provided in subsection (c), after the  
21 receipt of an application and the required application fee,  
22 the department shall issue a registration certificate to the  
23 producer. The registration certificate is nonassignable.

24 (2) A registrant shall renew the registration  
25 certificate on a staggered renewal system established by the  
26 department. After the initial staggered renewal period, a  
27 registration certificate is valid for a period of five years.

28 (c) Refusal, suspension or revocation.--

29 (1) The department may refuse to issue, suspend or  
30 revoke a registration certificate if the applicant or

1 registrant has not filed required State tax reports and paid  
2 State taxes not subject to a timely perfected administrative  
3 or judicial appeal or an authorized deferred payment plan.

4 (2) The department shall notify the applicant or  
5 registrant of a refusal, suspension or revocation. The notice  
6 shall contain a statement that the refusal, suspension or  
7 revocation may be made public. The notice shall be made by  
8 first class mail.

9 (3) An applicant or registrant aggrieved by the  
10 determination of the department may file an appeal under the  
11 provisions for administrative appeals in the act of March 4,  
12 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. In  
13 the case of a suspension or revocation which is appealed, the  
14 registration certificate shall remain valid pending a final  
15 outcome of the appeals process. Notwithstanding any other  
16 provision of law, if no appeal is taken or if an appeal is  
17 taken and denied at the conclusion of the appeal process, the  
18 department may disclose, by publication or otherwise, the  
19 identity of a producer and the fact that the producer's  
20 registration certificate has been refused, suspended or  
21 revoked under this subsection. Disclosure may include the  
22 basis for refusal, suspension or revocation.

23 (d) Violation.--

24 (1) A person that severs natural gas in this  
25 Commonwealth in violation of subsection (a) commits a summary  
26 offense and shall, upon conviction, be sentenced to pay a  
27 fine not less than \$300 nor more than \$1,500 or, in default  
28 of the payment, to imprisonment for not less than five days  
29 nor more than 30 days.

30 (2) For purposes of this subsection, each day in which

1 natural gas is severed shall constitute a separate violation.

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

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

9 (e) Failure to obtain registration certificate.--Failure to  
10 obtain or hold a valid registration certificate does not relieve  
11 a person from liability for the tax imposed by this chapter.

12 § 4305. Meters.

13 A producer shall provide for and maintain a discrete wellhead  
14 meter where natural gas is severed. A producer shall ensure that  
15 the meters are maintained according to industry standards. Any  
16 wellhead meter installed after the effective date of this  
17 section shall be a digital meter.

18 § 4306. Assessments.

19 (a) Authorization and requirement.--The department shall  
20 make inquiries, determinations and assessments of the tax  
21 imposed under this chapter, including interest, additions and  
22 penalties imposed under this chapter.

23 (b) Notice.--The notice of assessment and demand for payment  
24 shall be mailed to the taxpayer. The notice shall state the  
25 basis of the assessment. The department shall send the notice of  
26 assessment to the taxpayer at the taxpayer's registered address  
27 via certified mail if the assessment increases the taxpayer's  
28 tax liability by \$300. Otherwise, the notice of assessment may  
29 be sent via regular mail.

30 § 4307. Time for assessment.

1 (a) Requirement.--

2 (1) An assessment as provided under section 4306  
3 (relating to assessments) shall be made within three years  
4 after the date when the return provided for under section  
5 4303(c) (relating to imposition of tax) is filed or the end  
6 of the year in which the tax liability arises, whichever  
7 shall occur last.

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

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

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

18 (d) Erroneous credit or refund.--Within three years of the  
19 granting of a refund or credit or within the period in which an  
20 assessment or reassessment may have been issued by the  
21 department for the taxable period for which the refund was  
22 granted, whichever period shall occur last, the department may  
23 issue an assessment to recover a refund or credit made or  
24 allowed erroneously.

25 § 4308. Extension of assessment period.

26 Notwithstanding the provisions of this chapter, the  
27 assessment period may be extended in the event a taxpayer has  
28 provided written consent before the expiration of the period  
29 provided in section 4307 (relating to time for assessment) for a  
30 tax assessment. The amount of tax due may be assessed at any

1 time within the extended period. The period may be extended  
2 further by subsequent written consents made before the  
3 expiration of the extended period.

4 § 4309. Reassessments.

5 A taxpayer against whom an assessment is made may petition  
6 the department for a reassessment under Article XXVII of the act  
7 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
8 1971.

9 § 4310. Interest.

10 The department shall assess interest on any delinquent tax at  
11 the rate prescribed under section 806 of the act of April 9,  
12 1929 (P.L.343, No.176), known as The Fiscal Code.

13 § 4311. Penalties.

14 The department shall enforce the following penalties:

15 (1) A penalty against a producer without a registration  
16 certificate required under section 4304 (relating to  
17 registration). The penalty shall be \$1 for every unit severed  
18 without a valid registration certificate. The department may  
19 assess this penalty separately from or in conjunction with  
20 any assessment of the natural gas severance tax.

21 (2) A penalty against a producer for failure to timely  
22 file a return as required under section 4303(c) (relating to  
23 imposition of tax). The penalty shall be 5% of the tax  
24 liability to be reported on the return for each day beyond  
25 the due date that the return is not filed.

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

30 (4) A penalty against a producer for failure to timely

1 pay the tax as required by section 4303(d). The penalty shall  
2 be 5% of the amount of tax due for each day beyond the  
3 payment date that the tax is not paid.

4 § 4312. Criminal acts.

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

11 (b) Other crimes.--

12 (1) Except as otherwise provided under subsection (a), a  
13 person is guilty of a misdemeanor and shall, upon conviction,  
14 be sentenced to pay a fine of not more than \$1,000 and costs  
15 of prosecution or to imprisonment for not more than one year,  
16 or both, for any of the following:

17 (i) Willfully failing to timely remit the tax to the  
18 department.

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

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

23 (iv) Willfully failing to preserve the person's  
24 books, papers and records as directed by the department.

25 (v) Refusing to permit the department or the  
26 person's authorized agents to examine the person's books,  
27 records or papers.

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

30 (vii) Preventing or attempting to prevent the full

1 disclosure of the amount of natural gas severance tax  
2 due.

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

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

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

10 § 4313. Abatement of additions or penalties.

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

17 § 4314. Bulk and auction sales.

18 A person that sells or causes to be sold at auction, or that  
19 sells or transfers in bulk, 51% or more of a stock of goods,  
20 wares or merchandise of any kind, fixtures, machinery,  
21 equipment, buildings or real estate involved in a business for  
22 which the person holds a registration certificate or is required  
23 to obtain a registration certificate under the provisions of  
24 this chapter shall be subject to the provisions of section 1403  
25 of the act of April 9, 1929 (P.L.343, No.176), known as The  
26 Fiscal Code.

27 § 4315. Collection upon failure to request reassessment, review  
28 or appeal.

29 (a) Power of department.--The department may collect the tax  
30 imposed under this chapter:

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

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

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

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

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

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

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

22 § 4316. Tax liens.

23           (a) Lien imposed.--

24                 (1) If a taxpayer neglects or refuses to pay the tax  
25 imposed under this chapter for which the taxpayer is liable  
26 under this chapter after demand, the amount, including  
27 interest, addition or penalty, together with additional costs  
28 that may accrue, shall be a lien in favor of the Commonwealth  
29 upon the real and personal property of the taxpayer, but only  
30 after the same has been entered and docketed of record by the

1 prothonotary of the county where the property is situated.

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

5 (3) The prothonotary receiving the lien shall enter and  
6 docket the lien of record to the office of the prothonotary.  
7 The lien shall be indexed as judgments are now indexed. No  
8 prothonotary shall require as a condition precedent to the  
9 entry of the lien the payment of costs incidental to its  
10 entry.

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

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

23 (1) In the case of a judicial sale of property subject  
24 to a lien imposed under this section, upon a lien or claim  
25 over which the lien imposed under this section has priority,  
26 the sale shall discharge the lien imposed under this section  
27 to the extent only that the proceeds are applied to its  
28 payment, and the lien shall continue in full force and effect  
29 as to the balance remaining unpaid.

30 (2) There shall be no inquisition or condemnation upon

1 any judicial sale of real estate made by the Commonwealth  
2 under the provisions of this chapter.

3 (3) The lien shall continue as provided in the act of  
4 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code,  
5 and a writ of execution may directly issue upon the lien  
6 without the issuance and prosecution to judgment of a writ of  
7 scire facias, provided that not less than 10 days before  
8 issuance of any execution on the lien, notice of the filing  
9 and the effect of the lien shall be sent by registered mail  
10 to the taxpayer's last known post office address, provided  
11 further that the lien shall have no effect upon any stock of  
12 goods, wares or merchandise regularly sold or leased in the  
13 ordinary course of business by the taxpayer against whom the  
14 lien has been entered, unless and until a writ of execution  
15 has been issued and a levy made upon the stock of goods,  
16 wares and merchandise.

17 (d) Penalty.--A prothonotary who intentionally violates this  
18 section commits a misdemeanor of the third degree and shall,  
19 upon conviction, be sentenced to pay a fine of not more than  
20 \$1,000 and costs of prosecution or to imprisonment for not more  
21 than one year, or both.

22 (e) Priority.--

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

1 claims and liens, except as the laws of the United States may  
2 give priority to a claim to the Federal Government.

3 (2) A person charged with the administration or  
4 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  
7 and chargeable against the person whose property or estate is  
8 being 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 § 4317. Tax suit reciprocity.

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

20 § 4318. Service.

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

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

7 § 4319. Refunds.

8 (a) General rule.--Under Article XXVII of the act of March  
9 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, the  
10 department shall refund all taxes, interest and penalties paid  
11 to the Commonwealth under the provisions of this chapter to  
12 which the Commonwealth is not rightfully entitled. The refunds  
13 shall be made to the person or the person's heirs, successors,  
14 assigns or other personal representatives who paid the tax,  
15 provided that no refund shall be made under this section  
16 regarding a payment made by reason of an assessment where a  
17 taxpayer has filed a petition for reassessment under section  
18 2702 of the Tax Reform Code of 1971 to the extent the petition  
19 is adverse to the taxpayer by a decision which is no longer  
20 subject to further review or appeal.

21 (b) Construction.--Nothing in this chapter shall be  
22 construed to prohibit a taxpayer that has filed a timely  
23 petition for reassessment from amending it to a petition for  
24 refund where the petitioner paid the tax assessed.

25 § 4320. Refund petition.

26 (a) General rule.--Except as provided for in subsection (b),  
27 the refund or credit of tax, interest or penalty provided for by  
28 section 4319 (relating to refunds) shall be made only where the  
29 person who has paid the tax files a petition for refund with the  
30 department under Article XXVII of the act of March 4, 1971

1 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the  
2 time limits of section 3003.1 of the Tax Reform Code of 1971.

3 (b) Natural gas severance tax.--

4 (1) A refund or credit of tax, interest or penalty paid  
5 as a result of an assessment made by the department under  
6 section 4306 (relating to assessments) shall be made only  
7 where the person who has paid the tax files a petition for a  
8 refund with the department under Article XXVII of the Tax  
9 Reform Code of 1971 within the time limits of section 3003.1  
10 of the Tax Reform Code of 1971.

11 (2) The filing of a petition for refund under the  
12 provisions of this subsection shall not affect the abatement  
13 of interest, additions or penalties to which the person may  
14 be entitled by reason of payment of the assessment.

15 § 4321. Rules and regulations.

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

26 § 4322. Recordkeeping.

27 (a) General rule.--Every person liable for any tax imposed  
28 by this chapter, or for the collection of the tax, shall keep  
29 records, including those enumerated in subsection (b), render  
30 statements, make returns and comply with the rules and

1 regulations as the department may prescribe regarding matters  
2 pertinent to the person's business. Whenever it is necessary,  
3 the department may require a person, by notice served upon the  
4 person or by regulations, to make returns, render statements or  
5 keep records as the department deems sufficient to show whether  
6 or not a person is liable to pay tax under this chapter.

7 (b) Records.--Records to be maintained are:

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

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

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

17 (c) Records of nonresidents.--

18 (1) A nonresident who does business in this Commonwealth  
19 as a producer shall keep adequate records of the business and  
20 of the tax due as a result. The records shall be retained  
21 within this Commonwealth unless retention outside this  
22 Commonwealth is authorized by the department.

23 (2) The department may require a taxpayer that desires  
24 to retain records outside this Commonwealth to assume  
25 reasonable out-of-State audit expenses.

26 (d) Keeping of separate records.--

27 (1) A producer that is engaged in another business or  
28 businesses which do not involve the severing of natural gas  
29 taxable under this chapter shall keep separate books and  
30 records of the businesses so as to show the taxable severing

1 of natural gas under this chapter separately from other  
2 business activities not taxable hereunder.

3 (2) If any person fails to keep separate books and  
4 records, the person shall be liable for a penalty equaling  
5 100% of tax due under this chapter for the period where  
6 separate records were not maintained.

7 § 4323. Examinations.

8 (a) Right to examine.--

9 (1) The department or any of its authorized agents may  
10 examine the books, papers and records of any taxpayer in  
11 order to verify the accuracy and completeness of any return  
12 made or, if no return were made, to ascertain and assess the  
13 tax imposed by this chapter. The department may require the  
14 preservation of all books, papers and records for any period  
15 deemed proper by the department but not to exceed three years  
16 from the end of the calendar year to which the records  
17 relate.

18 (2) Every taxpayer shall give to the department or its  
19 agent the means, facilities and opportunity for examinations  
20 and investigations under this section.

21 (3) The department may examine any person, under oath,  
22 concerning the taxable severing of natural gas by any  
23 taxpayer or concerning any other matter relating to the  
24 enforcement or administration of this chapter, and to this  
25 end may compel the production of books, papers and records  
26 and the attendance of all persons whether as parties or  
27 witnesses believed to have knowledge of relevant matters.

28 (b) Procedure.--The procedure for the hearings or  
29 examinations shall be the same as that provided under the act of  
30 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

1 § 4324. Unauthorized disclosure.

2 (a) General rule.--Any information gained by the department  
3 as a result of any return, examination, investigation, hearing  
4 or verification required or authorized by this chapter shall be  
5 confidential except for official purposes and except in  
6 accordance with proper judicial order or as otherwise provided  
7 by law.

8 (b) Penalty.--Any person unlawfully divulging the  
9 information shall be guilty of a misdemeanor and shall, upon  
10 conviction, be sentenced to pay a fine of not more than \$1,000  
11 and costs of prosecution or to imprisonment for not more than  
12 one year, or both.

13 § 4325. Cooperation with other governments.

14 Notwithstanding the provisions of section 4317 (relating to  
15 tax suit reciprocity), the department may permit the  
16 Commissioner of the Internal Revenue Service, the proper officer  
17 of any state or the authorized representative of either of them  
18 to inspect the tax returns of any taxpayer, or may furnish to  
19 the commissioner or officer or to either of their authorized  
20 representatives an abstract of the return of any taxpayer, or  
21 supply him with information concerning any item contained in any  
22 return or disclosed by the report of any examination or  
23 investigation of the return of any taxpayer. This permission  
24 shall be granted only if the laws of the United States or  
25 another state grant substantially similar privileges to the  
26 proper officer of the Commonwealth charged with the  
27 administration of this chapter.

28 § 4326. Bonds.

29 (a) Taxpayer to file bond.--

30 (1) The department may require a nonresident natural

1 person or any foreign corporation, association, fiduciary or  
2 other entity, not authorized to do business within this  
3 Commonwealth or not having an established place of business  
4 in this Commonwealth and subject to the tax imposed by  
5 section 4303 (relating to imposition of tax), to file a bond  
6 issued by a surety company authorized to do business in this  
7 Commonwealth and approved by the Insurance Commissioner as to  
8 solvency and responsibility, in amounts as the department may  
9 fix, to secure the payment of any tax or penalties due or  
10 which may become due from a nonresident natural person,  
11 corporation, association, fiduciary or other entity whenever  
12 the department deems it necessary to protect the revenues  
13 obtained under this chapter.

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

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

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

25 (5) The taxpayer shall file the bond within five days  
26 after notice is given by the department unless, within five  
27 days, the taxpayer requests in writing a hearing before the  
28 Secretary of Revenue or his representative.

29 (6) At the hearing, the necessity, propriety and amount  
30 of the bond shall be determined by the Secretary of Revenue

1 or his representative.

2 (7) The determination shall be final and the taxpayer  
3 shall comply within 15 days after notice is mailed to the  
4 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. The securities or cash shall be kept  
9 in the custody of the department.

10 (2) The department may:

11 (i) Apply the securities or cash to the tax imposed  
12 by this chapter and interest or penalties due without  
13 notice to the depositor.

14 (ii) Sell the securities to pay the tax and interest  
15 or penalties due at public or private sale upon five  
16 days' written notice to the depositor.

17 (c) Failure to file bond.--

18 (1) The department may file a lien under section 4316  
19 (relating to tax liens) against any taxpayer who fails to  
20 file a bond when required to do so under this section.

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

25 § 4327. Deposit of proceeds.

26 The proceeds of the tax imposed under section 4303 (relating  
27 to imposition of tax) and penalties and interest imposed under  
28 this chapter shall be deposited as follows:

29 (1) Fifty percent into the Public School Employees'  
30 Retirement Fund for the purpose of reducing accrued unfunded

1 liabilities.

2 (2) Fifty percent to a restricted account in the General  
3 Fund for the payment of the general government operations of  
4 the Pennsylvania State Police.

5 Section 3. This act shall take effect immediately.