

AMENDMENTS TO HOUSE BILL NO. 283

Sponsor: REPRESENTATIVE MARKOSEK

Printer's No. 282

1 Amend Bill, page 1, line 11, by striking out the period after
2 "tax" and inserting

3 ; in personal income tax, further providing for imposition,
4 providing for special rules for withholding, further
5 providing for special tax provisions for poverty and
6 providing for property tax rebate; providing for education
7 reinvestment; and making related repeals.

8 Amend Bill, page 2, line 12, by striking out all of said line
9 and inserting

10 Section 2. Section 302 of the act, amended December 23, 2003
11 (P.L.250, No.46), is amended to read:

12 Section 302. Imposition of Tax.--(a) Every resident
13 individual, estate or trust shall be subject to, and shall pay
14 for the privilege of receiving each of the classes of income
15 hereinafter enumerated in section 303, a tax upon each dollar of
16 income received by that resident during that resident's taxable
17 year at the rate of three and [seven] fifty-seven hundredths per
18 cent.

19 (b) Every nonresident individual, estate or trust shall be
20 subject to, and shall pay for the privilege of receiving each of
21 the classes of income hereinafter enumerated in section 303 from
22 sources within this Commonwealth, a tax upon each dollar of
23 income received by that nonresident during that nonresident's
24 taxable year at the rate of three and [seven] fifty-seven
25 hundredths per cent.

26 Section 3. The act is amended by adding a section to read:

27 Section 302.2. Special Rules for Withholding.--When the tax
28 rate changes during a taxable year, the department shall submit
29 to the Legislative Reference Bureau for publication in the
30 Pennsylvania Bulletin a notice to employers regarding the amount
31 to be deducted and withheld from compensation subject to
32 withholding under section 316 for the balance of the taxable
33 year. Every employer shall comply with the notice.

34 Section 4. Section 304 of the act, amended December 13, 1991
35 (P.L.373, No.40) and December 23, 2003 (P.L.250, No.46), is
36 amended to read:

1 Section 304. Special Tax Provisions for Poverty.--(a) The
2 General Assembly, in recognition of the powers contained in
3 section 2(b)(ii) of Article VIII of the Constitution of the
4 Commonwealth of Pennsylvania which provides therein for the
5 establishing as a class or classes of subjects of taxation the
6 property or privileges of persons who, because of poverty are
7 determined to be in need of special tax provisions hereby
8 declares as its legislative intent and purpose to implement such
9 power under such constitutional provision by establishing
10 special tax provisions as hereinafter provided in this act.

11 (b) The General Assembly having determined that there are
12 persons within this Commonwealth whose incomes are such that
13 imposition of a tax thereon would deprive them and their
14 dependents of the bare necessities of life and having further
15 determined that poverty is a relative concept inextricably
16 joined with actual income and the number of people dependent
17 upon such income deems it to be a matter of public policy to
18 provide special tax provisions for that class of persons
19 hereinafter designated to relieve their economic burden.

20 (c) For the taxable year 1974 and each year thereafter any
21 claimant who meets the following standards of eligibility
22 established by this act as the test for poverty shall be deemed
23 a separate class of subject of taxation, and, as such, shall be
24 entitled to the benefit of the special provisions of this act.

25 (d) Any claim for special tax provisions hereunder shall be
26 determined in accordance with the following:

27 (1) If the poverty income of the claimant during an entire
28 taxable year is [six thousand five hundred dollars (\$6,500)]
29 eight thousand seven hundred dollars (\$8,700) or less, or, in
30 the case of a married claimant, if the joint poverty income of
31 the claimant and the claimant's spouse during an entire taxable
32 year is [thirteen thousand dollars (\$13,000)] seventeen thousand
33 four hundred dollars (\$17,400) or less, the claimant shall be
34 entitled to a refund or forgiveness of any moneys which have
35 been paid over to (or would except for the provisions of this
36 act be payable to) the Commonwealth under the provisions of this
37 article, with an additional income allowance of nine thousand
38 five hundred dollars (\$9,500) for each dependent of the
39 claimant. For purposes of this subsection, a claimant shall not
40 be considered to be married if:

41 (i) The claimant and the claimant's spouse file separate
42 returns; and

43 (ii) The claimant and the claimant's spouse live apart at
44 all times during the last six months of the taxable year or are
45 separated pursuant to a written separation agreement.

46 (2) If the poverty income of the claimant during an entire
47 taxable year does not exceed the poverty income limitations
48 prescribed by clause (1) by more than the dollar category
49 contained in subclauses (i), (ii), (iii), (iv), (v), (vi),
50 (vii), (viii) or (ix) of this clause, the claimant shall be
51 entitled to a refund or forgiveness based on the per centage

1 prescribed in such subclauses of any moneys which have been paid
2 over to (or would have been except for the provisions herein be
3 payable to) the Commonwealth under this article:

4 (i) Ninety per cent if not in excess of two hundred fifty
5 dollars (\$250).

6 (ii) Eighty per cent if not in excess of five hundred
7 dollars (\$500).

8 (iii) Seventy per cent if not in excess of seven hundred
9 fifty dollars (\$750).

10 (iv) Sixty per cent if not in excess of one thousand dollars
11 (\$1,000).

12 (v) Fifty per cent if not in excess of one thousand two
13 hundred fifty dollars (\$1,250).

14 (vi) Forty per cent if not in excess of one thousand five
15 hundred dollars (\$1,500).

16 (vii) Thirty per cent if not in excess of one thousand seven
17 hundred fifty dollars (\$1,750).

18 (viii) Twenty per cent if not in excess of two thousand
19 dollars (\$2,000).

20 (ix) Ten per cent if not in excess of two thousand two
21 hundred fifty dollars (\$2,250).

22 (3) If an individual has a taxable year of less than twelve
23 months, the poverty income thereof shall be annualized in such
24 manner as the department may prescribe.

25 Section 5. The act is amended by adding a section to read:

26 Section 360. Property Tax Rebate.--(a) Notwithstanding the
27 provisions of section 1304(a)(2)(i) of the act of June 27, 2006
28 (1st Sp.Sess., P.L.1873, No.1), known as the "Taxpayer Relief
29 Act," the base amount of any claim for property tax rebate for
30 real property taxes due and payable during calendar year 2016
31 and thereafter shall be determined in accordance with the
32 following schedule:

<u>Household Income</u>	<u>Amount of Real Property Taxes Allowed as Rebate</u>
<u>\$ 0 - \$ 8,000</u>	<u>\$2000</u>
<u>8,001 - 15,000</u>	<u>1700</u>
<u>15,001 - 18,000</u>	<u>1500</u>
<u>18,001 - 35,000</u>	<u>1200</u>
<u>35,001 - 45,000</u>	<u>900</u>
<u>45,001 - 55,000</u>	<u>600</u>

41 (b) Approved claims shall be paid from the State Lottery
42 Fund established by the act of August 26, 1971 (P.L.351, No.91),
43 known as the "State Lottery Law."

44 (c) Beginning in fiscal year 2017-2018 and in each fiscal
45 year thereafter, the Secretary of the Budget shall transfer to
46 the State Lottery Fund from funds collected under this article
47 an amount equal to the difference between the amount of approved
48 claims to be paid in the subject fiscal year under subsection
49 (a) and the amount of approved claims paid in fiscal year 2014-
50 2015 under section 1304 of the "Taxpayer Relief Act."

51 (d) The definition of "income" in section 1303 of the

1 "Taxpayer Relief Act" shall not include veterans' disability
2 payments.

3 Section 6. The act is amended by adding an article to read:

4 ARTICLE XI-E

5 EDUCATION REINVESTMENT

6 PART I

7 SEVERANCE TAX

8 Section 1101-E. Definitions.

9 The following words and phrases when used in this article
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Association." A partnership, limited partnership or any
13 other form of unincorporated enterprise owned or conducted by
14 two or more persons.

15 "Barrel." Forty-two United States gallons at an atmospheric
16 pressure of 231 cubic inches of liquid at a standard temperature
17 of 60 degrees Fahrenheit.

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

20 "Corporation." A corporation, joint stock association,
21 limited liability company, business trust or any other
22 incorporated enterprise organized under the laws of the United
23 States, this Commonwealth or any other state, territory or
24 foreign country or dependency.

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

26 "Dry natural gas." Hydrocarbon gases, consisting mostly of
27 methane, that remain after the natural gas liquid portion of the
28 natural gas stream has been removed and any volume of
29 nonhydrocarbon gases have been removed in sufficient quantity to
30 render the gas marketable. The term includes consumer-grade
31 natural gas or pipeline-quality natural gas.

32 "Gross proceeds." The value, whether in money or other
33 property, actually proceeding from the sale of property, without
34 a deduction for the cost of property sold or expenses of any
35 kind.

36 "Gross value." The gross proceeds received or receivable for
37 property transferred, except as follows:

38 (1) In a transaction involving related parties, gross
39 proceeds of the property transferred may not be less than the
40 fair market value of similar grade and quality property.

41 (2) In the absence of a sale, gross proceeds of the
42 property transferred may not be less than the fair market
43 value of similar grade and quality property.

44 (3) In a transaction where property is transferred for
45 the purpose of processing and resale, gross proceeds of the
46 property transferred may not be less than the fair market
47 value of similar grade and quality property.

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

50 "Natural gas." A fossil fuel consisting of a mixture of
51 hydrocarbon gases, including methane, ethane, propane, butane,

1 carbon dioxide, oxygen, nitrogen and hydrogen sulfide and other
2 gas species. The term includes natural gas from oil fields known
3 as associated gas or casing head gas, natural gas fields known
4 as nonassociated gas, shale beds and other formations. The term
5 does not include coal bed methane.

6 "Natural gas liquids." Hydrocarbons including ethane,
7 propane, butane, isobutane and pentane that are separated from
8 natural gas as liquids through the process of absorption,
9 condensation, adsorption, cooling in gas separators, gas
10 processing or cycling plants.

11 "Person." Includes a corporation, partnership, limited
12 liability company, business trust, other association, a
13 government entity other than the Commonwealth, estate, trust,
14 foundation or natural person.

15 "Postproduction costs." Proportional costs incurred in and
16 associated with processing and transporting natural gas from the
17 point the gas is brought to the surface to the point of sale,
18 limited to gathering, separating, treating, dehydrating,
19 compressing, processing, transporting or losses by use as fuel
20 or line loss of natural gas. The term includes the costs of
21 fractionating and marketing ethane, propane, butane and other
22 complex hydrocarbons. The term does not include corporate
23 structure or financing costs.

24 "Producer." A person who engages or continues within this
25 Commonwealth in the business of severing natural gas from
26 unconventional formations for sale, profit or commercial use.

27 "Producing site." A point of severance, including a well and
28 its associated zones and multilateral well bores, that is
29 capable of producing natural gas from an unconventional
30 formation.

31 "Related parties." Two or more people, organizations or
32 businesses owned or controlled directly or indirectly by the
33 same interests. Control exists if a contract or lease, either
34 written or oral, is entered into where one party severs or
35 processes natural gas owned or held by another party and the
36 owner or lessor participates in the severing, processing or
37 marketing of the natural gas or receives any value other than an
38 arm's-length passive royalty interest.

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

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

43 "Sever." The extraction or other removal of natural gas from
44 an unconventional formation in this Commonwealth.

45 "Storage field." A natural formation or other site that is
46 used to store natural gas that did not originate from and has
47 been transplanted into such formation or site.

48 "Stripper well." A producing site that produced an average
49 of less than 90 units of natural gas per day during the calendar
50 year immediately preceding a reporting period.

51 "Tax." The tax imposed under this article.

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

3 "Unconventional formation." A geological shale formation
4 existing below the base of the Elk Sandstone or its geologic
5 equivalent stratigraphic interval where natural gas generally
6 cannot be produced at economic flow rates or in economic volumes
7 except by vertical or horizontal well bores stimulated by
8 hydraulic fracture treatments or using multilateral well bores
9 or other techniques to expose more of the formation to the well
10 bore.

11 "Unit." A thousand cubic feet (Mcf) of natural gas at a
12 temperature of 60 degrees Fahrenheit and an absolute pressure of
13 14.73 pounds per square inch, in accordance with American Gas
14 Association (AGA) standards and according to Boyle's law for the
15 measurement of gas under varying pressures with deviations
16 therefrom as follows:

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

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

31 (3) The specific gravity of the gas shall be determined
32 by tests made by the use of an Edwards or Acme gravity
33 balance, annually, or at intervals as are found necessary in
34 practice. Specific gravity shall be used in computing gas
35 volumes.

36 (4) The deviation of the natural gas from Boyle's law
37 shall be determined by tests annually or at other shorter
38 intervals as are found necessary in practice. The apparatus
39 and the method to be used in making the tests shall be in
40 accordance with recommendations of the Natural Bureau of
41 Standards of the Department of Commerce, or Report No. 3 of
42 the Gas Measurement Committee of the American Gas
43 Association, or any amendments thereof. The results of the
44 tests shall be used in computing the volume of gas delivered.

45 "Wellhead meter." A meter placed at a producing site to
46 measure the actual volume of natural gas severed.

47 Section 1102-E. Imposition of tax.

48 (a) Imposition.--There is hereby levied a privilege tax on
49 every producer.

50 (b) Rate.--The tax imposed under subsection (a) shall be the
51 sum of the following:

1 (1) Four and seven tenths cents for each unit of natural
2 gas severed measured at the wellhead meter.

3 (2) Subject to the provisions of section 1104-E, 3.5% of
4 the gross value of each unit of the dry natural gas derived
5 from the natural gas severed.

6 (3) Subject to the provisions of section 1104-E, 3.5% of
7 the gross value of the natural gas liquids derived from the
8 natural gas severed.

9 (c) Exemptions.--The tax imposed under subsection (a) shall
10 not be imposed upon the following:

11 (1) Natural gas, dry natural gas or natural gas liquids
12 severed under a natural gas lease and provided to a lessor
13 for no consideration for the lessor's own use.

14 (2) Natural gas, dry natural gas or natural gas liquids
15 severed from a stripper well.

16 (3) Natural gas, dry natural gas or natural gas liquids
17 severed from a storage field.

18 (4) Natural gas, dry natural gas or natural gas liquids
19 severed, sold and delivered at or within five miles of a
20 producing site for the processing or manufacture of tangible
21 personal property, as defined in section 201, within this
22 Commonwealth.

23 Section 1103-E. Postproduction costs.

24 A producer may deduct postproduction costs from the gross
25 value of natural gas and natural gas liquids subject to the tax
26 imposed under section 1102-E. The amount of the deduction may
27 not exceed 15% of the gross value.

28 Section 1104-E. Prohibition.

29 A deduction from the minimum royalty payment required to be
30 paid to a lessor under a lease permitting a producer to sever
31 natural gas from real property subject to the lease may not be
32 made by a producer for postproduction costs or the tax imposed
33 under section 1102-E, and a lessor may not be required to pay or
34 reimburse the producer for the amount of the postproduction
35 costs or the tax or any portion of either the postproduction
36 costs or the tax.

37 Section 1104.1-E. Existing agreements.

38 A provision of an agreement, which is in existence prior to
39 the effective date of this section, which violates section 1104-
40 E is declared to be illegal, contrary to public policy and null
41 and void.

42 Section 1104.2-E. Future agreements.

43 On or after the effective date of this section, a provision
44 of an agreement in violation of section 1104-E is declared to be
45 illegal, contrary to public policy and null and void.

46 Section 1104.3-E. Nonseverability.

47 If all or any portion of section 1104-E, 1104.1-E or 1104.2-E
48 or their application to any person or circumstance are held to
49 be invalid by any court, section 1103-E shall be void.

50 Section 1105-E. Return and payment.

51 (a) Return.--Each producer is required to file a return with

1 the department, on a form to be prescribed by the department,
2 reporting all severed natural gas per reporting period and the
3 tax due as imposed under section 1102-E.

4 (b) Filing.--The return required by subsection (a) must be
5 filed with the department on or before the 20th day of the
6 fourth calendar month after a reporting period.

7 (c) Due date.--The tax imposed under section 1102-E is due
8 on the day the return is required to be filed and becomes
9 delinquent if not remitted to the department by that date.
10 Section 1106-E. Natural gas severance tax licensing.

11 (a) License required.--Each producer subject to tax under
12 this part must apply to the department for a severance tax
13 license before severing natural gas from this Commonwealth.
14 Producers who have been severing natural gas from this
15 Commonwealth prior to the effective date of this part must
16 obtain a license from the department within six months from the
17 effective date of this section. All other producers must obtain
18 a license before severing natural gas from this Commonwealth. A
19 producer is liable for the tax imposed by this article without
20 regard to whether the producer obtains or is required to obtain
21 a license.

22 (b) Fee.--The department may charge an application fee to
23 cover the administrative costs associated with the application
24 and licensing process. If the department charges an application
25 fee, the department may not issue a license until the producer
26 has paid the application fee.

27 (c) Declaration.--As part of the application for a license,
28 the producer shall provide a declaration of all sites in this
29 Commonwealth used by the producer for the severance of natural
30 gas. The declaration shall include all producing sites and sites
31 which are stripper wells. The producer shall update the
32 declaration when the producer adds or removes a producing site
33 in this Commonwealth or when there is a change in the status of
34 a producing site. The producer shall update the declaration
35 within 30 days after any calendar month in which a change in the
36 information contained in the declaration occurs.

37 (d) Department duties.--The department shall, after the
38 receipt of an application, issue the license applied for under
39 subsection (a), if the applicant filed all required State tax
40 reports and paid any State taxes not subject to a timely
41 perfected administrative or judicial appeal or subject to a duly
42 authorized deferred payment plan. The license shall be
43 nonassignable. Each producer shall be required to renew the
44 license on a staggered renewal system established by the
45 department. After the initial staggered period, a license issued
46 shall be valid for a period of five years.

47 (e) State taxes.--If an applicant for a license or a person
48 holding a license has not filed all required State tax reports
49 and paid any State taxes not subject to a timely perfected
50 administrative or judicial appeal or subject to a duly
51 authorized deferred payment plan, the department may refuse to

1 issue, suspend or revoke the license. The department shall
2 notify the applicant or licensee of a refusal, suspension or
3 revocation. The notice shall contain a statement that the
4 refusal, suspension or revocation may be made public. The notice
5 shall be made by first class mail. An applicant or licensee
6 aggrieved by the determination of the department may file an
7 appeal of the determination in the same manner as provided for
8 reassessments of tax under section 1108-E. In the case of a
9 suspension or revocation which is appealed, the license shall
10 remain valid pending a final outcome of the appeal.
11 Notwithstanding any other provision of law to the contrary, if
12 no appeal is taken or if an appeal is taken and denied at the
13 conclusion of the appeal process, the department may disclose,
14 by publication or otherwise, the identity of a person whose
15 license has been refused, suspended or revoked under this
16 subsection. Disclosure may include the basis for refusal,
17 suspension or revocation.

18 (f) Severing without a license.--A person that severs
19 natural gas in this Commonwealth without holding a valid license
20 under this section shall be guilty of a summary offense and,
21 upon conviction thereof, be sentenced to pay a fine of not less
22 than \$300 nor more than \$1,500 and, in default thereof, to
23 undergo imprisonment of not less than five days nor more than 30
24 days. The penalties imposed by this subsection shall be in
25 addition to any other penalties imposed by law. For purposes of
26 this subsection, the severing of natural gas during any calendar
27 day shall constitute a separate violation. The Secretary of
28 Revenue may designate employees of the department to enforce the
29 provisions of this subsection. The employees shall exhibit proof
30 of and be within the scope of the designation when instituting
31 proceedings as provided by the Pennsylvania Rules of Criminal
32 Procedure.

33 (g) Liability.--Failure to obtain a license does not relieve
34 a person from liability for the tax imposed by this part.

35 (h) Civil penalty.--In addition to any tax, interest or
36 other penalty due under this article, the department shall
37 impose a civil penalty of 10¢ per unit severed during the period
38 a producer is required to and does not have a license. The
39 penalty shall be assessed and collected under this part.

40 Section 1107-E. Meters.

41 A producer shall provide for and maintain discrete wellhead
42 and sales meters. A producer shall ensure that all meters are
43 maintained according to industry standards.

44 Section 1108-E. Administration of tax.

45 Unless otherwise noted to the contrary, Article II, Part VI,
46 Chapters IV-VIII shall apply to this article.

47 Section 1109-E. Records.

48 A producer shall maintain the following records:

49 (1) Wellhead and sales meter charts for each reporting
50 period and the meter calibration and maintenance records. If
51 turbine meters are in use, the maintenance records will be

1 made available to the department upon request.

2 (2) All records, statements, and other instruments
3 furnished to a producer by any person to whom the producer
4 delivers for sale, transport or other delivery of any natural
5 gas.

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

8 Section 1110-E. Enforcement of article.

9 The department and the Department of Environmental Protection
10 shall have the ability to inspect records and locations to
11 ensure compliance with this article.

12 Section 1111-E. Use of revenue.

13 Revenue collected under this part shall be used for
14 education.

15 PART II

16 (RESERVED)

17 Section 7. The amendment of section 304 of the act shall
18 apply to tax years beginning after December 31, 2014.

19 Section 8. Repeals are as follows:

20 (1) The General Assembly declares that the repeal under
21 paragraph (2) is necessary to effectuate the addition of
22 Article XI-E of the act.

23 (2) 58 Pa.C.S. § 2318 is repealed.

24 Section 9. The amendment of section 302 of the act shall
25 apply retroactively to October 1, 2015.

26 Section 10. This act shall take effect as follows:

27 (1) The amendment of section 204 of the act shall take
28 effect January 1, 2016.

29 (2) The addition of section 1106-E of the act shall take
30 effect immediately. The addition of the remainder of Article
31 XI-E of the act shall take effect January 1, 2016.

32 (3) The remainder of this act shall take effect
33 immediately.