
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2508 Session of
2014

INTRODUCED BY DAVIDSON, THOMAS, CLAY, YOUNGBLOOD, COHEN, PARKER,
MURT AND SCAVELLO, SEPTEMBER 22, 2014

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
SEPTEMBER 22, 2014

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 establishing the Natural Gas Severance Tax Account; and
5 making a related repeal.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

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

10 CHAPTER 15

11 EFFECTS OF NATURAL GAS DRILLING

12 Sec.

13 1501. Scope of chapter.

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15 1503. Imposition of tax.

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22 1527. Natural Gas Severance Tax Account.
23 1528. Transfers and distributions.

24 § 1501. Scope of chapter.

25 This chapter shall relate to the ability of all counties
26 within this Commonwealth to ameliorate the effects of natural
27 gas drilling that occur within their borders.

28 § 1502. Definitions.

29 The following words and phrases when used in this chapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

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

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

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

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

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

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

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

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

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

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

1 coal bed methane.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 computing gas volumes.

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

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

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

17 § 1503. Imposition of tax.

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

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

23 § 1504. Return and payment.

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

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

29 (2) The number of producing sites used by the producer
30 for the severance of natural gas in each county and

1 municipality.

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

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

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

10 § 1505. Natural gas severance tax registration.

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

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

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

1 calendar month in which a change to the declaration occurs.

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

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

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

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

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

24 § 1505.1. Meters.

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

30 § 1506. Assessments.

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

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

12 § 1507. Time for assessment.

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

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

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

28 (d) Erroneous credit or refund.--Within three years of the
29 granting of a refund or credit or within the period in which an
30 assessment or reassessment may have been issued by the

1 department for the taxable period for which the refund was
2 granted, whichever period shall last occur, the department may
3 issue an assessment to recover a refund or credit made or
4 allowed erroneously.

5 § 1508. Extension of assessment period.

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

14 § 1509. Reassessments.

15 A taxpayer against whom an assessment is made may petition
16 the department for a reassessment under Article XXVII of the act
17 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
18 1971.

19 § 1510. Interest.

20 The department shall assess interest on any delinquent tax at
21 the rate prescribed under section 806 of the act of April 9,
22 1929 (P.L.343, No.176), known as The Fiscal Code.

23 § 1511. Penalties.

24 The department shall enforce the following penalties:

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

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

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

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

14 § 1512. Criminal acts.

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

21 (b) Other crimes.--

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

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

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

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

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

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

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

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

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

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

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

20 § 1513. Abatement of additions or penalties.

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

27 § 1514. Bulk and auction sales.

28 A person that sells or causes to be sold at auction, or that
29 sells or transfers in bulk, 51% or more of a stock of goods,
30 wares or merchandise of any kind, fixtures, machinery,

1 equipment, buildings or real estate involved in a business for
2 which the person holds a registration certificate or is required
3 to obtain a registration certificate under the provisions of
4 this chapter shall be subject to the provisions of section 1403
5 of the act of April 9, 1929 (P.L.343, No.176), known as The
6 Fiscal Code.

7 § 1515. Collection upon failure to request reassessment, review
8 or appeal.

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

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

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

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

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

19 (ii) the expiration of the board's time for acting
20 upon the petition.

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

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

1 collection by a motion to stay the proceedings.

2 § 1516. Tax liens.

3 (a) Lien imposed.--If any taxpayer neglects or refuses to
4 pay the tax imposed under this chapter for which the taxpayer is
5 liable under this chapter after demand, the amount, including
6 interest, addition or penalty, together with additional costs
7 that may accrue, shall be a lien in favor of the Commonwealth
8 upon the real and personal property of the taxpayer but only
9 after the same has been entered and docketed of record by the
10 prothonotary of the county where the property is situated. The
11 department may, at any time, transmit to the prothonotaries of
12 the respective counties certified copies of all liens imposed by
13 this section. It shall be the duty of the prothonotary receiving
14 the lien to enter and docket the same of record to the office of
15 the prothonotary. The lien shall be indexed as judgments are now
16 indexed. No prothonotary shall require as a condition precedent
17 to the entry of the lien the payment of costs incidental to its
18 entry.

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

30 (c) No discharge by sale on junior lien.--In the case of a

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

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

28 (e) Priority.--Except as provided in this chapter, the
29 distribution, voluntary or compulsory, in receivership,
30 bankruptcy or otherwise of the property or estate of any person,

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

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

19 § 1517. Tax suit reciprocity.

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

25 § 1518. Service.

26 A producer is deemed to have appointed the Secretary of the
27 Commonwealth its agent for the acceptance of service of process
28 or notice in a proceeding for the enforcement of the civil
29 provisions of this chapter and service made upon the Secretary
30 of the Commonwealth as agent shall be of the same legal force

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

12 § 1519. Refunds.

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

29 § 1520. Refund petition.

30 (a) General rule.--Except as provided for in subsection (b),

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

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

18 § 1521. Rules and regulations.

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

29 § 1522. Recordkeeping.

30 (a) General rule.--Every person liable for any tax imposed

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

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

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

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

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

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

28 (c) Keeping of separate records.--A producer who is engaged
29 in another business or businesses which do not involve the
30 severing of natural gas taxable under this chapter shall keep

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

8 § 1523. Examinations.

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

29 § 1524. Unauthorized disclosure.

30 Any information gained by the department as a result of any

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

9 § 1525. Cooperation with other governments.

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

24 § 1526. Bonds.

25 (a) Taxpayer to file bond.--The department may require a
26 nonresident natural person or any foreign corporation,
27 association, fiduciary or other entity, not authorized to do
28 business within this Commonwealth or not having an established
29 place of business in this Commonwealth and subject to the tax
30 imposed by section 1503 (relating to imposition of tax), to file

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

25 (b) Securities in lieu of bond.--In lieu of the bond
26 required by this section securities approved by the department
27 or cash in a prescribed amount may be deposited. The securities
28 or cash shall be kept in the custody of the department. The
29 department may apply the securities or cash to the tax imposed
30 by this chapter and interest or penalties due without notice to

1 the depositor. The securities may be sold by the department to
2 pay the tax and/or interest or penalties due at public or
3 private sale upon five days' written notice to the depositor.

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

11 § 1527. Natural Gas Severance Tax Account.

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

15 (b) Deposits.--The proceeds of the tax imposed under section
16 1503 (relating to imposition of tax) and penalties and interest
17 imposed under this chapter shall be deposited into the account.

18 (c) Use of moneys.--The money in the account shall only be
19 used in accordance with section 1528 (relating to transfers and
20 distributions).

21 § 1528. Transfers and distributions.

22 On the last business day of each calendar month, the State
23 Treasurer shall make the following transfers and distributions
24 of the money in the Natural Gas Severance Tax Account:

25 (1) Sixteen percent to the General Fund.

26 (2) Twenty-nine and six-tenths percent to the
27 Environmental Stewardship Fund.

28 (3) Seventeen and three-tenths percent to the Department
29 of Health.

30 (3.1) Thirty-two percent to the Department of Education.

1 (4) Four and three-tenths percent to the Hazardous Sites
2 Cleanup Fund.

3 (5) Eight-tenths of one percent to the Department of
4 Environmental Protection for State dam removal, restoration
5 and repair projects.

6 Section 2. Repeals are as follows:

7 (1) The General Assembly declares that the repeal under
8 paragraph (2) is necessary to effectuate the addition of 72
9 Pa.C.S. Ch. 15.

10 (2) The provisions of 58 Pa.C.S. § 2318 are repealed.
11 Section 3. This act shall take effect immediately.