

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, providing for taxation of natural gas drilling and
3 for transfers and distributions.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 58 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 37

9 EFFECTS OF NATURAL GAS DRILLING

10 Sec.

11 3701. Scope of chapter.

12 3702. Definitions.

13 3703. Imposition of tax.

14 3704. Return and payment.

15 3705. Natural gas severance tax registration.

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20 3727. Bonds.
21 3728. Accounts established.
22 3729. Distributions and transfers.
23 § 3701. Scope of chapter.
24 This chapter relates to the ability of all counties within
25 this Commonwealth to ameliorate the effects of natural gas
26 drilling that occur within the county's borders.
27 § 3702. Definitions.
28 The following words and phrases when used in this chapter
29 shall have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

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

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

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

9 "Base rate." The rate under section 3703(b) (relating to
10 imposition of tax).

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

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

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

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

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

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

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

3 "Paying quantities." Profit to the producer over the
4 producer's current operating expenses.

5 "Person." A natural person or a corporation, fiduciary,
6 association or other entity. The term includes the Commonwealth,
7 its political subdivisions, instrumentalities and authorities.
8 If the term is used in a manner prescribing and imposing a
9 penalty or imposing a fine, imprisonment or both, the term
10 includes a member of an association and an officer of a
11 corporation.

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

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

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

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

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

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

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

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

30 "Tax." The natural gas severance tax imposed under this

1 chapter.

2 "Tax rate adjustment index." The amount calculated under
3 section 3703(b) (relating to imposition of tax) by which the
4 rate of the tax imposed under section 3703(b) is adjusted
5 annually.

6 "Taxpayer." A person subject to the tax imposed under 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 § 3703. Imposition of tax.

18 (a) Establishment.--There is levied a privilege tax on each
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 4.6¢ per unit severed.

23 § 3704. Return and payment.

24 (a) Requirement.--Each producer is required to file a return
25 with the department, on a form prescribed by the department,
26 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 3703 (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 3703 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 § 3705. 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 (b) 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 fee must be paid before the
18 department may issue a registration certificate.

19 (c) Declaration.--

20 (1) The producer shall include in the application a
21 declaration of all producing sites and nonproducing sites
22 used by the producer for the severance of natural gas. The
23 declaration shall include copies of wellhead meter
24 certifications for each site. The producer is required to
25 update the declaration when any of the following occur:

26 (i) The producer adds or removes a producing site or
27 nonproducing site in this Commonwealth.

28 (ii) There is a change in the status of a producing
29 site or nonproducing site.

30 (iii) When the producer uses a different accredited

1 laboratory to issue a wellhead meter certification.

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

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

14 (e) Refusal, suspension or revocation.--

15 (1) The department may refuse to issue, suspend or
16 revoke a registration certificate if the applicant or
17 registrant has not:

18 (i) Filed required State tax reports.

19 (ii) Paid State taxes not subject to a timely
20 perfected administrative or judicial appeal or subject to
21 a duly authorized deferred payment plan.

22 (2) The department shall notify the applicant or
23 registrant by first class mail of a refusal, suspension or
24 revocation. The notice shall contain a statement that the
25 refusal, suspension or revocation may be made public.

26 (3) An applicant or registrant aggrieved by the
27 determination of the department may file an appeal under the
28 provisions for administrative appeals in the act of March 4,
29 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. If
30 a suspension or revocation is appealed, the registration

1 certificate shall remain valid pending a final outcome of the
2 appeals process.

3 (4) Notwithstanding sections 274, 353(f), 408(b), 603,
4 702, 802, 904 and 1102 of the Tax Reform Code of 1971 or
5 another provision of law, if no appeal is taken or if an
6 appeal is taken and denied at the conclusion of the appeal
7 process, the department may disclose the following:

8 (i) The identity of a producer.

9 (ii) The fact that the producer's registration
10 certificate has been refused, suspended or revoked under
11 this subsection.

12 (iii) The basis for refusal, suspension or
13 revocation.

14 (f) Violation.--

15 (1) A person severing natural gas in this Commonwealth
16 without holding a valid registration certificate under
17 subsection (b) commits a summary offense and, upon
18 conviction, shall be sentenced to pay a fine of not less than
19 \$300 nor more than \$1,500.

20 (2) If the person convicted defaults in the payment of
21 the fine, the person shall be sentenced to imprisonment for
22 not less than five days and not more than 30 days.

23 (3) The penalties imposed under this subsection shall be
24 in addition to other penalties imposed under this chapter.

25 (4) For purposes of this subsection, the severing of
26 natural gas during a calendar day shall constitute a separate
27 violation.

28 (5) The secretary may designate employees of the
29 department to enforce this subsection. The employees shall
30 exhibit proof of and be within the scope of the designation

1 when instituting proceedings as provided by the Pennsylvania
2 Rules of Criminal Procedure.

3 (g) Failure to obtain registration certificate.--Failure to
4 obtain or hold a valid registration certificate shall not
5 relieve a person from liability for the tax imposed by this
6 chapter.

7 § 3706. Meters.

8 A producer shall provide for and maintain a discrete wellhead
9 meter where natural gas is severed. A producer shall ensure that
10 the meters are maintained according to industry standards. A
11 wellhead meter installed after the effective date of this
12 section shall be a digital meter.

13 § 3707. Assessments.

14 (a) Authorization and requirement.--The department shall
15 make an inquiry, determination and assessment of the tax imposed
16 under this chapter, including interest, additions and penalties
17 imposed under this chapter.

18 (b) Notice.--The notice of assessment and demand for payment
19 shall be mailed to the taxpayer. The notice shall set forth the
20 basis of the assessment. The department shall send the notice of
21 assessment to the taxpayer at the taxpayer's registered address
22 via certified mail if the assessment increases the taxpayer's
23 tax liability by at least \$300. If the taxpayer's assessment is
24 increased by less than \$300, the notice of assessment may be
25 sent via regular mail.

26 § 3708. Time for assessment.

27 (a) Requirement.--An assessment under section 3707 (relating
28 to assessments) shall be made within three years after the date
29 when the return under section 3704 (relating to return and
30 payment) is filed or the end of the year in which the tax

1 liability arises, whichever shall occur last. For the purposes
2 of this subsection and subsection (b), a return filed before the
3 last day prescribed for the filing period shall be considered as
4 filed on the last day.

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

8 (c) Intent to evade.--If no return is filed or where the
9 taxpayer files a false or fraudulent return with intent to evade
10 the tax imposed under this chapter, the assessment may be made
11 at any time.

12 (d) Erroneous credit or refund.--Within three years of the
13 granting of a refund or credit or within the period in which an
14 assessment or reassessment may have been issued by the
15 department for the taxable period for which the refund was
16 granted, whichever period shall last occur, the department may
17 issue an assessment to recover a refund or credit made or
18 allowed erroneously.

19 § 3709. Extension of assessment period.

20 Notwithstanding the provisions of this chapter, the
21 assessment period may be extended if a taxpayer has provided
22 written consent before the expiration of the period provided in
23 section 3708 (relating to time for assessment) for a tax
24 assessment. The amount of tax due may be assessed at any time
25 within the extended period. The period may be extended further
26 by subsequent written consents made before the expiration of the
27 extended period.

28 § 3710. Reassessments.

29 A taxpayer against whom an assessment is made may petition
30 the department for a reassessment under Article XXVII of the act

1 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
2 1971.

3 § 3711. Interest.

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

7 § 3712. Penalties.

8 The department shall enforce the following penalties:

9 (1) A penalty against a producer without a natural gas
10 severance tax registration certificate. The penalty shall be
11 \$1 for each unit severed without a valid registration
12 certificate. The department may assess the penalty separately
13 from or in conjunction with an assessment of the natural gas
14 severance tax.

15 (2) A penalty against a producer for failure to timely
16 file a return as required under section 3704 (relating to
17 return and payment). The penalty shall be 5% of the tax
18 liability to be reported on the return for each day beyond
19 the due date that the return is not filed.

20 (3) A penalty against the producer for a willful failure
21 to timely file a return. The penalty shall be 200% of the tax
22 liability required to be reported on the return.

23 (4) A penalty against a producer for failure to timely
24 pay the tax as required under section 3704(c). The penalty
25 shall be 5% of the amount of tax due for each day beyond the
26 payment date that the tax is not paid.

27 § 3713. Criminal acts.

28 (a) Fraudulent return.--A person with intent to defraud the
29 Commonwealth, who willfully makes or causes to be made a return
30 required under this chapter which is false, commits a

1 misdemeanor and shall, upon conviction, be sentenced to pay a
2 fine of not more than \$2,000 or to imprisonment for not more
3 than three years, or both.

4 (b) Other crimes.--

5 (1) Except as provided under subsection (a), a person
6 commits a misdemeanor and shall, upon conviction, be
7 sentenced to pay a fine of not more than \$1,000 and the cost
8 of prosecution or to imprisonment for not more than one year,
9 or both, for any of the following:

10 (i) Willfully failing to timely remit the tax to the
11 department.

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

14 (iii) Refusing to timely pay a tax, penalty or
15 interest imposed under this chapter.

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

18 (v) Refusing to permit the department or the
19 department's authorized agents to examine the person's
20 books, records or papers.

21 (vi) Knowingly making an incomplete, false or
22 fraudulent return or report.

23 (vii) Preventing or attempting to prevent the full
24 disclosure of the amount of natural gas severance tax
25 due.

26 (viii) Providing a person with a false statement as
27 to the payment of the tax imposed under this chapter with
28 respect to a pertinent fact.

29 (ix) Making, uttering or issuing a false or
30 fraudulent statement.

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

3 § 3714. Abatement of additions or penalties.

4 Upon the filing of a petition for reassessment or a petition
5 for refund by a taxpayer under this chapter, additions or
6 penalties imposed upon the taxpayer under this chapter may be
7 waived or abated in whole or in part where the petitioner
8 establishes that the petitioner acted in good faith, without
9 negligence and with no intent to defraud.

10 § 3715. Bulk and auction sales.

11 A person who does any of the following shall be subject to
12 section 1403 of the act of April 9, 1929 (P.L.343, No.176),
13 known as The Fiscal Code:

14 (1) Sells or causes to be sold at auction 51% or more of
15 a stock of goods, wares or merchandise, fixtures, machinery,
16 equipment, buildings or real estate involved in a business
17 for which the person holds a registration certificate or is
18 required to obtain a registration certificate under the
19 provisions of this chapter.

20 (2) Sells or transfers in bulk 51% or more of a stock of
21 goods, wares or merchandise, fixtures, machinery, equipment,
22 buildings or real estate involved in a business for which the
23 person holds a registration certificate or is required to
24 obtain a registration certificate under the provisions of
25 this chapter

26 § 3716. Collection upon failure to request reassessment, review
27 or appeal.

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

30 (1) If an assessment of the tax is not paid within 30

1 days after notice to the taxpayer when no petition for
2 reassessment has been filed.

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

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

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

8 (ii) the expiration of the board's time for acting
9 upon the petition.

10 (4) In any case of judicial sale, receivership,
11 assignment or bankruptcy.

12 (b) Prohibition.--

13 (1) Except as provided in paragraph (2), in a case for
14 the collection of tax under subsection (a), the taxpayer
15 against whom the tax was assessed shall not be permitted to
16 set up a ground of defense that might have been determined by
17 the department, the Board of Finance and Revenue or the
18 courts.

19 (2) The defense of failure of the department to mail
20 notice of assessment or reassessment to the taxpayer and the
21 defense of payment of assessment or reassessment may be
22 raised in proceedings for collection by a motion to stay the
23 proceedings.

24 § 3717. Tax liens.

25 (a) Lien imposed.--

26 (1) If a taxpayer neglects or refuses to pay the tax
27 imposed under this chapter for which the taxpayer is liable
28 under this chapter after demand, the amount, including
29 interest, addition or penalty, together with additional costs
30 that may accrue, shall be a lien in favor of the Commonwealth

1 upon the real and personal property of the taxpayer but only
2 after the property has been entered and docketed of record by
3 the prothonotary of the county where the property is
4 situated.

5 (2) The department may transmit to the prothonotaries of
6 the respective counties certified copies of all liens imposed
7 under this section.

8 (3) A prothonotary receiving a lien shall enter and
9 docket the property of record to the office of the
10 prothonotary. The lien shall be indexed as judgments are
11 indexed. A prothonotary may not require the payment of costs
12 incidental to the entry as a condition of the entry.

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

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

25 (1) For a judicial sale of property subject to a lien
26 imposed under this section, upon a lien or claim over which
27 the lien imposed under this section has priority, shall
28 discharge the lien imposed under this section to the extent
29 that the proceeds are applied to the payment. No inquisition
30 or condemnation upon a judicial sale of real estate made by

1 the Commonwealth under this chapter may occur.

2 (2) A lien shall continue in full force and effect as to
3 the balance remaining unpaid as provided in the act of April
4 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

5 (3) 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. Not less than ten days before issuance of an
8 execution on the lien, notice of the filing and the effect of
9 the lien shall be sent by registered mail to the taxpayer at
10 the taxpayer's last known post office address.

11 (4) A lien shall have no effect upon a stock of goods,
12 wares or merchandise regularly sold or leased in the ordinary
13 course of business by the taxpayer against whom the lien has
14 been entered, unless a writ of execution has been issued and
15 a levy made upon the stock of goods, wares and merchandise.

16 (d) Duty of prothonotary.--A willful failure of a
17 prothonotary to carry out a duty imposed upon the prothonotary
18 by this section shall be a misdemeanor. Upon conviction, the
19 prothonotary shall be sentenced to pay a fine of not more than
20 \$1,000 and the cost of prosecution or to imprisonment for not
21 more 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 a
26 person, tax imposed under this chapter which is due and
27 unpaid and are not collectible under section 225 of the act
28 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
29 of 1971, shall be paid from the first money available for
30 distribution in priority to all other claims and liens,

1 except priority to a claim to the Federal Government.

2 (2) A person charged with the administration or
3 distribution of the property or estate who violates the
4 provisions of this section shall be personally liable for the
5 tax imposed by this chapter which is accrued and unpaid and
6 chargeable against the person whose property or estate is
7 being administered or distributed.

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

14 § 3718. Tax suit reciprocity.

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

19 § 3719. Service.

20 (1) A producer shall be deemed to have appointed the
21 Secretary of the Commonwealth the producer's agent for the
22 acceptance of service of process or notice in a proceeding
23 for the enforcement of the civil provisions of this chapter
24 and service made upon the Secretary of the Commonwealth as
25 agent shall be of the same legal force and validity as if the
26 service had been personally made upon the producer.

27 (2) If service cannot be made upon the producer in the
28 manner provided by other laws of this Commonwealth relating
29 to service of process, service may be made upon the Secretary
30 of the Commonwealth, and a copy of the process or notice

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

7 § 3720. Refunds.

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

23 § 3721. Refund petition.

24 (a) General rule.--Except as provided for in subsection (b),
25 the refund or credit of tax, interest or penalty provided for by
26 section 3720 (relating to refunds) shall be made only if the
27 person who has paid the tax files a petition for refund with the
28 department under Article XXVII of the act of March 4, 1971
29 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the
30 time limits of section 3003.1 of the Tax Reform Code of 1971.

1 (b) Natural gas severance tax.--A refund or credit of tax,
2 interest or penalty paid as a result of an assessment made by
3 the department under section 3705 (relating to natural gas
4 severance tax registration) shall be made only if the person who
5 has paid the tax files with the department a petition for a
6 refund with the department under Article XXVII of the Tax Reform
7 Code of 1971 within the time limits of section 3003.1 of the Tax
8 Reform Code of 1971. The filing of a petition for refund under
9 this subsection shall not affect the abatement of interest,
10 additions or penalties to which the person may be entitled by
11 reason of the payment of the assessment.

12 § 3722. Rules and regulations.

13 The department shall enforce this chapter and may prescribe,
14 adopt, promulgate and enforce regulations consistent with this
15 chapter relating to the administration and enforcement of this
16 chapter and the collection of taxes, penalties and interest
17 imposed under this chapter. The department may prescribe the
18 extent, if any, to which the regulations shall be applied
19 without retroactive effect.

20 § 3723. Recordkeeping.

21 (a) General rule.--A person liable for a tax imposed under
22 this chapter, or for the collection of the tax, shall keep
23 records, render statements, make returns and comply with the
24 regulations as the department may prescribe regarding matters
25 pertinent to the person's business. If necessary, the department
26 may require a person, by notice served upon the person or by
27 regulations, to make returns, render statements or keep records
28 as the department deems sufficient to show whether or not a
29 person is liable to pay tax under this chapter.

30 (a.1) Records.--Records to be maintained under subsection

1 (a) are as follows:

2 (1) Wellhead meter charts for each reporting period and
3 the meter calibration and maintenance records. If turbine
4 meters are in use, the maintenance records will be made
5 available to the department upon request.

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

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

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

19 (c) Keeping of separate records.--A producer who is engaged
20 in another business which does not involve the severing of
21 natural gas taxable under this chapter shall keep separate books
22 and records of the business so as to show the taxable severing
23 of natural gas under this chapter separately from other business
24 activities not taxable hereunder. If a person fails to keep
25 separate books and records, the person shall be liable for a
26 penalty equaling 100% of tax due under this chapter for the
27 period where separate records were not maintained.

28 § 3724. Examinations.

29 (a) General rule.--The department or an authorized agent of
30 the department may examine the books, papers and records of a

1 taxpayer in order to verify the accuracy and completeness of a
2 return made or, if no return was made, to ascertain and assess
3 the tax imposed by this chapter.

4 (b) Preservation.--The department may require the
5 preservation of all books, papers and records for a period
6 deemed proper by the department but not to exceed three years
7 from the end of the calendar year to which the records relate.

8 (c) Access.--Each taxpayer must give to the department or
9 the department's agent the means, facilities and opportunity for
10 examinations and investigations under this section.

11 (d) Further powers.--The department may examine a person,
12 under oath, concerning the taxable severing of natural gas by a
13 taxpayer or concerning another matter relating to the
14 enforcement or administration of this chapter and may compel the
15 production of books, papers and records and the attendance of
16 all persons whether as parties or witnesses whom the department
17 believes to have knowledge of relevant matters.

18 (e) Procedure.--The procedure for a hearing or examination
19 shall be as provided under the act of April 9, 1929 (P.L.343,
20 No.176), known as The Fiscal Code.

21 § 3725. Unauthorized disclosure.

22 Information gained by the department as a result of a return,
23 examination, investigation, hearing or verification required or
24 authorized under this chapter shall be confidential except for
25 official purposes and except in accordance with proper judicial
26 order or as otherwise provided by law, and a person unlawfully
27 divulging the information commits a misdemeanor and shall, upon
28 conviction, be sentenced to pay a fine of not more than \$1,000
29 and the cost of prosecution or to imprisonment for not more than
30 one year, or both.

1 § 3726. Cooperation with other governments.

2 (1) Notwithstanding section 3718 (relating to tax suit
3 reciprocity), the department may:

4 (i) Permit any of the following to inspect the tax
5 returns of a taxpayer:

6 (A) The Commissioner of the Internal Revenue
7 Service of the United States.

8 (B) The proper officer of a state.

9 (C) The authorized representative of an entity
10 listed under clauses (A) or (B).

11 (ii) May furnish to the commissioner or officer or
12 to either the commissioner's or the officer's authorized
13 representative an abstract of the return of a taxpayer.

14 (iii) Supply the commissioner or the officer or the
15 commissioner's or officer's authorized representative
16 with information concerning an item contained in a return
17 or disclosed by the report of an examination or
18 investigation of the return of a taxpayer.

19 (2) Access under paragraph (1) shall be granted only if
20 the laws of the United States or another state grant
21 substantially similar privileges to the proper officer of the
22 Commonwealth charged with the administration of this chapter.

23 § 3727. Bonds.

24 (a) Taxpayer to file bond.--

25 (1) The department may require a bond in the following
26 situations:

27 (i) A nonresident natural person, foreign
28 corporation, association, fiduciary or other entity, not
29 authorized to do business within this Commonwealth or not
30 having an established place of business in this

1 Commonwealth and subject to the tax imposed by section
2 3703 (relating to imposition of tax), may be required to
3 file a bond that is:

4 (A) Issued by a surety company authorized to do
5 business in this Commonwealth.

6 (B) Approved by the Insurance Commissioner as to
7 solvency and responsibility.

8 (C) In an amount as the department may fix, to
9 secure the payment of a tax or penalty due or which
10 may become due from a nonresident natural person,
11 corporation, association, fiduciary or other entity
12 whenever the department deems it necessary to protect
13 the revenues obtained under this chapter.

14 (ii) If a person is petitioning the department for
15 reassessment in the case of an assessment over \$500 or
16 where, in the department's opinion, the ultimate
17 collection is in jeopardy.

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

22 (2) If the department determines a taxpayer is required
23 to file a bond, the department shall give notice to the
24 taxpayer specifying the amount of the bond required. The
25 taxpayer shall file the bond within five days after notice is
26 given by the department unless, within five days, the
27 taxpayer shall request in writing a hearing before the
28 secretary or the secretary's representative. At the hearing,
29 the necessity, propriety and amount of the bond shall be
30 determined by the secretary or the secretary's

1 representative. The determination shall be final and the
2 taxpayer shall comply with it within 15 days after notice is
3 mailed to the taxpayer.

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

14 (c) Failure to file bond.--The department may file a lien
15 under section 3717 (relating to tax liens) against a taxpayer
16 who fails to file a bond when required to do so under this
17 section. All funds received upon execution of the judgment on
18 the lien shall be refunded to the taxpayer with 3% interest,
19 should a final determination be made that the taxpayer does not
20 owe payment to the department.

21 § 3728. Account established.

22 (a) Establishment.--The Natural Gas Severance Tax Account is
23 established as a restricted account within the General Fund.

24 (b) Deposit.--The proceeds of the tax imposed under section
25 3703 (relating to imposition of tax) and penalties and interest
26 imposed under this chapter shall be deposited into the account.

27 § 3729. Distributions and transfers.

28 (a) Quarterly distributions.--On the last business day of
29 each period of three calendar months, the State Treasurer shall
30 distribute all funds in the account to the Motor License Fund.

- 1 (b) Use.--All money transferred from the account to the
2 Motor License Fund shall be used for transportation expenses.
3 Section 2. This act shall take effect immediately.