

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the
 2 Pennsylvania Consolidated Statutes, providing for natural gas
 3 severance tax; and repealing provisions relating to the
 4 expiration of the unconventional gas well fee.

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

7 Section 1. Title 72 is amended by adding a chapter to read:

8 CHAPTER 16

9 NATURAL GAS SEVERANCE TAX

10 Sec.

11 1601. Scope of chapter.

12 1602. Definitions.

13 1603. Imposition of tax.

14 1603.1. Rate adjustment index.

15 1604. Registration.

16 1605. Meters.

17 1606. Assessments.

18 1607. Time for assessment.

- 1 1608. Extension of assessment period.
2 1609. Reassessments.
3 1610. Interest.
4 1611. Criminal acts.
5 1612. Abatement of additions or penalties.
6 1613. Bulk and auction sales.
7 1614. Collection upon failure to request reassessment, review
8 or appeal.
9 1615. Tax liens.
10 1616. Tax suit reciprocity.
11 1617. Service.
12 1618. Refunds.
13 1619. Refund petition.
14 1620. Rules and regulations.
15 1621. Recordkeeping.
16 1622. Examinations.
17 1623. Unauthorized disclosure.
18 1624. Cooperation with other governments.
19 1625. Bonds.
20 1626. Deposit of proceeds.
21 1627. Penalties.
22 1628. Appropriation.
23 § 1601. Scope of chapter.
24 This chapter relates to the implementation of a natural gas
25 severance tax.
26 § 1602. Definitions.
27 The following words and phrases when used in this chapter
28 shall have the meanings given to them in this section unless the
29 context clearly indicates otherwise:
30 "Association." A partnership, limited partnership or any

1 other form of unincorporated enterprise owned or conducted by
2 two or more persons.

3 "Average annual price of natural gas." The arithmetic mean
4 of the New York Mercantile Exchange (NYMEX) Henry Hub settled
5 price on the last trading day of each month of a calendar year
6 as reported by the Wall Street Journal for the 12-month period
7 ending March 31.

8 "Base rate." The rate under section 1603 (relating to
9 imposition of tax).

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

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

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

18 "Municipality." A city, borough, incorporated town or
19 township.

20 "Natural gas." As defined in 58 Pa.C.S. § 2301 (relating to
21 definitions).

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

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

26 "Person." Any natural person, a corporation, fiduciary,
27 association or other entity. The term includes the Commonwealth
28 and any political subdivision, instrumentality and authority of
29 the Commonwealth.

30 "Producer." As defined in 58 Pa.C.S. § 2301 (relating to

1 definitions).

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

4 "Reporting period." Every three successive calendar months
5 beginning January 1, 2014.

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

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

9 "Stripper well." A producing site or a nonproducing site
10 that is not capable of producing and does not produce more than
11 90,000 cubic feet of natural gas per day.

12 "Taxpayer." A person subject to the tax imposed by this
13 chapter.

14 "Unconventional gas well." As defined in 58 Pa.C.S. § 2301
15 (relating to definitions). The term does not include a vertical
16 gas well.

17 "Unit." One thousand cubic feet of natural gas measured at
18 the wellhead at a temperature of 60 degrees Fahrenheit and an
19 absolute pressure of 14.73 pounds per square inch in accordance
20 with American Gas Association Standards and according to Boyle's
21 Law for the measurement of gas under varying pressures with
22 deviations as follows:

23 (1) The average absolute atmospheric pressure shall be
24 assumed to be 14.4 pounds per square inch, regardless of
25 elevation or location of point of delivery above sea level or
26 variations in atmospheric pressure.

27 (2) The temperature of the gas passing the meters shall
28 be determined by the continuous use of a recording
29 thermometer installed to properly record the temperature of
30 gas flowing through the meters. The arithmetic average of the

1 temperature recorded each 24-hour day shall be used in
2 computing gas volumes. If a recording thermometer is not
3 installed, or is installed and not operating properly, an
4 average flowing temperature of 60 degrees Fahrenheit shall be
5 used in computing gas volume.

6 (3) The specific gravity of the gas shall be determined
7 annually by tests made by the use of an Edwards or Acme
8 gravity balance, or at intervals as found necessary in
9 practice. Specific gravity determinations shall be used in
10 computing gas volumes.

11 (4) The deviation of the natural gas from Boyle's Law
12 shall be determined by annual tests or at other shorter
13 intervals as found necessary in practice. The apparatus and
14 method used in making the test shall be in accordance with
15 recommendations of the National Bureau of Standards or Report
16 No. 3 of the Gas Measurement Committee of the American Gas
17 Association. The results of the tests shall be used in
18 computing the volume of gas delivered under this chapter.

19 "Vertical gas well." As defined in 58 Pa.C.S. § 2301
20 (relating to definitions).

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

23 § 1603. Imposition of tax.

24 (a) Establishment.--Beginning July 1, 2014, there shall be
25 levied a natural gas severance tax payable on every producer.
26 The tax shall not be imposed on units severed from a stripper
27 well unless:

28 (1) The stripper well is one of multiple producing sites
29 or nonproducing sites, the combined volumes of gas produced
30 by all of which sites are measured by a single wellhead meter

1 as provided in section 1605 (relating to meters).

2 (2) The combined volumes of gas produced by all the
3 producing sites or nonproducing sites described in paragraph
4 (1) is more than 90,000 cubic feet of natural gas per day.

5 (a.1) Exemptions.--The fee shall not be imposed on the
6 following:

7 (1) Units severed by a producer and sold and delivered
8 to a manufacturer of tangible personal property for the
9 manufacturer's use within this Commonwealth if the units have
10 been severed from one or more producing sites or nonproducing
11 sites on property owned by the manufacturer.

12 (2) Units provided free of charge to the owner of the
13 surface under which the gas is severed if the surface owner
14 is the end user of the gas.

15 (b) Base rate.--The base rate shall be 10¢ per unit severed
16 at the wellhead.

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

21 (1) The number of natural gas units severed by the
22 producer for the reporting period and the gross value of the
23 units.

24 (2) The amount of tax due under subsection (b).

25 (3) Other information reasonably required by the
26 department.

27 (d) Filing.--The return required by subsection (c) shall be
28 filed with the department within 15 days following the end of a
29 reporting period. The tax is due on the day the return is
30 required to be filed under this subsection and shall become

1 delinquent if not remitted to the department by the required
2 date.

3 § 1603.1. Rate adjustment index.

4 (a) Annual adjustment.--The base rate shall be adjusted
5 annually by the amount of the rate adjustment index as
6 calculated under subsection (c), provided that the adjusted rate
7 shall never be less than the base rate. The adjusted rate shall
8 be effective for the next fiscal year.

9 (b) Determination of adjustment.--On or before April 30 of
10 each year following the effective date of this section, the
11 department shall calculate and determine the amount of the rate
12 adjustment index.

13 (c) Calculation of adjustment.--The rate adjustment index
14 shall be determined as follows:

15 (1) If 8% of the average annual price of natural gas is
16 less than the base rate, the rate adjustment index shall be
17 zero and the adjusted rate shall be the base rate.

18 (2) If 8% of the average annual price of natural gas is
19 greater than the base rate, the rate adjustment index shall
20 be 60% of the difference between 8% of the average annual
21 price of natural gas and the base rate. The adjusted rate
22 shall be the resulting rate adjustment index plus the base
23 rate rounded to the nearest whole cent.

24 (d) Publication of adjustment.--The department shall forward
25 the amount of the rate adjustment index and the adjusted rate,
26 as determined under subsection (c), to the Legislative Reference
27 Bureau for publication in the Pennsylvania Bulletin by May 1 of
28 each year and shall simultaneously provide the information to
29 producers by written notice. Failure to publish or provide to
30 producers the amount of the rate adjustment index and the

1 adjusted rate shall not affect the applicability of the adjusted
2 rate under subsection (b).

3 (e) Discontinuance of data.--If publication of the NYMEX
4 Henry Hub average monthly natural gas price data is
5 discontinued, the adjusted rate then in effect shall not be
6 adjusted until a comparable method for determining the rate
7 adjustment index is adopted by the General Assembly.

8 (f) Other adjustments.--If the base data of the NYMEX Henry
9 Hub average monthly natural gas price is substantially revised,
10 the department shall, when determining the amount of the rate
11 adjustment index under subsection (c), make appropriate changes
12 to ensure that the rate adjustment index is reasonably
13 consistent with the result that would have been attained had the
14 substantial revision not been made. If the department is unable
15 to make reasonable changes sufficient to ensure a consistent
16 result, the adjusted rate then in effect shall not be adjusted
17 until a comparable method for determining the rate adjustment
18 index is adopted by the General Assembly.

19 (g) Application of fee determinations.--The provisions of
20 this section shall affect only the determination of the tax
21 imposed under section 1603 (relating to imposition of tax). The
22 provisions of this section are not intended nor shall they be
23 construed to affect any other determination, including, but not
24 limited to, the determination of royalty due under mineral
25 leases. Notwithstanding any other provision of law, the tax
26 imposed under section 1603 shall not reduce any royalty payments
27 due under mineral leases, and the producer shall not recover any
28 portion of the tax paid from the royalty owner through other
29 means of deduction or reallocation, notwithstanding any
30 provision in the lease, contract or agreement.

1 § 1604. Registration.

2 (a) Application.--Before a producer severs natural gas or
3 continues to sever natural gas in this Commonwealth after
4 December 31, 2013, the producer shall apply to the department
5 for a registration certificate. The department may charge an
6 application fee to cover the administrative costs associated
7 with the application and registration process.

8 (b) Issuance.--Except as provided in subsection (c), after
9 the receipt of an application and the required application fee,
10 the department shall issue a registration certificate to the
11 producer. The registration certificate is nonassignable. A
12 registrant is required to renew the registration certificate on
13 a staggered renewal system established by the department. After
14 the initial staggered renewal period, a registration certificate
15 is valid for a period of five years.

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

17 (1) The department may refuse to issue, suspend or
18 revoke a registration certificate if the applicant or
19 registrant has not filed required State tax reports and paid
20 State taxes not subject to a timely perfected administrative
21 or judicial appeal or an authorized deferred payment plan.

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

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

1 the case of a suspension or revocation which is appealed, the
2 registration certificate shall remain valid pending a final
3 outcome of the appeals process. Notwithstanding any other
4 provision of law, if no appeal is taken or if an appeal is
5 taken and denied at the conclusion of the appeal process, the
6 department may disclose, by publication or otherwise, the
7 identity of a producer and the fact that the producer's
8 registration certificate has been refused, suspended or
9 revoked under this subsection. Disclosure may include the
10 basis for refusal, suspension or revocation.

11 (d) Violation.--

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

18 (2) For purposes of this subsection, each day in which
19 natural gas is severed shall constitute a separate violation.

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

22 (4) The secretary may designate employees of the
23 department to enforce the provisions of this subsection. The
24 employees shall exhibit proof of and be within the scope of
25 the designation when instituting proceedings as provided by
26 the Pennsylvania Rules of Criminal Procedure.

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

30 § 1605. Meters.

1 A producer shall provide for and maintain a discrete wellhead
2 meter where natural gas is severed. A producer shall ensure that
3 the meters are maintained according to industry standards. Any
4 wellhead meter installed after the effective date of this
5 section shall be a digital meter.

6 § 1606. Assessments.

7 (a) Authorization and requirement.--The department is
8 authorized and shall make inquiries, determinations and
9 assessments of the tax imposed under this chapter, including
10 interest, additions and penalties imposed under this chapter.

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

18 § 1607. Time for assessment.

19 (a) Requirement.--An assessment as provided under section
20 1606 (relating to assessments) shall be made within three years
21 after the date when the return provided for by section 1603(c)
22 (relating to imposition of tax) is filed or the end of the year
23 in which the tax liability arises, whichever shall occur last.
24 For the purposes of this subsection and subsection (b), a return
25 filed before the last day prescribed for the filing period shall
26 be considered as filed on the last day.

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

30 (c) Intent to evade.--Where no return is filed or where the

1 taxpayer files a false or fraudulent return with intent to evade
2 the tax imposed by this chapter, the assessment may be made at
3 any time.

4 (d) Erroneous credit or refund.--Within three years of the
5 granting of a refund or credit or within the period in which an
6 assessment or reassessment may have been issued by the
7 department for the taxable period for which the refund was
8 granted, whichever period shall occur last, the department may
9 issue an assessment to recover a refund or credit made or
10 allowed erroneously.

11 § 1608. Extension of assessment period.

12 Notwithstanding the provisions of this chapter, the
13 assessment period may be extended in the event a taxpayer has
14 provided written consent before the expiration of the period
15 provided in section 1607 (relating to time for assessment) for a
16 tax assessment. The amount of tax due may be assessed at any
17 time within the extended period. The period may be extended
18 further by subsequent written consents made before the
19 expiration of the extended period.

20 § 1609. Reassessments.

21 A taxpayer against whom an assessment is made may petition
22 the department for a reassessment under Article XXVII of the act
23 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
24 1971.

25 § 1610. Interest.

26 The department shall assess interest on any delinquent tax at
27 the rate prescribed under section 806 of the act of April 9,
28 1929 (P.L.343, No.176), known as The Fiscal Code.

29 § 1611. Criminal acts.

30 (a) Fraudulent return.--Any person with intent to defraud

1 the Commonwealth, who willfully makes or causes to be made a
2 return required by this chapter which is false, is guilty of a
3 misdemeanor and shall, upon conviction, be sentenced to pay a
4 fine of not more than \$2,000 or to imprisonment for not more
5 than three years, or both.

6 (b) Other crimes.--

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

12 (i) Willfully failing to timely remit the tax to the
13 department.

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

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

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

20 (v) Refusing to permit the department or its
21 authorized agents to examine its books, records or
22 papers.

23 (vi) Knowingly making any incomplete, false or
24 fraudulent return or report.

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

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

1 (ix) Making, uttering or issuing a false or
2 fraudulent statement.

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

5 § 1612. Abatement of additions or penalties.

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

12 § 1613. Bulk and auction sales.

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

22 § 1614. Collection upon failure to request reassessment, review
23 or appeal.

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

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

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

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

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

4 (ii) the expiration of the board's time for acting
5 upon the petition.

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

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

17 § 1615. Tax liens.

18 (a) Lien imposed.--If any taxpayer neglects or refuses to
19 pay the tax imposed under this chapter for which the taxpayer is
20 liable under this chapter after demand, the amount, including
21 interest, addition or penalty, together with additional costs
22 that may accrue, shall be a lien in favor of the Commonwealth
23 upon the real and personal property of the taxpayer, but only
24 after the same has been entered and docketed on the record by
25 the prothonotary of the county where the property is situated.
26 The department may, at any time, transmit to the prothonotaries
27 of the respective counties certified copies of all liens imposed
28 by this section. It shall be the duty of the prothonotary
29 receiving the lien to enter and docket the same of record to the
30 office of the prothonotary. The lien shall be indexed as

1 judgments are now indexed. No prothonotary shall require as a
2 condition precedent to the entry of the lien the payment of
3 costs incidental to its entry.

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

15 (c) No discharge by sale on junior lien.--In the case of a
16 judicial sale of property subject to a lien imposed under this
17 section, upon a lien or claim over which the lien imposed under
18 this section has priority, the sale shall discharge the lien
19 imposed under this section to the extent only that the proceeds
20 are applied to its payment, and the lien shall continue in full
21 force and effect as to the balance remaining unpaid. There shall
22 be no inquisition or condemnation upon any judicial sale of real
23 estate made by the Commonwealth under the provisions of this
24 chapter. The lien shall continue as provided in the act of April
25 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and a writ
26 of execution may directly issue upon the lien without the
27 issuance and prosecution to judgment of a writ of scire facias,
28 provided that not less than ten days before issuance of any
29 execution on the lien, notice of the filing and the effect of
30 the lien shall be sent by registered mail to the taxpayer at its

1 last known post office address, further provided that the lien
2 shall have no effect upon any stock of goods, wares or
3 merchandise regularly sold or leased in the ordinary course of
4 business by the taxpayer against whom the lien has been entered,
5 unless and until a writ of execution has been issued and a levy
6 made upon the stock of goods, wares and merchandise.

7 (d) Penalty.--A prothonotary who intentionally violates this
8 section commits a misdemeanor of the third degree and shall,
9 upon conviction, be sentenced to pay a fine of not more than
10 \$1,000 and costs of prosecution or to imprisonment for not more
11 than one year, or both.

12 (e) Priority.--Except as provided in this chapter, the
13 distribution, voluntary or compulsory, in receivership,
14 bankruptcy or otherwise of the property or estate of any person,
15 all taxes imposed by this chapter which are due and unpaid and
16 are not collectible under the provisions of section 225 of the
17 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
18 of 1971, shall be paid from the first money available for
19 distribution in priority to all other claims and liens, except
20 as the laws of the United States may give priority to a claim to
21 the Federal Government. A person charged with the administration
22 or distribution of the property or estate who violates the
23 provisions of this section shall be personally liable for the
24 taxes imposed by this chapter which are accrued and unpaid and
25 chargeable against the person whose property or estate is being
26 administered or distributed.

27 (f) Other remedies.--Subject to the limitations contained in
28 this chapter as to the assessment of taxes, nothing contained in
29 this section shall be construed to restrict, prohibit or limit
30 the use by the department in collecting taxes due and payable of

1 another remedy or procedure available at law or equity for the
2 collection of debts.

3 § 1616. Tax suit reciprocity.

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

9 § 1617. Service.

10 A producer is deemed to have appointed the Secretary of the
11 Commonwealth its agent for the acceptance of service of process
12 or notice in a proceeding for the enforcement of the civil
13 provisions of this chapter and service made upon the Secretary
14 of the Commonwealth as agent shall be of the same legal force
15 and validity as if the service had been personally made upon the
16 producer. Where service cannot be made upon the producer in the
17 manner provided by other laws of this Commonwealth relating to
18 service of process, service may be made upon the Secretary of
19 the Commonwealth. In that case, a copy of the process or notice
20 shall be personally served upon any agent or representative of
21 the producer who may be found within this Commonwealth or, where
22 no agent or representative may be found, a copy of the process
23 or notice shall be sent via registered mail to the producer at
24 the last known address of its principal place of business, home
25 office or residence.

26 § 1618. Refunds.

27 Under Article XXVII of the act of March 4, 1971 (P.L.6,
28 No.2), known as the Tax Reform Code of 1971, the department
29 shall refund all taxes, interest and penalties paid to the
30 Commonwealth under the provisions of this chapter to which the

1 Commonwealth is not rightfully entitled. The refunds shall be
2 made to the person or the person's heirs, successors, assigns or
3 other personal representatives who paid the tax, provided that
4 no refund shall be made under this section regarding a payment
5 made by reason of an assessment where a taxpayer has filed a
6 petition for reassessment under section 2702 of the Tax Reform
7 Code of 1971 to the extent the petition is adverse to the
8 taxpayer by a decision which is no longer subject to further
9 review or appeal. Nothing in this chapter shall prohibit a
10 taxpayer who has filed a timely petition for reassessment from
11 amending it to a petition for refund where the petitioner paid
12 the tax assessed.

13 § 1619. Refund petition.

14 (a) General rule.--Except as provided for in subsection (b),
15 the refund or credit of tax, interest or penalty provided for by
16 section 1618 (relating to refunds) shall be made only where the
17 person who has paid the tax files a petition for refund with the
18 department under Article XXVII of the act of March 4, 1971
19 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the
20 time limits of section 3003.1 of the Tax Reform Code of 1971.

21 (b) Natural gas severance tax.--A refund or credit of tax,
22 interest or penalty paid as a result of an assessment made by
23 the department under section 1606 (relating to assessment) shall
24 be made only where the person who has paid the tax files with
25 the department a petition for a refund with the department under
26 Article XXVII of the Tax Reform Code of 1971 within the time
27 limits of section 3003.1 of the Tax Reform Code of 1971. The
28 filing of a petition for refund under the provisions of this
29 subsection shall not affect the abatement of interest, additions
30 or penalties to which the person may be entitled by reason of

1 the person's payment of the assessment.

2 § 1620. Rules and regulations.

3 The department is charged with the enforcement of the
4 provisions of this chapter and is authorized and empowered to
5 prescribe, adopt, promulgate and enforce rules and regulations
6 not inconsistent with the provisions of this chapter relating to
7 any matter or thing pertaining to the administration and
8 enforcement of the provisions of this chapter and the collection
9 of taxes, penalties and interest imposed by this chapter. The
10 department may prescribe the extent, if any, to which any of the
11 rules and regulations shall be applied without retroactive
12 effect.

13 § 1621. Recordkeeping.

14 (a) General rule.--Every person liable for any tax imposed
15 by this chapter, or for the collection of the tax, shall keep
16 records, render statements, make returns and comply with the
17 rules and regulations as the department may prescribe regarding
18 matters pertinent to the person's business. Whenever it is
19 necessary, the department may require a person, by notice served
20 upon the person or by regulations, to make returns, render
21 statements or keep records as the department deems sufficient to
22 show whether or not a person is liable to pay tax under this
23 chapter.

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

25 (1) Wellhead meter charts for each reporting period and
26 the meter calibration and maintenance records. If turbine
27 meters are in use, the maintenance records will be made
28 available to the department upon request.

29 (2) Records, statements and other instruments furnished
30 to a producer by a person to whom the producer delivers for

1 sale, transport or delivery of natural gas.

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

4 (b) Records of nonresidents.--A nonresident who does
5 business in this Commonwealth as a producer shall keep adequate
6 records of the business and of the tax due as a result. The
7 records shall be retained within this Commonwealth unless
8 retention outside this Commonwealth is authorized by the
9 department. The department may require a taxpayer who desires to
10 retain records outside this Commonwealth to assume reasonable
11 out-of-State audit expenses.

12 (c) Keeping of separate records.--A producer who is engaged
13 in another business or businesses which do not involve the
14 severing of natural gas taxable under this chapter shall keep
15 separate books and records of the businesses so as to show the
16 taxable severing of natural gas under this chapter separately
17 from other business activities not taxable hereunder. If any
18 person fails to keep separate books and records, the person
19 shall be liable for a penalty equaling 100% of tax due under
20 this chapter for the period where separate records were not
21 maintained.

22 § 1622. Examinations.

23 The department or any of its authorized agents are authorized
24 to examine the books, papers and records of any taxpayer in
25 order to verify the accuracy and completeness of any return made
26 or, if no return was made, to ascertain and assess the tax
27 imposed by this chapter. The department may require the
28 preservation of all books, papers and records for any period
29 deemed proper by it but not to exceed three years from the end
30 of the calendar year to which the records relate. Every taxpayer

1 is required to give to the department or its agent the means,
2 facilities and opportunity for examinations and investigations
3 under this section. The department is further authorized to
4 examine any person, under oath, concerning the taxable severing
5 of natural gas by any taxpayer or concerning any other matter
6 relating to the enforcement or administration of this chapter,
7 and to this end may compel the production of books, papers and
8 records and the attendance of all persons whether as parties or
9 witnesses whom it believes to have knowledge of relevant
10 matters. The procedure for the hearings or examinations shall be
11 the same as that provided by the act of April 9, 1929 (P.L.343,
12 No. 176), known as The Fiscal Code.

13 § 1623. Unauthorized disclosure.

14 Any information gained by the department as a result of any
15 return, examination, investigation, hearing or verification
16 required or authorized by this chapter shall be confidential
17 except for official purposes and except in accordance with
18 proper judicial order or as otherwise provided by law, and any
19 person unlawfully divulging the information shall be guilty of a
20 misdemeanor and shall, upon conviction, be sentenced to pay a
21 fine of not more than \$1,000 and costs of prosecution or to
22 imprisonment for not more than one year, or both.

23 § 1624. Cooperation with other governments.

24 Notwithstanding the provisions of section 1616 (relating to
25 tax suit reciprocity), the department may permit the
26 Commissioner of the Internal Revenue Service of the United
27 States, the proper officer of any state or the authorized
28 representative of either of them to inspect the tax returns of
29 any taxpayer, or may furnish to the commissioner or officer or
30 to either of their authorized representatives an abstract of the

1 return of any taxpayer, or supply him with information
2 concerning any item contained in any return or disclosed by the
3 report of any examination or investigation of the return of any
4 taxpayer. This permission shall be granted only if the laws of
5 the United States or another state grant substantially similar
6 privileges to the proper officer of the Commonwealth charged
7 with the administration of this chapter.

8 § 1625. Bonds.

9 (a) Taxpayer to file bond.--The department may require a
10 nonresident natural person or any foreign corporation,
11 association, fiduciary or other entity, not authorized to do
12 business within this Commonwealth or not having an established
13 place of business in this Commonwealth and subject to the tax
14 imposed by section 1603 (relating to imposition of tax), to file
15 a bond issued by a surety company authorized to do business in
16 this Commonwealth and approved by the Insurance Commissioner as
17 to solvency and responsibility, in amounts as it may fix, to
18 secure the payment of any tax or penalties due or which may
19 become due from a nonresident natural person, corporation,
20 association, fiduciary or other entity whenever it deems it
21 necessary to protect the revenues obtained under this chapter.
22 The department may also require a bond of a person petitioning
23 the department for reassessment in the case of any assessment
24 over \$500 or where, in its opinion, the ultimate collection is
25 in jeopardy. For a period of three years, the department may
26 require a bond of any person who has, on three or more occasions
27 within a 12-month period, either filed a return or made payment
28 to the department more than 30 days late. In the event the
29 department determines a taxpayer is required to file a bond, it
30 shall give notice to the taxpayer specifying the amount of the

1 bond required. The taxpayer shall file the bond within five days
2 after notice is given by the department unless, within five
3 days, the taxpayer shall request in writing a hearing before the
4 secretary or the secretary's representative. At the hearing, the
5 necessity, propriety and amount of the bond shall be determined
6 by the secretary or the secretary's representative. The
7 determination shall be final and the taxpayer shall comply with
8 it within 15 days after notice is mailed to the taxpayer.

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

18 (c) Failure to file bond.--The department may file a lien
19 under section 1615 (relating to tax liens) against any taxpayer
20 who fails to file a bond when required to do so under this
21 section. All funds received upon execution of the judgment on
22 the lien shall be refunded to the taxpayer with 3% interest,
23 should a final determination be made that the taxpayer does not
24 owe any payment to the department.

25 § 1626. Deposit of proceeds.

26 The proceeds of the tax imposed under section 1603 (relating
27 to imposition of tax) and penalties and interest imposed under
28 this chapter, less the amounts appropriated under section 1628
29 (relating to appropriation) shall be deposited into the State
30 Treasury as follows:

1 (1) The first \$300,000,000 of revenue annually shall be
2 deposited into the General Fund and shall be allocated to the
3 Low Income Home Energy Assistance Program.

4 (2) Any remaining revenue shall be deposited into the
5 General Fund and shall be allocated to property tax or rent
6 rebate under Chapter 13 of the act of June 27, 2006 (1st
7 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.

8 § 1627. Penalties.

9 The department shall enforce the following penalties:

10 (1) A penalty against a producer without a registration
11 certificate required under section 1604 (relating to
12 registration). The penalty shall be \$1 for every unit severed
13 without a valid registration certificate. The department may
14 assess this penalty separately from or in conjunction with
15 any assessment of the natural gas severance tax.

16 (2) A penalty against a producer for failure to timely
17 file a return as required under section 1603(c) (relating to
18 imposition of tax). The penalty shall be 5% of the tax
19 liability to be reported on the return for each day beyond
20 the due date that the return is not filed.

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

25 (4) A penalty against a producer for failure to timely
26 pay the tax as required by section 1603(d). The penalty shall
27 be 5% of the amount of tax due for each day beyond the
28 payment date that the tax is not paid.

29 § 1628. Appropriation.

30 The amount of the proceeds from the tax imposed by this

1 chapter as shall be necessary for the payment of refunds,
2 enforcement or administration under this chapter is hereby
3 appropriated to the department for those purposes.

4 Section 2. Repeals are as follows:

5 (1) The General Assembly declares that the repeal under
6 paragraph (2) is necessary to effectuate the addition of 72
7 Pa.C.S. Ch. 16 (relating to natural gas severance tax).

8 (2) The provisions of 58 Pa.C.S. § 2318 (relating to
9 expiration) are repealed.

10 Section 3. This act shall take effect in 60 days.