
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1489 Session of
2009

INTRODUCED BY GEORGE, LEVDANSKY, BELFANTI, BRENNAN, CARROLL,
FREEMAN, GOODMAN, GRUCELA, HORNAMAN, JOSEPHS, MAHONEY,
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STURLA, J. TAYLOR AND YOUNGBLOOD, MAY 13, 2009

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, MAY
13, 2009

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the
2 Pennsylvania Consolidated Statutes, imposing a tax on the
3 extraction of natural gas; providing for natural resource
4 severance tax license, for duties of the Department of
5 Revenue, for tax assessments and tax liens; imposing
6 penalties; providing for service of process, for rulemaking,
7 for cooperation with other governments and for bonds; and
8 making an appropriation.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

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

13 CHAPTER 15

14 SEVERANCE TAX

15 Sec.

16 1501. Short title of chapter.

17 1502. Definitions.

18 1503. Imposition of tax.

19 1504. Return and payment.

1 1505. Natural resource severance tax registration.
2 1505.1 Meters.
3 1506. Assessments.
4 1507. Time for assessment.
5 1508. Extension of limitation period.
6 1509. Reassessments.
7 1510. Interest.
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9 1512. Criminal acts.
10 1513. Abatement of additions or penalties.
11 1514. Bulk and auction sales.
12 1515. Collection upon failure to request reassessment, review
13 or appeal.
14 1516. Tax liens.
15 1517. Tax suit reciprocity.
16 1518. Service.
17 1519. Refunds.
18 1520. Refund petition.
19 1521. Rules and regulations.
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21 1523. Examinations.
22 1524. Unauthorized disclosure.
23 1525. Cooperation with other governments.
24 1526. Bonds.
25 1527. Appropriation.
26 § 1501. Short title of chapter.
27 This chapter shall be known and may be cited as the Natural
28 Resource Severance Tax Act.
29 § 1502. Definitions.
30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Association." A partnership, limited partnership or any
4 other form of unincorporated enterprise owned or conducted by
5 two or more persons.

6 "Corporation." A corporation, joint stock association,
7 limited liability company, business trust or any other
8 incorporated enterprise organized under the laws of this
9 Commonwealth, the United States or any other state, territory or
10 foreign country or dependency.

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

12 "Gross value." The volume-weighted average market price for
13 all arms-length transactions that a producer receives at the
14 sales meter for natural gas during a reporting period.

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

17 "Natural gas." A fossil fuel consisting of a mixture of
18 hydrocarbon gases, primarily methane, possibly including ethane,
19 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and
20 hydrogen sulfide and other gas species. The term includes
21 natural gas from oil fields known as associated gas or casing
22 head gas, natural gas fields known as nonassociated gas, coal
23 beds, shale beds and other formations.

24 "Non-producing site." A point of severance that is not
25 capable of producing a natural gas in paying quantities.

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

28 "Person." Every natural person, including a corporation,
29 limited liability company, business trust, trust, guardian or
30 other fiduciary, association, government entity or corporation.

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

5 "Producing site." A point of severance capable of producing
6 natural gas in paying quantities.

7 "Reporting period." A calendar month in which natural gas is
8 severed.

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

11 "Sever," "severing" or "severance." The extraction or other
12 removal of a natural resource from the soil or water of this
13 Commonwealth.

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

15 "Taxpayer." A person subject to the tax imposed by this
16 chapter.

17 "Unit." A thousand cubic feet of natural gas measured at the
18 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 to the square inch, regardless of
25 elevation or location of point of delivery above sea level or
26 variations in atmospheric pressure from time to time.

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 if 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, or amendments thereto. The results of the tests
18 shall be used in computing the volume of gas delivered under
19 this chapter.

20 "Wellhead meter." A meter placed at a producing or
21 nonproducing site to measure the volume of natural gas severed.

22 § 1503. Imposition of tax.

23 (a) Establishment.--There is levied a privilege tax on every
24 producer who severs natural gas.

25 (b) Rate.--The tax imposed in subsection (a) shall be 5% of
26 the gross value of units severed at the wellhead during a
27 reporting period, plus 4.7 cents per unit severed.

28 § 1504. Return and payment.

29 (a) Requirement.--Every producer is required to file a
30 return with the department, on a form to be prescribed by the

1 department, reporting all severed natural gas resources per
2 reporting period and the tax due as imposed under section 1503
3 (relating 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
6 the second calendar month after a reporting period.

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

10 § 1505. Natural resource 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 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 register a
18 producer or issue a certificate until the producer has paid the
19 application fee.

20 (a.2) Declaration.--As part of the application for
21 registration, the producer is required to provide a declaration
22 of all sites in this Commonwealth used for the severance of
23 natural gas. The declaration is to include all producing sites
24 and nonproducing sites. The producer is required to update the
25 declaration when the producer adds or removes a producing or
26 nonproducing site in this Commonwealth or when there is a change
27 in the status of a producing or nonproducing site. The producer
28 shall update the declaration within 30 days after a calendar
29 month in which a change to the declaration occurs.

30 (b) Issuance.--After the receipt of an application, the

1 department shall issue the certificate applied for under
2 subsection (a), provided that said applicant shall have filed
3 all required State tax reports and paid any State taxes not
4 subject to a timely perfected administrative or judicial appeal
5 or subject to a duly authorized deferred payment plan. The
6 certificate shall be nonassignable. All registrants shall be
7 required to renew their registration on a staggered renewal
8 system established by the department. After the initial
9 staggered period, a certificate issued shall be valid for a
10 period of five years.

11 (c) Refusal, suspension or revocation.--The department may
12 refuse to issue, suspend or revoke the certificate if the
13 applicant or any person holding a certificate has not filed
14 required State tax reports and paid State taxes not subject to a
15 timely perfected administrative or judicial appeal or subject to
16 a duly authorized deferred payment plan. The department shall
17 notify 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 and 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 person and the fact
2 that the person's registration and certificate has been refused,
3 suspended or revoked under this subsection. Disclosure may
4 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 and
7 certificate under subsection (b) shall be guilty of a summary
8 offense and shall, upon conviction, be sentenced to pay a fine
9 of not less than \$300 nor more than \$1,500. In the event the
10 person convicted defaults, he shall be sentenced to imprisonment
11 for not less than five days nor more than 30 days. The penalties
12 imposed by this subsection shall be in addition to any other
13 penalties imposed by this chapter. For purposes of this
14 subsection, the severing of a natural gas during any calendar
15 day shall constitute a separate violation. The Secretary of
16 Revenue may designate employees of the department to enforce the
17 provisions of this subsection. The employees shall exhibit proof
18 of and be within the scope of the designation when instituting
19 proceedings as provided by the Pennsylvania Rules of Criminal
20 Procedure.

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

24 § 1505.1. Meters.

25 A producer shall provide for and maintain a discrete wellhead
26 and sales meters. A producer shall ensure that the meters are
27 maintained according to industry standards.

28 § 1506. Assessments.

29 (a) Authorization and requirement.--The department is
30 authorized and shall make the inquiries, determinations and

1 assessments of the tax, including interest, additions and
2 penalties imposed under this chapter.

3 (b) Notice.--The notice of assessment and demand for payment
4 shall be mailed to the taxpayer. The notice shall set forth the
5 basis of the assessment. The department shall issue a notice of
6 the assessment to the producer. The notice shall set forth the
7 department's basis for the assessment. The department shall send
8 the notice of assessment to the producer at his registered
9 address via certified mail if the assessment increases the
10 producer's tax liability by \$300. Otherwise, the notice of
11 assessment may be 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.--The assessment may be made at any time
22 within six years after the return is filed if the total tax that
23 is properly included on the return is in excess of 25% of the
24 total tax reported on the return.

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

29 (d) Erroneous credit or refund.--Within three years of the
30 granting of a refund or credit or within the period in which an

1 assessment or reassessment may have been filed by the department
2 for the taxable period for which the refund was granted,
3 whichever period shall last occur, the department may file an
4 assessment to recover a refund or credit made or allowed
5 erroneously.

6 § 1508. Extension of limitation period.

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

15 § 1509. Reassessments.

16 A producer against whom an assessment is made may petition
17 the department for a reassessment under Article XXVII of the act
18 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
19 1971.

20 § 1510. Interest.

21 The department shall assess interest on any delinquent tax at
22 the rate prescribed under section 806 of the act of April 9,
23 1929 (P.L.343, No. 176), known as The Fiscal Code.

24 § 1511. Penalties.

25 The department shall enforce the following penalties:

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

1 (2) A penalty against a producer for failure to file a
2 return as required under section 1504 (relating to return and
3 payment). The penalty shall be 5% of the tax liability to be
4 reported on the return for each day beyond the due date that
5 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 file a
8 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 producer is guilty of a misdemeanor and shall, upon
24 conviction, be sentenced to pay a fine of not more than
25 \$1,000 and costs of prosecution or to imprisonment for not
26 more than one year, 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 his 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 make any incomplete, false or
9 fraudulent return or report.

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

12 (viii) Providing any person with a false statement
13 as to the payment of tax with respect to any pertinent
14 facts.

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

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

19 § 1513. Abatement of additions or penalties.

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

26 § 1514. Bulk and auction sales.

27 A person that sells or causes to be sold at auction, or that
28 sells or transfers in bulk, 51% or more of a stock of goods,
29 wares or merchandise of any kind, fixtures, machinery,
30 equipment, buildings or real estate or is involved in a business

1 for which the person is licensed or required to be licensed
2 under the provisions of this chapter shall be subject to the
3 provisions of section 1403 of the act of April 9, 1929 (P.L.343,
4 No.176), known as The Fiscal Code.

5 § 1515. Collection upon failure to request reassessment, review
6 or appeal.

7 (a) Power of department.--The department may collect a tax:

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

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

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

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

16 (ii) the expiration of the board's time for acting
17 upon the petition.

18 (4) In all cases of judicial sales, receiverships,
19 assignments or bankruptcies.

20 (b) Prohibition.--In a case for the collection of taxes

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

29 § 1516. Tax liens.

30 (a) Lien imposed.--If any person liable to pay a tax

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

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

27 (c) No discharge by sale on junior lien.--In the case of a
28 judicial sale of property subject to a lien imposed under this
29 section, upon a lien or claim over which the lien imposed under
30 this section has priority, the sale shall discharge the lien

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

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

26 (e) Priority.--Except as provided in this chapter, the
27 distribution, voluntary or compulsory, in receivership,
28 bankruptcy or otherwise of the property or estate of any person,
29 all taxes imposed by this chapter which are due and unpaid and
30 are not collectible under the provisions of section 225 of the

1 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
2 of 1971, shall be paid from the first money available for
3 distribution in priority to all other claims and liens, except
4 as the laws of the United States may give priority to a claim to
5 the Federal Government. A person charged with the administration
6 or distribution of the property or estate who violates the
7 provisions of this section shall be personally liable for the
8 taxes imposed by this chapter which are accrued and unpaid and
9 chargeable against the person whose property or estate is being
10 administered or distributed.

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

17 § 1517. Tax suit reciprocity.

18 The courts of this Commonwealth shall recognize and enforce
19 liabilities for natural gas severance taxes lawfully imposed by
20 any other state, provided that the other state recognizes and
21 enforces the tax set forth in this chapter.

22 § 1518. Service.

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

1 service of process, service may be made upon the Secretary of
2 the Commonwealth. In that case, a copy of the process or notice
3 shall be personally served upon any agent or representative of
4 the person who may be found within this Commonwealth or, where
5 no agent or representative may be found, a copy of the process
6 or notice shall be sent via registered mail to the person at the
7 last known address of his principal place of business, home
8 office or residence.

9 § 1519. Refunds.

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

26 § 1520. Refund petition.

27 (a) General rule.--Except as provided for in subsection (b),
28 the refund or credit of tax, interest or penalty provided for by
29 section 1519 (relating to refunds) shall be made only where the
30 person who has paid the tax files a petition for refund with the

1 department under Article XXVII of the act of March 4, 1971
2 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the
3 time limits of section 3003.1 of the Tax Reform Code of 1971.

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

15 § 1521. Rules and regulations.

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

26 § 1522. Recordkeeping.

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

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

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

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

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

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

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

25 (c) Keeping of separate records.--A person doing business as
26 a producer, who at the same time is engaged in another business
27 or businesses which do not involve the severing of natural gas
28 taxable under this chapter, shall keep separate books and
29 records of the businesses so as to show the taxable severing of
30 natural gas under this chapter separately from other business

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

5 § 1523. Examinations.

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

26 § 1524. Unauthorized disclosure.

27 Any information gained by the department as a result of any
28 return, examination, investigation, hearing or verification
29 required or authorized by this chapter shall be confidential
30 except for official purposes and except in accordance with

1 proper judicial order or as otherwise provided by law, and any
2 person unlawfully divulging the information shall be guilty of a
3 misdemeanor and shall, upon conviction, be sentenced to pay a
4 fine of not more than \$1000 and costs of prosecution or to
5 imprisonment for not more than one year, or both.

6 § 1525. Cooperation with other governments.

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

21 § 1526. Bonds.

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

1 amounts as it may fix, to secure the payment of any tax or
2 penalties due or which may become due from a natural person or
3 corporation whenever it deems it necessary to protect the
4 revenues obtained under this chapter. In order to protect the
5 revenues obtained under this chapter, the department shall
6 require a nonresident natural person or a foreign corporation,
7 association, fiduciary, partnership or entity who is not
8 authorized to do business or does not have an established place
9 of business in this Commonwealth and is subject to the tax
10 imposed by section 1503, to file a bond issued by a surety
11 company authorized to do business in this Commonwealth and
12 approved by the Insurance Commissioner as to solvency and
13 responsibility, in amounts as it may fix, to secure the payments
14 of any tax or penalties due or which may become due from a
15 natural person, corporation or other entity. The department may
16 also require a bond of a person petitioning the department for
17 reassessment in the case of any assessment over \$500 or where,
18 in its opinion, the ultimate collection is in jeopardy. For a
19 period of three years, the department may require a bond of any
20 person who has, on three or more occasions within a 12-month
21 period, either filed a return or made payment to the department
22 more than 30 days late. In the event the department determines a
23 taxpayer is required to file a bond, it 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 taxpayer
27 shall request in writing a hearing before the Secretary of
28 Revenue or his representative. At the hearing, the necessity,
29 propriety and amount of the bond shall be determined by the
30 secretary or the secretary's representative. The determination

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

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

12 (c) Failure to file bond.--The department may file a lien
13 under section 1516 (relating to tax liens) against any taxpayer
14 who fails to file a bond when required to do so under this
15 section. All funds received upon execution of the judgment on
16 the lien shall be refunded to the taxpayer with 3% interest,
17 should a final determination be made that he does not owe any
18 payment to the department.

19 § 1527. Appropriation.

20 The amount of the proceeds from the tax imposed by this
21 chapter as shall be necessary for the payment of refunds,
22 enforcement or administration under this chapter, is hereby
23 appropriated for such purposes.

24 Section 2. This act shall take effect October 1, 2009.