
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1406 Session of
2011

INTRODUCED BY HARPER, SCAVELLO, PETRI, CALTAGIRONE, CARROLL,
COHEN, DALEY, DeLUCA, GERBER, HANNA, JOSEPHS, MAHONEY, MANN,
MARSHALL, MUNDY, MURPHY, M. O'BRIEN, O'NEILL, ROSS AND MURT,
APRIL 28, 2011

REFERRED TO COMMITTEE ON FINANCE, APRIL 28, 2011

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the
2 Pennsylvania Consolidated Statutes, providing for a natural
3 gas severance tax.

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

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

8 CHAPTER 15

9 NATURAL GAS SEVERANCE TAX

10 Sec.

11 1501. Short title of chapter.

12 1502. Definitions.

13 1503. Imposition of tax.

14 1504. Return and payment.

15 1505. Natural gas severance tax registration.

16 1506. Assessments.

17 1507. Time for assessment.

- 1 1508. Extension of assessment period.
2 1509. Reassessments.
3 1510. Interest.
4 1511. Penalties.
5 1512. Criminal acts.
6 1513. Abatement of additions or penalties.
7 1514. Bulk and auction sales.
8 1515. Collection upon failure to request reassessment, review
9 or appeal.
10 1516. Tax liens.
11 1517. Tax suit reciprocity.
12 1518. Service.
13 1519. Refunds.
14 1520. Refund petition.
15 1521. Rules and regulations.
16 1522. Recordkeeping and meters.
17 1523. Examinations.
18 1524. Unauthorized disclosure.
19 1525. Cooperation with other governments.
20 1526. Bonds.
21 1527. Accounts established.
22 1528. Transfers and distributions.
23 1529. Continuing appropriation.
24 § 1501. Short title of chapter.

25 This chapter shall be known and may be cited as the Natural
26 Gas Severance Tax Act.

27 § 1502. 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 "Accredited laboratory." A facility engaged in the testing
2 and calibration of scientific measurement devices and certified
3 by the Department of Environmental Protection as having met the
4 Department of Revenue's standards for accreditation.

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

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

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

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

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

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

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

28 "Natural gas well." A bore hole drilled or being drilled for
29 the purpose of or to be used for producing natural gas from
30 subsurface geological formations.

1 "Nonproducing well." A natural gas well that does not
2 produce natural gas in excess of 90,000 cubic feet per day.

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

7 "Person." A natural person or a corporation, fiduciary,
8 association or other entity, including the Commonwealth, its
9 political subdivisions, instrumentalities and authorities. When
10 the term is used in a provision prescribing and imposing a
11 penalty or imposing a fine or imprisonment, or both, the term
12 shall include a member of an association and an officer of a
13 corporation.

14 "Producing well." A natural gas well that produces natural
15 gas in excess of 90,000 cubic feet of natural gas per day.

16 "Rate." The rate under section 1503(c) (relating to
17 imposition of tax).

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 1503(c) (relating to imposition of tax) by which the
4 rate of the tax imposed under section 1503(c) is adjusted
5 annually.

6 "Taxpayer." A person, including, but not limited to, a well
7 operator who is subject to the tax imposed by this chapter.

8 "Unit." A thousand cubic feet of natural gas measured at a
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 a wellhead meter
19 shall be determined by the continuous use of a recording
20 thermometer installed to properly record the temperature of
21 gas flowing through the wellhead meter. The arithmetic
22 average of the temperature recorded each 24-hour day shall be
23 used in computing gas volumes. If a recording thermometer is
24 not 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 by annual tests made by the use of an Edwards or Acme gravity
29 balance, or at intervals as found necessary in practice.
30 Specific gravity determinations shall be used in computing

1 gas volumes.

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

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

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

17 § 1503. Imposition of tax.

18 (a) Establishment.--Except as otherwise provided in
19 subsection (b), a natural gas severance tax is levied on every
20 operator that severs natural gas from a producing well in this
21 Commonwealth.

22 (b) Exemptions.--The tax shall not be imposed on the
23 following:

24 (1) Units severed, sold and delivered by an operator at
25 or within five miles of the producing well for the processing
26 or manufacture of tangible personal property, as defined
27 under section 201 of the act of March 4, 1971 (P.L.6, No.2),
28 known as the Tax Reform Code of 1971, within this
29 Commonwealth.

30 (2) Units provided free of charge to the owner of the

1 surface under which the gas is severed, if the surface owner
2 is the end user of the gas.

3 (3) Owners of the surface real property where natural
4 gas wells are drilled or operated and have leased the rights
5 to recover natural gas from beneath the surface to an
6 operator.

7 (c) Rate.--The tax imposed in subsection (a) shall be 1.5%
8 of the gross value of units severed at the wellhead during a
9 reporting period for the first 60 months of production and 5% of
10 the gross value of units severed at the wellhead during a
11 reporting period thereafter for each producing well.

12 § 1504. Return and payment.

13 (a) Requirement.--An operator shall file a return with the
14 department, on a form prescribed by the department, which shall
15 include the number of natural gas units severed by the operator
16 for the reporting period and the amount of tax due.

17 (b) Filing.--The return required by subsection (a) shall be
18 filed with the department within 30 days following the end of a
19 reporting period.

20 (c) Deadline.--The tax is due on the day the return is
21 required to be filed and becomes delinquent if not remitted to
22 the department by that date.

23 § 1505. Natural gas severance tax registration.

24 (a) Application.--Before an operator severs natural gas in
25 this Commonwealth, the operator shall apply to the department
26 for a natural gas severance tax registration certificate.

27 (b) Application fee.--The department may charge an
28 application fee to cover the administrative costs associated
29 with the application and registration process, in which case the
30 department shall not issue a registration certificate until the

1 operator has paid the application fee.

2 (c) Declaration.--

3 (1) The operator shall include in its application a
4 declaration of all producing wells and nonproducing wells
5 used by the operator for the severance of natural gas. The
6 declaration shall include copies of wellhead meter
7 certifications for each site.

8 (2) The operator shall update the declaration when:

9 (i) the operator adds or removes a producing well or
10 nonproducing well in this Commonwealth;

11 (ii) there is a change in the status of a producing
12 well or nonproducing well; or

13 (iii) the operator uses a different accredited
14 laboratory to issue a wellhead meter certification.

15 (3) The operator shall update the declaration within 30
16 days after a calendar month in which a change to the
17 declaration occurs.

18 (d) Issuance.--

19 (1) Except as provided in subsection (e), after the
20 receipt of an application, the department shall issue a
21 registration certificate under subsection (a). The
22 registration certificate shall be nonassignable.

23 (2) All registrants shall renew their registration
24 certificates and wellhead meter certifications on a staggered
25 renewal system established by the department.

26 (3) After the initial staggered renewal period, a
27 registration certificate or a wellhead meter certification
28 issued shall be valid for a period of five years.

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

30 (1) The department may refuse to issue, suspend or

1 revoke a registration certificate if the applicant or
2 registrant has not filed required State tax reports and paid
3 State taxes not subject to a timely perfected administrative
4 or judicial appeal or subject to a duly authorized deferred
5 payment plan.

6 (2) The department shall notify the applicant or
7 registrant of any refusal, suspension or revocation. The
8 notice shall contain a statement that the refusal, suspension
9 or revocation may be made public. The notice shall be made by
10 first class mail.

11 (3) An applicant or registrant aggrieved by the
12 determination of the department may file an appeal under the
13 provisions for administrative appeals provided under the act
14 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
15 of 1971.

16 (4) In the case of a suspension or revocation which is
17 appealed, the registration certificate shall remain valid
18 pending a final outcome of the appeals process.

19 (5) Notwithstanding sections 274, 353(f), 408(b), 603,
20 702, 802, 904 and 1102 of the Tax Reform Code of 1971 or any
21 other provision of law, if no appeal is taken or if an appeal
22 is taken and denied at the conclusion of the appeal process,
23 the department may disclose, by publication or otherwise, the
24 identity of a operator and the fact that the operator's
25 registration certificate has been refused, suspended or
26 revoked under this subsection. Disclosure may include the
27 basis for refusal, suspension or revocation.

28 (f) Violation.--

29 (1) A person severing natural gas in this Commonwealth
30 without holding a valid registration certificate under

1 subsection (d) shall be guilty of a summary offense and
2 shall, upon conviction, be sentenced to pay a fine of not
3 less than \$300 nor more than \$1,500. Each day in which a
4 person is guilty of a summary offense under this section
5 shall be deemed to be a separate violation.

6 (2) In the event the person convicted defaults in the
7 payment of the fine, the person shall be sentenced to a term
8 of imprisonment of not less than five days nor more than 30
9 days.

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

12 (4) For purposes of this subsection, the severing of
13 natural gas during any calendar day shall constitute a
14 separate violation.

15 (5) The secretary may designate employees of the
16 department to enforce the provisions of this subsection. The
17 employees shall exhibit proof of and be within the scope of
18 the designation when instituting proceedings as provided by
19 the Pennsylvania Rules of Criminal Procedure.

20 (g) Failure to obtain registration certificate.--Failure to
21 obtain or hold a valid registration certificate does not relieve
22 a person from liability for the tax.

23 § 1506. Assessments.

24 (a) Authorization and requirement.--The department shall
25 make the inquiries, determinations and assessments of the tax,
26 including interest, additions and penalties imposed under this
27 chapter.

28 (b) Notice.--The notice of assessment and demand for payment
29 shall be mailed to the taxpayer. The notice shall state the
30 basis of the assessment. The department shall send the notice of

1 assessment to the taxpayer at its registered address by
2 certified mail if the assessment increases the taxpayer's tax
3 liability by \$300. Otherwise, the notice of assessment may be
4 sent by regular mail.

5 § 1507. Time for assessment.

6 (a) Requirement.--

7 (1) An assessment as provided under section 1506
8 (relating to assessments) shall be made within three years
9 after the date when the return provided for by section 1504
10 (relating to return and payment) is filed or the end of the
11 year in which the tax liability arises, whichever shall occur
12 last.

13 (2) For the purposes of this subsection and subsection
14 (b), a return filed before the last day prescribed for the
15 filing period shall be considered as filed on the last day.

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

19 (c) Intent to evade.--Where no return is filed or where the
20 taxpayer files a false or fraudulent return with intent to evade
21 the tax, the assessment may be made at any time.

22 (d) Erroneous credit or refund.--Within three years of the
23 granting of a refund or credit or within the period in which an
24 assessment or reassessment may have been issued by the
25 department for the taxable period for which the refund was
26 granted, whichever period shall last occur, the department may
27 issue an assessment to recover a refund or credit made or
28 allowed erroneously.

29 § 1508. Extension of assessment period.

30 Notwithstanding any other provision of this chapter, the

1 assessment period may be extended in the event a taxpayer has
2 provided written consent before the expiration of the period
3 provided in section 1507 (relating to time for assessment) for a
4 tax assessment. The amount of tax due may be assessed at any
5 time within the extended period. The period may be extended
6 further by subsequent written consents made before the
7 expiration of the extended period.

8 § 1509. Reassessments.

9 A taxpayer against whom an assessment is made may petition
10 the department for a reassessment under Article XXVII of the act
11 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
12 1971.

13 § 1510. Interest.

14 The department shall assess interest on any delinquent tax at
15 the rate prescribed under section 806 of the act of April 9,
16 1929 (P.L.343, No.176), known as The Fiscal Code.

17 § 1511. Penalties.

18 The department shall enforce the following penalties:

19 (1) The penalty against an operator for severing natural
20 gas without a natural gas severance tax registration
21 certificate shall be \$1 for every unit severed without a
22 valid registration certificate. The department may assess
23 this penalty separately from or in conjunction with any
24 assessment of the natural gas tax.

25 (2) The penalty against an operator for failure to
26 timely file a return as required under section 1504 (relating
27 to return and payment) or for failure to timely pay the tax
28 as required by section 1504(c) shall be 5% of the tax
29 liability to be reported on the return for each day beyond
30 the due date that the return is not filed or tax is not paid.

1 (3) In addition to the penalty prescribed under
2 paragraph (2), the penalty against an operator for a willful
3 failure to file a timely return shall be 200% of the tax
4 liability required to be reported on the return.

5 § 1512. Criminal acts.

6 (a) Fraudulent return.--Any person, with intent to defraud
7 the Commonwealth, who willfully makes or causes to be made a
8 return required by this chapter which is false, commits a
9 misdemeanor of the third degree and shall, upon conviction
10 thereof, be sentenced to pay a fine of not more than \$2,000 or
11 to imprisonment for not more than three years, or both.

12 (b) Other crimes.--

13 (1) Except as otherwise provided by subsection (a), a
14 person commits a misdemeanor of the third degree and shall,
15 upon conviction thereof, be sentenced to pay a fine of not
16 more than \$1,000 and costs of prosecution or to imprisonment
17 for not more than one year, or both, for any of the
18 following:

19 (i) Willfully failing to timely remit the tax to the
20 department.

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

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

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

27 (v) Refusing to permit the department or its
28 authorized agents to examine its books, records or
29 papers.

30 (vi) Knowingly making any incomplete, false or

1 fraudulent return or report.

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

4 (viii) Providing any person with a false statement
5 as to the payment of the tax with respect to any
6 pertinent facts.

7 (ix) Making, uttering or issuing a false or
8 fraudulent statement.

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

11 § 1513. Abatement of additions or penalties.

12 Upon the filing of a petition for reassessment or a petition
13 for refund by a taxpayer as provided under this chapter,
14 additions or penalties imposed upon the taxpayer by this chapter
15 may be waived or abated in whole or in part where the petitioner
16 establishes that the petitioner acted in good faith, without
17 negligence and with no intent to defraud.

18 § 1514. Bulk and auction sales.

19 A person who sells or causes to be sold at auction or sells
20 or transfers in bulk 51% or more of a stock of goods, wares or
21 merchandise of any kind, 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 obtain
24 a registration certificate under the provisions of this chapter,
25 shall be subject to the provisions of section 1403 of the act of
26 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

27 § 1515. Collection upon failure to request reassessment, review
28 or appeal.

29 (a) Power of department.--The department may collect the
30 tax:

1 (1) If an assessment of the tax is not paid within 30
2 days and no petition for reassessment has been filed, after
3 notice to the taxpayer.

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

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

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

9 (ii) the expiration of the Board of Finance and
10 Revenue's time for acting upon a petition for review.

11 (4) In all cases of judicial sales, receiverships,
12 assignments or bankruptcies.

13 (b) Limitation of defenses.--In a case for the collection of
14 taxes under subsection (a), the taxpayer against whom the taxes
15 were assessed may not set up a ground of defense that might have
16 been determined by the department, the Board of Finance and
17 Revenue or the courts, provided that the defense of failure of
18 the department to mail notice of assessment or reassessment to
19 the taxpayer and the defense of payment of assessment or
20 reassessment may be raised in proceedings for collection by a
21 motion to stay the proceedings.

22 § 1516. Tax liens.

23 (a) Lien imposed.--

24 (1) If a taxpayer neglects or refuses to pay the tax for
25 which the taxpayer is liable under this chapter after demand,
26 the amount, including interest, addition or penalty, together
27 with additional costs that may accrue, shall be a lien in
28 favor of the Commonwealth upon the real and personal property
29 of the taxpayer but only after the lien has been entered and
30 docketed of record by the prothonotary of the county where

1 the property is situated.

2 (2) The department may, at any time, transmit to the
3 prothonotaries of the respective counties certified copies of
4 all liens imposed by this section.

5 (3) (i) The prothonotary who receives the lien shall
6 enter and docket the same of record to the office of the
7 prothonotary. The lien shall be indexed as judgments are
8 now indexed.

9 (ii) No prothonotary shall require as a condition
10 precedent to the entry of the lien the payment of costs
11 incidental to its entry.

12 (b) Priority of lien and effect on judicial sale.--Except
13 for the costs of the sale and the writ upon which the sale was
14 made and real estate taxes and municipal claims against the
15 property, a lien imposed under this section shall:

16 (1) Have priority from the date of its recording and
17 shall be fully paid and satisfied out of the proceeds of any
18 judicial sale of property subject to the lien, before any
19 other obligation, judgment, claim, lien or estate to which
20 the property may subsequently become subject.

21 (2) Be subordinate to mortgages and other liens existing
22 and duly recorded or entered of record prior to the recording
23 of the lien.

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

25 (1) In the case of a judicial sale of property subject
26 to a lien imposed under this section, upon a lien or claim
27 over which the lien imposed under this section has priority,
28 the sale shall discharge the lien imposed under this section
29 to the extent only that the proceeds are applied to its
30 payment, and the lien shall continue in full force and effect

1 as to the balance remaining unpaid.

2 (2) There shall be no inquisition or condemnation upon
3 any judicial sale of real estate made by the Commonwealth
4 under the provisions of this chapter. The lien shall continue
5 as provided in the act of April 9, 1929 (P.L.343, No.176),
6 known as The Fiscal Code, and a writ of execution may
7 directly issue upon the lien without the issuance and
8 prosecution to judgment of a writ of scire facias, subject to
9 the following:

10 (i) Not less than ten days before issuance of any
11 execution on the lien, notice of the filing and the
12 effect of the lien shall be sent by registered mail to
13 the taxpayer at its last known post office address.

14 (ii) The lien shall have no effect upon any stock of
15 goods, wares or merchandise regularly sold or leased in
16 the ordinary course of business by the taxpayer against
17 whom the lien has been entered, unless and until a writ
18 of execution has been issued and a levy made upon the
19 stock of goods, wares and merchandise.

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

26 (e) Priority.--

27 (1) Except as otherwise provided in this chapter, the
28 distribution, voluntary or compulsory, in receivership,
29 bankruptcy or otherwise of the property or estate of any
30 person, all taxes which are due and unpaid and are not

1 collectible under the provisions of section 225 of the act of
2 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
3 1971, shall be paid from the first money available for
4 distribution in priority to all other claims and liens,
5 except as the laws of the United States may give priority to
6 a claim to the Federal Government.

7 (2) A person required to administer or distribute the
8 property or estate who violates the provisions of this
9 section shall be personally liable for the taxes which are
10 accrued and unpaid and chargeable against the person whose
11 property or estate is being administered or distributed.

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

18 § 1517. Tax suit reciprocity.

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

24 § 1518. Service.

25 (a) Appointment of Secretary of the Commonwealth.--An
26 operator is deemed to have appointed the Secretary of the
27 Commonwealth its agent for the acceptance of service of process
28 or notice in a proceeding for the enforcement of the civil
29 provisions of this chapter and service made upon the Secretary
30 of the Commonwealth as agent shall be of the same legal force

1 and validity as if the service had been personally made upon the
2 operator.

3 (b) Substituted service.--

4 (1) Where service cannot be made upon the operator in
5 the manner provided by other laws of this Commonwealth
6 relating to service of process, service may be made upon the
7 Secretary of the Commonwealth.

8 (2) In that case, a copy of the process or notice shall
9 be personally served upon any agent or representative of the
10 operator who may be found within this Commonwealth or, where
11 no agent or representative may be found, a copy of the
12 process or notice shall be sent by registered mail to the
13 operator at the last known address of its principal place of
14 business, home office or residence.

15 § 1519. Refunds.

16 (a) General rule.--Pursuant to Article XXVII of the act of
17 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
18 1971, the department shall refund all taxes, interest and
19 penalties paid to the Commonwealth under the provisions of this
20 chapter to which the Commonwealth is not rightfully entitled.

21 (b) Payment of refunds.--

22 (1) Subject to the provisions of paragraph (2), the
23 refunds shall be paid to the person or the person's heirs,
24 successors, assigns or other personal representatives who
25 paid the tax.

26 (2) No refund shall be made under this section regarding
27 a payment made by reason of an assessment where a taxpayer
28 has filed a petition for reassessment under section 2702 of
29 the Tax Reform Code of 1971 to the extent the petition is
30 adverse to the taxpayer by a decision which is no longer

1 subject to further review or appeal.

2 (c) Construction.--Nothing in this chapter shall be
3 construed to prohibit a taxpayer who has filed a timely petition
4 for reassessment from amending it to a petition for refund where
5 the petitioner paid the tax assessed.

6 § 1520. Refund petition.

7 (a) General rule.--Except as provided for in subsection (b),
8 the refund or credit of tax, interest or penalty provided for by
9 section 1519 (relating to refunds) shall be made only where the
10 person who has paid the tax files a petition for refund with the
11 department under Article XXVII of the act of March 4, 1971
12 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the
13 time limits of section 3003.1 of the Tax Reform Code of 1971.

14 (b) Natural gas severance tax.--

15 (1) A refund or credit of tax, interest or penalty paid
16 as a result of an assessment made by the department under
17 section 1505 (relating to natural gas severance tax
18 registration) shall be made only where the person who has
19 paid the tax files with the department a petition for a
20 refund under Article XXVII of the Tax Reform Code of 1971
21 within the time limits of section 3003.1 of the Tax Reform
22 Code of 1971.

23 (2) The filing of a petition for refund under the
24 provisions of this subsection shall not affect the abatement
25 of interest, additions or penalties to which the person may
26 be entitled by reason of the person's payment of the
27 assessment.

28 § 1521. Rules and regulations.

29 The department shall enforce the provisions of this chapter
30 and may prescribe, adopt, promulgate and enforce rules and

1 regulations not inconsistent with the provisions of this chapter
2 relating to any matter or thing pertaining to the administration
3 and enforcement of the provisions of this chapter and the
4 collection of taxes, penalties and interest imposed by this
5 chapter. The department may prescribe the extent, if any, to
6 which any of the rules and regulations shall be applied without
7 retroactive effect.

8 § 1522. Recordkeeping and meters.

9 (a) Duty to maintain records.--

10 (1) Every person liable for the tax or for the
11 collection of the tax shall keep records, including those
12 enumerated in subsection (b), render statements, make returns
13 and comply with the rules and regulations as the department
14 may prescribe regarding matters pertinent to the person's
15 business.

16 (2) Whenever it is necessary, the department may require
17 a person, by notice served upon the person or by regulations,
18 to make returns, render statements or keep records as the
19 department deems sufficient to show whether or not the person
20 is liable to pay the tax.

21 (b) Records.--Every person liable for the tax shall maintain
22 the following records:

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

27 (2) Records, statements and other instruments furnished
28 to an operator by a person to whom the operator delivers for
29 sale, transport or delivery of natural gas.

30 (3) Records, statements and other instruments as the

1 department may prescribe by regulation.

2 (c) Records of nonresidents.--

3 (1) A nonresident who does business in this Commonwealth
4 as an operator shall keep adequate records of the business
5 and of the tax due as a result. The records shall be retained
6 within this Commonwealth unless retention outside this
7 Commonwealth is authorized by the department.

8 (2) The department may require a taxpayer who desires to
9 retain records outside this Commonwealth to assume reasonable
10 out-of-State audit expenses.

11 (d) Keeping of separate records.--

12 (1) An operator who is engaged in another business which
13 does not involve the severing of natural gas taxable under
14 this chapter shall keep separate books and records of the
15 businesses so as to show the taxable severing of natural gas
16 under this chapter separately from other business activities
17 not taxable under this chapter.

18 (2) If any person fails to keep separate books and
19 records, the person shall be liable for a penalty equaling
20 100% of tax due for the period where separate records were
21 not maintained.

22 (e) Type of meters required.--An operator shall provide for
23 and maintain, according to industry standards, a discrete
24 wellhead meter where natural gas is severed. Any wellhead meter
25 installed after the effective date of this section shall be a
26 digital meter.

27 § 1523. Examinations.

28 (a) Powers of department.--The department or any of its
29 authorized agents may:

30 (1) Examine the books, papers and records of any

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

4 (2) Require the preservation of all books, papers and
5 records for any period deemed proper by it but not to exceed
6 three years from the end of the calendar year to which the
7 records relate.

8 (3) Examine any person, under oath, concerning the
9 taxable severing of natural gas by any taxpayer or concerning
10 any other matter relating to the enforcement or
11 administration of this chapter, and to this end may compel
12 the production of books, papers and records and the
13 attendance of all persons whether as parties or witnesses
14 whom it believes to have knowledge of relevant matters. The
15 procedure for the hearings or examinations shall be the same
16 as that provided by the act of April 9, 1929 (P.L.343, No.
17 176), known as The Fiscal Code.

18 (b) Duties of taxpayers.--Every taxpayer shall provide the
19 department or its agent with the means, facilities and
20 opportunity for examinations and investigations under this
21 section.

22 § 1524. Unauthorized disclosure.

23 (a) General rule.--Any information gained by the department
24 as a result of any return, examination, investigation, hearing
25 or verification required or authorized by this chapter shall be
26 confidential except for official purposes and except in
27 accordance with proper judicial order or as otherwise provided
28 by law.

29 (b) Penalty for violation.--Any person unlawfully divulging
30 the information commits a misdemeanor of the third degree and

1 shall, upon conviction thereof, be sentenced to pay a fine of
2 not more than \$1,000 and costs of prosecution or to a term of
3 imprisonment for not more than one year, or both.

4 § 1525. Cooperation with other governments.

5 (a) General rule.--Notwithstanding the provisions of section
6 1517 (relating to tax suit reciprocity), the department may
7 permit the Commissioner of the Internal Revenue Service of the
8 United States, the proper officer of any state or the authorized
9 representative of either of them to inspect the tax returns of
10 any taxpayer, or may furnish to the commissioner or officer or
11 to either of their authorized representative an abstract of the
12 return of a taxpayer, or supply any of them with information
13 concerning any item contained in a return or disclosed by the
14 report of an examination or investigation of the return of a
15 taxpayer.

16 (b) Applicability.--Subsection (a) shall apply only when the
17 laws of the United States or another state grant substantially
18 similar privileges to the proper officer of the Commonwealth
19 charged with the administration of this chapter.

20 § 1526. Bonds.

21 (a) Taxpayer to file bond.--

22 (1) The department may require a nonresident natural
23 person or any foreign corporation, association, fiduciary or
24 other entity not authorized to do business within this
25 Commonwealth or not having an established place of business
26 in this Commonwealth and subject to the tax to file a bond
27 issued by a surety company authorized to do business in this
28 Commonwealth and approved by the Insurance Commissioner as to
29 solvency and responsibility, in amounts as it may fix, to
30 secure the payment of any tax or penalties due or which may

1 become due from a nonresident natural person, corporation,
2 association, fiduciary or other entity whenever it deems it
3 necessary to protect the revenues obtained under this
4 chapter.

5 (2) The department may also require a bond of a person
6 petitioning the department for reassessment in the case of an
7 assessment over \$500 or where, in the department's opinion,
8 the ultimate collection is in jeopardy.

9 (3) For a period of three years, the department may
10 require a bond of any person who has, on three or more
11 occasions within a 12-month period, either filed a return or
12 made payment to the department more than 30 days late.

13 (4) (i) In the event the department determines a
14 taxpayer must file a bond, the department shall give
15 notice to the taxpayer specifying the amount of the bond
16 required.

17 (ii) The taxpayer shall file the bond within five
18 days after notice is given by the department unless,
19 within five days, the taxpayer requests in writing a
20 hearing before the secretary or the secretary's
21 representative.

22 (iii) At the hearing, the necessity, propriety and
23 amount of the bond shall be determined by the secretary
24 or the secretary's representative.

25 (iv) The determination shall be final and the
26 taxpayer shall comply with the determination within 15
27 days after notice is mailed to the taxpayer.

28 (b) Securities in lieu of bond.--

29 (1) In lieu of the bond required by this section,
30 securities approved by the department or cash in a prescribed

1 amount may be deposited.

2 (2) The securities or cash shall be kept in the custody
3 of the department. The department may apply the securities or
4 cash to the tax and interest or penalties due without notice
5 to the depositor. The securities may be sold by the
6 department to pay the tax, interest or penalties, or any
7 combination thereof, due at public or private sale upon five
8 days' written notice to the depositor.

9 (c) Failure to file bond.--

10 (1) The department may file a lien under section 1516
11 (relating to tax liens) against a taxpayer who fails to file
12 a bond when required to do so under this section.

13 (2) All funds received upon execution of the judgment on
14 the lien shall be refunded to the taxpayer with 3% interest,
15 if the department makes a final determination that the
16 taxpayer does not owe any payment to the department.

17 § 1527. Accounts established.

18 (a) Natural Gas Severance Tax Account.--

19 (1) The Natural Gas Severance Tax Account is established
20 as a restricted account within the General Fund.

21 (2) The proceeds of the tax and penalties and interest
22 imposed under this chapter, less the amounts appropriated
23 under section 1529 (relating to continuing appropriation),
24 shall be deposited into this account.

25 (3) The money in this account shall only be used in
26 accordance with section 1528 (relating to transfers and
27 distributions).

28 (b) Local Government Services Account.--

29 (1) The Local Government Services Account is established
30 as a restricted account within the General Fund.

1 (2) The allocation under section 1528(a)(3) shall be
2 deposited into this account and shall be distributed as
3 provided in section 1528(b).

4 (c) Education Supplemental Account.--

5 (1) The Education Supplemental Account is established as
6 a restricted account within the General Fund.

7 (2) The allocation under section 1528(a)(1) shall be
8 deposited into this account and shall be distributed as
9 provided in section 1528(e).

10 § 1528. Transfers and distributions.

11 (a) Monthly transfers and distributions from Natural Gas
12 Severance Tax Account.--On the last business day of each
13 calendar month, the State Treasurer shall make the following
14 transfers and distributions of the money in the Natural Gas
15 Severance Tax Account:

16 (1) Thirty-two percent to the Education Supplemental
17 Account.

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

20 (3) Thirty-two percent to the Local Government Services
21 Account, to be further distributed by the State Treasurer
22 under subsection (c).

23 (4) One and six-tenths percent to the Hazardous Sites
24 Cleanup Fund.

25 (5) One and three-tenths percent to the Conservation
26 District Fund for distribution to county conservation
27 districts pursuant to guidelines established by the State
28 Conservation Commission.

29 (6) One and four-tenths percent to the Pennsylvania Fish
30 and Boat Commission.

1 (7) One and three-tenths percent to the Department of
2 Public Welfare to provide cash and crisis grants to low-
3 income households under the Low Income Home Energy Assistance
4 Program.

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

8 (b) Quarterly distributions from Local Government Services
9 Account.--On the last business day of each period of three
10 calendar months, the State Treasurer shall make the following
11 distributions from the money in the Local Government Services
12 Account:

13 (1) Thirty percent to counties with producing sites to
14 be used at their discretion to address problems associated
15 with natural gas development. The money under this paragraph
16 shall be distributed to each eligible county based on the
17 following formula:

18 (i) Divide:

19 (A) the number of producing sites in the county;

20 by

21 (B) the total number of producing sites in all
22 counties of this Commonwealth.

23 (ii) Multiply:

24 (A) the quotient derived from subparagraph (i);

25 by

26 (B) the amount of money available for
27 distribution under this paragraph.

28 (2) Forty-five percent to municipalities with producing
29 sites to be used at their discretion to address problems
30 associated with natural gas development. The money under this

1 paragraph shall be distributed to each eligible municipality
2 based on the following formula:

3 (i) Divide:

4 (A) the number of producing sites in the
5 municipality; by

6 (B) the total number of producing sites in all
7 municipalities of this Commonwealth.

8 (ii) Multiply:

9 (A) the quotient derived from subparagraph (i);
10 by

11 (B) the amount of money available for
12 distribution under this paragraph.

13 (3) Fifteen percent to municipalities with no producing
14 sites located in a county with producing sites to be used at
15 their discretion to address problems associated with natural
16 gas development. The money under this paragraph shall be
17 distributed to each eligible municipality based on the
18 following formula:

19 (i) Divide:

20 (A) the number of producing sites in the county;
21 by

22 (B) the total number of producing sites in all
23 counties in this Commonwealth.

24 (ii) Multiply:

25 (A) the quotient derived from subparagraph (i);
26 by

27 (B) the amount of money available for
28 distribution under this paragraph.

29 (4) Any funds not distributed by a county to its
30 municipalities shall be distributed to the county to be used

1 solely for grants to municipalities to defer the cost of
2 regional cooperation endeavors undertaken by the
3 municipalities within the county.

4 (5) Ten percent to the Pennsylvania Emergency Management
5 Agency to be distributed to fire and ambulance services in
6 counties with producing sites in accordance with the
7 procedures established in 35 Pa.C.S. Ch. 78 (relating to
8 grants to volunteer fire companies and volunteer services).

9 (6) Only producing wells on which the tax is levied
10 during the three-month period for which transfers and
11 distributions are made shall be included in any of the
12 calculations made under paragraphs (1), (2) and (4) for that
13 three-month period.

14 (c) Distributions to counties.--

15 (1) The governing body of each county that receives
16 funds under subsection (b) (1) may expend the funds only by a
17 simple majority vote of all of the members of the governing
18 body.

19 (2) (i) Commencing in 2013, before February 1, each
20 county that receives funds under subsection (b) (1) shall
21 prepare and deliver a report to the Governor, the
22 Secretary of the Senate and the Chief Clerk of the House
23 of Representatives detailing the expenditure of the
24 funds.

25 (ii) The Department of Community and Economic
26 Development may audit a county's expenditure of the
27 funds.

28 (iii) A county that receives the funds shall make
29 its financial records and other documents relating to its
30 expenditure of the funds available to the department.

1 (d) Distributions to municipalities.--

2 (1) Commencing in 2013, before February 1, each
3 municipality receiving distributions under subsection (b) (2)
4 or (3) shall prepare and deliver a report to the Governor,
5 the Secretary of the Senate and the Chief Clerk of the House
6 of Representatives detailing the expenditure of funds.

7 (2) (i) The Department of Community and Economic
8 Development may audit a municipality's expenditure of the
9 funds.

10 (ii) A municipality that receives the funds shall
11 make financial records and other documents relating to
12 its expenditure of the funds available to the Department
13 of Community and Economic Development.

14 (e) Annual transfers and distributions from Education
15 Supplemental Account.--On the last business day of each fiscal
16 year, the State Treasurer shall make the following distributions
17 from the money in the Education Supplemental Account:

18 (1) Two-thirds of the total moneys in the account shall
19 be transferred to the Department of Education to support
20 basic education in the Commonwealth.

21 (2) One-third of the total moneys in the account shall
22 be transferred to the Department of Education to support
23 community colleges and higher education in the Commonwealth.

24 (f) Administration.--The department shall make the
25 calculations required for the transfers and distributions under
26 this section and shall submit the calculations to the State
27 Treasurer in sufficient time for the State Treasurer to make the
28 transfers and distributions as required by this section.

29 § 1529. Continuing appropriation.

30 The amount of the proceeds from the tax as shall be necessary

1 for the payment of refunds, enforcement or administration under
2 this chapter is hereby appropriated on a continuing basis to the
3 department for those purposes.

4 Section 2. This act shall take effect in 120 days.