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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2051 Session of  
2014

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INTRODUCED BY SANTARSIERO, MCCARTER, COHEN, PASHINSKI, ROEBUCK,  
BROWNLEE, ROZZI, DAVIS, KIRKLAND, BISHOP, DeLUCA AND FRANKEL,  
FEBRUARY 18, 2014

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
FEBRUARY 18, 2014

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AN ACT

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

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

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

7 CHAPTER 16

8 NATURAL GAS SEVERANCE TAX

9 Sec.

10 1601. Scope of chapter.

11 1602. Definitions.

12 1603. Imposition of tax.

13 1603.1. Rate adjustment index.

14 1604. Registration.

15 1605. Meters.

16 1606. Assessments.

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

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

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

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

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

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

26 (2) The temperature of the gas passing the meters shall  
27 be determined by the continuous use of a recording  
28 thermometer installed to properly record the temperature of  
29 gas flowing through the meters. The arithmetic average of the  
30 temperature recorded each 24-hour day shall be used in

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

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

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

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

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

22 § 1603. Imposition of tax.

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

27 (1) The stripper well is one of multiple producing sites  
28 or nonproducing sites, the combined volumes of gas produced  
29 by all of which sites are measured by a single wellhead meter  
30 as provided in section 1605 (relating to meters).

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

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

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

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

14           (b) Base rate.--The base rate shall be 29¢ per unit severed  
15 at the wellhead.

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

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

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

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

26           (d) Filing.--The return required by subsection (c) shall be  
27 filed with the department within 15 days following the end of a  
28 reporting period. The tax is due on the day the return is  
29 required to be filed under this subsection and shall become  
30 delinquent if not remitted to the department by the required

1 date.

2 § 1603.1. Rate adjustment index.

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

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

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

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

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

23 (d) Publication of adjustment.--The department shall forward  
24 the amount of the rate adjustment index and the adjusted rate,  
25 as determined under subsection (c), to the Legislative Reference  
26 Bureau for publication in the Pennsylvania Bulletin by May 1 of  
27 each year and shall simultaneously provide the information to  
28 producers by written notice. Failure to publish or provide to  
29 producers the amount of the rate adjustment index and the  
30 adjusted rate shall not affect the applicability of the adjusted

1 rate under subsection (b).

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

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

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

30 § 1604. Registration.



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

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

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

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

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

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

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

10 (d) Violation.--

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

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

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

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

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

29 § 1605. Meters.

30 A producer shall provide for and maintain a discrete wellhead

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

5 § 1606. Assessments.

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

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

17 § 1607. Time for assessment.

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

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

29 (c) Intent to evade.--Where no return is filed or where the  
30 taxpayer files a false or fraudulent return with intent to evade

1 the tax imposed by this chapter, the assessment may be made at  
2 any time.

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

10 § 1608. Extension of assessment period.

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

19 § 1609. Reassessments.

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

24 § 1610. Interest.

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

28 § 1611. Criminal acts.

29 (a) Fraudulent return.--Any person with intent to defraud  
30 the Commonwealth, who willfully makes or causes to be made a

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

5 (b) Other crimes.--

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

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

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

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

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

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

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

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

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

30 (ix) Making, uttering or issuing a false or

1 fraudulent statement.

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

4 § 1612. Abatement of additions or penalties.

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

11 § 1613. Bulk and auction sales.

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

21 § 1614. Collection upon failure to request reassessment, review  
22 or appeal.

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

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

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

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

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

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

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

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

16           § 1615. Tax liens.

17           (a) Lien imposed.--If any taxpayer neglects or refuses to  
18           pay the tax imposed under this chapter for which the taxpayer is  
19           liable under this chapter after demand, the amount, including  
20           interest, addition or penalty, together with additional costs  
21           that may accrue, shall be a lien in favor of the Commonwealth  
22           upon the real and personal property of the taxpayer, but only  
23           after the same has been entered and docketed on the record by  
24           the prothonotary of the county where the property is situated.  
25           The department may, at any time, transmit to the prothonotaries  
26           of the respective counties certified copies of all liens imposed  
27           by this section. It shall be the duty of the prothonotary  
28           receiving the lien to enter and docket the same of record to the  
29           office of the prothonotary. The lien shall be indexed as  
30           judgments are now indexed. No prothonotary shall require as a

1 condition precedent to the entry of the lien the payment of  
2 costs incidental to its entry.

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

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



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

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

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

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

1 collection of debts.

2 § 1616. Tax suit reciprocity.

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

8 § 1617. Service.

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

25 § 1618. Refunds.

26 Under Article XXVII of the act of March 4, 1971 (P.L.6,  
27 No.2), known as the Tax Reform Code of 1971, the department  
28 shall refund all taxes, interest and penalties paid to the  
29 Commonwealth under the provisions of this chapter to which the  
30 Commonwealth is not rightfully entitled. The refunds shall be

1 made to the person or the person's heirs, successors, assigns or  
2 other personal representatives who paid the tax, provided that  
3 no refund shall be made under this section regarding a payment  
4 made by reason of an assessment where a taxpayer has filed a  
5 petition for reassessment under section 2702 of the Tax Reform  
6 Code of 1971 to the extent the petition is adverse to the  
7 taxpayer by a decision which is no longer subject to further  
8 review or appeal. Nothing in this chapter shall prohibit a  
9 taxpayer who has filed a timely petition for reassessment from  
10 amending it to a petition for refund where the petitioner paid  
11 the tax assessed.

12 § 1619. Refund petition.

13 (a) General rule.--Except as provided for in subsection (b),  
14 the refund or credit of tax, interest or penalty provided for by  
15 section 1619 (relating to refunds) shall be made only where the  
16 person who has paid the tax files a petition for refund with the  
17 department under Article XXVII of the act of March 4, 1971  
18 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the  
19 time limits of section 3003.1 of the Tax Reform Code of 1971.

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

1 § 1620. Rules and regulations.

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

12 § 1621. Recordkeeping.

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

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

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

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

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

3           (b) Records of nonresidents.--A nonresident who does  
4           business in this Commonwealth as a producer shall keep adequate  
5           records of the business and of the tax due as a result. The  
6           records shall be retained within this Commonwealth unless  
7           retention outside this Commonwealth is authorized by the  
8           department. 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           (c) Keeping of separate records.--A producer who is engaged  
12           in another business or businesses which do not involve the  
13           severing of natural gas taxable under this chapter shall keep  
14           separate books and records of the businesses so as to show the  
15           taxable severing of natural gas under this chapter separately  
16           from other business activities not taxable hereunder. If any  
17           person fails to keep separate books and records, the person  
18           shall be liable for a penalty equaling 100% of tax due under  
19           this chapter for the period where separate records were not  
20           maintained.

21           § 1622. Examinations.

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

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

12 § 1623. Unauthorized disclosure.

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

22 § 1624. Cooperation with other governments.

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

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

7 § 1625. Bonds.

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

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

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

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

24 § 1626. Deposit of proceeds.

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

30 (1) Fifty percent shall be deposited into the General



1 Fund and shall be allocated to the Building Blocks PA program  
2 established by the act of March 10, 1949 (P.L.30, No.14),  
3 known as the Public School Code of 1949.

4 (2) Twenty-five percent shall be deposited into the Host  
5 Local Government Fund, which fund is hereby established, to  
6 be expended as provided by law and according to the following  
7 distribution:

8 (i) Forty-five percent to host municipalities.

9 (ii) Thirty percent to host counties.

10 (iii) Fifteen percent to nonhost municipalities in  
11 host counties.

12 (iv) Ten percent to fire departments and emergency  
13 management service providers in host counties.

14 (3) Eleven percent shall be deposited into the Marcellus  
15 Legacy Fund established by 58 Pa.C.S. § 2315 (relating to  
16 Statewide initiatives).

17 (4) Five percent shall be deposited into the General  
18 Fund and shall be allocated to the Classrooms for the Future  
19 Program.

20 (5) Three percent shall be deposited into the State  
21 Conservation District Fund.

22 (6) Two percent shall be deposited into the General Fund  
23 and shall be allocated to the Department of Environmental  
24 Protection to be expended as provided by law.

25 (7) Two percent shall be deposited into the Hazardous  
26 Sites Cleanup Fund.

27 (8) One percent shall be deposited into the General Fund  
28 and shall be allocated to the Pennsylvania Fish and Boat  
29 Commission to be expended as provided by law.

30 (9) One percent shall be deposited into the General Fund

1 and shall be allocated to the Pennsylvania Game Commission to  
2 be expended as provided by law.

3 § 1627. Penalties.

4 The department shall enforce the following penalties:

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

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

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

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

24 § 1628. Appropriation.

25 The amount of the proceeds from the tax imposed by this  
26 chapter as shall be necessary for the payment of refunds,  
27 enforcement or administration under this chapter is hereby  
28 appropriated to the department for those purposes.

29 Section 2. This act shall take effect in 60 days.