
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2673 Session of
2018

INTRODUCED BY MADDEN, SCHLOSSBERG, KINSEY, YOUNGBLOOD, DEAN,
STURLA, THOMAS, J. McNEILL, READSHAW, KAVULICH, TAI AND
PASHINSKI, SEPTEMBER 26, 2018

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
SEPTEMBER 26, 2018

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, in unconventional gas well fee, repealing
3 provisions related to expiration; providing for a natural gas
4 severance tax; establishing the Natural Gas Severance Tax
5 Account; providing for allocation of proceeds; and imposing
6 penalties.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 2318 of Title 58 of the Pennsylvania
10 Consolidated Statutes is repealed:

11 [§ 2318. Expiration.

12 (a) Notice.--The Secretary of the Commonwealth shall, upon
13 the imposition of a severance tax on unconventional gas wells in
14 this Commonwealth, submit for publication in the Pennsylvania
15 Bulletin notice of the imposition.

16 (b) Date.--This chapter shall expire on the date of the
17 publication of the notice under subsection (a).]

18 Section 2. Title 58 is amended by adding a chapter to read:

19 CHAPTER 34

1 NATURAL GAS SEVERANCE TAX

2 Sec.

3 3401. Legislative intent.

4 3402. Definitions.

5 3403. Imposition of natural gas severance tax.

6 3404. Tax adjustment index.

7 3405. Return and payment.

8 3406. Natural gas severance tax registration.

9 3407. Meters.

10 3408. Assessments.

11 3409. Time for assessment.

12 3410. Extension of assessment period.

13 3411. Reassessments.

14 3412. Interest.

15 3413. Penalties.

16 3414. Criminal acts.

17 3415. Abatement of additions or penalties.

18 3416. Bulk and auction sales.

19 3417. Collection upon failure to request reassessment, review
20 or appeal.

21 3418. Tax liens.

22 3419. Tax suit reciprocity.

23 3420. Service.

24 3421. Refunds.

25 3422. Refund petition.

26 3423. Rules and regulations.

27 3424. Recordkeeping.

28 3425. Examinations.

29 3426. Unauthorized disclosure.

30 3427. Cooperation with other governments.

1 3428. Bonds.

2 3429. Natural Gas Severance Tax Account established.

3 § 3401. Legislative intent.

4 The General Assembly finds and declares as follows:

5 (1) For decades, Commonwealth businesses and residents
6 have been paying the severance taxes assessed and passed on
7 from other natural gas-producing states in the country.

8 (2) It is the intent of the General Assembly to provide
9 the Commonwealth with a means to assess a value on the
10 commodity of natural gas being severed within this
11 Commonwealth that is exported and sold to consumers outside
12 of this Commonwealth.

13 (3) The severance tax established under this chapter is
14 intended to be borne by out-of-State consumers of natural gas
15 produced within this Commonwealth and not the natural gas
16 industry or residents of this Commonwealth.

17 § 3402. Definitions.

18 The following words and phrases when used in this chapter
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Account." The Natural Gas Severance Tax Account established
22 in section 3429 (relating to Natural Gas Severance Tax Account
23 established).

24 "Accredited laboratory." A facility engaged in the testing
25 and calibration of scientific measurement devices and certified
26 by the Department of Environmental Protection as having met its
27 standards for accreditation.

28 "Association." A partnership, limited partnership or other
29 form of unincorporated enterprise owned or conducted by two or
30 more persons.

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

6 "Base tax rate." The tax under section 3403(c) (relating to
7 imposition of natural gas severance tax).

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 other incorporated
12 enterprise organized under the laws of the United States, this
13 Commonwealth or other state, territory or foreign country or
14 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 "Nonproducing site." A point of severance that is not
29 capable of producing natural gas in paying quantities.

30 "Paying quantities." Profit to the producer, however small,

1 over the producer's current operating expenses.

2 "Person." A natural person or a corporation, fiduciary,
3 association or other entity, including the Commonwealth, its
4 political subdivisions, instrumentalities and authorities. When
5 the term is used in a clause prescribing and imposing a penalty
6 or imposing a fine or imprisonment, or both, the term shall
7 include the members, as applied to an association, and the
8 officers, as applied to a corporation.

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

13 "Producing site." A point of severance capable of producing
14 natural gas in paying quantities.

15 "Reporting period." Every three successive calendar months
16 beginning January 1, 2019.

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

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

20 "Severance." The extraction or other removal of the natural
21 gas commodity from the soil or water of this Commonwealth to be
22 sold to consumers outside of this Commonwealth.

23 "Severing." Extracting or otherwise removing the natural gas
24 commodity from the soil or water of this Commonwealth to be sold
25 to consumers outside of this Commonwealth.

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

29 "Stripper well." A producing site or a nonproducing site
30 that is not capable of producing and does not produce more than

1 90,000 cubic feet of natural gas per day.

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

3 "Taxpayer." A person subject to the tax imposed by this
4 chapter.

5 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),
6 known as the Tax Reform Code of 1971.

7 "Unit." One thousand cubic feet of natural gas measured at
8 the wellhead at a temperature of 60 degrees Fahrenheit and an
9 absolute pressure of 14.73 pounds per square inch in accordance
10 with American Gas Association standards and according to Boyle's
11 law for the measurement of gas under varying pressures with
12 deviations as follows:

13 (1) The average absolute atmospheric pressure shall be
14 assumed to be 14.4 pounds to the square inch, regardless of
15 elevation or location of point of delivery above sea level or
16 variations in atmospheric pressure from time to time.

17 (2) The temperature of the gas passing the meters shall
18 be determined by the continuous use of a recording
19 thermometer installed to properly record the temperature of
20 gas flowing through the meters. The arithmetic average of the
21 temperature recorded each 24-hour day shall be used in
22 computing gas volumes. If a recording thermometer is not
23 installed, or is installed and not operating properly, an
24 average flowing temperature of 60 degrees Fahrenheit shall be
25 used in computing gas volume.

26 (3) The specific gravity of the gas shall be determined
27 annually by tests made by the use of an Edwards or Acme
28 gravity balance, or at intervals as found necessary in
29 practice. Specific gravity determinations shall be used in
30 computing gas volumes.

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

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

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

16 § 3403. Imposition of natural gas severance tax.

17 (a) Establishment.--Beginning January 1, 2019, there shall
18 be levied a natural gas severance tax on every producer. The tax
19 shall not be imposed on units severed from a stripper well
20 unless:

21 (1) The stripper well is one of multiple producing sites
22 or nonproducing sites, the combined volumes of gas produced
23 by all of which sites are measured by a single wellhead meter
24 as provided in section 3407 (relating to meters).

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

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

30 (1) Units severed by a producer and sold and delivered

1 to a manufacturer of tangible personal property, as defined
2 in section 201(m) of the Tax Reform Code, for the
3 manufacturer's use within this Commonwealth if the units have
4 been severed from one or more producing sites or nonproducing
5 sites on property owned by the manufacturer.

6 (2) Units provided free of charge to the owner of the
7 surface under which the gas is severed if the surface owner
8 is the end user of the gas.

9 (c) Base tax rate.--The base tax rate shall be \$0.08 per
10 unit severed at the wellhead.

11 § 3404. Tax adjustment index.

12 (a) Annual adjustment.--The base tax rate shall be adjusted
13 annually by the amount of the tax adjustment index as calculated
14 under subsection (c), provided that the adjusted tax shall never
15 be less than the base tax rate. The adjusted rate shall be
16 effective for the next fiscal year.

17 (b) Determination of adjustment.--On or before April 30 of
18 each year following the effective date of this section, the
19 department shall calculate and determine the amount of the tax
20 adjustment index.

21 (c) Calculation of adjustment.--The tax adjustment index
22 shall be determined as follows:

23 (1) If 8% of the average annual price of natural gas is
24 less than the base tax rate, the tax adjustment index shall
25 be zero and the adjusted tax shall be the base tax rate.

26 (2) If 8% of the average annual price of natural gas is
27 greater than the base tax rate, the tax adjustment index
28 shall be 50% of the difference between 8% of the average
29 annual price of natural gas and the base tax rate. The
30 adjusted tax shall be the resulting tax adjustment index plus

1 the base tax rate rounded to the nearest whole cent.

2 (d) Publication of adjustment.--The department shall forward
3 the amount of the tax adjustment index and the adjusted rate, as
4 determined under subsection (c), to the Legislative Reference
5 Bureau for publication in the Pennsylvania Bulletin by May 1 of
6 each year and shall simultaneously provide the information to
7 producers by written notice. Failure to publish or provide to
8 producers the amount of the tax adjustment index and the
9 adjusted rate shall not affect the applicability of the
10 adjustment under subsection (b).

11 (e) Discontinuance of data.--If publication of the NYMEX
12 Henry Hub average monthly natural gas price data is
13 discontinued, the adjusted rate then in effect shall not be
14 adjusted until a comparable method for determining the tax
15 adjustment index is adopted by the General Assembly.

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

27 (g) Application of tax determinations.--The provisions of
28 this section shall affect only the determination of the tax
29 imposed under section 3403 (relating to imposition of natural
30 gas severance tax). The provisions of this section are not

1 intended nor shall they be construed to affect any other
2 determination, including, but not limited to, the determination
3 of royalty due under mineral leases. Notwithstanding any other
4 provision of law, the tax imposed under section 3403 shall not
5 reduce royalty payments due under mineral leases, and the
6 producer shall not recover a portion of the tax paid from the
7 royalty owner through other means of deduction or reallocation,
8 notwithstanding any provision in the lease, contract or
9 agreement.

10 § 3405. Return and payment.

11 (a) Return.--A producer shall submit a return and payment of
12 the tax to the department on a form prescribed by the department
13 for each reporting period. The return shall include the
14 following:

15 (1) The units of production severed by the producer
16 during the reporting period.

17 (2) The number of producing sites of a producer in each
18 county and municipality.

19 (3) The amount due for the reporting period.

20 (b) Filing.--The return required under subsection (a) shall
21 be filed with the department within 25 days following the end of
22 a reporting period.

23 (c) Deadline.--The tax imposed under section 3403 (relating
24 to imposition of natural gas severance tax) is due on the day
25 the return is required to be filed and becomes delinquent if not
26 remitted to the department by that date.

27 § 3406. Natural gas severance tax registration.

28 (a) Application.--Before a producer severs natural gas in
29 this Commonwealth, the producer shall apply to the department
30 for a natural gas severance tax registration certificate.

1 (b) Application fee.--The department may charge an
2 application fee to cover the administrative costs associated
3 with the application and registration process. If the department
4 charges an application fee, the department shall not issue a
5 registration certificate until the producer has paid the
6 application fee.

7 (c) Declaration.--The producer shall include in the
8 producer's application a declaration of all producing sites and
9 nonproducing sites used by the producer for the severance of
10 natural gas. The declaration shall include copies of wellhead
11 meter certifications for each site. The producer shall update
12 the declaration when the producer adds or removes a producing
13 site or nonproducing site in this Commonwealth or when there is
14 a change in the status of a producing site or nonproducing site
15 or when the producer uses a different accredited laboratory to
16 issue a wellhead meter certification. The producer shall update
17 the declaration within 30 days after a calendar month in which a
18 change to the declaration occurs.

19 (d) Issuance.--Except as provided under subsection (e),
20 after the receipt of an application, the department shall issue
21 a registration certificate under subsection (a). The
22 registration certificate shall be nonassignable. All registrants
23 shall be required to renew registration certificates and
24 wellhead meter certifications on a staggered renewal system
25 established by the department. After the initial staggered
26 renewal period, a registration certificate or a wellhead meter
27 certification issued shall be valid for a period of five years.

28 (e) Refusal, suspension or revocation.--The department may
29 refuse to issue, suspend or revoke a registration certificate if
30 the applicant or registrant has not filed required State tax

1 reports and paid State taxes not subject to a timely perfected
2 administrative or judicial appeal or subject to a duly
3 authorized deferred payment plan. The department shall notify
4 the applicant or registrant of any refusal, suspension or
5 revocation. The notice shall contain a statement that the
6 refusal, suspension or revocation may be made public. The notice
7 shall be made by first class mail. An applicant or registrant
8 aggrieved by the determination of the department may file an
9 appeal under the provisions for administrative appeals in the
10 Tax Reform Code. In the case of a suspension or revocation which
11 is appealed, the registration certificate shall remain valid
12 pending a final outcome of the appeals process. Notwithstanding
13 sections 274, 353(f), 408(b), 603, 702, 802, 904 and 1102 of the
14 Tax Reform Code or any other provision of law, if no appeal is
15 taken or if an appeal is taken and denied at the conclusion of
16 the appeal process, the department may disclose, by publication
17 or otherwise, the identity of a producer and the fact that the
18 producer's registration certificate has been refused, suspended
19 or revoked under this subsection. Disclosure may include the
20 basis for refusal, suspension or revocation.

21 (f) Violation.--A person severing natural gas in this
22 Commonwealth without holding a valid registration certificate
23 under subsection (d) commits a summary offense and shall, upon
24 conviction, be sentenced to pay a fine of not less than \$300 nor
25 more than \$1,500. In the event the person convicted defaults in
26 the payment of the fine, the person shall be sentenced to
27 imprisonment for not less than five days nor more than 30 days.
28 The penalties imposed by this subsection shall be in addition to
29 any other penalties imposed by this chapter. For purposes of
30 this subsection, the severing of natural gas during any calendar

1 day shall constitute a separate violation. The secretary may
2 designate employees of the department to enforce the provisions
3 of this subsection. The employees shall exhibit proof of and be
4 within the scope of the designation when instituting proceedings
5 as provided by the Pennsylvania Rules of Criminal Procedure.

6 (g) Failure to obtain registration certificate.--Failure to
7 obtain or hold a valid registration certificate does not relieve
8 a person from liability for the tax imposed by this chapter.

9 § 3407. Meters.

10 (a) General rule.--Except as provided in subsection (b), a
11 producer shall provide for and maintain a discrete wellhead
12 meter where natural gas is severed. A producer shall ensure that
13 the meters are maintained according to industry standards. Any
14 wellhead meter installed after the effective date of this
15 section shall be a digital meter.

16 (b) Exception.--If a producer has multiple producing sites
17 or nonproducing sites, the combined volumes of gas produced by
18 all of which sites are measured by a single wellhead meter, the
19 producer shall not be required to provide for a discrete
20 wellhead meter at any of those producing sites or nonproducing
21 sites that are also a stripper well.

22 § 3408. Assessments.

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

27 (b) Notice.--The notice of assessment and demand for payment
28 shall be mailed to the taxpayer. The notice shall set forth the
29 basis of the assessment. The department shall send the notice of
30 assessment to the taxpayer at the taxpayer's registered address

1 via certified mail if the assessment increases the taxpayer's
2 tax liability by \$300. Otherwise, the notice of assessment may
3 be sent via regular mail.

4 § 3409. Time for assessment.

5 (a) Requirement.--An assessment as provided under section
6 3408 (relating to assessments) shall be made within three years
7 after the date when the return provided for by section 3405
8 (relating to return and payment) is filed or the end of the year
9 in which the tax liability arises, whichever shall occur last.
10 For the purposes of this subsection and subsection (b), a return
11 filed before the last day prescribed for the filing period shall
12 be considered as filed on the last day.

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

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

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

27 § 3410. Extension of assessment period.

28 Notwithstanding the provisions of this chapter, the
29 assessment period may be extended in the event a taxpayer has
30 provided written consent before the expiration of the period

1 provided in section 3409 (relating to time for assessment) for a
2 tax assessment. The amount of tax due may be assessed at any
3 time within the extended period. The period may be extended
4 further by subsequent written consents made before the
5 expiration of the extended period.

6 § 3411. Reassessments.

7 A taxpayer against whom an assessment is made may petition
8 the department for a reassessment under Article XXVII of the Tax
9 Reform Code.

10 § 3412. Interest.

11 The department shall assess interest on a delinquent tax at
12 the rate prescribed under section 806 of the act of April 9,
13 1929 (P.L.343, No.176), known as The Fiscal Code.

14 § 3413. Penalties.

15 The department shall enforce the following penalties:

16 (1) A penalty against a producer without a natural gas
17 severance tax registration certificate. The penalty shall be
18 \$1 for every unit severed without a valid registration
19 certificate. The department may assess this penalty
20 separately from or in conjunction with an assessment of the
21 natural gas severance tax.

22 (2) A penalty against a producer for failure to timely
23 file a return as required under section 3405 (relating to
24 return and payment). The penalty shall be 5% of the tax
25 liability to be reported on the return for each day beyond
26 the due date that the return is not filed.

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

1 (4) A penalty against a producer for failure to pay the
2 tax by the deadline under section 3405(c). The penalty shall
3 be 5% of the amount of tax due for each day beyond the
4 payment date that the tax is not paid.

5 § 3414. Criminal acts.

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

12 (b) Other crimes.--

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

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

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

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

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

26 (v) Refusing to permit the department or the
27 department's authorized agents to examine the person's
28 books, records or papers.

29 (vi) Knowingly making an incomplete, false or
30 fraudulent return or report.

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

4 (viii) Providing any person with a false statement
5 as to the payment of the tax imposed under this chapter
6 with respect to 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 § 3415. 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 § 3416. Bulk and auction sales.

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

28 § 3417. Collection upon failure to request reassessment, review
29 or appeal.

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

1 imposed under this chapter:

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

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

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

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

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

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

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

23 § 3418. Tax liens.

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

1 prothonotary of the county where the property is situated. The
2 department may, at any time, transmit to the prothonotaries of
3 the respective counties certified copies of all liens imposed by
4 this section. It shall be the duty of the prothonotary receiving
5 the lien to enter and docket the same of record to the office of
6 the prothonotary. The lien shall be indexed as judgments are now
7 indexed. No prothonotary shall require as a condition precedent
8 to the entry of the lien the payment of costs incidental to the
9 lien's entry.

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

21 (c) No discharge by sale on junior lien.--In the case of a
22 judicial sale of property subject to a lien imposed under this
23 section, upon a lien or claim over which the lien imposed under
24 this section has priority, the sale shall discharge the lien
25 imposed under this section to the extent only that the proceeds
26 are applied to the lien's payment, and the lien shall continue
27 in full force and effect as to the balance remaining unpaid.
28 There shall be no inquisition or condemnation upon a judicial
29 sale of real estate made by the Commonwealth under the
30 provisions of this chapter. The lien shall continue as provided

1 in the act of April 9, 1929 (P.L.343, No.176), known as The
2 Fiscal Code, and a writ of execution may directly issue upon the
3 lien without the issuance and prosecution to judgment of a writ
4 of scire facias, provided that not less than 10 days before
5 issuance of any execution on the lien, notice of the filing and
6 the effect of the lien shall be sent by registered mail to the
7 taxpayer at the taxpayer's last known post office address,
8 provided further that the lien shall have no effect upon any
9 stock of goods, wares or merchandise regularly sold or leased in
10 the ordinary course of business by the taxpayer against whom the
11 lien has been entered, unless and until a writ of execution has
12 been issued and a levy made upon the stock of goods, wares and
13 merchandise.

14 (d) Duty of prothonotary.--Willful failure of a prothonotary
15 to carry out a duty imposed upon the prothonotary by this
16 section shall be a misdemeanor. Upon conviction, the
17 prothonotary shall be sentenced to pay a fine of not more than
18 \$1,000 and costs of prosecution or to imprisonment for not more
19 than one year, or both.

20 (e) Priority.--Except as provided in this chapter, the
21 distribution, voluntary or compulsory, in receivership,
22 bankruptcy or otherwise of the property or estate of a person,
23 all taxes imposed by this chapter which are due and unpaid and
24 are not collectible under the provisions of section 225 of the
25 Tax Reform Code, shall be paid from the first money available
26 for distribution in priority to all other claims and liens,
27 except as the laws of the United States may give priority to a
28 claim to the Federal Government. A person charged with the
29 administration or distribution of the property or estate that
30 violates the provisions of this section shall be personally

1 liable for the taxes imposed by this chapter which are accrued
2 and unpaid and chargeable against the person whose property or
3 estate is being administered or distributed.

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

10 § 3419. Tax suit reciprocity.

11 The courts of this Commonwealth shall recognize and enforce
12 liabilities for natural gas severance taxes or extraction taxes
13 lawfully imposed by any other state, provided that the other
14 state recognizes and enforces the tax imposed under this
15 chapter.

16 § 3420. Service.

17 A producer is deemed to have appointed the Secretary of the
18 Commonwealth as the producer's agent for the acceptance of
19 service of process or notice in a proceeding for the enforcement
20 of the civil provisions of this chapter and service made upon
21 the Secretary of the Commonwealth as agent shall be of the same
22 legal force and validity as if the service had been personally
23 made upon the producer. Where service cannot be made upon the
24 producer in the manner provided by other laws of this
25 Commonwealth relating to service of process, service may be made
26 upon the Secretary of the Commonwealth. In that case, a copy of
27 the process or notice shall be personally served upon an agent
28 or representative of the producer who may be found within this
29 Commonwealth or, where no agent or representative may be found,
30 a copy of the process or notice shall be sent via registered

1 mail to the producer at the last known address of the producer's
2 principal place of business, home office or residence.

3 § 3421. Refunds.

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

19 § 3422. Refund petition.

20 (a) General rule.--Except as provided for in subsection (b),
21 the refund or credit of tax, interest or penalty provided for by
22 section 3421 (relating to refunds) shall be made only where the
23 person who has paid the tax files a petition for refund with the
24 department under Article XXVII of the Tax Reform Code, within
25 the time limits of section 3003.1 of the Tax Reform Code.

26 (b) Natural gas severance tax.--A refund or credit of taxes,
27 interest or penalty paid as a result of an assessment made by
28 the department under section 3406 (relating to natural gas
29 severance tax registration) shall be made only where the person
30 who has paid the tax files with the department a petition for a

1 refund with the department under Article XXVII of the Tax Reform
2 Code within the time limits of section 3003.1 of the Tax Reform
3 Code. The filing of a petition for refund, under the provisions
4 of this subsection, shall not affect the abatement of interest,
5 additions or penalties to which the person may be entitled by
6 reason of the person's payment of the assessment.

7 § 3423. Rules and regulations.

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

18 § 3424. Recordkeeping.

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

29 (b) Records.--Records to be maintained are:

30 (1) Wellhead meter charts for each reporting period and

1 the meter calibration and maintenance records. If turbine
2 meters are in use, the maintenance records will be made
3 available to the department upon request.

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

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

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

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

26 § 3425. Examinations.

27 The department or the department's authorized agents are
28 authorized to examine the books, papers and records of a
29 taxpayer in order to verify the accuracy and completeness of a
30 return made or, if no return was made, to ascertain and assess

1 the tax imposed by this chapter. The department may require the
2 preservation of all books, papers and records for a period
3 deemed proper by the department but not to exceed three years
4 from the end of the calendar year to which the records relate.
5 Each taxpayer is required to give to the department or the
6 department's agent the means, facilities and opportunity for
7 examinations and investigations under this section. The
8 department is further authorized to examine a person, under
9 oath, concerning the taxable severing of natural gas by a
10 taxpayer or concerning any other matter relating to the
11 enforcement or administration of this chapter, and to this end
12 may compel the production of books, papers and records and the
13 attendance of all persons whether as parties or witnesses whom
14 the department believes to have knowledge of relevant matters.
15 The 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.176),
17 known as The Fiscal Code.

18 § 3426. Unauthorized disclosure.

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

28 § 3427. Cooperation with other governments.

29 Notwithstanding the provisions of section 3419 (relating to
30 tax suit reciprocity), the department may permit the

1 Commissioner of the Internal Revenue Service of the United
2 States, or authorized representative, or the proper officer of a
3 state, or the authorized representative to inspect the returns
4 of a taxpayer, or may furnish to the commissioner or officer or
5 to either of the authorized representatives an abstract of the
6 return of a taxpayer, or supply the taxpayer with information
7 concerning an item contained in a return or disclosed by the
8 report of an examination or investigation of the return of a
9 taxpayer. This permission shall be granted only if the laws of
10 the United States or another state grant substantially similar
11 privileges to the proper officer of the Commonwealth charged
12 with the administration of this chapter.

13 § 3428. Bonds.

14 (a) Taxpayer to file bond.--The department may require a
15 nonresident natural person or a foreign corporation,
16 association, fiduciary or other entity, not authorized to do
17 business within this Commonwealth or not having an established
18 place of business in this Commonwealth and subject to the tax
19 imposed under section 3403 (relating to imposition of natural
20 gas severance tax), to file a bond issued by a surety company
21 authorized to do business in this Commonwealth and approved by
22 the Insurance Commissioner as to solvency and responsibility, in
23 amounts as the department may fix, to secure the payment of a
24 tax or penalties due or which may become due from a nonresident
25 natural person, corporation, association, fiduciary or other
26 entity whenever the department deems it necessary to protect the
27 revenues obtained under this chapter. The department may also
28 require a bond of a person petitioning the department for
29 reassessment in the case of an assessment over \$500 or where, in
30 the department's opinion, the ultimate collection is in

1 jeopardy. For a period of three years, the department may
2 require a bond of a person who has, on three or more occasions
3 within a 12-month period, either filed a return or made payment
4 to the department more than 30 days late. In the event the
5 department determines a taxpayer is required to file a bond, the
6 department shall give notice to the taxpayer specifying the
7 amount of the bond required. The taxpayer shall file the bond
8 within five days after notice is given by the department unless,
9 within five days, the taxpayer shall request in writing a
10 hearing before the secretary or the secretary's representative.
11 At the hearing, the necessity, propriety and amount of the bond
12 shall be determined by the secretary or the secretary's
13 representative. The determination shall be final and the
14 taxpayer shall comply with the determination within 15 days
15 after notice is mailed to the taxpayer.

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

25 (c) Failure to file bond.--The department may file a lien
26 under section 3418 (relating to tax liens) against a taxpayer
27 who fails to file a bond when required to do so under this
28 section. All funds received upon execution of the judgment on
29 the lien shall be refunded to the taxpayer with 3% interest
30 should a final determination be made that the taxpayer does not

1 owe any payment to the department.

2 § 3429. Natural Gas Severance Tax Account established.

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

5 (b) Deposit.--The proceeds of the tax imposed under section
6 3403 (relating to imposition of natural gas severance tax) and
7 penalties and interest imposed under this chapter shall be
8 deposited into the account.

9 (c) Allocation.--All money in the account shall be allocated
10 for the purpose of funding homestead and farmstead property
11 exclusions under the act of June 27, 2006 (1st Sp.Sess.,
12 P.L.1873, No.1), known as the Taxpayer Relief Act.

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