

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 82 Session of 2015

INTRODUCED BY HARPER, DEAN, BARRAR, MURT, DAVIDSON AND ROSS,  
JANUARY 21, 2015

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
JANUARY 21, 2015

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated  
2 Statutes, in unconventional gas well fee, repealing  
3 expiration; and providing for imposition of tax, for  
4 registration, for meters, for assessments, for time for  
5 assessment, for extension of assessment period, for  
6 reassessments, for interest, for penalties, for criminal  
7 acts, for abatement of additions or penalties, for bulk and  
8 auction sales, for collection upon failure to request  
9 reassessment, review or appeal, for tax liens, for tax suit  
10 reciprocity, for service, for refunds, for refund petition,  
11 for rules and regulations, for recordkeeping, for  
12 examinations, for unauthorized disclosure, for cooperation  
13 with other governments, for bonds and for deposit of  
14 proceeds.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 Section 1. Section 2318 of Title 58 of the Pennsylvania  
18 Consolidated Statutes is repealed:

19 [§ 2318. Expiration.

20 (a) Notice.--The Secretary of the Commonwealth shall, upon  
21 the imposition of a severance tax on unconventional gas wells in  
22 this Commonwealth, submit for publication in the Pennsylvania  
23 Bulletin notice of the imposition.

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

3 Section 2. Title 58 is amended by adding a part to read:

4 PART IV

5 TAXATION

6 Chapter

7 41. (Reserved)

8 43. Severance Tax

9 CHAPTER 41

10 (Reserved)

11 CHAPTER 43

12 SEVERANCE TAX

13 Sec.

14 4301. Scope of chapter.

15 4302. Definitions.

16 4303. Imposition of tax.

17 4304. Registration.

18 4305. Meters.

19 4306. Assessments.

20 4307. Time for assessment.

21 4308. Extension of assessment period.

22 4309. Reassessments.

23 4310. Interest.

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26 4313. Abatement of additions or penalties.

27 4314. Bulk and auction sales.

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29 or appeal.

30 4316. Tax liens.

- 1 4317. Tax suit reciprocity.
- 2 4318. Service.
- 3 4319. Refunds.
- 4 4320. Refund petition.
- 5 4321. Rules and regulations.
- 6 4322. Recordkeeping.
- 7 4323. Examinations.
- 8 4324. Unauthorized disclosure.
- 9 4325. Cooperation with other governments.
- 10 4326. Bonds.
- 11 4327. Deposit of proceeds.
- 12 § 4301. Scope of chapter.

13 This chapter relates to taxation of the severance of natural  
14 gas.

15 § 4302. Definitions.

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

19 "Average price of natural gas." The arithmetic mean of the  
20 market price for arm's-length transactions as reported to the  
21 department for the previous reporting period. Within 20 days  
22 after the end of each reporting period the department shall  
23 calculate and publish the average price of natural gas from  
24 returns received in the prior reporting period based on the  
25 total units of gas severed and the total gross value of gas  
26 reported by all producers for all arm's-length transactions on  
27 returns filed with the department.

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

29 "Gross value." All of the following, calculated prior to the  
30 payment of any royalties or other payments to a lessor and

1 without any other deduction or credit:

2 (1) The volume-weighted average market price for an  
3 arm's-length transaction that a producer receives at the  
4 point of sale for natural gas during a reporting period.

5 (2) The average price of natural gas if:

6 (i) the natural gas is not sold in an arm's-length  
7 transaction, as reported by the producer or as determined  
8 by the department;

9 (ii) if the natural gas is exchanged for something  
10 other than cash; or

11 (iii) if there is no sale or exchange between the  
12 time of severance and the end of the reporting period  
13 during which the natural gas was severed.

14 "Natural gas." As defined in section 2301 (relating to  
15 definitions).

16 "Person." Any natural person, a corporation, fiduciary,  
17 association or other entity. The term includes the Commonwealth  
18 and any political subdivision, instrumentality and authority of  
19 the Commonwealth.

20 "Producer." As defined in section 2301 (relating to  
21 definitions).

22 "Reporting period." A calendar month in which natural gas is  
23 severed.

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

26 "Stripper well." A natural gas well incapable of producing  
27 more than 90,000 cubic feet of gas per day during any calendar  
28 month, including production from all zones and multilateral well  
29 bores at a single well, without regard to whether the production  
30 is separately metered.

1 "Taxpayer." A person subject to the tax imposed by this  
2 chapter.

3 "Unconventional gas well." As defined in section 2301  
4 (relating to definitions).

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

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

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

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

29 (4) The deviation of the natural gas from Boyle's Law  
30 shall be determined by annual tests or at other shorter

1 intervals as found necessary in practice. The apparatus and  
2 method used in making the test shall be in accordance with  
3 recommendations of the National Bureau of Standards or Report  
4 No. 3 of the Gas Measurement Committee of the American Gas  
5 Association. The results of the tests shall be used in  
6 computing the volume of gas delivered under this chapter.

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

9 § 4303. Imposition of tax.

10 (a) Establishment.--Beginning July 1, 2015, there shall be  
11 levied a natural gas severance tax payable on every  
12 unconventional gas well that is required to pay the fee payable  
13 under Chapter 23 (relating to unconventional gas well fee).

14 (b) Rate.--The tax imposed in subsection (a) shall be 3.5%  
15 of the gross value of units severed at the wellhead during a  
16 reporting period.

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

21 (1) The total number of natural gas units severed by the  
22 producer for the reporting period broken down into:

23 (i) the number of such units sold by the producer  
24 during the reporting period in arm's-length transactions;

25 (ii) the number of such units sold by the producer  
26 during the reporting period in non-arm's-length  
27 transactions or exchanged for something other than cash;

28 and

29 (iii) the number of such units not yet sold or  
30 exchanged as of the end of the reporting period.

1           (2) The gross value of the units identified in paragraph  
2           (1).

3           (3) The amount of tax due under subsection (b).

4           (4) Other information reasonably required by the  
5           department.

6           (d) Filing.--The return required by subsection (c) shall be  
7           filed with the department within 15 days following the end of a  
8           reporting period. The tax is due on the day the return is  
9           required to be filed under this subsection and shall become  
10           delinquent if not remitted to the department by the required  
11           date. A producer shall commence filing the returns required  
12           under subsection (c) within 75 days following the effective date  
13           of this section. The initial return shall include the  
14           information required by subsection (c) for the reporting periods  
15           that occurred between July 1, 2015, and the 75th day following  
16           the effective date of this section. An initial return that  
17           requires a calculation based upon the average price of natural  
18           gas shall be due within 15 days following the first full  
19           reporting period for which such data is available.

20           (e) Exemptions.--The tax shall not be imposed on the  
21           following:

22           (1) A stripper well.

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

29           (3) A unit provided free of charge to the owner of the  
30           surface under which the gas is severed, if the surface owner

1 is the end user of the gas.

2 (4) An owner of the surface real property where a  
3 natural gas well is drilled or operated and who has leased  
4 the rights to recover natural gas from beneath the surface to  
5 an operator.

6 § 4304. Registration.

7 (a) Application.--Before a producer severs natural gas or  
8 continues to sever natural gas in this Commonwealth after the  
9 date occurring 60 days following the effective date of this  
10 section, the producer shall apply to the department for a  
11 registration certificate. The department may charge an  
12 application fee to cover the administrative costs associated  
13 with the application and registration process.

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

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

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

28 (2) The department shall notify the applicant or  
29 registrant of a refusal, suspension or revocation. The notice  
30 shall contain a statement that the refusal, suspension or



1 revocation may be made public. The notice shall be made by  
2 first class mail.

3 (3) An applicant or registrant aggrieved by the  
4 determination of the department may file an appeal under the  
5 provisions for administrative appeals in the act of March 4,  
6 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. In  
7 the case of a suspension or revocation which is appealed, the  
8 registration certificate shall remain valid pending a final  
9 outcome of the appeals process. Notwithstanding any other  
10 provision of law, if no appeal is taken or if an appeal is  
11 taken and denied at the conclusion of the appeal process, the  
12 department may disclose, by publication or otherwise, the  
13 identity of a producer and the fact that the producer's  
14 registration certificate has been refused, suspended or  
15 revoked under this subsection. Disclosure may include the  
16 basis for refusal, suspension or revocation.

17 (d) Violation.--

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

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

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

28 (4) The Secretary of Revenue may designate employees of  
29 the department to enforce the provisions of this subsection.  
30 The employees shall exhibit proof of and be within the scope

1 of the designation when instituting proceedings as provided  
2 by the Pennsylvania Rules of Criminal Procedure.

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

6 § 4305. Meters.

7 A producer shall provide for and maintain a discrete wellhead  
8 meter where natural gas is severed. A producer shall ensure that  
9 the meters are maintained according to industry standards. Any  
10 wellhead meter installed after the effective date of this  
11 section shall be a digital meter.

12 § 4306. Assessments.

13 (a) Authorization and requirement.--The department is  
14 authorized and shall make inquiries, determinations and  
15 assessments of the tax imposed under this chapter, including  
16 interest, additions and penalties imposed under this chapter.

17 (b) Notice.--The notice of assessment and demand for payment  
18 shall be mailed to the taxpayer. The notice shall set forth the  
19 basis of the assessment. The department shall send the notice of  
20 assessment to the taxpayer at the taxpayer's registered address  
21 via certified mail if the assessment increases the taxpayer's  
22 tax liability by \$300. Otherwise, the notice of assessment may  
23 be sent via regular mail.

24 § 4307. Time for assessment.

25 (a) Requirement.--An assessment as provided under section  
26 4306 (relating to assessments) shall be made within three years  
27 after the date when the return provided for by section 4303(c)  
28 (relating to imposition of tax) is filed or the end of the year  
29 in which the tax liability arises, whichever shall occur last.  
30 For the purposes of this subsection and subsection (b), a return

1 filed before the last day prescribed for the filing period shall  
2 be considered as filed on the last day.

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

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

10 (d) Erroneous credit or refund.--Within three years of the  
11 granting of a refund or credit or within the period in which an  
12 assessment or reassessment may have been issued by the  
13 department for the taxable period for which the refund was  
14 granted, whichever period shall occur last, the department may  
15 issue an assessment to recover a refund or credit made or  
16 allowed erroneously.

17 § 4308. Extension of assessment period.

18 Notwithstanding the provisions of this chapter, the  
19 assessment period may be extended in the event a taxpayer has  
20 provided written consent before the expiration of the period  
21 provided in section 4307 (relating to time for assessment) for a  
22 tax assessment. The amount of tax due may be assessed at any  
23 time within the extended period. The period may be extended  
24 further by subsequent written consents made before the  
25 expiration of the extended period.

26 § 4309. Reassessments.

27 A taxpayer against whom an assessment is made may petition  
28 the department for a reassessment under Article XXVII of the act  
29 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
30 1971.

1 § 4310. Interest.

2 The department shall assess interest on any delinquent tax at  
3 the rate prescribed under section 806 of the act of April 9,  
4 1929 (P.L.343, No.176), known as The Fiscal Code.

5 § 4311. Penalties.

6 The department shall enforce the following penalties:

7 (1) A penalty against a producer without a registration  
8 certificate required under section 4304 (relating to  
9 registration). The penalty shall be \$1 for every unit severed  
10 without a valid registration certificate. The department may  
11 assess this penalty separately from or in conjunction with  
12 any assessment of the natural gas severance tax.

13 (2) A penalty against a producer for failure to timely  
14 file a return as required under section 4303(c) (relating to  
15 imposition of tax). The penalty shall be 5% of the tax  
16 liability to be reported on the return for each day beyond  
17 the due date that the return is not filed.

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

22 (4) A penalty against a producer for failure to timely  
23 pay the tax as required by section 4303(d). The penalty shall  
24 be 5% of the amount of tax due for each day beyond the  
25 payment date that the tax is not paid.

26 § 4312. Criminal acts.

27 (a) Fraudulent return.--Any person with intent to defraud  
28 the Commonwealth, who willfully makes or causes to be made a  
29 return required by this chapter which is false, is guilty of a  
30 misdemeanor and shall, upon conviction, be sentenced to pay a

1 fine of not more than \$2,000 or to imprisonment for not more  
2 than three years, or both.

3 (b) Other crimes.--

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

9 (i) Willfully failing to timely remit the tax to the  
10 department.

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

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

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

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

20 (vi) Knowingly making any incomplete, false or  
21 fraudulent return or report.

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

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

28 (ix) Making, uttering or issuing a false or  
29 fraudulent statement.

30 (2) The penalties imposed by this section shall be in

1 addition to other penalties imposed by this chapter.

2 § 4313. Abatement of additions or penalties.

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

9 § 4314. Bulk and auction sales.

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

19 § 4315. Collection upon failure to request reassessment, review  
20 or appeal.

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

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

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

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

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

1           (ii) the expiration of the board's time for acting  
2           upon the petition.

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

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

14           § 4316. Tax liens.

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

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

12 (c) No discharge by sale on junior lien.--In the case of a  
13 judicial sale of property subject to a lien imposed under this  
14 section, upon a lien or claim over which the lien imposed under  
15 this section has priority, the sale shall discharge the lien  
16 imposed under this section to the extent only that the proceeds  
17 are applied to its payment, and the lien shall continue in full  
18 force and effect as to the balance remaining unpaid. There shall  
19 be no inquisition or condemnation upon any judicial sale of real  
20 estate made by the Commonwealth under the provisions of this  
21 chapter. The lien shall continue as provided in the act of April  
22 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and a writ  
23 of execution may directly issue upon the lien without the  
24 issuance and prosecution to judgment of a writ of scire facias,  
25 provided that not less than 10 days before issuance of any  
26 execution on the lien, notice of the filing and the effect of  
27 the lien shall be sent by registered mail to the taxpayer at its  
28 last known post office address, provided further that the lien  
29 shall have no effect upon any stock of goods, wares or  
30 merchandise regularly sold or leased in the ordinary course of



1 business by the taxpayer against whom the lien has been entered,  
2 unless and until a writ of execution has been issued and a levy  
3 made upon the stock of goods, wares and merchandise.

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

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

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

30 § 4317. Tax suit reciprocity.

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

6 § 4318. Service.

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

23 § 4319. Refunds.

24 Under Article XXVII of the act of March 4, 1971 (P.L.6,  
25 No.2), known as the Tax Reform Code of 1971, the department  
26 shall refund all taxes, interest and penalties paid to the  
27 Commonwealth under the provisions of this chapter to which the  
28 Commonwealth is not rightfully entitled. The refunds shall be  
29 made to the person or the person's heirs, successors, assigns or  
30 other personal representatives who paid the tax, provided that

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

10 § 4320. Refund petition.

11 (a) General rule.--Except as provided for in subsection (b),  
12 the refund or credit of tax, interest or penalty provided for by  
13 section 4319 (relating to refunds) shall be made only where the  
14 person who has paid the tax files a petition for refund with the  
15 department under Article XXVII of the act of March 4, 1971  
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the  
17 time limits of section 3003.1 of the Tax Reform Code of 1971.

18 (b) Natural gas severance tax.--A refund or credit of tax,  
19 interest or penalty paid as a result of an assessment made by  
20 the department under section 4306 (relating to assessments)  
21 shall be made only where the person who has paid the tax files  
22 with the department a petition for a refund with the department  
23 under Article XXVII of the Tax Reform Code of 1971 within the  
24 time limits of section 3003.1 of the Tax Reform Code of 1971.  
25 The filing of a petition for refund under the provisions of this  
26 subsection shall not affect the abatement of interest, additions  
27 or penalties to which the person may be entitled by reason of  
28 his payment of the assessment.

29 § 4321. Rules and regulations.

30 The department is charged with the enforcement of the

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

10 § 4322. Recordkeeping.

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

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

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

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

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

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

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

19 § 4323. Examinations.

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

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

10 § 4324. Unauthorized disclosure.

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

20 § 4325. Cooperation with other governments.

21 Notwithstanding the provisions of section 4317 (relating to  
22 tax suit reciprocity), the department may permit the  
23 Commissioner of the Internal Revenue Service of the United  
24 States, the proper officer of any state or the authorized  
25 representative of either of them to inspect the tax returns of  
26 any taxpayer, or may furnish to the commissioner or officer or  
27 to either of their authorized representatives an abstract of the  
28 return of any taxpayer, or supply him with information  
29 concerning any item contained in any return or disclosed by the  
30 report of any examination or investigation of the return of any

1 taxpayer. This permission shall be granted only if the laws of  
2 the United States or another state grant substantially similar  
3 privileges to the proper officer of the Commonwealth charged  
4 with the administration of this chapter.

5 § 4326. Bonds.

6 (a) Taxpayer to file bond.--The department may require a  
7 nonresident natural person or any foreign corporation,  
8 association, fiduciary or other entity, not authorized to do  
9 business within this Commonwealth or not having an established  
10 place of business in this Commonwealth and subject to the tax  
11 imposed by section 4303 (relating to imposition of tax), to file  
12 a bond issued by a surety company authorized to do business in  
13 this Commonwealth and approved by the Insurance Commissioner as  
14 to solvency and responsibility, in amounts as it may fix, to  
15 secure the payment of any tax or penalties due or which may  
16 become due from a nonresident natural person, corporation,  
17 association, fiduciary or other entity whenever it deems it  
18 necessary to protect the revenues obtained under this chapter.  
19 The department may also require a bond of a person petitioning  
20 the department for reassessment in the case of any assessment  
21 over \$500 or where, in its opinion, the ultimate collection is  
22 in jeopardy. For a period of three years, the department may  
23 require a bond of any person who has, on three or more occasions  
24 within a 12-month period, either filed a return or made payment  
25 to the department more than 30 days late. In the event the  
26 department determines a taxpayer is required to file a bond, it  
27 shall give notice to the taxpayer specifying the amount of the  
28 bond required. The taxpayer shall file the bond within five days  
29 after notice is given by the department unless, within five  
30 days, the taxpayer shall request in writing a hearing before the

1 Secretary of Revenue or his representative. At the hearing, the  
2 necessity, propriety and amount of the bond shall be determined  
3 by the Secretary of Revenue or his representative. The  
4 determination shall be final and the taxpayer shall comply with  
5 it within 15 days after notice is mailed to the taxpayer.

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

15 (c) Failure to file bond.--The department may file a lien  
16 under section 4316 (relating to tax liens) against any taxpayer  
17 who fails to file a bond when required to do so under this  
18 section. All funds received upon execution of the judgment on  
19 the lien shall be refunded to the taxpayer with 3% interest,  
20 should a final determination be made that the taxpayer does not  
21 owe any payment to the department.

22 § 4327. Deposit of proceeds.

23 The proceeds of the tax imposed under section 4303 (relating  
24 to imposition of tax) and penalties and interest imposed under  
25 this chapter shall be deposited into the Public School  
26 Employees' Retirement Fund for the purpose of reducing accrued  
27 unfunded liabilities.

28 Section 3. This act shall take effect immediately.