
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2165 Session of
2015

INTRODUCED BY McCARTER, VITALI, SAVAGE AND McNEILL,
JUNE 15, 2016

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JUNE 15, 2016

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, in unconventional gas well fee, repealing
3 expiration; 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; and making an appropriation.

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18 Consolidated Statutes is repealed: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.

24 4311. Penalties.

25 4312. Criminal acts.

26 4313. Abatement of additions or penalties.

27 4314. Bulk and auction sales.

28 4315. Collection upon failure to request reassessment, review
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. Appropriation.
- 12 4328. Deposit of proceeds.
- 13 § 4301. Scope of chapter.

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

16 § 4302. Definitions.

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

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

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

30 "Gross value." All of the following, calculated prior to the

1 payment of any royalties or other payments to a lessor and
2 without any other deduction or credit:

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

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

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

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

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

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

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

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

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

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

27 "Taxpayer." A person subject to the tax imposed by this
28 chapter.

29 "Unconventional gas well." As defined in section 2301
30 (relating to definitions).

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

7 (1) The average absolute atmospheric pressure shall be
8 assumed to be 14.4 pounds to the square inch, regardless of
9 elevation or location of point of delivery above sea level or
10 variations in atmospheric pressure.

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

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

25 (4) The deviation of the natural gas from Boyle's Law
26 shall be determined by annual tests or at other shorter
27 intervals as found necessary in practice. The apparatus and
28 method used in making the test shall be in accordance with
29 recommendations of the National Bureau of Standards or Report
30 No. 3 of the Gas Measurement Committee of the American Gas

1 Association. The results of the tests shall be used in
2 computing the volume of gas delivered under this chapter.
3 "Wellhead meter." A meter that measures the volume of
4 natural gas severed from an unconventional gas well.

5 § 4303. Imposition of tax.

6 (a) Establishment.--Beginning July 1, 2016, there shall be
7 levied a natural gas severance tax payable on every
8 unconventional gas well that is required to pay the fee payable
9 under Chapter 23 (relating to unconventional gas well fee).

10 (b) Rate.--The tax imposed in subsection (a) shall be 5% of
11 the gross value of units severed at the wellhead during a
12 reporting period.

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

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

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

21 (ii) the number of such units sold by the producer
22 during the reporting period in non-arm's-length
23 transactions or exchanged for something other than cash;
24 and

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

27 (2) The gross value of the units identified in paragraph
28 (1).

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

30 (4) Other information reasonably required by the

1 department.

2 (d) Filing.--The return required by subsection (c) shall be
3 filed with the department within 15 days following the end of a
4 reporting period. The tax is due on the day the return is
5 required to be filed under this subsection and shall become
6 delinquent if not remitted to the department by the required
7 date. A producer shall commence filing the returns required
8 under subsection (c) within 75 days following the effective date
9 of this section. The initial return shall include the
10 information required by subsection (c) for the reporting periods
11 that occurred between July 1, 2016, and the 75th day following
12 the effective date of this section. An initial return that
13 requires a calculation based upon the average price of natural
14 gas shall be due within 15 days following the first full
15 reporting period for which such data is available.

16 § 4304. Registration.

17 (a) Application.--Before a producer severs natural gas or
18 continues to sever natural gas in this Commonwealth after the
19 date occurring 60 days following the effective date of this
20 section, the producer shall apply to the department for a
21 registration certificate. The department may charge an
22 application fee to cover the administrative costs associated
23 with the application and registration process.

24 (b) Issuance.--Except as provided in subsection (c), after
25 the receipt of an application and the required application fee,
26 the department shall issue a registration certificate to the
27 producer. The registration certificate is nonassignable. A
28 registrant is required to renew the registration certificate on
29 a staggered renewal system established by the department. After
30 the initial staggered renewal period, a registration certificate

1 is valid for a period of five years.

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

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

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

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

27 (d) Violation.--

28 (1) A person that severs natural gas in this
29 Commonwealth in violation of subsection (a) commits a summary
30 offense and shall, upon conviction, be sentenced to pay a

1 fine not less than \$300 nor more than \$1,500 or, in default
2 of the payment, to imprisonment for not less than five days
3 nor more than 30 days.

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

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

8 (4) The Secretary of Revenue may designate employees of
9 the department to enforce the provisions of this subsection.
10 The employees shall exhibit proof of and be within the scope
11 of the designation when instituting proceedings as provided
12 by the Pennsylvania Rules of Criminal Procedure.

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

16 § 4305. Meters.

17 A producer shall provide for and maintain a discrete wellhead
18 meter where natural gas is severed. A producer shall ensure that
19 the meters are maintained according to industry standards. Any
20 wellhead meter installed after the effective date of this
21 section shall be a digital meter.

22 § 4306. Assessments.

23 (a) Authorization and requirement.--The department is
24 authorized and shall make 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 its registered address via

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

4 § 4307. Time for assessment.

5 (a) Requirement.--An assessment as provided under section
6 4306 (relating to assessments) shall be made within three years
7 after the date when the return provided for by section 4303(c)
8 (relating to imposition of tax) 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 shall occur last, the department may
25 issue an assessment to recover a refund or credit made or
26 allowed erroneously.

27 § 4308. 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 4307 (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 § 4309. Reassessments.

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

11 § 4310. Interest.

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

15 § 4311. Penalties.

16 The department shall enforce the following penalties:

17 (1) A penalty against a producer without a registration
18 certificate required under section 4304 (relating to
19 registration). The penalty shall be \$1 for every unit severed
20 without a valid registration certificate. The department may
21 assess this penalty separately from or in conjunction with
22 any assessment of the natural gas severance tax.

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

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

1 required to be reported on the return.

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

6 § 4312. Criminal acts.

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

13 (b) Other crimes.--

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

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

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

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

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

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

30 (vi) Knowingly making any incomplete, false or

1 fraudulent return or report.

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

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

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

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

12 § 4313. Abatement of additions or penalties.

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

19 § 4314. Bulk and auction sales.

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

29 § 4315. Collection upon failure to request reassessment, review
30 or appeal.

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

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

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

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

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

11 (ii) the expiration of the board's time for acting
12 upon the petition.

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

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

24 § 4316. Tax liens.

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

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

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

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

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

14 (d) Penalty.--A prothonotary who intentionally violates this
15 section commits a misdemeanor of the third degree and shall,
16 upon conviction, be sentenced to pay a fine of not more than
17 \$1,000 and costs of prosecution or to imprisonment for not more
18 than one year, or both.

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

1 taxes imposed by this chapter which are accrued and unpaid and
2 chargeable against the person whose property or estate is being
3 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 § 4317. Tax suit reciprocity.

11 The courts of the Commonwealth shall recognize and enforce
12 liabilities for natural gas severance 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 § 4318. Service.

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

1 the last known address of its principal place of business, home
2 office or residence.

3 § 4319. Refunds.

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

20 § 4320. Refund petition.

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

28 (b) Natural gas severance tax.--A refund or credit of tax,
29 interest or penalty paid as a result of an assessment made by
30 the department under section 4306 (relating to assessment) shall

1 be made only where the person who has paid the tax files with
2 the department a petition for a refund with the department under
3 Article XXVII of the Tax Reform Code of 1971 within the time
4 limits of section 3003.1 of the Tax Reform Code of 1971. The
5 filing of a petition for refund under the provisions of this
6 subsection shall not affect the abatement of interest, additions
7 or penalties to which the person may be entitled by reason of
8 his payment of the assessment.

9 § 4321. Rules and regulations.

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

20 § 4322. Recordkeeping.

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

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

2 (1) Wellhead meter charts for each reporting period and
3 the meter calibration and maintenance records. If turbine
4 meters are in use, the maintenance records will be made
5 available to the department upon request.

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

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

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

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

29 § 4323. Examinations.

30 The department or any of its authorized agents are authorized

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

20 § 4324. Unauthorized disclosure.

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

30 § 4325. Cooperation with other governments.

1 Notwithstanding the provisions of section 4317 (relating to
2 tax suit reciprocity), the department may permit the
3 Commissioner of the Internal Revenue Service of the United
4 States, the proper officer of any state or the authorized
5 representative of either of them to inspect the tax returns of
6 any taxpayer, or may furnish to the commissioner or officer or
7 to either of their authorized representative an abstract of the
8 return of any taxpayer, or supply him with information
9 concerning any item contained in any return or disclosed by the
10 report of any examination or investigation of the return of any
11 taxpayer. This permission shall be granted only if the laws of
12 the United States or another state grant substantially similar
13 privileges to the proper officer of the Commonwealth charged
14 with the administration of this chapter.

15 § 4326. Bonds.

16 (a) Taxpayer to file bond.--The department may require a
17 nonresident natural person or any foreign corporation,
18 association, fiduciary or other entity, not authorized to do
19 business within this Commonwealth or not having an established
20 place of business in this Commonwealth and subject to the tax
21 imposed by section 4303 (relating to imposition of tax), to file
22 a bond issued by a surety company authorized to do business in
23 this Commonwealth and approved by the Insurance Commissioner as
24 to solvency and responsibility, in amounts as it may fix, to
25 secure the payment of any tax or penalties due or which may
26 become due from a nonresident natural person, corporation,
27 association, fiduciary or other entity whenever it deems it
28 necessary to protect the revenues obtained under this chapter.
29 The department may also require a bond of a person petitioning
30 the department for reassessment in the case of any assessment

1 over \$500 or where, in its opinion, the ultimate collection is
2 in jeopardy. For a period of three years, the department may
3 require a bond of any person who has, on three or more occasions
4 within a 12-month period, either filed a return or made payment
5 to the department more than 30 days late. In the event the
6 department determines a taxpayer is required to file a bond, it
7 shall give notice to the taxpayer specifying the amount of the
8 bond required. The taxpayer shall file the bond within five days
9 after notice is given by the department unless, within five
10 days, the taxpayer shall request in writing a hearing before the
11 Secretary of Revenue or his representative. At the hearing, the
12 necessity, propriety and amount of the bond shall be determined
13 by the Secretary of Revenue or his representative. The
14 determination shall be final and the taxpayer shall comply with
15 it within 15 days 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 and/or interest or penalties due at public or
24 private sale upon five days' written notice to the depositor.

25 (c) Failure to file bond.--The department may file a lien
26 under section 4316 (relating to tax liens) against any 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 it does not owe any

1 payment to the department.

2 § 4327. Appropriation.

3 The amount of the proceeds from the tax imposed by this
4 chapter as shall be necessary for the payment of refunds,
5 enforcement or administration under this chapter is hereby
6 appropriated to the department for those purposes.

7 § 4328. Deposit of proceeds.

8 The proceeds of the tax imposed under section 4303 (relating
9 to imposition of tax) and penalties and interest imposed under
10 this chapter, less the amounts appropriated under section 4327
11 (relating to appropriation), shall be deposited into the General
12 Fund for allocation as follows:

13 (1) Twenty-five percent to the Environmental Cleanup
14 Program in the Department of Environmental Protection.

15 (2) Twenty-five percent to counties to fund projects to
16 provide clean energy efficiency upgrades that use renewable
17 sources of energy, including wind, solar or geothermal
18 sources.

19 (3) Twenty-five percent to counties impacted by oil and
20 gas operation employment reductions to fund projects to
21 transition underemployed and unemployed residents to energy
22 efficiency jobs.

23 (4) Twenty-five percent for sewer and storm water
24 infrastructure redevelopment projects.

25 Section 3. This act shall take effect immediately.