
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 178 Session of
2019

INTRODUCED BY QUINN, BARRAR, MURT AND HILL-EVANS,
JANUARY 28, 2019

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JANUARY 28, 2019

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, in unconventional gas well fee, repealing
3 expiration; and imposing a natural gas tax.

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

6 Section 1. Section 2318 of Title 58 of the Pennsylvania
7 Consolidated Statutes is repealed:

8 [§ 2318. Expiration.

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

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

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

16 PART IV

17 TAXATION

18 Chapter

1 41. (Reserved)

2 43. Severance Tax

3 CHAPTER 41

4 (Reserved)

5 CHAPTER 43

6 SEVERANCE TAX

7 Sec.

8 4301. Scope of chapter.

9 4302. Definitions.

10 4303. Imposition of tax.

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13 4306. Meters.

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16 4309. Extension of assessment period.

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- 1 4323. Rules and regulations.
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- 11 § 4301. Scope of chapter.

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

14 § 4302. Definitions.

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

18 "Average Pennsylvania hub price." The average of the settled
19 prices at the five largest trading points in Pennsylvania,
20 weighted by volume, on the last trading day for the month for
21 the previous 12-month period ending on March 31, as reported in
22 the sources of current market data, which shall be selected by
23 the department and transmitted to the Legislative Reference
24 Bureau for publication in the Pennsylvania Bulletin at least 30
25 days prior to the determination and publication of the gas base
26 rate adjustment and gas tax in accordance with section 4303
27 (relating to imposition of tax).

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

29 "Gross value." The value, whether in money or other
30 property, actually proceeding from the sale of property prior to

1 the payment of royalties or other payments to a lessor and
2 without any other deduction or credits, except as follows:

3 (1) In a transaction involving related parties, the
4 gross value of the property transferred may not be less than
5 the fair market value of similar grade and quality property.

6 (2) In the absence of a sale, the gross value of the
7 property transferred may not be less than the fair market
8 value of similar grade and quality property.

9 (3) In a transaction where property is transferred for
10 the purpose of processing and resale, the gross value of the
11 property transferred may not be less than the fair market
12 value of similar grade and quality property.

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

15 "Natural gas liquids." Hydrocarbons, including ethane,
16 propane, butane, isobutane and pentane, that are separated from
17 natural gas severed from unconventional formations as liquids
18 through the process of absorption, condensation, adsorption and
19 cooling in gas separators, gas processing or cycling plants or
20 condensate at the well head.

21 "Person." A natural person, corporation, fiduciary,
22 association or other entity. The term includes the Commonwealth
23 and any political subdivision, instrumentality and authority of
24 the Commonwealth.

25 "Producer." As defined in section 2301 (relating to
26 definitions).

27 "Related parties." Two or more people, organizations or
28 businesses owned or controlled directly or indirectly by the
29 same interests. Control exists if a contract or lease, either
30 written or oral, is entered into where one party severs or

1 processes natural gas owned or held by another party and the
2 owner or lessor participates in the severing, processing or
3 marketing of the natural gas or receives any value other than an
4 arm's-length passive royalty interest.

5 "Reporting period." A calendar month in which natural gas is
6 severed.

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

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

10 "Storage field." A natural formation or other site that is
11 used to store natural gas that did not originate from and has
12 been transplanted into the formation or site.

13 "Stripper well." A natural gas well incapable of producing
14 more than 90 units of natural gas each day of the calendar month
15 immediately preceding the reporting period, including production
16 from all zones and multilateral well bores at a single well,
17 without regard to whether the production is separately metered.

18 "Unconventional gas well." As defined in section 2301
19 (relating to definitions).

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

26 (1) The average absolute atmospheric pressure shall be
27 assumed to be 14.4 pounds to the square inch, regardless of
28 elevation or location of point of delivery above sea level or
29 variations in atmospheric pressure.

30 (2) The temperature of the gas passing the meters shall

1 be determined by the continuous use of a recording
2 thermometer installed to properly record the temperature of
3 gas flowing through the meters. The arithmetic average of the
4 temperature recorded each 24-hour day shall be used in
5 computing gas volumes. If a recording thermometer is not
6 installed, or is installed and not operating properly, an
7 average flowing temperature of 60 degrees Fahrenheit shall be
8 used in computing gas volume.

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

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

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

25 § 4303. Imposition of tax.

26 (a) Establishment.--Beginning July 1, 2019, a natural gas
27 severance tax is levied and payable by every producer.

28 (b) Rate.--

29 (1) Subject to the annual adjustment under paragraph
30 (2), the tax imposed in subsection (a) shall be 3.5% of the

1 gross value of natural gas and natural gas liquids severed by
2 the producer during each reporting period.

3 (2) The rate of the tax imposed in subsection (a) shall
4 be adjusted annually on July 1 for the ensuing 12 months as
5 follows:

6 (i) On or before April 1, 2020, and annually
7 thereafter, the secretary shall determine the average
8 Pennsylvania hub price for the prior calendar year.

9 (ii) When the average Pennsylvania hub price in the
10 prior calendar year was:

11 (A) between \$0 and \$2.50 per unit, the adjusted
12 tax shall equal 3% of the gross value of each unit
13 severed;

14 (B) between \$2.51 and \$3 per unit, the adjusted
15 tax rate shall equal 4% of the gross value of each
16 unit severed; or

17 (C) more than \$3 per unit, the adjusted tax rate
18 shall equal 5% of the gross value of each unit
19 severed.

20 (iii) The secretary shall cause to be published in
21 the first edition of the Pennsylvania Bulletin published
22 after April 1 of each year, the adjusted tax rate as
23 determined under this paragraph.

24 (c) Return and payment.--A producer subject to the
25 provisions of this chapter shall file a return with the
26 department, on a form prescribed by the department. The return
27 shall include the following:

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

30 (i) the number of natural gas units sold by the

1 producer during the reporting period in arm's-length
2 transactions;

3 (ii) the number of natural gas units sold by the
4 producer during the reporting period in non-arm's-length
5 transactions or exchanged for something other than cash;
6 and

7 (iii) the number of natural gas units not yet sold
8 or exchanged as of the end of the reporting period.

9 (2) The gross value of the natural gas units identified
10 in paragraph (1).

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

12 (4) Other information reasonably required by the
13 department.

14 (d) Filing.--

15 (1) The return required under subsection (c) shall be
16 filed with the department within 15 days following the end of
17 a reporting period. The tax is due on the day the return is
18 required to be filed and shall become delinquent if not
19 remitted to the department by the required date.

20 (2) A producer shall commence filing the returns
21 required under subsection (c) within 75 days following the
22 effective date of this section. The initial return shall
23 include the information required under subsection (c) for the
24 reporting periods that occurred between July 1, 2019, and the
25 75th day following the effective date of this section.

26 (e) Exemptions.--The tax may not be imposed on a producer
27 for the following:

28 (1) A unit severed from a stripper well.

29 (2) A unit severed, sold and delivered by an operator at
30 or within five miles of the producing well for the processing

1 or manufacture of tangible personal property, as defined
2 under section 201 of the act of March 4, 1971 (P.L.6, No.2),
3 known as the Tax Reform Code of 1971, within this
4 Commonwealth.

5 (3) A unit provided free of charge to the owner of the
6 surface under which the gas is severed if the surface owner
7 is the end user of the gas.

8 (4) Natural gas, dry natural gas or natural gas liquids
9 severed from a storage field.

10 § 4304. Impact fee credits.

11 (a) Credits.--Unconventional gas well fees timely paid by a
12 producer for the prior calendar year under Chapter 23 (relating
13 to unconventional gas well fee) shall be allowed as credit
14 against the tax imposed under this chapter.

15 (b) Initial credit.--The initial credit under subsection (a)
16 shall be prorated based on the number of months in which this
17 chapter was effective during the calendar year for which the
18 unconventional gas well fee was paid. Thereafter, the credit
19 shall be based on the entire unconventional gas well fee paid by
20 a producer on or before April 1 for the preceding calendar year.

21 (c) Carry back and forward.--A credit under this section may
22 not be carried back or carried forward beyond 12 months after
23 payment of the unconventional gas well fee that is sold,
24 assigned or refunded.

25 § 4305. Registration.

26 (a) Application.--

27 (1) Before a producer severs natural gas or continues to
28 sever natural gas in this Commonwealth after the date
29 occurring 60 days following the effective date of this
30 section, the producer shall apply to the department for a

1 registration certificate.

2 (2) The department may charge an application fee to
3 cover the administrative costs associated with the
4 application and registration process.

5 (b) Issuance.--

6 (1) Except as provided in subsection (c), after the
7 receipt of an application and the required application fee,
8 the department shall issue a registration certificate to the
9 producer. The registration certificate is nonassignable.

10 (2) A registrant shall renew the registration
11 certificate on a staggered renewal system established by the
12 department. After the initial staggered renewal period, a
13 registration certificate is valid for a period of five years.

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

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

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

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

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

9 (d) Violation.--

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

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

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

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

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

28 § 4306. Meters.

29 A producer shall provide for and maintain a discrete wellhead
30 meter where natural gas is severed. A producer shall ensure that

1 the meters are maintained according to industry standards. A
2 wellhead meter installed after the effective date of this
3 section shall be a digital meter.

4 § 4307. Assessments.

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

9 (b) Notice.--The notice of assessment and demand for payment
10 shall be mailed to the producer. The notice shall state the
11 basis of the assessment. The department shall send the notice of
12 assessment to the producer at the producer's registered post
13 office address via mail if the assessment increases the
14 producer's tax liability by \$300 or more.

15 § 4308. Time for assessment.

16 (a) Requirement.--

17 (1) An assessment as provided under section 4307
18 (relating to assessments) shall be made within three years
19 after the date when the return provided for under section
20 4303(c) (relating to imposition of tax) is filed or the end
21 of the year in which the tax liability arises, whichever
22 shall occur last.

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

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

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

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

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

10 § 4309. Extension of assessment period.

11 Notwithstanding the provisions of this chapter, the
12 assessment period may be extended in the event a producer has
13 provided written consent before the expiration of the period
14 provided in section 4308 (relating to time for assessment) for a
15 tax assessment. The amount of tax due may be assessed at any
16 time within the extended period. The period may be extended
17 further by subsequent written consents made before the
18 expiration of the extended period.

19 § 4310. Reassessments.

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

24 § 4311. Interest.

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

28 § 4312. Penalties.

29 The department shall enforce the following penalties:

30 (1) A penalty against a producer without a registration

1 certificate required under section 4305 (relating to
2 registration). The penalty shall be \$1 for every unit severed
3 without a valid registration certificate. The department may
4 assess this penalty separately from or in conjunction with
5 any assessment of the natural gas severance tax.

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

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

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

19 § 4313. Administration of tax.

20 Unless otherwise specified, Chapters IV, V, VI, VII and VIII
21 of Part VI of Article II of the act of March 4, 1971 (P.L.6,
22 No.2), known as the Tax Reform Code of 1971, shall apply to this
23 chapter.

24 § 4314. Criminal acts.

25 (a) Fraudulent return.--Any person with intent to defraud
26 the Commonwealth, who willfully makes or causes to be made a
27 return required under this chapter that is false, is guilty of a
28 misdemeanor and shall, upon conviction, be sentenced to pay a
29 fine of not more than \$2,000 or to imprisonment for not more
30 than three years, or both.

1 (b) Other crimes.--

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

7 (i) Willfully failing to timely remit the tax to the
8 department.

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

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

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

15 (v) Refusing to permit the department or the
16 person's authorized agents to examine the person's books,
17 records or papers.

18 (vi) Knowingly making any incomplete, false or
19 fraudulent return or report.

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

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

26 (ix) Making, uttering or issuing a false or
27 fraudulent statement.

28 (2) The penalties imposed under this section shall be in
29 addition to other penalties imposed under this chapter.

30 § 4315. Abatement of additions or penalties.

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

7 § 4316. Bulk and auction sales.

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

17 § 4317. Collection upon failure to request reassessment, review
18 or appeal.

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

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

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

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

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

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

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

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

12 § 4318. Tax liens.

13 (a) Lien imposed.--

14 (1) If a producer neglects or refuses to pay the tax
15 imposed under this chapter for which the producer is liable
16 under this chapter after demand, the amount, including
17 interest, addition or penalty, together with additional costs
18 that may accrue, shall be a lien in favor of the Commonwealth
19 upon the real and personal property of the producer, but only
20 after the same has been entered and docketed of record by the
21 prothonotary of the county where the property is situated.

22 (2) The department may, at any time, transmit to the
23 prothonotaries of the respective counties certified copies of
24 the liens imposed under this section.

25 (3) The prothonotary receiving the lien shall enter and
26 docket the lien of record to the office of the prothonotary.
27 The lien shall be indexed as judgments are now indexed. No
28 prothonotary may require as a condition precedent to the
29 entry of the lien the payment of costs incidental to its
30 entry.

1 (b) Priority of lien and effect on judicial sale.--

2 (1) A lien imposed under this section shall have
3 priority from the date of its recording and shall be fully
4 paid and satisfied out of the proceeds of any judicial sale
5 of property subject to the lien, before any other obligation,
6 judgment, claim, lien or estate to which the property may
7 subsequently become subject except as follows:

8 (i) the costs of the sale;

9 (ii) the writ upon which the sale was made;

10 (iii) real estate taxes; and

11 (iv) municipal claims against the property.

12 (2) The lien shall be subordinate to mortgages and other
13 liens existing and duly recorded or entered of record prior
14 to the recording of the lien.

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

16 (1) In the case of a judicial sale of property subject
17 to a lien imposed under this section, upon a lien or claim
18 over which the lien imposed under this section has priority,
19 the sale shall discharge the lien imposed under this section
20 to the extent only that the proceeds are applied to its
21 payment, and the lien shall continue in full force and effect
22 as to the balance remaining unpaid.

23 (2) There shall be no inquisition or condemnation upon
24 any judicial sale of real estate made by the Commonwealth
25 under the provisions of this chapter.

26 (3) The lien shall continue as provided in the act of
27 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code,
28 and a writ of execution may directly issue upon the lien
29 without the issuance and prosecution to judgment of a writ of
30 scire facias, provided that not less than 10 days before

1 issuance of any execution on the lien, notice of the filing
2 and the effect of the lien shall be sent by registered mail
3 to the producer's last known post office address. The lien
4 shall have no effect upon any stock of goods, wares or
5 merchandise regularly sold or leased in the ordinary course
6 of business by the producer against whom the lien has been
7 entered, unless and until a writ of execution has been issued
8 and a levy made upon the stock of goods, wares and
9 merchandise.

10 (d) Penalty.--A prothonotary who intentionally violates this
11 section commits a misdemeanor of the third degree and shall,
12 upon conviction, be sentenced to pay a fine of not more than
13 \$1,000 and costs of prosecution or to imprisonment for not more
14 than one year, or both.

15 (e) Priority.--

16 (1) Except as provided in this chapter, in the case of
17 the distribution, voluntary or compulsory, in receivership,
18 bankruptcy or otherwise of the property or estate of a
19 person, all taxes imposed by this chapter that are due and
20 unpaid and are not collectible under the provisions of
21 section 225 of the act of March 4, 1971 (P.L.6, No.2), known
22 as the Tax Reform Code of 1971, shall be paid from the first
23 money available for distribution in priority to all other
24 claims and liens, except as the laws of the United States may
25 give priority to a claim to the Federal Government.

26 (2) A person charged with the administration or
27 distribution of the property or estate who violates the
28 provisions of this section shall be personally liable for the
29 taxes imposed by this chapter that are accrued and unpaid and
30 chargeable against the person whose property or estate is

1 being administered or distributed.

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

8 § 4319. Tax suit reciprocity.

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

13 § 4320. Service.

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

30 § 4321. Refunds.

1 (a) General rule.--Under Article XXVII of the act of March
2 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, the
3 department shall refund all taxes, interest and penalties paid
4 to the Commonwealth under the provisions of this chapter to
5 which the Commonwealth is not rightfully entitled. The refunds
6 shall be made to the person or the person's heirs, successors,
7 assigns or other personal representatives who paid the tax,
8 provided that no refund may be made under this section regarding
9 a payment made by reason of an assessment where a producer has
10 filed a petition for reassessment under section 2702 of the Tax
11 Reform Code of 1971 to the extent the petition is adverse to the
12 producer by a decision that is no longer subject to further
13 review or appeal.

14 (b) Construction.--Nothing in this chapter may be construed
15 to prohibit a producer that has filed a timely petition for
16 reassessment from amending it to a petition for refund where the
17 petitioner paid the tax assessed.

18 § 4322. Refund petition.

19 (a) General rule.--Except as provided in subsection (b), the
20 refund or credit of tax, interest or penalty provided under
21 section 4321 (relating to refunds) shall be made only where the
22 person who has paid the tax files a petition for refund with the
23 department under Article XXVII of the act of March 4, 1971
24 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the
25 time limits of section 3003.1 of the Tax Reform Code of 1971.

26 (b) Natural gas severance tax.--

27 (1) A refund or credit of tax, interest or penalty paid
28 as a result of an assessment made by the department under
29 section 4307 (relating to assessments) shall be made only
30 where the person who has paid the tax files a petition for a

1 refund with the department under Article XXVII of the Tax
2 Reform Code of 1971 within the time limits of section 3003.1
3 of the Tax Reform Code of 1971.

4 (2) The filing of a petition for refund under the
5 provisions of this subsection shall not affect the abatement
6 of interest, additions or penalties to which the person may
7 be entitled by reason of payment of the assessment.

8 § 4323. Rules and regulations.

9 The department shall enforce the provisions of this chapter
10 and shall promulgate rules and regulations to administer and
11 enforce the provisions of this chapter and the collection of
12 taxes, penalties and interest imposed by this chapter. The
13 department may prescribe the extent, if any, to which any of the
14 rules and regulations shall be applied without retroactive
15 effect.

16 § 4324. Recordkeeping.

17 (a) General rule.--A person liable for any tax imposed by
18 this chapter, or for the collection of the tax, shall keep
19 records, including those enumerated in subsection (b), render
20 statements, make returns and comply with the rules and
21 regulations as the department may prescribe regarding matters
22 pertinent to the person's business. Whenever it is necessary,
23 the department may require a person, by notice served upon the
24 person or by regulations, to make returns, render statements or
25 keep records as the department deems sufficient to show whether
26 a person is liable to pay tax under this chapter.

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

28 (1) Wellhead meter charts for each reporting period and
29 the meter calibration and maintenance records. If turbine
30 meters are in use, the maintenance records shall be made

1 available to the department upon request.

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

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

7 (c) Records of nonresidents.--

8 (1) A nonresident who does business in this Commonwealth
9 as a producer shall keep adequate records of the business and
10 of the tax due as a result. The records shall be retained
11 within this Commonwealth unless retention outside this
12 Commonwealth is authorized by the department.

13 (2) The department may require a producer that desires
14 to retain records outside this Commonwealth to assume
15 reasonable out-of-State audit expenses.

16 (d) Keeping of separate records.--

17 (1) A producer that is engaged in another business or
18 businesses that do not involve the severing of natural gas
19 taxable under this chapter shall keep separate books and
20 records of the businesses so as to show the taxable severing
21 of natural gas under this chapter separately from other
22 business activities not taxable under this chapter.

23 (2) If a person fails to keep separate books and
24 records, the person shall be liable for a penalty equaling
25 100% of tax due under this chapter for the period where
26 separate records were not maintained.

27 § 4325. Examinations.

28 (a) Right to examine.--

29 (1) The department or any of its authorized agents may
30 examine the books, papers, records and locations of a

1 producer in order to verify the accuracy and completeness of
2 a return made or, if no return was made, to ascertain and
3 assess the tax imposed by this chapter. The department may
4 require the preservation of all books, papers and records for
5 any period deemed proper by the department but not to exceed
6 three years from the end of the calendar year to which the
7 records relate.

8 (2) A producer shall give to the department or its agent
9 the means, facilities and opportunity for examinations and
10 investigations under this section.

11 (3) The department may examine a person, under oath,
12 concerning the taxable severing of natural gas by a producer
13 or concerning any other matter relating to the enforcement or
14 administration of this chapter, and to this end may compel
15 the production of books, papers and records and the
16 attendance of all persons whether as parties or witnesses
17 believed to have knowledge of relevant matters.

18 (b) Procedure.--The procedure for the hearings or
19 examinations shall be the same as that provided under the act of
20 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.
21 § 4326. Unauthorized disclosure.

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

28 (b) Penalty.--Any person unlawfully divulging the
29 information shall be guilty of a misdemeanor and shall, upon
30 conviction, be sentenced to pay a fine of not more than \$1,000

1 and costs of prosecution or to imprisonment for not more than
2 one year, or both.

3 § 4327. Cooperation with other governments.

4 Notwithstanding the provisions of section 4319 (relating to
5 tax suit reciprocity), the department may permit the
6 Commissioner of the Internal Revenue Service, the proper officer
7 of any state or the authorized representative of either of them
8 to inspect the tax returns of a producer, or may furnish to the
9 commissioner or officer or to either of their authorized
10 representatives an abstract of the return of a producer, or
11 supply the officer or the officer's authorized representative
12 with information concerning any item contained in a return or
13 disclosed by the report of any examination or investigation of
14 the return of a producer. This permission shall be granted only
15 if the laws of the United States or another state grant
16 substantially similar privileges to the proper officer of the
17 Commonwealth charged with the administration of this chapter.

18 § 4328. Bonds.

19 (a) Producer to file bond.--

20 (1) The department may require a nonresident natural
21 person, or any foreign corporation, association, fiduciary or
22 other entity, not authorized to do business within this
23 Commonwealth or not having an established place of business
24 in this Commonwealth and subject to the tax imposed by
25 section 4303 (relating to imposition of tax), to file a bond
26 issued by a surety company authorized to do business in this
27 Commonwealth and approved by the Insurance Commissioner as to
28 solvency and responsibility, in amounts as the department may
29 fix, to secure the payment of any tax or penalties due or
30 that may become due from a nonresident natural person,

1 corporation, association, fiduciary or other entity whenever
2 the department deems it necessary to protect the revenues
3 obtained under this chapter.

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

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

12 (4) In the event the department determines a producer is
13 required to file a bond, the department shall give notice to
14 the producer specifying the amount of the bond required.

15 (5) The producer shall file the bond within five days
16 after notice is given by the department unless, within five
17 days, the producer requests in writing a hearing before the
18 secretary or the secretary's representative.

19 (6) At the hearing, the necessity, propriety and amount
20 of the bond shall be determined by the secretary or the
21 secretary's representative.

22 (7) The determination shall be final and the producer
23 shall comply within 15 days after notice is mailed to the
24 producer.

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

26 (1) In lieu of the bond required under this section,
27 securities approved by the department or cash in a prescribed
28 amount may be deposited. The securities or cash shall be kept
29 in the custody of the department.

30 (2) The department may:

1 (i) Apply the securities or cash to the tax imposed
2 under this chapter and interest or penalties due without
3 notice to the depositor.

4 (ii) Sell the securities to pay the tax and interest
5 or penalties due at public or private sale upon five
6 days' written notice to the depositor.

7 (c) Failure to file bond.--

8 (1) The department may file a lien under section 4318
9 (relating to tax liens) against any producer who fails to
10 file a bond when required to do so under this section.

11 (2) All funds received upon execution of the judgment on
12 the lien shall be refunded to the producer with 3% interest
13 should a final determination be made that the producer does
14 not owe any payment to the department.

15 § 4329. Prohibition.

16 A producer may not make the tax imposed under section 4303
17 (relating to imposition of tax) on natural gas severed under a
18 natural gas lease, an obligation, indebtedness or liability of a
19 landowner, leaseholder or other person in possession of real
20 property upon which the removal or extraction occurs and shall
21 not otherwise require the landowner to pay or reimburse the
22 producer for the amount of the tax.

23 § 4330. Future agreements.

24 On or after the effective date of this section, a provision
25 of an agreement in violation of section 4329 (relating to
26 prohibition) is declared to be illegal, contrary to public
27 policy and null and void.

28 § 4331. Stripper wells.

29 Notwithstanding the definition of "stripper well" in section
30 2301 (relating to definitions) or any other provision of Chapter

1 23 (relating to unconventional gas well fee) to the contrary, a
2 stripper well shall only be exempt from the payment of the
3 unconventional gas well fee due under Chapter 23 if the well was
4 incapable of producing more than 90 units of natural gas each
5 day of every calendar month in a calendar year.

6 § 4332. Deposit of proceeds.

7 The proceeds of the tax imposed under section 4303 (relating
8 to imposition of tax) and penalties and interest imposed under
9 this chapter shall be deposited into the General Fund.

10 Section 3. This act shall take effect immediately.