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### No Talks Yet on Natural Gas Tax

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August 23, 2010

*Duane Morris LLP*

Pennsylvania's lawmakers, the governor's office and the natural gas industry have yet to begin formal negotiations on establishing a natural gas tax, industry officials say. The Pennsylvania General Assembly and Pa. Gov. Ed Rendell set an October 1, 2010, deadline for agreement on the tax rate and how the receipts will be disbursed.

"Nothing has been decided since we haven't even begun serious talks yet," said Terry Bossert, vice president of government affairs at Chief Oil & Gas. "All issues are still on the table." The drillers insist that other legislative initiatives, favored by the industry, should be included in the negotiations.

Some of the legislative initiatives include the following: a proposal calling for so-called pooling of land, where the owners of land without lease agreements contiguous to parcels with agreements would be paid the same royalties as the owners of the leased land; another proposal that would allow more than one well on a pad; and a third proposal that would clarify jurisdictional issues between local governments and the state Department of Environmental Protection.

"Some local government are working very well with the drillers," said one industry source. "Others are using whatever local laws they have to slow development down as much as they can."

Governor Rendell based his tax proposal, first introduced in February 2009, on a West Virginia tax: an effective 6.2-percent rate at the wellhead. In June 2010, the state House of Representatives approved a different version of the tax. The base and beginning tax rate would be 35 cents for every 1,000 cubic feet of recovered natural gas.

The tax rate would be adjusted once a year based on the previous 12-month average of natural gas prices. Revenue from the tax will be distributed as follows:

- 50 percent to the General Fund;
- 20 percent to the Local Government Services Account;
- 15 percent to the Environmental Stewardship Fund;
- 3 percent to the Conservation District Fund;
- 3 percent to the Fish and Boat Commission;
- 2 percent to the Game Commission;
- 2 percent to the Low Income Home Energy Assistance Program (LIHEAP);
- 2 percent to the Hazardous Sites Cleanup Fund;
- 2 percent to the Oil & Gas Environmental Disaster Recovery Account; and
- 1 percent to low-head dam removal and reconstruction projects.

For its part, the environmental community has indicated a preference for a tax plan where all the revenue raised goes toward oversight and enforcement. "The number one priority is the safe economic development of shale," said Jack Ubinger, senior vice president of the Pennsylvania Environmental Council. "To that end, we feel as much of the resources as possible should go to oversight."

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