



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0009/2
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2011 ASSEMBLY BILL 358

November 3, 2011 - Introduced by Representatives MURSAU, SPANBAUER, PETROWSKI, BROOKS, BIES and MILROY, cosponsored by Senator HOLPERIN. Referred to Committee on Jobs, Economy and Small Business.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45
2 (2) (a) 10. and 77.92 (4); and **to create** 71.07 (6f), 71.10 (4) (cf), 71.28 (6f), 71.30
3 (3) (af), 71.47 (6f) and 71.49 (1) (af) of the statutes; **relating to:** creating a
4 nonrefundable individual and corporate income and franchise tax credit for
5 purchasing and installing a thermal biomass heating system.

Analysis by the Legislative Reference Bureau

This bill creates a nonrefundable individual income tax credit, and a corporate income and franchise tax credit, for the purchase and installation of a thermal biomass heating system. Under the bill, for taxable years 2011 to 2016, a claimant may claim a certain percentage of the amount the claimant pays for the purchase and installation of a system in the claimant's primary residence or place of business.

Under the bill, a system is defined as a stove, furnace, or boiler that generates heat from biomass and provides an energy efficiency conversion of at least 75 percent. Subject to a number of exceptions, such as an exception for garbage and for certain nonvegetation-based waste, biomass is defined under the bill as a resource that derives energy from wood or plant material or residue, biological waste, crops grown for use as such a resource, or landfill gases.

The bill limits the total amount of credits that may be claimed. The Department of Revenue may prorate the amount of credits claimed to ensure these limitations are not exceeded, and may allocate unused credits from one year to another year. A business that is not able to totally offset the credit it is due against income or

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franchise taxes otherwise owed may carry forward the credit for the following three taxable years. A business that has more than \$5,000,000 in gross receipts in the taxable year may not claim the credit.

No new credits may be claimed for taxable years beginning after December 31, 2016.

To be eligible for the credit, the system must comply with all state requirements related to emissions of air contaminants, and the provisions of the federal Clean Air Act, that apply to the system on the day it is purchased. The credit related to purchasing a system for an individual's primary residence may not be claimed by a nonresident or part-year resident of the state. Because the credit is nonrefundable, it may be claimed only up to the amount of a taxpayer's income or franchise tax liability.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
4 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5r), (5rm), (6f), and (8r) and
5 not passed through by a partnership, limited liability company, or tax-option
6 corporation that has added that amount to the partnership's, company's, or
7 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

8 **SECTION 2.** 71.07 (6f) of the statutes is created to read:

9 71.07 **(6f)** THERMAL BIOMASS HEATING SYSTEMS CREDIT. (a) *Definitions.* In this
10 subsection:

11 1. "Air quality standards" means all requirements under ch. 285 and 42 USC
12 7401 to 7671q.

13 2. "Biomass" has the meaning given in s. 196.378 (1) (ar).

14 3. "Claimant" means a person who files a claim under this subsection.

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1 4. “Stove” means a stove that is part of a system that generates heat from
2 biomass and is not integrated into any other heating or cooling system or into duct
3 work.

4 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
5 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
6 amount of those taxes, one of the following amounts that the claimant paid in the
7 taxable year to purchase and install in the claimant’s primary residence in this state
8 or in the claimant’s place of business in this state a stove, furnace, or boiler that
9 generates heat from biomass by providing an energy efficiency conversion of at least
10 75 percent and meets any air quality standards that apply to the stove, furnace, or
11 boiler on the day on which the stove, furnace, or boiler is purchased:

12 1. With regard to amounts paid to purchase and install a stove:

13 a. For taxable years beginning after December 31, 2010, and before January
14 1, 2013, either 40 percent of such amounts or \$1,200, whichever is less.

15 b. For taxable years beginning after December 31, 2012, and before January
16 1, 2015, either 30 percent of such amounts or \$1,050, whichever is less.

17 c. For taxable years beginning after December 31, 2014, and before January
18 1, 2017, either 25 percent of such amounts or \$1,000, whichever is less.

19 2. With regard to amounts paid to purchase and install a furnace or boiler with
20 an output that is less than or equal to 200,000 British thermal units:

21 a. For taxable years beginning after December 31, 2010, and before January
22 1, 2013, either 40 percent of such amounts or \$4,800, whichever is less.

23 b. For taxable years beginning after December 31, 2012, and before January
24 1, 2015, either 30 percent of such amounts or \$3,900, whichever is less.

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1 c. For taxable years beginning after December 31, 2014, and before January
2 1, 2017, either 25 percent of such amounts or \$3,500, whichever is less.

3 3. With regard to amounts paid to purchase and install a furnace or boiler with
4 an output that is greater than 200,000 British thermal units:

5 a. For taxable years beginning after December 31, 2010, and before January
6 1, 2013, either 40 percent of such amounts or \$12,000, whichever is less.

7 b. For taxable years beginning after December 31, 2012, and before January
8 1, 2015, either 30 percent of such amounts or \$10,500, whichever is less.

9 c. For taxable years beginning after December 31, 2014, and before January
10 1, 2017, either 25 percent of such amounts or \$10,000, whichever is less.

11 (c) *Limitations.* 1. No credit may be claimed under this subsection by a
12 part-year resident or a nonresident of this state for amounts paid to install a furnace,
13 boiler, or stove in the claimant's primary residence in this state.

14 2. No credit may be claimed under this subsection for an item installed in the
15 claimant's place of business if the claimant's business had more than \$5,000,000 in
16 gross receipts in the taxable year in which the item is installed.

17 3. Partnerships, limited liability companies, and tax-option corporations may
18 not claim the credit under this subsection, but the eligibility for, and the amount of,
19 the credit are based on their payment of amounts under par. (b). A partnership,
20 limited liability company, or tax-option corporation shall compute the amount of
21 credit that each of its partners, members, or shareholders may claim and shall
22 provide that information to each of them. Partners, members of limited liability
23 companies, and shareholders of tax-option corporations may claim the credit in
24 proportion to their ownership interests.

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1 4. a. The maximum amount of the credits that may be claimed under this
2 subsection and ss. 71.28 (6f) and 71.47 (6f) for the purchase and installation of stoves
3 and the purchase and installation of furnaces and boilers with outputs less than or
4 equal to 200,000 British thermal units is \$2,500,000 in 2011, \$3,500,000 in 2012,
5 \$3,000,000 in 2013, \$3,000,000 in 2014, \$2,500,000 in 2015, and \$2,500,000 in 2016.

6 b. The maximum amount of the credits that may be claimed under this
7 subsection and ss. 71.28 (6f) and 71.47 (6f) for the purchase and installation of stoves
8 or furnaces and boilers with outputs greater than 200,000 British thermal units is
9 \$1,500,000 in 2011, \$2,500,000 in 2012, \$2,000,000 in 2013, \$2,000,000 in 2014,
10 \$1,500,000 in 2015, and \$1,500,000 in 2016.

11 5. The department may prorate the amount of the credits claimed under this
12 subsection and ss. 71.28 (6f) and 71.47 (6f) so that the limitations under subd. 4. are
13 not exceeded.

14 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
15 credit under s. 71.28 (4), applies to the credit under this subsection.

16 2. If a credit computed under this subsection is not entirely offset against
17 Wisconsin income or franchise taxes otherwise due, the unused balance may be
18 carried forward and credited against Wisconsin income or franchise taxes otherwise
19 due for the following 3 taxable years to the extent not offset by these taxes otherwise
20 due in all intervening years between the year in which the expense was incurred and
21 the year in which the carry-forward credit is claimed.

22 (e) *Sunset.* No new claim may be filed under this subsection for taxable years
23 beginning after December 31, 2016.

24 **SECTION 3.** 71.10 (4) (cf) of the statutes is created to read:

25 71.10 (4) (cf) The thermal biomass heating systems credit under s. 71.07 (6f).

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1 **SECTION 4.** 71.21 (4) of the statutes is amended to read:

2 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
3 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
4 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (6f), and (8r) and passed
5 through to partners shall be added to the partnership's income.

6 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 3,
7 is amended to read:

8 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
9 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
10 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (6f), (8r), and
11 (9s) and not passed through by a partnership, limited liability company, or
12 tax-option corporation that has added that amount to the partnership's, limited
13 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
14 (g).

15 **SECTION 6.** 71.28 (6f) of the statutes is created to read:

16 71.28 (6f) THERMAL BIOMASS HEATING SYSTEMS CREDIT. (a) *Definitions.* In this
17 subsection:

18 1. "Air quality standards" means all requirements under ch. 285 and 42 USC
19 7401 to 7671q.

20 2. "Biomass" has the meaning given in s. 196.378 (1) (ar).

21 3. "Claimant" means a person who files a claim under this subsection.

22 4. "Stove" means a stove that is part of a system that generates heat from
23 biomass and is not integrated into any other heating or cooling system or into duct
24 work.

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1 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
2 claimant may claim as a credit against the tax imposed under s. 71.23, up to the
3 amount of those taxes, one of the following amounts that the claimant paid in the
4 taxable year to purchase and install in the claimant's place of business in this state
5 a stove, furnace, or boiler that generates heat from biomass by providing an energy
6 efficiency conversion of at least 75 percent and meets any air quality standards that
7 apply to the stove, furnace, or boiler on the day on which the stove, furnace, or boiler
8 is purchased:

9 1. With regard to amounts paid to purchase and install a stove:

10 a. For taxable years beginning after December 31, 2010, and before January
11 1, 2013, either 40 percent of such amounts or \$1,200, whichever is less.

12 b. For taxable years beginning after December 31, 2012, and before January
13 1, 2015, either 30 percent of such amounts or \$1,050, whichever is less.

14 c. For taxable years beginning after December 31, 2014, and before January
15 1, 2017, either 25 percent of such amounts or \$1,000, whichever is less.

16 2. With regard to amounts paid to purchase and install a furnace or boiler with
17 an output that is less than or equal to 200,000 British thermal units:

18 a. For taxable years beginning after December 31, 2010, and before January
19 1, 2013, either 40 percent of such amounts or \$4,800, whichever is less.

20 b. For taxable years beginning after December 31, 2012, and before January
21 1, 2015, either 30 percent of such amounts or \$3,900, whichever is less.

22 c. For taxable years beginning after December 31, 2014, and before January
23 1, 2017, either 25 percent of such amounts or \$3,500, whichever is less.

24 3. With regard to amounts paid to purchase and install a furnace or boiler with
25 an output that is greater than 200,000 British thermal units:

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1 a. For taxable years beginning after December 31, 2010, and before January
2 1, 2013, either 40 percent of such amounts or \$12,000, whichever is less.

3 b. For taxable years beginning after December 31, 2012, and before January
4 1, 2015, either 30 percent of such amounts or \$10,500, whichever is less.

5 c. For taxable years beginning after December 31, 2014, and before January
6 1, 2017, either 25 percent of such amounts or \$10,000, whichever is less.

7 (c) *Limitations.* 1. Partnerships, limited liability companies, and tax-option
8 corporations may not claim the credit under this subsection, but the eligibility for,
9 and the amount of, the credit are based on their payment of amounts under par. (b).
10 A partnership, limited liability company, or tax-option corporation shall compute
11 the amount of credit that each of its partners, members, or shareholders may claim
12 and shall provide that information to each of them. Partners, members of limited
13 liability companies, and shareholders of tax-option corporations may claim the
14 credit in proportion to their ownership interests.

15 2. No credit may be claimed under this subsection for an item installed in the
16 claimant's place of business if the claimant's business had more than \$5,000,000 in
17 gross receipts in the taxable year in which the item is installed.

18 3. a. The maximum amount of the credits that may be claimed under this
19 subsection and ss. 71.07 (6f) and 71.47 (6f) for the purchase and installation of stoves
20 and the purchase and installation of furnaces and boilers with outputs less than or
21 equal to 200,000 British thermal units is \$2,500,000 in 2011, \$3,500,000 in 2012,
22 \$3,000,000 in 2013, \$3,000,000 in 2014, \$2,500,000 in 2015, and \$2,500,000 in 2016.

23 b. The maximum amount of the credits that may be claimed under this
24 subsection and ss. 71.07 (6f) and 71.47 (6f) for the purchase and installation of stoves
25 or furnaces and boilers with outputs greater than 200,000 British thermal units is

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1 \$1,500,000 in 2011, \$2,500,000 in 2012, \$2,000,000 in 2013, \$2,000,000 in 2014,
2 \$1,500,000 in 2015, and \$1,500,000 in 2016.

3 4. The department may prorate the amount of the credits claimed under this
4 subsection and ss. 71.07 (6f) and 71.47 (6f) so that the limitations under subd. 3. are
5 not exceeded.

6 (d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit
7 under sub. (4), applies to the credit under this subsection.

8 2. If a credit computed under this subsection is not entirely offset against
9 Wisconsin income or franchise taxes otherwise due, the unused balance may be
10 carried forward and credited against Wisconsin income or franchise taxes otherwise
11 due for the following 3 taxable years to the extent not offset by these taxes otherwise
12 due in all intervening years between the year in which the expense was incurred and
13 the year in which the carry-forward credit is claimed.

14 (e) *Sunset.* No new claim may be filed under this subsection for taxable years
15 beginning after December 31, 2016.

16 **SECTION 7.** 71.30 (3) (af) of the statutes is created to read:

17 71.30 (3) (af) The thermal biomass heating systems credit under s. 71.28 (6f).

18 **SECTION 8.** 71.34 (1k) (g) of the statutes is amended to read:

19 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
20 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
21 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
22 (5k), (5r), (5rm), (6f), and (8r) and passed through to shareholders.

23 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
24 3, is amended to read:

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1 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
2 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
3 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (6f), (8r), and (9s) and not passed
4 through by a partnership, limited liability company, or tax-option corporation that
5 has added that amount to the partnership's, limited liability company's, or
6 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount
7 of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

8 **SECTION 10.** 71.47 (6f) of the statutes is created to read:

9 71.47 (6f) THERMAL BIOMASS HEATING SYSTEMS CREDIT. (a) *Definitions.* In this
10 subsection:

11 1. "Air quality standards" means all requirements under ch. 285 and 42 USC
12 7401 to 7671q.

13 2. "Biomass" has the meaning given in s. 196.378 (1) (ar).

14 3. "Claimant" means a person who files a claim under this subsection.

15 4. "Stove" means a stove that is part of a system that generates heat from
16 biomass and is not integrated into any other heating or cooling system or into duct
17 work.

18 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
19 claimant may claim as a credit against the tax imposed under s. 71.43, up to the
20 amount of those taxes, one of the following amounts that the claimant paid in the
21 taxable year to purchase and install in the claimant's place of business in this state
22 a stove, furnace, or boiler that generates heat from biomass by providing an energy
23 efficiency conversion of at least 75 percent and meets any air quality standards that
24 apply to the stove, furnace, or boiler on the day on which the stove, furnace, or boiler
25 is purchased:

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- 1 1. With regard to amounts paid to purchase and install a stove:
- 2 a. For taxable years beginning after December 31, 2010, and before January
- 3 1, 2013, either 40 percent of such amounts or \$1,200, whichever is less.
- 4 b. For taxable years beginning after December 31, 2012, and before January
- 5 1, 2015, either 30 percent of such amounts or \$1,050, whichever is less.
- 6 c. For taxable years beginning after December 31, 2014, and before January
- 7 1, 2017, either 25 percent of such amounts or \$1,000, whichever is less.
- 8 2. With regard to amounts paid to purchase and install a furnace or boiler with
- 9 an output that is less than or equal to 200,000 British thermal units:
- 10 a. For taxable years beginning after December 31, 2010, and before January
- 11 1, 2013, either 40 percent of such amounts or \$4,800, whichever is less.
- 12 b. For taxable years beginning after December 31, 2012, and before January
- 13 1, 2015, either 30 percent of such amounts or \$3,900, whichever is less.
- 14 c. For taxable years beginning after December 31, 2014, and before January
- 15 1, 2017, either 25 percent of such amounts or \$3,500, whichever is less.
- 16 3. With regard to amounts paid to purchase and install a furnace or boiler with
- 17 an output that is greater than 200,000 British thermal units:
- 18 a. For taxable years beginning after December 31, 2010, and before January
- 19 1, 2013, either 40 percent of such amounts or \$12,000, whichever is less.
- 20 b. For taxable years beginning after December 31, 2012, and before January
- 21 1, 2015, either 30 percent of such amounts or \$10,500, whichever is less.
- 22 c. For taxable years beginning after December 31, 2014, and before January
- 23 1, 2017, either 25 percent of such amounts or \$10,000, whichever is less.
- 24 (c) *Limitations.* 1. Partnerships, limited liability companies, and tax-option
- 25 corporations may not claim the credit under this subsection, but the eligibility for,

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1 and the amount of, the credit are based on their payment of amounts under par. (b).
2 A partnership, limited liability company, or tax-option corporation shall compute
3 the amount of credit that each of its partners, members, or shareholders may claim
4 and shall provide that information to each of them. Partners, members of limited
5 liability companies, and shareholders of tax-option corporations may claim the
6 credit in proportion to their ownership interests.

7 2. No credit may be claimed under this subsection for an item installed in the
8 claimant's place of business if the claimant's business had more than \$5,000,000 in
9 gross receipts in the taxable year in which the item is installed.

10 3. a. The maximum amount of the credits that may be claimed under this
11 subsection and ss. 71.07 (6f) and 71.28 (6f) for the purchase and installation of stoves
12 and the purchase and installation of furnaces and boilers with outputs less than or
13 equal to 200,000 British thermal units is \$2,500,000 in 2011, \$3,500,000 in 2012,
14 \$3,000,000 in 2013, \$3,000,000 in 2014, \$2,500,000 in 2015, and \$2,500,000 in 2016.

15 b. The maximum amount of the credits that may be claimed under this
16 subsection and ss. 71.07 (6f) and 71.28 (6f) for the purchase and installation of stoves
17 or furnaces and boilers with outputs greater than 200,000 British thermal units is
18 \$1,500,000 in 2011, \$2,500,000 in 2012, \$2,000,000 in 2013, \$2,000,000 in 2014,
19 \$1,500,000 in 2015, and \$1,500,000 in 2016.

20 4. The department may prorate the amount of the credits claimed under this
21 subsection and ss. 71.07 (6f) and 71.28 (6f) so that the limitations under subd. 3. are
22 not exceeded.

23 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the
24 credit under s. 71.28 (4), applies to the credit under this subsection.

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1 2. If a credit computed under this subsection is not entirely offset against
2 Wisconsin income or franchise taxes otherwise due, the unused balance may be
3 carried forward and credited against Wisconsin income or franchise taxes otherwise
4 due for the following 3 taxable years to the extent not offset by these taxes otherwise
5 due in all intervening years between the year in which the expense was incurred and
6 the year in which the carry-forward credit is claimed.

7 (e) *Sunset*. No new claim may be filed under this subsection for taxable years
8 beginning after December 31, 2016.

9 **SECTION 11.** 71.49 (1) (af) of the statutes is created to read:

10 71.49 (1) (af) The thermal biomass heating systems credit under s. 71.47 (6f).

11 **SECTION 12.** 77.92 (4) of the statutes is amended to read:

12 77.92 (4) “Net business income,” with respect to a partnership, means taxable
13 income as calculated under section 703 of the Internal Revenue Code; plus the items
14 of income and gain under section 702 of the Internal Revenue Code, including taxable
15 state and municipal bond interest and excluding nontaxable interest income or
16 dividend income from federal government obligations; minus the items of loss and
17 deduction under section 702 of the Internal Revenue Code, except items that are not
18 deductible under s. 71.21; plus guaranteed payments to partners under section 707
19 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
20 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
21 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (6f), and
22 (8r); and plus or minus, as appropriate, transitional adjustments, depreciation
23 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
24 excluding income, gain, loss, and deductions from farming. “Net business income,”
25 with respect to a natural person, estate, or trust, means profit from a trade or

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SECTION 12

1 business for federal income tax purposes and includes net income derived as an
2 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

3 (END)