

SECOND REGULAR SESSION

SENATE BILL NO. 887

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROWDEN.

Read 1st time January 9, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5801S.011

AN ACT

To amend chapters 143 and 443, RSMo, by adding thereto seven new sections relating to savings accounts for first-time home buyers.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapters 143 and 443, RSMo, are amended by adding thereto
2 seven new sections, to be known as sections 143.1150, 443.1001, 443.1003,
3 443.1004, 443.1005, 443.1006, and 443.1007, to read as follows:

143.1150. 1. This section shall be known and may be cited as the
2 "First-Time Home Buyer Tax Deduction".

3 2. As used in this section, the following terms mean:

4 (1) "Deduction", an amount subtracted from the taxpayer's
5 Missouri adjusted gross income to determine Missouri taxable income
6 for the tax year in which such deduction is claimed;

7 (2) "Eligible expenses", the same meaning as that term is defined
8 under subdivision (3) of section 443.1003;

9 (3) "First-time home buyer savings account", the same meaning
10 as that term is defined under subdivision (6) of section 443.1003;

11 (4) "First-time home buyer savings account act", sections 443.1001
12 to 443.1007;

13 (5) "Taxpayer", any individual who is a resident of this state and
14 subject to the income tax imposed under this chapter, excluding
15 withholding tax imposed under sections 143.191 to 143.265.

16 3. For all tax years beginning on or after January 1, 2019, a
17 taxpayer shall be allowed a deduction equal to fifty percent of the
18 taxpayer's contributions to a first-time home buyer savings account in
19 the tax year of the contribution.

20 4. The amount of the deduction claimed shall not exceed the

21 amount of the taxpayer's Missouri adjusted gross income for the tax
22 year the deduction is claimed.

23 5. The assets of a first-time home buyer savings account and any
24 income therefrom shall be exempt from all taxation by the state or any
25 of its political subdivisions. Income earned or received as a result of
26 assets in a first-time home buyer savings account shall not be subject
27 to state income tax imposed pursuant to chapter 143. The exemption
28 from taxation under this section shall apply only to assets and income
29 maintained, accrued, or expended pursuant to the requirements of the
30 first-time home buyer savings account act, and no exemption shall
31 apply to assets and income expended for any other purposes. Annual
32 contributions made to the savings program up to and including eight
33 hundred dollars per participating taxpayer and up to and including one
34 thousand six hundred dollars for married individuals filing a joint tax
35 return shall be subtracted in determining Missouri adjusted gross
36 income under section 143.121.

37 6. If any deductible contributions to or earnings from any such
38 program referred to in this section are distributed and not used to pay
39 for eligible expenses or are not held for the minimum length of time
40 under subsection 2 of section 443.1005, the amount so distributed shall
41 be added to the Missouri adjusted gross income of the participant or,
42 if the participant is not living, the beneficiary.

43 7. The department of revenue shall promulgate rules to
44 implement the provisions of this section. Any rule or portion of a rule,
45 as that term is defined in section 536.010, that is created under the
46 authority delegated in this section shall become effective only if it
47 complies with and is subject to all of the provisions of chapter 536 and,
48 if applicable, section 536.028. This section and chapter 536 are
49 nonseverable, and if any of the powers vested with the general
50 assembly pursuant to chapter 536 to review, to delay the effective date,
51 or to disapprove and annul a rule are subsequently held
52 unconstitutional, then the grant of rulemaking authority and any rule
53 proposed or adopted after August 28, 2018, shall be invalid and void.

54 8. Under section 23.253 of the Missouri sunset act:

55 (1) The provisions of the new program authorized under this
56 section shall automatically sunset on December thirty-first six years
57 after the effective date of this section, unless reauthorized by an act of
58 the general assembly;

59 (2) If such program is reauthorized, the program authorized
60 under this section shall automatically sunset on December thirty-first
61 twelve years after the effective date of the reauthorization of this
62 section; and

63 (3) This section shall terminate on September first of the
64 calendar year immediately following the calendar year in which the
65 program authorized under this section is sunset.

 443.1001. Sections 443.1001 to 443.1007 shall be known and may
2 be cited as the "First-Time Home Buyer Savings Account Act".

 443.1003. As used in sections 443.1001 to 443.1007 the following
2 terms mean:

3 (1) "Account holder", an individual who establishes an account
4 with a financial institution that is designated as a first-time home
5 buyer savings account in accordance with section 443.1004;

6 (2) "Department", the department of revenue;

7 (3) "Eligible expenses", a down payment and any closing costs
8 included on a real estate settlement statement including, but not
9 limited to, appraisal fees, mortgage origination fees, and inspection
10 fees;

11 (4) "Financial institution", any state bank, state trust company,
12 savings and loan association, federally chartered credit union doing
13 business in this state, credit union chartered by the state of Missouri,
14 national bank, broker-dealer, mutual fund, insurance company, or other
15 similar financial entity qualified to do business in this state;

16 (5) "First-time home buyer", an individual who:

17 (a) Has never owned or purchased under contract for deed,
18 either individually or jointly, a single-family, owner-occupied primary
19 residence including, but not limited to, a condominium unit or a
20 manufactured or mobile home that was assessed and taxed as real
21 property; or

22 (b) As a result of the individual's dissolution of marriage, has not
23 been listed on a property title for at least three consecutive years;

24 (6) "First-time home buyer savings account" or "account", an
25 account with a financial institution designated as such in accordance
26 with subdivision (1) of section 443.1004;

27 (7) "Qualified beneficiary", a first-time home buyer designated by
28 an account holder for whose eligible expenses the moneys in a
29 first-time home buyer savings account are or will be used.

443.1004. 1. Beginning January 1, 2019, any individual may open
2 an account with a financial institution and designate the account, in its
3 entirety, as a first-time home buyer savings account to be used to pay
4 or reimburse a qualified beneficiary's eligible expenses for the
5 purchase of his or her primary residence in Missouri. An individual
6 may be the account holder of multiple accounts, and an individual may
7 jointly own the account with another person if such persons file a joint
8 income tax return. To be eligible for the tax deduction under section
9 143.1150, an account holder shall comply with the requirements of this
10 section.

11 2. An account holder shall designate, no later than April fifteenth
12 of the year following the tax year during which the account was
13 established, a first-time home buyer as the qualified beneficiary of the
14 first-time home buyer savings account. The account holder may
15 designate himself or herself as the qualified beneficiary. The account
16 holder may change the designated qualified beneficiary at any time, but
17 no first-time home buyer savings account shall have more than one
18 qualified beneficiary at any time. No account holder shall have
19 multiple accounts with the same qualified beneficiary, but an
20 individual may be designated as the qualified beneficiary of multiple
21 accounts.

22 3. (1) The following limits apply to a first-time home buyer
23 savings account:

24 (a) The maximum contribution to a first-time home buyer savings
25 account is one thousand six hundred dollars per year for an individual
26 and three thousand two hundred dollars per year for account holders
27 who file a joint tax return;

28 (b) The maximum amount of all contributions for all tax years to
29 a first-time home buyer savings account is twenty-five thousand dollars;
30 and

31 (c) The maximum total amount in an account is fifty thousand
32 dollars;

33 (2) If a limit in subdivision (1) of this subsection is exceeded,
34 then thereafter no interest or other income earned on the investment
35 of moneys in the first-time home buyer savings account shall be
36 included in the tax deduction under section 143.1150; and

37 (3) Moneys may remain in a first-time home buyer savings
38 account for unlimited duration without the interest or income being

39 subject to recapture or penalty.

40 4. The account holder shall not use moneys in an account to pay
41 expenses of administering the account, except that a service fee may be
42 deducted from the account by a financial institution. The account
43 holder shall be responsible for maintaining documentation for the
44 first-time home buyer savings account and for eligible expenses related
45 to the qualified beneficiary's purchase of a primary residence.

443.1005. 1. (1) For purposes of the tax benefit conferred under
2 the first-time home buyer savings account act, the moneys in a
3 first-time home buyer savings account may be:

4 (a) Used for eligible expenses related to a qualified beneficiary's
5 purchase of his or her primary residence located in this state;

6 (b) Used for eligible expenses related to a qualified beneficiary's
7 purchase of his or her primary residence located outside this state if
8 the qualified beneficiary is active-duty military and was stationed in
9 Missouri for any time after the creation of the account;

10 (c) Used for expenses that would have qualified under paragraph
11 (a) or (b) of this subdivision, but the contract for purchase did not
12 close;

13 (d) Transferred to another newly created first-time home buyer
14 savings account; and

15 (e) Used to pay a service fee that is deducted by the financial
16 institution.

17 (2) Subdivision (1) of this section shall apply whether the
18 qualified beneficiary is the sole owner of the primary residence or joint
19 owner with another person who does not qualify as a qualified
20 beneficiary. Moneys in a first-time home buyer savings account shall
21 not be used for the purposes under paragraphs (a), (b), and (c) of
22 subdivision (1) of this subsection related to the purchase of a
23 manufactured or mobile home that is not taxed as real property.

24 (3) The title of any home purchased with moneys from a
25 first-time home buyer savings account shall not transfer for at least two
26 years following the purchase unless reasonable circumstances exist
27 that were unforeseen at the time the home was purchased. The
28 first-time home buyer shall request an exception from the department
29 stating the reasonable circumstance.

30 2. Moneys withdrawn from a first-time home buyer savings
31 account shall be subject to recapture in the tax year in which they are

32 **withdrawn if:**

33 **(1) At the time of the withdrawal, it has been less than a year**
34 **since the first deposit in the first-time home buyer savings account; or**

35 **(2) The moneys are used for any purpose other than those**
36 **specified under subsection 1 of this section.**

37 **The recapture shall be an amount equal to the moneys withdrawn and**
38 **shall be added to the Missouri adjusted gross income of the account**
39 **holder or, if the account holder is not living, the qualified beneficiary.**

40 **3. If any moneys are subject to recapture under subsection 2 of**
41 **this section, the account holder shall pay to the department a penalty**
42 **in the same tax year as the recapture. If the withdrawal was made ten**
43 **or fewer years after the first deposit in the first-time home buyer**
44 **savings account, the penalty shall be equal to five percent of the**
45 **amount subject to recapture, and, if the withdrawal was made more**
46 **than ten years after the first deposit in the account, the penalty shall**
47 **be equal to ten percent of the amount subject to recapture. These**
48 **penalties shall not apply if:**

49 **(1) The withdrawn moneys are used for eligible expenses related**
50 **to a qualified beneficiary's purchase of his or her primary residence**
51 **outside of the state; or**

52 **(2) The withdrawn moneys are from a first-time home buyer**
53 **savings account for which the qualified beneficiary died, and the**
54 **account holder does not designate a new qualified beneficiary during**
55 **the same tax year.**

56 **4. If the account holder dies or, if the first-time home buyer**
57 **savings account is jointly owned, the account holders die and the**
58 **account does not have a surviving transfer on death beneficiary, then**
59 **all of the moneys in the account that were used for a tax deduction**
60 **under section 143.1150 shall be subject to recapture in the tax year of**
61 **the death or deaths, but no penalty shall be due to the department.**

443.1006. 1. The department shall establish forms for an account
2 **holder to annually report information about a first-time home buyer**
3 **savings account including, but not limited to, how the moneys**
4 **withdrawn from the fund are used and shall identify any supporting**
5 **documentation that is required to be maintained. To be eligible for the**
6 **tax deduction under section 143.1150, an account holder shall annually**
7 **file with the account holder's state income tax return all forms**
8 **required by the department under this section, the 1099 form for the**

9 account issued by the financial institution, and any other supporting
10 documentation the department requires.

11 2. The department of revenue may promulgate rules and
12 regulations necessary to administer the provisions of the first-time
13 home buyer savings account act. Any rule or portion of a rule, as that
14 term is defined in section 536.010, that is created under the authority
15 delegated in this section shall become effective only if it complies with
16 and is subject to all of the provisions of chapter 536 and, if applicable,
17 section 536.028. This section and chapter 536 are nonseverable, and if
18 any of the powers vested with the general assembly pursuant to chapter
19 536 to review, to delay the effective date, or to disapprove and annul a
20 rule are subsequently held unconstitutional, then the grant of
21 rulemaking authority and any rule proposed or adopted after August
22 28, 2018, shall be invalid and void.

443.1007. 1. No financial institution shall be required to:

2 (1) Designate an account as a first-time home buyer savings
3 account or designate the beneficiaries of an account in the financial
4 institution's account contracts or systems or in any other way;

5 (2) Track the use of moneys withdrawn from a first-time home
6 buyer savings account; or

7 (3) Report any information to the department or any other
8 governmental agency that is not otherwise required by law.

9 2. No financial institution shall be responsible or liable for:

10 (1) Determining or ensuring that an account holder is eligible for
11 a tax deduction under section 143.1150;

12 (2) Determining or ensuring that moneys in the account are used
13 for eligible expenses; or

14 (3) Reporting or remitting taxes or penalties related to use of
15 moneys in a first-time home buyer savings account.

16 3. In implementing section 143.1150 and sections 443.1001 to
17 443.1007, the department shall not establish any administrative,
18 reporting, or other requirements on financial institutions that are
19 outside the scope of normal account procedures.

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