2019 ASSEMBLY BILL 318

June 27, 2019 - Introduced by Representatives MURPHY, SUMMERFIELD, ZIMMERMAN, MAGNAFICI, KULP, DITTRICH, NYGREN, HORLACHER, FELZKOWSKI, THIESFELDT, WITTKE, KUGLITSCH, KURTZ, BORN, WICHGERS and BRANDTJEN. Referred to Committee on Ways and Means.

AUTHORS SUBJECT TO CHANGE

AN ACT ***to create*** 71.05 (6) (a) 29., 71.05 (6) (b) 54., 71.10 (4) (k), 71.10 (10) and 71.83 (1) (ch) of the statutes; **relating to:** creating tax-advantaged first-time home buyer accounts.

Analysis by the Legislative Reference Bureau

This bill creates a tax-advantaged first-time home buyers savings account. Under the bill, an individual may create the account and must designate a beneficiary of the account, which may be the account holder. The beneficiary must be an individual who is a first-time home buyer, which is defined as someone who resides in this state and has not owned or purchased a single-family residence during the 36 months before the month in which the individual purchases the residence in this state. An account holder may withdraw funds from the account to pay the down payment and eligible closing costs for the purchase of a single-family residence in this state by the beneficiary or to reimburse the beneficiary for eligible costs. The account holder may not use funds from the account to pay any expenses he or she incurs in administering the account, although the financial institution may deduct a service fee from the account.

Beginning in taxable year 2020, annually, an account holder may subtract from his or her federal adjusted gross income (FAGI) up to $5,000, or $10,000 if the account holder files a joint income tax return, of the amount he or she contributes to an account, as well as any gain that is redeposited into the account. An account holder may not claim a subtraction for more than a total of $50,000 of deposits into an account for each beneficiary.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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:

SECTION 1. 71.05 (6) (a) 29. of the statutes is created to read:

71.05 **(6)** (a) 29. For an account holder or an account holder's estate, with regard to an account described under s. 71.10 (10):

a. Any amount that is distributed to an account holder under s. 71.10 (10) (d) 3. or to an account holder's estate under s. 71.10 (10) (d) 4.

b. Any amount that is withdrawn from the account for any reason other than payment or reimbursement of eligible costs as defined under s. 71.10 (10) (a) 3., except that this subd. 29. b. does not apply to the transfer of funds to another account as described under s. 71.10 (10) (c) 4. or funds that are disbursed pursuant to a filing for bankruptcy protection under 11 USC 101 et seq.

SECTION 2. 71.05 (6) (b) 54. of the statutes is created to read:

71.05 **(6)** (b) 54. For each account an account holder creates under s. 71.10 (10), and subject to s. 71.10 (10) (d), an account holder may subtract an amount of up to $5,000, or an amount of up to $10,000 if the account holder files a joint income tax return, for each such account that the account holder deposits into such an account in the taxable year to which the subtraction relates, and any interest, dividends, or other gain that accrues in the account if the interest, dividends, or other gain is redeposited into the account.

SECTION 3. 71.10 (4) (k) of the statutes is created to read:

71.10 **(4)** (k) Any amount computed under s. 71.83 (1) (ch).

SECTION 4. 71.10 (10) of the statutes is created to read:

71.10 **(10)** FIRST-TIME HOME BUYERS SAVINGS ACCOUNTS. (a) *Definitions.* In this subsection:

1. "Account holder" means an individual who creates, individually or jointly with his or her spouse, an account under this subsection.

2. "Allowable closing costs" means disbursements listed in a settlement statement for the purchase of a single-family residence by an account holder.

3. "Beneficiary" means a first-time home buyer who is designated by an account holder as the beneficiary of an account under this subsection.

4. "Eligible costs" means the down payment and allowable closing costs for the purchase of a single-family residence in this state by a beneficiary.

5. "Financial institution" means any bank, trust company, savings institution, savings bank, savings and loan association, industrial loan association, consumer finance company, credit union, or any benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity authorized to do business in this state.

6. "First-time home buyer" means an individual who resides in this state and has not owned or purchased, either individually or jointly, a single-family residence during the 36 months before the month in which the individual purchases a single-family residence in this state.

7. "Single-family residence" means a residence intended for occupation by a single family unit that is owned and occupied by a beneficiary as his or her principal residence, including a manufactured home, residential trailer, mobile home, condominium unit, or cooperative.

(b) *Creation of account*. 1. An individual may become an account holder by creating an account at a financial institution to pay or reimburse the eligible costs of a first-time home buyer.

2. The account holder shall designate a beneficiary when the account is created. The account holder may designate himself or herself as the beneficiary. An account holder may change the beneficiary at any time. No account created under this subsection may have more than one beneficiary at any one time.

3. An individual may jointly own an account created under this subsection with his or her spouse.

4. An individual may be the account holder of more than one account created under this subsection, but an account holder may not have more than one account that designates the same beneficiary.

5. An individual may be the beneficiary of more than one account created under this subsection.

6. Only cash and marketable securities may be contributed to an account under this subsection.

7. Persons other than an account holder may contribute to an account created under this subsection, but the subtraction under s. 71.05 (6) (b) 54. may be claimed only by an account holder.

(c) *Account holder rights and responsibilities.* 1. An account holder may withdraw funds from an account created under this subsection to pay eligible costs for the benefit of the beneficiary or to reimburse the beneficiary for eligible costs the beneficiary incurs and has paid.

2. An account holder may not use funds in an account created under this subsection to pay any expenses he or she incurs in administering the account, although a financial institution may deduct a service fee from the account.

3. Annually, an account holder shall submit to the department of revenue with his or her income tax return, on forms prepared by the department, detailed information regarding the account. The information submitted shall include all of the following:

a. A list of transactions in the account during the taxable year to which the account holder's return relates, including the beginning and ending balance of the account.

b. The 1099 form issued by the financial institution that relates to the account.

c. A list of eligible costs, and other costs, for which funds from the account were withdrawn during the taxable year to which the account holder's return relates.

4. An account holder may withdraw funds from the account with no penalty due under s. 71.83 (1) (ch) and no responsibility to make an addition under s. 71.05 (6) (a) 29., if he or she immediately transfers the funds to a different financial institution and deposits the funds into an account created under this subsection at that financial institution.

(d) *Limitations on accounts, dissolution.* 1. An account holder may not claim a subtraction under s. 71.05 (6) (b) 54. for more than a total of $50,000 of deposits into an account for each beneficiary.

2. An account holder shall dissolve an account created under this subsection not later than 120 months after it is created by the account holder.

3. If funds remain in an account when it must be dissolved under subd. 2., the financial institution shall distribute the proceeds in the account to the account holder.

4. If an account holder dies while funds remain in the account, the proceeds shall be distributed to the account holder's estate.

(e) *Department responsibilities.* The department shall:

1. Prepare and distribute any forms that an account holder is required to submit under this subsection, and any other forms that the department believes are necessary to enable it to administer this subsection and the adjustments to income under s. 71.05 (6) (a) 29. and (b) 54.

2. Prepare and distribute to financial institutions and potential home buyers informational materials about the accounts described in this subsection.

SECTION 5. 71.83 (1) (ch) of the statutes is created to read:

71.83 **(1)** (ch) *First-time home buyers savings account withdrawals.* If an account holder, as defined under s. 71.10 (10) (a) 1., or an account holder's estate is required to add any amount to federal adjusted gross income under s. 71.05 (6) (a) 29., the account holder or the account holder's estate shall also pay an amount equal to 10 percent of the amount that was added to income under s. 71.05 (6) (a) 29. The department of revenue shall assess, levy, and collect the penalty under this paragraph as it assesses, levies, and collects taxes under this chapter.

SECTION 6. Initial applicability.

(1) This act first applies to taxable years beginning on January 1, 2020.

(END)