State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1126/P2
EKL:klm&kjf

DOA:......Quinn, BB0407 - First-time homebuyer accounts and tax deduction

FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

First-time homebuyer savings accounts

This bill creates a tax-advantaged first-time homebuyer savings account. Under the bill, an individual, known as the account holder, may open an account at a financial institution for the purpose of paying the down payment and closing costs for the purchase of a single-family residence in Wisconsin by the account's designated beneficiary. The beneficiary, who may be the account holder, must be a Wisconsin resident who has not owned a single-family residence during the 36 months prior to the purchase. An individual may be designated the beneficiary of more than one account, but not by the same account holder. The account holder may change the beneficiary at any time. An account may only remain open for 10 years.

The bill provides that an account holder, when calculating his or her income for state tax purposes, may subtract the deposits that he or she made into the account during the year, as well as any interest and other gains on the account that are redeposited into it. The maximum amount of deposits that the account holder may subtract per account each year is $5,000, which is increased to $10,000 if he or she is married and files a joint return. Over all taxable years, the account holder may not subtract more than $50,000 of deposits into any account for each beneficiary. The bill provides that other persons may contribute to the account, but they may not subtract their contributions.

Under the bill, with limited exceptions, if an amount is withdrawn from the account for any reason other than paying the down payment and closing costs, the account holder is subject to a 10 percent penalty tax on the withdrawal and must include the amount of the withdrawal in income for state tax purposes.

The bill requires that the account holder annually submit information about the account to DOR, including a list of the account's transactions. The bill's provisions apply to taxable years beginning after December 31, 2021.

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 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) 30. of the statutes is created to read:

71.05 **(6)** (a) 30. For an account holder, as defined in s. 71.10 (10) (a) 1., or an account holder's estate:

a. Any amount distributed under s. 71.10 (10) (d) 2. or 3.

b. Any amount withdrawn from the account created under s. 71.10 (10) (b) 1. for any reason other than payment or reimbursement of eligible costs, as defined in s. 71.10 (10) (a) 4., except that this subd. 30. b. does not apply to the transfer of funds to another account as described in s. 71.10 (10) (c) 4. or to the disbursement of funds pursuant to a filing for bankruptcy protection under 11 USC 101 et seq.

SECTION 2. 71.05 (6) (b) 55. of the statutes is created to read:

71.05 **(6)** (b) 55. For each account an account holder, as defined in s. 71.10 (10) (a) 1., creates under s. 71.10 (10) (b) 1. and, subject to s. 71.10 (10) (d), the amount deposited, limited to $5,000, by the account holder into the account during the taxable year and any interest, dividends, and other gains that accrue in the account and are redeposited into it. If the account holder is married and files a joint return, the $5,000 limitation shall be increased to $10,000. The subtraction under this subdivision does not apply to the transfer of funds from another account as described in s. 71.10 (10) (c) 4.

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 HOMEBUYER 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 par. (b) 1.

2. "Allowable closing costs" means disbursements listed in a settlement statement for the purchase of a single–family residence by a beneficiary.

3. "Beneficiary" means a first–time homebuyer who is designated by an account holder as the beneficiary of an account created under par. (b) 1.

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

6. "First–time homebuyer" means an individual who resides in this state and did not have, either individually or jointly, a present ownership interest in 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 purchased by a beneficiary for use as his or her principal residence.

(b) *Creation of account*. 1. An individual may create an account and become the account holder by opening an account at a financial institution for the purpose of paying or reimbursing the eligible costs of a first-time homebuyer. The account holder shall designate a beneficiary when the account is created and may designate himself or herself as the beneficiary. An account may have only one beneficiary at any one time. An individual may be the beneficiary of more than one account, and an individual may be the account holder of more than one account, but an account holder may not have more than one account that designates the same beneficiary. The account holder may change the beneficiary at any time.

2. An individual may jointly own an account created under subd. 1 with his or her spouse.

3. Only cash and marketable securities may be contributed to an account created under subd. 1.

4. Persons other than an account holder may contribute to an account created under subd. 1, but the subtraction under s. 71.05 (6) (b) 55. may be made only by the account holder.

(c) *Account holder rights and responsibilities*. 1. An account holder may withdraw funds from an account created under par. (b) 1. 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 par. (b) 1. 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 with his or her income tax return, on forms prepared by the department, information regarding the account created under par. (b) 1. The information submitted shall include all of the following:

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

4. An account holder may withdraw funds from an account created under par. (b) 1. with no penalty due under s. 71.83 (1) (ch) and no responsibility to make an addition under s. 71.05 (6) (a) 30. if he or she immediately transfers the funds to a different financial institution and deposits the funds into an account created under par. (b) 1. at that financial institution.

(d) *Limitations on accounts, dissolution.* 1. An account holder may not claim a subtraction under s. 71.05 (6) (b) 55. for more than a total of $50,000 of deposits into any account created under par. (b) 1. for each beneficiary.

2. An account holder shall dissolve an account created under par. (b) 1. no later than 120 months after it is created. The financial institution shall distribute any funds in the account at dissolution to the account holder.

3. If an account holder dies while funds remain in an account created under par. (b) 1., the account shall be dissolved and the financial institution shall distribute the funds 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 par. (c) 3. and any other forms necessary to administer this subsection and the adjustments to income under s. 71.05 (6) (a) 30. and (b) 55.

2. Prepare and distribute to financial institutions and potential homebuyers 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 homebuyer 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) 30., the account holder or the account holder's estate shall also pay an amount equal to 10 percent of the amount that is added to income under s. 71.05 (6) (a) 30. 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 9337. Initial applicability; Revenue.

(1) The treatment of ss. 71.05 (6) (a) 30. and (b) 55., 71.10 (4) (k) and (10), and 71.83 (1) (ch) first applies to taxable years beginning on January 1, 2022.

(END)