First-time Home Buyer Savings Account; HB 2187

HB 2187 enacts the First-time Home Buyer Savings Account Act (Act) and establishes modifications to the Kansas adjusted gross income of an individual for contributions to a first-time home buyer savings account (account).

Definitions

The bill defines the terms "account" or "first-time home buyer savings account," "designated beneficiary," "eligible expenses," "financial institution," "first-time home buyer," and "Secretary."

First-time Home Buyer Savings Accounts

The bill allows an individual, on and after July 1, 2022, to open an account with a financial institution and designate the entirety of the account as an account used to pay or reimburse a designated beneficiary's eligible expenses for the purchase or construction of a primary residence in Kansas. The bill allows an individual to be the account holder of multiple accounts and jointly own an account, provided the account holders file a joint income tax return. An account holder in compliance with the Act is eligible for income tax modifications of KSA 79-32,117.

The bill requires the account holder, by April 15 of the year after the taxable year in which the account holder established the account, to designate a beneficiary of the account. The bill does not prohibit an account holder from designating the account holder as the designated beneficiary. An account holder is allowed to change the designated beneficiary at any time, but no account can have more than one designated beneficiary at one time. An individual can be the designated beneficiary of more than one account if the accounts are held by separate account holders, but no account holder is authorized to designate the same designated beneficiary on multiple accounts held by the same account holder.

The bill applies the following limits to an account established pursuant to the Act:

- Maximum contribution to an account in any tax year:
    - $3,000 for an individual; and
    - $6,000 for a married couple filing a joint return.
- Maximum amount of all contributions to an account in all tax years:
    - $24,000 for an individual; and
    - $48,000 for a married couple filing a joint return.
- Maximum total amount in an account: $50,000.

The bill allows moneys to remain in an account for an unlimited duration without the interest or income being subject to recapture or penalty. Further, the bill prohibits the account holder from using moneys in an account to pay expenses for administering the account, except for a service fee that may be deducted by a financial institution. In addition, the account holder is responsible for maintaining documentation for the account and for eligible expenses related to the designated beneficiary's purchase or construction of a primary residence.

Account Moneys

Use of Account Moneys

The bill allows the moneys in an account to be used for the following:

- Eligible expenses related to a designated beneficiary's purchase or construction of a primary residence located in Kansas;
- Eligible expenses related to a designated beneficiary's purchase or construction of a primary residence located outside of Kansas if the designated beneficiary is active-duty military and was stationed in Kansas for any time after the creation of the account;
- Eligible expenses that would have qualified pursuant to this section, but the contract for purchase or construction was not closed;
- Transfer to another newly created account; and
- Payment of service fees assessed by the financial institution.

The bill allows the moneys to be used for the above purposes even if a designated beneficiary is a joint owner of a primary residence with another person who is not a designated beneficiary of the account.

Moneys in an account cannot be used to purchase a manufactured or mobile home that is not taxed as real property.

Recapture of Account Moneys and Penalties

The bill subjects moneys withdrawn from an account to recapture by the Secretary of Revenue (Secretary) in the tax year in which they are withdrawn if:

- At the time of withdrawal, it has been less than a year since the first deposit in the account; or
- The moneys are used for any purpose other than the expenses or transactions authorized pursuant to the uses outlined in this section.

Moneys subject to recapture are equal to the amount withdrawn from an account and are added to the Kansas adjusted gross income of the account holder or of the designated beneficiary, if the account holder is deceased. If any moneys are subject to recapture, the account holder is required to pay a penalty in the following amounts:

- If the withdrawal of moneys occurred ten or fewer years after the first deposit of the account, 5 percent of the amount subject to recapture; or

- If the withdrawal of moneys occurred more than ten years after the first deposit in the account, 10 percent of the amount subject to recapture.

The penalties do not apply if the withdrawn moneys are:

- Used for eligible expenses related to a designated beneficiary's purchase or construction of a primary residence outside Kansas; or

- From an account in which the designated beneficiary is deceased and the account holder did not designate a new designated beneficiary during the same tax year.

Further, if the account holder or account holders are deceased and the account does not have a surviving transfer-on-death beneficiary, the moneys in the account resulting from contributions or income earned from assets in the account are subject to recapture in the tax year of the death or deaths, but no penalty is assessed.

Reports

The bill requires the Secretary to establish forms for an account holder to annually report information about any accounts held by the account holder. An account holder is required to annually file all forms required by the Secretary, the form 1099 for the account issued by the financial institution, and any other supporting documentation required by the Secretary with the account holder's state income tax return.

The bill requires the Secretary to adopt rules and regulations necessary to administer the Act prior to July 1, 2022.

Financial Institutions

The bill states financial institutions are not required to:

- Designate an account as a first-time home buyer savings account or designate the beneficiaries of an account in the financial institution's account contracts or systems in any way;

- Track the use of moneys withdrawn from an account; or

- Report any information to the Department of Revenue or any other governmental agency that is not otherwise required by law.

The bill states financial institutions are not responsible or liable for:

- Determining or ensuring an account holder is eligible for a Kansas adjusted gross income modification;

- Determining or ensuring moneys in the account are used for eligible expenses; or

- Reporting or remitting taxes or penalties related to the use of account moneys.

Modifications to Kansas Adjusted Gross Income of an Individual

The bill adds to an individual's federal adjusted gross income for all taxable years beginning after December 31, 2021:

- The amount of any contributions to, or earnings from, an account if distributions from the account were not used to pay for expenses or transactions authorized by or were not held for the minimum length of time pursuant to the bill; and

- Contributions to, or earnings from, the account, including any amount resulting from the account holder not designating a surviving transfer-on-death beneficiary pursuant to the bill.

The bill also subtracts from an individual's federal adjusted gross income for all taxable years beginning after December 31, 2021:

- The amount contributed to an account in an amount not to exceed $3,000 for an individual or $6,000 for a married couple filing a joint return; or

- Amounts received as income earned from assets in an account.