

2023 Regular Session

HOUSE BILL NO. 382

BY REPRESENTATIVE GAROFALO

TAX/INCOME TAX: Authorizes establishment of tax-advantaged catastrophe savings accounts to cover losses from damage to taxpayers' primary residences and commercial property

1 AN ACT

2 To amend and reenact R.S. 47:293(10) and to enact R.S. 47:203(C), 287.738(I),

3 293(9)(a)(xxvi) and (xxvii), 300.6(B)(2)(e), 300.7(C)(2)(d), and Chapter 12 of

4 Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, to be comprised of

5 R.S. 47:1121 through 1125 and 1131 through 1136, relative to income tax; to

6 authorize deductions from taxable income for contributions by taxpayers to

7 catastrophe savings accounts and commercial catastrophe savings accounts; to

8 provide for the purposes of such accounts; to establish limits for contributions to

9 such accounts; to provide requirements relative to, and for tax treatment of,

10 distributions from such accounts; to provide for tax treatment of interest earned on

11 monies in such accounts; to require taxpayers to maintain documentation related to

12 activity involving such accounts; to provide for definitions; to provide for

13 applicability; to authorize promulgation of administrative rules; and to provide for

14 related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 47:293(10) is hereby amended and reenacted and R.S. 47:203(C),

17 287.738(I), 293(9)(a)(xxvi) and (xxvii), 300.6(B)(2)(e), 300.7(C)(2)(d), and Chapter 12 of

18 Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:1121

19 through 1125 and 1131 through 1136, are hereby enacted to read as follows:

1 §203. Partnership computations

2 * * *

3 C. In computing its taxable income, the partnership may deduct an amount
4 equal to its contributions to a commercial catastrophe savings account made in
5 accordance with, and subject to the limitations of, R.S. 47:1131 et seq.

6 * * *

7 §287.738. Other inclusions and exclusions from gross income

8 * * *

9 I. Deduction for contributions to commercial catastrophe savings account.

10 There shall be allowed for each taxable year a deduction for contributions to a
11 commercial catastrophe savings account made in accordance with, and subject to the
12 limitations of, R.S. 47:1131 et seq.

13 * * *

14 §293. Definitions

15 The following definitions shall apply throughout this Part, unless the context
16 requires otherwise:

17 * * *

18 (9)(a) "Tax table income", for resident individuals, means adjusted gross
19 income plus interest on obligations of a state or political subdivision thereof, other
20 than Louisiana and its municipalities, title to which obligations vested with the
21 resident individual on or subsequent to January 1, 1980, and less:

22 * * *

23 (xxvi) The deduction for contributions to a catastrophe savings account made
24 in accordance with, and subject to the limitations of, R.S. 47:1121 et seq.

25 (xxvii) The deduction for contributions to a commercial catastrophe savings
26 account made in accordance with, and subject to the limitations of, R.S. 47:1131 et
27 seq.

28 * * *

1 (10) "Tax table income", for nonresident individuals, means the amount of
2 Louisiana income, as provided in this Part, allocated and apportioned under the
3 provisions of R.S. 47:241 through 247, plus the total amount of the personal
4 exemptions and deductions already included in the tax tables promulgated by the
5 secretary under authority of R.S. 47:295, less the proportionate amount of excess
6 federal itemized personal deductions; the temporary teacher deduction; the recreation
7 volunteer and volunteer firefighter deduction; the construction code retrofitting
8 deduction; any gratuitous grant, loan, or other benefit directly or indirectly provided
9 to a taxpayer by a hurricane recovery entity if such benefit was included in federal
10 adjusted gross income; any gratuitous grant, loan, rebate, tax credit, advance refund,
11 or other qualified disaster relief benefit directly or indirectly provided to a taxpayer
12 by the state or federal government as a COVID-19 relief benefit as defined in R.S.
13 47:297.16 if the benefit was included in the taxpayer's federal adjusted gross income;
14 the exclusion provided for in R.S. 47:297.3 for S Bank shareholders; the deduction
15 for expenses disallowed by 26 U.S.C. 280C; salaries, wages, or other compensation
16 received for disaster or emergency-related work rendered during a declared state
17 disaster or emergency; wages of nonresident individuals who are eligible for the
18 mobile workforce exemption pursuant to R.S. 47:248; the deduction for net capital
19 gains; the pass-through entity exclusion provided in R.S. 47:297.14; the exemption
20 for military survivor benefit plan payments pursuant to R.S. 47:297.17; the deduction
21 for contributions to a commercial catastrophe savings account made in accordance
22 with, and subject to the limitations of, R.S. 47:1131 et seq.; and personal exemptions
23 and deductions provided for in R.S. 47:294. The proportionate amount is to be
24 determined by the ratio of Louisiana income to federal adjusted gross income. When
25 federal adjusted gross income is less than Louisiana income, the ratio shall be one
26 hundred percent.

* * *

28 §300.6. Louisiana taxable income of resident estate or trust

* * *

1 B. Modification. For purposes of this Section, federal taxable income shall
2 be modified by adding or subtracting the items set forth below:

3 * * *

4 (2) There shall be subtracted from federal taxable income, unless already
5 excluded therefrom:

6 * * *

7 (e) The deduction for contributions to a commercial catastrophe savings
8 account made in accordance with, and subject to the limitations of, R.S. 47:1131 et
9 seq.

10 §300.7. Louisiana taxable income of nonresident estate or trust

11 * * *

12 C. Modification. For purposes of this Section, federal taxable income shall
13 be modified by adding or subtracting the items set forth below:

14 * * *

15 (2) There shall be subtracted from federal taxable income, unless already
16 excluded therefrom:

17 * * *

18 (d) The deduction for contributions to a commercial catastrophe savings
19 account made in accordance with, and subject to the limitations of, R.S. 47:1131 et
20 seq.

21 * * *

22 CHAPTER 12. TAX-ADVANTAGED CATASTROPHE SAVINGS ACCOUNTS

23 PART I. ACCOUNTS FOR PRIMARY RESIDENCES

24 §1121. Definitions

25 For purposes of this Part, the following terms shall have the meanings
26 ascribed to them in this Section:

27 (1)(a) "Catastrophe savings account" means all of the following:

28 (i) Any regular savings account or money market account established by a
29 resident individual taxpayer who is an insurance policyholder for residential property

1 in this state, which property is his primary residence, to cover the taxpayer's qualified
2 catastrophe expenses.

3 (ii) Any regular savings account or money market account established by a
4 resident individual taxpayer to cover expenses for self-insured losses which meet the
5 definition of qualified catastrophe expenses provided in this Section.

6 (b) An account shall be labeled as a catastrophe savings account in order to
7 qualify as a catastrophe savings account as defined in this Section.

8 (2) "Qualified catastrophe expenses" means expenses, including but not
9 limited to qualified deductibles, paid or incurred in connection with damage to a
10 taxpayer's primary residence resulting from an event that has been declared as a
11 disaster or emergency by executive order or proclamation of the governor in
12 accordance with the Louisiana Homeland Security and Emergency Assistance and
13 Disaster Act.

14 (3) "Qualified deductible" means the deductible for the homeowner's
15 insurance policy of the taxpayer covering hurricane, rising floodwater, or other
16 catastrophic windstorm event damage for his primary residence. If the homeowner's
17 insurance policy of the taxpayer covering hurricane, rising floodwater, or other
18 catastrophic windstorm event damage for his primary residence includes more than
19 one deductible, the deductible with the highest amount shall constitute the qualified
20 deductible.

21 (4) "Windstorm event" means a cyclone, hurricane, tornado, high winds,
22 hail, or any similar peril not normally among those covered under typical property
23 casualty insurance policies but obtainable through the purchase of wind, wind and
24 hail, storm, or windstorm coverage, or any combination of such coverages.

25 §1122. Catastrophe savings accounts for primary residences authorized;
26 contribution limits; tax deduction

27 A. A taxpayer may establish only one catastrophe savings account and shall
28 specify that the purpose of the account is to cover qualified catastrophe expenses as
29 defined in R.S. 47:1121.

1 B.(1) There shall be allowed a deduction from tax table income for amounts
2 contributed to a catastrophe savings account in accordance with Subsection C of this
3 Section.

4 (2) All interest earned on monies in a catastrophe savings account shall be
5 exempt from any tax imposed by Chapter 1 of this Subtitle.

6 (3) A catastrophe savings account shall not be subject to attachment, levy,
7 garnishment, or legal process in this state.

8 C.(1) For a taxpayer whose qualified deductible is one thousand dollars or
9 less, the total amount that may be contributed to a catastrophe savings account shall
10 not exceed two thousand dollars.

11 (2) For a taxpayer whose qualified deductible is greater than one thousand
12 dollars, the total amount that may be contributed to a catastrophe savings account
13 shall not exceed the lesser of the following amounts:

14 (a) Twice the amount of the taxpayer's qualified deductible.

15 (b) Twenty-five thousand dollars.

16 (3) For a self-insured taxpayer who chooses not to obtain insurance on his
17 primary residence, the total amount that may be contributed to a catastrophe savings
18 account shall not exceed two hundred fifty thousand dollars; however, in no case
19 shall the amount contributed to the catastrophe savings account exceed the value of
20 the taxpayer's primary residence.

21 D. If a taxpayer contributes to a catastrophe savings account in excess of the
22 applicable limit provided in Subsection C of this Section, the taxpayer shall
23 withdraw the amount of the excess contributions and include that amount in his tax
24 table income in the year of withdrawal.

25 §1123. Distributions from accounts; tax liability

26 A. A distribution from a catastrophe savings account shall be included in the
27 tax table income of the taxpayer unless the amount of the distribution is used to
28 cover qualified catastrophe expenses. However, no distribution from a catastrophe
29 savings account shall be included in the tax table income of a taxpayer if his

1 qualified catastrophe expenses during the taxable year are equal to or greater than the
2 aggregate distributions from the account during the taxable year.

3 B.(1) Any individual income tax liability which is attributable to a taxable
4 distribution from a catastrophe savings account shall be increased by two and
5 one-half percent of the amount which is includable in tax table income.

6 (2) The additional tax provided for in Paragraph (1) of this Subsection shall
7 not apply in any of the following cases:

8 (a) The taxpayer no longer owns a primary residence.

9 (b) The distribution is from a self-insured taxpayer's account to which the
10 contribution limits provided in R.S. 47:1122(C)(3) apply and is made on or after the
11 date on which the taxpayer attains the age of seventy.

12 (c) Distribution on death of the taxpayer or the surviving spouse of the
13 taxpayer.

14 C. If a taxpayer receives a nontaxable distribution from a catastrophe savings
15 account, he shall not make any further contribution to that account.

16 D. Any taxpayer who, in a taxable year, claims a deduction from tax table
17 income for amounts contributed to a catastrophe savings account, takes a distribution
18 from a catastrophe savings account, or both shall maintain documentation relating
19 to his contributions to, and expenses paid with monies from, the account. If
20 requested by the Department of Revenue, a taxpayer shall submit to the department,
21 in connection with the filing of his individual income tax return, the documentation
22 he is required to maintain pursuant to this Subsection.

23 §1124. Death of account owner

24 A. If a taxpayer who owns a catastrophe savings account dies, his account
25 shall be included in the tax table income of the person who receives the account
26 unless that person is the surviving spouse of the taxpayer.

27 B. Upon the death of a surviving spouse who received a catastrophe savings
28 account, the account shall be included in the tax table income of the person who
29 receives the account.

1 C. The additional tax provided for in R.S. 47:1123(B)(1) shall not apply to
2 distribution on death of the taxpayer or the surviving spouse.

3 §1125. Administrative rulemaking

4 The secretary of the Department of Revenue shall promulgate rules in
5 accordance with the Administrative Procedure Act as are necessary to implement the
6 provisions of this Part. In developing such rules, the secretary may engage and
7 collaborate with the commissioner of insurance and may incorporate
8 recommendations of the commissioner in any final rules relative to catastrophe
9 savings accounts.

10 PART II. ACCOUNTS FOR COMMERCIAL PROPERTIES

11 §1131. Definitions

12 For purposes of this Part, the following terms shall have the meanings
13 ascribed to them in this Section:

14 (1)(a) "Commercial catastrophe savings account" means all of the following:

15 (i) Any business or personal savings account or money market account
16 established by a taxpayer who holds a commercial property insurance policy for any
17 commercial premises in this state to cover the taxpayer's qualified catastrophe
18 expenses.

19 (ii) Any regular savings account or money market account established by a
20 taxpayer to cover expenses for self-insured losses which meet the definition of
21 qualified catastrophe expenses provided in this Section.

22 (b) An account shall be labeled as a commercial catastrophe savings account
23 in order to qualify as a commercial catastrophe savings account as defined in this
24 Section.

25 (2) "Commercial property insurance policy" means an insurance policy that
26 covers commercial property and is regulated in accordance with the provisions of
27 Part IV of Chapter 4 of Title 22 of the Louisiana Revised Statutes of 1950.

28 (3) "Qualified catastrophe expenses" means expenses, including but not
29 limited to qualified deductibles, paid or incurred in connection with damage to a

1 taxpayer's commercial immovable property resulting from an event that has been
2 declared as a disaster or emergency by executive order or proclamation of the
3 governor in accordance with the Louisiana Homeland Security and Emergency
4 Assistance and Disaster Act.

5 (4) "Qualified deductible" means the deductible for the commercial property
6 insurance policy of the taxpayer covering hurricane, rising floodwater, or other
7 catastrophic windstorm event damage for his commercial immovable property. If
8 the commercial property insurance policy of the taxpayer covering hurricane, rising
9 floodwater, or other catastrophic windstorm event damage for his commercial
10 immovable property includes more than one deductible, the deductible with the
11 highest amount shall constitute the qualified deductible.

12 (5) "Taxable income" means individual tax table income, corporate gross
13 income, partnership income, or trust income, whichever is applicable to a taxpayer.

14 (6) "Taxpayer" means any individual, corporation, partnership, or trust who
15 or which is required to file an income tax return in accordance with the provisions
16 of Chapter 1 of this Subtitle.

17 (7) "Windstorm event" means a cyclone, hurricane, tornado, high winds,
18 hail, or any similar peril not normally among those covered under typical property
19 casualty insurance policies but obtainable through the purchase of wind, wind and
20 hail, storm, or windstorm coverage, or any combination of such coverages.

21 §1132. Commercial catastrophe savings accounts authorized; contribution limits;
22 tax deduction

23 A. A taxpayer may establish only one commercial catastrophe savings
24 account and shall specify that the purpose of the account is to cover qualified
25 catastrophe expenses as defined in R.S. 47:1131.

26 B.(1) There shall be allowed a deduction from taxable income for amounts
27 contributed to a commercial catastrophe savings account in accordance with
28 Subsection C of this Section.

1 (2) All interest earned on monies in a commercial catastrophe savings
2 account shall be exempt from any tax imposed by Chapter 1 of this Subtitle.

3 (3) A commercial catastrophe savings account shall not be subject to
4 attachment, levy, garnishment, or legal process in this state.

5 C.(1) For a taxpayer with a qualified deductible of ten thousand dollars or
6 less, the total amount that may be contributed to a commercial catastrophe savings
7 account shall not exceed twenty thousand dollars.

8 (2) For a taxpayer with a qualified deductible of greater than ten thousand
9 dollars, the total amount that may be contributed to a commercial catastrophe savings
10 account shall not exceed the lesser of the following amounts:

11 (a) Twice the amount of the taxpayer's qualified deductible.

12 (b) Two hundred thousand dollars.

13 (3) For a self-insured taxpayer who chooses not to obtain insurance on his
14 commercial immovable property, the total amount that may be contributed to a
15 commercial catastrophe savings account shall not exceed five hundred thousand
16 dollars; however, in no case shall the amount contributed to the commercial
17 catastrophe savings account exceed the value of the taxpayer's uninsured commercial
18 immovable property.

19 D. If a taxpayer contributes to a commercial catastrophe savings account in
20 excess of the applicable limit provided in Subsection C of this Section, the taxpayer
21 shall withdraw the amount of the excess contributions and include that amount in the
22 taxpayer's taxable income in the year of withdrawal.

23 §1133. Distributions from accounts; tax liability

24 A. A distribution from a commercial catastrophe savings account shall be
25 included in the taxpayer's taxable income unless the amount of the distribution is
26 used to cover qualified catastrophe expenses. However, no distribution from a
27 commercial catastrophe savings account shall be included in the taxpayer's taxable
28 income if the taxpayer's qualified catastrophe expenses during the taxable year are

1 equal to or greater than the aggregate distributions from the account during the
2 taxable year.

3 B.(1) Any income tax liability of a taxpayer which is attributable to a taxable
4 distribution from a commercial catastrophe savings account shall be increased by
5 two and one-half percent of the amount which is includable in the taxpayer's taxable
6 income.

7 (2) The additional tax provided for in Paragraph (1) of this Subsection shall
8 not apply in any of the following cases:

9 (a) The taxpayer no longer owns commercial immovable property.

10 (b) In the case of an individual, self-insured taxpayer, the distribution is from
11 an account to which the contribution limits provided in R.S. 47:1132(C)(3) apply and
12 is made on or after the date on which the taxpayer attains the age of seventy.

13 (c) Distribution on death of the individual taxpayer or the surviving spouse
14 of the taxpayer.

15 C. If a taxpayer receives a nontaxable distribution from a commercial
16 catastrophe savings account, the taxpayer shall not make any further contribution to
17 that account.

18 D. Any taxpayer who, in a taxable year, claims a deduction from taxable
19 income for amounts contributed to a commercial catastrophe savings account, takes
20 a distribution from a commercial catastrophe savings account, or both shall maintain
21 documentation relating to the taxpayer's contributions to, and expenses paid with
22 monies from, the account. If requested by the Department of Revenue, a taxpayer
23 shall submit to the department, in connection with the filing of the taxpayer's income
24 tax return, the documentation required to be maintained pursuant to this Subsection.

25 §1134. Death of individual account owner

26 A. If an individual taxpayer who owns a commercial catastrophe savings
27 account dies, his account shall be included in the taxable income of the person who
28 receives the account unless that person is the surviving spouse of the taxpayer.

1 B. Upon the death of a surviving spouse who received a commercial
2 catastrophe savings account, the account shall be included in the taxable income of
3 the person who receives the account.

4 C. The additional tax provided for in R.S. 47:1133(B)(1) shall not apply to
5 distribution on death of the taxpayer or the surviving spouse.

6 §1135. Dissolution of corporate account owner

7 A. If a corporate entity that owns a commercial catastrophe savings account
8 dissolves, the account shall be included in the taxable income of the transferee who
9 receives the account, and the tax liability imposed by Part II-A of Chapter 1 of this
10 Subtitle associated with the account shall be shall be assessed, collected, and paid in
11 accordance with the provisions of R.S. 47:287.682.

12 B. For purposes of this Section, "transferee" shall have the meaning ascribed
13 in R.S. 47:287.682(C).

14 §1136. Administrative rulemaking

15 The secretary of the Department of Revenue shall promulgate rules in
16 accordance with the Administrative Procedure Act as are necessary to implement the
17 provisions of this Part. In developing such rules, the secretary may engage and
18 collaborate with the commissioner of insurance and may incorporate
19 recommendations of the commissioner in any final rules relative to commercial
20 catastrophe savings accounts.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 382 Original

2023 Regular Session

Garofalo

Abstract: Authorizes establishment of catastrophe savings accounts for owners of primary residences and owners of commercial property; provides for tax deductions for contributions to, and allowable uses of monies in, such accounts.

Catastrophe Savings Accounts for Primary Residences

Proposed law authorizes the establishment of tax-advantaged catastrophe savings accounts by taxpayers to cover damage to their primary residences caused by natural disasters.

Proposed law defines "catastrophe savings account" to mean all of the following:

- (1) Any regular savings account or money market account established by a resident individual taxpayer who is an insurance policyholder for residential property in this state, which property is his primary residence, to cover the taxpayer's qualified catastrophe expenses.
- (2) Any regular savings account or money market account established by a resident individual taxpayer to cover expenses for self-insured losses which meet the definition of qualified catastrophe expenses provided in proposed law.

Proposed law requires that an account be labeled as a catastrophe savings account in order to qualify as a catastrophe savings account as defined in proposed law.

Proposed law provides that a taxpayer may establish only one catastrophe savings account and shall specify that the purpose of the account is to cover qualified catastrophe expenses as defined in proposed law.

Proposed law defines "qualified catastrophe expenses" as expenses, including but not limited to qualified deductibles, paid or incurred in connection with damage to a taxpayer's primary residence resulting from an event that has been declared as a disaster or emergency by executive order or proclamation of the governor in accordance with present law (R.S. 29:721 et seq.).

Proposed law authorizes deductions from a taxpayer's taxable income equal to contributions to a catastrophe savings account within limits provided in proposed law. Provides that the contribution limits (and therefore tax deduction limits) are as follows:

- (1) For a taxpayer whose qualified deductible is \$1,000 or less, the total amount that may be contributed to a catastrophe savings account shall not exceed \$2,000.
- (2) For a taxpayer whose qualified deductible is greater than \$1,000, the total amount that may be contributed to a catastrophe savings account shall not exceed the lesser of the following amounts:
 - (a) Twice the amount of the taxpayer's qualified deductible.
 - (b) \$25,000.
- (3) For a self-insured taxpayer who chooses not to obtain insurance on his primary residence, the total amount that may be contributed to a catastrophe savings account shall not exceed \$250,000; however, in no case shall the amount contributed to the catastrophe savings account exceed the value of the taxpayer's primary residence.

Proposed law stipulates that if a taxpayer contributes in excess of the applicable limit listed above, he shall withdraw the amount of the excess contributions and include that amount in his taxable income in the year of withdrawal.

Proposed law provides that all interest earned on monies in a catastrophe savings account shall be exempt from the individual income tax imposed by present law.

Proposed law provides that a catastrophe savings account shall not be subject to attachment, levy, garnishment, or legal process.

Proposed law requires that a distribution from a catastrophe savings account be included in the taxable income of the taxpayer unless the amount of the distribution is used to cover qualified catastrophe expenses. Provides, however, that no distribution from a catastrophe savings account shall be included in a taxpayer's taxable income if his qualified catastrophe

expenses during the taxable year are equal to or greater than the aggregate distributions from the account during that year.

Proposed law provides that any personal income tax liability which is attributable to a taxable distribution from a catastrophe savings account shall be increased by 2.5% of the amount which is includable in taxable income. Provides, however, that this additional tax shall not apply in any of the following cases:

- (1) The taxpayer no longer owns a primary residence.
- (2) The distribution is for a self-insured taxpayer and is made on or after the date on which the taxpayer attains the age of 70.
- (3) Distribution on death of the taxpayer or the surviving spouse of the taxpayer.

Proposed law requires that if a taxpayer receives a nontaxable distribution from a catastrophe savings account, he shall not make any further contribution to that account.

Proposed law requires that any taxpayer who, in a taxable year, claims a deduction for amounts contributed to a catastrophe savings account, takes a distribution from a catastrophe savings account, or both shall maintain documentation relating to that activity. Requires the taxpayer, if requested by the Dept. of Revenue, to submit in connection with the filing of his individual income tax return the documentation required to be maintained pursuant to proposed law.

Proposed law stipulates that if a taxpayer who owns a catastrophe savings account dies, his account shall be included in the taxable income of the person who receives the account unless that person is the surviving spouse of the taxpayer. Requires that upon the death of a surviving spouse who received a catastrophe savings account, the account shall be included in the taxable income of the person who receives the account.

Proposed law authorizes the secretary of the Dept. of Revenue to promulgate such rules as are necessary for implementation of proposed law. Provides that in developing such rules, the secretary may engage and collaborate with the commissioner of insurance and may incorporate recommendations of the commissioner in any final rules relative to catastrophe savings accounts.

Catastrophe Savings Accounts for Commercial Property

Proposed law authorizes the establishment of tax-advantaged commercial catastrophe savings accounts by taxpayers to cover damage to their commercial property caused by natural disasters.

Proposed law defines "commercial catastrophe savings account" to mean all of the following:

- (1) Any business or personal savings account or money market account established by a taxpayer who holds a commercial property insurance policy for any commercial premises in this state to cover the taxpayer's qualified catastrophe expenses.
- (2) Any regular savings account or money market account established by a taxpayer to cover expenses for self-insured losses which meet the definition of qualified catastrophe expenses provided in proposed law.

Proposed law requires that an account be labeled as a commercial catastrophe savings account in order to qualify as a commercial catastrophe savings account as defined in proposed law.

Proposed law provides that a taxpayer may establish only one commercial catastrophe savings account and shall specify that the purpose of the account is to cover qualified catastrophe expenses as defined in proposed law.

Proposed law defines "qualified catastrophe expenses" as expenses, including but not limited to qualified deductibles, paid or incurred in connection with damage to a taxpayer's commercial immovable property resulting from an event that has been declared as a disaster or emergency by executive order or proclamation of the governor in accordance with present law (R.S. 29:721 et seq.).

Proposed law authorizes deductions from a taxpayer's taxable income equal to contributions to a commercial catastrophe savings account within limits provided in proposed law. Provides that the contribution limits (and therefore tax deduction limits) are as follows:

- (1) For a taxpayer with a qualified deductible of \$10,000 or less, the total amount that may be contributed to a commercial catastrophe savings account shall not exceed \$20,000.
- (2) For a taxpayer with a qualified deductible of greater than \$10,000, the total amount that may be contributed to a commercial catastrophe savings account shall not exceed the lesser of the following amounts:
 - (a) Twice the amount of the taxpayer's qualified deductible.
 - (b) \$200,000.
- (3) For a self-insured taxpayer who chooses not to obtain insurance on his commercial immovable property, the total amount that may be contributed to a commercial catastrophe savings account shall not exceed \$500,000; however, in no case shall the amount contributed to the commercial catastrophe savings account exceed the value of the taxpayer's uninsured commercial immovable property.

Proposed law stipulates that if a taxpayer contributes in excess of the applicable limit listed above, he shall withdraw the amount of the excess contributions and include that amount in his taxable income in the year of withdrawal.

Proposed law provides that all interest earned on monies in a commercial catastrophe savings account shall be exempt from any income tax imposed by present law.

Proposed law provides that a commercial catastrophe savings account shall not be subject to attachment, levy, garnishment, or legal process.

Proposed law requires that a distribution from a commercial catastrophe savings account be included in the taxable income of the taxpayer unless the amount of the distribution is used to cover qualified catastrophe expenses. Provides, however, that no distribution from a commercial catastrophe savings account shall be included in a taxpayer's taxable income if the taxpayer's qualified catastrophe expenses during the taxable year are equal to or greater than the aggregate distributions from the account during that year.

Proposed law provides that any income tax liability which is attributable to a taxable distribution from a commercial catastrophe savings account shall be increased by 2.5% of the amount which is includable in taxable income. Provides, however, that this additional tax shall not apply in any of the following cases:

- (1) The taxpayer no longer owns commercial immovable property.
- (2) The distribution is for a self-insured, individual taxpayer and is made on or after the date on which the taxpayer attains the age of 70.

- (3) Distribution on death of the individual taxpayer or the surviving spouse of the taxpayer.

Proposed law requires that if a taxpayer receives a nontaxable distribution from a commercial catastrophe savings account, the taxpayer shall not make any further contribution to that account.

Proposed law requires that any taxpayer who, in a taxable year, claims a deduction for amounts contributed to a commercial catastrophe savings account, takes a distribution from a commercial catastrophe savings account, or both shall maintain documentation relating to that activity. Requires the taxpayer, if requested by the Dept. of Revenue, to submit in connection with income tax return filing the documentation required to be maintained pursuant to proposed law.

Proposed law stipulates that if an individual taxpayer who owns a commercial catastrophe savings account dies, his account shall be included in the taxable income of the person who receives the account unless that person is the surviving spouse of the taxpayer. Requires that upon the death of a surviving spouse who received a commercial catastrophe savings account, the account shall be included in the taxable income of the person who receives the account.

Proposed law stipulates that if a corporate entity that owns a commercial catastrophe savings account dissolves, the account shall be included in the taxable income of the transferee who receives the account, and the tax liability imposed by proposed law which is associated with the account shall be assessed, collected, and paid in accordance with present law (R.S. 47:287.682).

Proposed law authorizes the secretary of the Dept. of Revenue to promulgate such rules as are necessary for implementation of proposed law. Provides that in developing such rules, the secretary may engage and collaborate with the commissioner of insurance and may incorporate recommendations of the commissioner in any final rules relative to commercial catastrophe savings accounts.

Applicability

Proposed law relative to catastrophe savings accounts and commercial catastrophe savings accounts applies to taxable periods beginning on or after Jan. 1, 2023.

(Amends R.S. 47:293(10); Adds R.S. 47:203(C), 287.738(I), 293(9)(a)(xxvi) and (xxvii), 300.6(B)(2)(e), 300.7(C)(2)(d), 1121-1125, and 1131-1136)