DIGEST

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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 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)