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Links:

Internal Revenue Service
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In this Issue:

Mortgage Debt
Forgiveness

MORTGAGE FORGIVENESS DEBT RELIEF ACT

What is the Mortgage Forgiveness Debt Relief Act of 2007?

The Mortgage Forgiveness Debt Relief Act of 2007 was enacted on December 20, 2007 (see News Release IR-2008-17). Generally, the Act allows exclusion of income realized as a result of modification of the terms of the mortgage, or foreclosure on your principal residence.

What does that mean?

Usually, debt that is forgiven or cancelled by a lender must be included as income on your tax return and is taxable. The Mortgage Forgiveness Debt Relief Act of 2007 allows you to exclude certain cancelled debt on your principal residence from income.

Does the Mortgage Forgiveness Debt Relief Act of 2007 apply to all forgiven or cancelled debts?

No, the Act applies only to forgiven or cancelled debt used to buy, build or substantially improve your principal residence, or to refinance debt incurred for those purposes.

What about refinanced homes?

Debt used to refinance your home qualifies for this exclusion, but only up to the extent that the principal balance of the old mortgage, immediately before the refinancing, would have qualified.

Does this provision apply for the 2007 tax year only?

It applies to qualified debt forgiven in 2007, 2008 or 2009.

If the forgiven debt is excluded from income, do I have to report it on my tax return?

Yes. The amount of debt forgiven must be reported on Form 982 and the Form 982 must be attached to your tax return.

Do I have to complete the entire Form 982?

Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Adjustment), is used for other purposes in addition to reporting the exclusion of forgiveness of qualified principal residence indebtedness. If you are using the form only to report the exclusion of forgiveness of qualified principal residence indebtedness as the result of foreclosure on your principal residence, you only need to complete lines 1e and 2. If you kept ownership of your home and modification of the terms of your mortgage resulted in the forgiveness of qualified principal residence indebtedness, complete lines 1e, 2, and 10b. Attach the Form 982 to your tax return.

ATTENTION HOME OWNERS

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(CONTINUED)

Where can I get this form?

You can download the form at IRS.gov, or call 1-800-829-3676. If you call to order, please allow 7-10 days for delivery.

How do I know or find out how much was forgiven?

Your lender should send a Form 1099-C, Cancellation of Debt, by January 31, 2008. The amount of debt forgiven or cancelled will be shown in box 2. If this debt is all qualified principal residence indebtedness, the amount shown in box 2 will generally be the amount that you enter on lines 2 and 10b, if applicable, on Form 982.

Can I exclude debt forgiven on my second home, credit card or car loans?

Not under this provision. Only cancelled debt used to buy, build or improve your principal residence or refinance debt incurred for those purposes qualifies for this exclusion.

If part of the forgiven debt doesn't qualify for exclusion from income under this provision, is it possible that it may qualify for exclusion under a different provision?

Yes. The forgiven debt may qualify under the "insolvency" exclusion. Normally, a taxpayer is not required to include forgiven debts in income to the extent that the taxpayer is insolvent. A taxpayer is insolvent when his or her total liabilities exceed his or her total assets. The forgiven debt may also qualify for exclusion if the debt was discharged in a Title 11 bankruptcy proceeding or if the debt is qualified farm indebtedness or qualified real property business indebtedness. If you believe you qualify for any of these exceptions, see the instructions for Form 982.

Is there a limit on the amount of forgiven qualified principal residence indebtedness that can be excluded from income?

There is no dollar limit if the principal balance of the loan was less than \$2 million (\$1 million if married filing separately for the tax year) at the time the loan was forgiven. If the balance was greater, see the instructions to Form 982, page 4.

Is there anything else I need to know before filing?

Yes. Because the Mortgage Forgiveness Debt Relief Act of 2007 was passed so late in the year, the software systems used by tax preparers and at the Internal Revenue Service need to be updated to accept the revised Form 982. The IRS expects to be able to process the new Form 982 electronically on March 3, 2008

(Source: WWW.IRS.GOV)

Page 2 of 2