

## *IRS Debt Forgiveness*

Homeowners whose mortgage debt was partly or entirely forgiven during 2007 may be able to claim special tax relief by filling out newly-revised Form 982 and attaching it to their 2007 federal income tax return, according to the Internal Revenue Service.

Normally, debt forgiveness results in taxable income. But under the Mortgage Forgiveness Debt Relief Act of 2007, enacted Dec. 20, taxpayers may exclude debt forgiven on their principal residence if the balance of their loan was less than \$2 million. The limit is \$1 million for a married person filing a separate return. Details are on Form 982 and its instructions, available now on this Web site.

“The new law contains important provisions for struggling homeowners,” said Acting IRS Commissioner Linda Stiff. “We urge people with mortgage problems to take full advantage of the valuable tax relief available.”

The late-December enactment means that reporting procedures for this law change were not incorporated into tax-preparation software or IRS forms. For that reason, people using tax software should check with their provider for updates that include the revised Form 982. Similarly, the IRS is now updating its systems and expects to begin accepting electronically-filed returns that include Form 982 by March 3. The paper Form 982 is now being accepted, but the IRS reminds affected taxpayers to consider filing electronically, which greatly reduces errors and speeds refunds.

The new law applies to debt forgiven in 2007, 2008 or 2009. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, may qualify for this relief. In most cases, eligible homeowners only need to fill out a few lines on Form 982 (specifically, lines 1e, 2 and 10b).

The debt must have been used to buy, build or substantially improve the taxpayer’s principal residence and must have been secured by that residence. Debt used to refinance qualifying debt is also eligible for the exclusion, but only up to the amount of the old mortgage principal, just before the refinancing.

Debt forgiven on second homes, rental property, business property, credit cards or car loans does not qualify for the new tax-relief provision. In some cases, however, other kinds of tax relief, based on insolvency, for example, may be available. See Form 982 for details.

Borrowers whose debt is reduced or eliminated receive a year-end statement (Form 1099-C) from their lender. For debt cancelled in 2007, the lender was required to provide this form to the borrower by Jan. 31, 2008. By law, this form must show the amount of debt forgiven and the fair market value of any property given up through foreclosure.

The IRS urges borrowers to check the Form 1099-C carefully. Notify the lender immediately if any of the information shown is incorrect. Borrowers should pay particular attention to the amount of debt forgiven (Box 2) and the value listed for their home (Box 7).

## *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.

## **Where can I get this form?**

You can download the form at [IRS.gov](http://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.