

MILLIONS OF HOMEOWNERS COULD BENEFIT FROM DEBT-FORGIVENESS TAX RULES

New rules published by the Internal Revenue Service could save huge amounts of money for millions of financially troubled homeowners, especially those who sell for less than their bank is owed.

Q: We purchased our home in 2005, before prices in our area started dropping, but had to sell it last year after my husband lost his job and the interest rate on our adjustable-rate mortgage almost doubled. The bank agreed to a "short sale," which allowed us to avoid foreclosure and eliminate our entire loan balance even though the proceeds of our sale totaled about \$30,000 less than we owed to the bank. A few months ago, you wrote that Congress wanted to reduce taxes on people who found themselves in a situation like ours. Did the tax changes get approved? If so, could you provide details about how they work?

A: Sure. The legislation, officially called the "Mortgage Forgiveness Debt Relief Act of 2007," was signed into law by President

Bush in late December as part of the government's efforts to ease the pain that sellers and other property-owners are feeling in the wake of the housing market's downturn and ongoing problems in the lending industry.

Several other readers have been asking about the Debt Relief Act, sometimes called the "DRA." The IRS only recently hashed out details and printed revised forms for taxpayers to claim the law's new breaks, so I'm devoting this entire column to answering some of the most common questions.

A key portion of the DRAs tax revisions involve so-called debt-cancellation income. Before last year, if the bank agreed to cancel your debt even if your home was sold for less than the amount owed, you'd have to pay income taxes to the IRS on the amount of debt that was forgiven. Ditto for borrowers whose lenders provided debt relief to refinance a loan instead of seeing the property fall into foreclosure.

To illustrate, let's say that you purchased

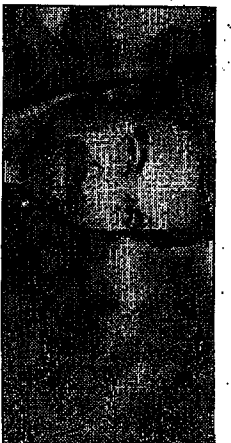
a home in 2004 for \$200,000 but financial difficulties forced you to sell in 2006 for only \$170,000 because property values in your neighborhood had declined. Even if the bank had agreed to wipe out your extra \$30,000 in debt, the feds would levy a tax on the \$30,000 difference — just as if you had earned an extra \$30,000 from your job. For taxpayers in the 28 percent tax bracket, that would mean an additional \$8,400 owed to the IRS.

MILLIONS COULD SAVE A LOT

Q: How does the new law change this?

A: The DRA completely eliminates taxes on mortgage debt-cancellation for the majority of people who sold their home for less than its loan balance in 2007. The same rules will apply in 2008 and 2009.

The change could literally save millions of people thousands in tax dollars each, considering that an estimated 9 million homeowners currently owe more than their prop-



ABOUT REAL ESTATE
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KING FEATURES SYNDICATE

erty is worth.

FILL OUT THIS FORM

Q: How do I claim this tax break?

A: You must fill out IRS Form 982, "Reduction of Tax Attributes Due to Discharge of Indebtedness," and include it as part of your upcoming return. Despite its formidable title, the form can actually be completed in just a few minutes.

The document also must be accompanied by a 1099-C form, which the bank provides

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3/15/08 Carter Fee

MYERS: No limit on earnings

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in order to verify the amount of debt that it forgave.

NO LIMITS ON EARNINGS

Q: Is there a limit on how much I can earn and still be eligible to avoid the tax on debt forgiveness?

A: There's no limitation on earnings, but

OTHER KINDS OF RELIEF

Q: Are all types of debt forgiveness covered by the Debt Relief Act?

A: No. "Debt forgiven on second homes, rental property, business property, credit cards or car loans does not qualify for the new tax-relief provision," according to a statement issued by the IRS last month. But

there is a limit on the amount of the mortgage that is involved. The new breaks apply only to married joint tax filers who get debt relief if the balance of their home loan was less than \$2 million, or single tax filers whose balance was less than \$1 million.

The limits shouldn't be a concern if you're such borrowers may qualify for "other kinds of tax relief," the statement adds, details of which can be found in Form 982.

Extended to 2012

Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)

OMB No. 1545-0046
 Attachment
 Sequence No. **94**

▶ Attach this form to your income tax return.

Identifying number

Part I General Information (see instructions)

- 1** Amount excluded is due to (check applicable box(es)):
- a Discharge of indebtedness in a title 11 case.
 - b Discharge of indebtedness to the extent insolvent (not in a title 11 case)
 - c Discharge of qualified farm indebtedness
 - d Discharge of qualified real property business indebtedness.
 - e Discharge of qualified principal residence indebtedness
- 2** Total amount of discharged indebtedness excluded from gross income. **2**
- 3** Do you elect to treat all real property described in section 1221(a)(1), relating to property held for sale to customers in the ordinary course of a trade or business, as if it were depreciable property? Yes No

Part II Reduction of Tax Attributes. You must attach a description of any transactions resulting in the reduction in basis under section 1017. See Regulations section 1.1017-1 for basis reduction ordering rules, and, if applicable, required partnership consent statements. (For additional information, see the instructions for Part II.)

Enter amount excluded from gross income:

4 For a discharge of qualified real property business indebtedness, applied to reduce the basis of depreciable real property	4	
5 That you elect under section 108(b)(5) to apply first to reduce the basis (under section 1017) of depreciable property.	5	
6 Applied to reduce any net operating loss that occurred in the tax year of the discharge or carried over to the tax year of the discharge	6	
7 Applied to reduce any general business credit carryover to or from the tax year of the discharge	7	
8 Applied to reduce any minimum tax credit as of the beginning of the tax year immediately after the tax year of the discharge	8	
9 Applied to reduce any net capital loss for the tax year of the discharge including any capital loss carryovers to the tax year of the discharge	9	
10a Applied to reduce the basis of nondepreciable and depreciable property if not reduced on line 5. <i>DO NOT use in the case of discharge of qualified farm indebtedness.</i>	10a	
b Applied to reduce the basis of your principal residence. <i>Enter amount here ONLY if line 1e is checked</i>	10b	
11 For a discharge of qualified farm indebtedness, applied to reduce the basis of:		
a Depreciable property used or held for use in a trade or business, or for the production of income, if not reduced on line 5.	11a	
b Land used or held for use in a trade or business of farming	11b	
c Other property used or held for use in a trade or business, or for the production of income.	11c	
12 Applied to reduce any passive activity loss and credit carryovers from the tax year of the discharge	12	
13 Applied to reduce any foreign tax credit carryover to or from the tax year of the discharge	13	

Part III Consent of Corporation to Adjustment of Basis of Its Property Under Section 1082(a)(2)

Under section 1081(b), the corporation named above has excluded \$ _____ from its gross income for the tax year beginning _____, and ending _____.

Under that section, the corporation consents to have the basis of its property adjusted in accordance with the regulations prescribed under section 1082(a)(2) in effect at the time of filing its income tax return for that year. The corporation is organized under the laws of _____.

(State of incorporation)

Note. You must attach a description of the transactions resulting in the nonrecognition of gain under section 1081.

Line 1e. Check this box if the income you exclude is from discharge of qualified principal residence indebtedness. Also, be sure you complete line 2 and line 10b. However, if the discharge occurs in a title 11 case, you must check the box on line 1a and not this box. If you are insolvent (and not in a title 11 case), you can elect to follow the insolvency rules by checking box 1b instead of checking this box.

Principal residence. Your *principal residence* is the home where you ordinarily live most of the time. You can have only one principal residence at any one time.

Qualified principal residence indebtedness. This indebtedness is a mortgage you took out to buy, build, or substantially improve your principal residence. It also must be secured by your principal residence. If the amount of your original mortgage is more than the cost of your principal residence plus the cost of any substantial improvements, only the debt that is not more than the cost of your principal residence plus improvements is qualified principal residence indebtedness. Any debt secured by your principal residence that you use to refinance qualified principal residence indebtedness is treated as qualified principal residence indebtedness, but only up to the amount of the old mortgage principal just before the refinancing. Any additional debt you incurred to substantially improve your principal residence is also treated as qualified principal residence indebtedness.

Amount eligible for the exclusion. The exclusion applies only to debt discharged after 2006 and before 2010. The maximum amount you can treat as qualified principal residence indebtedness is \$2 million (\$1 million if married filing separately). You cannot exclude from gross income discharge of qualified principal residence indebtedness if the discharge was for services performed for the lender or on account of any other factor not directly related to a decline in the value of your residence or to your financial condition.

Ordering rule. If only a part of a loan is qualified principal residence indebtedness, the exclusion applies only to the extent the amount discharged exceeds the amount of the loan (immediately before the discharge) that is not qualified principal residence indebtedness. For example, assume your principal residence is secured by a debt of \$1 million, of which \$800,000 is qualified principal residence indebtedness. If your residence is sold for \$700,000 and \$300,000 of debt is discharged, only \$100,000 of the debt discharged may be excluded (the \$300,000 that was discharged minus the \$200,000 of nonqualified debt). The remaining \$200,000 of nonqualified debt may qualify in whole or in part for one of the other exclusions, such as the insolvency exclusion.

Line 2. Enter the total amount excluded from your gross income due to discharge of indebtedness under section 108. If you checked any box on lines 1b through 1e, do not enter more than the limit explained in the instructions for those lines. If you checked line 1a, 1b, or 1c, this amount will not necessarily equal the total reductions on lines 5 through 13 (excluding line 10b) because the debt discharge amount may exceed the total tax attributes.

See section 382(l)(5) for a special rule regarding a reduction of a corporation's tax attributes after certain ownership changes.

Line 3. You may elect under section 1017(b)(3)(E) to treat all real property held primarily for sale to customers in the ordinary course of a trade or business as if it were depreciable property. This election does not apply to the discharge of qualified real property business indebtedness. To make the election, check the "Yes" box.

Part II

Line 7. If you have a general business credit carryover to or from the tax year of the discharge, you must reduce that carryover by 33 $\frac{1}{3}$ cents for each dollar excluded from gross income. See Form 3800, General Business Credit, for more details on the general business credit, including rules for figuring any carryforward or carryback.

Line 10a. In the case of a title 11 case or insolvency (except when an election under section 108(b)(5) is made), the reduction in basis is limited to the aggregate of the basis of your property immediately after the discharge over the aggregate of your liabilities immediately after the discharge.

Line 10b. If box 1e is checked, enter the smaller of:

- The part of line 2 that is attributable to the exclusion of qualified principal residence indebtedness, or
- The basis of your principal residence.

Part III

Adjustment to basis. Unless it specifically states otherwise, the corporation, by filing this form, agrees to apply the general rule for adjusting the basis of property (as described in Regulations section 1.1082-3(b)).

If the corporation desires to have the basis of its property adjusted in a manner different from the general rule, it must attach a request for variation from the general rule. The request must show the precise method used and the allocation of amounts.

Consent to the request for variation from the general rule will be effective only if it is incorporated in a closing agreement entered into by the corporation and the Commissioner of Internal Revenue under the rules of section 7121. If no agreement is entered into, then the general rule will apply in determining the basis of the corporation's property.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown as follows:

Recordkeeping, 5 hr., 58 min.; Learning about the law or the form, 2 hr., 17 min.; Preparing and sending the form to the IRS, 2 hr., 28 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.



AUTHORIZATION LETTER Sample

DATE

To Whom It May Concern:

We the undersigned give permission to YOUR NAME of YOUR COMPANY to discuss my mortgage loan (or debt if sending to a creditor) with NAME OF LENDER/CREDITOR including, but not limited to, selling the subject property and negotiating a possible short sale.

BORROWER #1

BORROWER #2 or spouse of Borrower #1

ADDRESS OF PROPERTY

LOAN NUMBER

YOUR CONTACT INFO

REMEMBER, consider getting this notarized to eliminate the hold up if lender feels that one or both of the signatures are not valid.

Hardship Letter

Name: (Your Name)

Address: (Your Address)

Mortgage Co: Loan No: (your Loan Number)

You will need one letter for each mortgage loan

I am Requesting a Short Sale.

Explain why you are having problems making your monthly payments or why you need to move but won't have enough money to pay back all the money you owe

Make sure to discuss any and all reasons that are applicable:

Unemployment

Reduced Income due to job demotion/transfer/loss of overtime or hours worked

Divorce or Separation

Excessive Medical Bills

Too Much Debt

Death of Spouse

Death of a family member

Your interest rate and monthly payment increased

Business Failure

Job Relocation

Major Illness or disease

Unexpected Property expenses

Military Service

Incarceration

There are other good reasons that may fit your situation.

Make sure to state when the above happened

Give an account of the situation (explain your situation in detail)

A declaration statement is also necessary. This should state that the information provided above is true and correct to the best of your knowledge.

Don't forget your Signature / Date

Your Co-Borrower's Signature / Date

Short Sale Checklist – Information Gathering

Compile the following information when creating a short sale proposal packet.
Note: Always make copies of original documents and return originals to the homeowner.

Financial Information

- Three most recent bank statements for all checking accounts for all borrowers
- Three most recent bank statements for all savings accounts for all borrowers
- W2s from the past two years for all borrowers
- Income tax returns from the past two years for all borrowers
- Past three paycheck stubs for all borrowers
- Copies of all bills for all borrowers from the past two months. Will be used to compile a financial worksheet. Could include:
 - Automobile loans
 - Alimony/child support
 - Child care bills
 - All credit card bills
 - Electricity bills
 - Gas bills
 - Water/Sewage bills
 - Home telephone bills
 - Cell phone bills
 - Cable bills
 - Automobile insurance
 - Health insurance
 - Life insurance
 - Doctor bills
 - Dentist bills
 - Pharmaceutical drug bills
 - Food/Groceries
 - School lunches
 - Gasoline (auto)
 - Student loans
 - Other loans
 - Other bills