



MORTGAGE FORGIVENESS DEBT RELIEF ACT – KEY FACTS

The Mortgage Forgiveness Debt Relief Act of 2007 changed the tax code relating to mortgage debt forgiveness. Ordinarily, debt forgiveness – including short sales, short refinances, deed-in-lieu of foreclosure, or other ways lenders forgive debt owed – counts as taxable income. This legislation changed the tax code, offering an exception specifically targeted for home mortgage debt forgiveness. The Act initially covered a three-year period between 2007 and 2010, but has been repeatedly extended. The most recent extension covers qualifying cancellations of home mortgage debt that occurred through 2020. Further extensions require congressional action.

Minnesota homeowners need to know that there are a number of stipulations in the legislation:

1. The burden is on the taxpayer to assert the exception.

In other words, debt forgiveness still counts as income and lenders are required to issue form 1099-C to the homeowner whose debt was forgiven. It is then the taxpayer's burden to tell the IRS that they qualify for an exception to paying tax on this income. To do so, they need to fill out a special form (Form 982) when they file taxes.

2. The exception is only for “qualified” debt, which is defined to exclude any cash-out in a refinancing.

The exception for debt forgiveness only qualifies if the original debt was incurred for home acquisition or to pay for home improvement costs – not cash out to pay other bills. Any cash-out amount is subtracted off the top of any debt forgiveness before the exception kicks in. For example, if a homeowner refinanced their home with a \$120,000 loan, of which \$15,000 was cashed out to pay debts unrelated to home improvement, and then sells short for \$100,000 – with the lender agreeing to forgive the remaining \$20,000 – only \$5,000 of this amount will qualify for the exception. *The taxpayer will need to pay income tax on the remaining \$15,000 of forgiven debt.*

3. Homeowners in this situation will need to engage a tax professional.

Form 982 is likely too complicated for many people to fill out themselves. Most people in this situation will need to work with a tax preparer.

This information is provided as a service of the Minnesota Homeownership Center and is not legal or tax advice. Consult a professional regarding your specific tax and legal obligations.

The Minnesota Homeownership Center can connect you with a Homeownership Advisor in your area who specializes in foreclosure issues and offers free, confidential, and nonbiased information. Contact us today: 651-659-9336 or www.hocmn.org/help.