

The Mortgage Forgiveness Debt Relief Act

The Mortgage Debt Relief Act of 2007 generally allows taxpayers to exclude income from the discharge of debt on their principal residence. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, qualifies for the relief.

- applies to debt forgiven in calendar years 2007 through 2012.
- Up to \$2 million of forgiven debt is eligible for this exclusion (\$1 million if married filing separately).
- The exclusion does not apply if the discharge is due to services performed for the lender or any other reason not directly related to a decline in the home's value or the taxpayer's financial condition.
- 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
- For more information, including an example, see Publication 4681 (located at www.irs.gov).

How do I contact a Low Income Taxpayer Clinic?

You can locate a clinic on the IRS website: www.irs.gov. Once on the site, search for Low Income Taxpayer Clinic, and you'll be directed to clinics across the U.S.

Or Contact Us at Legal Services of North Florida, Inc. (contact information located in front of this brochure)

What else can I do if I received a notice from the IRS?

- You can call the IRS by the phone number shown on the notice.
- Taxpayer Advocate Service may be able to help you. Call toll free 1-877-777-4778.



Home Foreclosure and Debt Cancellation

"PROVIDING AN OPPORTUNITY FOR JUSTICE"

Taxes



Legal Services
of NORTH FLORIDA



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WWW.TAXSERVE.ORG
TAX HOTLINE 850-385-0029

Tax Tips

What is Cancellation of Debt?

If your house was foreclosed upon and a bank or mortgage company cancelled your loan and forgave your debt of \$600 or more, you will get a Form 1099-C, which shows the debt cancelled. The cancelled debt is considered income by the IRS and must be reported on your tax return as income.

Tax Consequences of losing your home through foreclosure.

- The cancelled debt may be taxable income.
- The gain from foreclosure may be treated as income.

Example:

You borrowed \$100,000 to purchase your home. You paid back \$20,000 and then you lost your job and defaulted on the payments. The lender foreclosed your home and sold it for \$40,000. If the lender

cancelled the remaining debt, there is a cancellation of debt of \$40,000 that is generally taxable income to you.

When is Cancellation of Debt *not* a taxable income?

- **Bankruptcy:** Debts discharged through bankruptcy are not considered taxable income.
- **Insolvency:** If you are insolvent when the debt is cancelled, some or all of the cancelled debt may not be taxable to you.
- **Non-recourse loans:** A loan for which you are not personally liable (e.g. when the lender's only remedy upon default is to repossess the property being financed or used as collateral).

What is insolvency?

Generally, insolvency is when your total debts are more than the fair market value of your total assets immediately before the cancellation of indebtedness. Although this may sound relatively simple, the determination of insolvency is fairly complex and it is recommended that you consult with a tax professional to determine whether you qualify for this exception.

If I lost money on the foreclosure of my home, can I claim a loss on my tax return?

No. Losses from the sale or foreclosure of personal property are not deductible.

What Can I Do If I Do Not Agree With the Amount on Form 1099-C?

First, contact the lender to see if they will issue a corrected form if the information is determined to be incorrect.

- Retain all records related to the purchase of your home and all related debt in case you need to appeal the amount of cancelled debt.

What should I do if I receive a notice from the IRS?

The Low Income Taxpayer Clinic may be able to help you navigate through the tax problem by resolving the issue with the IRS, setting up payment plans with the IRS, etc.