



THOMSON REUTERS

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## NEWS RELEASE

FOR IMMEDIATE RELEASE

### **Homeowners Whose Debt is Forgiven Under Treasury's "Making Home Affordable" Initiative may be Entitled to Tax Relief**

*Relief for Responsible Homeowners: Treasury Announces Requirements for the Making Home Affordable Program at <http://www.treas.gov/news/index1.html>*

**New York, NY, April xx, 2009** – The Treasury recently released the first details on two programs designed to offer mortgage relief to struggling homeowners, "Home Affordable Refinance" and "Home Affordable Modification." According to Bob Trinz, Senior Tax Analyst for the Tax & Accounting business of Thomson Reuters, "While the focus of the latter program is to reduce interest rates on at-risk loans and reduce mortgage payments, one possible modification is a reduction of home loan debt. Fortunately, under a law enacted late in 2007, reduction of qualified home mortgage debt shouldn't have tax consequences to the homeowner."

***Mortgage debt forgiveness relief.*** In general, a taxpayer realizes income when debt is forgiven. There are several exceptions and exclusions that may result in all or part of a taxpayer's income from the cancellation of debt being nontaxable. Under this Mortgage Relief Act break (initially effective for debt discharged on or after Jan. 1, 2007 and before Jan. 1, 2010 and later extended three additional years, through 2012, by the Emergency Economic Stabilization Act of 2008), taxpayers may exclude up to \$2 million (\$1 million for marrieds filing separately) of qualified principal residence debt. You can claim this tax break (called the "Code Sec. 108(a)(1)(A) exclusion") by filling out Form 982 (Reduction of Tax Attributes Due to Discharge of Debt (and Section 1082 Basis Adjustment, see <http://www.irs.gov/pub/irs-pdf/f982.pdf>), and attaching it to your applicable income tax return.

Says Trinz, the term "qualified principal residence debt means a loan that is obtained to buy, build, or substantially improve an individual's principal residence, and is secured by the residence. A person's principal residence (that is, his or her main home) has the same meaning as under the homesale exclusion rules of Code Sec. 121."

The basis (cost for tax purposes) of the taxpayer's principal residence is reduced by the excluded amount, but not below zero.



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If part or all of a loan is discharged, and only a portion of the loan is qualified principal residence debt, the mortgage forgiveness exclusion applies only to so much of the amount discharged as exceeds the amount of the loan (as determined immediately before the discharge) which is not qualified principal residence debt.

The exclusion doesn't apply to the discharge of a loan if the discharge is due to services performed for the lender or any other factor not directly related to a decline in the value of the residence or to the taxpayer's financial condition. The exclusion also doesn't apply to a taxpayer in a Title 11 bankruptcy. An insolvent taxpayer (other than one in a Title 11 bankruptcy) can elect to have the mortgage forgiveness exclusion not apply and can instead rely on the Code Sec. 108(a)(1)(B) exclusion for insolvent taxpayers.

Says Trinz, IRS noted that debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, can qualify for the Code Sec. 108(a)(1)(E) relief. But, debt forgiven on second homes, rental property, business property, credit cards or car loans doesn't qualify for this tax relief. In some cases, however, other kinds of tax relief (e.g., based on insolvency) may be available.

If you are going after some of these exceptions and exclusions, it is best to use a professional tax preparer. If not, consult these resources:

**Publication 4705 (Tax Relief for Struggling Homeowners, <http://www.irs.gov/pub/irs-pdf/p4705.pdf>)** : specifically addresses the Code Sec. 108(a)(1)(E) relief provision, provides additional guidance. It advises that taxpayers whose debt is reduced or eliminated should receive a year-end statement, Form 1099-C (Cancellation of Debt, see <http://www.irs.gov/pub/irs-pdf/f1099c.pdf>) from their lender. The lender is required to furnish this form to the taxpayer by January 31. By law, this form must show the amount of debt forgiven and the fair market value of any property given up through foreclosure. Publication 4705 cautions taxpayers to notify the lender immediately if any of the information shown on Form 1099-C is incorrect.

In particular, a taxpayer should check the amount of debt forgiven listed on Form 1099-C (in Box 2) and the value listed for the home (in Box 7). If the forgiven debt is all qualified principal residence debt, the amount shown in Box 2 will generally be the amount that a borrower enters on Line 2 (Total amount of discharged debt excluded from gross income) and Line 10b (Amount applied to reduce the basis of the principal residence, which is entered only if there is a discharge of qualified principal residence debt), if applicable, of Form 982.

Publication 4705 also advises that since Form 982 is used for other purposes, taxpayers who retain ownership of their home and receive modification of the terms of their mortgage that resulted in the forgiveness of qualified principal residence debt must complete Lines 1e, 2, and 10b. Form 982 should be attached to a taxpayer's return.



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