

NAR Issue Brief

Mortgage Debt Cancellation Tax Relief

Update on the current status of the mortgage debt cancellation tax relief provision that expired at the end of 2013. As soon as the last one-year extension was passed on New Year's Day 2013, NAR began working on another extension of this critical tax provision. With NAR's encouragement, champions of this provision introduced bi-partisan bills in both the House and Senate (H.R. 2994/S. 1187), to extend the provision for one or two years. Unfortunately, the current prospect of these bills being enacted in the short term is not particularly high. We are facing four big hurdles.

1. The Chairmen of both of Congress's tax committees (Senate Finance and House Ways and Means) have committed to passing comprehensive tax reform legislation before the end of 2014. As part of reform, they have both indicated that they plan to go through the long list of expiring items, including mortgage debt cancellation, and cull those that are not worthy of permanence and make all the "worthy" ones a permanent part of the tax law. However, tax reform is unlikely to be completed in the coming months. If Congress were to extend the expiring provisions now, it might appear that they were giving up on tax reform. This is not a signal they wish to send.
2. There are over 50 such expiring tax provisions (often referred to as "extenders"). Congress rarely passes single tax provisions by themselves. The rules in both the House (and especially the Senate) could allow for added amendments that would turn a simple bill with wide support into a politically divisive bill.
3. The extension of the tax relief "costs" money to the Treasury. The Joint Committee on Taxation estimates that a one-year extension of the mortgage debt cancellation relief would cost \$3.7 billion. Some Members of Congress will insist that amount be offset by raising taxes elsewhere or cuts in spending – an ongoing debate in Congress.
4. The Chairman of the Senate Finance Committee, Senator Max Baucus of Montana, has been nominated by President Obama to serve as the next United States Ambassador to China. His departure from the Senate will turn the chairmanship over to Senator Ron Wyden of Oregon. As with any change in committee leadership, there will be an adjustment period.

In sum, NAR tried to have the extension passed by year-end but it was not possible. Because of the factors listed above, NAR has so far decided not to issue Member-wide Call for Action at this time, but has instead focused on working with Congressional leadership and the bill sponsors to find additional support for moving this legislation now that Congress has returned to Washington. Our lobbyists are in daily meetings with Members of Congress, pressing for an extension and providing the most up to date data on short sales and foreclosures to continue to highlight this as a top priority.

What can you do? First, you can contact your Representative and Senators to urge them to act on these bills. If you have clients in distressed situations, urge them to do so as well. The more Members hear from constituents, the better.

NAR cautions REALTORS® against giving clients tax advice, as every situation is different, but at this point our best estimate is that Congress will pass some extension of this law, probably late in 2014, and make it retroactive. There is precedent for Congress doing this, but no guarantee.