



NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

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December 12, 2007

United States Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator:

The 1.3 million members of the NATIONAL ASSOCIATION OF REALTORS® are pleased to note that the Finance Committee will hold the first of what we understand will be a series of hearings on various housing issues on December 13. This review should provide an excellent opportunity to re-affirm the Senate’s longstanding commitment to homeownership.

The Finance Committee Press release of December 12, 2007 describing the hearing indicates that one witness “will discuss the tax laws related to the discharge of indebtedness income, how the tax laws apply to residential foreclosures, and whether tax relief may be appropriate.” While it is appropriate to review the law that will apply to homeowners should they have some portion of a mortgage debt forgiven, we must point out that foreclosure is not the only issue to consider in the context of discharge of indebtedness.

Since Labor Day, our staff has received 30 – 40 calls a week from individuals all over the country inquiring about the status of the mortgage relief legislation that has passed the House twice. (H.R. 3648 and H.R. 3996) The majority of these calls relate not to foreclosure, but to what is called a “short sale.” A short sale occurs when a homeowner *who is current on payments* sells a home for less than the outstanding balance on a mortgage. Short sales most frequently occur in areas where property values are declining because of external factors completely beyond the homeowner’s control.

In addition, NAR believes that a primary policy objective in response to the current housing market conditions should be to keep families in their homes. This is best achieved when lenders and borrowers renegotiate the terms of a mortgage to more accurately reflect the ability of the borrower to pay. These so-called “workouts” also generate cancellation of indebtedness income.

Requiring tax payments in workout situations is completely unreasonable, since the goal of the workout is to relieve pressure on a borrower’s cash flow.

The current foreclosure environment is unprecedented. *Foreclosure should not be the sole basis on which the Senate determines the merits of providing tax relief for homeowners who have discharges of mortgage acquisition indebtedness.* Short sales and workouts must also be factored in.

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Some have criticized the mortgage cancellation relief as creating a “moral hazard.” We reject that conclusion. Consider, for example, the circumstances of an individual who *speculated* on residential property. That investor, having acquired depreciable real estate, *will receive relief under current law*. Permanent provisions enacted in 1993 after the near-collapse of the commercial and investment sector of real estate provided the relief that we currently seek for residential real estate. We are aware of no evidence that would indicate that, as the market recovered 15 years ago, property owners abandoned property. People don’t invest in real estate to lose money.

We believe that fundamental fairness requires Congress to provide tax relief for homeowners who have experienced a very genuine economic loss. We can identify no rational policy that would support more favorable tax treatment for speculators than what homeowners, particularly those who have acted in good faith, will receive in the absence of Congressional action.

We urge you to provide *permanent* tax relief for homeowners who have had mortgage debt discharged on their principal residences. We also urge quick action so that those who have been economically harmed in 2007 will not pay tax on their phantom discharge of debt income.

Sincerely,

A handwritten signature in black ink, appearing to read "Dick Gaylord". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Richard F. Gaylord, CIPS, CRB, CRS, GRI
2008 President, National Association of REALTORS®