



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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Dear \_\_\_\_\_ :

This letter responds to your inquiry about the Mortgage Forgiveness Debt Relief Act of 2007 (the Act). You asked for a change that would allow taxpayers to exclude income from the cancellation of investment property mortgage debt from their gross income.

Unless otherwise provided, gross income means all income from whatever source derived (section 61(a) of the Internal Revenue Code (the Code)). Gross income includes cancellation of debt income (COD income)(section 61(a)(12) of the Code).

Gross income does not include any amount of a qualified principal residence indebtedness cancelled between January 1, 2007, and December 31, 2012 (section 108(a)(1)(E) of the Code, as added by section 2(a) of the Act, Pub. L. No. 110-142, and as amended by section 303(a) the Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343, Div. A). The term "qualified principal residence indebtedness" means any debt of up to \$2 million (\$ 1 million for a married taxpayer filing a separate return) that is incurred to acquire, build or substantially improve the taxpayer's principal residence, and secured by the principal residence (section 108(h)(2) and (5) and section 163(h)(3)(B) of the Code).

Because the statute applies only to qualified principal residence indebtednesses cancelled between 2007 and 2012, any change to this requirement would require legislative action. The Internal Revenue Service has no authority to modify the statutory requirements.

The cancellation of an investment property mortgage debt may not always result in COD income includible in the debtor's gross income. Publication 4681, *Cancelled Debts, Foreclosures, Repossessions, and Abandonments*, (available at <http://www.irs.gov/pub/irs-pdf/p4681.pdf>) provides information on exceptions and exclusions applicable to cancellation of debts, including those in cases of the debtor's insolvency and the cancellation of certain business mortgage debts or farm debts.

I hope this information is helpful. If you have any questions, please contact  
(Identification Number ) at .

Sincerely,

William A. Jackson  
Chief, Branch 5  
Office of Associate Chief Counsel  
(Income Tax & Accounting)