



What is a short sale?

A sale of a property in which a lender agrees to a sales price less than the loan balance.



What effect will a short sale have on my credit score?

In most short sale cases the seller will show a "settled" notation on their credit report for that particular mortgage account. Although "settled" is considered derogatory, it is widely viewed better than a "foreclosure" by both credit bureaus and creditors.

**1720 S. San Gabriel Blvd. Suite #211
San Gabriel, CA 91776
(626) 280-5382 Fax (626) 280-5698**

Before.

CREDIT REPORT

Report No.

Provided For: [REDACTED]

Date Received 3/6/2008	Date Issued 3/6/2008	Requested By EDWARD CANAS
Loan Type	Job # [REDACTED]	Charges
Sources XP/TU/EP	Reference # [REDACTED]	

Property Address:

GENERAL INFORMATION

Borrower Name	SILVA, [REDACTED]	Social Security No	[REDACTED]	DOB
Co-Borrower Name		Social Security No		DOB
Current Address	[REDACTED] LENNOX AVENUE [REDACTED], VAN NUYS, CA 91405			Length
Previous Address				Length
Marital Status				
Dependents				

BORROWER

CO-BORROWER

Employer	Employer
Position	Position
Since	Since
Income	Income
Verified By -	Verified By -

CREDIT HISTORY

CREDITOR NAME ACCOUNT NUMBER	DATE REPORTED DATE LAST ACTIVITY	DATE OPENED	HIGH CREDIT	BALANCE TERMS	PAST DUE AMOUNT	HISTORICAL STATUS				PRESENT STATUS
						30*	60*	90*	120*	
SCORE MODELS										
1 SILVA - EQUIFAX/BEACON 5.0 00039 - SERIOUS DELINQUENCY 00014 - LENGTH OF TIME ACCOUNTS HAVE BEEN ESTABLISHED 00006 - TOO MANY CONSUMER FINANCE COMPANY ACCOUNTS 00013 - TIME SINCE DELINQUENCY IS TOO RECENT OR UNKNOWN				692 High Score						
3 SILVA - TRANSUNION/FICO CLASSIC (04) 039 - SERIOUS DELINQUENCY 013 - TIME SINCE DELINQUENCY IS TOO RECENT OR UNKNOWN 014 - LENGTH OF TIME ACCOUNTS HAVE BEEN ESTABLISHED 006 - TOO MANY CONSUMER FINANCE COMPANY ACCOUNTS FA - INQUIRIES IMPACTED THE CREDIT SCORE				687 Middle Score						
2 SILVA - EXPERIAN/FAIR, ISAAC (V3) 39 - SERIOUS DELINQUENCY 08 - TOO MANY INQUIRIES LAST 12 MONTHS 14 - LENGTH OF TIME ACCOUNTS HAVE BEEN ESTABLISHED 02 - LEVEL OF DELINQUENCY ON ACCOUNTS				675 Low Score						
OPEN ACCOUNTS										
B HOMECOMING 442651717 REAL ESTATE MORTGAGE; CONVENTIONAL MORTGAGE	02/08 02/08	05/07	\$272000 MTG 360 \$1728	\$273785	\$0	05	0	0	0	AS AGREED XP/TU/EF
B MCYDSNB 4355764599420	02/08 02/08	12/02	\$1500 REV MIN \$35	\$1067	\$0	18	0	0	0	AS AGREED XP/TU/EF
B CITI 462120007301	02/08 02/08	10/01	\$1270 REV MIN \$20	\$314	\$0	76	0	0	0	AS AGREED XP/TU/EF
B VISDSNB 4019812230783358	02/08 02/08	12/06	\$3500 REV \$9	\$248	\$0	15	0	0	0	AS AGREED XP/EF
B HSBC/BSBUY 169601-1109077272	02/08 02/08	11/01	\$1800 REV MIN \$10	\$196	\$0	76	0	0	0	AS AGREED XP/TU/EF
B AMEX -3499905444558113	02/08 02/08	05/06	\$8700 REV \$10*	\$161	\$0	1	0	0	0	AS AGREED XP/TU/EF
B THD/CBSD 6035320182801975	03/08 02/08	03/05	\$1100 REV MIN \$10	\$109	\$0	36	0	0	0	AS AGREED XP/TU/EF

ECOA KEY: B=BORROWER; C=CO-BORROWER; S=SHARED; J=JOINT; U=UNDESIGNATED; A=AUTHORIZED USER

[illegible]

**1720 S. San Gabriel Blvd. Suite #211
San Gabriel, CA 91778
(626) 280-5382 Fax (626) 280-6688**

Report No.

一、
 二、
 三、

Source:	2/8/2009	335128	Requested By EDWARD CANAS Changes
XP 7U/EP	2/8/2009	Job #	
		Reference #	

GENERAL INFORMATION

Borrower				Co-Borrower			
Borrower Name	DOB	Current Address	Marital Status	Employer	Position	Since	Income
Borrower Name SILVA, [REDACTED]	DOB [REDACTED]	Current Address [REDACTED] LENNOX AVENUE [REDACTED], VAN NUYS, CA 91405	Marital Status [REDACTED]	Employer [REDACTED]	Position [REDACTED]	Since [REDACTED]	Income [REDACTED]
Co-Borrower Name [REDACTED]	DOB [REDACTED]	Current Address [REDACTED]	Marital Status [REDACTED]	Employer [REDACTED]	Position [REDACTED]	Since [REDACTED]	Income [REDACTED]

CREDIT HISTORY										HISTORICAL STATUS				PRESENT STATUS
CREDITOR NAME ACCOUNT NUMBER	DATE BIRTH DATE	DATE OPENED	HIGH CREDIT REV	BALANCE TERMS	PAID IN AMOUNT	HISTORICAL STATUS				PRESENT STATUS				
						LOS REV	REPAID 30	REPAID 60	REPAID 90					
1. SILVA - EXPERTAN/PAIR, ISAAC (V3) 38 - SERIOUS DELINQUENCY AND PUBLIC RECORD OR COLLECTION FILED 20 - TIME SINCE DEROGATORY PUBLIC RECORD OR COLLECTION IS TOO SHORT 08 - TOO MANY INQUIRIES LAST 12 MONTHS														
657 <i>middle Score</i>														
After the Shortscore the points Dropped On														
2. SILVA - TRANSNATION/ETCO CLASSIC (04) 039 - SERIOUS DELINQUENCY 013 - TIME SINCE DELINQUENCY IS TOO RECENT OR UNKNOWN 014 - LENGTH OF TIME ACCOUNTS HAVE BEEN ESTABLISHED 006 - TOO MANY CONSUMER FINANCE COMPANY ACCOUNTS PA - INQUIRIES IMPACTED THE CREDIT SCORE														
688 <i>High</i>														
3. DESSILVA - EQUIFAX/BEACON 5.0 00038 - SERIOUS DELINQUENCY, AND DEROGATORY PUBLIC RECORD OR COLLECTION FILED 00013 - TIME SINCE DELINQUENCY IS TOO RECENT OR UNKNOWN 00020 - LENGTH OF TIME SINCE DEROGATORY PUBLIC RECORD OR COLLECTION IS TOO SHORT 00014 - LENGTH OF TIME ACCOUNTS HAVE BEEN ESTABLISHED														
615 <i>Low</i>														
4. MCYDSNB 4355764559420														
01/09 12/02 \$1500 \$777 \$0 29 0 0 0 AS AGREED REV MIN \$27 XP/TU/EE														
5. AMEX -3499905444558113														
01/09 05/06 \$500 \$357 \$0 1 0 0 0 AS AGREED REV \$18* XP/TU/EE														
6. MCYDSNB 4355764559436														
01/09 06/08 \$1400 \$163 \$0 7 0 0 0 AS AGREED REV MIN \$6 XP/TU/EE														
7. CITI 462120007301														
01/09 10/01 \$1270 \$120 \$0 87 0 0 0 AS AGREED REV MIN \$20 XP/TU/EE														
8. WPNB/VICTORIAS BE 81915966819159666														
01/09 06/02 \$980 \$78 \$0 34 0 0 0 AS AGREED REV MIN \$10 XP/TU/EE														
9. THD/CBSD 6035320182801975														
02/09 03/05 \$1600 \$17 \$0 47 0 0 0 AS AGREED REV MIN \$10 XP/TU/EE														
10. ASSOC/CITI 4621201181144														
04/03 10/01 \$900 \$0 \$0 17 0 0 0 AS AGREED REV \$0 TU														

Score
ACTION FILLED
ON IS TOO SHORT
After the
the points
Shortstack
Dropped Off 30pts.

[illegible]

INNOVATIVE CREDIT SERVICES, INC.

1720 S. San Gabriel Blvd. Suite #211
San Gabriel, CA 91776
(626) 280-5382 Fax (626) 280-5698

CREDIT REPORT

Report No

Provided For:

Date Received 2/8/2009	Date Issued 2/8/2009	Requested By EDWARD CANAS
Loan Type	Job # 335128	Charges
Sources XP/TU/EF	Reference # GLAUCIA CANAS	

Property Address:

GENERAL INFORMATION			
Borrower Name SILVA, [REDACTED]	Social Security No [REDACTED]	DOB [REDACTED]	
Co-Borrower Name	Social Security No	DOB	
Current Address [REDACTED] LENNOX AVENUE [REDACTED] VAN NUYS, CA 91405		Length	
Previous Address		Length	
Marital Status			
Dependents			

CREDIT HISTORY											
CREDIT RANK	CREDITOR NAME ACCOUNT NUMBER	DATE REPORTED	DATE OPENED	HIGH CREDIT	BALANCE TERMS	PAST DUE AMOUNT	HISTORICAL STATUS				PRESENT STATUS
		MOS REV					30+	60+	90+		
B	OCWEN LOAN SERVICE 41406075 TRANSFERRED TO ANOTHER LENDER; CONVENTIONAL REAL ESTATE LOAN, INCLUDING PURCHASE MONEY FIRST	07/05 06/05	03/05	\$197600 MTG 360	\$0 \$0	\$0	5	0	0	0	PAID XP/TU
B	PROVIDIAN FINANCIAL 4559542200732616 ACCOUNT CLOSED AT CONSUMER'S REQUEST	05/02 04/02	08/01	\$1000 REV	\$0 \$0	\$0	9	0	0	0	PAID XP/TU/EF
J	TARGET N.B. 4352378365734710 ACCOUNT CLOSED BY CONSUMER	01/09 12/07	10/02	\$7800 REV	\$0 \$0	\$0	48	0	0	0	PAID XP/TU/EF
B	TOYOTA MOTOR CREDIT 70400261764840001	08/02 08/02	08/01	\$15810 AUTO 060	\$0 \$0	\$0	12	0	0	0	PAID XP/TU/EF
B	WASH MUTUAL/PROVIDENT 5418225570426682 ACCOUNT CLOSED AT CONSUMER'S REQUEST	07/06 06/06	06/06	\$2000 REV	\$0 \$0	\$0	1	0	0	0	PAID XP/TU/EF
B	WFFINANCE 108140253926719 ACCOUNT CLOSED DUE TO TRANSFER OR REFINANCE; ACCOUNT CLOSED DUE TO REFINANCE; NOTE LOAN	02/03 02/03	08/02	\$1067 INST 036	\$0 \$0	\$0	6	0	0	0	PAID XP/TU
B	WFFINANCE 102240353926719 NOTE LOAN	07/03 06/03	02/03	\$1066 INST 036	\$0 \$0	\$0	05	0	0	0	PAID XP/TU/EF
B	WFFINANCE 105110205036518	11/02 10/02	05/02	\$458 INST 005	\$0 \$0	\$0	06	0	0	0	PAID XP/TU/EF
DEROGATORY ACCOUNTS											
B	ENHANCE RECOVERY 13189446 ORIGINAL CREDITOR: DISH NETWORK, ASSIGNED ON 06/08	01/09 04/07	06/08	\$43 COLL 001	\$43 -	\$43	-	-	-	-	COLLECTION XP/EF
B	HOME COMING 442651717 Late Dates: 5/08-60, 4/08-30 ACCOUNT CLOSED AT CONSUMER'S REQUEST; SETTLEMENT ACCEPTED ON THIS ACCOUNT	07/08 04/08	05/07	\$272000 MTG 030	\$0 \$0	\$0	09	1	1	0	SETTLED XP/TU/EF 30 Day Late 60 Day Late
A	SEARS/CBS 512107500244 Late Dates: 5/05-120, 4/05-120, 3/05-90, 2/05-60, 1/05-30 PURCHASED BY ANOTHER LENDER	06/06 08/04	02/02	\$1400 REV	\$0 \$0	\$0	1	1	3		CHARGE OFF TU/EF
B	TOYOTA MOTOR CREDIT 70400262077320001 CHARGED OFF ACCOUNT	07/03 04/03	08/02	\$24423 AUTO 072	\$0 \$0	\$0	0	0	1		CHARGE OFF XP/TU/EF
B	VERIZON WIRELESS 36540854400001 UTILITY COMPANY	12/08 10/08	12/02	\$222 INST 001	\$0 \$0	\$0	6	0	0	0	PAID CHGOFF XP/TU/EF

ECOA KEY: B-BORROWER; C-CO-BORROWER; S-SHARED; J-JOINT; U-UNDESIGNATED; A-AUTHORIZED USER

ECOA KEY: B-BORROWER; C-CO-BORROWER; S-SHARED; J-JOINT; U-UNDESIGNATED; A-AUTHORIZED USER

The information is furnished in response to an inquiry for the purpose of enabling credit review. It has been obtained from sources deemed reliable, the accuracy of which this organization does not guarantee. The report is prepared in accordance with the reporting requirements for any change arising from the information, and this report is furnished in reliance upon that accuracy. It must be held in strict confidence and comply with the provisions of Public Law 91-408, the Fair Credit Reporting Act. Reporting bureaus certify that all Residential Mortgage Credit Reports meet the standards prescribed by Fannie Mae, FHLMC, FVA, VA & the Federal Home Administration.

Shortsale
Shows settled
→

Acct. will never show how much was forgiven. Page 3/6

Homeromings Financial
A GATAC Company

June 17, 2008

ANDREA DA SILVA
8417 LEBNIGH AVE
SUNVALLEY, CA 91352

Note: Please ensure the
closing Agent is provided
with a copy of this letter.

Re: Account Number: 0042651717
7321 LEBNOX AVENUE #G10
VAN NUYS AREA, CA 91405-6263

Dear: ANDREA DA SILVA

This letter will confirm our acceptance of the short payoff on the above referenced property. We agree to accept the proceeds generated by the \$157,000.00 "as is condition" purchase as full and final satisfaction on the first mortgage indebtedness on the above referenced property. This agreement is subject to the following:

- * Net proceeds to be no less than \$11,386.62
- * SELLER TO NET ZERO.
- * This transaction may not involve a third party who receives a deed prior to this closing or after this closing and before recording of the deed to the purchaser.
- * PROCEEDS IN CERTIFIED FUNDS MUST BE EXPRESSED MAILED TO:

Homeromings Financial, LLC
Attn: Loss Mitigation/Kisha Thompson
3451 Hammond Avenue
Waterloo, IA 50702

- * HUD-1 Settlement Statement MUST be faxed 48 hours before closing for approval. Please fax to (866) 502-6613.

- * The following closing costs have been approved and should not exceed the given amount:

realtors commission	\$9,300.00
owners title policy	\$1,200.00
escrow fee	\$1,200.00
natural hazard disclosure	\$120.00
lha prep fee	\$75.00
credit to buyer	\$2,500.00
city transfer tax	\$706.50
escrow fee	\$511.88

Any reduction in the approved closing costs must be added to the net proceeds.

- * Seller to sign enclosed \$0.00 interest free note.
- * We will prepare a release of lien and send to the title company for recording.
- * Escrow to close on or before July 13, 2008.
- * The attached documents need to be signed and returned prior to closing.
- * All escrow surplus and credits MUST be added to the net proceeds.
- * The HUD-1 Settlement statement must be signed by buyers, sellers and settlement agent.
- * Copy of pre-ced check and HUD-1 settlement statement must be FAXED to our office (866)502-6613, within 24 hours of closing. Any delay in the receipt of the documents will result in \$100.00 fee per day along with the per diem interest of \$56.82 each day and any extension of the closing date, will require prior approval.

WARD CANAN COMPANY:

If any of the above demands are not met the Net Proceeds will not be accepted and the satisfaction will be delayed at your expense.

The release of the lien will be sent to the name and address of the title company you have provided and that will conduct the closing of the sale of the property. Please note that the release of the lien will not be sent out until the above proceeds are received. It will then be their responsibility to ensure proper recording of the release of the lien.

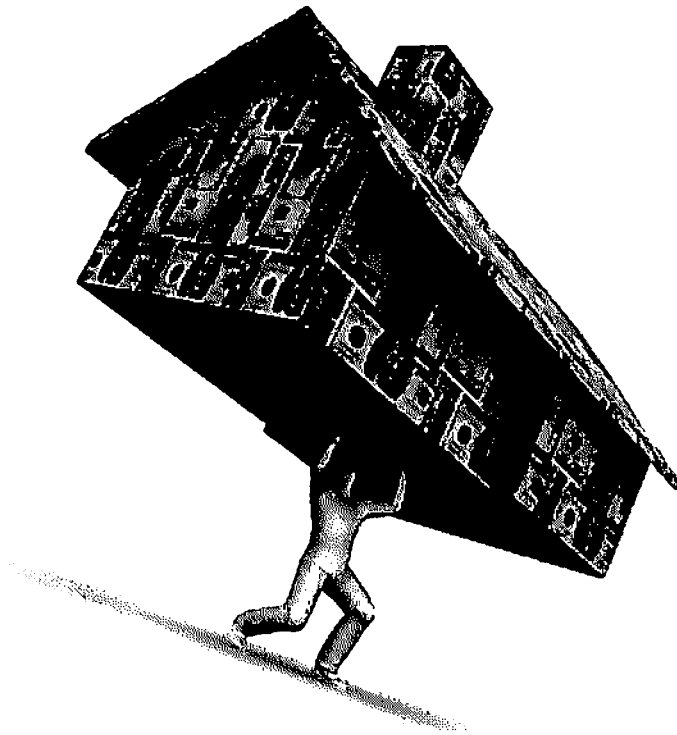
A "Short" or "Negotiated" Payoff of your mortgage loan may have tax consequences. To determine if, or to what extent, you have any tax liability, you are encouraged to consult a tax professional.

If you have any questions feel free to contact me at (214) 874-6789.

Sincerely,

Kisha Thompson
Loss Mitigation

Attachments



Will I be responsible for the "loss" the lender will take on a short sale property?

In the past the seller would have reported the difference as money earned and paid taxes on that amount to the I.R.S. (1099). But according to the Mortgage Forgiveness Debt Relief Act of 2007 homeowners will now be exempt on primary residence up to 2 million dollars

10 things you should know **about short sales**

**1) Can I still live in the house
while I am short selling the
property?**

YES

**2) Can someone from my
immediate family buy the house?**

NO

**3) Can I do a short sale if I have a
2nd loan?**

YES

10 things you should know **about short sales**

4) What do I need to qualify for a short sale?

You must provide W-2 for past 2 years, 1 month of pay stubs, 2 years of taxes and 1 month of bank statements.

5) Do I have to pay money to the lender on the loss?

NO

10 things you should know **about short sales**

6) How much does it cost to do a short sale?

You do not pay. The lender will allow the realtor to collect a commission, usually at a lower amount than the traditional 5%

7) Am I responsible for the back taxes?

No, the lender will pay as part of the sale.

10 things you should know **about short sales**

8) Do I get any money at the end of the sale?

No, the lender agrees to release you of the responsibility but requires that you receive no money or proceeds. Unless you qualify for a HAFA short sale and then you can qualify to receive up to \$3000.

10 things you should know **about short sales**

9) Can I short sell a property that is not owner-occupied?

Yes. If you receive a lien release you are not responsible for paying any money back to the bank. You must consult your CPA for tax consequences on non-owner properties.

10 things you should know **about short sales**

10) What advantage is there between short selling and letting the property go into foreclosure?

There are several reasons:

You do not let your credit get damaged with a "foreclosure" & If you refinanced after you purchased your home the lender has the ability to pursue their fund lost. This is known as "right of recourse".

Please read the attached copy of the Anti-Deficiency Law, 580b for more information.





Mortgage Workouts, Now Tax-Free for Many Homeowners; Claim Relief on Newly-Revised IRS Form

Updated with FAQs at bottom — Feb. 28, 2008

Updated with new link — Dec. 11, 2008

IR-2008-17, Feb. 12, 2008

WASHINGTON — Homeowners whose mortgage debt was partly or entirely forgiven during 2007 may be able to claim special tax relief by filing out newly-revised Form 982 and attaching it to their 2007 federal income tax return, according to the Internal Revenue Service.

Normally, debt forgiveness results in taxable income. But under the Mortgage Forgiveness Debt Relief Act of 2007, enacted Dec. 20, taxpayers may exclude debt forgiven on their principal residence if the balance of their loan was \$2 million or less. The limit is \$1 million for a married person filing a separate return. Details are on Form 982 and its instructions, available now on this Web site.

"The new law contains important provisions for struggling homeowners," said Acting IRS Commissioner Linda Sill. "We urge people with mortgage problems to take full advantage of the valuable tax relief available."

The late-December enactment means that reporting procedures for this law change were not incorporated into tax-preparation software or IRS forms. For that reason, people using tax software should check with their provider for updates that include the revised Form 982. Similarly, the IRS is now updating its systems and expects to begin accepting electronically-filed returns that include Form 982 by March 3. The paper Form 982 is now being accepted, but the IRS reminds affected taxpayers to consider filing electronically, which greatly reduces errors and speeds refunds.

The new law applies to debt forgiven in 2007, 2008 or 2009. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, may qualify for this relief. In most cases, eligible homeowners only need to fill out a few lines on Form 982 (specifically, lines 1e, 2 and 10b).

The debt must have been used to buy, build or substantially improve the taxpayer's principal residence and must have been secured by that residence. Debt used to refinance qualifying debt is also eligible for the exclusion, but only up to the amount of the old mortgage principal, just before the refinancing.

Debt forgiven on second homes, rental property, business property, credit cards or car loans does not qualify for the new tax-relief provision. In some cases, however, other kinds of tax relief, based on insolvency, for example, may be available. See Form 982 for details.

Borrowers whose debt is reduced or eliminated receive a year-end statement (Form 1099-C) from their lender. For debt cancelled in 2007, the lender was required to provide this form to the borrower by Jan. 31, 2008. By law, this form must show the amount of debt forgiven and the fair market value of any property given up through foreclosure.

The IRS urges borrowers to check the Form 1099-C carefully. Notify the lender immediately if any of the information shown is incorrect. Borrowers should pay particular attention to the amount of debt forgiven (Box 2) and the value listed for their home (Box 7).

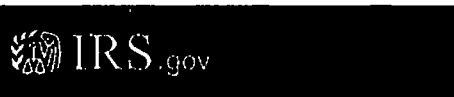
Note: Legislation enacted in October 2008 extended this relief through 2012. Thus this relief now applies to debt forgiven in calendar years 2007 through 2012.

Related items:

- [Frequently asked questions on the Mortgage Forgiveness Debt Relief Act](#)
- [Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness](#)
- [1099-C](#)
- [Publication 4821, Cancelled Debts, Foreclosures, Repossessions, and Abandonments](#)

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Page Last Reviewed or Updated: February 24, 2009



The Mortgage Forgiveness Debt Relief Act and Debt Cancellation

If you owe a debt to someone else and they cancel or forgive that debt, the canceled amount may be taxable.

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.

This provision 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.

More information, including detailed examples can be found in Publication 4681, Canceled Debts, Foreclosures, Repossessions, and Abandonments. Also see IRS news release IR-2009-17.

The following are the most commonly asked questions and answers about The Mortgage Forgiveness Debt Relief Act and debt cancellation:

What is Cancellation of Debt?

If you borrow money from a commercial lender and the lender later cancels or forgives the debt, you may have to include the canceled amount in income for tax purposes, depending on the circumstances. When you borrowed the money you were not required to include the loan proceeds in income because you had an obligation to repay the lender. When that obligation is subsequently forgiven, the amount you received as loan proceeds is normally reportable as income because you no longer have an obligation to repay the lender. The lender is usually required to report the amount of the canceled debt to you and the IRS on a Form 1099-C, Cancellation of Debt.

Here's a very simplified example. You borrow \$10,000 and default on the loan after paying back \$2,000. If the lender is unable to collect the remaining debt from you, there is a cancellation of debt of \$8,000, which generally is taxable income to you.

Is Cancellation of Debt Income always taxable?

Not always. There are some exceptions. The most common situations when cancellation of debt income is not taxable involve:

- **Qualified principal residence indebtedness:** This is the exception created by the Mortgage Debt Relief Act of 2007 and applies to most homeowners.
- **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. You are insolvent when your total debts are more than the fair market value of your total assets.
- **Certain farm debts:** If you incurred the debt directly in operation of a farm, more than half your income from the prior three years was from farming, and the loan was owed to a person or agency regularly engaged in lending, your cancelled debt is generally not considered taxable income.
- **Non-recourse loans:** A non-recourse loan is a loan for which the lender's only remedy in case of default is to repossess the property being financed or used as collateral. That is, the lender cannot pursue you personally in case of default. Forgiveness of a non-recourse loan resulting from a foreclosure does not result in cancellation of debt income. However, it may result in other tax consequences.

These exceptions are discussed in detail in Publication 4681.

What is the Mortgage Forgiveness Debt Relief Act of 2007?

The Mortgage Forgiveness Debt Relief Act of 2007 was enacted on December 20, 2007 (see News Release IR-2008-17). Generally, the Act allows exclusion of income realized as a result of modification of the terms of the mortgage, or foreclosure on your principal residence.

What does exclusion of income mean?

Normally, debt that is forgiven or cancelled by a lender must be included as income on your tax return and is taxable. But the Mortgage Forgiveness Debt Relief Act allows you to exclude certain cancelled debt on your principal residence from income. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, qualifies for the relief.

Does the Mortgage Forgiveness Debt Relief Act apply to all forgiven or cancelled debts?

No. 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. In addition, the debt must be secured by the home. This is known as qualified principal residence indebtedness. The maximum amount you can treat as qualified principal residence indebtedness is \$2 million or \$1 million if married filing separately.

Does the Mortgage Forgiveness Debt Relief Act apply to debt incurred to refinance a home?

Debt used to refinance your home qualifies for this exclusion, but only to the extent that the principal balance of the old mortgage, immediately before the refinancing, would have qualified. For more information, including an example, see Publication 4681.

How long is this special relief in effect?

It applies to qualified principal residence indebtedness forgiven in calendar years 2007 through 2012.

Is there a limit on the amount of forgiven qualified principal residence indebtedness that can be excluded from income?

The maximum amount you can treat as qualified principal residence indebtedness is \$2 million (\$1 million if married filing separately for the tax year), at the time the loan was forgiven. If the balance was greater, see the instructions to Form 982 and the detailed example in Publication 4681.

If the forgiven debt is excluded from income, do I have to report it on my tax return?

Yes. The amount of debt forgiven must be reported on Form 982 and this form must be attached to your tax return.

Do I have to complete the entire Form 982?

No. Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Adjustment), is used for other purposes in addition to reporting the exclusion of forgiveness of qualified principal residence indebtedness. If

you are using the form only to report the exclusion of forgiveness of qualified principal residence indebtedness as the result of foreclosure on your principal residence, you only need to complete lines 1e and 2. If you kept ownership of your home and modification of the terms of your mortgage resulted in the forgiveness of qualified principal residence indebtedness, complete lines 1e, 2, and 10b. Attach the Form 982 to your tax return.

Where can I get this form?

If you use a computer to fill out your return, check your tax-preparation software. You can also download the form at IRS.gov, or call 1-800-829-3576. If you call to order, please allow 7-10 days for delivery.

How do I know or find out how much debt was forgiven?

Your lender should send a Form 1099-C, Cancellation of Debt, by February 2, 2009. The amount of debt forgiven or canceled will be shown in box 2. If this debt is all qualified principal residence indebtedness, the amount shown in box 2 will generally be the amount that you enter on lines 2 and 10b, if applicable, on Form 982.

Can I exclude debt forgiven on my second home, credit card or car loans?

Not under this provision. Only cancelled debt used to buy, build or improve your principal residence or refinance debt incurred for those purposes qualifies for this exclusion. See Publication 4681 for further details.

If part of the forgiven debt doesn't qualify for exclusion from income under this provision, is it possible that it may qualify for exclusion under a different provision?

Yes. The forgiven debt may qualify under the insolvency exclusion. Normally, you are not required to include forgiven debts in income to the extent that you are insolvent. You are insolvent when your total liabilities exceed your total assets. The forgiven debt may also qualify for exclusion if the debt was discharged in a Title 11 bankruptcy proceeding or if the debt is qualified farm indebtedness or qualified real property business indebtedness. If you believe you qualify for any of these exceptions, see the instructions for Form 982. Publication 4681 discusses each of these exceptions and includes examples.

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.

If I sold my home at a loss and the remaining loan is forgiven, does this constitute a cancellation of debt?

Yes. To the extent that a loan from a lender is not fully satisfied and a lender cancels the unsatisfied debt, you have cancellation of indebtedness income. If the amount forgiven or canceled is \$600 or more, the lender must generally issue Form 1099-C, Cancellation of Debt, showing the amount of debt canceled. However, you may be able to exclude part or all of this income if the debt was qualified principal residence indebtedness, you were insolvent immediately before the discharge, or if the debt was canceled in a Title 11 bankruptcy case. An exclusion is also available for the cancellation of certain nonbusiness debts of a qualified individual as a result of a disaster in a Midwestern disaster area. See Form 982 for details.

If the remaining balance owed on my mortgage loan that I was personally liable for was canceled after my foreclosure, may I still exclude the canceled debt from income under the qualified principal residence exclusion, even though I no longer own my residence?

Yes, as long as the canceled debt was qualified principal residence indebtedness. See Example 2 on page 13 of Publication 4681, Canceled Debts, Foreclosures, Repossessions, and Abandonments.

Will I receive notification of cancellation of debt from my lender?

Yes. Lenders are required to send Form 1099-C, Cancellation of Debt, when they cancel any debt of \$600 or more. The amount canceled will be in box 2 of the form.

What if I disagree with the amount in box 2?

Contact your lender to work out any discrepancies and have the lender issue a corrected Form 1099-C.

How do I report the forgiveness of debt that is excluded from gross income?

(1) Check the appropriate box under line 1 on Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment) to indicate the type of discharge of indebtedness and enter the amount of the discharged debt excluded from gross income on line 2. Any remaining canceled debt must be included as income on your tax return.

(2) File Form 982 with your tax return.

My student loan was cancelled; will this result in taxable income?

In some cases, yes. Your student loan cancellation will not result in taxable income if you agreed to a loan provision requiring you to work in a certain profession for a specified period of time, and you fulfilled this obligation.

Are there other conditions I should know about to exclude the cancellation of student debt?

Yes, your student loan must have been made by:

- (a) the federal government, or a state or local government or subdivision;
- (b) a tax-exempt public benefit corporation which has control of a state, county or municipal hospital where the employees are considered public employees; or
- (c) a school which has a program to encourage students to work in underserved occupations or areas, and has an agreement with one of the above to fund the program, under the direction of a governmental unit or a charitable or educational organization.

Can I exclude cancellation of credit card debt?

In some cases, yes. Nonbusiness credit card debt cancellation can be excluded from income if the cancellation occurred in a Title 11 bankruptcy case, or to the extent you were insolvent just before the cancellation. See the examples in Publication 4681.

How do I know if I was insolvent?

You are insolvent when your total debts exceed the total fair market value of all of your assets. Assets include everything you own, e.g., your car, house, condominium, furniture, life insurance policies, stocks, other investments, or your pension and other retirement accounts.

How should I report the information and items needed to prove insolvency?

Use Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment) to exclude canceled debt from income to the extent you were insolvent immediately before the cancellation. You were insolvent to the extent that your liabilities exceeded the fair market value of your assets immediately before the cancellation.

To claim this exclusion, you must attach Form 982 to your federal income tax return. Check box 1b on Form 982, and, on line 2, include the smaller of the amount of the debt canceled or the amount by which you were insolvent immediately prior to the cancellation. You must also reduce your tax attributes in Part II of Form 982.

My car was repossessed and I received a 1099-G; can I exclude this amount on my tax return?
Only if the cancellation happened in a title 11 bankruptcy case, or to the extent you were insolvent just before the cancellation. See Publication 4681 for examples.

Are there any publications I can read for more information?

Yes.

(1) Publication 4681, Canceled Debts, Foreclosures, Repossessions, and Abandonments (for Individuals) is new and addresses in a single document the tax consequences of cancellation of debt issues.

(2) See the IRS news release [IR-2008-17](#) with additional questions and answers on IRS.gov.

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Credit After Foreclosure, Bankruptcy, or Short Sale

find the article "<http://www.car.org/legal/2009-qa/credit-aft-forecl-bankrup-short/>"

at:

Member Legal Services
Tel 213.739.8200
Fax 213.480.7724
May 12, 2009

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One of the concerns a consumer has after experiencing a bankruptcy, foreclosure, or short sale (referred to as a "preforeclosure sale" by Fannie Mae) is the ability to obtain credit to purchase another home. Fannie Mae has updated its credit guidelines. This legal article summarizes those guidelines.

Q 1. How long is the time period after a foreclosure before a consumer can be eligible to obtain credit to purchase a home?

A Five years from the date the foreclosure sale was completed.

Additional requirements that apply after 5 years and up to 7 years following the completion date are as follows:

- The purchase of a principal residence is permitted with a minimum 10 percent down payment and minimum representative credit score of 680.
- Purchase of a second home or investment property is not permitted.
- Limited cash-out refinances are permitted for all occupancy types pursuant to the eligibility requirements in effect at that time.
- Cash-out refinances are not permitted for any occupancy type.

(Source: FNMA Announcement 08-16, 6-25-08 a)

Q 2. Why do the additional requirements for foreclosures in Question 1 only apply from 5 to 7 years following the foreclosure completion date?

A According to Fannie Mae policy in Part X, Section 103 of the *Selling Guide*, Fannie Mae requires only a 7-year history to be reviewed for all credit and public

record information. The 7-year timeframe also aligns with the information provided by the borrower on the loan application relative to disclosure of a past foreclosure action. (Source: FNMA Selling Guide, 4-1-09. a)

Q 3. Does a shorter time period apply if the borrower has "extenuating circumstances" that led to the foreclosure?

A Yes. Three years from the date the foreclosure sale was completed. The same additional requirements apply as listed in Question 1 except the minimum credit score of 680 is not required. (Source: FNMA Announcement 08-16, 6-25-08. a)

Q 4. What are "extenuating circumstances" ?

A Fannie Mae describes "extenuating circumstances" as follows:

Extenuating circumstances are nonrecurring events that are beyond the borrower's control that result in a sudden, significant, and prolonged reduction in income or a catastrophic increase in financial obligations.

If a borrower claims that derogatory information is the result of extenuating circumstances, the lender must substantiate the borrower's claim. Examples of documentation that can be used to support extenuating circumstances include documents that confirm the event (such as a copy of a divorce decree, medical bills, notice of job layoff, job severance papers, etc.) and documents that illustrate factors that contributed to the borrower's inability to resolve the problems that resulted from the event (such as a copy of insurance papers or claim settlements, listing agreements, lease agreements, tax returns (covering the periods prior to, during, and after a loss of employment), etc.).

The lender must obtain a letter from the borrower explaining the relevance of the documentation. The letter must support the claims of extenuating circumstances, confirm the nature of the event that led to the bankruptcy or foreclosure-related action, and illustrate the borrower had no reasonable options other than to default on their financial obligations.

(Source: FNMA Selling Guide, 4-1-09 at 391. a)

Q 5. How long is the time period after a deed-in-lieu of foreclosure before a consumer can be eligible to obtain credit to purchase a property?

A Four years from the date the deed-in-lieu was executed.

Additional requirements that apply after 4 years and up to 7 years following the completion date are as follows:

- Borrower may purchase a property secured by a principal residence, second home, or investment property with the greater of 10 percent minimum down payment or the minimum down payment required for the transaction.

- Limited-cash-out and cash-out refinance transactions secured by a principal residence, second home, or investment property are permitted pursuant to the eligibility requirements in effect at that time.

(Source: FNMA Announcement 08-16, 6-25-08. ㉓)

Q 6. Does a shorter time period apply if the borrower has "extenuating circumstances" that led to the deed-in-lieu of foreclosure?

A Yes. Two years from the date the deed-in-lieu was executed. The same additional requirements apply as listed in Question 4 after 2 years up to 7 years.

(Source: FNMA Announcement 08-16, 6-25-08. ㉓)

See Question 4 for the definition of "extenuating circumstances."

Q 7. How long is the time period after a "preforeclosure sale" before a consumer can be eligible to obtain credit to purchase a property?

A Two years from the completion date. No exceptions are permitted to the 2-year period due to extenuating circumstances. (Source: FNMA Announcement 08-16, 6-25-08. ㉓)

Q 8. What is a "preforeclosure sale" mentioned in Question 6 and is that the same as a short sale?

A "A preforeclosure sale involves the sale of the property by the borrower to a third party for less than the amount owed to satisfy the delinquent mortgage, as agreed to by the lender, investor, and mortgage insurer" (Source: FNMA Announcement 08-16, 6-25-08 ㉓).

Although the terms preforeclosure sale and short sale have been used interchangeably, there is a significant difference for purposes of obtaining credit. For Fannie Mae purposes, a preforeclosure assumes that the borrower has been delinquent in paying his or her mortgage and the lender agrees to accept a lesser amount to avoid the time and expense of a foreclosure action. A short-sale, however, can also refer to situations in which the lender of the mortgage agrees to a payoff of a lesser amount than is actually owed, even on a current mortgage, to facilitate the sale of the property to a third party. (Source: FNMA Announcement 08-16 Q&A, 8-13-08. ㉓)

Q 9. Does a shorter time period apply if the borrower has "extenuating circumstances" that led to the preforeclosure (short) sale?

A No. There are no exceptions to the 2-year time period. (Source: FNMA Announcement 08-16, 6-25-08. ㉓)

Q 10. If a borrower sold his or her property as a short sale but was never

delinquent on that mortgage and is now attempting to purchase a new primary residence, will Fannie Mae purchase the loan?

A The loan will be eligible for delivery to Fannie Mae provided that the borrower's previous mortgage history complies with Fannie Mae's excessive prior mortgage delinquency policy—that is the borrower does not have one or more 60-, 90-, 120-, or 150-day delinquencies reported within the 12 months prior to the credit report date—and the borrower has not entered into any agreement with the short sale lender to repay any amounts associated with the short sale, including a deficiency judgment. (Source: FNMA Announcement 08-16 Q&A, 8-13-08 ¶; FNMA Selling Guide, Part X, Chapter 3, Section 302.09. ¶.)

Q 11. Are preforeclosure (short) sales and deed-in-lieu of foreclosure actions identified on a credit report?

A Preforeclosure sales may be reported as "paid in full" with a "settled for less than owed" remarks code, and the mortgage tradeline would indicate any recent delinquency. A deed-in-lieu may be reported by a remarks code indicating a deed-in-lieu. (Source: FNMA Announcement 08-16 Q&A, 8-13-08. ¶)

Q 12. How long is the time period after a bankruptcy (all except Chapter 13) before a consumer can be eligible to obtain credit to purchase a property?

A Four years from the discharge or dismissal date of the bankruptcy action (Source: FNMA Announcement 08-16, 6-25-08 ¶).

Q 13. How long is the time period after a Chapter 13 bankruptcy before a consumer can be eligible to obtain credit to purchase a property?

A Two years from the discharge date and four years from the dismissal date (Source: FNMA Announcement 08-16, 6-25-08 ¶).

Q 14. Does a shorter time period apply if the borrower has "extenuating circumstances" that led to the bankruptcy (all actions)?

A Yes. Two years from the discharge or dismissal; however, no exceptions are permitted to the 2-year time period after a Chapter 13 discharge (Source: FNMA Announcement 08-16, 6-25-08 ¶).

See Question 4 for the definition of "extenuating circumstances."

Q 15. How long is the time period after multiple bankruptcy filings before a consumer can be eligible to obtain credit to purchase a property?

A Five years from the most recent dismissal or discharge date for borrowers with more than one bankruptcy filing within the past 7 years (Source: FNMA Announcement 08-16, 6-25-08 ¶).

Q 16. Does a shorter time period apply if the borrower has "extenuating circumstances" that led to the multiple bankruptcies?

A Yes. Three years from the most recent discharge or dismissal date. The most recent bankruptcy filing must have been the result of extenuating circumstances. (Source: FNMA Announcement 08-16, 6-25-08. [a](#))

See Question 4 for the definition of "extenuating circumstances."

Q 17. What is the difference between a Chapter 13 bankruptcy and a Chapter 7 bankruptcy?

A Chapter 13 permits a borrower with a regular income to propose a plan to repay some or all of his or her obligations over a period of up to five years. A borrower who files a Chapter 7 is permitted to retain exempt assets and receive a discharge of the borrower's debts. Chapter 7 is a relatively quick liquidation process that is generally completed within 120 days. Chapter 7 cases are rarely dismissed. (Source: FNMA Announcement 08-16 Q&A, 8-13-08. [a](#))

Q 18. What is the difference between a Chapter 13 dismissal and a Chapter 13 discharge?

A A borrower who files a Chapter 13 can dismiss the case at any time (voluntary dismissal) or the case may be dismissed by the court based on the borrower's failure to comply with the requirements of the Bankruptcy Code or to make the required payments. If the borrower who files a Chapter 13 case makes all of the payments required by the plan, the borrower receives a discharge at the end of the plan. A borrower who doesn't make all the payment required by the plan may still receive a discharge if the court finds, among other things, that the borrower made a certain amount of the payments and the borrower's failure to make all of the payments was due to circumstances beyond the borrower's control. (Source: FNMA Announcement 08-16 Q&A, 8-13-08. [a](#))

Q 19. What are the requirements to re-establish a credit history?

A After a bankruptcy or foreclosure-related action, a credit history must meet the following requirements to be considered re-established:

- It must meet the requirements for elapsed time (as discussed in this article.
- It must reflect that all accounts are current as of the date of the mortgage application.
- it must include a minimum of four credit references. At least one of the references must be a traditional credit reference, and one of the references must

be housing-related.

A housing-related reference must cover the period following the bankruptcy discharge or dismissal, foreclosure, or deed-in-lieu, and can be in the form of mortgage payments or rental payments.

If rental payments were not reported to the credit repositories, the lender must obtain copies of bank statements, money orders, or cashed checks for the most recent 12-month period as a supplement to the rent verification.

- It must reflect three of the four credit references, including rental housing references, as active in the 24 months preceding the date of the mortgage application.
- It must include no more than two installment or revolving debt payments 30 days past due in the last 24 months.
- It must include no installment or revolving debt payments 60 or more days past due since the discharge or dismissal of the bankruptcy or the completion of the foreclosure-related action.
- It must include no housing debt payments past due since the discharge or dismissal of the bankruptcy or the completion of the foreclosure-related action.
- It must include no new public records since the discharge or dismissal of the bankruptcy or the completion of the foreclosure-related action. Public records include bankruptcies, foreclosures, deeds-in-lieu, preforeclosure sales, unpaid judgments or collections, garnishments, liens, etc.

(Source: FNMA Selling Guide, 4-1-09 at 392. 3)

Q 20. *Where can I get more information?*

A This article is just one of the many legal publications and services offered by C.A.R. to its members. For a complete listing of C.A.R.'s legal products and services, please visit C.A.R. *Online* at www.car.org.

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525 South Virgil Avenue
Los Angeles, California 90020

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