

109TH CONGRESS  
1ST SESSION

# H. R. 3458

To amend the Internal Revenue Code of 1986 to exclude from gross income of individual taxpayers discharges of indebtedness attributable to certain forgiven residential mortgage obligations.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2005

Mr. ANDREWS (for himself and Mr. FOLEY) introduced the following bill;  
which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income of individual taxpayers discharges of indebtedness attributable to certain forgiven residential mortgage obligations.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Mortgage Cancellation  
5       Relief Act of 2005”.

1 **SEC. 2. EXCLUSION FROM GROSS INCOME FOR CERTAIN**  
 2 **FORGIVEN MORTGAGE OBLIGATIONS.**

3 (a) IN GENERAL.—Paragraph (1) of section 108(a)  
 4 of the Internal Revenue Code of 1986 (relating to exclu-  
 5 sion from gross income) is amended by striking “or” at  
 6 the end of both subparagraphs (A) and (C), by striking  
 7 the period at the end of subparagraph (D) and inserting  
 8 “, or”, and by inserting after subparagraph (D) the fol-  
 9 lowing new subparagraph:

10 “(E) in the case of an individual, the in-  
 11 debtedness discharged is qualified residential in-  
 12 debtedness.”.

13 (b) QUALIFIED RESIDENTIAL INDEBTEDNESS  
 14 SHORTFALL.—Section 108 of such Code (relating to dis-  
 15 charge of indebtedness) is amended by adding at the end  
 16 the following new subsection:

17 “(h) QUALIFIED RESIDENTIAL INDEBTEDNESS.—

18 “(1) LIMITATIONS.—The amount excluded  
 19 under subparagraph (E) of subsection (a)(1) with  
 20 respect to any qualified residential indebtedness  
 21 shall not exceed the excess (if any) of—

22 “(A) the outstanding principal amount of  
 23 such indebtedness (immediately before the dis-  
 24 charge), over

25 “(B) the sum of—

1 “(i) the amount realized from the sale  
2 of the real property securing such indebt-  
3 edness reduced by the cost of such sale,  
4 plus

5 “(ii) the outstanding principal amount  
6 of any other indebtedness secured by such  
7 property.

8 “(2) QUALIFIED RESIDENTIAL INDEBTED-  
9 NESS.—

10 “(A) IN GENERAL.—The term ‘qualified  
11 residential indebtedness’ means indebtedness  
12 which—

13 “(i) was incurred or assumed by the  
14 taxpayer in connection with real property  
15 used as a residence and is secured by such  
16 real property,

17 “(ii) is incurred or assumed to ac-  
18 quire, construct, reconstruct, or substan-  
19 tially improve such real property, and

20 “(iii) with respect to which such tax-  
21 payer makes an election to have this para-  
22 graph apply.

23 “(B) REFINANCED INDEBTEDNESS.—Such  
24 term shall include indebtedness resulting from  
25 the refinancing of indebtedness under subpara-

1 graph (A)(ii), but only to the extent the refi-  
 2 nanced indebtedness does not exceed the  
 3 amount of the indebtedness being refinanced.

4 “(C) EXCEPTIONS.—Such term shall not  
 5 include qualified farm indebtedness or qualified  
 6 real property business indebtedness.”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) Paragraph (2) of section 108(a) of such  
 9 Code is amended—

10 (A) in subparagraph (A) by striking “and  
 11 (D)” and inserting “(D), and (E)”, and

12 (B) by amending subparagraph (B) to read  
 13 as follows:

14 “(B) INSOLVENCY EXCLUSION TAKES  
 15 PRECEDENCE OVER QUALIFIED FARM EXCLU-  
 16 SION; QUALIFIED REAL PROPERTY BUSINESS  
 17 EXCLUSION; AND QUALIFIED RESIDENTIAL  
 18 SHORTFALL EXCLUSION.—Subparagraphs (C),  
 19 (D), and (E) of paragraph (1) shall not apply  
 20 to a discharge to the extent the taxpayer is in-  
 21 solvent.”.

22 (2) Paragraph (1) of section 108(b) of such  
 23 Code is amended by striking “or (C)” and inserting  
 24 “(C), or (E)”.

1           (3) Subsection (d) of section 121 of such Code  
2       is amended by adding at the end the following new  
3       paragraph:

4           “(12) SPECIAL RULE RELATING TO DISCHARGE  
5       OF INDEBTEDNESS.—The amount of gain which  
6       (but for this paragraph) would be excluded from  
7       gross income under subsection (a) with respect to a  
8       principal residence shall be reduced by the amount  
9       excluded from gross income under section  
10      108(a)(1)(E) with respect to such residence.”.

11      (d) EFFECTIVE DATE.—The amendments made by  
12   this section shall apply to discharges after the date of the  
13   enactment of this Act.

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