

110TH CONGRESS
2D SESSION

H. R. 5776

To amend the Internal Revenue Code of 1986 to exclude from gross income certain distributions from qualified retirement plans used for mortgage payments.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2008

Mr. SHADEGG (for himself, Mr. FEENEY, Mr. MARCHANT, Mr. BROUN of Georgia, Mrs. MUSGRAVE, Mr. WESTMORELAND, Mr. GOODE, Mr. BARTLETT of Maryland, Mr. GOHMERT, Mrs. BLACKBURN, Mr. FRANKS of Arizona, Mr. AKIN, Mr. CAMPBELL of California, Mr. PITTS, Mr. PRICE of Georgia, Mr. SENSENBRENNER, and Mr. HOEKSTRA) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income certain distributions from qualified retirement plans used for mortgage payments.

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; CONSTITUTIONAL AUTHORITY.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Homeowner Empowerment Act of 2008”.

6 (b) CONSTITUTIONAL AUTHORITY TO ENACT THIS
7 LEGISLATION.—The constitutional authority upon which

1 this Act rests is the power of Congress to lay and collect
2 taxes, set forth in article I, section 8 of the United States
3 Constitution.

4 **SEC. 2. EXCLUSION FROM GROSS INCOME OF CERTAIN DIS-**
5 **TRIBUTIONS FROM QUALIFIED RETIREMENT**
6 **PLANS USED FOR MORTGAGE PAYMENTS.**

7 (a) IN GENERAL.—Part III of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 is amended
9 by inserting after section 139A the following new section:

10 **“SEC. 139B. CERTAIN DISTRIBUTIONS FROM QUALIFIED RE-**
11 **TIREMENT PLANS USED FOR MORTGAGE PAY-**
12 **MENTS.**

13 “(a) IN GENERAL.—Gross income shall not include
14 a qualified mortgage distribution.

15 “(b) LIMITATION.—Subsection (a) shall not apply to
16 any distribution made in any month to the extent that
17 such distribution (when added to all other distributions
18 made in such month which are taken into account under
19 subsection (a) with respect to any individual) exceeds
20 \$5,000.

21 “(c) QUALIFIED MORTGAGE DISTRIBUTION.—For
22 purposes of this section—

23 “(1) IN GENERAL.—The term ‘qualified mort-
24 gage distribution’ means any distribution which is
25 made before January 1, 2010, from an individual re-

1 tirement plan, or from amounts attributable to em-
2 ployer contributions made pursuant to elective defere-
3 rals described in subparagraph (A) or (C) of section
4 402(g)(3) or section 501(c)(18)(D)(iii), directly by
5 the trustee of the plan to a mortgagee with respect
6 to a qualified mortgage of any individual. Such term
7 shall not include any distribution to the extent that
8 such distribution exceeds the required minimum pay-
9 ment due under the terms of the mortgage.

10 “(2) QUALIFIED MORTGAGE.—The term ‘quali-
11 fied mortgage’ means any mortgage which is—

12 “(A) secured by the principal residence
13 (within the meaning of section 121) of the
14 mortgagor, and

15 “(B) originated before January 1, 2008.

16 “(d) REQUIREMENT TO REPAY DISTRIBUTIONS.—

17 For purposes of this section—

18 “(1) IN GENERAL.—The term ‘qualified mort-
19 gage distribution’ shall not include any distribution
20 except to the extent that one or more contributions
21 to an individual retirement plan of the taxpayer in
22 an aggregate amount equal to such distribution are
23 made during the 12-year period beginning on the
24 date of such distribution.

1 “(2) TREATMENT OF RECONTRIBUTIONS.—In
2 the case of any contribution to an individual retire-
3 ment plan taken into account under paragraph (1)—

4 “(A) the dollar limitations otherwise appli-
5 cable to contributions to individual retirement
6 plans shall not apply to such contribution, and

7 “(B) no deduction shall be allowed for
8 such contribution.

9 “(3) FAILURE TO REPAY.—In the case of a fail-
10 ure to make the aggregate amount of contributions
11 described in paragraph (1) during the 12-year period
12 described therein with respect to any distribution
13 which would (but for paragraph (1)) be a qualified
14 mortgage distribution, such distribution shall be in-
15 cludible in the gross income of the taxpayer for the
16 taxable year in which such 12-year period ends in
17 lieu of the taxable year in which the distribution was
18 made.”.

19 (b) WAIVER OF 10 PERCENT EARLY WITHDRAWAL
20 PENALTY WITHOUT REGARD TO REPAYMENT REQUIRE-
21 MENT.—Paragraph (2) of section 72(t) is amended by
22 adding at the end the following new subparagraph:

23 “(H) QUALIFIED MORTGAGE DISTRIBUTI-
24 ONS.—Any qualified mortgage distribution

1 (as defined in section 139B, but without regard
2 to subsection (d) thereof).”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 401(k)(2)(B)(i) of such Code is
5 amended by striking “or” at the end of subclause
6 (IV), by striking “and” at the end of subclause (V)
7 and inserting “or”, and by inserting after subclause
8 (V) the following new subclause:

9 “(VI) in the case of a distribu-
10 tion to which section 139B(a) applies,
11 the date on which such distribution is
12 made, and”.

13 (2) Section 403(b)(7)(A)(ii) of such Code is
14 amended by inserting “or 139B(a)” after “section
15 72(t)(2)(G)”.

16 (3) Section 403(b)(11) of such Code is amend-
17 ed by striking “or” at the end of subparagraph (B),
18 by striking the period at the end of subparagraph
19 (C) and inserting “, or”, and by inserting after sub-
20 paragraph (C) the following new subparagraph:

21 “(D) for distributions to which section
22 139B(a) applies.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to distributions made after the
3 date of the enactment of this Act.

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