

112TH CONGRESS
2D SESSION

S. 2144

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.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 29, 2012

Ms. STABENOW introduced the following bill; which was read twice and referred to the Committee on Finance

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 2012”.

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

3 (a) IN GENERAL.—Subparagraph (E) of section
 4 108(a)(1) of the Internal Revenue Code of 1986 is amend-
 5 ed to read as follows:

6 “(E) in the case of an individual, the in-
 7 debtedness discharged is qualified residential in-
 8 debtedness.”.

9 (b) QUALIFIED RESIDENTIAL INDEBTEDNESS
 10 SHORTFALL.—Subsection (h) of section 108 of the Inter-
 11 nal Revenue Code of 1986 is amended to read as follows:

12 “(h) QUALIFIED RESIDENTIAL INDEBTEDNESS.—

13 “(1) LIMITATIONS.—The amount excluded
 14 under subparagraph (E) of subsection (a)(1) with
 15 respect to any qualified residential indebtedness
 16 shall not exceed the excess (if any) of—

17 “(A) the outstanding principal amount of
 18 such indebtedness (immediately before the dis-
 19 charge), over

20 “(B) the sum of—

21 “(i) the amount realized from the sale
 22 of the real property securing such indebt-
 23 edness reduced by the cost of such sale,
 24 plus

1 “(ii) the outstanding principal amount
 2 of any other indebtedness secured by such
 3 property.

4 “(2) QUALIFIED RESIDENTIAL INDEBTED-
 5 NESS.—

6 “(A) IN GENERAL.—The term ‘qualified
 7 residential indebtedness’ means indebtedness
 8 which—

9 “(i) was incurred or assumed by the
 10 taxpayer in connection with real property
 11 used as a residence and is secured by such
 12 real property,

13 “(ii) is incurred or assumed to ac-
 14 quire, construct, reconstruct, or substan-
 15 tially improve such real property, and

16 “(iii) with respect to which such tax-
 17 payer makes an election to have this para-
 18 graph apply.

19 “(B) REFINANCED INDEBTEDNESS.—Such
 20 term shall include indebtedness resulting from
 21 the refinancing of indebtedness under subpara-
 22 graph (A)(ii), but only to the extent the refi-
 23 nanced indebtedness does not exceed the
 24 amount of the indebtedness being refinanced.

1 “(C) EXCEPTIONS.—Such term shall not
2 include qualified farm indebtedness or qualified
3 real property business indebtedness.”.

4 (c) CONFORMING AMENDMENTS.—

5 (1) Paragraph (2) of section 108(a) of the In-
6 ternal Revenue Code of 1986 is amended by striking
7 subparagraphs (B) and (C) and inserting the fol-
8 lowing new subparagraph:

9 “(B) INSOLVENCY EXCLUSION TAKES
10 PRECEDENCE OVER QUALIFIED FARM EXCLU-
11 SION; QUALIFIED REAL PROPERTY BUSINESS
12 EXCLUSION; AND QUALIFIED RESIDENTIAL IN-
13 DEBTEDNESS EXCLUSION.—Subparagraphs (C),
14 (D), and (E) of paragraph (1) shall not apply
15 to a discharge to the extent the taxpayer is in-
16 solvent.”.

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

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

23 “(13) SPECIAL RULE RELATING TO DISCHARGE
24 OF INDEBTEDNESS.—The amount of gain which
25 (but for this paragraph) would be excluded from

1 gross income under subsection (a) with respect to a
2 principal residence shall be reduced by the amount
3 excluded from gross income under section
4 108(a)(1)(E) with respect to such residence.”.

5 (d) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to discharges after December 31,
7 2012.

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