

107TH CONGRESS
1ST SESSION

S. 1282

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

JULY 31, 2001

Mr. HATCH 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 2001”.

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 the Internal Revenue Code
 15 of 1986 (relating to discharge of indebtedness) is amended
 16 by adding at the end 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 and

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 the principal residence of the tax-
 16 payer (within the meaning of section 121)
 17 and is secured by such real property,

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

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

24 “(B) REFINANCED INDEBTEDNESS.—Such
 25 term shall include indebtedness resulting from

the refinancing of indebtedness under subparagraph (A)(ii), but only to the extent the refinanced indebtedness does not exceed the amount of the indebtedness being refinanced.

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

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 108(a) of the Internal Revenue Code of 1986 is amended—

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

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

“(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION, QUALIFIED REAL PROPERTY BUSINESS EXCLUSION, AND QUALIFIED RESIDENTIAL SHORTFALL EXCLUSION.—Subparagraphs (C), (D), and (E) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent.”.

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

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

4 “(3) 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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