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IRS, Taxes – Mortgage Forgiveness Debt Relief Act expiring! Key Facts 1 – 5.

As an attorney who represents homeowners and borrowers in mortgage and foreclosure matters, I am frequently asked about the tax implications which may come into play when some or all of a mortgage loan is forgiven or cancelled. While I always recommend that clients in such situations seek advice from a tax attorney or a qualified CPA, I can share the following key points, with this information based on publications by the IRS itself. Please note that I am only addressing federal tax matters here, not any state tax matters.

This specifically addresses issues related to the Mortgage Forgiveness Debt Relief Act of 2007. Another blog post coming soon will address the "insolvency exclusion", which may also reduce or eliminate the need for a borrower to pay taxes on forgiven mortgage debt. Please keep in mind, that as of today's date – December 4, 2012 – **the Mortgage Forgiveness Debt Relief Act of 2007 is set to expire at the end of 2012**. Here are five key pieces of information to know about the Mortgage Forgiveness Debt Relief Act.

1. **Forgiven mortgage debt exclusion limits.** In normal circumstances, an individual would likely have to pay taxes on the amount of debt forgiven, similar as if that amount was actually income. However, under the Mortgage Forgiveness Debt Relief Act of 2007, there is an exclusion of potentially up to $2,000,000.00 dollars of debt forgiven on ones principal residence. The limit is $1,000,000.00 for a married person filing a separate tax return.
2. **Mortgage debts reduced or forgiven in full**. You may exclude debt reduced through mortgage modification / restructuring as well as mortgage loans fully forgiven.
3. **Foreclosures.** Mortgage debt forgiven as a result of a foreclosure can qualify for this exclusion.

4. **Principal residence loans only.** The debt at issue must have been used to buy, build, or substantially improve your principal residence, and that debt must be secured by the residence.
5. **Refinanced debt.** With regard to refinanced debt potentially being forgiven, refinanced debt used to substantially improve your primary residence also qualifies (although there may be additional limitations on the amount which can be excluded).

Right now, the clock is ticking as borrowers hope to gain forgiveness of mortgage loan debt before the Mortgage Forgiveness Debt Relief Act of 2007 expires at the end of 2012.

McGrath & Spielberger, PLLC provides assistance to those involved in mortgage disputes, including borrowers in need of mortgage relief services such as mortgage loan modification, foreclosure negotiation, and deed-in-lieu or other negotiated settlement resolutions. The firm provides legal services in Florida, Georgia, North Carolina, Ohio, South Carolina, and Tennessee. The firm offers full scale representation, as well as limited scope services.