



# The Mortgage Forgiveness Debt Relief Act Is Set To Expire 12/31/2012. Time Is Running Out!

The Mortgage Forgiveness Debt Relief Act is set to expire 12/31/2012, there is only 6 more months left to successfully close a short sale and still be eligible for relief! If it closes January 1, 2013 or later you will not be eligible for the tax relief.

Some transactions still take up to six months or more to complete, don't let anyone tell you there is still time or they will extend it again. Yes they are working on a bill right now but nothing is guaranteed. Should you do a short sale in 2012? The good news is that in 2012, if you decide to do a short sale, there are a few favorable laws that you should know about that are currently in effect until the end of December 31, 2012. **But, the clock is ticking. So the time to act is now before these laws and their benefits expire.**

Short Sale Laws . . . An Update To Refresh Your Memory.

Short Sale Deficiency Waived - Laws you should know about as a homeowner

**Question: As a homeowner, am I still liable for my mortgage after completing a bank/ or lender approved short sale?**

**First Mortgage - Release of Liability after a completing a Short Sale.**

SB 931 - Under SB 931, after completing a bank approved short sale, the first mortgage holder of the loan accepts full payment and satisfaction of all the outstanding first loan from the short sale payment from the new buyer and prevents your first mortgage lender in pursuing a deficiency even after a short sale. This is great news! As a homeowner in California, this releases you from further liability (deficiency) when the bank accepts and approves your short sale event.

**Second Mortgages - Release of Liability after completing a Short Sale in California.**

SB 458 - Under SB 458, effective as of July 15, 2011, California homeowners who sell their homes through a short sale, who have subordinate loans such as home equity line of credit (heloc) or fixed secondary mortgages, are now extended the protection against deficiency. This means that if the lender agrees to the short sale, the lender must accept the proceeds from the short sale as a payment in full of the outstanding balance of the loans. This means that if you are a homeowner in California who sells your home in a short sale that the bank has approved, you will be released from liability (deficiency) not only on your first mortgage but also on your second mortgage under SB 458 should the bank accept and approve the short sale event.

**Question: As a homeowner, do I owe taxes after a short sale on my primary residence if I sell my home in a short sale before 2012?**

**Short Sale Income Tax Relief • Short Sale Relief from Federal Income Tax until 2012.**

Mortgage Forgiveness Debt Relief Act of 2007 generally allows taxpayers to exclude income from the discharge of debt on their principal residence. Debt reduced through mortgage restructuring, short sale, as well as mortgage debt forgiven in connection with a foreclosure, qualifies for the relief. This applies to loans that were used to acquire, build, or improve upon on the home. Consult your tax advisor regarding how this tax relief may apply to your individual situation.

**Short Sale Relief from California State Income Tax until 2012**

In California, homeowners who sell their home through a short sale may qualify for the California Mortgage Forgiveness Debt Relief under SB 401, which was enacted on April 12, 2010. This mortgage forgiveness debt relief act allows taxpayers who have had all or part of their loan balance on their principal residence forgiven by their lender to exclude the forgiven debt from California gross income. This tax relief for those who short sell their homes in California apply to discharges of qualified residence indebtedness on or after January 1, 2009 and before January 1, 2013 (Think until 2012).

The California Tax Relief limits the amount of qualified principal indebtedness up to \$800,000 for those who file as married, joint, head of household and up to \$400,000 for those who file as married/registered domestic partners filing separately. See State of California Franchise Tax Board for more details. In order to claim tax relief, you would need to file Form 540 or Form 540X for a previously filed tax return. Consult your tax advisor regarding how this tax relief may apply to your individual situation.

A lot of the laws that favor selling your home through a short sale in California expire by December 31, 2012. This means that if you have decided to short sell your home and qualify to avoid deficiency and not pay taxes on mortgage forgiven debt associated with a short sale, **now would be the time in order to close escrow on a short sale by 2012.**



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