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IRS, Taxes – Mortgage Forgiveness Debt Relief Act Expiring! Key Facts 6 – 10.

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 6, 2012 – **the Mortgage Forgiveness Debt Relief Act of 2007 is set to expire at the end of 2012.** Here are five additional key pieces of information to know about the Mortgage Forgiveness Debt Relief Act.

6. With regard to refinanced mortgage debt, if some of the funds obtained by the refinancing are used for other purposes, such as paying off credit card or other debt, forgiveness of that part of the debt would not qualify for the Mortgage Forgiveness Debt Relief exclusion.

7. Per IRS instructions, if you have debt which may qualify for exclusion under the Mortgage Forgiveness Debt Relief Act, you will need to fill out form 982 and attach it to your Federal Income Tax return for the tax year in which the qualified mortgage debt was forgiven. Form 982 is called Reduction of Tax Attributes Due to Discharge of Indebtedness.

8. Mortgage debt forgiven on second homes, rental properties, and business properties do not qualify. Please keep in mind, however, that other tax relief provisions could apply to these kinds of debts in certain circumstances. You may want to refer to IRS for 982 for more details about such provisions.

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9. If your debt is reduced or eliminated you should usually receive a year end statement, form 1099-C from your lender. This form is called “Cancellation of Debt” and, by law, must show the amount of debt forgiven and the fair market value of any foreclosed property.

10. You will need to examine 1099-C carefully, and notify the issuing lender immediately if any of the information is incorrect. Box 2 should show the amount of debt forgiven and Box 7 should show the value listed for the property at issue.

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.

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