November 19, 2014

Dear Representative:

The undersigned organizations, representing REALTORS®, mortgage lenders, servicers, investors, and settlement service providers urge you to act before Congress adjourns to extend tax relief from mortgage debt forgiveness, which expired on December 31, 2013. First passed in 2007, this provision has helped ensure that distressed homeowners who receive a modification to their existing mortgage on their primary residence - through principal forgiveness or through the completion of a short sale - do not face income tax on the amount of the loan that has been forgiven.

Despite significant recovery in home prices, independent estimates from economic analytics firm CoreLogic show that there are still roughly 5 million homeowners whose homes are worth less than the outstanding mortgage balance. This means 11 percent of all homeowners with a mortgage are still "under water." While unemployment has decreased from the height of the Great Recession, millions of Americans still find themselves out of work or underemployed. This combination of underwater mortgages and economic distress has resulted in 2 million Americans who are now seriously delinquent or in foreclosure on their mortgages.

The federal government and mortgage servicers have worked with distressed homeowners to modify existing mortgage agreements or provide debt forgiveness. Sometimes these arrangements help home owners keep their homes under more manageable payment terms; in other cases, these arrangements result in a "short sale" where the home is sold for less than the original mortgage amount. For those who must sell their homes and are currently underwater, a short sale may be the only alternative.

Yet, because the tax relief from mortgage debt forgiveness has been allowed to expire, the federal government is now spending money on programs to prevent foreclosures while threatening to tax the very homeowners they are trying to help. The attached article from this weekend's *Washington Post* illustrates the dilemma facing many homeowners – and the angst of those who have already completed a short sale or workout in 2014. Many Americans now fear a tax bill they cannot afford, while others are choosing to simply go into foreclosure and declare insolvency, an outcome that harms both families and the communities in which they live.

Working with consumers on a daily basis to find solutions, we know first-hand the importance of extending this provision. We urge you to support a two-year extension of the provision to provide tax relief from mortgage debt forgiveness, retroactive to January 1, 2014. We hope you will urge House Leadership to act quickly to provide certainty for struggling homeowners ahead of the 2014 tax filing season, as well as stability for our housing markets and local communities.

Sincerely,

American Bankers Association
American Escrow Association
American Land Title Association
Community Home Lenders Association
Community Mortgage Lenders of America
Financial Services Roundtable
Housing Policy Council
Independent Community Bankers of America
Mortgage Bankers Association
National Association of REALTORS®
Real Estate Valuation Advocacy Association
Securities Industry and Financial Markets Association

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Thousands who received debt relief would benefit if Congress renews expired tax law

By Kenneth R. Harney November 14

David Foster, who sold his condo in Chicago last month, isn't plugged in to Capitol Hill's political games. But he has banked the financial future of his family on Congress's accomplishing at least one thing during the post-election session that began this week: renewing the Mortgage Forgiveness Debt Relief Act so that he and his wife and three young children aren't crushed by unaffordable taxes next year on the $100,000 his lender agreed to cancel as part of a short sale.

Like thousands of other owners across the country who have been struggling with underwater properties, Foster, a 33-year-old campus pastor with a local ministry group, knew he was taking a risk when he negotiated the short sale and debt cancellation. In a short sale, the lender allows a new purchaser to buy a house at a price below the mortgage amount owed by the seller. As part of the deal, the lender typically forgives the unpaid balance.

The risk Foster took was this: If the Senate and House do not pass an extension of the mortgage debt relief law during the lame-duck session, the full principal balance his lender wrote off on his mortgage probably will be treated as ordinary income for 2014. Though he never received a dollar of that "income" in his wallet, under the federal tax code he'll owe a tax payment to the government — $28,000 — on the $100,000 his lender wrote off.

"I don't know how or where we could come up with that," Foster told me last week.

"I can't believe anyone would think this is a reasonable thing to do": hit underwater home sellers with heavy tax bills while they're still struggling to recover from financial crises.

That is precisely the issue now before the House and Senate: whether to extend for one more year a temporary tax relief provision expressly designed for homeowners such as Foster. It took effect in 2007 as foreclosures began to mount across the country and millions of people fell behind on mortgage payments. Then came the bust in 2008. Then the Great Recession, which hasn't really ended for many families.

The mortgage debt relief law expired last Dec. 31, along with other special-interest tax breaks that usually would have been renewed as a package. That process broke down last year, however, leaving people who have received principal debt reductions during 2014 — through short sales, loan modifications or foreclosures — twisting in tax limbo.

In Foster's case, a condo he purchased for $202,000 in May 2008 began to plunge in value almost immediately, as did many others in the greater Chicago area.

By the time of his short sale last month, the bank concluded the most it could get for the condo was $50,000, which an investor agreed to pay. Yet Foster's remaining loan balance was about $150,000, two-thirds of which the bank wrote off.

Last summer, the mortgage debt relief extension appeared to be moving ahead in the Senate. In a bipartisan vote, the Finance Committee approved what became known as the EXPIRE Act. Along with a package of other short-term tax benefits, the bill extended the mortgage debt relief provisions through December 2015.

Sen. Ron Wyden (D-Ore.), chairman of the committee, sent the bill to Majority Leader Harry Reid (D-Nev.) for floor debate and a vote. But Reid barred it from the legislative schedule when Republicans insisted on adding an amendment to the package that would repeal an excise tax that funds the Affordable Care Act. Reid said he would consider allowing a vote on the EXPIRE bill only during the lame-duck session after the midterm elections.

So here we are. Reid indicated last week that the extenders bill should get a vote. Most Capitol Hill experts say there's a good chance the bill will pass in the Senate. On the House side, the outlook is muddier. Ways and Means Committee Chairman Dave Camp (R-Mich.) opposes piecemeal extensions of tax breaks. Like many of his Republican colleagues, he favors comprehensive tax reform, with no temporary extenders.

Where's this headed? No one can yet say for sure, but Alexis Eldorrado, the Chicago realty broker who helped Foster accomplish his short sale, says Congress needs to find a way to do the right thing for thousands of financially pressed owners. To fail to pass one more extension, she says, "would be unconscionable."

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