

# WESTSIDE TITLE SERVICES, INC.

436 W. NEW YORK AVENUE, DELAND, FL 32720

PH (386) 734-4341

FAX (386) 734-4269

SHORTSALE@WESTSIDETITLE.COM

## Instructions to Seller for Short Sale Package

Short Sale Info and Requirements: Keep this form. It describes the short sale process and the items needed.

IRS.gov FAQ regarding Mortgage Forgiveness Debt Relief Act: Keep this form for your information. Visit IRS.gov or contact your accountant for professional advice if you have any questions.

Authorization to Release Information: Please complete and sign this form and send it back to us so we can speak with your lender on your behalf.

Short Sale Disclosure: Please sign and date this form and send it back to us.

Short Sale Questionnaire: Please complete this form and send it back to us.

Am I Eligible for HAFA form: Please complete and sign this form and send it back to us.

Hardship Letter Outline: One of the requirements is a hardship letter. This is an outline to help you compose your hardship letter, which you should sign and send to us, along with the following:

Most recent 2 years' income tax returns (signed) with copies of W-2s and/or 1099s

Most recent 2 months bank statements--all accounts, all pages (online transaction history not acceptable; must be actual monthly statements)

Most recent 2 months pay stubs, or an explanation letter if you can not supply these

Please be advised that each lender has different requirements, and you may be asked to provide additional documentation for your specific lender. Your prompt response to these requests is mandatory.

Please contact us with any questions you may have. We look forward to working with you on your short sale transaction.

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## SHORT-SALE INFORMATION & REQUIREMENTS

The processing of a short payoff request can take anywhere from 2 to 6 months or even more at the current time. Prompt cooperation from the customers, realtors, and title agents is necessary.

The following information is normally required by the Loss Mitigation Department of the lender. This list may vary depending upon the specific requirements of each different lender.

### CUSTOMER REQUIREMENTS

- Written, signed authorization letter allowing lender to release information
- Hardship letter (detailed to explain the reason for default along with any pertinent documentation)
- Most recent two months' bank statements (all pages, all accounts)
- Most recent two months' pay stubs from each borrower/seller
- Most recent two years' signed tax returns with W-2s and/or 1099s attached
- Financial Statement/Disclosure

### REAL ESTATE AGENT REQUIREMENTS

- Listing Agreement with MLS Listing History
- Contract for Sale and Purchase
- Buyer's Pre-Approval Letter or Proof of Funds

### TITLE AGENT REQUIREMENTS

- Preliminary HUD-1 Settlement Statement with purchase price, all seller's closing costs including but not limited to commissions, title fees, tax proration and current payoffs of all encumbrances
- Payoff statements from all other mortgages and liens on property

If there are two mortgages on the property, the first lien holder typically will not reduce their payoff amount until the second lien holder reduces theirs. Lenders will not allow the Borrower/Seller to receive any proceeds from the sale. They may also limit the realtor's commission, seller paid closing costs, and seller contribution to the Buyer.

Lender may require its own BPO or appraisal, and possibly inspections.

Please keep in mind that a short-sale requires the lender to take a loss, usually a large loss, by accepting an amount less than what is necessary to satisfy the total debt. Therefore, the customer may be required to make a monetary contribution to offset the loss, or sign a promissory note for the loss taken by the lender. Also, the Borrower/Seller may check with their accountant regarding the fact that the deficiency amount may be taxed as income.



## The Mortgage Forgiveness Debt Relief Act and Debt Cancellation

If you owe a debt to someone else and they cancel or forgive that debt, the canceled amount may be taxable.

The Mortgage 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, as well as mortgage debt forgiven in connection with a foreclosure, qualifies for the relief.

This provision applies to debt forgiven in calendar years 2007 through 2012. Up to \$2 million of forgiven debt is eligible for this exclusion (\$1 million if married filing separately). The exclusion does not apply if the discharge is due to services performed for the lender or any other reason not directly related to a decline in the home's value or the taxpayer's financial condition.

More information, including detailed examples can be found in [Publication 4681](#), Canceled Debts, Foreclosures, Repossessions, and Abandonments. Also see IRS news release [IR-2008-17](#).

The following are the most commonly asked questions and answers about The Mortgage Forgiveness Debt Relief Act and debt cancellation:

### What is Cancellation of Debt?

If you borrow money from a commercial lender and the lender later cancels or forgives the debt, you may have to include the canceled amount in income for tax purposes, depending on the circumstances. When you borrowed the money you were not required to include the loan proceeds in income because you had an obligation to repay the lender. When that obligation is subsequently forgiven, the amount you received as loan proceeds is normally reportable as income because you no longer have an obligation to repay the lender. The lender is usually required to report the amount of the canceled debt to you and the IRS on a Form 1099-C, Cancellation of Debt.

Here's a very simplified example. You borrow \$10,000 and default on the loan after paying back \$2,000. If the lender is unable to collect the remaining debt from you, there is a cancellation of debt of \$8,000, which generally is taxable income to you.

### Is Cancellation of Debt Income always taxable?

Not always. There are some exceptions. The most common situations when cancellation of debt income is not taxable involve:

- **Qualified principal residence indebtedness:** This is the exception created by the Mortgage Debt Relief Act of 2007 and applies to most homeowners.
- **Bankruptcy:** Debts discharged through bankruptcy are not considered taxable income.
- **Insolvency:** If you are insolvent when the debt is cancelled, some or all of the cancelled debt may not be taxable to you. You are insolvent when your total debts are more than the fair market value of your total assets.
- **Certain farm debts:** If you incurred the debt directly in operation of a farm, more than half your income from the prior three years was from farming, and the loan was owed to a person or agency regularly engaged in lending, your cancelled debt is generally not considered taxable income.
- **Non-recourse loans:** A non-recourse loan is a loan for which the lender's only remedy in case of default is to repossess the property being financed or used as collateral. That is, the lender cannot pursue you personally in case of default. Forgiveness of a non-recourse loan resulting from a foreclosure does not result in cancellation of debt income. However, it may result in other tax consequences.

These exceptions are discussed in detail in [Publication 4681](#).

### What is the Mortgage Forgiveness Debt Relief Act of 2007?

The Mortgage Forgiveness Debt Relief Act of 2007 was enacted on December 20, 2007 (see News Release [IR-2008-17](#)). Generally, the Act allows exclusion of income realized as a result of modification of the terms of the mortgage, or foreclosure on your principal residence.

### What does exclusion of income mean?

Normally, debt that is forgiven or cancelled by a lender must be included as income on your tax return and is taxable. But the Mortgage Forgiveness Debt Relief Act allows you to exclude certain cancelled debt on your principal residence from income. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, qualifies for the relief.

### Does the Mortgage Forgiveness Debt Relief Act apply to all forgiven or cancelled debts?

No. The Act applies only to forgiven or cancelled debt used to buy, build or substantially improve your principal residence, or to refinance debt incurred for those purposes. In addition, the debt must be secured by the home. This is known as qualified principal residence indebtedness. The maximum amount you can treat as qualified principal residence indebtedness is \$2 million or \$1 million if married filing separately.

### Does the Mortgage Forgiveness Debt Relief Act apply to debt incurred to refinance a home?

Debt used to refinance your home qualifies for this exclusion, but only to the extent that the principal balance of the old mortgage, immediately before the refinancing, would have qualified. For more information, including an example, see [Publication 4681](#).

**How long is this special relief in effect?**

It applies to qualified principal residence indebtedness forgiven in calendar years 2007 through 2012.

**Is there a limit on the amount of forgiven qualified principal residence indebtedness that can be excluded from income?**

The maximum amount you can treat as qualified principal residence indebtedness is \$2 million (\$1 million if married filing separately for the tax year), at the time the loan was forgiven. If the balance was greater, see the instructions to Form 982 and the detailed example in Publication 4681.

**If the forgiven debt is excluded from income, do I have to report it on my tax return?**

Yes. The amount of debt forgiven must be reported on Form 982 and this form must be attached to your tax return.

**Do I have to complete the entire Form 982?**

No. Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Adjustment), is used for other purposes in addition to reporting the exclusion of forgiveness of qualified principal residence indebtedness. If you are using the form only to report the exclusion of forgiveness of qualified principal residence indebtedness as the result of foreclosure on your principal residence, you only need to complete lines 1e and 2. If you kept ownership of your home and modification of the terms of your mortgage resulted in the forgiveness of qualified principal residence indebtedness, complete lines 1e, 2, and 10b. Attach the Form 982 to your tax return.

**Where can I get this form?**

If you use a computer to fill out your return, check your tax-preparation software. You can also download the form at IRS.gov, or call 1-800-829-3676. If you call to order, please allow 7-10 days for delivery.

**How do I know or find out how much debt was forgiven?**

Your lender should send a Form 1099-C, Cancellation of Debt, by February 2, 2009. The amount of debt forgiven or cancelled will be shown in box 2. If this debt is all qualified principal residence indebtedness, the amount shown in box 2 will generally be the amount that you enter on lines 2 and 10b, if applicable, on Form 982.

**Can I exclude debt forgiven on my second home, credit card or car loans?**

Not under this provision. Only cancelled debt used to buy, build or improve your principal residence or refinance debt incurred for those purposes qualifies for this exclusion. See Publication 4681 for further details.

**If part of the forgiven debt doesn't qualify for exclusion from income under this provision, is it possible that it may qualify for exclusion under a different provision?**

Yes. The forgiven debt may qualify under the insolvency exclusion. Normally, you are not required to include forgiven debts in income to the extent that you are insolvent. You are insolvent when your total liabilities exceed your total assets. The forgiven debt may also qualify for exclusion if the debt was discharged in a Title 11 bankruptcy proceeding or if the debt is qualified farm indebtedness or qualified real property business indebtedness. If you believe you qualify for any of these exceptions, see the instructions for Form 982. Publication 4681 discusses each of these exceptions and includes examples.

**I lost money on the foreclosure of my home. Can I claim a loss on my tax return?**

No. Losses from the sale or foreclosure of personal property are not deductible.

**If I sold my home at a loss and the remaining loan is forgiven, does this constitute a cancellation of debt?**

Yes. To the extent that a loan from a lender is not fully satisfied and a lender cancels the unsatisfied debt, you have cancellation of indebtedness income. If the amount forgiven or canceled is \$600 or more, the lender must generally issue Form 1099-C, Cancellation of Debt, showing the amount of debt canceled. However, you may be able to exclude part or all of this income if the debt was qualified principal residence indebtedness, you were insolvent immediately before the discharge, or if the debt was canceled in a Title 11 bankruptcy case. An exclusion is also available for the cancellation of certain nonbusiness debts of a qualified individual as a result of a disaster in a Midwestern disaster area. See Form 982 for details.

**If the remaining balance owed on my mortgage loan that I was personally liable for was canceled after my foreclosure, may I still exclude the canceled debt from income under the qualified principal residence exclusion, even though I no longer own my residence?**

Yes, as long as the canceled debt was qualified principal residence indebtedness. See Example 2 on page 13 of Publication 4681, Canceled Debts, Foreclosures, Repossessions, and Abandonments.

**Will I receive notification of cancellation of debt from my lender?**

Yes. Lenders are required to send Form 1099-C, Cancellation of Debt, when they cancel any debt of \$600 or more. The amount cancelled will be in box 2 of the form.

**What if I disagree with the amount in box 2?**

Contact your lender to work out any discrepancies and have the lender issue a corrected Form 1099-C.

**How do I report the forgiveness of debt that is excluded from gross income?**

(1) Check the appropriate box under line 1 on Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment) to indicate the type of discharge of indebtedness and enter the amount of the discharged debt excluded from gross income on line 2. Any remaining canceled debt must be included as income on your tax return.

(2) File Form 982 with your tax return.

**My student loan was cancelled; will this result in taxable income?**

In some cases, yes. Your student loan cancellation will not result in taxable income if you agreed to a loan provision requiring you to work in a certain profession for a specified period of time, and you fulfilled this obligation.

**Are there other conditions I should know about to exclude the cancellation of student debt?**

Yes, your student loan must have been made by:

- (a) the federal government, or a state or local government or subdivision;
- (b) a tax-exempt public benefit corporation which has control of a state, county or municipal hospital where the employees are considered public employees; or
- (c) a school which has a program to encourage students to work in underserved occupations or areas, and has an agreement with one of the above to fund the program, under the direction of a governmental unit or a charitable or educational organization.

**Can I exclude cancellation of credit card debt?**

In some cases, yes. Nonbusiness credit card debt cancellation can be excluded from income if the cancellation occurred in a title 11 bankruptcy case, or to the extent you were insolvent just before the cancellation. See the examples in Publication 4681.

**How do I know if I was insolvent?**

You are insolvent when your total debts exceed the total fair market value of all of your assets. Assets include everything you own, e.g., your car, house, condominium, furniture, life insurance policies, stocks, other investments, or your pension and other retirement accounts.

**How should I report the information and items needed to prove insolvency?**

Use Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment) to exclude canceled debt from income to the extent you were insolvent immediately before the cancellation. You were insolvent to the extent that your liabilities exceeded the fair market value of your assets immediately before the cancellation.

To claim this exclusion, you must attach Form 982 to your federal income tax return. Check box 1b on Form 982, and, on line 2, include the smaller of the amount of the debt canceled or the amount by which you were insolvent immediately prior to the cancellation. You must also reduce your tax attributes in Part II of Form 982.

**My car was repossessed and I received a 1099-C; can I exclude this amount on my tax return?**

Only if the cancellation happened in a title 11 bankruptcy case, or to the extent you were insolvent just before the cancellation. See Publication 4681 for examples.

**Are there any publications I can read for more information?**

Yes.

- (1) Publication 4681, Canceled Debts, Foreclosures, Repossessions, and Abandonments (for Individuals) is new and addresses in a single document the tax consequences of cancellation of debt issues.
- (2) See the IRS news release IR-2008-17 with additional questions and answers on IRS.gov.

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## AUTHORIZATION TO RELEASE INFORMATION

Lender of Record:

Re: Loan Number

Property Address:

I/We the undersigned hereby give express authorization and permission to release and discuss any and all information regarding the above referenced loan(s) on my/our behalf with the following person(s):

Michele Antalik , Susan Woosley and Diana Barcomb of Westside Title Services, Inc.

\_\_\_\_\_ and \_\_\_\_\_ of \_\_\_\_\_  
(Listing Agent)

It is understood and agreed that a copy of this authorization shall serve as original, and will remain in effect for an unlimited period of time, unless and until it is revoked by me/us.

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

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## SHORT SALE DISCLOSURE

Property Address: \_\_\_\_\_

1. Seller agrees to cooperate with Realtor(s) and Westside Title Services (WSTS) to provide information as may be requested by the Lender as part of the Short Sale negotiation process. Such information may include, but is not limited to: prior years' IRS tax returns, bank statements, and other financial information.
  - a. In the event of a successful Short Sale, the Lender may offer to "release" its security interest against the property in exchange for less than the total amount of the Note. A Release will allow the property to be sold without paying off the obligations of the Note. However, the Note may not be satisfied. Seller understands that under such a scenario, Seller may still be personally liable for the difference between the original Note amount and the Short Sale reduced payoff (a "deficiency"). WSTS will attempt to obtain a full Satisfaction and Release whereby the Lender satisfies the Note and releases its lien against the property. However, occasionally a Lender will agree to a Short Sale, but only release its interest in the property, allowing a sale of the property and avoiding foreclosure.
  - b. Seller is encouraged to consult an attorney and/or an accountant to obtain information on any legal and/or tax questions, since WSTS is neither an attorney nor an accountant and therefore does not give legal advice or tax advice.
2. Seller, Buyer, and Realtor(s) hereby indemnify WSTS harmless from any and all losses and damages suffered as a result of the foreclosure of the property, the Short Sale, or anything otherwise associated with this transaction for any reason whatsoever.
3. This agreement shall survive the closing of the transaction contemplated hereby and shall survive the execution or delivery of any and all deeds and other documents at any time executed or delivered under, pursuant to or by reason of this agreement.

SELLER:

BUYER:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

REALTOR(S)

\_\_\_\_\_  
Listing Agent Date

\_\_\_\_\_  
Selling Agent Date

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## SHORT SALE QUESTIONNAIRE

To Be Completed by Homeowner

### HOMEOWNER CONTACT INFORMATION

Full Name(s): \_\_\_\_\_

Property Street Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Your mailing address, if different: \_\_\_\_\_

Cell Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Email address: \_\_\_\_\_

### LENDER AND LOAN INFORMATION

1<sup>st</sup> Mortgage Lender Name: \_\_\_\_\_ Loan Number: \_\_\_\_\_

Balance owed: \_\_\_\_\_ Are payments current? \_\_\_\_\_

If not, how far behind? \_\_\_\_\_

2<sup>nd</sup> Mortgage Lender Name: \_\_\_\_\_ Loan Number: \_\_\_\_\_

Balance owed: \_\_\_\_\_ Are payments current? \_\_\_\_\_

If not, how far behind? \_\_\_\_\_

Do you pay homeowner or condo association fee, and if so, how much? \_\_\_\_\_

Are payments current? \_\_\_\_\_ Provide contact information for association or management company: \_\_\_\_\_

### OTHER FINANCIAL INFORMATION

Have you received a Summons or Notice of Default? \_\_\_\_\_

Date of foreclosure auction, if known \_\_\_\_\_

Have you filed bankruptcy? \_\_\_\_\_ If so, which chapter? \_\_\_\_\_

If so, is this property included in bankruptcy? \_\_\_\_\_ Has bankruptcy been discharged? \_\_\_\_\_

If you have any formal agreements with your lender, please describe them: \_\_\_\_\_

Do you have any liens or judgments against you that may or may not have anything to do with this property? \_\_\_\_\_ If yes, describe: \_\_\_\_\_

Do you pay child support? \_\_\_\_\_ If yes, are you behind on payments? \_\_\_\_\_

Do you owe any IRS income taxes that you may or may not have entered into a payment plan? \_\_\_\_\_

Do you have any bad credit card debt that has been charged off or a judgment filed? \_\_\_\_\_



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## AM I ELIGIBLE FOR HAFA?

To Be Completed by Homeowner

The Home Affordable Foreclosure Alternatives program provides homeowners with a way to settle their mortgage debt on their principal residence without going through foreclosure. If you are unable to qualify for another home loan assistance program, such as a loan modification, or if you no longer wish to keep the house, you can pursue a short sale instead of going through the foreclosure process. A short sale is often an easier process than a foreclosure and may have a less negative impact on your ability to get a loan in the future. This federal government program streamlines the approval process and you may be eligible for relocation assistance of up to \$3,000.00.

Please check items that apply to you. You may be eligible if:

- Your loan was originated on or before January 1, 2009
- Your loan is past due or you believe that you will miss a payment in the foreseeable future (loan can be current)
- The property is (or was) your principal residence
- The property has been vacant or rented out for less than 12 months, and you have not bought another principal residence during that time
- The property is not vacant (over 12 months) or condemned
- The unpaid principal balance on the loan is no greater than \$729,750

If you have checked all the requirements above, you may qualify for the HAFA program.

It is **YOUR RESPONSIBILITY** to contact your bank as soon as the property has been listed (preferably) or as soon as an offer has been received to ask them if they participate in the HAFA program. If they do, it is **YOUR RESPONSIBILITY** to begin the process with them immediately and advise us that you are doing so.

Please sign below indicating that you have received this disclosure and understand the information provided to you.

- I will be pursuing approval under the HAFA program
- I will not be pursuing approval under the HAFA program. I will pursue a traditional short sale approval.

If you are pursuing HAFA approval and have a contact person at your bank, please provide us with their name, phone number, and any other information we might need to coordinate the short sale:

Bank contact: \_\_\_\_\_

SELLER SIGNATURE:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# HARDSHIP OUTLINE

This document is a very important part of your *Short Sale Package*. Your story, though concise, allows for the Lender of Record to feel your situation and possibly place you as a person and or family rather than a loan number in arrears. Be sure to place the times and events in sequential order and if possible – *handwrite*.

## Introduction

Introduce yourself (Borrower(s) and current default status.

## Reason

Why can't you continue to make payments or become current in monies owed?

1. Medical – crisis, bill, etc.
2. Job loss of either borrower or spouse who works to help w/expenses of household
3. Business change, loss, etc.
4. Marital Status – Divorce, separation, etc.
5. Other

## Story

Provide one or two paragraphs explaining your story. Explain how/when and the effect the mortgage payment issue, adjustable mortgage, etc. has had on yourself and your family. Be clear and concise with some expression of emotion concerning your current dilemma.

## Request

Make a statement requesting a Short Pay to the Lender of Record.

## Closing Statement

Thank you for your consideration.

## Sign and Date

(Borrower(s) only.