

CALIFORNIA BOE CHANGES TO TREATMENT OF FORGIVEN DEBT

The California Board of Equalization (BOE) announced that despite a failure to pass extensions of either the federal or state mortgage debt forgiveness law, the BOE will conform to IRS regulation and income from a short sale (on non-recourse loans) will not be treated as taxable.

Excerpts from the BOE's release are below:

December 4, 2013 - George Runner announced today that the Franchise Tax Board will follow the lead of the Internal Revenue Service and not impose a tax penalty on Californians who have sold their home via a short sale.

In a written response sent to Runner today, FTB Chief Counsel Jozel Brunett states, "Since California conforms to the relevant portions of the federal tax law governing the forgiveness of nonrecourse and recourse indebtedness, California would follow the federal treatment for the CCP section 580e transactions."

"This is welcome news for Californians who have had to short sell their homes this year," said Runner. "We learned last month they wouldn't face a federal tax penalty. We now know they won't face a state tax hit either."

In a September letter to FTB's Chief Counsel, Runner requested a legal opinion as to the potential tax consequences for a California resident who completes a short sale under existing California law.

Initially, FTB staff indicated they would need guidance from the IRS before providing an answer. That guidance arrived last month in an IRS letter to Senator Barbara Boxer regarding the expiration of the Mortgage Forgiveness Debt Relief Act. The IRS opined that debt forgiveness involving non-recourse loans held by California homeowners will not be viewed as taxable income.

"We are pleased with the recent clarifications issued by the IRS and the California Franchise Tax Board, which protect distressed homeowners from debt relief income tax associated with a short sale in California," said California Association of Realtors President Kevin Brown. "Distressed California homeowners can now avoid foreclosure or bankruptcy and can opt for a short sale instead, without incurring federal and state tax liability, even after the Mortgage Forgiveness Debt Relief Act of 2007 expires at the end of this year."

A legislative effort to extend tax protection for California short sales derailed this year. However, the FTB's announcement that it will conform with the IRS ensures continued protection for taxpayers without the need for legislation. Elected in November 2010, George Runner represents more than nine million Californians as a member of the State Board of Equalization. For more information, visit www.boe.ca.gov/Runner.

