

110TH CONGRESS  
2D SESSION

# H. R. 5776

To amend the Internal Revenue Code of 1986 to exclude from gross income certain distributions from qualified retirement plans used for mortgage payments.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2008

Mr. SHADEGG (for himself, Mr. FEENEY, Mr. MARCHANT, Mr. BROUN of Georgia, Mrs. MUSGRAVE, Mr. WESTMORELAND, Mr. GOODE, Mr. BARTLETT of Maryland, Mr. GOHMERT, Mrs. BLACKBURN, Mr. FRANKS of Arizona, Mr. AKIN, Mr. CAMPBELL of California, Mr. PITTS, Mr. PRICE of Georgia, Mr. SENSENBRENNER, and Mr. HOEKSTRA) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income certain distributions from qualified retirement plans used for mortgage payments.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; CONSTITUTIONAL AUTHORITY.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Homeowner Empowerment Act of 2008”.

6 (b) CONSTITUTIONAL AUTHORITY TO ENACT THIS  
7 LEGISLATION.—The constitutional authority upon which

1 this Act rests is the power of Congress to lay and collect  
2 taxes, set forth in article I, section 8 of the United States  
3 Constitution.

4 **SEC. 2. EXCLUSION FROM GROSS INCOME OF CERTAIN DIS-**  
5 **TRIBUTIONS FROM QUALIFIED RETIREMENT**  
6 **PLANS USED FOR MORTGAGE PAYMENTS.**

7 (a) IN GENERAL.—Part III of subchapter B of chap-  
8 ter 1 of the Internal Revenue Code of 1986 is amended  
9 by inserting after section 139A the following new section:

10 **“SEC. 139B. CERTAIN DISTRIBUTIONS FROM QUALIFIED RE-**  
11 **TIREMENT PLANS USED FOR MORTGAGE PAY-**  
12 **MENTS.**

13 “(a) IN GENERAL.—Gross income shall not include  
14 a qualified mortgage distribution.

15 “(b) LIMITATION.—Subsection (a) shall not apply to  
16 any distribution made in any month to the extent that  
17 such distribution (when added to all other distributions  
18 made in such month which are taken into account under  
19 subsection (a) with respect to any individual) exceeds  
20 \$5,000.

21 “(c) QUALIFIED MORTGAGE DISTRIBUTION.—For  
22 purposes of this section—

23 “(1) IN GENERAL.—The term ‘qualified mort-  
24 gage distribution’ means any distribution which is  
25 made before January 1, 2010, from an individual re-

1       tirement plan, or from amounts attributable to em-  
2       ployer contributions made pursuant to elective defere-  
3       rals described in subparagraph (A) or (C) of section  
4       402(g)(3) or section 501(c)(18)(D)(iii), directly by  
5       the trustee of the plan to a mortgagee with respect  
6       to a qualified mortgage of any individual. Such term  
7       shall not include any distribution to the extent that  
8       such distribution exceeds the required minimum pay-  
9       ment due under the terms of the mortgage.

10           “(2) QUALIFIED MORTGAGE.—The term ‘quali-  
11       fied mortgage’ means any mortgage which is—

12                   “(A) secured by the principal residence  
13                   (within the meaning of section 121) of the  
14                   mortgagor, and

15                   “(B) originated before January 1, 2008.

16           “(d) REQUIREMENT TO REPAY DISTRIBUTIONS.—

17 For purposes of this section—

18                   “(1) IN GENERAL.—The term ‘qualified mort-  
19       gage distribution’ shall not include any distribution  
20       except to the extent that one or more contributions  
21       to an individual retirement plan of the taxpayer in  
22       an aggregate amount equal to such distribution are  
23       made during the 12-year period beginning on the  
24       date of such distribution.

1           “(2) TREATMENT OF RECONTRIBUTIONS.—In  
2           the case of any contribution to an individual retire-  
3           ment plan taken into account under paragraph (1)—

4                   “(A) the dollar limitations otherwise appli-  
5                   cable to contributions to individual retirement  
6                   plans shall not apply to such contribution, and

7                   “(B) no deduction shall be allowed for  
8                   such contribution.

9           “(3) FAILURE TO REPAY.—In the case of a fail-  
10           ure to make the aggregate amount of contributions  
11           described in paragraph (1) during the 12-year period  
12           described therein with respect to any distribution  
13           which would (but for paragraph (1)) be a qualified  
14           mortgage distribution, such distribution shall be in-  
15           cludible in the gross income of the taxpayer for the  
16           taxable year in which such 12-year period ends in  
17           lieu of the taxable year in which the distribution was  
18           made.”.

19           (b) WAIVER OF 10 PERCENT EARLY WITHDRAWAL  
20           PENALTY WITHOUT REGARD TO REPAYMENT REQUIRE-  
21           MENT.—Paragraph (2) of section 72(t) is amended by  
22           adding at the end the following new subparagraph:

23                   “(H) QUALIFIED MORTGAGE DISTRIBUTI-  
24                   ONS.—Any qualified mortgage distribution

1 (as defined in section 139B, but without regard  
2 to subsection (d) thereof).”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 401(k)(2)(B)(i) of such Code is  
5 amended by striking “or” at the end of subclause  
6 (IV), by striking “and” at the end of subclause (V)  
7 and inserting “or”, and by inserting after subclause  
8 (V) the following new subclause:

9 “(VI) in the case of a distribu-  
10 tion to which section 139B(a) applies,  
11 the date on which such distribution is  
12 made, and”.

13 (2) Section 403(b)(7)(A)(ii) of such Code is  
14 amended by inserting “or 139B(a)” after “section  
15 72(t)(2)(G)”.

16 (3) Section 403(b)(11) of such Code is amend-  
17 ed by striking “or” at the end of subparagraph (B),  
18 by striking the period at the end of subparagraph  
19 (C) and inserting “, or”, and by inserting after sub-  
20 paragraph (C) the following new subparagraph:

21 “(D) for distributions to which section  
22 139B(a) applies.”.

1       (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to distributions made after the  
3 date of the enactment of this Act.

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