Extension of Guidance in Notice 2013-7 for Participants in the HFA Hardest Hit Fund

Notice 2015-77

PURPOSE

This notice amplifies Notice 2013-7, 2013-6 I.R.B. 477, with respect to the Treasury Department's Housing Finance Agency Innovation Fund for the Hardest-Hit Housing Markets (HFA Hardest Hit Fund) by extending through taxable year 2017 the safe harbor method for computing a homeowner's deduction for payments made on a home mortgage and the relief for mortgage servicers and state housing finance agencies (State HFAs) from penalties relating to information reporting. In addition, this notice amplifies Rev. Proc. 2011-55, 2011-47 I.R.B. 793, by extending its scope and effective date through calendar year 2017 for the HFA Hardest Hit Fund.

BACKGROUND

Notice 2013-7 provides guidance on the federal income tax consequences of, and information reporting obligations for, payments made to or on behalf of financially distressed homeowners under programs designed by State HFAs (State Programs) with funds allocated from the HFA Hardest Hit Fund. An updated list of State Programs for which the Treasury Department approves funding is available at www.treasury.gov/HHF. All of these programs are covered by Rev. Proc. 2011-55 and this notice.

Rev. Proc. 2011-55, as amplified by Notice 2013-7, specifies the IRS office to which State HFAs should send the statement required by Notice 2013-7, and provides that State HFAs may, at their option, use Form 1098-MA, *Mortgage Assistance*

Payments, to provide the information required by that notice. Rev. Proc. 2011-55 applies to State HFAs that make payments to mortgage servicers under a State Program. Notice 2013-7 extends the effective date of Rev. Proc. 2011-55 through 2015.

APPLICATION

Income Tax Consequences to Homeowners

For taxable years 2010 through 2017, a homeowner may deduct on his or her Federal income tax return the lesser of—

- The sum of all payments on the home mortgage that the homeowner actually makes during a taxable year to the mortgage servicer or the State HFA; and
- the sum of amounts shown on Form 1098, *Mortgage Interest Statement*, for mortgage interest received, real property taxes, and mortgage insurance premiums (if deductible for the taxable year under § 163(h)(3)(E)).

This safe harbor method of computing the homeowner's deduction applies for a taxable year if (1) the homeowner meets the requirements of §§ 163 and 164 to deduct all of the mortgage interest on the loan and all of the real property taxes on the principal residence, and (2) the homeowner participates in a State Program in which the program payments could be used to pay interest on the home mortgage.

Information Reporting Obligations

The Service will not assert penalties under §§ 6721 and 6722 against a mortgage servicer that reports on Forms 1098 payments received under a State Program during calendar years 2011 through 2017 if the servicer notifies homeowners that the amounts reported on the Form 1098 are overstated because they include government subsidy payments.

The Service will not assert penalties under §§ 6721 and 6722 against any State HFA for failing to file and furnish Forms 1098 for calendar years 2011 through 2017 if the State HFA provides each homeowner and the IRS a statement setting forth (1) the homeowner's name and taxpayer identification number (TIN), and (2) the amount of payments the State HFA made to the mortgage servicer under the State Program during that year (separately stating the amount the State HFA paid and the amount the homeowner paid). Except as provided in Rev. Proc. 2011-55 regarding use of Form 1098-MA, the statement the State HFA provides to the IRS must be a single statement that separately lists the names, TINs, and relevant payment amounts for each homeowner.

For calendar years 2011 through 2017, State HFAs may, at their option, use Form 1098-MA in accordance with Rev. Proc. 2011-55 to provide the information described in Notice 2013-7 instead of filing a single statement for the calendar year.

EFFECT ON OTHER DOCUMENTS

(1) Notice 2013-7 is amplified with respect to the HFA Hardest Hit Fund by extending the guidance relating to (a) the safe harbor method for computing a homeowner's deduction for payments made on a home mortgage through taxable year 2017, and (b) information reporting for those payments through calendar year 2017.

(2) Rev. Proc. 2011-55 is amplified by extending its scope and effective date through calendar year 2017 for the HFA Hardest Hit Fund.

DRAFTING INFORMATION

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