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## **Do Homeowners Still Owe Money After a Foreclosure?**

by Dwan Bent-Twyford

Do the homeowners still owe the bank money after a real estate foreclosure? That is a good question. When you negotiate a successful short sale, keep in mind that the agreed upon price is payment in full.

However, the homeowners may still owe the difference between the mortgage balance and the discounted amount as a result a "deficiency judgment." If granted, this judgment will affect the homeowners and their credit report just as any other judgment.

**You must get the bank to accept "payment in full without pursuit of any deficiency judgment."** You need to explain to the homeowners that the discounted amount (the difference between the mortgage balance and the short sale) may be declared as income on their income tax return by means of a "1099."

Since the homeowners have been under such extreme duress and probably haven't made much income, a 1099 may not adversely affect them. **The homeowners can speak with an accountant for advice.**

### **What is a 1099?**

The 1099 is given to the homeowners as a result of income they've received. For example, if the bank is owed \$100,000 and agrees to accept \$65,000 on a short sale, the homeowners actually made \$35,000 (the short sale amount) and can receive a 1099 for that amount.

**You must explain this to your homeowners when discussing a short sale and advise them to speak with an accountant as to how a 1099 might affect them.**

Typically, the homeowners are showing no income or have had limited income for quite some time. If this is the case, a 1099 will not affect them to the extent that they would refuse to go forward with the deal.

When we explain the results of the foreclosure sale and the 1099 to the homeowners, they never seem to care. They just want us to help them so they can start their lives fresh. Banks are so backed up with paper work, many times the homeowners get lost in red tape and never receive the promised 1099.

### **Deficiency judgment**

The bank can seek a deficiency judgment for the shortage on the actual amount received versus the amount that was due. Using the example above, the judgment would be recorded against the homeowners for \$35,000.

**Likewise, the same judgment can be sought when the property sells at the courthouse for less than what is owed or after the REO department sells the property for less than the full amount.**

When negotiating a short sale, you can require that the bank waive its right to a

deficiency judgment. More often than not, the bank will because we have proven such a desperate hardship. Again, this is explained to the homeowners and left to them to decide whether to pursue the short sale.

Keep in mind that if their property does go to the foreclosure sale, the same result may occur. Why wouldn't they be inclined to work with you now and receive some money?

If the bank does pursue a deficiency judgment, the homeowners may have to file bankruptcy at a later date to remove the judgment. Another option is to short sale the judgment amount at a later date.

### **Do the homeowners proceed with the plan?**

We find that 99% of homeowners don't care about the 1099 or deficiency judgment as long as they can move forward with their lives. Many times we give the homeowners enough cash to cover any tax implication they may incur.

Do the homeowners save that money for taxes? Probably not, but we give it to them, help them start over, and we can sleep soundly at night.

**It's important for you to know that the lender cannot pursue a deficiency judgment and issue a 1099.** They can only do one or the other, not both. If the deficiency is waived as a condition to the short sale, the homeowners will receive a 1099.

If the judgment is not waived, we leave the decision up to the homeowners as to whether to pursue the deal. If given the choice, the lender will opt for the judgment over the 1099 because of the chance to possibly collect something at a later date.

Remember, as stated earlier, if there is no equity and the property goes to the sheriff's sale, and the bank receives less than what was owed, the bank can pursue the judgment or issue the 1099.

Likewise, if the lender gets the property at the sheriff's sale and sells it at a loss, they can then pursue the judgment or issue the 1099.

As you can see, the best option for the homeowners is to deal directly with you because you can help to avoid at least one of these consequences, help them start over, and possibly, help them financially.

### **About the author...**

**Dwan Bent-Twyford** is a distinguished author, motivating national speakers and incredible teacher. Her niche is finding foreclosures with no equity, negotiating with the banks to accept less than what is owed, thus creating a Short Sale. As a result, Dwan has developed several hugely successful *systems* that have earned her students hundreds of thousands of dollars.