Extension of Guidance in Notice 2011–14 and Rev. Proc. 2011–55 for Participants in the HFA Hardest Hit Fund, the Emergency Homeowners' Loan Program, and Substantially Similar State Programs

Notice 2013–7

PURPOSE

This notice amplifies Notice 2011–14, 2011–11 I.R.B. 544, by extending through taxable year 2015 the safe harbor method for computing a homeowner's deduction for payments made on a home mortgage. This notice also amplifies Notice 2011–14 by extending through calendar year 2015 the relief for mortgage servicers and state housing finance agencies (State HFAs) from penalties relating to information reporting, and by advising the Department of Housing and Urban Development (HUD) that it may rely on Notice 2011–14 through calendar year 2015 to report to homeowners and the Internal Revenue Service the payments it makes to mortgage servicers. In addition, this notice amplifies Notice 2011–14 by revising the safe harbor method for computing a homeowner's deduction because of the extension of the deduction for mortgage insurance premiums that was enacted by section 204 of the American Taxpayer Relief Act of 2012, Pub. L. No. 112–240, 126 Stat. 2313 (ATRA).

This notice also amplifies Rev. Proc. 2011–55, 2011–47 I.R.B. 793, by extending its scope and effective date through calendar year 2015.

Finally, this notice supplements Notice 2011–14 and Rev. Proc. 2011–55 by updating the list of housing programs to which Notice 2011–14 and Rev. Proc. 2011–55 apply.

BACKGROUND

Notice 2011–14 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 (1) programs designed by State HFAs (State Programs) with funds allocated from the Treasury Department's Housing Finance Agency Innovation Fund for the Hardest-Hit Housing Markets (HFA Hardest Hit Fund), and (2) HUD's Emergency Homeowners' Loan Program (EHLP) and any existing state program that is substantially similar to the EHLP and is eligible to administer an allocation of funds from the EHLP (the substantially similar state programs, or SSSPs).

The Appendix in Notice 2011–14 lists all of the State Programs that, as of the date Notice 2011–14 was released, the Treasury Department had approved for funding from the HFA Hardest Hit Fund. Subsequent to the publication of Notice 2011–14, the Treasury Department continues to approve funding for additional State Programs. 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 Notice 2011–14, Rev. Proc. 2011–55, and this notice.

For taxable years 2010, 2011, and 2012, Notice 2011–14 provides a safe harbor method for determining the amount that a homeowner may deduct on his or her federal income tax return. Under the safe harbor method, a homeowner may deduct the sum of all payments the homeowner actually makes during a taxable year to the mortgage servicer, HUD, or the State HFA on the home mortgage, but not in excess of the sum of the amounts shown on Form 1098 in box 1 (Mortgage interest received), box 4 (Mortgage insurance premiums) for years 2010 and 2011 only, and box 5 (real property taxes). 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 described in the Appendix to Notice 2011–14 in which the program payments could be used to pay interest on the home mortgage, or in the EHLP or an SSSP.

Section 204(a) of ATRA provides that § 163(h)(3)(E)(iv)(I) of the Internal Revenue Code is amended by striking December 31, 2011, and inserting in its place December 31, 2013. The effect of this amendment is to extend the deduction for qualified mortgage insurance premiums paid or accrued in, or properly allocable to, years 2012 and 2013.

Notice 2011–14 provides that the Service will not assert penalties under §§ 6721 and 6722 of the Code against a mortgage servicer that reports on Forms 1098, *Mortgage Interest Statement*, payments received under a State Program, the EHLP, or an SSSP during calendar years 2011 or 2012 if the servicer notifies homeowners that the amounts reported on the Forms 1098 are overstated because they include government subsidy payments.

Notice 2011–14 also provides that 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 and 2012 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 a mortgage servicer under the State Program or the SSSP during that year (separately stating the amount the State HFA paid and the amount the homeowner paid). 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 and 2012, Notice 2011–14 advises HUD to provide each homeowner and the IRS a statement setting forth (1) the homeowner's name and TIN, and (2) the amount of payments HUD made to the mortgage servicer under the EHLP during that year (separately stating the amount HUD paid and the amount the homeowner paid). The statement HUD provides to the IRS should be a single statement that separately lists the names, TINs, and relevant payment amounts for each homeowner.

Rev. Proc. 2011–55 modifies Notice 2011–14 to specify the IRS office to which State HFAs and HUD should send the statement required by Notice 2011–14, and provides that State HFAs and HUD may, at their option, use Form 1098–MA, *Mortgage Assistance Payments*, to provide the information required by Notice 2011–14. Rev. Proc. 2011–55 is effective for calendar years 2011 and 2012 and applies to (1) State HFAs that make payments to mortgage servicers under a State Program or an SSSP, and (2) HUD for payments made to mortgage servicers under the EHLP.

APPLICATION

Income Tax Consequences to Homeowners

For taxable years 2010 through 2015, 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, HUD, or the State HFA; and
- The sum of amounts shown on Form 1098 for mortgage interest received, real property taxes, and (for years 2010 through 2013 only) mortgage insurance premiums. (For Forms 1098 issued for 2010 and 2011, mortgage servicers report these amounts in Box 4 (Mortgage insurance premiums). On Form 1098 for 2012, Box 4 is unlabeled, but, pursuant to instructions, mortgage servicers should again report these amounts in Box 4.)

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, or the EHLP or an SSSP.

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, the EHLP, or an SSSP during calendar years 2011 through 2015 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 2015 if the State HFA provides each homeowner and the IRS a statement setting forth (1) the homeowner's name and TIN, and (2) the amount of payments the State HFA made to the mortgage servicer under the State Program or the SSSP 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.

In addition, for calendar years 2011 through 2015, HUD should provide each homeowner and the IRS a statement setting forth (1) the homeowner's name and TIN, and (2) the amount of payments HUD made to the mortgage servicer under the EHLP during that year (separately stating the amount HUD paid and the amount the homeowner paid). Except as provided in Rev. Proc. 2011–55, the statement HUD provides to the IRS should be a single statement that separately lists the names, TINs, and relevant payment amounts for each homeowner.

For calendar years 2011 through 2015, State HFAs and HUD may, at their option, use Form 1098–MA in accordance with Rev. Proc. 2011–55 to provide the information described in Notice 2011–14 instead of filing a single statement for the calendar year.

State Programs

The State Programs to which Notice 2011–14, Rev. Proc. 2011–55, and this notice apply are listed at *www.treasury.gov/HHF*. This list includes all of the State Programs that appeared in the Appendix to Notice 2011–14 as well as any additional programs that the Treasury Department has approved for funding from the HFA Hardest Hit Fund.

EFFECT ON OTHER DOCUMENTS

(1) Notice 2011–14 is amplified 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 the taxable year 2015, and (b) information reporting for those payments through the calendar year 2015. Notice 2011–14 also is amplified by revising the safe harbor method for computing a homeowner's deduction to include mortgage insurance premiums paid or accrued for years 2012 and 2013.

(2) Rev. Proc. 2011–55 is amplified by extending its scope and effective date through calendar year 2015.

(3) Notice 2011–14 and Rev. Proc. 2011–55 are supplemented by identifying additional State Programs to which the notice and revenue procedure apply.

DRAFTING INFORMATION

The principal author of this notice is Shareen S. Pflanz of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice, contact Shareen S. Pflanz at (202) 622–4920 (not a toll-free call).

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26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.
(Also Part 1, § 280A.)

Rev. Proc. 2013–13

SECTION 1. PURPOSE

This revenue procedure provides an optional safe harbor method that individual taxpayers may use to determine the amount of deductible expenses attributable to certain business use of a residence during the taxable year. This safe harbor method is an alternative to the calculation, allocation, and substantiation of actual expenses for purposes of satisfying the requirements of § 280A of the Internal Revenue Code. This revenue procedure is effective for taxable years beginning on or after January 1, 2013.

SECTION 2. BACKGROUND

.01 Section 280A(a) generally disallows any deduction for expenses related to a dwelling unit that is used as a residence by the taxpayer during the taxable year. However, § 280A(c)(1) through (4) allow a deduction for expenses related to certain business or rental use of a dwelling unit, subject to the deduction limitation in § 280A(c)(5).

.02 Section 280A(c)(1) permits a taxpayer to deduct expenses that are allocable to a portion of the dwelling unit that is exclusively used on a regular basis (A) as the taxpayer's principal place of business for any trade or business, (B) as a place to meet with the taxpayer's patients, clients,