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[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

REG-135122-16

RIN 1545- BN76

Dividend Equivalents from Sources within the United States

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains proposed regulations relating to certain financial products providing for payments that are contingent upon or determined by reference to U.S. source dividend payments.

DATES: Written or electronic comments must be received by **INSERT DATE 90 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER**.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG-135122-16), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-135122-16), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20044, or sent electronically, via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS REG-135122-16). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, D. Peter Merkel or Karen Walny at (202) 317-6938; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing Regina Johnson at (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

### **Background and Explanation of Provisions**

Final and temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** contain amendments to the Income Tax Regulations (26 CFR Part 1), which provide rules relating to dividend equivalents for purposes of section 871(m). The temporary regulations provide guidance relating to when the delta of an option that is listed on a foreign regulated exchange may be calculated based on the delta of that option at the close of business on the business day prior to the date of issuance. The temporary regulations also provide guidance identifying which party to a potential section 871(m) transaction is responsible for determining whether a transaction is a section 871(m) transaction when multiple brokers or dealers are involved in the transaction. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the final and temporary regulations explains the temporary regulations and these proposed regulations. The regulations affect nonresident alien individuals, foreign corporations, and withholding agents, as well as certain other parties to section 871(m) transactions and their agents.

### **Special Analyses**

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563.

Therefore, a regulatory impact assessment is not required. Because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f), these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### **Comments and Request for Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the “Addresses” heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at [www.regulations.gov](http://www.regulations.gov) or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

### **Drafting Information**

The principal authors of these regulations are D. Peter Merkel and Karen Walny of the Office of Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

### **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements

### **Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

§1.871-15 also issued under 26 U.S.C. 871(m). \* \* \*

Par. 2. Section 1.871-15 is amended by revising paragraph (a)(1), paragraph (g)(4)(ii)(B), paragraphs (p)(1)(ii) through (p)(1)(iv), and paragraph (p)(5) to read as follows:

§1.871-15 Treatment of dividend equivalents.

(a) \* \* \*

(1) [The text of the proposed amendments to §1.871-15(a)(1) is the same as the text of §1.871-15T(a)(1) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(g) \* \* \*

(4) \* \* \*

(ii) \* \* \*

(B) [The text of the proposed amendments to §1.871-15(g)(4)(ii)(B) is the same as the text of §1.871-15T(g)(4)(ii)(B) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(p) \* \* \*

(1) \* \* \*

(ii) [The text of the proposed amendments to §1.871-15(p)(1)(ii) is the same as the text of §1.871-15T(p)(1)(ii) published elsewhere in this issue of the **Federal Register**.]

(iii) [The text of the proposed amendments to §1.871-15(p)(1)(iii) is the same as the text of §1.871-15T(p)(1)(iii) published elsewhere in this issue of the **Federal Register**.]

(iv) [The text of the proposed amendments to §1.871-15(p)(1)(iv) is the same as the text of §1.871-15T(p)(1)(iv) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(5) [The text of the proposed amendments to §1.871-15(p)(5) is the same as the text of §1.871-15T(p)(5) published elsewhere in this issue of the **Federal Register**.]

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John Dalrymple

Deputy Commissioner for Services and Enforcement.

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