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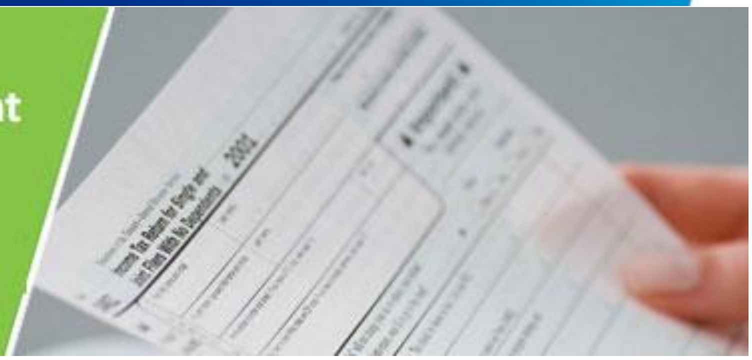

Treasury Postpones the Effective Date for Dividend Equivalent Withholding Regulations for One Year Until January 1, 2017

On Friday, May 8, a senior Treasury official announced that the anticipated final regulations to be issued under section 871(m) of the Internal Revenue Code (treating as U.S. source a dividend equivalent payment) will not take effect before January 1, 2017 rather than January 1, 2016 as initially proposed.

The delayed effective date is welcome news. The rules currently in effect are limited to dividend equivalent payments on only certain equity swaps – equity swaps under which the referenced security is 1) transferred between the parties to the contract (either crossed-in or crossed-out); 2) posted as collateral; or 3) not readily tradable on an established securities market.

The proposed rules, if adopted, would apply to any contract that references a U.S. source dividend and that has a delta of 0.70 or greater with respect to the equity specified in the contract, measured as of the date the long party acquires the transaction. As initially proposed, these broader rules would apply 1) to payments on equity swaps (regardless of when entered into) made on or after January 1, 2016; and 2) to other equity linked instruments (ELIs) entered into, on or after that date. Reports indicate that the final rules would apply to contracts (swaps and ELIs) entered into, on or after January 1, 2017.

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