

**ALERTS**

# IRS To Extend Phase-In Period for US Dividend Equivalent Rules

**October 31, 2018**

On Sept. 20, 2018, the IRS issued Notice 2018-72 (“Notice”) to, among other things, (1) announce that the IRS intends to amend the Section 871(m) Treasury Regulations to extend the phase-in period for delta-one transactions and delay the applicability of the Section 871(m) Treasury Regulations to non-delta-one transactions and (2) extend the application of the simplified standard for determining whether transactions are combined transactions for withholding agents.

**Extension of Phase-In Period**

The IRS intends to revise the Section 871(m) Regulations to extend the phase-in period for delta-one transactions and delay the applicability of Section 871(m) to non-delta-one transactions by providing that the Section 871(m) Treasury Regulations do not apply to a non-delta-one transaction entered into before Jan. 1, 2021.

The IRS extends the phase-in period provided in Notice 2016-76, which provides that the IRS will take into account the extent to which the taxpayer or withholding agent made a good faith effort to comply with the Section 871(m) Regulations in enforcing those regulations for (1) any delta-one transaction entered into in 2017 through 2020 and (2) any non-delta-one transaction that is covered under Section 871(m) and entered into in 2021.

**Extension of the Simplified Standard for Determining Whether Transactions Are Combined Transactions for Withholding Agents**

The Notice extends the period during which the “simplified standard” for determining whether transactions are combined transactions for withholding agents provided in Notice 2016-76 and Notice 2017-42 to include 2019 and 2020.

Under the “simplified standard,” a withholding agent is required to combine transactions for purposes of determining whether transactions are Section 871(m) transactions only when the transactions are over-the-counter transactions that are priced, marketed or sold in connection with each other.

Please contact your attorney at Schulte Roth & Zabel at your earliest convenience if you wish to discuss this notice.

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