



# TaxNewsFlash

United States



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## Final regulations: Dividend equivalents from sources within the United States (text of regulations)

The U.S. Treasury Department and IRS today released for publication in the Federal Register final regulations (T.D. 9887) relating to certain financial products, with regard to dividend equivalents from sources within the United States paid to nonresident alien individuals and foreign corporations.

With today's release, regulations that were proposed in January 2017 are finalized, and corresponding temporary regulations are removed.

The preamble to today's [final regulations](#) [PDF 286 KB] states:

*This Treasury decision finalizes the 2017 proposed regulations without any substantive change.*

These regulations:

- Concern the definition of the term broker for purposes of section 871(m)
- 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
- 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 purpose of this report is to provide text of the final regulations. The final regulations were published in the Federal Register on December 17, 2019.

Separately, the IRS released an advance version of [Notice 2020-02](#) [PDF 36 KB] announcing that Treasury and the IRS intend to amend the section 871(m) regulations to delay the effective/applicability date of certain rules in those final regulations and to extend the phase-in period provided in Notice 2018-72 for certain provisions of the section 871(m) regulations.

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