

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9734]

RIN 1545-BJ56

Dividend Equivalents From Sources Within the United States; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations; correcting amendment.

SUMMARY: This document contains corrections to final and temporary regulations (TD 9734) that was published in the Federal Register on September 18, 2015 (80 FR 56866). These corrections include a change to the effective date that was applicable to transactions issued on or after January 1, 2016, and before January 1, 2017. This document provides guidance to nonresident alien individuals and foreign corporations that hold certain financial products providing for payments that are contingent upon or determined by reference to U.S. source dividend payments.

DATES: This correction is effective on December 7, 2015 and applicable on September 18, 2015.

FOR FURTHER INFORMATION CONTACT: Peter Merkel or Karen Walny at (202) 317-6938 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations (TD 9734) that are the subject of this correction are under sections 871 and 894 of the Internal Revenue Code.

Need for Correction

As published, the final and temporary regulations (TD 9734) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

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 \* \* \*

Par. 2. Section 1.871-15 is amended by revising paragraphs (i)(4) Example 1. (ii), (i)(4) Example 2. (ii), (r)(1), and (r)(3) and adding paragraph (r)(4) to read as follows:

§ 1.871-15 Treatment of dividend equivalents.

\* \* \* \* \*

(i) \* \* \*

(4) \* \* \*

Example 1. \* \* \*

(ii) Subject to paragraph (i)(2)(iv) of this section, the estimated dividend amounts are the per-share dividend amounts because the estimates are reasonable and specified in accordance with paragraph (i)(2)(iii) of this section. The estimated per-share dividend amounts are dividend equivalents for purposes of this section.

Example 2. \* \* \*

(ii) Because the LIBOR leg of the swap contract is reduced to reflect estimated dividends and the estimated dividend amounts are not specified, Foreign Investor is treated as receiving the actual dividend amounts are in accordance with paragraph (i)(2) of this section. The actual per-share dividend amounts are dividend equivalents for purposes of this section.

\* \* \* \* \*

(r) \* \* \* (1) In general. This section applies to payments made on or after September 18, 2015 except as provided in paragraphs (r)(2), (3), and (4) of this section.

\* \* \* \* \*

(3) Effective/applicability date for paragraphs (d)(2) and (e). Paragraphs (d)(2) and (e) of this section apply to any payment made on or after January 1, 2017, with respect to any transaction issued on or after January 1, 2017.

(4) Effective/applicability date for paragraphs (c)(2)(iv), (h), and (q) of this section. [Reserved]. For further guidance, see § 1.871-15T(r)(4).

Par. 3. Section 1.871-15T is amended by removing the language "transaction" and adding in its place "complex contract" in paragraph (h)(7) Example. (iv) and revising paragraph (h)(7) Example. (viii) to read as follows:

§ 1.871-15T Treatment of dividend equivalents (temporary).

\* \* \* \* \*

(h) \* \* \*

(7) \* \* \*

Example. \* \* \*

(viii) FI concludes that the Contract is not a section 871(m) transaction because the complex contract calculation of 7.68 exceeds the benchmark calculation of 4.473.

\* \* \* \* \*

Par. 4. Section 1.1441-1 is amended by removing the second occurrence of paragraph (e)(3)(ii)(E) and adding paragraph (e)(3)(ii)(F) to read as follows:

§ 1.1441-1 Requirements for the deduction and withholding of tax on payments to foreign persons.

\* \* \* \* \*

(e) \* \* \*

(3) \* \* \*

(ii) \* \* \*

(F) [Reserved]. For further guidance, see § 1.1441-1T(e)(3)(ii)(F).

\* \* \* \* \*

Par. 5. Section 1.1441-1T is amended by revising the last sentence of paragraph (f)(3) to read as follows:

§ 1.1441-1T Requirements for the deduction and withholding of tax on payments to foreign persons (temporary).

\* \* \* \* \*

(f) \* \* \*

(3) \* \* \* Paragraphs (e)(3)(ii)(E) and (e)(6) of this section apply beginning September 18, 2015.

\* \* \* \* \*

Par. 6. Section 1.1461-1 is amended by adding a second sentence to paragraph (c)(2)(iii) to read as follows:

§ 1.1461-1 Payments and returns of tax withheld.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(iii) \* \* \* Paragraphs (c)(2)(i)(M) and (c)(2)(ii)(J) of this section apply beginning September 18, 2015.

\* \* \* \* \*

Martin V. Franks, Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

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Internal Revenue Service

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2016, and before January 1, 2017. This document provides guidance to nonresident alien individuals and foreign corporations that hold certain financial products providing for payments that are contingent upon or determined by reference to U.S. source dividend payments.

**DATES:** This correction is effective on December 7, 2015 and applicable on September 18, 2015.

**FOR FURTHER INFORMATION CONTACT:** Peter Merkel or Karen Walny at (202) 317-6938 (not a toll free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final and temporary regulations (TD 9734) that are the subject of this correction are under sections 871 and 894 of the Internal Revenue Code.

**Need for Correction**

As published, the final and temporary regulations (TD 9734) contain errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the final and temporary regulations (TD 9734), that are the subject of FR Doc. 2015-21759, are corrected as follows:

1. On page 56866, in the preamble, the first column, under the caption "DATES", the fourth through seventh lines of the paragraph, the language "applicability, see §§ 1.871-14(j)(3), 1.871-15(r), 1.871-15T(r)(4), 1.1441-1(f)(4), 1.1441-1T(f)(3), 1.1441-2(f), 1.1441-3(h)(3), 1.1441-7(a)(4), and " is corrected to read "applicability, see §§ 1.871-14(j)(3), 1.871-15(r), 1.871-15T(r)(4), 1.1441-1(f)(4), 1.1441-1T(f)(3), 1.1441-2(f), 1.1441-3(h)(3), 1.1441-7(a)(4), 1.1461-1(c)(2)(iii), and".

2. On page 56866, in the preamble, the first column, the eleventh line from the bottom of the column, the language "871(m). This information will be used" is corrected to read "871(m) of the Internal Revenue Code. This information will be used".

3. On page 56868, in the preamble, the first column, the ninth line from the bottom of the column, the language "discussed in section E.1 of this" is corrected to read "discussed in section F.1 of this".

4. On page 56869, in the preamble, the second column, the tenth line of the first full paragraph, the language "dividends. As noted in Part II.L. of this" is corrected to read "dividends. As noted in Part II.M. of this".

5. On page 56870, in the preamble, the first column, the thirty-second line from the bottom of the column, the

language "D. Payment of a Dividend Equivalent" is corrected to read "E. Payment of a Dividend Equivalent".

6. On page 56870, in the preamble, the second column, the twenty-second line of the second full paragraph, the language "equivalent, as discussed in Part II.M of" is corrected to read "equivalent, as discussed in Part II.N of".

7. On page 56870, in the preamble, the second column, the eighteenth line from the bottom of the column, the language "E. Amount of a Dividend Equivalent" is corrected to read "F. Amount of a Dividend Equivalent".

8. On page 56870, in the preamble, the third column, the eleventh line from the bottom of the column, the language "defined in § 1.871-15(a)(14)(ii)" is corrected to read "defined in § 1.871-15(a)(5)".

9. On page 56871, in the preamble, the first column, the twenty-sixth line from the bottom of the column, the language "F. Qualified Indices" is corrected to read "G. Qualified Indices".

10. On page 56872, in the preamble, the first column, the last line of the first full paragraph, the language "qualified index rule. See § 1.871-15(l)" is corrected to read "qualified index rule. See § 1.871-15(l)."

11. On page 56872, in the preamble, the second column, the sixth line from the bottom of the column, the language "G. Combined Transactions" is corrected to read "H. Combined Transactions".

12. On page 56873, in the preamble, the third column, the twelfth line from the top of the column, the language "H. Derivatives Referenced to Partnership" is corrected to read "I. Derivatives Referenced to Partnership".

13. On page 56873, in the preamble, the third column, the fifth line from the bottom of the column, the language "I. Anti-Abuse Rule" is corrected to read "J. Anti-Abuse Rule".

14. On page 56874, in the preamble, the first column, the twenty-fourth line from the top of the column, the language "J. Reporting Obligations" is corrected to read "K. Reporting Obligations".

15. On page 56874, in the preamble, the first column, the fifteenth line of the second full paragraph, the language "871(m) transaction the broker or dealer" is corrected to read "871(m) transaction, the broker or dealer".

16. On page 56874, in the preamble, the third column, the first line of column, the language "K. Recordkeeping Rules" is corrected to read "L. Recordkeeping Rules".

17. On page 56874, in the preamble, the third column, the thirty-second line from the top of column, the language "L.

Contingent and Convertible Debt" is corrected to read "M. Contingent and Convertible Debt".

18. On page 56875, in the preamble, the second column, the third line from the top of the column, the language "M. Amounts Subject to Withholding" is corrected to read "N. Amounts Subject to Withholding".

19. On page 56877, in the preamble, the second column, the fifth line from the bottom of the third full paragraph, the language "on the same underlying securities." is corrected to read "on the same underlying security.".

20. On page 56878, in the preamble, the second column, under the paragraph heading "IV. Effective/Applicability Date", the third sentence of the first full paragraph is removed.

**Martin V. Franks,**

*Chief, Publications and Regulations Branch,  
Legal Processing Division, Associate Chief  
Counsel, (Procedure and Administration).*

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**DEPARTMENT OF DEFENSE**

**Department of the Army, Corps of Engineers**

**33 CFR Part 334**

**West Arm Behm Canal, Naval Surface Warfare Center, Ketchikan, Alaska; Restricted Areas**

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers (Corps) is amending existing regulations for an existing restricted area near Ketchikan, Alaska to correct inaccuracies in regards to flashing beacon light descriptions, point of contact changes, and restrictive area distances for small craft.

**DATES:** *Effective date:* January 6, 2016.

**ADDRESSES:** U.S. Army Corps of Engineers, Attn: CECW-CO (David B. Olson), 441 G Street NW., Washington, DC 20314-1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202-761-4922 or Ms. Linda Speerstra, U.S. Army Corps of Engineers, Alaska District, Regulatory Division, at 907-747-0658.

**SUPPLEMENTARY INFORMATION:** Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40