No. 2026-229
September 21, 2026

Notice 2026-61: Two-year extension of transition relief for dividend equivalents under section 871(m) regulations

The IRS today released **Notice 2026-61** announcing a two-year extension of the transition relief provided under **Notice 2024-44** for taxpayers to comply with the final regulations with respect to dividend equivalents under sections 871(m), 1441, 1461, and 1473.

In particular, Notice 2026-61 (1) limits section 871(m) transactions to delta-one transactions through 2028, (2) applies the good faith effort standard for delta-one transactions through 2028 and non-delta-one transactions for 2029, (3) provides that qualified derivatives dealers (QDDs) will be considered to satisfy their QDD obligations under the qualified intermediary (QI) agreement through 2028 if they make a good faith effort to comply and will not be required to perform a periodic review with respect to their QDD activities for 2027 or 2028, (4) only combines over-the-counter (OTC) contracts that are priced, marketed, or sold in connection with each other for 2027 and 2028, (5) provides that QDDs will not be subject to tax on dividends and dividend equivalents received in 2027 and 2028 in their equity derivatives dealer capacity or withholding on those dividends, and (6) permits withholding agents to apply the qualified securities lender regime for payments made in 2027 and 2028.

Notice 2026-61 states that the Treasury Department and IRS intend to amend the section 871(m) regulations to delay the applicability date of certain rules in those final regulations. However, the anti-abuse rule provided in Treas. Reg. § 1.871-15(o) will continue to apply during the phase-in years described in the notice. As a result, a transaction that would not otherwise be treated as a section 871(m) transaction (including as a result of the notice) may be a section 871(m) transaction under Treas. Reg. § 1.871-15(o).

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