



International Tax

United States Tax Alert

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Treasury issues Notice 2014-14 revising effective date for imposition of gross tax on certain equity linked instruments under Section 871(m)

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In response to industry comments on proposed regulation §1.871-15 issued on December 5, 2013,¹ Treasury and the Internal Revenue Service have issued Notice 2014-14, effective March 4, 2014, to push back the effective date for specified Equity Linked Instruments (ELIs) to which Dividend Equivalent Amount treatment and gross basis tax may be imposed under Internal Revenue Code section 871(m). The originally-announced effective date provided that gross basis tax was to apply for payments made on or after January 1, 2016 with respect to specified ELIs acquired on or after March 5, 2014. (See [United States Alert dated December 6, 2013](#) for discussion.)

Pursuant to IRS Notice 2014-14, the gross basis tax will only apply to ELIs issued on or after 90 days after the date of publication of the final regulations. These changes are to be implemented through amendment to §1.871-15(e) when the regulations are finalized. The December 2013 proposed regulations continue to define the scope of specified ELI characterization and include contingent and convertible bonds that meet or exceed the 0.7 Delta testing requirements on the date such instruments are acquired. The coordinated withholding tax provisions issued with proposed §1.871-15 remain proposed without change.

The Notice solicits written or electronic comments on the change to the 2013 proposed regulations.

¹ 78 Fed. Reg. 73128 (12/5/2013).

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