

871M Tax Treaty Statement - Supplemental information sheet

Effective 1 Jan 2017, the Internal Revenue Service (IRS) implemented new regulations under Section 871(m) of the Internal Revenue Code that prescribe rules for treating 'dividend equivalent payments' that you may be receiving on derivative instruments (such as contract-for-difference or spreadbets) with underlying US equities as US source dividend income subject to US withholding taxes. As a result, these payments will be subject to US withholding tax.

Under US law, the withholding tax rate on US source dividend income paid to a non-US person is 30% of the gross payment. However, this rate may be reduced under an income tax treaty between the US and your country of tax residence. Dividend equivalent payments are treated as actual dividends under section 871(m). As a result, if a tax treaty exists between the US and your country of tax residence under which dividends are subject to a reduced withholding tax rate, the IRS will permit the application of the tax treaty provision on Section 871(m) dividend equivalent payments. The regulations under 871(m) stipulate that the only way to get the benefits of a tax treaty between the US and your country of tax residence is to complete the Tax Treaty Statement which was emailed to you.

Additionally, if you are a broker or an intermediary entity receiving dividend equivalent payments on an underlying US equity from Gain Capital and you are not the ultimate beneficiary of such dividend equivalent payment, you may be required under the 871(m) regulations to withhold, remit and report US withholding taxes on any dividend equivalent payment made to your clients. In this regard, you may be eligible to also apply to the IRS to become a qualified intermediary (also known as a Qualified Derivative Dealer, or QDD status) and enter into a qualified intermediary agreement (QIA) with the IRS under which you agree to undertake the obligations of a withholding agent with respect to 871(m) dividend equivalent payments made to your clients. If the IRS approves such an application, and you provide Gain Capital with a completed form W-8IMY which includes a Qualified Intermediary Employer Identification Number (QI-EIN), Gain Capital will then be able to pay the full amount of the dividend equivalent amounts due to you on US sourced income, without applying any US withholding tax.

Regardless of your plans as to whether you intend to enter into a QIA with the IRS, please complete and return the Treaty Statement. For further information, please see here <https://www.irs.gov/pub/irs-drop/n-16-76.pdf> or contact your tax advisor.