



# Internal Revenue Service

DEPARTMENT OF THE TREASURY

## LB&I International Practice Service Transaction Unit

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Volume	10	Foreign Tax Credits	UIL Code	9432
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<b>Unit Name</b>	French Foreign Tax Credits
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## Issue and Transaction Overview

### French Foreign Tax Credits

US persons living and working in France may be claiming Foreign Tax Credits (FTC) derived from taxes paid to France. The issue generally pertains to the creditability of certain French foreign taxes paid, particularly the two social welfare taxes, “**Contribution Sociale Généralisée**” (CSG) and the “**Contribution pour le Remboursement de la Dette Sociale**” (CRDS) which are borne by individuals employed in France. All natural persons domiciled in France for income tax assessment purposes are liable to pay CSG and CRDS. The taxes are assessed on wages, substitute income, professional fees, statutory family benefits, and investment income. The CSG and CRDS are not creditable or deductible taxes under the Internal Revenue Code or the U.S.-French Income Tax Treaty because they are social security taxes that are covered by the U.S.-French totalization agreement

This IPS unit will discuss how to identify the issue and the tax documents to request to confirm whether the issue exists.

This unit will also touch on two other subjects that have been identified as issues encountered when examining claimed FTC involving France. The first issue pertains to the French tax return on which only net wages are reported. This IPS unit describes the documents to request to confirm that the proper amounts are reported for US income tax purposes. The second issue addressed involves filing status whereby a taxpayer may file a joint return in France and a married filing separate return in the US. This IPS unit outlines the allocation of income earned in France to the individual filing the US return.

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## Summary of Potential Issues

French Foreign Tax Credits	
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## All Issues, Step 1: Initial Factual Development

### French Foreign Tax Credits

Taxpayer files a Form 1116 and claims a foreign tax credit for taxes paid to the country of France.

Fact Element	Resources	6103 Protected Resources
<ul style="list-style-type: none"> <li>Review the taxpayer's workpapers for sourcing of income and expenses and the breakdown of the amounts claimed as foreign income taxes on Line 8 of the Form 1116</li> </ul>	<ul style="list-style-type: none"> <li>Form 1116</li> <li>Form 1116 Instructions</li> <li>Publication 514</li> <li>IRC Section 901</li> </ul>	
<ul style="list-style-type: none"> <li>Review the proof of payment of foreign taxes</li> </ul>	Request complete copies of: <ul style="list-style-type: none"> <li>"Avis D'Impot Sur Le Revenue" (French Income Tax Return)</li> <li>"Declaration des Revenus" (Income Statement), covering same period as the U.S. return(s)</li> <li>"Bordereu de Situation" (Statement of Payments)</li> </ul>	
<ul style="list-style-type: none"> <li>Review the proof of gross income earned in France</li> </ul>	Request a copy of: <ul style="list-style-type: none"> <li>Final "Bulletin de Paie" (Earnings Statement) to obtain "Salaire Brut Fiscal" (Annual Gross Pay)</li> </ul>	

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## Issue 1, Step 2: Review Potential Issues

### French Foreign Tax Credits

#### Issue 1

Creditability of income taxes claimed on the Form 1116?

Explanation of Issue	Resources	6103 Protected Resources
<p><b>For US tax purposes, “<i>Contribution Sociale Généralisée</i>” (CSG) and the “<i>Contribution pour le Remboursement de la Dette Sociale</i>” (CRDS) are not creditable or deductible taxes under the Internal Revenue Code or the U.S.-French Income Tax Treaty because they are social security taxes that are covered by the U.S.-French totalization agreement</b></p> <p>CSG was introduced initially by legislation in France in 1990. The CSG provisions of the legislation were incorporated into the French Social Security Code in 1993. CDRS was initiated in 1996 by laws pertaining to the repayment of social debt. All natural persons residing in France for income tax assessment purposes are liable to pay CSG and CDRS, with certain exceptions. The taxes are assessed on wages, substitute income, professional fees, statutory family benefits and investment income.</p>	<ul style="list-style-type: none"> <li>▪ Eshel v. Commissioner, 142 T.C. No. 11 (April 2, 2014)</li> <li>▪ Social Security Amendments of 1977, Pub. L. No. 95-216, 91 Stat. 1540 § 317(b)(4).</li> </ul>	

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## Issue 1, Step 2: Review Potential Issues (cont'd)

French Foreign Tax Credits		
Issue 1		
Creditability of income taxes claimed on the Form 1116?		
Explanation of Issue	Resources	6103 Protected Resources
<p>The laws concerning CSG and CRDS pertain to the assessment and collection of amounts that directly fund the social security system(s) of the French Republic and pay funding deficits incurred by the system(s). The French tax authorities initially took the position that the two taxes are income taxes that are covered taxes under the income tax treaty and therefore are creditable under the double tax article. The French social security authorities, however, concluded that the two taxes are social security taxes that are covered by the totalization agreement. Note that even if the taxes are covered taxes under the income tax treaty, our obligation to allow a credit under the double tax article is subject to the limitations of US law, which includes the SSA Amendments.</p>		

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## Issue 1, Step 3: Additional Factual Development

### French Foreign Tax Credits

#### Issue 1

Creditability of income taxes claimed on the Form 1116?

Fact Element	Resources	6103 Protected Resources
<ul style="list-style-type: none"> <li>The French have a calendar year tax return. You will find the total foreign income tax owed for a particular calendar year on the “Avis D’Impot Sur Le Revenue” (French Income Tax Return). Examine “Impot” (Tax) Total for the total amount of tax remitted.</li> </ul>	<ul style="list-style-type: none"> <li>“Avis D’Import Sur Le Revenue” (French Income Tax Return)</li> </ul>	

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## Issue 1, Step 4: Develop Arguments

### French Foreign Tax Credits

#### Issue 1

Creditability of income taxes claimed on the Form 1116?

Explanation of Approach	Resources	6103 Protected Resources
<p>If the taxpayer utilized only the “Impot” (Tax) Total amounts from the “Avis D’Impot Sur Le Revenu” (French Income Tax Return), then they did not claim CSG/CRDS as creditable foreign income taxes. Typically the CSG/CRDS taxes on wages are shown on the taxpayer’s “Bulletin de Paie” (Earnings Statement). If the taxpayer did incorrectly claim the CSG/CRDS taxes as a FTC, then an adjustment should be made to reduce the FTC accordingly.</p>	<ul style="list-style-type: none"> <li>▪ “Bulletin de Paie” (Earnings Statement)</li> </ul>	

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## Issue 2, Step 2: Review Potential Issues

### French Foreign Tax Credits

#### Issue 2

Did the taxpayer report the correct amount of income on the Form 1040?

Explanation of Issue	Resources	6103 Protected Resources
<p>Examiners addressing the French FTC issue have noted that on the French income tax return “Avis D’Impot Sur Le Revenue” only the taxpayer’s net salary is reported. In a number of cases, examiners have found that taxpayer’s have used this document to support the amount of wages reported on the Form 1040. However, this is only the net amount of wages (after withholdings for income, social security and other taxes) and therefore the incorrect amount to report as wages for US tax purposes.</p>		

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## Issue 2, Step 3: Additional Factual Development

### French Foreign Tax Credits

#### Issue 2

Did the taxpayer report the correct amount of income on the Form 1040?

Fact Element	Resources	6103 Protected Resources
<ul style="list-style-type: none"> <li>The examiner should request a copy of the “Bulletin de Paie” which is similar to an Earnings and Leave Statement. Request the statement that covers the year end. From this statement the examiner can find the gross pay or “salarie brut” for the year or “annee”. This is the amount that the taxpayer should convert to US dollars and report on their US tax return as wages.</li> </ul>	<ul style="list-style-type: none"> <li>“Bulletin de Paie” (Earnings Statement)</li> </ul>	
<p><b>Note:</b> It has been noted that in some circumstances taxpayer claiming FTC from France received Form W-2 which was incorrect as it erroneously reported net income and not gross income in Box 1. Therefore, it is recommended that in addition to Form W-2, the examiner request a copy of the Earnings &amp; Leave Statement or similar earnings documents to ensure that the correct amount of income is reported for US Tax Purposes.</p>		

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## Issue 2, Step 4: Develop Arguments

### French Foreign Tax Credits

#### Issue 2

Did the taxpayer report the correct amount of income on the Form 1040?

Explanation of Approach	Resources	6103 Protected Resources
IF warranted, an adjustment should be made to correct the income reported for US tax purpose from the net amount of wages reported on the French income tax return (Avis D'Impot Sur Le Revenue) to the gross pay or "salarie brut" amount reported on the year end statement of earnings, the "Bulletin de Paie".	<ul style="list-style-type: none"> <li>▪ "Avis D'Impot Sur Le Revenue" (French Income Tax Return)</li> <li>▪ "Bulletin de Paie" (Earnings Statement)</li> </ul>	

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## Issue 3, Step 2: Review Potential Issues

### French Foreign Tax Credits

#### Issue 3

If the taxpayer filed a joint return in France and a married filing separately return in the U.S., did they properly allocate foreign income taxes?

Explanation of Issue	Resources	6103 Protected Resources
It has been noted that in certain circumstances taxpayers have filed a Joint Tax Return in France, but claimed a different filing status for US tax purposes. In the case where both parties to the jointly filed tax return in France had income, an allocation in proportion to each party's portion of the combined income is necessary in order to derive the income tax paid relevant to the US filer's income.	<ul style="list-style-type: none"> <li>▪ Treas. Reg. 1.901-2(f)(3)</li> </ul>	

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## Issue 3, Step 3: Additional Factual Development

### French Foreign Tax Credits

#### Issue 3

If the taxpayer filed a joint return in France and a married filing separately return in the U.S., did they properly allocate foreign income taxes?

Fact Element	Resources	6103 Protected Resources
<ul style="list-style-type: none"> <li>Review the “Avis D’Impot Sur Le Revenu” (French Income tax return) to confirm filing status, i.e. joint, single return. If a joint return was filed and both parties had income, allocate the taxes paid in proportion to each parties respective income.</li> </ul>	<ul style="list-style-type: none"> <li>“Avis D’Impot Sur Le Revenue” (French Income Tax Return)</li> </ul>	

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## Issue 3, Step 4: Develop Arguments

### French Foreign Tax Credits

#### Issue 3

If the taxpayer filed a joint return in France and a married filing separately return in the U.S., did they properly allocate foreign income taxes?

Explanation of Approach	Resources	6103 Protected Resources
The French Income Tax Return includes a schedule referred to as the “Detail de Revenu” which denotes the income earned by each party to the return providing for the necessary information to calculate the allocation.	<ul style="list-style-type: none"> <li>▪ “Detail de Revenue” (Schedule to French Income Tax Return)</li> </ul>	

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## Issue 3, Step 4: Develop Arguments (cont'd)

### French Foreign Tax Credits

#### Issue 3

If the taxpayer filed a joint return in France and a married filing separately return in the U.S., did they properly allocate foreign income taxes?

Explanation of Approach	Resources	6103 Protected Resources
<p><b>Example:</b></p> <p>A US Citizen files a joint tax return in France with their non-resident spouse. In the US, the US Citizen files claims married filing separately status, files Form 1116 and is on the accrual method of accounting for FTC. On the French Income tax return, the US Citizen's net salary is €100,000 and the non-resident spouse's net salary is €50,000. They report foreign income taxes paid of €33,000 (verified in the following year). It is necessary to allocate the French income taxes paid to arrive at the proper amount relative to the US Citizen's income:</p> <ul style="list-style-type: none"> <li>▪ <math>(\text{US Citizens' Income} / \text{Total Income}) \times \text{French Income Tax} = \text{Income tax allocated to US Citizen.}</math></li> <li>▪ <b><math>(€100,000 / €150,000) \times €33,000 = €22,000</math></b></li> <li>▪ The US Citizen would convert the Euros to US Dollars using the average exchange rate for the year. This amount can be claim as foreign taxes paid or accrued on Form 1116, Line 8.</li> </ul>		

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## Training and Additional Resources

Definition of Creditable Foreign Income Tax or Tax in Lieu of an Income Tax		
Type of Resource	Description(s) and/or Instructions for Accessing	References
CENTRA sessions	FY12 – Global High Wealth – Foreign Tax Credits	
Podcasts / Videos	FY11 CPE – International Individual Compliance	International Individual Compliance - Foreign Tax Credit
Other Training Materials	Phase I – IIC Basic International Training – Lesson – Foreign Tax Credits	Phase I – IIC Basic International Training
Other Training Materials	Phase II – IIC Basic International Training – Lesson – AMT Foreign Tax Credits	Phase II – IIC Basic International Training

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## Glossary of Terms and Acronyms

Acronym	Definition
Annee	Year
Avis D'Impot Sur Le Revenue	French Income Tax Return
Bordereu de Situation	Statement of Payments
<i>Bulletin de Paie</i>	Earnings Statement
CRDS	<i>Contribution Pour le Remboursement de la Dette Sociale</i>
CSG	<i>Contribution Sociale Généralisée</i>
Declaration des Revenus	Income Statement
FTC	Foreign Tax Credit
Impot	Tax
Salaire Brut	Gross Pay

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Issue	Associated UIL(s)	References
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Foreign Source Income Reporting	TBD	IPS Unit Coming Soon