

US TAX COURT
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US TAX COURT
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JUN 13 2019

ORY ESHEL & LINDA CORYELL ESHEL,
Petitioners,

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

ELECTRONICALLY FILED

Docket No. 8055-12

JOINT STATUS REPORT

UNITED STATES TAX COURT

ORY & LINDA CORYELL ESHEL,)
)
-----)
 Petitioners,)
)
 v.) Docket No. 8055-12
)
 COMMISSIONER OF INTERNAL REVENUE,) Filed Electronically
)
 Respondent.)

JOINT STATUS REPORT

PURSUANT to the Court's order dated April 15, 2019, the following is the parties' report on the status of this case.

1. In the April 15, 2019 order, the Court directed respondent to provide the Court the State Department's best estimate of how many additional exchanges of information will be required to complete the diplomatic process and the length of time those exchanges are expected to consume.

2. On May 30, 2019, the State Department formally notified to IRS Office of Chief Counsel that the State Department and France had finalized a shared understanding that, for purposes of Article 2(3) of the Totalization Agreement between the United States and France ("Totalization Agreement"), the laws establishing the *contribution sociale généralisée* ("CSG") and the *contribution pour le remboursement de la dette sociale* ("CRDS") do not "amend or supplement" the laws set forth

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in Article 2(1)(b) of the Totalization Agreement. A copy of the

May 30, 2019 letter is attached hereto.

3. As the Department of State is the agency that dictates the official position of the United States government, as signatory to the Totalization Agreement, respondent is bound by the Department of State's determination that there is a shared understanding with France that the CSG and CRDS do not amend or supplement the laws in Article 2(1)(b) of the Totalization Agreement. Accordingly, Respondent no longer asserts that petitioners are precluded from claiming the foreign tax credits at issue in this case.

4. Petitioners have informed respondent of their intention to seek attorney's fees and costs in this case under both I.R.C. § 7430 & 6673. Respondent has requested that petitioners provide information regarding that claim to allow respondent to evaluate its merits and petitioners have indicated this information will be so provided in the next 14 days.

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5. The parties request that the Court order the parties to file within 60 days either appropriate documents resolving the case, or an appropriate stipulation of settled issues and a motion for costs.

/s/ 6/13/2019
STUART E. HORWICH DATE
Counsel for Petitioners
Tax Court Bar No. HS0347
199 N. Woodbury Rd., Suite 103
Pitman, NJ 08071
(856) 347-2937 ext. 105

By: /s/ 6/13/2019
SCOTT A. HOVEY DATE
Counsel for Respondent
Tax Court Bar No. HS0414
455 Massachusetts Avenue, NW
Suite 500
Washington, DC 20001
Telephone: (202) 572-4716



United States Department of State

Washington, D.C. 20520

May 30, 2019

Anne Devereaux
Deputy Associate Chief Counsel, International
Internal Revenue Service
1111 Constitution Avenue NW, Room 4579
Washington, DC 20244

Dear Ms. Devereaux,

On behalf of the Department of State, I am writing to confirm the following shared understanding of the United States of America and the French Republic with respect to the applicability of the Agreement on Social Security between the United States of America and the French Republic, signed at Paris March 2, 1987 ("the Agreement") to the *Contribution Sociale Généralisée* (CSG) and the *Contribution au Remboursement de la Dette Sociale* (CRDS): The laws establishing the CSG and CRDS levies do not "amend[]" or supplement[]" within the meaning of Article 2(3) of the Agreement the laws set forth in Article 2(1)(b) of the Agreement.

This shared understanding has been memorialized in diplomatic communications this year between the United States and France, and reflects the view arising out of previous government-to-government communications as well as extensive internal consultations among representatives of the Department of State including the Office of the Legal Adviser, the Social Security Administration and the Internal Revenue Service. We appreciate your agency's efforts on this matter and look forward to our continuing cooperation regarding international agreements.

Sincerely,

Michelle Bernier-Toth
Managing Director
Overseas Citizens Services
Bureau of Consular Affairs
U.S. Department of State
