Internal Revenue Service
DEPARTMENT OF THE TREASURY

LB&I Transaction Unit

Unit Name	French Foreign Tax Credits	
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Issue and Transaction Overview

French Foreign Tax Credits

NOTE: This Practice Unit updates the 08/28/19 Practice Unit with the same title. The Practice Unit was updated to remove references to resources that are no longer current or available and to correct minor grammar and formatting errors. The prior update in 2019 was made to reflect a change in IRS' position. IRS is no longer challenging the creditability of the French Contribution Sociale Generalisee (CSG) and Contribution au Remboursement de la Dette Sociate (CRDS) for the U.S. Foreign Tax Credit (FTC). This change is based on a shared understanding, memorialized in diplomatic communications in 2019 between the U.S. and France that the CSG and CRDS are not covered by the U.S.-France Totalization Agreement.

- U.S. persons living and working in France may be claiming the 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, CSG and 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 items such as wages, substitute income, professional fees, statutory family benefits, and investment income.
- As mentioned in the above note, the IRS no longer maintains that the CSG and CRDS are ineligible for a foreign tax credit under IRC 901.
- This practice unit will discuss how to identify issues related to the FTC and the tax documents needed to substantiate creditable French taxes.
- 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 practice unit describes the documents necessary to confirm that the proper amounts are reported for U.S. income tax purposes. The second issue involves filing status whereby a taxpayer may file a joint return in France and a married filing separate return in the U.S. This unit outlines the allocation of income earned in France to the individual filing the U.S. return.

Transaction and Fact Pattern

French Foreign Tax Credits
Facts
▪ The taxpayer is a U.S. citizen or permanent resident (green card holder) but is considered a full-time resident of France. ▪ The taxpayer provides a copy of their French income tax return. However, the taxpayer erroneously reports a net income amount on the U.S. tax return because only the net income is reported and taxed in France. Typically, if there are tax withholdings such as the CSG or the CRDS, only the net amount after these tax withholding reductions from the gross income is reported on a French income tax return. ▪ If the taxpayer claims the FTC by electing the accrued method, the taxpayer must generally use the average exchange rate for currency conversion. ▪ Sometimes taxpayers have filed a joint tax return in France but claimed a different filing status for U.S. tax purposes, such as married filing separate. 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 U.S. filer's income.

Summary of Potential Issues

French Foreign Tax Credits	
Issue 1	Are the foreign taxes claimed on Form 1116 creditable?
Issue 2	Did the taxpayer report the correct amount of income on Form 1040?
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?

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
▪ 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.	▪ Form 1116 ▪ Form 1116 Instructions ▪ Pub. 514 ▪ IRC 901
▪ Review the proof of payment of foreign taxes. − Request complete copies of: ▪ “Avis D’Impot Sur Le Revenu” (French Income Tax Return). ▪ “Declaration des Revenus” (Income Statement), covering same period as the U.S. return(s). ▪ “Bordereu de Situation” (Statement of Payments).	▪ “Avis D’Import Sur Le Revenu” (French Income Tax Return) ▪ “Declaration des Revenus” (Income Statement) ▪ “Bulletin de Paie” (Earnings Statement)
▪ Review the proof of gross income earned in France. − Request a copy of: ▪ Final “Bulletin de Paie” (Earnings Statement) to obtain “Salaire Brut Fiscal” (Annual Gross Pay).	▪ “Bulletin de Paie” (Earnings Statement)

Issue 1, Step 2: Review Potential Issues

French Foreign Tax Credits
[Issue 1](#)
Are the foreign taxes claimed on Form 1116 creditable?

Explanation of Issue	Resources
▪ In order for a foreign income tax to qualify for the FTC, all four of the following must be true: − The tax must be paid or accrued by the taxpayer. − The tax must be imposed on the taxpayer by a foreign country or possession of the U.S. − The tax must be compulsory (it must be the legal and actual tax liability). − The tax must be an income tax or a tax levied in lieu of an income tax.	▪ IRC 901 ▪ Treas. Reg. 1.901-2 ▪ Pub. 514 ▪ Practice Unit, Creditable Foreign Taxes
▪ As mentioned previously, the IRS will no longer challenge the creditability of the payments of CSG and the CRDS for the FTC.	▪ IRM 21.8.1.4.3.1

Issue 1, Step 3: Additional Factual Development

French Foreign Tax Credits
Issue 1

Fact Element	Resources
▪ The French tax year is a calendar year. You will find the total foreign income tax owed for a particular calendar year on the “Avis D’Impot Sur Le Revenu” (French Income Tax Return). Examine “Impot” (Tax) Total for the total amount of tax remitted.	▪ “Avis D’Import Sur Le Revenu” (French Income Tax Return)

Issue 1, Step 4: Develop Arguments

French Foreign Tax Credits
Issue 1

Explanation of Adjustment	Resources
▪ Typically, taxes withheld on wages and social taxes such as the CSG/CRDS taxes on wages are shown on the taxpayer's "Bulletin de Paie" (Earnings Statement). Review the Bulletin de Paie and analyze any withholding taxes for creditability. If the taxpayer incorrectly claims any French taxes that are not eligible for the FTC, then an adjustment should be made to reduce the FTC accordingly.	▪ "Bulletin de Paie" (Earnings Statement)

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
▪ Examiners addressing the French FTC issue have noted that on the French income tax return "Avis D'Impot Sur Le Revenu" only the taxpayer's net salary is reported. In a number of cases, examiners have found that taxpayers 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 U.S. tax purposes.	

Issue 2, Step 3: Additional Factual Development

French Foreign Tax Credits

[Issue 2](#)

Fact Element	Resources
▪ 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 U.S. dollars and report on their U.S. tax return as wages.	▪ "Bulletin de Paie" (Earnings Statement)
! **CAUTION:** It has been noted that in some circumstances taxpayers 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 copies of earnings documents to ensure that the correct amount of income is reported for U.S. tax purposes.	

Issue 2, Step 4: Develop Arguments

French Foreign Tax Credits
Issue 2

Explanation of Adjustment	Resources
▪ If warranted, an adjustment should be made to correct the income reported for U.S. tax purposes from the net amount of wages reported on the French income tax return (Avis D'Impot Sur Le Revenu) to the gross pay or "salarie brut" amount reported on the year end statement of earnings, the "Bulletin de Paie".	▪ "Avis D'Impot Sur Le Revenu" (French Income Tax Return) ▪ "Bulletin de Paie" (Earnings Statement)

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
▪ It has been noted that in certain circumstances taxpayers have filed a joint tax return in France but claimed a different filing status for U.S. 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 U.S. filer's income.	▪ Treas. Reg. 1.901-2(f)(3)

Issue 3, Step 3: Additional Factual Development

French Foreign Tax Credits

Issue 3

Fact Element	Resources
▪ 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.	▪ "Avis D'Impot Sur Le Revenu" (French Income Tax Return)

Issue 3, Step 4: Develop Arguments

French Foreign Tax Credits
Issue 3

Explanation of Adjustment	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.	▪ "Detail de Revenu" (Schedule to French Income Tax Return)
▪ Example: A U.S. Citizen files a joint tax return in France with their non-resident spouse. In the U.S., the U.S. Citizen files married filing separately status, including Form 1116 and elects the accrued method of accounting for FTC. On the French income tax return, the U.S. 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 U.S. Citizen's income: – (U.S. Citizens' Income / Total Income) x French Income Tax = Income tax allocated to U.S. Citizen. – (€100,000 / €150,000) x €33,000 = €22,000 – The U.S. Citizen would convert the Euros to U.S. Dollars using the average exchange rate for the year. This amount can be claimed as foreign taxes paid or accrued on Form 1116, Line 8.	▪ IRC 986(a)(1)(A) – (B) ▪ Form 1116

Index of Referenced Resources

French Foreign Tax Credits
IRC 901
IRC 986(a)(1)(A)-(B)
Treas. Reg. 1.901-2
IRM 21.8.1.4.3.1
Pub. 514
Form 1116
Form 1116 Instructions
Avis D'Impot Sur Le Revenu (French Income Tax Return)
Declaration des Revenus (Income Statement)
Bordereu de Situation (Statement of Payments)
Bulletin de Paie (Earnings Statement)
Salaire Brut Fiscal (Annual Gross Pay)
Detail de Revenu (Schedule to French Income Tax Return)

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Training and Additional Resources

French Foreign Tax Credits	
Type of Resource	**Descriptions**
Podcasts / Videos	▪ YouTube, International Taxpayers - Foreign Tax Credit
Databases / Research Tools	▪ BNA Tax Management Int'l Portfolio 6020 - 1st ▪ Bittker & Lokken, Fed. Tax'n Inc, Est and Gift Part 9 Chapter 72

Glossary of Terms and Acronyms

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

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Index of Related Practice Units

Associated UIL(s)	Related Practice Unit
9432	Creditable Foreign Taxes
9432	Sourcing of Income