

UNITED STATES TAX COURT
WASHINGTON, DC 20217

DRC

ORY ESHEL & LINDA CORYELL ESHEL,)
)
Petitioner(s),)
)
v.) Docket No. 8055-12.
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent)

ORDER

Pursuant to the remand from the U.S. Court of Appeals for the D.C. Circuit, respondent, in conjunction with the U.S. Department of State, has been endeavoring to secure the views of the Government of France as to the proper interpretation of the U.S.-France Totalization Agreement that is at issue in this case. These diplomatic endeavors have been protracted. Frustrated by these delays, petitioners filed, on January 16, 2018, a motion urging this Court to convene a hearing for the purpose of making a final determination of French law pursuant to Tax Court Rule 146. Petitioners submit that this hearing should be held within 60 days, believing that this should be sufficient time for the United States and France to conclude their communications. We shall deny petitioners' motion.

While we understand petitioners' frustration at the slow pace at which diplomatic wheels grind, this Court is in no position to set the schedule on which sovereign governments conduct their diplomacy. The Court of Appeals directed this Court on remand to do its best to ascertain the "shared understanding" of the United States and France concerning the proper interpretation of the Totalization Agreement and its application to the two French laws at issue. The pending diplomatic exchanges may shed important light on whether there is a "shared understanding" between these governments and (if so) what it is. We believe it would be inappropriate, and contrary to the spirit of the Court of Appeals' remand, to decide, before the termination of these diplomatic proceedings, the question petitioners wish us to decide. It is therefore

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ORDERED that Petitioners' Motion to Conduct a Hearing to Make a Determination of Foreign Law Under Rule 146 is denied. It is further

ORDERED that the parties shall, on or before March 23, 2018, file a joint status report indicating the then-present status of the case.

(Signed) Albert G. Lauber
Judge

Dated: Washington, D.C.
January 22, 2018