***1 T.C. 863 (1943)***

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A fiduciary who takes possession of a taxpayer's assets and has notice of a federal tax claim is personally liable for the unpaid taxes to the extent they distribute assets without satisfying the tax debt, even if those assets are subsequently seized by a sheriff under a judgment held by another creditor.

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**Summary**

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Northwestern Jobbers Credit Bureau took possession of Lorhn Miller's assets under a deed of trust. The IRS notified Northwestern of Miller's unpaid 1934 income taxes. Northwestern held $348.44 in cash from Miller's assets. A sheriff levied an execution against Northwestern under a judgment obtained by another creditor and seized the $348.44. The Tax Court held that Northwestern was still personally liable for Miller's unpaid taxes because, as a fiduciary with notice, it was obligated to satisfy the tax debt before any other claims, regardless of the subsequent levy. The levy by another creditor did not extinguish Northwestern's responsibility to the IRS.

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**Facts**

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Lorhn R. Miller executed a deed of trust, and Northwestern Jobbers Credit Bureau took possession of his assets to convert them to cash.r
The IRS notified Northwestern of Miller's outstanding income tax liability for 1934 on January 5, 1937.r
By July 17, 1940, Northwestern held $348.44 from Miller's assets, after deducting administrative expenses.r
On July 17, 1940, the sheriff of Ramsey County levied an execution on Northwestern under a judgment previously obtained against Miller by another creditor and seized the $348.44, which constituted all of Miller's remaining funds held by Northwestern.r
Northwestern then attempted to have Miller sign a voluntary bankruptcy petition, without success.r

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**Procedural History**

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The Commissioner of Internal Revenue issued a notice to Northwestern determining a deficiency in Miller's 1934 income tax and asserting Northwestern's personal liability under Section 3467 of the Revised Statutes. Northwestern petitioned the Tax Court, arguing that the seizure of funds under the sheriff's levy relieved it of liability. The Commissioner moved for an order holding Northwestern personally liable. The Tax Court granted the Commissioner's motion, holding Northwestern liable for the unpaid taxes. r

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**Issue(s)**

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Whether a fiduciary who has notice of a federal tax claim and possesses assets of the taxpayer is relieved of personal liability for the unpaid taxes under 26 U.S.C. § 3713 (formerly R.S. § 3467) when those assets are seized by a sheriff under a judgment obtained by another creditor.r

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**Holding**

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No, because a fiduciary with notice of a federal tax claim has a duty to satisfy that claim before any other obligations, and the subsequent levy by another creditor does not extinguish that responsibility.

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**Court's Reasoning**

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The court reasoned that once Northwestern, as assignee, took possession of Miller's assets with notice of the tax claim, it became a trustee for the United States, obligated to prioritize the tax debt. The court relied on precedent establishing that a person who becomes invested with the title of a debtor's property is made trustee for the United States and bound first to pay its debt out of the debtor's property. The court also noted that even a distribution to other creditors under a court judgment would not relieve the petitioner from the liability. Quoting *United States v. Butterworth Corp.*, the court emphasized that

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