## *Gatto v. Commissioner*, 18 T.C. 840 (1952)

A transferee of assets is liable for a transferor's unpaid tax deficiencies up to the value of the transferred assets, provided the government has exhausted remedies against the transferor, and the assessment against the transferee is timely.

### Summary

The case addresses whether a wife is liable for her husband's unpaid income taxes as a transferee of assets. The court found the wife liable because the husband transferred assets to her, leaving him with insufficient assets to pay his tax liabilities. The court determined the assessment against the wife was timely because the IRS issued a jeopardy assessment, which extended the time for issuing a deficiency notice. However, the court limited the wife's liability to the extent the government had exhausted its remedies against the husband and found that the wife was not liable for the remaining balance of the tax, to the extent the government had not attempted to collect from the husband. This ruling establishes the principles for transferee liability.

### Facts

Thomas Gatto had unpaid income tax deficiencies for 1944 and 1945 totaling $27,970.41. He transferred real estate with a net equity of $46,838.97 to his wife, the petitioner. Following the transfer, the husband was left with only $2,311.59 in assets. The IRS made a jeopardy assessment against the taxpayer. The IRS issued a deficiency notice to the wife on July 19, 1951, and asserted transferee liability. The wife did not appear at trial nor introduce any evidence, nor was she represented by counsel.

### Procedural History

The Commissioner of Internal Revenue (IRS) determined tax deficiencies against Thomas Gatto. After Gatto transferred assets to his wife, the Commissioner sought to assess transferee liability against her. The Tax Court heard the case and ruled on the liability.

### Issue(s)

1. Whether the assessment of transferee liability was barred by the statute of limitations.
2. Whether the wife, as a transferee, was liable for the unpaid tax deficiencies of her husband.

### Holding

1. No, because a jeopardy assessment was made, which allowed for a timely notice.

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2. Yes, because the husband transferred assets to her, leaving him with insufficient assets to pay his tax liabilities and a jeopardy assessment was made.

**Court's Reasoning**

The court first addressed the statute of limitations. The IRS issued a jeopardy assessment on June 22, 1951, and the deficiency notice was mailed on July 19, 1951. Under Section 273(b) of the Code, a deficiency notice must be mailed within 60 days after a jeopardy assessment. The court determined the notice was timely, as it was within the 60-day window. The court then considered whether the wife was liable for the tax deficiencies. Section 311(b)(1) of the Code provides that the period of limitation for assessment of transferee liability is within one year after the expiration of the period of limitation against the transferor. The court cited that "the original periods of limitation for assessment against the transferor, Thomas Gatto, for the years 1944 and 1945, were extended by agreements signed by him to June 30, 1950." The court found that the wife was a transferee and, as such, liable for the tax deficiencies because the transfer of assets left the husband unable to pay his taxes. However, the court stated, "Transferee liability in equity is a secondary liability and all reasonably possible remedies against the taxpayer-transferor must first be exhausted." The court found that the husband had a bank account and a vacant lot, that were not credited to the wife's liability. Therefore, her liability was reduced by the value of the remaining assets.

**Practical Implications**

This case emphasizes the importance of timely assessments in tax matters. Furthermore, it illustrates that a transferee can be held liable for the transferor's tax obligations, particularly when the transferor is left with insufficient assets to cover the debt. The court's reasoning underscores the concept of "transferee liability," which can be extended to spouses, family members, or other recipients of assets from a delinquent taxpayer. It is crucial for the IRS to exhaust all remedies against the original taxpayer before pursuing collection from the transferee. Therefore, legal professionals must advise clients on the implications of asset transfers, especially in situations involving potential tax liabilities, to avoid transferee liability. Moreover, this case informs how to calculate the transferee liability, by only allowing the liability to be the remaining amount after the IRS has used all reasonably possible remedies against the taxpayer. Subsequent cases continue to cite this case for the principal for transferee liability.

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