***Albert Matut as Possessor of Certain Cash, Petitioner v. Commissioner of Internal Revenue, Respondent, 88 T. C. 1250 (1987)***

Section 6867 allows the IRS to presume ownership of seized cash by the possessor if the true owner is not readily identifiable, but the true owner can challenge the assessment and be retroactively recognized as the owner.

**Summary**

In Matut v. Commissioner, the IRS seized $87,500 from Albert Matut and made a termination assessment under Section 6867, presuming Matut as the owner due to the true owner's non-identification. The case centered on whether Mario Lignarolo, acting as an agent for COINPA, S. A. , could claim ownership. The Tax Court determined that Lignarolo, as COINPA's agent, was entitled to the cash as the true owner at the time of seizure. The court dismissed the case against Matut for lack of jurisdiction, emphasizing that the IRS should have issued a new notice of deficiency to the true owner, COINPA, after the determination of ownership.

**Facts**

In April 1983, law enforcement seized $175,000 from Albert Matut, who claimed the money belonged to Mario Lignarolo. Lignarolo was acting as an agent for COINPA, S. A. , a Panamanian corporation. Lignarolo had been collecting funds in Miami and converting them into cashier's checks or money orders for deposit into accounts designated by COINPA. The IRS made a termination assessment against Matut under Section 6867, presuming the cash as Matut's income. Lignarolo later reimbursed COINPA for the seized amount, claiming ownership of the funds.

**Procedural History**

The IRS issued a notice of deficiency to Matut in June 1984. The Tax Court initially dismissed Matut's petition in his individual capacity and denied Lignarolo's intervention as a party petitioner. In a subsequent ruling, the court affirmed its jurisdiction to determine ownership and allowed Lignarolo to present evidence of his ownership rights. The final decision found Lignarolo as the true owner and dismissed the case against Matut for lack of jurisdiction.

**Issue(s)**

1. Whether the Tax Court has jurisdiction to determine the true owner of the seized cash under Section 6867.
2. Whether Mario Lignarolo, as an agent of COINPA, S. A. , can be considered the true owner of the seized cash.
3. Whether the IRS's termination assessment against Matut was valid given the later determination of the true owner.

**Holding**

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1. Yes, because the court has the authority to determine ownership under Section 6867.
2. Yes, because Lignarolo, as COINPA's agent, had fiduciary responsibilities and legal rights to the cash as determined by the court.
3. No, because the IRS should have issued a new notice of deficiency to the true owner, COINPA, after the court's determination of ownership, invalidating the notice issued to Matut.

**Court's Reasoning**

The court applied Section 6867, which allows the IRS to presume the possessor as the owner of seized cash if the true owner is not readily identifiable. However, the statute also provides that the true owner can challenge the assessment and be retroactively recognized as the owner. The court found that Lignarolo, as COINPA's agent, had legal rights to the cash under Florida law, which recognizes an agent's ability to reclaim property on behalf of the principal. The court emphasized the importance of identifying the true owner to ensure proper tax assessment and collection. The majority opinion rejected the IRS's attempt to treat the case as a forfeiture, clarifying that Section 6867 is not a forfeiture statute. The dissenting opinions argued over the timing and effect of the ownership determination but agreed that the true owner's tax liability should be the focus.

**Practical Implications**

This decision clarifies that under Section 6867, the IRS must identify and assess the true owner of seized cash once determined by the court. Legal practitioners should advise clients involved in similar situations to promptly assert ownership to challenge IRS assessments. The ruling impacts how the IRS handles termination assessments, requiring a reassessment against the true owner once identified. This case may influence future cases involving seized assets, emphasizing the need for clear identification of ownership to prevent misdirected tax assessments. Subsequent cases have cited Matut for guidance on the application of Section 6867, particularly in distinguishing between the roles of possessor and true owner in tax assessments.

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