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THE TAX LAWYER

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\$1.6 Billion Lottery Winner Will Face Huge Taxes, Possible Lawsuits

With no lotto winner, the combined Mega Millions and Powerball jackpots stand at an astounding \$2.2 billion. Yes, billions. The Mega Millions jackpot has reached \$1.6 billion while the Powerball pot is up to \$620 million.

These world record astonishing numbers seem even more likely to brew big potential liabilities. Of course, everyone should know that [taxes on winning tickets](#) are an unavoidable downside. But who wouldn't want *this* tax problem? Even after taxes, there's lots left over, right? First there is the cash v. annuity question, but taxes will come out of either one. Lottery winnings are taxed, with the IRS taking taxes up to 37%. Yet the tax withholding rate on lottery winnings is only 24%. Given that big spread, some lottery winners do not plan ahead, and can have trouble paying their taxes when they file their tax returns the year *after* they win. Depending on whether your state taxes lottery winnings, you may have to add state taxes too.

Even if the tax withholding doesn't cover it all, most people still assume they will end up with a lot. But apart from paying the taxman, what if friends, family or co-workers claim a share of the loot? Office pools, informal understandings, and casual deals to split winnings can all bring trouble. It happens more frequently than you might think. It might start with an innocent comment that someone says was an oral agreement. Remarks about splitting winnings can be misinterpreted. Some winners face lawyer fees for defending against the claims.



Most such cases settle, yet taxes can hit on such legal settlements in surprising ways too. The jackpots do not need to be in the hundreds of millions for winners to be targets. Take the 53-year-old California woman who won \$1 million, but who faced a lawsuit by the liquor store owner who sold her the winning ticket. Eva Reyes was a winner, but the owner of the [liquor Store where she bought the ticket sued](#) her. The store owner claimed she promised to split the money—\$350,000 each after taxes—for fronting the money to buy the tickets. The plaintiff claimed there was a signed note guaranteeing him half the winnings.

The fallout from lottery lawsuits can be especially devastating. For one thing, the shadow of claims by co-workers, former spouses and others who say they deserve a share can tie up the money for years. So be careful what you say and to whom. One case upheld a [20-year-old oral agreement to split lottery winnings](#). The stakes and tax problems can grow larger on bigger lottery prizes. With \$1.6 billion at stake, one can only imagine the creative claims that could arise. And the usual tax problems on winnings can get even more complex. Unless there is a tax partnership, a winner may be taxed on it all, yet only be allowed a partial write-off for the damages paid to those claiming a share.

The tax rules for litigants are complex, made more so by recent tax changes. Here is how legal [settlement awards are taxed after the big tax reform law passed in December of 2017](#). Even if you [win a lawsuit, you may have to pay](#)

[the IRS, even on your attorney's fees paid directly to your lawyer](#). The tax rules have gotten worse under the Trump Tax Law, with [no deduction for legal fees!](#) Some suits over lottery winnings are with co-workers and (former) friends. Some disputes are with family members or with the IRS. In [Dickerson v. Commissioner](#), an Alabama Waffle House waitress won a \$10 million lottery jackpot on a ticket given to her by a customer.

The trouble started when she tried to benefit her family and to spread the wealth. The IRS said she was liable for gift taxes when she transferred the winning ticket to a family company of which she owned 49%. The waitress fought the tax bill, and eventually landed in Tax Court. But the court agreed with the IRS, so she lost. Some tax advice *before* the plan might have avoided the extra tax dollars, generated because her tax plan was half-baked. In short, she [shouldn't have assigned her claim in a waffle house](#). Time and again, lottery winners have trouble paying their taxes and resolving disputes. But cheer up, what are your odds of winning the combined \$1.6 billion? They are said to be 1 in 302.6 million.

This is not legal advice. For tax alerts or tax advice, email me at Wood@WoodLLP.com.