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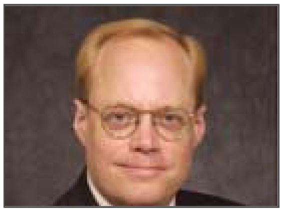

Robert W. Wood
THE TAX LAWYER

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Sixteen Lucky Lottery Winners Won $58 Million, Cleverly Missing Tax Mess Too

The Lucky 16, a group of New York office workers who have been cooperating and pooling their ticket buys for five years, won $58 million in the Mega Millions Lottery. That long history makes them a real partnership with a record of lotto plays as a group. This time, it was certainly [not a bad day at the office]. Perhaps their luck came from the air at their biopharmaceutical company, Ophthotech.

But they were highly disciplined. The Lucky 16's system required everyone to contribute about $4 each week to purchase multi-state tickets. They would buy at different locations too. Lucky 16 member Evelyn Harrison explained, "We rotate who buys the tickets and the stores where we buy to be fair to everyone. We also require the buyer to send copies of the ticket to everyone in the group so we all have it."

The $58 million was discounted to the one-time cash payment of $38,334,435, an amount the Lucky 16 Trust, as they call themselves, agreed to split. After taxes, each Lucky 16 member nets about $1.65 million. The 16 members say they will mostly use the money on paying off student loans, retirement savings, and other responsible things. The 16 include residents of the Bronx, Brooklyn, Queens and Manhattan, as well as workers from New Jersey and California.

Taxes apply to the win, of course, but the nature and identity of the 16 member group raises curious issues. A partnership can exist with a handshake, or even 16 of them. No written documents are required. Of course, a lack of written documents sometimes foments disputes once some real money is on the table. One partner can sometimes remember the deal differently than others.

Lottery winners sometimes face a sad aftermath. If one person wins but then pays shares to others, the winner may not be able to deduct the payments, being taxed on more than he or she won. However, a partnership can be a one time deal or a series of them, in this case tracking for five years. The good tax news is that it may not matter whether the 16 are treated as partners of a 16 member partnership or mere co-owners who each report their own share. There is a tax form difference between the two, but there is no reason to think that the IRS would care as long as they are paid.

But that may not be true of the Lucky 16 Trust is a trust. How can you tell? It's tough if there are no documents. The name may not matter, and yet it seems conceivable that the IRS could say, "if you call it a trust it might just be one." There are two types of trusts for tax purposes. There are simple grantor trusts taxed as a flow-through. There are also complex trusts taxed more like a corporation.

What if the IRS says the Lucky 16 Trust is the latter? You guessed it, it could be an expensive mess. And although it is probable that all will go swimmingly for the Lucky 16 Trust, this is one more illustration of how success or good luck can sometimes lead to a surprising tax gotcha. Sometimes, a nice windfall turns out to trigger suits by ticket sellers, co-workers, and relatives.

And not every lottery case involves co-workers or friends. Sometimes, the disputes are with family members, which can be even worse. A case in point was *Dickerson v. Commissioner*, involving an Alabama Waffle House waitress who won a $10 million lottery jackpot. She won on a ticket given to her by a customer. Ironically, the trouble started when she tried to benefit her family and spread the wealth.

The Tax Court held she was liable for gift tax when she transferred the winning ticket to a family company of which she owned 49%. Tax advice before the plan would have avoided the extra tax dollars, that were generated because the tax plan was half-baked. She shouldn't have assigned her claim in a waffle house. Time and again, winners have trouble paying their taxes and resolving disputes. But cheer up, your chances of winning are small. And if you are highly organized and split even-steven like the Lucky 16 Trust, you'll probably be just fine.

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