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20 Plant Workers' $420 Million Powerball Win Cleverly Misses Tax Mess

There is plenty of feel-good news that twenty Tennessee metal manufacturing workers are splitting a $420.9 million Powerball jackpot. The cash to the employees of North American Stamping is $254 million, or $12.7 million per person before taxes. One of them, Amy O'Neal, told *The Tennessean* that their group has been playing the lotto for eight years just "for fun." Ms. O'Neal, who bought the ticket for the group, said they usually buy about $120 worth of tickets every Wednesday and Saturday to support education and the state of Tennessee.

Is that a hobby, a business, or a loose investment partnership? The IRS sometimes asks precisely that question, and it can matter. These 20 workers have been cooperating and pooling their ticket buys for years, which arguably makes them a real partnership for tax purposes. And that could matter. Taxes apply to the win, of course, but the nature and identity of the 20-member group raises curious issues about exactly how they should report it.

(Photo by Justin Sullivan/Getty Images)

It is a real tax mess when one person wins and must pay out portions to others. Often, that cannot be deducted, which means the winner can pay tax on more than he or she gets to keep. In contrast, a partnership can exist with a handshake, or even 20 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 years. The good tax news is that it may not matter whether the 20 are treated as partners of a 20 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 if their deal is viewed as 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. If it is, it could be an expensive mess. And although it is probable that all will go swimmingly for these 20 winners, 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. Indeed, 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 these 20 co-workers, you'll probably be just fine.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.