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20 Year Old Oral Agreement To Split Lottery Winnings Is Upheld

Winning the lottery would be great. And if you can't win it yourself, having someone close to you win may be second best—even if the person *forgets* they were close to you. That could be the advice from Howard Browning of Florida, who says the \$1 million jackpot his ex-girlfriend Lynn Poirier won—eight years ago—is half his. There's a lot of history here.

Mr. Browning claims she won the \$1 million and walked out, renegeing on the deal they had to split it. And his [suit against his ex for half the \\$1 million prize got a win in court](#). The Florida Supreme Court has sent the case back to trial, ruling that a verbal agreement can be valid as long as the couple were still involved when they said the words. Mr. Browning claims their oral agreement was way back in 1993, after two years of living together. The trial court will have to decide if they were still a couple and actually had a deal, but his win is still big.



Everyone knows that [the taxes on winning tickets](#) are a downside. In addition to paying the taxman, what if you have friends, family or co-workers claiming a share of the loot? It can get ugly, and it happens more often than you might think. You must add the inevitable lawyers' fees for defending against the claims. Most such cases settle, and the tax hit on such an unfortunate event can be surprising.

Take the 53-year-old California woman who won \$1 million, but is now defending a lawsuit by the liquor store owner who sold her the winning ticket. Eva Reyes is the winner, but the owner of the [liquor Store where she bought the ticket has sued](#). Laxmi Bhardwaj owns USA Liquors in Milpitas, California, where Ms. Reyes bought the ticket. The store owner claims Ms. Reyes promised to split the money—\$350,000 each after taxes—for fronting the money to buy the tickets.

The plaintiff claims there is a signed note guaranteeing him half the winnings. But Ms. Reyes claims the deal was for \$50,000, not half. The terms of the note are sketchy, with just the dollar amount and a signature, according to Ms. Reyes.

Ms. Reyes' attorney, Nelson McElmurry, suggests that the note may have been altered after his client signed it. Such are the down and dirty disputes that can plague lottery winners. Ms. Reyes acknowledges that she originally meant to give \$50,000 to the store owner, Mr. Bhardwaj. But with a lawsuit and the claim for half, all bets are off. Ms. Reyes' attorney says his client has the legal right to change her mind, despite the writing. As the case progresses, the disputed \$350,000 is in an escrow account.

The stakes and tax problems are larger on bigger lottery prizes. An added problem is taxes. 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 technical reasons are limitations on tax deductions and the dreaded AMT, which stands for alternative minimum tax. Even if you [win a lawsuit, you may have to pay the IRS, even on your attorney's fees paid directly to your lawyer](#). When people talk of paying tax on money they never see—like money paid to a contingent fee lawyer from a case—it is usually because of the AMT.

Not every lottery case involves co-workers or friends. Sometimes the disputes are with family members, which can be even worse. 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 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, well, tiny.

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