



Robert W. Wood

THE TAX LAWYER

Nov. 28 2012

One More Thing To Do When You Win The Lottery

Deborah Jacobs' piece [10 Things To Do When You Win The Lottery](#) is a winner. Who doesn't like to think about this? It's worth reading even if winning is only a dream. But there's one more thing to do that merits its **own** line item: pay your taxes.



Of course, the second of Deborah's ten thing to-do list is to see a tax pro. Seeing a tax pro surely carries with it the idea of paying tax. Still, it pays to underscore the tax side of lottery payments because it can be a doozy. Time and again winners have trouble paying their taxes or get confused what they are taxed on, especially if they start giving money to charity, family, etc. See [Year-End Charitable Contribution Guide](#).

[Mega Millions](#) or otherwise, winning big doesn't mean avoiding the taxman. See [How Much Tax Will You Owe On \\$640 Million Jackpot?](#) Some states exempt some lottery winnings but not the IRS. But if you're generous and give all your winnings to charity, no one can tax you, right? Actually, it depends.

Take the generous Canadian couple who had an \$11.2 million lottery win and then gave 98% to charity. They only kept 2% for emergencies and to buy more lottery tickets. See [Canadian Couple Wins \\$11 Million, Gives It Away](#) and [Canadian Couple Donates Millions From Lottery Win](#). That was a heartwarming story in Canada and a happy tax result but only because [lottery winnings](#) aren't taxed in Canada.

The tax picture in the U.S. would have been grim. The IRS taxes virtually all prizes and awards, including lottery payments. Even if a winner gives all winnings to charity he or she may **still** end up with a big tax bill. Charitable contribution tax deductions are usually limited to 50% of your income and in some cases less.

Thus, a winner giving all the money to charity might **still** pay tax on half. Declining a win and turning down the money, done properly, may avoid the income entirely and be treated differently than making a gift **after** you win. But clearly this requires professional help. See [IRS Is Taxing My Nobel Prize!](#)

Of course, most lottery winners aren't trying to give all the money to charity. Many face deals with family, friends and co-workers. And there again, winners clearly need tax advice. The tax messes that are triggered can be huge.

In [Dickerson v. Commissioner](#), the Tax Court considered an Alabama Waffle House waitress who won a \$10 million lottery jackpot on a ticket given to her by a customer. The Tax Court held she was liable for gift tax when she transferred the winning ticket to a family S corporation (formed for this purpose) of which she owned 49 percent. It was truly a mess with extra tax dollars generated because the tax plan was a best half baked. See [Waffle House Waitress Wins Big in the Lottery, Loses at Tax Court](#).

So bottom line, as Deborah Jacobs notes, if you win the lottery see a tax pro! But go beyond that and plan all your tax moves carefully. Set aside money for taxes. If you do anything aggressive on your return, keep a reserve. Finally, plan any transfer, whether to charity, family or friends, very, very carefully.

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009 with 2012 Supplement, [Tax Institute](#)), he can be reached at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*