



## Robert W. Wood

THE TAX LAWYER

Mar. 31 2012 — 10:20 pm

### IRS Shares Mega Millions Jackpot—Even If You Give It Away

[Mega Millions](#) or otherwise, your chances of winning the lottery are famously small, but that doesn't quell the fever to play. Your chances of paying tax or being audited? Both much higher. Besides, lottery winnings are taxed.



As this article summarizes, winning big doesn't mean avoiding the taxman. See [How Much Tax Will You Owe On \\$640 Million Jackpot?](#) Sure, some states exempt some lottery winnings, but not the IRS. In fact, you'll owe tax on your winnings even if you give them away. Plenty of lottery winners end up in tax trouble. See [Waffle House Waitress Wins Big in the Lottery, Loses at Tax Court.](#)

But if you're generous and give all your winnings to charity, no one can tax you, right? A generous Canadian couple won \$11.2 million in the lottery and gave 98% to charity. They only kept 2% for emergencies and more lottery tickets. See [Canadian Couple Wins \\$11 Million, Gives It Away](#) and [Canadian Couple Donates Millions From Lottery Win.](#)

Unlike the U.S., [lottery winnings](#) in Canada aren't taxed, so there was no tax problem. Besides, Canadian charitable contribution tax rules are generous. Had they lived in the U.S., prizes and awards are taxed and charitable giving tax rules are strictly limited. See [Canadian Couple Who Gave \\$11.2m Lottery Winnings To Charity Would Have U.S. Tax Problem.](#)

Why limit charitable giving, you might ask? You'd better ask Congress. If you win the lottery or other cash prize and decline it you **may** be able to avoid the income. That's curious, since the tax law routinely triggers tax when you **could** have received a payment but chose not to. The "assignment of income" doctrine usually prevents avoiding the tax hit of income coming your way. (See [When You've Got Taxable Income But No Cash.](#))

**Regifting.** Short of declining an award, there's regifting like the generous Canadian couple. Unfortunately, the tax consequences of regifting are problematic. Even if you immediately give it to charity, limits on charitable contribution deductions mean you can't necessarily write it all off.

You can deduct only up to 50% of your "contribution base"—generally your adjusted gross income. Thus, if you win \$1 million and have no other income, you can deduct only half even if you give it all away. The limit is even lower (30%) for gifts to certain charities. You can carry over excess deductions from one year to the next, and you have five years to use them up.

In the meantime, though, you are paying tax on money you've given away.

For more, see:

[Year-End Charitable Contribution Guide](#)

[Who Pays Tax On Hef's Engagement Ring Sale?](#)

[Getting Taxed Despite Giving To Charity](#)

[Biggest Winner At Oscars? IRS](#)

[Giving To Charity? Great. Staying Off IRS Radar? Priceless](#)

*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](mailto: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.*