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Shohei Ohtani Record Baseball And Lawsuit About It Trigger IRS Taxes

On September 19, Los Angeles Dodger Shohei Ohtani, already a history-maker with his massive $700M player contract with its clever tax angles, made even *more* history by hitting 50 home runs *and* stealing 50 bases, all in a single season. That's a feat no one has *ever* accomplished in the entire history of the MLB. As the legendary 50/50 ball soared into the stands, two Floridians, Chris Belanski and Max Matus, both attempted to catch what would likely become one of the most valuable sports artifacts around.

It was ultimately Belanski who walked away from the ballpark with the ball in his mitt. However, Matus soon filed a lawsuit, alleging that *he* had been the first to catch Ohtani's homer, only to have it forcibly stolen out of his hands by Belanski. Then, a *third* fan, Joseph Davidov, stepped into the picture, alleging that *he* was the original guy who grabbed the ball. Unless they settle, the court gets to decide who is the legal owner.

Creatively, the judge authorized an auction with bids starting at $1.5 million. But once it sells, who will get the proceeds and how will they be taxed? Not much legal precedent appears to exist for a situation like this, but at least one case, *Popov v. Hayashi*, leaves open the possibility that Belanski, Matus, and Davidov could each receive a share. Alternatively, the court could grant ownership to one of them. As these questions are being ironed out, there are tax questions too.

When someone receives cash from the sale of the ball, how much will the IRS collect? Tax experts evidently like to talk about baseball, and valuable catches. When Cory Youmans caught Aaron Judge's record-setting 62nd home run ball in 2022, the lucky fan had to pay tax. The reason goes back to an influential 1969 court case, *Cesarini v. United States*, which found that a windfall—say finding gold bars buried in your backyard or catching a million-dollar baseball—can trigger taxes. In *Cesarini*, a man bought a used piano for $15 and discovered $5,000 cash hidden inside. The IRS sent a tax bill for the $5,000 of income, and the courts agreed with the IRS that such a find is "treasure trove" and is taxable.

One way to get a tax-free recovery is if you recover your *own* property, which doesn't exactly work with catching a fly ball. But if a valuable piece of art is stolen from your home and later recovered by the police, you can get it back without paying a cent to IRS—provided you haven't already claimed a tax *deduction* for the theft. In that case, the "tax benefit rule" says you must report it as income.

These rules may seem harsh and unfair, and in the case of lucky baseballs, there is *a lot* of disagreement even among tax lawyers and accountants. Some fans might keep the ball and not sell it, and even though the ball's value is likely income, there appears to be no tax case where the IRS went after a fan who failed to report it. A fan who immediately donates the ball back to the team might be okay too, at least as a practical matter.

What if you sell the lucky find and donate the proceeds to charity right away, does that get you back to zero? Not quite. The tax code says you can only claim charitable contributions on a percentage of your income, usually 60% of your adjusted gross income in the year of the donation. That means you can't claim it all in the year you find and donate it—it's not a wash.

What if you avoid a cash sale altogether and swap your lucky find for something else? Say a prize baseball for a new house or for a lifetime pass to the ballpark? This practice, which the IRS calls "bartering," is *also* taxable. Until 2018, it was sometimes possible to trade some assets on a nontaxable basis, like cryptocurrency, art, or airplanes, if done carefully. But an amendment to the tax code clarified that this avenue (a 1031 exchange) is now limited to swaps of real estate for real estate. The real estate must be held for investment or business use, so it doesn't work with personal use property like your residence (unless you convert it first).

How might taxes on the Ohtani record-setting ball shake out? It depends in part on its value and who gets it. Let's suppose the ball results in a cash recovery of $2 million, after auction costs. If the courts rule that Belanski, Matus, and Davidov share *equal* ownership, they will each need to pay taxes on around $667,000 of income. Depending on their other income and deductions, even if they are all Florida residents (where there is no state income tax), they could pay up to 37% tax, nearly $246,800.

That leaves about $420,200 after taxes, which isn't bad for a day at the ball game. Of course, if the courts rule that only one party is the rightful owner, the take-home for that lucky taxpayer and the taxes will be greater. Beyond the recovery itself, the lawsuits may rack up legal fees, and since 2018, many plaintiffs have trouble qualifying for a tax deduction for legal fees.

With the quirky tax treatment of lawsuit recoveries, in some cases legal fees can't be deducted. That could mean paying tax on 100% when 40% off the top goes to your lawyer, unless you qualify for one of the ways to deduct legal fees under new tax law. Some call it a new tax on legal settlements, since sometimes the rules seem to say you shouldn't deduct the fees. But if 40% of a legal settlement goes to the lawyer, no plaintiff wants to report 100% of the proceeds as taxable. That's one reason plaintiff and lawyers look for workarounds about legal fees under the tax law.

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