

You Just Won the Lottery: Now to Fulfill the Promises

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ABSTRACT

This project requires students to research primary source material, relate the research to a client situation, communicate a suggested solution to the client, as well as complete work papers. The student plays the role of a CPA who has a friend who has just won a significant lottery jackpot. The student analyzes the situation and addresses issues for his friend/client whether or not he has a legal partnership with his co-workers is required to share winnings. The student also must investigate whether or not the friend seeking advice has a partnership with family members to which he made verbal promises. Lastly, the student is asked to consider tax and practical issues had the lottery winnings been paid and distributed through an S-Corporation. The fact pattern is derived from three actual cases that pertain to the use of an S-Corporation to receive lottery winnings, and an individual who was in charge of a lottery pool and challenged if he was required to share winnings based on the existence of a partnership.

Introduction and Review of Literature

This project, based on established case law, requires the student to utilize tax research skills and demonstrate an understanding of rules that govern the definition of a partnership and S-Corporation. Students are required to compare and contrast the tax and legal similarities and differences of a partnership versus an S Corporation. The setting involves an individual (Herbert) who routinely collects money from co-workers, pools the funds, and purchases lottery tickets with the unwritten understanding that winnings will be split between participants. In this specific instance, the individual contributes additional money beyond the collected contribution and buys \$30 of additional tickets. The individual also promises several of his relatives in the event he wins the lottery, he will split the proceeds with them. Against the odds, he wins a jackpot of \$1 billion. As the CPA and trusted friend of Hebert, you are asked for advice and to provide an opinion on the following:

1. Does this arrangement with his co-workers constitute a partnership, and he, as a result, owe money to his co-workers? Your friend feels that he may not need to share with his co-workers as he purchased \$30 of additional tickets, and the winning numbers are on one of the "extra tickets" that he purchased.
2. Does he have a liability to the relatives who he promised to share with in the event of a win?
3. To avoid future confusion, the friend/client is considering the formation of an S-Corporation in which the co-workers who usually take part in the pool become shareholders and share winnings based on shares of the S-Corporation owned. Is this an option? What are the tax similarities and differences that need to be considered between a partnership and S-Corporation if the S-Corporation were to be a viable option in the future?

This project is valuable to students as it delivers several skills that have been cited as important according to prior educational research, and requires students to analyze at a skill level beyond what is typically found in an undergraduate tax textbook, specifically the linkage from a business law course to a taxation course.

Firstly, this project was designed using fact patterns of three actual cases that were disguised and modified. The fact pattern is based on *Dickerson V. Comm*¹, *Pearsall V. Alexander*² and *Winkler V. Commissioner*.³ As students conduct research to advise their client, they should locate these cases in their research and cite them as precedence to advise their client. Completion of this task develops key taxation critical thinking and research skills as deemed important by Larkins (2008).

¹ TC Memo 2012-60, March 6, 2012

² 572 A.2.d 113 (D.C. 1990).

³ TC Memo 1997-4, January 2, 1997

Secondly, students are asked to communicate their findings in the form of a professional letter sent to the client via E-mail as well as memorandum for the workpapers. This exercise teaches and reinforces communication skills which have been cited as important and a cause for student anxiety across several studies, recently Noga and Rupert (2017).

Finally, presentation of material in the format of a short case, cited in many research sources as a compact case, has shown to be a highly effective method of learning at advanced levels of Bloom's Taxonomy. This is supported by research such as Bonk and Smith (1998), Albin and Crockett (1991), and Ashbaugh and Johnstone (2000). Teaching key concepts through compact case situations has shown to close expectation gaps that exist between skills taught in college, tested on the CPA exam, and professional expectations of new college graduates supported by Yu and Churyk (2013) and Abayadeera and Watty (2014).

This project was utilized by undergraduate students (mostly seniors) enrolled in a course titled "taxation of business entities." It was assigned after the students were introduced to the taxation of passthrough entities using the Rupert and Anderson (2019) textbook. As the concept of passthrough entities are introduced, there is a significant discussion of important definitions as well as the legal and tax differences of partnerships and S-Corporations. Concepts of the related chapters are brought together in this project and covered at advanced levels of Bloom's Taxonomy, specifically the highest-level skills of "evaluate" and "create"⁴.

Intended Audience and Customization of the Project

This project was created for use in an undergraduate course that focuses on taxation of business entities, often the second tax course in an undergraduate sequence. Following a lengthy coverage of corporate taxation, the book closes with chapters on partnerships, S-Corporations, estate tax, gift tax, trusts, and international taxation. The format of the textbook utilized is standard, and this project can be utilized in concert with any undergraduate taxation book. This project assumes that students have been exposed to tax research and have the ability to utilize a professional research source, such as RIA Checkpoint. Though many students have completed a course in business law and exposed to forms of business entity, as passthroughs are introduced for the first time in tax courses, there often is a significant amount of coverage to ensure that students understand legal differences and requirements of various passthrough entities. As stated in exhibits C and D, though all students surveyed have completed a course in business law, this project within the tax course increased comfort and learning of basic partnership and S-Corporation legal principles. Instructors can use this project as a way to assess and apply student understanding of the legal formation of partnerships, as well as comparison of the partnership to the S-Corporation. As tax textbooks introduce these concepts clearly, completion of this assignment can shift learning and application of these concepts outside of the classroom while time in class is used to discuss more advanced passthrough taxation topics.

The project was assigned at the end of the course as a fourth research assignment. At this point, students have been assigned reading and been presented the opportunity to become exposed to the legal principles of partnerships and S-Corporations, as well as the gift tax which is part of the *Dickerson* case as well as the *Winkler* case, and can, through this project, apply and integrate skills at higher levels of Bloom's Taxonomy.

By basing the project on real cases, and requiring that tax research be completed in order to satisfy assignment requirements, students should locate the *Dickerson*, *Pearsall*, and *Winkler* cases as they research a solution and reference them in their communication to the client and work papers. The *Dickerson* and *Winkler* Cases are available on RIA Checkpoint. *Pearsall v Alexander* is not a tax case, but can be located in its entirety using Google Scholar. For programs that do not have access to tax research databases, all cases encompassed in this assignment can be located through Google Scholar in their entirety. It is also important to note the project uses a fact pattern of sharing proceeds from a large lottery jackpot. This is a realistic situation students often see in the news and to which, as a result, they can relate. It has been shown in research such as Carder, Willingham, and Bibb (2001) that students better apply concepts they can personally relate to in real-life situations. There are no other student projects in publication with a basis on these cases that utilize this methodology to reinforce these concepts. The integration of multiple cases to principles of written communication make this exercise considerably more robust and comprehensive than problems typically located within a tax textbook. This exercise requires the student to demonstrate skill at the highest level of Bloom's Taxonomy. Based on case law that involves title of lottery tickets and the existence of a partnership across multiple cases, this also shows the focus is on a real-life situation that can be important for a student as relevant to policy, and not a hypothetical situation that lacks realism.

⁴ <https://cft.vanderbilt.edu/guides-sub-pages/blooms-taxonomy/>

This project could also be used in a business law course, though it has not been. As long as the business law course teaches the student business entity selection, and has introduced students to legal research it may benefit, but may need adaptation to not cover the learning objectives on taxation.

Project Learning Objectives

The learning objectives for this project are to develop skills so students can learn and apply principles of partnership and S-Corporation tax law to real-life situations and enhance tax research, critical thinking and communication skills. These skills have shown to be crucial to students and part of the disconnect that is faced between graduating students and employer expectations as shown in Bolt-Lee and Foster (2003); Larkins (2008); Bonk and Smith (1998); Albin and Crockett (1991); Yu and Churyk (2013) and Abayadeera and Watty (2014). This project can also deliver critical thinking skills that are increasingly tested on the CPA exam, so will be helpful to students as well as the accounting profession (Franklin and Morrow 2017) After completing this assignment, students should be able to:

LO1: Explain the definition and requirements to form a partnership.

LO2: Critically analyze the criteria that courts examine to determine the existence of a partnership.

LO3: Compare and contrast tax and structural differences between a partnership and S-Corporation.

LO4: Evaluate specific circumstances and determine the best course of action for a client using proper methods of professional communication.

This project utilizes a rubric which allows the instructor to measure how the learning objectives were satisfied. Exhibit B provides the rubric utilized when this assignment was assessed. This rubric is mapped to the exercise learning objectives. Exhibits C and D show student assessment of learning through pre- and post-test comparison. Exhibits C and D show students demonstrate an improved knowledge of the learning objectives and find the project a useful learning tool which relates to real life mastery. All measured data show increased learning at a statistically significant level.

Instructors may wish to have a brief in-class discussion on the rules and flexibility of partnership formation and comparison/contrast to an S-Corporation before sharing this project. This discussion can be limited, as the intent of the project is to allow students to develop a high level of learning and application of partnership and S-Corporation principles. As demonstrated from the student feedback in Exhibits C and D, students in a pre-test questionnaire were less comfortable with basic passthrough concepts, but acknowledge they have completed a business law course where these principles are typically covered. Most students would have completed this business law course two years prior to completing the current course in taxation of business entities.

Prior to completion of this project, students completed three previous research projects. Based on the prior projects, the students have significant experience researching case law using RIA Checkpoint, reviewing case law, and preparing professional communication using professional letters and work paper memorandums. For students in courses with more limited research experience, this project can be used, but students could be provided with the needed judicial citations to utilize in order to prepare the analysis. As students are learning tax research, it is common practice to provide necessary citations for them to locate through research databases in early research assignments. It is also important to note that all cases within this project can be located through Google Scholar.

Measurement of Learning Objectives

LO 1: Explain the definition and requirements to form a partnership

As part of the required answer to the first question in the exercise, measurement of a student's ability to explain the requirements to form a partnership often start from basic in-class discussion. Prior to distribution of this assignment, the instructor utilized a very simple example to illustrate the requirements, and agreements do not have to be written. The following example was provided in class:

Imagine that your neighbor comes up with the suggestion that the two of you bake Christmas cookies and sell them door-to-door throughout your neighborhood. You agree to do this, and assume that you will split any profits for selling the cookies 50/50, but never have any discussion on the issue. You and your neighbor go to the grocery store together, purchase the ingredients, and split the cost 50/50. The cookies are all baked in your neighbor's kitchen. Once the cookies are baked, they are plated, nicely wrapped, and offered for sale. After costs there was a \$5,000 in profit earned. You ask your neighbor for your half of the \$5,000 profit, which

would be \$2,500. Your neighbor's response: "I don't owe you \$2,500, we never agreed to that. I'm taking the \$5,000 and going on vacation to Iceland with my dog and cat. Thanks for the help though, and please watch my house while I am away."

Following this fact pattern, we have a brief discussion on whether or not a partnership was formed. We conclude that partnerships do not need a written agreement, but simply show a continuing business interest, as well as a contribution of money, property of services, and expectation to share in profits and losses. As this example constitutes a one-time venture in selling cookies, there probably was not a legal partnership formed. The discussion on the above example should provide a foundation for the student to define and explain the elements of a partnership, but also differentiate from other organizations such as a joint-venture, which would be this case due to the lack of continuing business relationship required for a partnership.

LO2: Critically analyze the criteria that courts examine to determine the existence of a partnership

As this relates back to the exercise, part of the answer to the first question would be to determine that a partnership does exist with his co-workers. Each co-worker has contributed capital in the form of money to purchase lottery tickets. This has been done within the office over an extended period of time with the understanding that each contributor would share in the winnings. Subject to state laws that exist in some states that restrict gambling status as a business, there is a partnership between Herbert and the co-workers despite the fact there is no reference of a written agreement. The example provided in class clearly is an example of a non-continuing business that would be considered not to be a partnership. As a partnership, absent any written agreement and laws that prohibit agreements based on gambling, Herbert would be required to share winnings proportionate to contribution. Had Herbert wanted to exempt the additional \$30 in tickets purchased, he should have provided copies of the "pooled" tickets to each partner following purchase and prior to the drawing. In this analysis, there would be an expectation that *Pearsall v Alexander* be referenced to show that subject to public policy stating otherwise, there is a partnership and agreement that the winnings are split based on the fact pattern of routine contributions and intent to share profits. This *Pearsall* case has a specific reference to shared lottery winnings and partnerships. If there is public policy against use of a partnership as a business, the student can argue that a partnership may not exist despite the typical partnership guidelines being satisfied. *Winkler* can also be introduced here to show the existence of a partnership. Family members in *Winkler* contributed money to a partnership routinely, and upon discovery of the winning ticket it was determined that a partnership did exist, even though the partnership agreement was not prepared until after the winning ticket was discovered based on the pattern of contributions and behavior leading up to the winning ticket being discovered.

Now to the claim filed by Herbert's relatives that they are entitled to a share of the winnings based on his verbal promises. It is unlikely that there will be any sort of liability to the relatives. Though there was a verbal promise, partners need to contribute money, assets or services to form a partnership. Rules clearly state the mere sharing expenses or promises to share profits do not constitute a partnership. As such, Herbert will not need to share any winnings with his relatives and no partnership or joint venture of any sort has been formed.

Based on case law that defines partnerships, in conjunction with state law that may govern the consideration of gambling as a business based on public policy, Herbert is a wealthy man and may get away with keeping the winnings to himself. If there is no state law that prohibits business relationships around gambling ventures, Herbert will be sharing his winnings with co-workers based on the partnership formed and proportionate investment, despite no written agreement. This specific exercise instructed the student to assume that there were no laws that prohibit transactions for gambling ventures.

LO3: Compare and contrast tax and structural differences between a partnership and S-Corporation

This objective is assessed through the second question in the exercise. Through this question the project can measure: 1) Tax differences and benefits to an S-Corporation over a partnership; and 2) Would an S-Corporation be allowed in this instance as well as how the IRS may look at this from a taxation perspective.

This objective is also important to further address and support whether or not there is a partnership or binding agreement to share winnings with the relatives as promised by Herbert. The legal prescience to support opinion is from the *Dickerson v. Commissioner* case and related cases⁵, specifically. In the *Dickerson* case there are several variables that apply here.

⁵ *Seward, Jr. v. Dickerson et al*

- A waitress was given a lottery ticket from a regular customer at a Waffle House. The ticket was a winning ticket worth \$10 million.
- Other wait staff in the Waffle House claimed that there was an agreement (oral) that if any of them had a winning lottery ticket from this customer (he would pass them out on a regular basis) that they would all split the winnings. This suit was thrown out because in Alabama there is a law that prohibits any agreement that relates to gambling. Regardless of statute, it was ruled this arrangement would not be considered a partnership, as the wait staff did not contribute money, property, or labor for the intent to make a profit. The contribution is an important determinant to specify if a partnership exists.
- The individual who provided the winning lottery ticket as a tip for service also sued, stating the wait staff promised the proceeds from any winnings would be used to purchase him a pickup truck. This suit was not successful due to the clause that voids all gambling agreement.
- Despite all of the above, the server with the winning ticket formed an S-Corporation to claim the winnings as part of tax planning. This entity was formed as a tax strategy to protect the winnings from creditors, and also to shift income to family members and save eventual gift tax.

Some differences one may consider with an S-Corporation over a partnership would first be creditor protection. If any winners have outstanding debts, and the proceeds are paid to an S-Corporation directly, and it can be shown the winning ticket was purchased by the S-Corporation, the winnings can be shielded from creditors without the double taxation that comes from a C-corporation. This may be attractive.

Students could also raise the question of self-employment tax. If this lottery relationship were considered a business based on fact patterns, would the winnings under a partnership be subject to self-employment tax, but not subject as an S-Corporation? Though IRS rules clearly state winnings and prizes are not subject to self-employment tax, students may consider this difference between the partnership and S-Corporation as part of the analysis.

Another consideration students should mention is the inflexibility that S-Corporations provide as to allocation. S-Corporations have to allocate profits, losses and contributions equally, while partnerships have flexibility. One can contribute a small percentage of capital, but take all losses, while another takes all gains. The partnership can provide more flexibility as to how profit and loss is allocated from a tax planning standpoint.

Dickerson provides some additional insight that should be considered if an S-Corporation is used. In this specific case, once the winning ticket was identified, the winning party formed an S-Corporation to place the winnings into. This transaction was audited by the IRS, and they imposed a gift tax of near \$800,000 for the transfer to the S-Corporation, as well the family members who were 49% shareholders of the S-Corporation. To use an S-Corporation and share winnings with employees and family members, the corporation would need to be formed before the winning ticket is purchased, and all shareholders would need to contribute money or assets to the S-corporation. The proceeds contributed to the S-Corporation would clearly need to be used to purchase the tickets. As the S-Corporation is a separate legal entity, when personal proceeds purchase the tickets and winnings are paid to the S-Corporation, this is considered a “gift” to the S-Corporations. Of course, this arrangement would only work if there was not a state law to prohibit gambling transactions of this sort⁶.

LO4: Evaluate specific circumstances and determine the best course of action for a client using proper methods of professional communication.

This objective is measured by the ability of the student to properly communicate findings from the previous objectives in a properly designed work paper memo as well as client letter. Prior literature clearly states that this is a needed skill of all graduates. The textbook used for the course provides templates of what a properly formatted client letter and work paper memo should look like.

⁶ There is an additional opportunity for an instructor to have a class discussion on the benefit of tax planning. Students need to understand that proper tax planning must take place before a transaction occurs, not after the transaction occurrence or when the tax return is filed. This example shows that if the S-Corporation approach was to be successful, the transaction would need to be structured properly before the taxable event occurs.

Students are directed to utilize the template and prepare the proper documents. Most textbooks provide templates as part of a tax research chapter. There are also many acceptable templates of both documents available on the Internet that instructors can direct students to.

What advice does Herbert get from the CPA (the student) in the letter? If there is not a state law that voids transactions around gambling, he most likely owes money to his co-workers, but he probably does not owe his relatives. For the future, the S-Corporation is an option. As an S-Corporation, it can shield creditor access to the winnings. Herbert would need to ensure that he forms the S-Corporation and uses only S-Corporation assets to purchase the tickets. If this is not clearly documented there could be serious gift tax consequences in the event of a future winning ticket.

Exhibit F provides a sample student submission which fulfilled the assignment's requirements. The sample submissions provide a baseline and model which demonstrate completion of the learning objectives.

Student Performance and Response to the Assignment.

This assignment was utilized by the author at an AACSB Accredited Business School located in the northeastern United States. The assignment was administered at the end of the semester. Prior to administration, students completed three research assignments. Two of the assignments required students to utilize RIA Checkpoint, locate primary material to address the client need, and communicate findings using a letter and work paper memo. The third assignment gave the students a completed client letter and memo that were poorly prepared, and required they correct it from a technical and grammar discrepancies, and re-write the documents properly. These assignments were shorter in nature and required less analysis of primary material than this one.

As mentioned previously, students were exposed to concepts of how to define a partnership prior to this course in a business law course. Despite this exposure, students enrolled in the course state neutral comfort of basic partnership principles prior to this assignment. This lack of retention is reflected in students who took business law on campus, as well as those who were transfer students to the institution with transfer credit from their previous institution. Prior to the assignment, roughly 30 minutes of class time was spent discussing the definition of a partnership, types of partnership, and requirements to form a partnership. This is also covered in the textbook. Principles of S-Corporations as well as estate and gift taxation had also been introduced⁷.

Student performance and response were positive on the assignment. Grading per the rubric located in Exhibit B show the class average on the assignment was an 82 percent. Feedback obtained from students before and following the project also demonstrated positive benefit as illustrated in pre and post test data provided in Exhibits C and D. Comparison of pre- and post-test data from Exhibits C and D show that following the assignment students demonstrate an increased level of comfort in key areas of learning. The difference in mean score on the pre-and post-test questions is statistically significant using a “t” test at $\alpha .05$ for all questions.

Formal and informal feedback also show that students liked the assignment and it was a positive learning experience, as highlighted in Exhibits C and D. A limited number of students verbally expressed to the instructor that they would have preferred assistance to determine what cases were required for citation in the project. The first two research assignments assigned during the semester provided the students citations of cases they were required to locate; this assignment simply instructed them to locate proper case law for the analysis. Some instructors may decide to provide citations of the cases utilized for the assignment, so the student focus can be on case analysis and communication, not location of appropriate case law. Exhibit E summarizes various options that the instructor can adapt the case assignment based on student prior research and technical background from prerequisite courses.

The most significant struggle some students faced was getting started to search for cases. Students who lack experience with tax research, once within the tax research database had issues learning how to properly search. It is suggested that instructors spend time

⁷ If no business law course was completed prior to taking the tax course where this case is administered, instructors may be required to spend time in class educating students on business entities and the legal liability issues that compare and contrast the entities prior to discussion of taxation differences.

to ensure that students can properly search for the needed cases, and provide guidance so that the cases are not provided to the student, but if they search with the tools provided location can be fairly simple and a positive learning experience to develop research skills⁸.

Conclusion

This project integrates the ability to critically analyze a real-life situation to determine if it meets the definition of a partnership, and also to compare the alternative option of the S-Corporation to the partnership. The circumstances of the fact pattern require the student utilize case law to provide an analysis and adapt to the provided set of facts and reach a conclusion. The flexibility of the project allows it to be used in an undergraduate course in entity taxation, or a business law class. The critical analysis, research, and communication required to complete this project address gaps that often exist in student preparedness as referenced in Bolt-Lee and Foster (2003); Larkins (2008); Bonk and Smith (1998); Albin and Crockett (1991); Yu and Churyk (2013), and Abayadeera and Watty (2014). The project also can address writing skill needs and apprehensions addressed in Noga and Rupert (2017).

⁸ Certified Public Accountants and other tax preparers are also restricted by their ability to provide legal advice to clients. The fact pattern in this case may open opportunity for class discussion on Circular 230 regulations, and other restrictions between the limit of the tax advisor and legal advice to clients. This issue is often a course element in courses that cover tax research and practice.

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Exhibit A: Project Details

Herbert is in charge of purchasing lottery tickets for his office, which consists of sales representatives for a large car dealership. Typically, 10 to 15 sales representatives contribute funds each week to purchase community tickets. As the prize amount steadily increased, more and more employees of the dealership joined in contributing funds. This week, the prize nears \$1 billion and 16 other employees contributed \$10 for the purchase of \$170 in tickets. While in line to purchase the tickets, Herbert decides, “Hey...all you need is a dollar and a dream” and purchases \$200 in tickets, not the \$170 representing the \$10 per person pool with Herbert and colleagues. Herbert tells his three favorite cousins that he purchased \$30 of lottery tickets and will share winnings with them.

That night, Herbert watches TV and learns that he has the winning ticket within his possession. When the tickets were purchased, Herbert simply held all originals and did not segregate out which ones were purchased as part of the pool, and which ones were purchased with the extra \$30 added for his family.

Herbert comes to you, his CPA who has been his trusted advisor for several years and your advice before coming forward with the winning ticket. You are requested to answer the below questions:

1. Is he required to share the winnings with his co-workers, his family...or can he keep it all for himself and go to Iceland? Based on partnership rules, what is his liability to both his family members and co-workers? Herbert is very nervous, as he has made many promises and may now have liability of the winnings to unrelated parties, which he did not expect to come to fruition.
2. Herbert has had luck over the years, this is his 5th time winning the lottery. In the past, he has had pools of community tickets and always shared winnings with those in the pool without question. Herbert plans to keep playing the lottery, using pools with different groups of friends and insists he will hit another big jackpot in his life. Herbert wonders if he should form an S-Corporation and make members of the pool shareholders? What are the tax and income sharing considerations that would need to be discussed if he were to use an S-Corporation as a passthrough for future lottery activities?

You need to answer Herbert’s questions, and the time allotment is very tight. Provide a professional answer to Herbert via E-mail to him, as well as a memo for your files to justify your answer in the event of future litigation or IRS audit. As the situation here is rather unique, it is doubtful that the Internal Revenue Code alone will provide the full answer to the question. More than likely, case law will be needed to show the existence of legal precedence of similar events that may have been decided by the courts. Case law can be located using RIA Checkpoint as well as Google Scholar. Assume that Herbert lives in a state that has no prohibition on relationships for gaming transactions.

Exhibit B: Summary Grading Rubric
N = 26 (# of students who completed the case)

Task	Potential Points	Student Average
Clear identification of to whom Herbert may have liability (does he have liability to the co-workers and/or relatives) LO 1	15	13
Is the identification of liability to both parties clearly supported? LO 4	15	13
Is the partnership clearly defined to determine support? LO 1	10	9
Were the Dickerson, Winkler and Pearsall cases referenced? Partial credit should be awarded if other applicable cases were referenced. LO 2	15	12
Were differences between an S-Corporation and partnership clearly defined? LO 3	15	12
Were tax and legal considerations between a partnership and S Corporation adequately addressed? LO3, LO 4	15	11
Was the client letter and work paper memo properly written and formatted as instructed? Was the client provided clear advice? LO 2, LO 3, LO 4	15	12
Total	100	82/100

Exhibit C: Student Feedback Post Assignment Completion

N = 26 (students who completed the case)

1 = strongly disagree

3 = Neutral

5 = Strongly agree

Survey Question	Mean Response	Comparison to pre-test <i>p value</i> <i>T-statistic</i> <i>Significance $\alpha = .05$</i>
This exercise improved my understanding of legal requirements for a partnership.	4.35	.000029* 4.39392
This exercise improved my understanding of how legal research (prior court rulings) influence tax and legal advice provided to clients.	4.23	.00394* 3.57507
This case helped me reinforce my written communication skills.	4.30	.03152* 1.90108
I found this exercise interesting.	4.27	
This case was a positive learning experience.	4.16	
I would like to see more exercises such as this in future classes.	4.26	

*= Difference is statistically significant

Exhibit D: Pre-Assignment Questionnaire
1 = strongly disagree
3 = Neutral
5 = Strongly agree

Survey Question	Mean Response
I was exposed to the definition of a partnership and S-Corporation in a Business Law course.	Count = 26
I have a strong understanding of legal requirements for a partnership	3.46
I feel comfortable with how legal research (prior court rulings) influence tax and legal advice provided to clients by a professional.	3.11
I feel comfortable with my written communication skills required of a tax and legal professional.	3.89

Exhibit E: Instructor Options to Administer the Case Modified to Student Background

	Support	Deliverable
Undergraduate (Introductory Tax)	Provide all of some citations, to guide students within research and focus on looking up provided sources using preferred tax research software or other search tool.	Only assign questions 1 and 2, may or may not require formal written client letter and workpaper memo as the deliverable.
Undergraduate (experienced tax, such as a second tax course)	Provide no citations to guide students, but direct them to the appropriate tax database with instruction in class how to locate proper support.	If the students have had a course in business law, and have familiarity with passthrough entities such as the S Corporation, assign all questions as provided. Instructor may or may not require submission as client letter and workpaper memo.
Graduate Tax Research	Students should be provided little or no guidance as to appropriate case law and Code sections applicable to the solution	Student should be expected to answer all questions provided, and do so with a properly written client letter and workpaper memo. Additional requirements, either as an additional assignment requirement or course discussion can involve practice requirements of the CPA, and the ability to provide legal advice versus professional advice within the scope of an accounting professional.

Exhibit F: Sample Student Deliverables for this Project

Date: 4/23/XX

From: XXXXXXXX

To: Client File

Re: Herbert XXXXXXX Partnership Existence and Use of an S-Corporation

The client Herbert is wondering if and to whom he has a liability. Herbert is the person in his office responsible for purchasing lottery tickets. He and his coworkers normally pool money together to buy these tickets weekly. This week they pooled a total of \$170 dollars. He then purchased \$200 dollars of lottery tickets. Herbert told three of his cousins that he would share his winnings with them even though they did not contribute to the pool. That night Herbert won the lottery.

However, Herbert had not separated the purchase of the lottery tickets, and spent the \$200 in one transaction. Therefore, he does not know how to allocate the winnings. Herbert also wonders if he should create an S-Corporation to use as a passthrough should he wins the lottery again. There are three issues in this case:

One is whether Herbert has a liability to anyone in this scenario and do partnerships exist between Herbert and his co-workers as well as his relatives,

Secondly, are there benefits for Herbert to form an S Corporation for he and his co-workers as well as any other individuals who pay pool in future lottery purchases?

The applicable law to this case is Sec 761. According this law, “the term ‘partnership’ includes a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a corporation or a trust or estate.”

There are three court cases which are used as precedence for the client. In the case of *Tonya L. Dickerson v. Commissioner*, the court discusses to whom Tonya had a liability with regards to her winning lottery ticket. Prior to her winning the lottery, the workers of Waffle House had discussed splitting the winnings of a lottery ticket, which was given to them normally as a tip. She had also spoken with her family about what would happen in the instance of a winning lottery ticket. The court decided that Tonya did not have a partnership with her family. “there was never an understanding that each family member had to buy a certain amount of tickets (or even buy tickets at all.). The requirement that capital be contributed was not satisfied.

Another applicable court case is the case of *Estate of Winkler V. Commissioner*. In this case, the issue of whether or not a partnership existed was the issue. In this case, for a partnership to exist, there has to be credible activity that constitutes a partnership.

In this case, the family pooled their money together, they conducted this activity on a regular basis. Upon winning, there was not a written partnership agreement, but money was routinely pooled. Following the discovery of the winning ticket, a partnership was then formed. Even though there was not a written partnership agreement at the time the winning ticket was purchased, the court ruled that a partnership did indeed exist and partners were required to share winnings in a manner consistent with contribution.

Issue 1: Looking at the facts of the case, Herbert had conducted in group venture to buy lottery tickets with his coworkers. This activity was done regularly and they all split the cost of the lottery tickets. This fits under SEC 761 definition of a partnership. According to the court rulings on *Estate of Winkler V. Commissioner*, the actions of Herbert and his coworkers constitute a partnership. When it comes to his cousins, this seems to fit more under the case of *Tonya L. Dickerson V. Commissioner*. He does not have a liability to his cousins because there was no contribution of money or assets to buy the tickets. *Pearsall V. Alexander* also shows that there likely was a partnership between Herbert and his coworkers.

Issue 2: The issue of whether or not Herbert should consider an S-Corp has to do with certain advantages compared to a partnership, and certain considerations. In the Dickerson case, the use of an S Corporation failed. The taxpayer formed the S Corporation after the winning ticket was discovered, so the IRS taxed the value of the winnings as a gift to the S Corporation shareholders. The benefit of an S Corporation is that winnings will not be claimed in bankruptcy if any shareholders owe money to anyone. The S Corporation would need to be formed before the ticket is purchased and the money to purchase the tickets would have to come from the S Corporation. The S Corporation would have to split winnings based on shares owned. S Corporations do not charge Self-Employment tax which is a consideration, but prize winnings likely would not likely be subject to self-employment income, so Herbert can ignore that.

Herbert can consider an S Corporation for future lottery pools, but it will not apply to this winning. Herbert has a partnership and must share winnings appropriately with his co-workers, but does not have to share any money to his relatives. For Herbert to prove that his winning came from an extra ticket not part of the pool, he would have had to prove this before the winning ticket was discovered, by sharing copies of the tickets purchased for the pool with the pool.

April 23, XXXX

Dear Herbert,

I have reviewed your case and all the pertinent facts. You owe your co-workers a share of winnings based on contributions, absent an agreement with different sharing guidelines. Your cousins are not entitled to any of the winnings. Use of an S Corporation will not be of any assistance with this winning ticket, but you may want to consider use of an S Corporation for future pools. If the S Corporation is formed before the tickets are purchased, and the money to purchase the tickets comes from the S Corporation, winnings can be shielded from debt that any shareholders may have.

In order for me to reach these conclusions, I examined the Internal Revenue Code and applicable court cases.

There were three court cases that were similar to your situation that helped formulate my opinion. When it came to your case, it is clear that you and your colleagues fit the description of a partnership, and you were normally involved in business activity. Based on the laws, it was apparent that you and your cousins were not a partnership. Your cousins would have had to contribute money on a regular and consistent basis for purchase of tickets to meet the definition of a partnership.

Based on the analysis you will have to split your winnings with your coworkers, but not your cousins. Please contact my office for an appointment to further discuss the benefits of an S Corporation for future pools. Also, though partnership agreements do not need to be written, I suggest we discuss how you can obtain a formal written agreement with those you typically pool with.

Very Truly Yours,

XXXXX CCCCC, CPA