



Robert W. Wood

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Feds Send California's Legal Pot Dispensaries Up In Smoke

Medical marijuana's days may be numbered. With a true double whammy, the IRS and federal prosecutors are both using weed killer. California's federal prosecutors [announced](#) an aggressive [statewide effort](#) to shut down dozens of pot dispensaries. See [Federal Prosecutors Target California's Marijuana Industry](#). If that's not enough, then there's the IRS.

Legal medical marijuana dispensaries have tax problems and they're getting worse. Harborside Health Center alone has a [\\$2.5M tax bill](#). Dispensaries are slapped with IRS tax bills, taxed on gross income, not net! That means no deductions for rent, telephone, advertising, wages, you name it. Talk about seizure!

[California and 15 other states](#) recognize medicinal marijuana and allow its sale. But since federal law has not conformed, the drug law mismatch **directly** impacts taxes. The IRS claims to only be the messenger, telling [Harborside Health Center](#) it can't deduct its expenses.

The culprit is the tax code, since [Section 280E](#) disallows **any** business deductions—no matter how legitimate—incurred in trafficking in



controlled substances. What's controlled? Federal law—the [Controlled Substances Act](#)—governs. Medicinal or otherwise, marijuana is on the list. Even the U.S. Supreme Court says there's no exception, even for **medically necessary** marijuana. See [U.S. v. Oakland Cannabis Buyers' Co-Op](#).

Members of Congress including Representatives [Sam Farr](#) (D-CA), [Linda Sanchez](#) (D-CA), [Jared Polis](#) (D-CO), [Raul Grijalva](#) (D-AZ), [Pete Stark](#) (D-CA) and [Barney Frank](#) (D-MA) have sent [letters](#) to the IRS about taxing medical marijuana and the IRS issues predictable [letters](#) in response. In states that **allow** pot dispensaries for medicinal use, how is it remotely fair for dispensaries to be taxed in a confiscatory way?

The tax law should be changed, but in the interim, my favorite way around this unjust snafu is **other** lines of business. Don't just dispense medical marijuana, the law seems to say. A U.S. Tax Court ruling says marijuana dispensaries can legally deduct expenses associated with **all** activities **except** dispensing marijuana. See [Californians Helping to Alleviate Medical Problems Inc. v. Commissioner](#).

Expenses of selling marijuana may be verboten, but the dispensary was **also** engaged in the business of care-giving. All **those** expenses were OK. It turned out only about 10% of the premises were used to dispense marijuana, so most of the rent was deductible.

For more, see:

[Toking And Taxes Don't Mix, Says IRS](#)

[Feds cracking down on California medical marijuana dispensaries](#)

[Medical Marijuana Tax Woes](#)

[Medical Marijuana Tax Problems?](#)

[Could medical marijuana get the Al Capone treatment?](#)

[How the Tax Code Could Destroy Medical Marijuana](#)

[IRS: Oakland's Largest Pot Dispensary Owes Millions](#)

[IRS Ruling Strikes Fear in Medical Marijuana Industry](#)

[IRS Just Says No to Medical Marijuana Deductions](#)

*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, [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.*