



## Robert W. Wood

THE TAX LAWYER

Jan. 15 2013

### Sin Taxes Just Need Another Name

Adam Davidson's [A Tax on Annoying Behavior?](#) in the January 13 New York Times Magazine got me thinking. Also called Pigovian taxes after 20th century British economist Arthur Pigou, they target behavior that harms others. Davidson suggests some silly examples like taxes on keeping a pet, neglecting your yard, playing a musical instrument, and singing in the shower.



Yet what is silly to some is not to others. And fashions clearly change over time. Taxes on cigarettes and alcohol counter social and health costs. London's city center driving congestion charges reduce pollution and traffic. A soda tax generates revenue and reduces obesity. If you don't imbibe in any of these things too much, it's a win-win. In fact, I'm lovin' it.

Besides, faced with budget deficits, an eroding tax base and the legal and political impediments to raising tax rates, what's to be done? Especially in this economy, our local, state and national governments need to tax things. We like to regulate, and regulating by taxing seems quite American.

In that respect, Mr. Davidson's examples may not be so silly. We should ferret out new and untapped things to tax. We want to target socially irresponsible behavior, and there are easy targets. There's Botox, tanning, music downloads, soda and more.

However, [sin taxes](#) is just such an unfortunate name. Sin taxes are really excise taxes, like those on alcohol, cigarettes and candy. They are indirect and technically imposed on producers or sellers. As a practical matter, of course, they are usually passed on to buyers. That sounds like sales tax only more targeted.

Suspect services can be targeted too. A 10% tanning tax went into effect in July 2010, and was projected to raise \$2.7 billion over 10 years from the nation's 20,000 indoor tanning salons. See [Tan Tax Causes Confusion](#). The tanning tax produced [government regulations](#) and line-drawing how fees should be divvied up between tanning and other services. The IRS even issued guidance about tanning salon points akin to frequent flier miles useful for more tanning or for lotions and facials. See IRS Chief Counsel Advice [201128024](#).

Ultimately the tanning tax has lead to few collections. Yet proponents suggest that means the tax is doing its job of discouraging the targeted conduct. As for a better name, how about "laser taxes?" It sounds better than sin taxes and sounds even more targeted. And in government, presentation is everything.

*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.*