

Don't Toke At Tax Time

By ROBERT W. WOOD

You can't deduct the grass you inhale
And maybe you'll even wind up in jail
You *can* deduct a sauna or pool
As long as you follow a doctor's rule
At least the pot was a taxless sale!

This time of year, everyone's thoughts turn to tax law, if only out of necessity. In fact, the Internal Revenue Service goes to great lengths to make its presence felt during the "tax filing season" — a euphemism clearly intended to harken to "the Christmas season," or the other good seasons of the year. It has even been suggested that the IRS tries to generate news stories about non-filers and tax cheats during this period, presumably to encourage compliance with the law.

From a technical perspective, there are literally hundreds — maybe thousands — of issues on which tax advice is needed. It is therefore especially amusing when the IRS goes out of its way to hurriedly release guidance in an area that, though it may be important to someone, is less than critical in the grand scheme of tax administration.

What am I talking about? The IRS earlier this year announced that money paid for medicinal marijuana *is not* a deductible medical expense. Not many tax rulings make their way into Jay Leno's *Tonight Show* monologue, but this one did.

This pronouncement came in a published revenue ruling (97-9, 1997-9 I.R.B. 1), a status that is only achieved after a number of high levels of review. A good amount of IRS attention — and I dare say a fair number of tax dollars — have to be devoted to a topic before a published ruling can issue.

Gee, maybe it's political.

From a mechanical point of view, I think most people probably won't care. Our tax system's medical expense deduction is an inefficient way of saving tax dollars anyway — medical expenses are deductible only to the extent they exceed 7.5 percent of adjusted gross income. That's a pretty high threshold, requiring serious medical expenses before the deduction is of any value.

Furthermore, even if you have medical expenses over the 7.5 percent threshold, such medical expenses are only one of the "miscellaneous itemized deductions." That means you get these deductions only if their total exceeds 2 percent of your adjusted gross income. Depending on what other deductions you have, that can effectively mean the 7.5 percent threshold is higher still.

Anyway, perhaps the Clinton administration would change its view on medical marijuana expenses if patients, following the president's lead, simply don't inhale? ■