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From the Los Angeles Times

PATT MORRISON

A new wrinkle: the 'Botax'

Patt Morrison

January 26, 2006

CALIFORNIA'S tax-meisters probably just saved themselves a world of pain. And maybe upped their chances for reelection.

Not since Proposition 187, maybe not since Proposition 13, would there have been such revolt, such a populist outcry. California's Board of Equalization was on the verge of taxing Botox.

A marmoreally immobile forehead or an exorcised set of crow's feet would still have been available — but with state sales tax added to the price.

In California, cosmetic devices such as cheek and breast implants and "esthetic collagen" are already taxed — the parts, not the labor. Botox is a wobbler, an FDA-approved prescription drug whose most frequent applications have nothing to do with medical ailments. Botox is marketed as a great Mother's Day gift: We love you, Mom, so get rid of those worry lines that we put on your face! Three million times in 2004, I read, someone got Botoxed for the same reason I put on lipstick — to look better.

That huge potential tax take was as irresistible as Microsoft is to a computer virus. New Jersey launched the "Botax" in 2004, taxing not only the injectable muscle relaxer that smoothes wrinkles but hair transplants, dental veneers, chemical peels and face-lifts. (Somehow, when I put "New Jersey" and "face-lift" in the same sentence, all I can think of is Tony Soprano working a 12-gauge.)

Our state officials began demanding of dermatologists and cosmetic surgeons: Where's California's share? Medical Botox (for maladies such as migraines and sweaty hands and crossed eyes and uncontrolled blinking disorders) isn't taxable, but cosmetic Botox use should be, so pony up.

Then the lobbying and the letter writing began: If the FDA calls it a prescription drug (and prescription drugs aren't taxable), who are the guys in the green eyeshades to say otherwise? Who's to say what to tax when one vial of Botox (they come in multi-dose sizes) may be tapped for medical and cosmetic uses in the same office? Is some state tax examiner going to nose through patient files to decide? And can't aging itself be regarded as a medical disorder? (In these parts? You bet.)

The upshot is that when the tax board meets on Tuesday, it'll find (maybe to its relief) that its staff is recommending a "no" on the "Botax."

Why would the state surrender such revenue after a few dozen annoyed letters, and the possibility of a few hundred more? There are the medical and privacy points above, which could spell "lawsuit." And then there's — gimme an A — Allergan, the pharmaceutical firm in Irvine. For Allergan, Botox isn't a cash cow, it's a whole herd. With Botox sales in the hundreds of millions, Allergan's six-figure contributions to Republicans and to Gov. Arnold Schwarzenegger's pet projects, not to mention its sizable fees to lobbyists, don't amount to a splash in the milk pail.

The "Botax" pushes a much bigger question into California's unlined face: the luxury tax — it's not just a square on the Monopoly board. In World War I, we taxed silk underwear and servants' uniforms; in World War II, makeup and furs; and we're still paying a phone tax levied for the Spanish-American War, back when a phone was a luxury.

California already has a sideways luxury tax. Proposition 63 tacked another 1% onto the income tax of millionaires to pay for mental health services. Think creatively, people. A sliding luxury tax on vehicles, linked to horsepower like the federal tax in World War I? On any diamond over two carats? Just what is a luxury nowadays, when Everyman can drive home an SUV to watch a plasma TV, and Everymom can get a Happy Mother's Day dose of Botox?

Anyway, I don't think the "Botax" would have gotten past Schwarzenegger. Abuse in Sacramento, he can handle; abuse every time he goes out and about among his neighbors in West L.A. is another matter. He doesn't run the Board of Equalization, but he could get a proposition on the ballot. Last December, Schwarzenegger showed up for the dedication of Allergan's new research center joking that "this is all for Joan Rivers." The obvious question was passed from a reporter to a spokeswoman, and the answer came back: No, Arnold's never used the stuff.

Wow. So I guess that *is* just his acting technique after all.

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