

NEWLY CONSTRUCTED PROPERTY (Contd.)

- | 610.0070 Planting of Bulbs. Under Revenue and Taxation Code Section 70, Property Tax Rules 463 and 466, and AH 567—*Assessment of Nursery Stock Handbook*, the planting of bulbs is new construction of the land, but neither the removal of bulbs and replanting in the same field nor the relocation of bulbs from one field to another, absent a change in ownership, is new construction. C 2/10/83.

(See Business Inventory Exemption - Bulbs)

bc: Mr. Gordon P. Adelman
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Legal Section

(916) 445-4588

February 10, 1983

Assistant Assessor
Humboldt County
825 Fifth Street
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Dear Mr

This is in response to your recent telephone request for an opinion on whether daffodil, lily, and iris bulbs used for the production of cut flowers can be revalued to reflect additional increments in value when the bulbs are removed from the ground and replanted in the same field or in another field under the same ownership. Your inquiry presents two issues: (1) are the bulbs in question perennials, or are they annuals entitled to the growing crops exemption; and (2) does the replanting constitute new construction permitting addition of values to the land?

Mr. William McKay, of our Assessment Standards Division, wrote to Mr. Leonard Schaal of your office on January 20, 1983, providing an answer to this inquiry. I am in general agreement with the opinions expressed in that letter with one exception. The exception is that I would add an additional condition to the second paragraph of Mr. McKay's letter, in which he expresses the opinion that if bulbs are left in the ground for less than one year, such as the case with daffodils, they should be classified as a growing crop rather than as land. Since daffodils are a perennial according to my information, Mr. McKay's advice would only be correct if there is a necessity for the daffodils to be annually removed from the ground.

A "necessity" exists only where a perennial plant must be treated as an annual because of climatic conditions or the physical characteristics of the plant itself. Just because the nursery industry finds it convenient or profitable to remove and replant the bulbs does not mean they have met the test of necessity. These are the standards set forth by the Attorney General (57 Ops.Cal.Atty.Gen. 506 (1974)) and approved in Nunes Turfgrass v. County of Kern, (1980) 111 Cal.App. 3rd 855.

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Based on the information presented to us, it is not "necessary" to remove daffodil bulbs from the ground annually. However, the consistent practice of the California agricultural industry as a whole should be examined in your particular case. If the consistent practice is to treat daffodil bulbs as an annual because of their nature or because the environment requires an annual planting, sowing, or harvesting, then that will be evidence, though not necessarily determinative, the daffodil bulbs could be considered a growing crop and be exempt from tax. Again, I do not believe that daffodils, a perennial, can be considered a growing crop.

The first question to be answered is what is the status of the bulbs on the lien date? If they are planted, they are part of the land. If they are not in the land on the lien date, then they can be considered personal property and can be revalued at their full cash value, assuming they are not held for resale and, therefore, are not entitled to the business inventory exemption.

Under Revenue and Taxation Code Section 70 and Board Rules 463 and 466, the planting of bulbs in the land is new construction of the land and the value of new bulbs may be added to the land. This is also the advice found in Assessors Handbook Section 567, Assessment of Nursery Stock. However, as Mr. McKay advised you, it is our view that relocation of bulbs from one site to another under the same ownership is not new construction permitting the reappraisal of bulbs. Nor do we believe removal and replanting in the same field is new construction permitting reappraisal. This is consistent with our advice given in Assessors' Letter 80/26, dated February 22, 1980, Valuation of Relocated Improvements. While the bulbs are not improvements (see County of Monterey v. Madalora 171 Cal.App. 2d 840 (1959)), we believe the same principles expressed in Assessors' Letter 80/26 would apply to this situation.

It is my understanding that the bulbs are removed from the ground, sorted, and replanted. In the process, some bulbs are discarded and new bulbs are added to the lot. The value of these new bulbs would be added to the land at their current market value and would take on a base year value as of the year of planting. (See attached copy of Assessors' Letter 78/138).

Very truly yours,

Lawrence A. Augusta
Assistant Chief Counsel

LAA:jlh
Enclosure