

**495.0000 GROWING CROPS EXEMPTION**

*See Business Inventory Exemption  
Timber Yield Tax*

**495.0001 Plants.**

1. The exemption of "growing crops" provided for in section 3 of article XIII of the California Constitution extends to those plants which require an annual planting or sowing, or an annual harvesting. Where a specie of plant must be treated as an annual because of climatic conditions or the physical characteristics of the plant, it is a "growing crop" while growing on the grower's lands even though such plant is technically classified botanically as a perennial.
2. The exemption is not limited to plants which produce food or fiber for human consumption or use but extends to certain ornamental plants. The term "growing crops" does not, however, apply to ornamental plants grown by a nursery for sale as living plants, i.e., for transplanting by the customer. An ornamental may qualify if it is grown for its products, such as cut flowers or seeds, if it is not grown for sale as a living plant and it meets the test described in above.
3. The exemption does not apply to nursery plants grown for sale, even though such plants as tomatoes become exempt in the fields of farmers who buy the plants and grow them for the purpose of harvesting tomatoes.
4. Cultivated turf grasses which are raised for sale as lawn are perennials and, therefore, are not "growing crops" within the meaning of section 1 of article XIII of the California Constitution. Revenue and Taxation Code section 202.1 is, therefore, invalid. Such grasses are personal property and should be taxed in the same way as other nursery plants grown for sale and transplanting. The annual destruction of the root stock of perennial grasses or other plants is not the deciding factor in determining whether the plant is an annual or a perennial.
5. As indicated in 2, 3, and 4, above, nursery plants grown for sale are personal property whether they are grown in the ground or in raised beds or containers. Plants which are not grown for sale and transplanting but are grown for their products are to be classified as land if grown in the ground or in beds where the soil is in direct contact with or by outward appearance is in contact with the underlying land, whereas plants raised in containers or in beds elevated above the ground are to be classified as personal property for purposes of ad valorem property taxation.
6. Where land used to grow perennial plants is assessed on the basis of a higher and better use, it would be improper to add value because of the presence of perennial plants. If, however, nursery use is the highest and best use of the property, or the property is in a state of transition from nursery farm use to urban use, then the value of perennial plants may properly be reflected in the value of the land, whether the comparative sales approach or the income approach, or a combination of both, is utilized by the assessor. OAG 11/7/74 (No. CV 74-68, Vol. 57, p. 506).