

**860\_0040 Preferential Assessment.** A vessel exclusively engaged or employed in the taking and possessing of a living resource of the sea, such as oysters, is eligible for professional assessment, even if owner by the person doing the taking. A vessel at sea used to facilitate pumping of sea water inland to supply inland oyster beds would also qualify because food (a living resource of the sea) is being brought to the oysters for a commercial purpose. C 8/27/79

(916) 445-5047

August 27, 1979

Mr. Raymond J. Flynn Humboldt  
County Assessor 825 5th Street  
Eureka, CA 95501

Attention: Mr. Leo D. Sears  
Auditor-Appraiser

Dear Mr. Sears:

This is in reply to your letter dated June 4, 1979, wherein you request interpretive guidance concerning property tax exemption afforded documented vessels under Section 227 of the Revenue and Taxation Code.

Section 227 (amended 6/16/78 by AB 2265, Stats. 1978, Ch. 232) provides for a one percent of full cash value assessment of a document vessel if:

1. The vessel is documented and is a vessel as defined in Section 130 of the Revenue and Taxation Code, and
2. The vessel is engaged or employed exclusively in taking and possessing any living resource of the sea for commercial purposes.

The section also provides for a preferential assessment of vessels used for research and for passenger transportation, but those provisions were not the subject of your questions and will not be discussed herein.

The definition of a documented vessel is reasonably defined in Section 130 of the Revenue and Taxation Code. It must be a means of transportation on water and be documented by certain agencies of the U. S. Government or by the California Department of Motor Vehicles. The simplicity of obtaining documentation if it is irrelevant. We are bound to recognize the documentation if it is granted.

Mr. Raymond J. Flynn

August 27, 1979

The vessel must be exclusively used for the exempt purpose. There is no requirement that the vessel be owned by the taxpayer, but only exclusively used him. The vessel need only be exclusively "engaged or employed" by the taxpayer.

The vessel must be used for taking and possessing a living resource of the sea. Vessels used for the taking of oysters would qualify. Oysters are living, they are taken from the sea, and they a resource. It doesn't matter whether they are planted or natural because there is no provision in Section 227 to require the resources be a "natural" resource. And it doesn't matter that the oysters are cultured in cages hung from barges anchored at sea because liberally construed the oysters are "taken from the sea".

Vessels at sea used to facilitate pumping of sea water inland to supply sea water to inland oyster beds would also qualify so long as the purpose was to bring food to the oysters. The food thus brought inland is a living resource of the sea, and it is taken for a commercial purpose. Such use of the documented vessel is a qualifying use. However, all equipment not reasoned to be an appurtenant part of the vessel would not qualify for the preferential tax treatment.

Vessels anchored or used inland would not qualify unless it could be shown they were used for taking and possessing of a living resource of the sea. For example, vessels anchored inland to facilitate pumps which draw sea water could qualify if used to draw food from the sea. But inland vessels used to carry oyster cages would not qualify because the element of "taking from the sea" would be absent.

The statute does not require the vessel be highly mobile. The vessel need only be a watercraft used or capable of being used as a means of transportation on water. (See Section 130, Rev. & Tax Code.) If the vessel has such capacity, it appears irrelevant as to how long it is anchored in one spot.

Our interpretation of the intent of the statute is that the commercial exploitation of the sea is to be favored. We suggest Section 227 should be liberally interpreted toward this end.

Very truly yours,

Robert R. Keeling  
Tax Counsel

RRK:fr

Bc: Mr. Gordon Adelman  
Mr. Robert H. Gustafson

Mr. Verne Walton  
Legal Section