***Estate of Shirley Morgan, Deceased, Margaret Morgan, Administratrix, and Margaret Morgan, Petitioners v. Commissioner of Internal Revenue, Respondent; Clifford M. Pedersen and Thelma Pedersen, Petitioners v. Commissioner of Internal Revenue, Respondent, 52 T. C. 478 (1969)***

Floating docks used for leasing docking facilities are classified as tangible personal property for tax purposes, while guide pilings are considered non-qualifying land improvements.

**Summary**

In Estate of Morgan v. Commissioner, the Tax Court ruled that floating docks used by a partnership for leasing docking facilities were tangible personal property under IRC sections 48 and 179, thus qualifying for investment credits and additional first-year depreciation. The docks, which floated on the water and rose and fell with the tide, were deemed portable and not inherently permanent structures. In contrast, the guide pilings that limited the docks' lateral motion were classified as permanent land improvements and thus did not qualify as tangible personal property. This decision clarified the distinction between movable floating docks and fixed pilings for tax purposes, impacting how similar structures should be treated in future cases.

**Facts**

Clipper Yacht Co. , a partnership owned by Shirley Morgan and Clifford Pedersen, operated a business leasing docking facilities on San Francisco Bay. In 1964 and 1965, the partnership expended funds to construct and improve floating docks in two basins. These docks were held in place by guide pilings driven into the harbor bottom. The docks floated on the water, rising and falling with the tide, and were designed to provide convenient access to boats. The partnership claimed investment credits and additional first-year depreciation on these expenditures, which the Commissioner disallowed, arguing that the docks and pilings did not qualify as tangible personal property under IRC sections 48 and 179.

**Procedural History**

The petitioners filed a petition with the United States Tax Court challenging the Commissioner's disallowance of the investment credits and additional first-year depreciation for the floating docks and pilings. The Tax Court heard the case and issued its opinion on June 18, 1969, determining that the floating docks qualified as tangible personal property while the guide pilings did not.

**Issue(s)**

1. Whether the floating docks constructed and improved by the partnership qualify as "tangible personal property" under IRC sections 48 and 179.
2. Whether the guide pilings used to hold the floating docks in place qualify as "tangible personal property" under IRC sections 48 and 179.

## Holding

1. Yes, because the floating docks are not inherently permanent structures but rather portable units that float on the water and rise and fall with the tide.
2. No, because the guide pilings are permanent land improvements driven deep into the harbor bottom.

## Court's Reasoning

The Tax Court distinguished between the floating docks and the guide pilings based on their inherent characteristics and mobility. The court applied the definition of "tangible personal property" found in the regulations under sections 48 and 179, which exclude land and improvements thereto such as buildings or other inherently permanent structures. The court noted that the floating docks were not fixed to the land but floated on the water, rising and falling with the tide, and could be readily removed and relocated. The court rejected the Commissioner's argument that the docks were inherently permanent due to their attachment to land via gangways, utility connections, and pilings, emphasizing that these connections did not make the docks permanent fixtures. In contrast, the guide pilings were driven deep into the harbor bottom and were considered permanent land improvements. The court also dismissed the Commissioner's reliance on a revenue ruling issued after the tax years in question, stating that such rulings have no more legal force than opening statements at trial. The court concluded that the floating docks qualified as tangible personal property while the guide pilings did not.

## Practical Implications

This decision provides clarity on the classification of floating docks and guide pilings for tax purposes, particularly in the context of IRC sections 48 and 179. For legal practitioners, the case establishes that floating docks used for leasing docking facilities should be treated as tangible personal property, eligible for investment credits and additional first-year depreciation. In contrast, guide pilings, which are driven into the harbor bottom to limit the docks' lateral motion, are classified as permanent land improvements and do not qualify for these tax benefits. This distinction may impact how similar structures are analyzed in future tax cases, potentially affecting the tax treatment of various types of docks and related structures. Businesses operating similar docking facilities may need to adjust their tax planning and accounting practices to reflect this ruling. Subsequent cases have cited Estate of Morgan v. Commissioner to support the classification of other types of movable structures as tangible personal property for tax purposes.

 