Roberts v. Commissioner, 60 T. C. 861 (1973)

The court ruled that a steel tower and concrete base of an amusement device are not tangible personal property for the purpose of the investment tax credit under section 38 of the Internal Revenue Code.

Summary

In Roberts v. Commissioner, the issue was whether the steel tower and concrete base of the 'Astro Needle,' an amusement ride, qualified as tangible personal property under section 48(a)(1)(A) of the Internal Revenue Code, thus eligible for the investment tax credit. The Tax Court held that these components, due to their permanent nature and attachment to the realty, did not qualify as tangible personal property. The decision was based on the legislative intent to distinguish between personal property and other tangible property, emphasizing the permanency and attachment of the structures involved.

Facts

Burra, Inc. , constructed the 'Astro Needle,' a 200-foot amusement device at Myrtle Beach, S. C. , in 1968. The device included a steel tower and a concrete base, which were designed to be permanent at the specific site. The tower was made of welded or bolted steel sections, and the base was a large concrete structure set on numerous pilings driven into the ground. The petitioners claimed an investment credit on their tax returns for the cost of the tower and base, asserting they were tangible personal property under section 48(a)(1)(A) of the Internal Revenue Code.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in the petitioners' income taxes, disallowing the investment credit for the tower and base. The petitioners contested this in the U. S. Tax Court, which heard the consolidated cases of multiple petitioners. The court issued its decision on September 6, 1973, ruling in favor of the Commissioner.

Issue(s)

1. Whether the steel tower and concrete base of the 'Astro Needle' qualify as tangible personal property under section 48(a)(1)(A) of the Internal Revenue Code, thus eligible for the investment tax credit?

Holding

1. No, because the tower and base are inherently permanent structures attached to the realty and do not meet the criteria for tangible personal property as defined by the Internal Revenue Code and its legislative history.

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Court’s Reasoning

The court’s reasoning centered on the legislative intent behind the definition of tangible personal property for investment tax credit purposes. Congress intended to broadly define personal property but exclude inherently permanent structures annexed to the realty. The court analyzed the ‘Astro Needle’s’ components, finding that the concrete base, set upon deep pilings, and the steel tower, firmly anchored to the base, were designed to be permanent at a specific site. The court rejected the petitioners’ argument that the device’s machinery-like nature qualified it as personal property, citing cases and revenue rulings where similar structures were deemed not to be personal property due to their permanency. The court emphasized that the ‘Astro Needle’ could not be separated from the realty without significant difficulty, thus classifying it as an ‘other tangible property’ under section 48(a)(1)(B), not eligible for the investment credit.

Practical Implications

This decision clarifies the criteria for determining whether a structure qualifies as tangible personal property for investment tax credit purposes. It emphasizes the importance of the permanency and attachment of structures to the realty in this determination. Legal practitioners must assess the nature of a structure’s attachment and its intended permanency when advising clients on potential investment credits. Businesses in the amusement industry or similar sectors must consider the tax implications of constructing permanent structures. This ruling has influenced subsequent cases and IRS guidance, such as in the classification of other amusement structures and similar permanent installations, reinforcing the distinction between personal and other tangible property for tax purposes.

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