Everhart v. Commissioner, 61 T. C. 328 (1973)

A sewage disposal system installed underground is not considered tangible personal property eligible for the investment tax credit under section 38 of the Internal Revenue Code.

Summary

In Everhart v. Commissioner, the U. S. Tax Court ruled that a sewage disposal system installed at a shopping center did not qualify as tangible personal property under section 48(a)(1)(A) of the Internal Revenue Code, thus ineligible for the investment tax credit. The Everharts, owners of the shopping center, argued that the system should be considered personal property, but the court found it to be an inherently permanent structure and a structural component of the shopping center, despite its prefabricated nature and potential removability. The decision underscores the importance of distinguishing between personal and real property for tax purposes, affecting how businesses classify assets for investment credits.

Facts

C. C. and Clara Everhart owned a shopping center in Mosheim, Tennessee, which included a laundromat, restaurant, grocery store, barber shop, and beauty shop. In 1968, following a health department directive to address pollution from the laundromat's sewage, the Everharts installed a sewage disposal system designed to treat sewage from the entire center and their nearby residence. The system, costing $17,497. 75, was a prefabricated unit buried underground, anchored to a concrete foundation, and connected to the shopping center buildings and residence via underground pipes.

Procedural History

The Everharts filed for an investment tax credit on their 1968 tax return, claiming the sewage disposal system as section 38 property. The Commissioner of Internal Revenue determined a deficiency in their tax, leading the Everharts to petition the U. S. Tax Court. The court heard the case and ultimately ruled in favor of the Commissioner, denying the investment credit.

Issue(s)

1. Whether the sewage disposal system installed by the Everharts qualifies 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 sewage disposal system is an inherently permanent structure and a structural component of the shopping center, not qualifying as tangible personal

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property.

Court’s Reasoning

The court applied the definition of tangible personal property from section 1. 48-1(c) of the Income Tax Regulations, which excludes buildings and other inherently permanent structures. Despite the system’s prefabricated and self-contained nature, the court deemed it inherently permanent due to its installation method—buried underground, anchored to a concrete foundation, and connected to the shopping center via underground pipes. The court also considered the system a structural component necessary for the operation of the shopping center, as per section 1. 48-1(e)(2) of the regulations. Furthermore, the court noted that part of the system served the Everharts’ personal residence, which would not qualify for depreciation and thus not for the investment credit. The court emphasized that movability alone does not determine property classification, and the Everharts failed to carry the burden of proof required to qualify for the credit.

Practical Implications

This decision clarifies that for tax purposes, the classification of property as tangible personal property for investment credits requires careful analysis of the property’s permanency and its role in the operation of related structures. Businesses must ensure that assets claimed for investment credits are not considered inherently permanent or structural components of buildings. This ruling impacts how similar installations, such as utility systems, are classified for tax purposes and may influence business decisions regarding the installation and tax treatment of such systems. Subsequent cases and IRS rulings have continued to refine these distinctions, often citing Everhart as a precedent for denying investment credits for systems integral to building operations.

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