

Rev. Rul. 75-178

Citations: Rev. Rul. 75-178; 1975-1 C.B. 9

Rev. Rul. 75-178

Reconsideration has been given to [Rev. Rul. 67-67](#), 1967-1 C.B. 6, and to [Rev. Rul. 69-14](#), 1969-1 C.B. 26.

[Rev. Rul. 67-67](#) holds that a floating dock, that is attached by rings to fixed pilings driven into a harbor bottom, is inherently permanent property by reason of its nature and use and, therefore does not qualify for the investment credit as "tangible personal property."

[Rev. Rul. 69-14](#) holds that movable walls and partitions installed in an office building are "structural components" within the meaning of section 1.48-1(e)(2) of the Income Tax Regulations because they serve the same function as permanent partitions.

These positions were based on the determination that if the primary use of property is to provide for the functions normally served by inherently permanent structures or structural components thereof, then the property should be so classified.

In *Estate of Shirley Morgan*, 52 T.C. 478, aff'd per curiam, 448 F. 2d 1397 (9th Cir. 1971), the court declined to classify floating docks as inherently permanent where they were not themselves attached to land but were attached to fixed pilings driven into the bed of the bay. The fact that the floating docks functioned in the same manner as those that are moored to the land did not, in the eyes of the court, make them inherently permanent. In contrast, and notwithstanding the fact that they could be moved, the pilings were held to be inherently permanent because they were actually affixed to land. See also *Beverly R. Roberts*, 60 T.C. 861 (1973), concerning a 200-foot steel "Astro Needle" that was held to be inherently permanent because it was anchored to the land by bolting it to a concrete base.

In *Minot Federal Savings & Loan Ass'n v. United States*, 435 F. 2d 1368 (8th Cir. 1970), and

King Radio Corp., Inc. v. United States, 486 F. 2d 1091 (10th Cir. 1973), the courts rejected the position set forth in [Rev. Rul. 69-14](#).

The use of a functional or equivalency test (1) to classify property as inherently permanent where it is not itself physically attached to the land, or (2) to classify property as a structural component where it is not an integral part of (and therefore a permanent part of) a building, is no longer the criteria to be used to classify property. Rather, the problem of classification of property as "personal" or "inherently permanent" should be made on the basis of the manner of attachment to the land or the structure and how permanently the property is designed to remain in place.

Accordingly, floating docks (such as the one described in [Rev. Rul. 67-67](#)) that are not themselves attached to the land and movable partitions that are not a permanent part of a building are tangible personal property and may qualify as "section 38 property" for investment credit purposes.

[Rev. Rul. 67-67](#) and [Rev. Rul. 69-14](#) are revoked.