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Revenue Rulings

Rev. Rul. 83-13, 1983-1 CB 11, IRC Sec(s). 48

Headnote:

Rev. Rul. 83-13, 1983-1 CB 11 -- IRC Sec. 48 (Also Section 168.)

Reference(s): Code Sec. 48; Reg § 1.48-1

Investment credit; tile drainage systems and concrete ditches.

Tile drainage systems and concrete ditches used to irrigate cultivated fields or to improve the drainage of pastures are 5-year recovery property for purposes of section 168 of the Code if placed in service after December 31, 1980.

Full Text:

ISSUE

How should the tile drainage systems and concrete ditches described below be classified under the accelerated cost recovery system of section 168 of the Internal Revenue Code?

FACTS

Certain tile drainage systems and concrete ditches are used to irrigate cultivated fields or to improve the drainage of pastures as part of a livestock raising activity. Pursuant to the Asset Depreciation Range (ADR) system of section 167(m) of the Code and section 1.167(a)-11 of the Income Tax Regulations, Rev. Proc. 77-10, 1977-1 C.B. 548, 551, provides that these assets are classified in asset guideline class 00.3 with an asset guideline period of 20 years.

LAW AND ANALYSIS

Section 168(a) of the Code provides that there should be allowed as a deduction the amount determined under this section with respect to recovery property. <Page 12>

Section 168(c)(1) of the Code provides that, except as provided in subsection (e), the term "recovery property" means tangible property of a character subject to the allowance for depreciation used in a trade or business, or held for the production of income.

Section 168(c)(2) of the Code provides that each item of recovery property shall be assigned to one of the following classes of property:

- (A) 3-year property, which is section 1245 property with a present class life of 4 years or less or used in connection with research and experimentation.
- (B) 5-year property, which is section 1245 property and which is not 3- year property, 10-year property, or 15-year public utility property.
- (C) 10-year property, which is public utility property with a present class life of more than 18 but not more than 25 years, or section 1250 property with a present class life of 12.5 years or less.

(D) 15-year real property, which is section 1250 property which does not have a present class life of 12.5 years or less.

(E) 15-year public utility property, which is certain public utility property with a present class life of more than 25 years.

Section 1245(a)(3)(B)(i) of the Code provides that the term "section 1245 property" includes any property which is or has been property of a character subject to the allowance for depreciation and is either personal property or other tangible property (not including a building or its structural components) which has an adjusted basis in which there are reflected adjustments described in section 1245(a)(2) and was used as an integral part of production.

Section 1.48-1(d)(2) of the regulations includes in the term "production" the cultivation of soil and the raising of livestock.

Rev. Rul. 66-89, 1966-1 C.B. 7, as clarified by Rev. Rul. 72-222, 1972-1 C.B. 17, holds that drainage tiles used to irrigate cultivated fields are an integral part of an agricultural production activity, and drainage tile used to improve the drainage of pastures are an integral part of a livestock raising activity and thus qualify as section 38 property.

Under section 1245(a)(3)(B)(i) of the Code the tile drainage systems and the concrete ditches are section 1245 property because they are used either as an integral part of the production activity in irrigating cultivated fields or as an integral part of the livestock raising activity in draining pasture land and they are tangible property subject to the allowance for depreciation.

In addition, such properties are section 168 recovery property because they are tangible property subject to the allowance for depreciation and used in a trade or business.

Because the drainage systems and concrete ditches are recovery property and are section 1245 property with an asset guideline class of 20 years, they are section 1245 property that is not 3-year property, 10-year property, or 15-year public utility property, and thus they fit the definition of 5-year recovery property under section 168(c)(2)(B) of the Code.

HOLDING

The tile drainage systems and concrete ditches described above are 5-year recovery property for purposes of section 168 of the Code if placed in service after December 31, 1980.