

Rev. Rul. 66-269

Advice has been requested whether certain assets used at a trailer park qualify for the investment credit. Specifically, the property in question includes electrical hookups, plumbing hookups, and water wells.

Included in the costs of plumbing hookups are the surveyor fees, the digging of trenches, the installation of water and sewer pipes, the construction of a mound of rocks as a drainage field, septic tanks, and lift pumps to raise the sewage from the septic tanks for dumping on the drainage field. The electrical hookups include the costs of lead-in wires from the utility poles, which were installed throughout the trailer park, the costs of hookup boards, fuse boxes, and plug-in units. The cost of water wells include the actual drilling, the well casings, and electric pumps.

Section 48 of the Internal Revenue Code of 1954 provides, in part, that for property to qualify as "section 38 property" for which an investment credit is allowed, it must be either (1) tangible personal property or (2) other tangible property (not including a building or its structural components) used as an integral part of manufacturing, production, or extraction, or as an integral part of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services.

"Tangible personal property" is defined in section 1.48-1(c) of the Income Tax Regulations to include all tangible property except land and improvements thereto, such as buildings or other inherently permanent structures (including items which are structural components of such buildings or structures). In addition, all property which is in the nature of machinery (other than structural components of a building or other inherently permanent structure), shall be considered tangible personal property even though located outside a building. Thus, for example, a gasoline pump, hydraulic car lift, or automatic vending machine, although annexed to the ground, shall be considered tangible personal property. Furthermore, H.R. Report No. 1447, Eighty-seventh Congress, second session, C.B. 1962-3, 405, at 415, states that tangible personal property is not intended to be defined narrowly, nor necessarily to follow the rules of State law. Although assets accessory to a business such as grocery store counters, printing presses, etc., are to qualify for the credit, the same Committee Report, at page 416, specifically considers property such as oil and gas pipelines and fences to be real property.

The electrical hookups, plumbing hookups, and water wells are in the nature of land improvements, similar to oil and gas pipelines which are considered as real estate. Only the electric pumps used in connection with these facilities qualify as tangible personal property.

"Other tangible property," as defined in section 1.48-1(d) of the regulations, is property used as an integral part of manufacturing, production or extraction, or as an integral part of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services by a person engaged in a trade or business of furnishing any such service. The properties in question do not qualify under this definition.

Accordingly, electrical hookups, plumbing hookups, and water wells, except for the electric pumps used in connection therewith, installed at a trailer park are not " section 38 property."