

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-A-83(26)S
Sales Tax
June 17, 1983

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S821008B

On October 8, 1982 a Petition for Advisory Opinion was received from Capital Awning Co., Inc., 140-03 180th Street, Jamaica, New York 11433.

The issue raised is whether the installation of a canvas awning constitutes a capital improvement for purposes of the sales tax imposed under Article 28 of the Tax Law.

Section 1105(c)(3) of the Tax Law imposes a tax on the service of installing tangible property, but excepts such service where the installation constitutes a capital improvement to real property.

Section 1101(b)(9) of the Tax Law defines the term "capital improvement" as:

An addition or alteration to real property which: (i) Substantially adds to the value of the real property, or appreciably prolongs the useful life of the real property; and (ii) Becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself; and (iii) Is intended to become a permanent installation.

It has been determined that the installation of canvas awnings does not constitute a capital improvement within the meaning of section 1105(c)(3) of the Tax Law. See New York State Department of Taxation and Finance, Publication 862(2/81), Classifications of Improvements and Repairs to Real Property for Sales Tax Purposes, at p. 7.

Accordingly, Petitioner must collect state and local sales taxes on the total charge for the sale and installation of a canvas awning.

DATED: May 26, 1983

s/FRANK J. PUCCIA
Director
Technical Services Bureau