

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

TSB-A-95 (10)S  
Sales Tax  
April 19, 1995

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S941031G

On October 31, 1994, a Petition for Advisory Opinion was received from Ms. Ruth Bell, P.O. Box 738, 70 Whippoorwill Lane, Quoque, New York.

The issue raised by Petitioner, Ms. Ruth Bell, is whether the installation of a canvas awning constitutes a capital improvement for sales tax purposes.

In 1993 Petitioner purchased an installed canvas awning from Brock Awnings Ltd. to be installed in her home in Quoque, New York. Brock charged Petitioner \$4160 plus sales tax of \$353.60. The awning was custom made to fit exactly in the area to block the sun in the daytime from entering her living room and dining room. The awning is 23'6" wide and when open projects out 11'6".

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

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

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

It has been determined that the installations of canvas awnings do not result in a capital improvement in accordance with the meaning and intent of sections 1101(b)(9) and 1105(c)(3) of the Tax Law. New York State Department of Taxation and Finance, New York State and Local Sales and Use Tax Classifications of Capital Improvements and Repairs to Real Property, Publication 862 (5/94), at 6; Capital Awning Co., Adv. Op STC, May 26, 1983 TSB-A-83(26)S; Kohler Awning, Inc., Adv Op Com T&F, February 19, 1992 TSB-A-92(11)S. Accordingly Petitioner's purchase of a canvas awning as well as the installation of said awning is subject to the imposition of sales tax.

DATED: April 19, 1995

/s/

PAUL B. COBURN  
Deputy Director  
Taxpayer Services Division

NOTE: The opinions expressed in Advisory Opinions  
are limited to the facts set forth therein.