

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

TSB-H-81(70)S
Sales Tax
April 3, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810105A

On January 5, 1981 a Petition for Advisory Opinion was received from William Jiskra Plumbing and Heating Contractor, 235 Foxhurst Road, Oceanside, New York 11572.

Petitioner inquires as to whether the following constitute capital improvements for purposes of the sales tax imposed under Article 28 of the Tax Law:

1. Installation of a new bathroom added to existing home.
2. Removal of old bathroom and replacement with new fixtures, faucets, piping, tile, etc.
3. Replacement of broken oil boiler with new oil boiler.
4. Replacement of broken oil boiler with new gas boiler.
5. Replacement of entire heating system.
6. Conversion of heating system to gas.
7. Installation of new hot water heater to replace broken coil in boiler.
8. Installation of new gas hot water heater.

The Sales and Use Tax Regulations define the term "capital improvement" as ". . .an addition or alteration to real property (i) which substantially adds to the value of the real property, or appreciably prolongs the useful life of the real property, and (ii) which 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. "20 NYCRR 527.7(a) (3).

The items listed above meet all three criteria set forth in the provision of the Regulations quoted above. Accordingly, all of the installations listed by Petitioner constitute "capital improvements to real property," within the meaning and intent of Article 28 of the Tax Law.

DATED: March 19, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau

JAMES H. TULLY, JR., COMMISSIONER LOUIS M. JACOBSON, DEPUTY COMMISSIONER
FRANK J. PUCCIA, DIRECTOR