

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

TSB-A-81 (23) S  
Sales Tax  
September 10, 1981

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810526C

On May 26, 1981 a Petition for Advisory Opinion was received from David W. Sprague, 408 E. State Street, Ithaca, New York 14850.

The issue raised is whether the sale and installation of window quilts (an energy conservation device) are subject to sales tax.

Petitioner states that the window quilts are custom cut for each window, are installed using nails, screws or glue, have a life expectancy of fifteen years, cost \$6.00 per square foot, are eligible for the federal energy credit, and are similar in use and design to storm windows.

Section 1105(a) of the Tax Law imposes a tax on "The receipts from every retail sale of tangible personal property, except as otherwise provided in this article."

Section 1105(c)(3) of the Tax Law imposes a tax on receipts from the service of "Installing tangible personal property . . . except for installing property which, when installed, will constitute (a) . . . capital improvement to real property . . ."

The Tax Law and 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." Tax Law §1101(b)(9) and 20 NYCRR 527.7.

A window quilt is not similar in use and design to a storm window, but rather is similar to insulated draperies. The installation of a window quilt does not constitute a capital improvement to real property in that (1) such activity does not substantially add to the value of real property or appreciably prolong its useful life and (2) such installation is not permanent.

Consequently, when a window quilt is sold on an installed basis the entire charge is subject to sales tax pursuant to Section 1105(a) of the Tax Law.

DATED: August 25, 1981

s/LOUIS ETLINGER  
Deputy Director  
Technical Services Bureau