

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

TSB-H-81 (30) S
Sales Tax
March 2, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S801006A

On October 6, 1980 a Petition for Advisory Opinion was received from Nassau Solar Development, Inc., 152 Hempstead Turnpike, West Hempstead, N.Y. 11552.

The issues raised are whether the sale of an uninstalled window quilt is subject to the sales tax imposed under Article 28 of the Tax Law and whether the sale of a window quilt on an installed basis constitutes a capital improvement to real property so as to exempt the receipts from such sale from such sales tax.

A window quilt is an insulated window shade, similar in nature to draperies and blinds. It is a "heat regulation device" which may be a component of a passive solar system, serving the same purpose as insulated draperies to control the amount of heat which escapes from a building.

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...."

Section 527.7 of the Sales and Use Tax Regulations defines the term capital improvement to mean "... 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.

The sale of an uninstalled window quilt constitutes a retail sale of tangible personal property the receipts from which are subject to the sales tax imposed under Section 1105(a) of the Tax Law. Its installation does not constitute a capital improvement to real property within the meaning of section 527.7 of the Sales and Use Tax Regulations. Consequently, when a window quilt is sold on an installed basis the entire charge is subject to sales tax pursuant to the provisions of section 1105(a) of the Tax Law.

DATED: January 2, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau