

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

TSB-A-86(34)S
Sales Tax
September 3, 1986

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S860429B

On April 29, 1986, a Petition for Advisory Opinion was received from Verticals Inc., 704 East 133rd Street, Bronx, New York.

The issue raised is whether the furnishing of material and labor to install energy efficient Vertical Blinds in commercial office buildings constitutes a capital improvement to such buildings.

Most buildings in which the Vertical Blinds are installed have permanent structural pockets or frame work at the windows to receive the vertical blinds. In addition to controlling light and glare vertical blinds are calculated in the energy output of the building to control heat and air conditioning especially in buildings that have over a 50% glass area.

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.

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. . . ."

Blinds do not meet the criteria for a capital improvement. They are not permanently affixed to the building and are easily removed from the building. Moreover, the blinds are similar in nature and function to window quilts. The Tax Commission has previously ruled that the installation of such items do not become capital improvements. See: David W. Sprague, State Tax Commission Advisory Opinion, September 10, 1981, TSB-A-81(23)S; Nassau Solar Development Inc., State Tax Commission Advisory Opinion, March 2, 1981, TSB-H-81(30)S.

Accordingly, the sale and installation of blinds is subject to the tax imposed under 1105(a) and 1105(c)(3) of the Tax Law.

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It should be noted that the pockets in which the blinds are mounted may become a capital improvement since they can be integrated into the building or affixed to the real property with a great degree of permanence. However, each case must be determined based upon the method of affixation and the intention to make a permanent installation.

DATED: September 3, 1986

s/FRANK J. PUCCIA
Director
Technical Services Bureau

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