

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

TSB-A-92 (35) S
Sales Tax
April 17, 1992

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S920302A

On March 2, 1992 a Petition for Advisory Opinion was received from Loren D. Caputo, 264 Parkside Avenue, Miller Place, New York 11764.

The issue raised by Petitioner, Loren D. Caputo, is whether the installation of a synthetic turf putting green on real property constitutes a capital improvement exempt from the imposition of sales and use taxes.

The installation of a synthetic putting green on real property requires:

- 1) The excavation and removal of the existing sod and topsoil,
- 2) Provision for adequate under-drainage,
- 3) The installation of a compacted, crushed stone base approximately 4 inches thick,
- 4) The trenching of the entire perimeter of the putting green to a depth of approximately 8 inches,
- 5) The installation of a urethane shock pad and synthetic turf over the prepared base area, the weight of which for a 30 by 30 foot average size putting green is approximately 1000 pounds,
- 6) The anchoring of the synthetic turf in the perimeter trench using 10 inch long steel staples at 2 foot intervals around the entire green,
- 7) The application of a top dressing of fine sand to the surface of the entire green at the rate of 1 to 2 pounds per square foot,
- 8) The installation of regulation cups and pins, and
- 9) The restoration of the perimeter area.

The putting green is a permanent installation of considerable expense, the removal of which would destroy the synthetic turf and would require extensive restoration of the real property.

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

The term "capital improvement" is defined in section 1101(b)(9)(i) of the Tax Law as follows:

- (9) Capital improvement. (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 property or article itself; and
- (C) Is intended to become a permanent installation.

* * *

- (iii) Notwithstanding the provisions of subparagraph (i) of this paragraph:
(A) Floor covering, such as carpet, carpet padding, linoleum and vinyl roll flooring, carpet tile, linoleum tile and vinyl tile, installed as the initial finished floor covering in new construction or a new addition to or total reconstruction of existing construction shall constitute an addition or capital improvement to real property, property or land; and (B) Floor covering, such as carpet, carpet padding, linoleum and vinyl roll flooring, carpet tile, linoleum tile and vinyl tile, installed other than as described in clause (A) of this subparagraph shall not constitute an addition or capital improvement to real property, property or land.

Accordingly, pursuant to Sections 1105(c)(3) and 1101(b)(9)(i) of the Tax Law since the synthetic putting green described above substantially adds to the value of the real property, is permanently affixed to the real property so that removal would cause material damage to the property or article itself, and is intended to be a permanent installation, the construction of said synthetic putting green constitutes a capital improvement exempt from the imposition of State and local sales and use taxes.

It is noted that the synthetic turf and the urethane shock pad comes within the definition of floor coverings such as carpets or carpet paddings and thus the synthetic putting green constitutes a capital improvement only in new construction of, in a new addition to or in a total reconstruction of a synthetic putting green in accordance with the meaning and intent of Section 1101(b)(9)(iii) of the Tax Law.

DATED: April 17, 1992

s/PAUL B. COBURN
Deputy Director
Taxpayer Services Division

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