



MUNICIPAL SERVICE ADMINISTRATION
MUNICIPAL BUILDING, NEW YORK, N. Y. 10007

MILTON MUSICUS, Administrator

RECEIVED

JUL 13 1972

CASTAGNA & SON, INC.

July 7, 1972

cc J. Gunkel

Mr. George Groner
Castagna & Son
2110 Northern Blvd.
Manhasset, N. Y. 11030

RECEIVED

JUL 13 1972

CASTAGNA & SON, INC.

RE: Sales Tax Refund
Bellevue Hospital

Dear Mr. Groner:

With reference to the above matter and my letter to you dated April 26, 1972, we have reviewed the entire problem in greater detail.

Your contract was renegotiated in October 1969 and that contract has to be the basis for a determination as to whether you can file for a refund for sales tax paid since that date.

The Statute in question, Section 1119(a)(3) of the Tax Law, permits a refund of the amount of sales tax paid pursuant to an increase in the rate of sales tax subsequent to a contract being entered into, only where "a pre-existing lump sum or unit price construction contract" is involved. Since your renegotiated contract is a cost plus contract, it appears that no sales tax refund is possible.

The possibility of you or your subcontractors obtaining a refund under any of the involved contracts, depends on whether they qualify under either of the two categories mentioned in the statute, and whether refunds are barred by the statute of limitations. You might want to discuss this further with your counsel.

Very truly yours,

Sidney Burstein
SIDNEY BURSTEIN
General Counsel

FD:bc



CASTAGNA & SON *builders*

2110 NORTHERN BOULEVARD, MANHASSET, LONG ISLAND, NEW YORK 11030 - MANHASSET 7-6780

July 24, 1972

see attached list

RE: BELLEVUE HOSPITAL

Gentlemen:

Supplementing our letter of May 26, 1972 re sales tax refunds for the above project, we are enclosing herewith letter dated July 7, 1972 from Department of Public Works, City of New York in which they have reviewed their position and now state that this project is not eligible for a sales tax refund.

In accordance with their letter, you cannot apply for a sales tax credit from the State of New York and the City of New York will not expect a credit for sales tax from you on this project.

Very truly yours

CASTAGNA & SON, INC.



George Groner

GG/m
encl.

→ cc: Accounting