



Offices of the
Inspector General

LUCY LANG
Inspector General

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May 24, 2022

Amanda Hiller, Esq.
Acting Commissioner and General Counsel
New York State Department
of Taxation and Finance
State Office Campus, Building 9
Albany, New York 12227

Re: NYS IG 0066-037-2022

Dear Acting Commissioner and General Counsel Hiller:

On January 5, 2022, the New York State Department of Taxation and Finance (Tax) alleged to the Offices of the New York State Inspector General that [REDACTED], a Tax auditor I, may have been simultaneously working as a contact tracer for the New York State Department of Health (DOH) while working as a Tax auditor in telecommuting status. This letter reports the results of the Inspector General's investigation of this matter, which ultimately found that while [REDACTED] improperly failed to seek and obtain approval for his outside employment, all such outside work was conducted outside of his regular workday hours.

Tax's outside employment policy provides in pertinent part¹:

All Tax Department employees are hired on the condition that their state employment is their primary job. Outside employment and activities must not impair the employee's ability to perform their official duties The intent of the Department's policy is to avoid even the appearance of a conflict of interest between employees' outside interests and their status as state employees.

* * *

[T]he employee may not engage in . . . outside employment, outside income-producing business activity, or outside activity during regular work hours without charging leave accruals and obtaining permission to utilize leave accruals, in accordance with the Department's time and attendance policy.

¹ New York State Department of Taxation and Finance Executive Memorandum No. 3, Outside Employment, Business and Activity Policy, August 11, 2014.

The policy also requires that the Tax ethics officer review employee requests to engage in outside employment and activities and determine whether the request conflicts with Tax policies or State laws or regulations. The ethics officer's approval must be obtained before an employee can engage in outside employment or activity.

Tax advised the Inspector General that [REDACTED] supervisor had discovered [REDACTED] outside employment when, while drafting an email to [REDACTED] [REDACTED] email address auto-populated as "[REDACTED]@health.ny.gov." Tax further advised that [REDACTED] had not sought or received approval for outside employment during the applicable time period. Lastly, Tax reported it had identified a few days in which [REDACTED] timesheets reflected that he had worked for Tax and DOH during the same hours.

The Inspector General's investigation of this matter found that DOH hired [REDACTED] as a contact tracer on December 1, 2021. DOH advised that [REDACTED] resigned from this position on January 3, 2022, "shortly after he was asked to fill out [DOH's] secondary employment form."

The Inspector General compared [REDACTED] Tax and DOH timesheets and noted overlap on three dates for a total of 19.5 hours. [REDACTED] work for DOH on these three dates purportedly represented times during which he had taken mandatory online training for the DOH contact tracer position.

DATE	TAX HOURS	DOH HOURS	OVERLAP AMOUNT (hours)
12/02/2021	8:00 a.m. – 4:00 p.m.	9:00 a.m. – 5:30 p.m.	6.5
12/07/2021	8:00 a.m. – 4:00 p.m.	9:00 a.m. – 5:30 p.m.	6.5
12/09/2021	8:00 a.m. – 4:00 p.m.	9:00 a.m. – 5:30 p.m.	6.5
			19.5 hours

However, the Inspector General's investigation found that [REDACTED] did not, in fact, work on DOH matters during the abovementioned times and no actual overlap existed. Instead, electronic training records for the DOH contact tracer position revealed that [REDACTED] had taken the mandatory training modules during other hours—mainly during evenings—that were outside of his Tax workday hours. [REDACTED] merely listed his DOH hours as between 9:00 a.m. and 5:00 p.m. on his DOH timesheet because it was his understanding that DOH expected him to take this training during regular workday hours.

In light of these findings, I recommend that Tax take any action it deems appropriate against [REDACTED] for his failure to seek and obtain approval from Tax for his outside employment with DOH.

Please advise me of any action taken by Tax in response to this recommendation within 45 days of the date of this letter. If you require further information, please contact Deputy Inspector General James R. Davis at [REDACTED].

Sincerely,



Lucy Lang
Inspector General