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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Marietta Conticelli,  
Department of the Treasury

CSC Docket No. 2015-1639

Classification Appeal

ISSUED: ~~NOV~~ 10 2015 (RE)

Marietta Conticelli appeals the attached decision of the Division of Agency Services (DAS) which found that her position with the Department of the Treasury is properly classified as Investigator 2, Taxation. She seeks an Investigator 1, Taxation job classification in this proceeding.

Ms. Conticelli received a regular appointment to the title Investigator 2, Taxation on May 17, 2003. This position is located in the Field South Revenue Opportunity, Office of Compliance and Enforcement Activity, Division of Taxation, reports to a Supervising Investigator, Taxation, and does not have supervisory responsibilities. Upon her request, a classification review of her Position Classification Questionnaire (PCQ) and related documentation was performed.

The classification review found that Ms. Conticelli's assigned duties and responsibilities, as detailed in DAS' August 4, 2014 decision, were commensurate with the title of Investigator 2, Taxation. On appeal, Ms. Conticelli argues that she has been an Investigator for more than 17 years and trained many new investigators during that time period. She states that there has been a hiring freeze for several years now, so training is limited to Investigators who do not have the same experience that she has. She provides a list of nine people whom she states she has personally trained in the last few years, some of whom still come to her with questions or seek advice on how to handle certain situations or difficult taxpayers. She states that she works without supervision and often creates her own work and projects based on her observations during field investigations. She indicates that she continues to take classes and train subordinates. She argues that

the Investigators 1 and 2, Taxation function independently, and that she is a "Compliance Supervisor" on the Taxnet menu.

DAS responded that an Investigator 2, Taxation performs the more complex investigations in the area of assignment and assists in training subordinate Investigators. It stated that the position's responsibilities include performing complex investigations, but not assisting in the supervision of subordinate Investigators.

In reply, Ms. Conticelli described some duties of her position, including developing, training and supervising subordinates in research methods of investigation, and she names six individuals. She states that her unit does not do routine investigative work, and are a group of independent thinking individuals who work without supervision in the normal sense of the word. She states that her Supervisor does not assign work to a subordinate and monitor it, and most of the work is created by field observations.

### CONCLUSION

The definition section of the job specification for Investigator 2, Taxation states:

Under the direction of a Supervising Investigator or other higher level supervisory officer in the Division of Taxation, Department of the Treasury, performs investigations of a more complex nature as they relate to the collection of tax revenues, delinquent and/or deficient taxes, abatements, and enforcement of tax statutes administered by the Division of Taxation; assists in the training of subordinate investigators; may be assigned to either a field or central office location; does related work as required.

The definition section of the job specification for Investigator 1, Taxation states:

Under the direction of a Supervising Investigator or other higher level supervisory officer in the Division of Taxation, Department of the Treasury, assists in the supervision of subordinate investigators; conducts independent investigations of a more complex nature as they relate to the collection of tax revenues, delinquent and/or deficient taxes, abatements, and enforcement of tax statutes administered by the Division of Taxation; trains new investigators; may be assigned to either a field or central office location; does related work as required.

An Investigator 2, Taxation is expected to perform the more complex work involving tax investigations, and can be assigned to assist in training new personnel. An Investigator 1, Taxation, in addition to performing the more complex work, assists in the supervision of subordinate investigators and trains new investigators. The issue herein is that the appellant contends her work includes training investigators and assisting in supervision. It is long-standing policy that upon review of a request for position classification, when it is found that the majority of an incumbent's duties and responsibilities are related to the examples of work found in a particular job specification, that title is deemed the appropriate title for the position. Also, the outcome of position classification is not to provide a career path to the incumbents, but rather is to ensure that the position is classified in the most appropriate title available within the State's classification plan. *See In the Matter of Patricia Lightsey* (MSB, decided June 8, 2005), *aff'd on reconsideration* (MSB, decided November 22, 2005). Further, how well or efficiently an employee does his or her job, his or her length of service, and his or her qualifications have no effect on the classification of a position currently occupied, as *positions*, not employees, are classified. In addition, volume of work is not, in itself, evidence of a substantive change in job content. *See In the Matter of Area Supervisor, Crew Supervisor, and Assistant Crew Supervisor, Highway Maintenance* (Commissioner of Personnel, decided May 31, 1990).

The tasks listed by the appellant on her PCQ are not incompatible with either title in the series. The appellant indicated that she worked under general supervision, and stated that she works independently and her tasks are without supervision. Her supervisor disagreed, stating that she works independently, but she is supervised and final decisions are made by and in conjunction with the supervisor. The appellant performs investigations of a more complex nature, which is a function of the Investigator 2, Taxation. She does not assist in the supervision of subordinate investigators, or function as acting supervisor in the absence of the Supervising Investigator. The appellant states that she trains investigators. However, the "training" is informal, along the lines of mentoring and responding to questions. It not assigned by the supervisor, and she does not evaluate the progress of other investigators and analyze such progress with the supervisor. The appellant did not describe the training as following a prescribed protocol and guidelines to measure the progress of the individuals in their learning. It is not uncommon for an employee to perform some duties which are above or below the level of work which is ordinarily performed, however, the majority of the duties fall squarely in the scope of duties of the Investigator 2, Taxation.

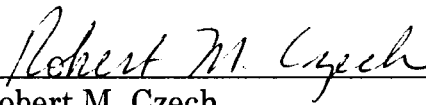
Accordingly, a thorough review of the entire record fails to establish that Marietta Conticelli has presented a sufficient basis to warrant an Investigator 1, Taxation classification of her position.

**ORDER**

Therefore, the position of Marietta Conticelli is properly classified as an Investigator 2, Taxation.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

**DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION  
THE 5<sup>th</sup> DAY OF NOVEMBER, 2015**

  
Robert M. Czech  
Chairperson  
Civil Service Commission

**Inquiries  
and  
Correspondence**

**Henry Maurer  
Director  
Division of Appeals and Regulatory Affairs  
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**Enclosure**

**c: Marietta Conticelli  
Douglas Ianni  
Kenneth Connolly  
Joseph Gambino**



Chris Christie  
*Governor*  
Kim Guadagno  
*Lt. Governor*

STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT  
P.O. Box 313  
Trenton, New Jersey 08625-0313  
(609 292-8189)

Robert M. Czech  
*Chair/Chief Executive Officer*

August 4, 2014

Ms. Marietta Conticelli

**RE: Classification Appeal - Investigator 2, Taxation, CPM Log #04140089,  
Position #006017, EID #000313031**

Dear Ms. Conticelli:

This is to inform you and the Department of the Treasury of our determination regarding your classification appeal. This determination is based upon a thorough review and analysis of all information and documentation submitted.

**ISSUE:**

You are serving in the title, Investigator 2, Taxation (P22) and contend you are performing duties and responsibilities commensurate with the title, Investigator 1, Taxation (R25).

**ORGANIZATION AND STRUCTURE:**

Your position is assigned to the Compliance and Enforcement Activity Unit, Field South Revenue Opportunity. You report directly to Richard Coleman, Supervising Investigator (S28). Your position does not possess supervisory authority.

**FINDINGS OF FACT:**

Your primary responsibilities of your position include, but are not limited to the following:

- Conducting investigations of tax compliance issues with home-based business owners for failure to register or pay the appropriate tax.

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- Conducting investigations of tax compliance issues with home-based business owners for failure to register or pay the appropriate tax.
- Engaging in extensive fact-finding to prepare analysis and written reports and survey business activity in the early part of the day.
- Developing improvements in the work flow of seizure of asset methods utilized with difficult taxpayers operating home-based businesses.
- Filing Certificates of Debt against non-compliant taxpayers; serving subpoenas; conducting final warning visits; seizing vehicles and licenses.
- Advising taxpayers of requirements to file all delinquent returns; paying all current taxes due; warning of potential consequences for failure to act.

#### **REVIEW AND ANALYSIS:**

In reviewing your request, various titles were examined in relation to the overall duties being performed by your position to determine the appropriate classification for the tasks described by you and your supervisor.

The definition section of the job specification for your current title classification, Investigator 2, Taxation, states:

“Under the direction of a Supervising Investigator or other higher level supervisory officer in the Division of Taxation, Department of the Treasury, performs investigations of a more complex nature as they relate to the collection of tax revenues delinquent and/or deficient taxes, abatements, and enforcement of tax statutes administered by the Division of Taxation; assists in the training of subordinate investigators; may be assigned to either a field or central office location; does related work as required.”

You contend that the title, Investigator 1, Taxation is an appropriate title for your position. The definition section of the job specification for this title, states:

“Under the direction of a Supervising Investigator or other higher level supervisory officer in the Division of Taxation, Department of Treasury, assists in the supervision of subordinate investigators; conducts independent investigations of a more complex nature as they relate to the collection of tax revenues, delinquent and/or deficient taxes, abatements, and enforcement of tax statutes administered by

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the Division of Taxation; trains new investigators; may be assigned to either a field or central office location; does related work as required.”

Incumbents in this title assist in the supervision of subordinate investigators, train new investigators and may contribute to the evaluation of the progress of subordinate professionals in conjunction with the section supervisor. In addition to conducting complex independent investigations, he or she may also review and make recommendations with respect to abatement of penalties and interest, act as a witness in court and at administrative and other hearings. These duties, as well as the majority of other assigned duties and responsibilities, are encompassed within your current title.

The preponderance of assigned duties and responsibilities of this position are significantly descriptive of tasks assigned to the title, Investigator 2, Taxation.

**DETERMINATION:**

Based upon the findings of fact cited above, it is my determination that the assigned duties and responsibilities of your position are properly classified by the title, Investigator 2, Taxation (P22- 51593).

Please be advised that in accordance with *N.J.A.C. 4A:3-3.9*, you may appeal this decision within twenty (20) days of receipt of this letter. This appeal should be addressed to Written Record Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,



Joseph Ridolfi, Team Leader  
Classification and Personnel Management

JR/at

c: Ms. Laura Budzinski, Treasury, Human Resources

