

B-6



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Joshua Brown, *et al.*
Department of the Treasury

CSC Docket Nos. 2016-429, *et al.*

Classification Appeals

ISSUED: **NOV 18 2015**

Joshua Brown, Christopher Harty, Jeffrey Janney, LaShonna Matlock, Vinicius Paiva and Lauren Williams appeal the attached determinations of the Division of Agency Services (DAS) that their positions with the Department of the Treasury are properly classified as Investigator 2, Taxation. The appellants seek Investigator 1, Taxation classifications in this proceeding. These appeals have been consolidated based upon the common issues presented.

The record in the present matter establishes that at the time of their requests for classification review, all of the appellants were serving permanently in the title of Investigator 2, Taxation.¹ Their positions are located in various sections of the Department of the Treasury's Division of Taxation. All of the appellants report to appropriate supervisory personnel. DAS performed detailed analyses of the appellants' Position Classification Questionnaires (PCQ) and other materials submitted in conjunction with their classification review requests, as well as performing telephone audits with Brown, Harty, Williams and their respective supervisors.

As a result, DAS found that the appellants' positions were properly classified as Investigator 2, Taxation.² Although CPM found that the appellants all performed complex investigations, as well as functioning as lead workers in several instances, their positions did not include supervision of subordinate staff. In this

¹ Paiva is serving in the variant title of Investigator 2, Taxation, Bilingual in Spanish and English.

² Or, in Paiva's case, his position was properly classified as Investigator 2, Taxation, Bilingual in Spanish and English.

regard, DAS explained that the title of Investigator 1, Taxation is considered to be a first line supervisor performing duties related to supervising and directing the work of subordinate staff, including evaluating employee performance. As the appellants were not responsible for supervising staff as described above, DAS maintained that the preponderance of the appellants' current duties and responsibilities are commensurate with the job description for Investigator 2, Taxation.

On appeal to the Civil Service Commission (Commission), Brown argues that since January 2014 he has performed as a supervisor. In this regard, he acknowledges that he is not responsible for completing performance evaluations for subordinate staff, but contends that such a function is not required of an Investigator 1, Taxation. Further, he asserts that a colleague in his unit was granted an Investigator 1, Taxation reclassification even though that employee was not responsible for completing performance evaluations.

Harty also argues that he functions as a supervisor. In this regard, he indicates that the description of his duties on his PCQ may not have been in sufficient detail. Accordingly, as clarification, he submits that along with supervising complex investigations, he notes the progress of subordinate staff which is included in the preparation of those employees' performance evaluations.

Janney contends that the requirement that an Investigator 1, Taxation must prepare performance evaluations for subordinate staff is not listed in the job specification for that title. Additionally, he states that in his unit, individuals in that title are not required to complete the performance evaluations of subordinate staff. He indicates that he appropriately evaluates the progress of subordinate staff and discusses and analyzes it with his supervisor, a Supervising Investigator, Taxation, who completes the evaluations. In a supplemental submission, he contends that as of the new performance evaluation rating cycle in September 2015, he is, in fact, responsible for completing subordinate performance evaluations. As evidence, he submits a copy of a new PCQ indicating such duties.³ He also argues that he was not given the opportunity in the original classification review to explain his duties and/or amend his original PCQ. He compares his situation to a colleague who recently was reclassified to Investigator 1, Taxation after having the opportunity to clarify duties at a classification review interview.

Matlock states that she is, in fact, a supervisor. In this regard, she indicates that, along with training, mentoring and assigning work to an Investigator 3, Taxation, she has direct responsibility to supervise a Technical Assistant 3,

³ The copy provided, dated October 1, 2015, was signed by Janney's supervisor and Assistant Director, but was not signed by the appointing authority. As such, it is an incomplete PCQ. In that regard, DAS can reevaluate Janney's current duties upon receipt of the fully executed PCQ. However, for reasons explained later in this determination, such purported duties cannot be considered by the Commission in this matter.

including completing that employee's performance evaluation. As evidence, Matlock submits a copy of the computerized performance evaluation record indicating that she is the Technical Assistant 3's supervisor.

Paiva argues that the requirement that an Investigator 1, Taxation, Bilingual in Spanish and English must prepare performance evaluations for subordinate staff is not listed in the job specification for that title. Additionally, he states that in his unit, individuals in that title are not allowed to undertake such evaluations, but rather, they provide feedback to a Supervising Investigator, Taxation, who completes the evaluation.

Williams asserts that she supervises several employees and has input into their overall performance evaluations. She also indicates that she functions as the supervisor in her supervisor's absence.

In overall response, the DAS argues that Investigator 2, Taxation is the proper classification for all six appellants. In this regard, it contends that the Investigator 1, Taxation title is a supervisory title as it is in the "R" Employee Relations Group (ERG), which is designated as the "Primary Level Supervisors Unit." It also indicates that as such, an incumbent in an Investigator 1, Taxation title would be required, *inter alia*, to be responsible for the preparation of employee performance evaluations. Finally, it states that it is in the process of modifying the Investigator 1, Taxation job specification to more clearly convey the supervisory requirement.

In specific response to Brown's argument that a colleague who was not responsible for employee evaluations was granted an Investigator 1, Taxation classification, DAS indicates that its review of that employee's request for reclassification showed that the employee, as verified by the appointing authority, did, in fact supervise lower level Investigators. That, along with the employee's other duties, supported the reclassification to Investigator 1, Taxation. In reply, Brown asserts that DAS did not actually verify the alleged supervisory duties performed by that employee.

CONCLUSION

The definition section of the job specifications for Investigator 1, Taxation and Investigator 1, Taxation, Bilingual in Spanish and English state:

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.

The definition section of the job specifications for Investigator 2, Taxation and Investigator 2, Taxation, Bilingual in Spanish and English state:

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.

In the instant matter, DAS appropriately found that the appellants' positions were properly classified as Investigator 2, Taxation. While the definition of Investigator 1, Taxation provided above is not the paragon of clarity, it is clear that the title is at the supervisory level, especially when compared to the Investigator 2, Taxation definition.⁴ In this regard, in addition to the inclusion of such language in the definition, several examples of work listed in the job specification confirm that individuals in this title function as supervisors. For example, and most illustrative, one example of work in the job specification states that an incumbent: "Trains or assigns training of new investigators, evaluates progress of subordinate professionals, and analyzes such progress with the section supervisor." In this regard, the "section supervisor" would be considered a second-level supervisor, with the responsibility to supervise first-level supervisors. Further, while the job specification does not explicitly indicate that incumbents are responsible for employee performance evaluations, when a title is supervisory in nature, the Commission has found that, along with the myriad of other supervisory duties that must be performed, the *essential component* of supervision is the responsibility for formal performance evaluation of subordinate staff. See *In the Matter of Timothy Teel* (MSB, decided November 8, 2001). As such, in order to be classified at the level of Investigator 1, Taxation, an incumbent must supervise subordinate staff, including having the responsibility for completing formal performance evaluations. Merely making recommendations regarding a subordinate's performance, or even assisting in the preparation of a performance evaluation is not sufficient. Rather, to be considered a supervisor, the individual must be the person actually administering and signing off on the evaluation as the subordinate's supervisor. In this regard, only the individual who signs the evaluation as the

⁴ The Commission recently found that Investigator 1, which is at the same class code and in the same ERG as the Investigator 1, Taxation title, was also a supervisory level title. The Commission also noted that DAS was seeking to modify that job specification regarding the supervision requirement. See *In the Matter of Dana Basile, et al.* (CSC, decided November 5, 2015).

supervisor can be considered to have the ultimate decision-making responsibility for that subordinate's rating.

Further evidence that the Investigator 1, Taxation title is at the supervisory level is its inclusion in the "R" ERG. In this respect, titles are assigned to ERGs based on the classification of the position by this agency. See *N.J.S.A. 11A:3-1*. Each ERG is distinctly defined, and the "R" ERG is defined as those titles used in the primary or first level of supervision. See e.g., *In the Matter of Alan Handler, et al.* (CSC, decided October 7, 2015) (Commission found that Auditor 1 was a supervisory level title based on job definition, duties and inclusion in "R" ERG).

While it is undisputed that all of the appellants are performing complex investigations and associated duties, and function as lead workers, such duties fall within the job description for Investigator 2, Taxation. Moreover, a thorough review of the record does not establish that any of the appellants, at the time of their classification reviews, were functioning as supervisors as defined above. Thus, the proper classification of their positions is Investigator 2, Taxation.

Additionally, the Commission rejects Matlock's contention that she is a supervisor since she is responsible for the performance evaluation of a Technical Assistant 3. While, as stated above, the job definition for Investigator 1, Taxation is not entirely clear, it is explicit in one respect. Namely, that an incumbent must supervise "subordinate investigators." Thus, the supervision of subordinate individuals not in investigator titles does not elevate Matlock's position to Investigator 1, Taxation.

Moreover, the Commission is not persuaded by Brown's specific argument regarding the classification of his colleague and the general contention made by more than one appellant that Investigators 1, Taxation are not permitted to complete employee evaluations. Initially, a classification appeal cannot be based solely on a comparison to the duties of another position, especially if that position is misclassified. See *In the Matter of Dennis Stover*, Docket No. A-5011-96T1 (App. Div. October 3, 1998), affirming *In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided February 20, 1997). See also, *In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995). Regardless, DAS has indicated that at the time of its review, Brown's colleague was, indeed, a supervisor. Brown has not conclusively established that finding to be in error. However, the Department of the Treasury is directed to ensure that any employee in the title of Investigator 1, Taxation is currently assigned appropriate supervisory duties as described above.

Further, the Commission rejects Janney's argument regarding his purported currently assigned supervisor duties. In this regard, the foundation of position classification, as practiced in New Jersey, is the determination of duties and

responsibilities being performed at a given point in time as verified by this agency through an audit or other formal study. Thus, classification reviews are based on a current review of assigned duties and any remedy derived therefrom is prospective in nature since duties which may have been performed in the past cannot be reviewed or verified. Given the evolving nature of duties and assignments, it is simply not possible to accurately review the duties an employee performed six months ago or a year ago or several years ago, or in this case, after the initiation of an appeal of a classification review. Such purported new duties can only be reviewed in the context of a new classification review request. If such duties were assigned prior to the completion of the original request for review, it was incumbent on Janney to have reported such new duties. As to the type of classification review performed, classification reviews are typically conducted either by a paper review, based on the duties questionnaire completed by the employee and supervisor; an on-site audit with the employee and supervisor; or a formal telephone audit to obtain clarifying information. See *In the Matter of Richard Cook* (Commissioner of Personnel, decided August 22, 2006). The chosen method in Janney's case was a paper review, which is a valid way of collecting information about a position and is not by any means considered to be inadequate or improper. It is noted that the method of classification review chosen in his case would not have precluded such additions had Janney presented them.

It is further noted that this agency's established classification review procedures have been affirmed following formal Commission review and judicial challenges. See *In the Matter of Community Service Aide/Senior Clerk (M6631A), Program Monitor (M6278O), and Code Enforcement Officer (M0041O)*, Docket No. A-3062-02T2 (App. Div. June 15, 2004) (Accepting policy that classification reviews are limited to auditing current duties associated with a particular position because it cannot accurately verify duties performed by employees in the past). See also, *In the Matter of Engineering Technician and Construction and Maintenance Technician Title Series, Department of Transportation*, Docket No. A-277-90T1 (App. Div. January 22, 1992); *In the Matter of Theresa Cortina* (Commissioner of Personnel, decided May 19, 1993). Also, how well or efficiently an employee does his or her job, length of service, volume of work and qualifications have no effect on the classification of a position currently occupied, as *positions*, not employees are classified. See *In the Matter of Debra DiCello* (CSC, decided June 24, 2009).

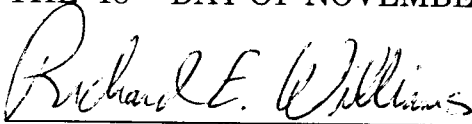
Finally, the Commission notes that, effective October 31, 2015, the Division of Agency Services has made appropriate modifications to the Investigator 1, Taxation and Investigator 1, Taxation, Bilingual in Spanish and English job specifications regarding the issue of supervision.

ORDER

Therefore, the positions of Joshua Brown, Christopher Harty, Jeffrey Janney, LaShonna Matlock, and Lauren Williams are properly classified as Investigator 2, Taxation, and the position of Vinicius Paiva is properly classified as Investigator 2, Taxation, Bilingual in Spanish and English.

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

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 18TH DAY OF NOVEMBER 2015



Richard E. Williams
Member
Civil Service Commission

Inquiries
and
Correspondence:

Henry Maurer
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachments

c: Joshua Brown (CSC Docket No. 2016-429)
Christopher Harty (CSC Docket No. 2015-3330)
Jeffrey Janney (CSC Docket No. 2016-1098)
LaShonna Matlock (CSC Docket No. 2016-1317)
Vinicius Paiva (CSC Docket No. 2016-830)
Lauren Williams (CSC Docket No. 2016-428)
Douglas Ianni
Kenneth Connolly
Joseph Gambino



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
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Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair, Chief Executive Officer

June 23, 2015

Mr. Joshua Brown



**RE: Classification Appeal, Investigator 1, Taxation,
AS LOG# [REDACTED], Position# 074682, EID# [REDACTED]**

Dear Mr. Brown:

This is to inform you, and the Department of the Treasury of our determination concerning your classification appeal. This determination is based upon a thorough review and analysis of all information and documentation submitted and a telephone audit conducted with you, and your immediate supervisor, Cynthia Kostak, on May 5, 2015.

Issue:

You are appealing that your current title of Investigator 2, Taxation (P22) is not consistent with your current assigned duties and responsibilities. You contend that the title of Investigator 1, Taxation (R25) is an appropriate title for your position.

Organization:

Your position is located in the Department of the Treasury, Division of Taxation, Revenue Operations, and you report directly to Cynthia Kostak, Supervising Investigator, Taxation (S28). Your position does not possess supervisory responsibility.

Finding of Fact:

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

Mr. Joshua Brown

Page 2

June 23, 2015

- Assigning and reviewing work of Investigators. Duties include reviewing the team's case backlog and approving Demand Letters, Certificates of Debt, Warrants of Execution, and Warrants of Satisfaction.
- Overseeing the serving of Jeopardy Warrants of Execution, serving Final Warning Visits, and the seizure of taxpayers' assets.
- Overseeing the maintenance of the Division of Taxation's Boat Program. Formulating the most efficient utilization of Taxation's vessel and liaising with State Police and the US Coast Guard.
- Conducting investigations and seeking out those that are not in compliance with New Jersey tax laws. Canvassing new and existing businesses to ensure tax compliance.
- Making determinations and communicating decisions. Upon making determinations, preparing clear, sound reports communicating finding and results.

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.

Your position is currently classified by the title, Investigator 2, Taxation (51593-P22). 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 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".

Mr. Joshua Brown

Page 3

June 23, 2015

Your classification appeal submission indicates that you believe the title Investigator 1, Taxation (51594-R25) is an appropriate title for your position. The definition section 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 the Division of Taxation; trains new investigators; may be assigned to either a field or central office location; does related work as required.”

In addition to conducting complex investigations, an Investigator 1, Taxation is considered a primary level supervisor that is responsible for conducting employee evaluations of subordinate personnel.

A review of your position finds that your position is responsible for seeking out unregistered, out of state, under reporting individuals and businesses that are not in compliance with New Jersey tax laws. Your position is responsible for bringing them into compliance either voluntarily or with the use of enforcement action. In the course of completing this task, your position acts as a lead worker over other Investigators. These duties are encompassed within the title of Investigator 2, Taxation.

A comprehensive review and analysis of your position finds that the assigned duties and responsibilities of this position are best classified by the title of Investigator 2, Taxation (P22).

Determination:

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

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 Records Appeals Unit, Division of Appeals and Regulatory

Mr. Joshua Brown

Page 4

June 23, 2015

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,

A handwritten signature in black ink, appearing to read "Joseph Ridolfi". The signature is fluid and cursive, written in a professional style.

Joseph Ridolfi, Team Leader
Agency Services

JR/tc

c: Ms. Laura Budzinski, Treasury Human Resources



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
AGENCY SERVICES
P. O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

May 26, 2015

Mr. Christopher Harty
[REDACTED]

RE: Classification Appeal – Investigator 2, Taxation
AS Log# [REDACTED] Position# 074600, EID# [REDACTED]

Dear Mr. Harty:

This is to inform you, and the Department of the Treasury, of our determination concerning your classification appeal. This determination is based upon a thorough review and analysis of all information and documentation submitted and a telephone audit conducted with you, and your immediate supervisor, Frank Papp on January 29, 2015.

Issue:

You are appealing your current permanent title of Investigator 2, Taxation (P22) is not consistent your current assigned duties and responsibilities. You contend that the title Investigator 1, Taxation is consistent with the duties that you currently perform (R25).

Organization:

Your position is located in the Division of Taxation, Office of Criminal Investigations. You report directly to Frank Papp, Special Agent 3 (FA18) Supervising Investigator Taxation (S28) and you do not possess supervisory responsibility.

Finding of Fact:

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

Mr. Christopher Harty

Page 2

May 26, 2015

- Identifying and investigating allegations of violations of the Cigarette Act Tax, Sales & Use Tax Act and/or other tax laws administered by the Division of Taxation.
- Identifying counterfeit Cigarette Tax stamps.
- Training and overseeing seven (7) positions of Special Agent 3.
- Training new Special Agents in planning and executing of special operations including: preparing for field investigations, use of surveillance techniques, search warrant applications, arrest and conviction.
- Compiling pre-academy lesson plans, training, providing guidance and/or direction to all new Agents as required for successfully completing the Field Training Program.
- Assisting Office of Criminal Investigation's (OCI) Supervisory Special Agents with facilitating assignments including: reviewing case assignments, progress, and establishing course of action for case closure.

Review and Analysis:

Your position is currently classified by the title Investigator 2, Taxation (P22-51593). 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 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 Investigator 1 Taxation (R25-51594) 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

Mr. Christopher Harty

Page 3

May 26, 2015

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.”

The title, Investigator 1, Taxation is utilized as a primary or first level supervisory position. The essential component of supervision is the responsibility for the administration of formal performance evaluations for subordinate staff. Supervisory duties also include ensuring that assigned tasks are performed efficiently on a day-to-day basis and the training of subordinates.

During the audit, it was determined that you have responsibility for overseeing seven (7) positions of Special Agent 3 and one (1) position of Technical Assistant 1, Treasury. You are not responsible for preparing and/or signing subordinates' Performance Assessment Reviews (PAR's).

A review of your primary job duties and responsibilities finds that the position is primarily responsible for: identifying and investigating allegations of violations of the Cigarette Act Tax, Sales & Use Tax Act and/or other tax laws administered by the Division of Taxation; training new Special Agents in planning and execution of special operations including: preparing for field investigations, use of surveillance techniques, search warrant applications, arrest and conviction; and assisting Office of Criminal Investigation's (OCI) Supervisory Special Agents with facilitating assignments including: reviewing case assignments, progress and establishing a course of action for case closure.

The preponderance of assigned duties and responsibilities that you perform are significantly descriptive of tasks assigned to the title Investigator 2, Taxation.

Determination:

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

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

Mr. Christopher Harty

Page 4

May 26, 2015

addressed to Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, PO 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,

A handwritten signature in cursive script that reads "Joseph Ridolfi".

Joseph Ridolfi, Team Leader
Agency Services

JR/rmd

c: Laura Budzinski, Manager, Department of the Treasury



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
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Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair/Chief Executive Officer

August 13, 2015

Jeffrey Janney

Re: Classification Appeal – Investigator 1, Taxation

Position # 006633, EID # [REDACTED] Log # [REDACTED]

Dear Mr. Janney:

This is to inform you, and the Department of the Treasury, of our determination concerning the classification appeal referenced above. This determination is based on a thorough review and analysis of documents submitted, including the Position Classification Questionnaire (DPF-44S), organization chart, and the Performance Assessment Review (PAR).

Issue:

You are currently serving permanently (RAP) in the title, Investigator 2, Taxation (51593; P22; 22) and contend you are performing duties and responsibilities commensurate with the title, Investigator 1, Taxation (51594; R25; 25).

Organization:

Your position is assigned to the Deferred Payment Section, Compliance & Enforcement Activity Unit, Division of Taxation, Department of the Treasury. Your supervisor is Marie-Alaina Murdza, Supervising Investigator, Taxation (51355; S28; 28), and you presently have no direct employee supervisory responsibility.

Findings of Fact:

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

- Maintain assigned caseload of complex and difficult case within Deferred Payment Unit
- Review caseworker files as cases proceed through the collection process; evaluate defaulted cases and determine next action which may include retaining the case in the Deferred Payment Section, preparing the case for the filing of

Certificates of Debt, Bank Levies or forwarding the appropriate Compliance Unit for further collection/enforcement action

- Review, approve or deny legal documentation or correspondence as requested by other investigators to ensure Divisional Procedures and NJ Tax Laws are upheld
- Maintain steady and consistent workflow of the unit by reviewing and approving various compliance cycles of other investigators, assigning cases to caseworkers and defaulting and closing cases as necessary
- Assist the Supervising Investigator, Taxation in the training of investigators, the review of investigators' work for accuracy and adherence to Division procedures and New Jersey Tax Laws; provide recommendations to the Supervisor regarding subordinates' performance and maintain/monitor eCATs timekeeping system
- Review caseworker requests for Abatement of Penalty and Interest to determine the legitimacy of the request and advise as to whether the abasement will be accepted or denied in based on Division guidelines
- Collaborate with unit supervisors to determine and establish appropriate measures to prioritize, organize and expedite unit's workload
- Prepare daily and monthly statistics for Deferred Payment Unit staff to assist supervisors in compiling monthly report
- Utilize mainframe databases, with supervisory access level, to manage, monitor and assign cases.

Review and Analysis:

Currently, your position is classified by the title, Investigator 2, Taxation (51593; P22; 22). The definition section of the job specification for the title 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."

An incumbent serving in a position classified by the title Investigator 2, Taxation is responsible for conducting investigations of a more complex nature; interpreting and explaining laws and regulations of the Division of Taxation; processing legal documents and/or preparing financial paperwork which will generate the filing of legal documents with the proper office of jurisdiction; assists in the training of other investigators, and may assign and review work and instruct other investigators, as directed by the supervisor. Incumbents serving in this title proceed on their own initiative while complying with policies, practices and procedures prescribed by the supervisor; the supervisor generally answers questions only on the more important phases of the work.

You contend that the title, Investigator 1, Taxation (51594; R25; 25), is the appropriate classification for your position. The definition section of the job specification for the 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 the Division of Taxation; trains new investigators; may be assigned to either a field or central office location; does related work as required.”

An incumbent serving in a position classified by the title, Investigator 1, Taxation (51594; R25; 25) assists in the supervision of the unit by directly supervising subordinate investigators. In addition to the supervisory responsibility, an incumbent in this title performs duties similar to those of Investigator 2, Taxation, however, he/she may be required to exercise frequent independent judgment and tasks are primarily performed independently. An incumbent in this title seldom refers matters to the supervisor except for clarification of policy.

Additionally, the title Investigator 1, Taxation is assigned to the “R” Employee Relations Group (ERG), which is defined as a primary or first level supervisory position. It has been the long-standing policy of the Civil Service Commission that titles assigned to a supervisory ERG, must supervise employees. It has been well established that the essential component of supervision is the responsibility for the administration of formal Performance Assessment Reviews (PAR) for subordinate staff. Employees who assign and review work of other employees, train or impart knowledge of the job to other employees, and/or provide information to supervisory staff regarding the workflow progress of other employees, but who do not sign Performance Assessment Reviews (PARs) as the Rater, are considered lead workers rather than supervisory employees. Further, intermittently taking charge in the absence of the regular supervisor, without responsibility for employee performance evaluations which enable the effective hiring, firing, promoting or disciplining of subordinates, is considered a duty of a lead worker, not that of a supervisor.

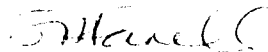
A review of your position indicates that you perform tasks under limited supervision and proceed on your own initiative. You are assigned a caseload considered more complex in nature; train and assist new investigators; and assist the supervisor in regard to compiling reports and various administrative functions in the supervisor’s absence. While you may make recommendations to the supervisor in regard to subordinate investigators’ progress or performance, you do not directly supervise employees. Given that your position is not responsible for directly supervising, evaluating and rating employees, Investigator 1, Taxation is not an appropriate classification for your position.

Determination:

Based on the findings of fact stated above, it is our determination that your current duties and responsibilities are commensurate with the title Investigator 2, Taxation (51593; P22; 22). By copy of this letter, the appointing authority is advised that your position is presently properly classified.

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 documentation being disputed and the basis for the appeal.

Sincerely,



Staci Fanelli
Human Resource Consultant 5

SF/pp

C: Douglas J. Ianni
File
PMIS Unit
Nick Kanellis, Records Imaging Unit



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
AGENCY SERVICES
P. O. Box 313
Trenton, New Jersey 08625 0313

Robert M. Czech
Chair/Chief Executive Officer

Chris Christie
Governor
Kim Guadagno
Lt. Governor

August 27, 2015

Ms. LaShonna Matlock



RE: Classification Appeal – Investigator 2, Taxation
AS Log# [REDACTED], Position# 006947, EID# [REDACTED]

Dear Ms. Matlock:

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

Issue:

You are appealing your current permanent title of Investigator 2, Taxation (P22) is not consistent your current assigned duties and responsibilities. You contend that the title Investigator 1, Taxation is consistent with the duties that you currently perform (R25).

Organization:

Your position is located in the Division of Taxation, Compliance & Enforcement Activity, Field North Contract Management. You report directly to Mariann Patricella, Supervising Investigator Taxation (S28) and you do not possess supervisory responsibility.

Finding of Fact:

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

Ms. LaShonna Matlock

Page 2

August 27, 2015

- Assisting in the operations with Pioneer Credit Recovery (third party contractor).
- Assisting in the supervising (in the absence of the Supervising Investigator Taxation) including: organizing, coordinating and/or distributing of work assigned to one (1) Technical Assistant 3 position.
- Responding to inquiries received from taxpayers and/or their representatives.
- Reviewing and/or transferring cases to and/or from Pioneer Credit Recovery to ensure compliance with the Division of Taxation's procedures and/or directives.
- Reviewing and/or approving Certificates of Debts, Cancellations and Warrants for Satisfaction on vendor assigned cases.
- Reviewing and/or compiling reports to ensure the accuracy of the billing and/or accuracy of the payments made to Pioneer Credit Recovery (third party contractor).

Review and Analysis:

Your position is currently classified by the title Investigator 2, Taxation (P22-51593). 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 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 Investigator 2, Taxation title may be assigned to give training and/or provide guidance to Investigator 3, Taxation positions. Additionally, an Investigator 2 Taxation may also be assigned full-time to special program work which includes cases involving bankruptcy, liens, levies and/or seizures.

You contend that the title Investigator 1, Taxation is an appropriate title for your position. The definition section of the job specification for Investigator 1 Taxation (R25-51594) states:

Ms. LaShonna Matlock

Page 3

August 27, 2015

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

The Examples of Work include: training and/or assigning training of new investigators, evaluating progress of subordinate professionals, and/or analyzing such progress with the section supervisor; performing the necessary investigative work regarding compliance with all New Jersey tax laws in the most complicated and sensitive cases assigned to the investigative force; preparing investigative reports, determining liability, and/or has responsibility for collecting monies; appraising property and/or determining values in the absence of documented costs; assisting in preparing manuals and other instructional materials for use by subordinates, and making revisions as required; assisting in the preparation of job descriptions; etc.

Additionally, as stated in your Position Classification Questionnaire (DPF-44S) submission, you assist in the supervision of subordinates, in the absence of the Supervising Investigator Taxation, on an as needed basis. You are not responsible for preparing Performance Assessment Review (PAR).

A review of your primary job duties and responsibilities finds that the position is primarily responsible for: assisting in the operations with Pioneer Credit Recovery (third party contractor); assisting in the supervising (in the absence of the Supervising Investigator Taxation) including: organizing, coordinating and/or distributing work assigned to one (1) Technical Assistant 3 position; and responding to inquiries received from taxpayers and/or their representatives.

A careful analysis of the DPF-44S and Performance Assessment Review (PAR) provided with your appeal was compared to the one previously submitted on August 13, 2014. The result of a comprehensive review determined there were not any substantive changes in duties and/or responsibilities since the Civil Service Commission rendered a classification appeal determination letter on January 15, 2015 which found this position to be functioning as an Investigator 2, Taxation.

Ms. LaShonna Matlock

Page 4

August 27, 2015

Based upon this assessment, a substantive change in the assigned duties and/or responsibilities of your position has not been demonstrated.

The assigned duties and responsibilities that you perform are significantly descriptive of those associated with the title Investigator 2, Taxation.

Determination:

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

The New Jersey Administrative Code 4A:3-3.5(c)1 states that "within 30 days of receipt of the reclassification determination, unless extended by the Commissioner in a particular case for good cause, the Appointing Authority shall either effect the required change in the classification of an employee's position; assign duties and responsibilities commensurate with the employee's current title; or reassign the employee to the duties and responsibilities to which the employee has permanent rights. Any change in the classification of a permanent employee's position, whether promotional, demotional or lateral, shall be effected in accordance with all application rules.

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 Records Appeals Unit, Division of Appeals and Regulatory Affairs, PO 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

Ms. LaShonna Matlock

Page 5

August 27, 2015

well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph Ridolfi".

Joseph Ridolfi, Team Leader
Agency Services

JR/rmd

c: Laura Budzinski, Manager, Department of the Treasury



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Chair Chief Executive Officer

July 21, 2015

Mr. Vinicius Paiva



RE: Classification Appeal – Investigator 2, Taxation Bilingual In Spanish and English, AS Log# [REDACTED] Position# 100130, EID# [REDACTED]

Dear Mr. Paiva:

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

Issue:

You are appealing your current permanent title of Investigator 2, Taxation Bilingual In Spanish and English (P22) is not consistent your current assigned duties and responsibilities. You contend that the title Investigator 1, Taxation Bilingual In Spanish and English (R25) is consistent with the duties that you currently perform.

Organization:

Your position is located in the Division of Taxation, Compliance and Enforcement Activity, Field Revenue Opportunity – Somerville and Fair Lawn Regional Offices. You report directly to Luis Mayen, Investigator 1, Taxation Bilingual In Spanish and English and you do not possess supervisory responsibility.

Mr. Vinicius Paiva
Page 2
July 21, 2015

Finding of Fact:

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

- Ensuring tax compliance by canvassing new and/or existing businesses.
- Assisting in supervision of staff (in the absence of the Investigator 1, Taxation Bilingual in Spanish and English) which includes: reviewing Somerville and Fair Lawn Regional Office's backlog cases; checking and/or assigning cases; and/or other tasks and/or job actions of other Investigators. You are not responsible for preparing and/or signing Performance Assessment Reviews (PARs).
- Filing legal actions including: Certificates of Debt; serving Warrants of Execution; levies of located assets and/or accounts; and/or the collection of deficient and/or delinquent tax liabilities and/or returns.
- Overseeing and/or conducting SJS Final Warning visits in which a taxpayer is given a final deadline to respond and/or take action in order to avoid their business and/or property from being seized.
- Responding to all inquiries and/or comments from other staff Investigators including: reviewing of cases; abatement requests; and/or any other system and/or procedural questions.
- Assisting in the training of both new and/or subordinate Investigators including field work and/or mainframe program operations.

Review and Analysis:

Your position is currently classified by the title Investigator 2, Taxation Bilingual In Spanish and English (P22-51593C). 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 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.”

Mr. Vinicius Paiva
Page 3
July 21, 2015

The title, Investigator 2, Taxation Bilingual in Spanish and English may be assigned to give training and/or provide guidance to Investigator 3, Taxation positions. Additionally, Investigator 2 Taxation Bilingual in Spanish and English may also be assigned full-time to special program work which includes cases involving bankruptcy, liens, levies and/or seizures.

You contend that the title Investigator 1, Taxation Bilingual in Spanish and English is an appropriate title for your position. The definition section of the job specification for Investigator 1, Taxation Bilingual In Spanish and English (R25-51594C) 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 the Division of Taxation; trains new investigators; may be assigned to either a field or central office location; does related work as required.”

The Examples of Work include: training and/or assigning training of new investigators, evaluating progress of subordinate professionals, and/or analyzing such progress with the section supervisor; performing the necessary investigative work regarding compliance with all New Jersey tax laws in the most complicated and sensitive cases assigned to the investigative force; preparing investigative reports, determining liability, and/or has responsibility for collecting monies; appraising property and/or determining values in the absence of documented costs; assisting in preparing manuals and other instructional materials for use by subordinates, and making revisions as required; assisting in the preparation of job descriptions; etc.

Additionally, the Investigator 1, Taxation Bilingual In Spanish and English is utilized as a primary or first supervisor. The essential component of supervision is the responsibility for the administration of formal performance evaluations for subordinate staff. Supervisory duties also include ensuring that assigned tasks are performed efficiently on a day-to-day basis and the training of subordinates.

Mr. Vinicius Paiva

Page 4

July 21, 2015

Your Position Classification Questionnaire (DPF-44S) and Performance Assessment Review (PAR) indicates you assist in the supervision of subordinates, in the absence of the Investigator 1, Taxation Bilingual In Spanish and English, on an as needed basis. You are not responsible for preparing and/or signing subordinates' Performance Assessment Review (PAR).

A review of your primary job duties and responsibilities finds that the position is primarily responsible for: overseeing and/or conducting SJS Final Warning visits in which a taxpayer is given a final deadline to respond and/or take action in order to avoid their business and/or property from being seized; assisting in the training of both new and/or subordinate Investigators including field work and/or mainframe program operations; assisting in supervision of staff (in the absence of the Investigator 1, Taxation Bilingual in Spanish and English) which includes: reviewing Somerville and Fair Lawn Regional Office's which includes: reviewing backlog cases; checking and/or assigning cases; and/or other tasks and/or job actions of other Investigators.

Additionally, at the time of the audit, a review of your primary job duties and responsibilities shows that the position reports to an Investigator 1, Taxation Bilingual In Spanish and English. As such, from a Classification standpoint it would be an inappropriate reporting relationship for a subordinate and supervisor to hold the same title.

The duties you perform are commensurate with the title, Investigator 2, Taxation Bilingual In Spanish and English (P22-51593C).

Determination:

Based upon the findings of fact above, it is my determination that the assigned duties and responsibilities of your position are properly classified by your current permanent title Investigator 2, Taxation Bilingual In Spanish and English (P22-51593C). Therefore, the classification of your position will remain unchanged.

The New Jersey Administrative Code 4A:3-3.5(c)1 states that "within 30 days of receipt of the reclassification determination, unless extended by the Commissioner in a particular case for good cause, the Appointing Authority shall either effect the required change in the classification of an employee's position; assign duties and responsibilities commensurate with the employee's current title; or reassign the

Mr. Vinicius Paiva

Page 5

July 21, 2015

employee to the duties and responsibilities to which the employee has permanent rights. Any change in the classification of a permanent employee's position, whether promotional, demotional or lateral, shall be effected in accordance with all application rules.

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 Records Appeals Unit, Division of Appeals and Regulatory Affairs, PO 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,

A handwritten signature in cursive script that reads "Joseph, Ridolfi".

Joseph Ridolfi, Team Leader
Agency Services

JR/rmd

c: Laura Budzinski, Manager, Department of t



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June 23, 2015

Ms. Lauren Williams



**RE: Classification Appeal, Investigator 1, Taxation,
AS LOG# [REDACTED], Position# 074785, EID# [REDACTED]**

Dear Ms. Williams:

This is to inform you, and the Department of the Treasury of our determination concerning your classification appeal. This determination is based upon a thorough review and analysis of all information and documentation submitted and a telephone audit conducted with you, and your immediate supervisor, Joe Marty, on May 6, 2015.

Issue:

You are appealing that your current title of Investigator 2, Taxation (P22) is not consistent with your current assigned duties and responsibilities. You contend that the title of Investigator 1, Taxation (R25) is an appropriate title for your position.

Organization:

Your position is located in the Department of the Treasury, Division of Taxation, Attorney General Referrals, and you report directly to Joe Marty, Supervising Investigator, Taxation (S28). Your position does not possess supervisory responsibility.

Ms. Lauren Williams

Page 2

June 23, 2015

Finding of Fact:

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

- Assigning and reviewing work of Investigators in the absence of the Supervising Investigator. Duties include providing assistance to lower level Investigators and approving Demand Letters, Certificates of Debt, Warrants of Execution, and Warrants of Satisfaction.
- Making determinations on actions that include Abatements, Closing Agreements, Release of Liens, and Payment Plans.
- Analyzing, interpreting, and applying complex tax laws and regulations to effectively communicate with taxpayers, lawyers, and various state agencies.
- Examining division records to determine taxpayer adherence to New Jersey tax laws and report violations to ensure the accurate collection of trust fund taxes.
- Mentoring new hires to the Attorney General Referral unit and advising Supervising Investigator of progress of lower level staff.
- Preparing informative reports which include Docketed Judgments, Schedules of Liability, officer information, and Notice of Demand information.

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.

Your position is currently classified by the title, Investigator 2, Taxation (51593-P22). 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 the Treasury, performs investigations of a more complex nature as they

Ms. Lauren Williams

Page 3

June 23, 2015

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”.

Your classification appeal submission indicates that you believe the title Investigator 1, Taxation (51594-R25) is an appropriate title for your position. The definition section 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 the Division of Taxation; trains new investigators; may be assigned to either a field or central office location; does related work as required”.

In addition to conducting complex investigations, an Investigator 1, Taxation is considered a primary level supervisor that is responsible for conducting employee evaluations of subordinate personnel.

A review of your position finds that your position is responsible for conducting investigations with respect to individual and business tax files referred from the Attorney General’s office as well as other duties assigned in accordance with procedures and directives. Your position is responsible for performing a variety of actions to bring taxpayers into compliance with New Jersey tax laws either voluntarily or with the use of enforcement action. In the course of completing these tasks, your position acts as a lead worker over other Investigators. These duties are encompassed within the title of Investigator 2, Taxation.

A comprehensive review and analysis of your position finds that the assigned duties and responsibilities of this position are best classified by the title of Investigator 2, Taxation (P22).

Ms. Lauren Williams

Page 4

June 23, 2015

Determination:

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

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 Records 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
Agency Services

JR/tc

c: Ms. Laura Budzinski, Treasury Human Resources