

B-28



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of William Pena,
Department of the Treasury

CSC Docket No. 2017-1810

Classification Appeal

ISSUED: APR 11 2017

William Pena appeals the attached determination of the Division of Agency Services (DAS) that his position with the Department of the Treasury is properly classified as Investigator 2, Taxation, Bilingual in Spanish and English. The appellant seeks an Investigator 1, Taxation, Bilingual in Spanish/English classification in this proceeding.

The appellant was regularly appointed to the title of Investigator 2, Taxation, Bilingual in Spanish and English on October 21, 2013. His position is located in the Department of the Treasury's Division of Taxation, Compliance and Enforcement Activity, Compliance A - Neptune C. He reports to a Supervising Investigator Taxation, Bilingual in Spanish and English and has supervisory responsibility for a Technical Assistant 1, Treasury position and a Principal Clerk Typist position. DAS performed detailed analyses of the appellant's Position Classification Questionnaires (PCQ) and other materials submitted and determined that his position was properly classified as Investigator 2, Taxation, Bilingual in Spanish and English. As the appellant was not responsible for supervising professional staff, DAS ordered the removal of his supervisory duties with respect to the non-professional Technical Assistant 1, Treasury and Principal Clerk Typist positions.

On appeal to the Civil Service Commission (Commission), the appellant argues that his job responsibilities include supervising an Investigator 3, Taxation, which was included on his PCQ but not included in DAS' determination. He states that his supervisor signed his PCQ, agreeing to his supervisory duties. He includes an updated organizational chart.

DAS responded that, at the time of the audit, the performance assessment review (PAR) for the Investigator 3, Taxation was incomplete, as neither the employee nor a rater had signed it, and therefore was invalid. As of November 22, 2016, this position, and that of the Principal Clerk Typist was rated by the appellant's supervisor. Also, since the Technical Assistant 1, Treasury had separated from service, the appellant was not supervising any positions. Further, DAS could not consider the organizational chart submitted in October 2016 because it was not validated by the human resource office.

CONCLUSION

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

Under the direction of a Supervising Investigator or other higher level supervisory officer in the Division of Taxation, Department of Treasury, supervises a team or unit of subordinate investigators; may be required to conduct 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; supervises staff in work activities and signs official performance evaluations for subordinate staff; 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 2, Taxation, Bilingual in Spanish and English, states:

Under the direction of an Investigator 1, Taxation, Supervising Investigator, Taxation or other supervisory official 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 positions with the Bilingual in Spanish and English variant are required to read, write, speak, understand, or communicate in Spanish and English sufficiently to perform the duties of the position.

In the instant matter, DAS found that the appellant's position was properly classified as Investigator 2, Taxation, Bilingual in Spanish and English. Investigator 1, Taxation, Bilingual in Spanish and English, is clearly a supervisory

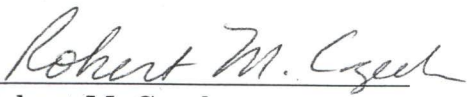
title. Nevertheless, the Commission has determined that an incumbent in this title must supervise other Investigators. In the decision, *In the Matter of Joshua Brown, et al., Department of the Treasury* (CSC, decided November 18, 2015), the Commission rejected the contention that an incumbent was a supervisor since she was responsible for the performance evaluation of a Technical Assistant 3. The job definition for Investigator 1, Taxation, Bilingual in Spanish and English, at the time indicated that an incumbent must supervise "subordinate investigators." The current job specification indicates this as well, and the same applies to the appellant. The supervision of subordinate individuals not in Investigator titles does not elevate the appellant's position to Investigator 1, Taxation, Bilingual in Spanish and English. Additionally, even assuming that the appellant supervised an Investigator 3, Taxation at time of the audit, the position could not have been reclassified to Investigator 1, Taxation, Bilingual in Spanish and English. In this regard, the job specification requires incumbents to supervise a "team" or "unit" of subordinate investigators. Thus, the supervision of one professional level position does not warrant an Investigator 1, Taxation, Bilingual in Spanish and English classification. See *In the Matter of Lauren Williams* (CSC, decided March 22, 2017). Therefore, the proper classification of this position is Investigator 2, Taxation.

ORDER

Therefore, the position of William Pena 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 5th DAY OF APRIL, 2017


Robert M. Czech
Commissioner
Civil Service Commission

Inquiries
and
Correspondence:

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

Attachment

c: William Pena
Douglas Ianni
Kelly Glenn
Records Center



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

September 19, 2016

Mr. William Pena
Department of the Treasury
Division of Taxation
124 Halsey Street, 2nd Floor
PO Box 450
Newark, New Jersey 07101-0450

**RE: Classification Appeal – Investigator 2, Taxation Bilingual in Spanish
and English, AS Log# 05160023, Position# [REDACTED] EID# [REDACTED]**

Dear Mr. Pena:

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 title of Investigator 2, Taxation Bilingual in Spanish and English (P22) is not consistent your current assigned duties and responsibilities. You contend 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, Compliance A – Neptune C. You report directly to Brenda Torres-Lyle, Supervising Investigator Taxation Bilingual in Spanish and English (S28) and you supervise the following positions: (1) Technical Assistant 1, Treasury (R17) and one (1) Principal Clerk Typist (R12).

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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 supervisor) which includes: reviewing Neptune C's backlog cases; checking and/or assigning cases; and/or other tasks and/or job actions of other Investigators.
- 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.”

You contend that the title Investigator 1, Taxation Bilingual in Spanish and English is an appropriate for your position. The definition section of the job

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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 official in the Division of Taxation, Department of Treasury, supervises a team or unit of subordinate investigators; may be required to conduct 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; supervises staff and work activities and signs official performance evaluations for subordinate staff; 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, and making revisions as required.

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

Incumbents of the Investigator 1, Taxation Bilingual in Spanish and English title are responsible for preparing and signing Performance Assessment Reviews (PARs) for a team or unit of subordinate Investigators. An evaluation of your position in conjunction with an empirical analysis of our records finds that your position is currently responsible for supervising one (1) Technical Assistant 1, Treasury; and one (1) Principal Clerk Typist. The supervising of one (1) para-professional and one (1) clerical position is not consistent with the definition of the Investigator 1,

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Taxation Bilingual in Spanish and English title. Further, your Performance Assessment Review (PAR) states you assist in the supervision of subordinates, in the absence of the supervisor on an as needed basis. You are not responsible for preparing and/or signing any subordinate Investigator's Performance Assessment Review (PAR) as per the definition of the Investigator 1, Taxation Bilingual in Spanish and English job definition.

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 supervisor) of Neptune C office which includes: reviewing backlog cases; checking and/or assigning cases; and/or other tasks and/or job actions of other Investigators.

A comprehensive review and analysis of your position finds that the assigned duties and responsible are significantly descriptive and commensurate with the tasks assigned to the title, Investigator 2, Taxation Bilingual in Spanish and English.

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. Therefore, the classification of your position will remain unchanged.

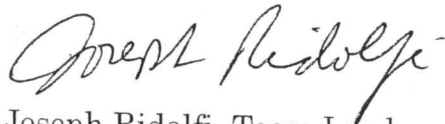
The tile Investigator 2, Taxation Bilingual in Spanish and English is a non-supervisory title; therefore, all supervisory duties must be removed immediately.

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

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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: Ms. Laura Budzinski, Treasury, Human Resources

