



**STATE OF NEW JERSEY**

In the Matter of Keith Muller,  
Department of the Treasury

**FINAL ADMINISTRATIVE  
ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket No. 2016-1482

Classification Appeal

**ISSUED: NOV 30 2018** (CSM)

Keith Muller appeals the attached decision of the Division of Agency Services (Agency Services) that the proper classification of his position with the Department of the Treasury is Investigator 2, Taxation. The appellant seeks an Investigator 1, Taxation classification.

The record in the present matter establishes that at the time the appellant filed his request for a classification review, he was serving as an Investigator 2, Taxation. The appellant's position is located in the Division of Taxation, Compliance Services, Bulk Sales B and he is supervised by Jon Shelter, Supervising Investigator, Taxation. The appellant sought a reclassification contending that his position would be more appropriately classified as an Investigator 1, Taxation. In support of his request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the different duties that he performed. Agency Services reviewed all documentation supplied by the appellant including his PCQ. Based on its review of the information provided, and confirmation of duties with his supervisor, Agency Services concluded that the appellant's position does not supervise employees and was properly classified as an Investigator 2, Taxation.

On appeal, the appellant states that the job specification for the subject title does not specifically state that an incumbent is required to evaluate the work of investigative staff. Rather, it only states that an incumbent "evaluates progress of subordinate professionals, and analyzes such progress with the section supervisor." Conversely, the Supervising Investigator, Taxation job specification specifically indicates that incumbents in that title supervise and evaluate the work of investigative staff. The appellant maintains that his supervisor has provided him

with the knowledge of the ePAR system and he is required to evaluate each subordinate employee. The appellant provides copies of reviews he prepared and states that these were utilized by the Supervising Investigator Taxation to assist him in the final evaluation of each employee.

### CONCLUSION

The definition section of the job specification for Investigator 2, Taxation 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; takes the lead over investigative staff and 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 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.

In the instant matter, at the time of the classification review, it is clear that the appellant's position was properly classified as Investigator 2, Taxation. The appellant's PCQ was signed by him on February 25, 2015 and received by this agency on March 2, 2015. It is noted that the Investigator 1, Taxation title is classified as a primary level supervisory title. Initially, it must be emphasized that titles are assigned to Employee Relations Groups (ERGs) based on the classification of the position by the 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 In the Matter of Alan Handler, et al.* (CSC, decided October 7, 2015 (Commission found that Auditor 1 was a supervisory level position based on job definition, duties, and inclusion in the "R" ERG). In order for a position to be classified as a primary level supervisory title, incumbents are required to be the rater of employee performance using a formal performance evaluation system. In this regard, even though the appellant indicated on the PCQ that he was responsible for the supervision of subordinate staff, Agency Services reviewed who was assigned as the rater for these staff members at the time the appellant's request was received. According to documentation in the ePAR system, the appellant was assigned to be rater for these subordinates starting the rating periods of October 6, 2015, and January 5, 2016. 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. Therefore, since at the time of the classification review, the appellant was not responsible as the rater for performance assessment reviews, his position could not be classified by a supervisory title. *See In the Matter of Harry Corey, et al.* (MSB, decided September 21, 2005) (Appellant who asserted that he performed PARs through an intermediary, in that he had substantial input on certain employees' final ratings, found to have never been delegated actual, final rating authority).

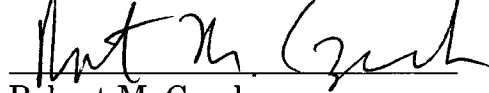
With respect to the appellant's argument on appeal that he currently has supervisory authority, as evidenced by the completed ePAR he submitted on appeal, as indicated earlier, classification reviews are based on a current review of assigned duties. Therefore, the fact that he signed as a rater of subordinate performance more than eight months after he submitted his initial classification appeal does not establish that he performed these duties when he requested that his position be audited. In regard to the appellant's argument that he performs higher level duties, the fact that some of an employee's assigned duties may compare favorably with some examples of work found in a given job specification is not determinative for classification purposes, since, by nature, examples of work are utilized for illustrative purposes only. Moreover, it is not uncommon for an employee to perform some duties which are above or below the level of work which is ordinarily performed. For purposes of determining the appropriate level within a given class, and for overall job specification purposes, the definition portion of the job specification is appropriately utilized. Additionally, 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 Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995). However, if the appellant believes his position is currently misclassified, he should file another classification appeal with Agency Service.

**ORDER**

Therefore, it is ordered that this appeal be denied.

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 ON  
THE 23<sup>RD</sup> DAY OF NOVEMBER, 2016



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

Attachment

c: Keith Muller  
Douglas Ianni  
Kelly Glenn  
Records Center



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

Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

Robert M. Czech  
Chair Chief Executive Officer

September 10, 2015

Mr. Keith Muller  
367 Sylvia Street  
Ewing, New Jersey 08628

**RE: Classification Appeal, Investigator 2, Taxation,  
AS LOG# 03150203, Position# 074741, EID# 000666614**

Dear Mr. Muller:

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, Jon Shetler, on September 1, 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, Compliance Services, Bulk Sales B, and you report directly to Jon Shetler, 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:

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- Assigning and reviewing the work of Investigators in the Bulk Sales B section. Assisting Investigators with questions that may arise.
- Reviewing, analyzing, and processing complex and high liability cases received by the Bulk Sales B section. Conferring with members of the public and their representatives to resolve complex issues.
- Making determinations that include abatements of interest, approving clearance letters, demand letters, and warrants of satisfaction in the absence of the supervisor.
- Attending weekly meetings to review, analyze, and determine Bulk Sales B section objectives.
- Compiling and recording statistics for the Bulk Sales B section for monthly reports.
- Reviewing case inventory of personnel and reporting to supervisor any Investigators that are not in compliance with set standards.
- Mentoring new Investigators assigned to the Bulk Sales B section and continuing to assist beyond the training period.

### **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

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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”.

The Investigator 2, Taxation and Investigator 1, Taxation titles are similar in nature as they are part of the same title series. However, the Investigator 1, Taxation title is considered a primary level supervisor, and thus incumbents are responsible for preparing and signing Performance Assessment Reviews (PARs) in the evaluation of subordinate personnel. Your position does not possess this responsibility; therefore, the Investigator 1, Taxation title is not appropriate for this position.

A review of your position finds that your position is responsible for assigning and reviewing the work of lower level Investigators, independently processing high liability cases, mentoring new Investigators, and performing other related duties as a functioning lead worker. However, your position does not have the responsibility of conducting PARs, which is a key distinction between the two titles of the series.

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).

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**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