

B-19



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Keith Gazzara,
Department of the Treasury

CSC Docket No. 2015-2627

Classification Appeal

ISSUED: JUN 19 2015 (JET)

Keith Gazzara appeals the attached decision of the Division of Agency Services, which found that his position with the Department of the Treasury is correctly classified as Taxpayer Service Representative (TSR) 3. The appellant seeks a TSR 2 classification.

The record in the present matter establishes that the appellant's permanent title is TSR 3. The appellant pursued the matter of the reclassification of his position with Agency Services. Agency Services reviewed all documentation supplied by the appellant, including a Position Classification Questionnaire (PCQ). It found that the appellant's position is located in the Division of Taxation, Technical Services, Technical Information. The appellant does not have supervisory duties. Based on its review of the record, Agency Services concluded that the appellant's position was properly classified as a TSR 3.

On appeal, the appellant asserts, among other things, that he is performing the duties of a TSR 2. Specifically, the appellant contends that he is assigned to work from the Regional Information Center where he provides customer service to taxpayers. He adds that his duties include explaining information to taxpayers; reviewing submissions; responding to inquiries; handling tax "dilemmas;" explaining bills; issuing refunds; requesting amounts due; reviewing tax rebate guidelines; and completing account maintenance and making adjustments. Further, he serves as an instructor; authors training manuals; develops and coordinates training/education programs; trains volunteers; confirms dates and times with site coordinators; and acts as liaison for a credit recovery company. The

appellant states that he provides guidance to lower level staff and he was assigned to supervise 30 employees when he was a liaison to a contracted credit recovery company. He avers that he assists several lower level employees with their work and explains that he previously applied and was found eligible for an examination for Taxpayer Service Representative 2.¹ Moreover, the appellant asserts that he is performing the same duties that are assigned to other employees whose positions were reclassified as a TSR 2.

In response, Agency Services maintains that the proper classification of the appellant's position is TSR 3. Specifically, Agency Services asserts that the information the appellant provided on the PCQ and during the telephone audit did not confirm that his duties include providing assistance with more complicated tax matters and providing education, assistance and information to taxpayers. Further, the appellant is no longer assigned to update training manuals and materials.² In addition, the appellant is not responsible for training employees as there are only three other employees in his unit and they are currently serving in higher level titles. Moreover, Agency Services avers that the appellant's speaking engagements occur infrequently and are not assigned on a regular basis.

CONCLUSION

The definition section of the job specification for the title TSR 2 states:

Under supervision in the Department of the Treasury, encourages voluntary compliance with New Jersey tax laws by providing education, information, and assistance to taxpayers, their representatives, and/or division staff relative to more complicated tax administration matters of the division; may provide guidance to lower level staff; does related work as required.

The definition section of the job specification for the title TSR 3 states:

Under supervision in the Department of the Treasury, encourages voluntary compliance with New Jersey tax laws by providing basic information and assistance to taxpayers, their representatives and/or Division staff relative to all taxes administered by the division; does related work as required.

¹ The appellant indicates that the examination was subsequently cancelled.

² Agency Services notes that the appellant was assigned to perform such duties at some point. However, he was not assigned to do that work at the time the classification review was conducted.

In the instant matter, based on a review of the PCQ submitted by the appellant and related documentation, Agency Services appropriately determined that the proper classification of the appellant's position is TSR 3. The majority of the appellant's duties do not involve providing education to taxpayers, assisting taxpayers with complicated matters, updating training manuals, and providing training to lower level employees. Although Agency Services noted that the appellant was assigned to update training manuals and materials at some point, it confirmed that he is no longer performing such duties. Nonetheless, the appellant listed in the PCQ that he provides training and updates training manuals only 5% of the time. As such, updating training manuals and providing training does not constitute the majority of his duties. Contrary to his assertions on appeal, the appellant did not indicate on the PCQ that he is responsible for supervising or leading lower level employees. Rather, the appellant only indicated that he "routinely reviews questions from other staff to determine if the inquiry requires an opinion from a higher authority," but he did not indicate lead worker duties such as assigning or reviewing completed work. As noted in the PCQ, the majority of the appellant's duties include providing answers to taxpayers and/or their representatives, correcting taxpayer accounts, authorizing the release of overpayments, business refunds, and property tax relief benefits, transferring money between accounts, abating penalties, and issuing bills for tax delinquencies. Such duties are consistent with the duties performed by the TSR 3 classification. Additionally, the appellant's eligibility for a prior civil service examination is not relevant to this matter.

With respect to the appellant's assertion that he is performing the same duties as other individuals serving as a TSR 2, 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). Moreover, 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. In this regard, 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.

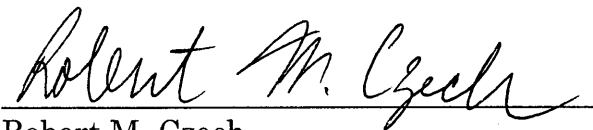
Accordingly, the appellant has not provided a substantial basis to disturb the findings that the proper classification of his position is Taxpayer Service Representative 3.

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 17th DAY OF JUNE, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
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Attachment

c: Keith Gazzara
Douglas Ianni
Kenneth Connolly
Joseph Gambino



Chris Christie
Governor
Kim Guadagno
Lt. Governor

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Robert M. Czech
Chair/Chief Executive Officer

February 24, 2015

Mr. Keith Gazzara
Department of the Treasury
Division of Taxation
Technical Services
1915A New Road
Northfield, New Jersey 08225

**RE: Classification Appeal- Taxpayer Service Representative 3
AS Log #08140342, Position #074575, EID #000515551**

Dear Mr. Gazzara:

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 submitted and a telephone audit conducted with you on February 11, 2015 and with your immediate supervisor, Mr. John Spisak, Taxpayer Service Representative 1 (R24) on February 12, 2015.

Issue:

You contend that the duties of your position are inconsistent with your current title of Taxpayer Service Representative 3 (P18-51322) and that the title Taxpayer Service Representative 2 (P21-51323) is consistent with the duties that you currently perform.

Organization:

Your position is located in the Department of the Treasury, Division of Taxation, Technical Services, Technical Information; you report to Mr. John Spisak, Taxpayer Service Representative 1.

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The Department of the Treasury, Division of Taxation, Technical Services, Technical Information, responds to all inquiries received by phone call or walk in, in order to foster voluntary tax compliance.

Findings of Fact:

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

- Providing technical assistance and information on New Jersey personal income taxes, property tax relief programs, corporate taxes, partnerships, and trust taxes; correcting taxpayer accounts and authorizing the release of over-payments; performing online and paper adjustments to resolve taxpayer accounts.
- Applying payments to outstanding cases and creating cases once liability is determined; transferring monies between accounts, abating penalties, issuing bills; interpreting tax information and its specific application.
- Providing explanations regarding overpayments; performing recalculations as necessary or advising taxpayers on amending their tax returns; performing research and compilation of data for proper responses; maintaining records for statistical purposes to be included in the monthly report.
- Assisting investigators with inquiries as necessary; speaking at workshops or events bi-annually as requested regarding taxpayer information; sending correspondence with documentation requests.

Review and Analysis:

Your position is currently classified by the title Taxpayer Service Representative 3 (P18-51322). The definition of this job title states:

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“Under supervision in the Department of the Treasury, encourages voluntary compliance with New Jersey tax laws by providing basic information and assistance to taxpayers, their representatives and/or Division staff relative to all taxes administered by the division; does related work as required.”

You contend that the title Taxpayer Service Representative 2 (P21-51323) is an appropriate title for your position. The definition section of the job specification states:

“Under supervision in the Department of Treasury, encourages voluntary compliance with New Jersey tax laws by providing education, information, and assistance to taxpayers, their representatives, and/or division staff relative to more complicated tax administration matters of the division; may provide guidance to lower level staff; does related work as required.”

The review of duties and responsibilities for this position finds that the position provides answers to taxpayers and/or their representatives on assigned state taxes; corrects taxpayer accounts; authorizes the release of over-payments in the form of income tax refunds/credits, business tax refunds/credits, and/or Property Tax Relief benefits; transfers monies between accounts, abate penalties, and issue bills for tax delinquencies; interprets and applies current NJ tax laws and regulations; applies payments to outstanding cases and/or create cases for the application of payments once liability is determined; speaks at events and workshops on various tax and rebate programs bi-annually or as requested; and assists division field investigation staff with issues related to their cases.

While this position may receive inquiries that are complicated in nature: the frequency of calls or visits that require providing assistance with more complicated tax administration matters was not established. Therefore, it is not apparent that a significant portion of the calls or visits involve assisting with complicated as opposed to basic tax matters in the majority of inquiries. Additionally, the aspect of providing education along with assistance and information to taxpayers for a significant portion of time has also not been demonstrated by the duties outlined in the appeal. The updating of training manuals or materials was performed previously but is no longer a current responsibility of the position, as well as,

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providing training to colleagues of lower skill levels based on the fact that the number of employees within the unit, which are currently at three, is assigned higher level titles. The speaking engagements described during this review, are performed on a more infrequent basis and therefore do not warrant a change in classification.

The preponderance of your assigned duties and responsibilities are significantly descriptive of tasks assigned to the title Taxpayer Service Representative 3 (P18-51322).

Determination:

Based on the findings of fact above, it is my determination that the assigned duties and responsibilities performed by the position are best classified by the title Taxpayer Service Representative 3 (P18-51322). 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 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/ts

c: Ms. Laura Budzinski, Treasury Human Resources