



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Andrew Staltari,
Department of the Treasury

CSC Docket No. 2017-830

Classification Appeal

ISSUED: August 21, 2017 (RE)

Andrew Staltari appeals the attached determination of the Division of Agency Services (DAS) that his position with the Department of the Treasury is properly classified as Tax Services Specialist 3. The appellant seeks a Tax Services Specialist 2 classification in this proceeding.

The appellant was regularly appointed to the title of Tax Services Specialist 3 on January 24, 2013. His position is located in the Department of the Treasury's Division of Taxation, Counsel Services, Regulatory Services Branch. He reports to a Tax Services Specialist 1 and has no supervisory responsibility. DAS performed a detailed analysis of the appellant's Position Classification Questionnaire (PCQ) and other materials submitted, and determined that his position was properly classified as Tax Services Specialist 3.

On appeal to the Civil Service Commission (Commission), the appellant argues that his job responsibilities included being a lead worker of a Tax Services Specialist 3 for a drafting of a readoption proposal, from the initial stages of the process to its publication in the New Jersey Register in August 2016, a process that took approximately a year. He also states that he is the lead worker in a variety of subjects such as local property tax and real estate matters, as well as corporation business tax, the gross income tax, bulk sales, and business registration certification requirements.

The appellant points out that one of the examples of work included on the job specification for Tax Services Specialist 2 is, "As required, gives appropriate

assignments and instructions to Tax Services Specialists 3 and supervises the performance of their work." He reiterates that he instructed and oversaw the process of completing a proposed rule for re-adoption with amendment with a co-worker for a year, and maintains that the job specification should be revised to indicate that it supervises Tax Services Specialists 3.

DAS responded that, at the time of the audit, the performance assessment review (PAR) did not indicate that the appellant had advisory duties, and previous assignments cannot be considered. It stated that there was no mention of advisory duties in the appellant's PCQ or during the telephone audit. DAS indicated that the appellant oversaw and instructed the process for one regulation only, and that the requested title is not a supervisory title.

CONCLUSION

N.J.A.C. 4A:3-3.9(e) states that in classification appeals the appellant shall provide copies of all materials submitted, the determination received from the lower level, statements as to which portions of the determination are being disputed, and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered.

The definition section of the job specification for Tax Services Specialist 2, states:

Under the direction of the Chief, Tax Services or a Tax Services Specialist 1, Division of Taxation, Department of Treasury, performs with and advises Tax Services Specialists 3 engaged in the administrative functions, technical and other research in connection with Division programs in respect to Division policies and procedures related to the administration of any State tax law; prepares reports, summaries, and recommendations on tax, technical, and administrative matters under direction; does related work as required.

The definition section of the job specification for Tax Services Specialist 3, states:

Under the direction of the Chief, Tax Services or other supervisory officer, Division of Taxation, Department of Treasury, engages in administrative activities and functions as assigned; is responsible for advisory opinions regarding taxpayer compliance with State tax laws and advises the Division's audit, collection, and enforcement personnel with respect to the application of State tax law in problematic circumstances; conducts research in support of the Division's activities related to the application and enforcement of State tax laws; under

direction, prepares reports and makes recommendations on tax or administrative matters; does other related work.

In the instant matter, DAS found that the appellant's position was properly classified as Tax Services Specialist 3. Tax Services Specialist 2 is clearly a lead worker title. The appellant is mistaken in his assumption that he was required to supervise, rather than be a lead worker, based on the wording of one example of work in the job specification for the requested title. An incumbent in a leadership role refers to persons whose titles are non-supervisory in nature, but are required to act as a leader of a group of employees in titles at the same or lower level than themselves and perform the same kind of work as that performed by the group being led. *See In the Matter of Catherine Santangelo* (Commissioner of Personnel, decided December 5, 2005). Duties and responsibilities would include training, assigning and reviewing work of other employees on a regular and recurring basis, such that the lead worker has contact with other employees in an advisory position. However, such duties are considered non-supervisory since they do not include the responsibility for the preparation of performance evaluations. Acting as a representative or being the most knowledgeable in an area does not define a position as a lead worker. Being a lead worker involves mentoring others in work of the title series. In this case, the appellant indicated on his PCQ that only 15% of his time was spent at taking the lead in the Regulatory Services Branch for Local Property Tax and Real Estate Transfer matters. Therefore, his position does not primarily perform lead worker duties.

Additionally, 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 may have performed six months ago or a year ago or several years ago. This agency's established classification review procedures in this regard have been affirmed following formal Civil Service Commission review and judicial challenges. *See In the Matter of Community Service Aide/Senior Clerk (M6631A), Program Monitor (M62780), and Code Enforcement Officer (M00410)*, 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). *See also, In the Matter of Theresa Cortina* (Commissioner of Personnel, decided May 19, 1993). While the appellant may have been a lead worker in the past, he was not in an advisory role at the time of the

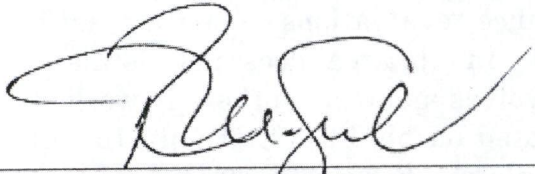
audit. Advisory duties performed in the past for one individual for one regulation does not warrant a Tax Services Specialist 2 classification. Therefore, the proper classification of this position is Tax Services Specialist 3.

ORDER

Therefore, the position of Andrew Staltari is properly classified as Tax Services Specialist 3.

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
THE 16th DAY OF AUGUST, 2017



Robert M. Czedo, Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
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: Andrew Staltari
Douglas Ianni
Kelly Glenn
Records Center



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

August 11, 2016

Mr. Andrew Staltari
Department of the Treasury
Division of Taxation
PO Box 210
50 Barrack Street
Trenton, New Jersey 08625

RE: Classification Appeal, Tax Services Specialist 3
AS Log# 03160283, Position# 102127, EID# 10033116

Dear Mr. Staltari:

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, Mr. Eric Friedmann.

Issue:

You are appealing that your current title of Tax Services Specialist 3 (P23) is not consistent with your current assigned duties and responsibilities. You contend that a title of Tax Services Specialist 2 (P26) is an appropriate title for your position.

Organization:

Your position is located in the Division of Taxation, Counsel Services, Regulatory Services Branch. You report directly to Eric Friedmann, Tax Services Specialist 1 (S29). Your position does not possess supervisory responsibility.

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Finding of Fact

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

- Performing research, preparing reports and assembling information for further use.
- Making legislative comments and fiscal notes to legislative bills. Monitoring bills as well as drafting tentative legislations for the Division
- Meeting with Directors to discuss drafting regulations and legislation that impact regulations relating to Local Property Tax.
- Preparing final drafts of rules and regulations for the Division of Taxation as well as drafting correspondence for the Director.
- Drafting technical bulletins, news articles, letter rulings and guidance letters.
- Handling various tax matters for public contracts such as: Corporate Business Tax, the Gross Income Tax, Bulk Sales, Real Estate Transfers, and Business Registration Certification.

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 Tax Services Specialist 3 (P23-51331).

You contend that the title Tax Services Specialist 2 (P26-51332) is an appropriate title for your position. The definition section of the job specification states:

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"Under direction of the Chief, Tax Services or a Tax Services Specialist 1, Division of Taxation, Department of the Treasury, performs with and advises Tax Services Specialists 3 engaged in administrative functions, technical and other research in connection with Division programs in respect to Division policies and procedures related to the administration of any State tax law; prepares reports, summaries, and recommendations on tax, technical, and administrative matters under direction; does related work as required."

A primary of duty a Tax Services Specialist 2 is to advise Tax Services Specialists 3 engaged in administrative functions, technical and other research related to the administration of any State tax law. Incumbents prepare reports, draft legislations, as well as make recommendations on tax and administrative matters. A further review of your assigned duties and responsibilities finds that additional job duties include to drafting letters, technical bulletins, news articles, letter rulings and guidance letters. Your position also handles various tax matters for public contracts such as: Corporate Business Tax, Bulk Sales, and Real Estate Transfers.

A review of your submitted Position Classification Questionnaire (DPF-44S) and Performance Assessment Review shows that you are not currently regularly assigned with advising any Tax Services Specialist 3's. Furthermore, during your telephone audit both you and your immediate supervisor stated that in the past you have intermittently assisted coworkers regarding various topics including what to do in meetings and what kind of cover letters to use. While you may occasionally perform a few duties commensurate with the Taxpayer Service Specialist 2, the regularity and frequency in which these duties are performed are not consistent with the title, Tax Services Specialist 2.

The preponderance of assigned duties and/or responsibilities that you perform are significantly descriptive and commensurate with the title, Tax Services Specialist 3.

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 Tax Services Specialist 3 (P23-51331).

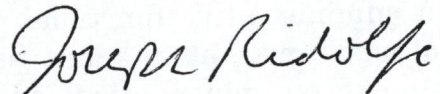
Mr. Andrew Staltari

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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,

A handwritten signature in cursive script, reading "Joseph Ridolfi".

Joseph Ridolfi, Team Leader
Agency Services

JR/do

c: Ms. Laura Budzinski, Treasury, Human Resources