

B-19



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Michael D'Errico,
Department of the Treasury

CSC Docket No. 2014-1992

Classification Appeal

ISSUED: OCT 06 2014 (WR)

Michael D'Errico appeals the attached decision of the Division of Classification and Personnel Management (CPM) that his position with the Department of the Treasury is properly classified as an Investigator 2, Taxation. Mr. D'Errico seeks an Investigator 1, Taxation classification in this proceeding.

The record in the present matter establishes that Mr. D'Errico is currently an Investigator 2, Taxation in the Department of the Treasury, Division of Taxation, Office of the Director, Office of Criminal Investigation/Internal Security Administration. As an Investigator 2, Taxation, Mr. D'Errico reports to Donald Krulewicz, Supervising Investigator, Taxation, and he does not possess supervisory duties. Mr. D'Errico requested a reclassification of his position, alleging that his assigned duties and responsibilities are at the level of an Investigator 1, Taxation. As described in the attached determination, CPM found that based on the primary duties of Mr. D'Errico's position, his title is properly classified as an Investigator 2, Taxation. Specifically, it found that Mr. D'Errico conducts routine and complex investigations; approves and/or files legal actions; files criminal charges; coordinates various actions between the Division of Taxation and six regional offices, the Mercer County Prosecutor's office, and/or Trenton Municipal Court; assists in the supervision of staff in the absence of the Supervising Investigator, Taxation; and acts as a witness in court, administrative, and/or other hearings. Moreover, as CPM found that Mr. D'Errico did not prepare or sign employee Performance Assessment Reviews (PARs), it concluded that an Investigator 1, Taxation classification would not be appropriate. Rather, CPM found that Mr. D'Errico's proper classification was Investigator 2, Taxation.

On appeal, Mr. D'Errico contends that he is performing the duties of an Investigator 1, Taxation because he "assist[s] in the supervision of staff every day" and his "input is requested and is critical to the completion" of a subordinate investigator's PAR "because [he] supervise[s] him on a daily basis." As further support for his contention, Mr. D'Errico argues that he has the ability to access a computer menu for supervisors and assigns work to subordinate staff, evaluates their work and trains subordinate investigators. Mr. D'Errico further claims that he performs independent investigations and "create[s] criminal investigations and/or file[s] criminal charges," which he contends is the primary duty of his job and is a duty of an Investigator 1, Taxation. Finally, Mr. D'Errico states that he is a complaining witness in criminal trials, which is a higher level duty than serving as a witness in a civil trial.

In response, CPM reiterates the findings of its determination and emphasizes that Mr. D'Errico is not responsible for preparing or signing PARs. CPM notes that although Mr. D'Errico trains and/or oversees one Investigator 3, Taxation, he has not been assigned supervisory duties. CPM further observes that supervisory duties are not included in the "Job Expectations" section of his PARs. Rather than performing supervisory duties, CPM asserts that Mr. D'Errico takes the lead. Accordingly, it contends that Mr. D'Errico's position is properly classified as an Investigator 2, Taxation.

CONCLUSION

The definition section of the job specification for Investigator 2, Taxation 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 definition section of the job specification for Investigator 1, Taxation states:

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 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.

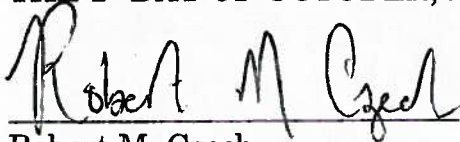
Based on a thorough review of the entire record, it is clear that the position of Mr. D'Errico is properly classified as an Investigator 2, Taxation. On appeal, Mr. D'Errico does not contend that he has responsibility for preparing or signing PARs. Rather, he argues that his training of staff, assigning work to and evaluating the work of subordinate staff, and participating in the completion of a subordinate employee's PAR constitutes supervisory duties. However, such duties are more akin to that of a lead worker. In this regard, a lead worker acts 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 John Freise* (CSC, decided May 1, 2013). By contrast, in the Civil Service system, the line of demarcation established to determine if one possesses supervisory duties has uniformly been whether he or she has actual performance evaluation authority over subordinate staff. Actual authority is evidenced by being named the rater on the performance evaluation document. *See In the Matter of Harry Corey, et al.* (MSB, decided September 21, 2005). As Mr. D'Errico's position is not responsible for preparing or signing PARs, an Investigator 1, Taxation classification for his position is inappropriate. Accordingly, a thorough review of the information presented in the record establishes that Mr. D'Errico's position is properly classified as an Investigator 2, Taxation, and he has not presented a sufficient basis to establish that his position is improperly classified.

ORDER

Therefore, the position of Michael D'Errico is properly classified as an Investigator 2, Taxation.

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 1st DAY OF OCTOBER, 2014



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Attachment

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