

BEFORE THE PERSONNEL RESOURCES BOARD
STATE OF WASHINGTON

STEVE BREN,

Appellant,

vs.

DEPARTMENT OF REVENUE,

Respondent.

CASE NO. R-ALLO-07-009

ORDER OF THE BOARD
FOLLOWING HEARING ON
EXCEPTIONS TO THE
DETERMINATION OF THE DIRECTOR

Hearing on Exceptions. This appeal came on for hearing before the Personnel Resources Board, LAURA ANDERSON, Chair, and MARSHA TADANO LONG, Vice Chair, on Appellant's exceptions to the director's determination dated May 17, 2007. The hearing was held at the office of the Personnel Resources Board in Olympia, Washington, on October 11, 2007.

Appearances. Appellant Steve Bren was present and represented himself *Pro Se*. The Department of Revenue (DOR) was represented by Dorothy Hibbard, Senior Human Resources Consultant.

Background. Appellant's position was allocated to the class of Excise Tax Examiner 4. Appellant had requested that his position be placed in Washington Management Service (WMS). In response to Appellant's request, Assistant Director Michael Grundhoffer issued a letter to Appellant denying his request to be placed in WMS. At the request of Appellant, DOR's Director's designee, Marcus Glasper, reviewed Mr. Grundhoffer's decision and concluded his position was properly allocated as an Excise Tax Examiner 4.

On February 23, 2007, Appellant requested a Director's review of DOR's determination. At that time, the Department of Personnel (DOP) informed Appellant the Director's review would be limited to a review of his classified position, since he was not a WMS employee. Consequently, DOP asked DOR's Human Resources Department to review Appellant's position and issue an allocation determination, which then became the basis for the Director's review under WAC

1 357-13-080. Senior Human Resources Consultant Dorothy Hibbard issued an allocation
2 determination on March 30, 2007. In her determination, Ms. Hibbard concluded the majority of
3 Appellant's duties met the definition of an Excise Tax Examiner 4 because he was responsible
4 for the development and implementation of the specific functions of statewide/national
5 correspondence audit operations, voluntary disclosure, and statewide/national public works
6 contract clearance. Ms. Hibbard also considered Appellant's responsibility to supervise Excise
7 Tax Examiners working in these areas to be consistent with the definition of Excise Tax
8 Examiner 4.

9
10 The Director's review by DOP was conducted based on written documentation. On May 17,
11 2007, the Director's designee, Holly Platz, informed Appellant his position was properly
12 allocated. Ms. Platz determined Appellant's duties of supervising, planning, leading, and
13 organizing the above programs within the Account Research and Desk Examination Unit were
14 encompassed in the Excise Tax Examiner 4 classification.

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16 On June 15, 2007, Appellant filed exceptions to the director's determination. Appellant's exceptions
17 are the subject of this proceeding.

18
19 Appellant's position is responsible for supervising professional staff in the Account Research and
20 Desk Examination (ARDE) Unit, which includes eight Excise Tax Examiners, one Revenue
21 Auditor, and an Excise Tax Assistant. In that capacity, Appellant plans, leads, organizes, and
22 controls the work performed relating to the statewide and national Correspondence Audit Program,
23 Voluntary Disclosure Program, Public Works Contract Program, Corporate Dissolution Program,
24 and Lemon Law Refund Program.

25
26 **Summary of Appellant's Arguments.** Appellant argues the duties and level of responsibility
27 assigned to his position meet the definition of a manager. Appellant asserts his position develops,
28 implements, manages, and directs statewide and national audit programs related to Correspondence
29

1 Audit Operations, the Voluntary Disclosure Program, Public Works Contract Clearance Program,
2 Corporate Dissolution Program, and Lemon Law Refund Program. Appellant argues those functions
3 were previously handled by WMS managers working as Field Audit Managers. Appellant asserts
4 his position is responsible for supervising, high-level auditor and tax examiner positions within
5 national audit programs and contends he provides training to auditors, administers taxpayer
6 education programs, and supervises or conducts conferences with taxpayers to resolve disputed tax
7 issues. Appellant further asserts he recommends policies and strategies and has final review and
8 signature authority. Appellant states that he loves his job but argues his position should be allocated
9 and compensated at a management level.

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11 **Summary of Respondent's Arguments.** Respondent argues Appellant's position is properly
12 allocated as an Excise Tax Examiner 4. Respondent acknowledges Appellant supervises and directs
13 the work of excise tax examiners and auditors working in the Correspondence Audit Operations,
14 Voluntary Disclosure Program, Public Works Contract Program, Corporate Dissolution Program,
15 and Lemon Law Refund Program. Respondent further acknowledges Appellant's duties have
16 increased but asserts the management responsibility for these audit programs resides with his
17 supervisor, a WMS Program Manager. Additionally, Respondent agrees that portions of the work
18 related to these audit programs had previously been performed by Field Audit Managers. However,
19 Respondent contends management reviewed the functions of the audit programs for efficiency and
20 made a business decision to restructure the work, which resulted in the elimination of former WMS
21 positions. Respondent further contends management has the prerogative to determine which
22 positions should be included in WMS. In this case, Respondent asserts Appellant's supervisor has
23 the final management authority. While Respondent acknowledges Appellant performs his job well,
24 the department argues his position is properly allocated as an Excise Tax Examiner 4.

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26 **Primary Issue.** Whether the director's determination that Appellant's position is properly allocated
27 to the Excise Tax Examiner 4 classification should be affirmed.

1 **Relevant Classifications.** Excise Tax Examiner 4 class code 15260.

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3 **Decision of the Board.** The purpose of a position review is to determine which classification
4 best describes the overall duties and responsibilities of a position. A position review is neither a
5 measurement of the volume of work performed, nor an evaluation of the expertise with which
6 that work is performed. A position review is a comparison of the duties and responsibilities of a
7 particular position to the available classification specifications. This review results in a
8 determination of the class that best describes the overall duties and responsibilities of the
9 position. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

10
11 The definition for an Excise Tax Examiner 4 includes the following:

12 In the Department of Revenue, has direct responsibility for developing and
13 implementing specific functions or projects within a section of the division.
14 Supervises, directs, and controls the activities of excise tax examiners and support
15 staff . . . and assists in responding to inquiries relating to legal or policy issues.
16 Provides authoritative information and guidance to staff on analysis of taxpayer
reporting or accounting methods and acts as a divisional or departmental
representative to taxpayers, the general public, the news media, financial institutions,
local government or others.

17 Implements new laws, policies, procedures, directives and plans. . . . [E]stablishes
18 work assignments . . . and [I]nitiates or participates in systems and process redesign
19 for re-engineering.

20 [Incumbents] [d]evelop, monitor, review and coordinate training to staff or other
21 agency personnel on programs or functions within the unit, section or division.

22
23 The Excise Tax Examiner 4 is the highest level class within this classification series. Appellant's
24 position fits within this classification because his position supervises, plans, leads, organizes, and
25 controls the various audit programs within the Account Research and Desk Examination Unit
26 (ARDE). We acknowledge that Appellant has assumed additional duties and responsibilities
27 with the assignment of work involving the statewide and national audit programs. These new
28 duties and responsibilities may very well fit within the scope of a management position.
29 However, the Board's authority is confined to classifications available under Chapter 357-13

1 WAC. Therefore, any consideration of WMS positions is outside this Board's purview. Based
2 on the classifications available under Chapter 357-13 WAC, we conclude the Excise Tax
3 Examiner 4 classification best describes Appellant's position.

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5 **ORDER**

6 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Steve Bren is
7 denied and the Director's determination dated May 17, 2007, is affirmed and adopted.

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9 DATED this ____ day of _____, 2007.

10 WASHINGTON PERSONNEL RESOURCES BOARD

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12 _____
13 LAURA ANDERSON, Chair

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15 _____
16 MARSHA TADANO LONG, Vice Chair