

**BEFORE THE PERSONNEL RESOURCES BOARD**  
**STATE OF WASHINGTON**

John Sem, et al.,	)	
Appellants,	)	CASE NO. R-ALLO-15-010
vs.	)	
Employment Security Department	)	ORDER OF THE BOARD
Respondent.	)	FOLLOWING HEARING ON
	)	EXCEPTIONS TO THE
	)	DETERMINATION OF THE DIRECTOR

**Hearing on Exceptions.** This appeal came before the Personnel Resources Board, NANCY HOLLAND YOUNG, Chair (via teleconference), SUSAN MILLER, Vice Chair; and VICKY BOWDISH, Member, for a hearing on Appellants' exceptions to the director's determination dated April 27, 2015. The hearing was held on October 15, 2015.

**Appearances.** Appellants James Botatis, Tim Carrothers, Lorriane Craig, James Dahlen, Paul Dean, Inna Dykes, Melissa Hartung, Diane Mollet, Melenie Motto, Thao Nguyen, Marilee Rehfield, John Sem, Peter Serrano and Phuong Shaw were present and represented by Daniel Comeau of the Washington Federation of State Employees. Respondent Employment Security Department (ESD) was present and was represented by Teresa Eckstein, Human Resource Manager, ESD.

**Background.**

On June 4, 2014, Respondent notified Appellants that their positions were properly allocated to the Tax Specialist 3 (TS3) class. On July 2, 2014, Appellants submitted a request to OFM State HR for a director's review of ESD's determination.

By letter dated April 27, 2015, the director's designee determined that Appellants' positions were properly allocated to TS 3.

On May 27, 2015, Appellants filed timely exceptions to the director's determination. In the exceptions, Appellants indicate the scope of their work best fits the duties of the Revenue Agent 2 (RA2). Appellants' exceptions are the subject of this proceeding.

1 As summarized in the PRRs, Appellants are assigned to the Account Management Center within  
2 the Tax & Wage Administration Branch of ESD. Their positions exist to generate revenue by  
3 applying collection procedures to delinquent employer accounts. Appellants state that 95% of  
4 their work entails conducting collection activities.  
5

6 Prior to ESD's reorganization, the TS 3s performed more varied work which they now defer to other  
7 staff members. Since the reorganization, the TS 3s spend 95% of their time on collections work.  
8

9  
10 **Summary of Appellants' Arguments.**

11 Appellants assert that the precedent setting Personnel Resources Board (PRB) cases, where agency  
12 specific job classes are considered before general job classes, do not fit in this case since clearly the  
13 positions perform the full range of RA 2 duties stated in the Definition and Distinguishing  
14 Characteristics (DCs). Appellants assert that by eliminating much of their previous duties after the  
15 reorganization and deferring other TS 3 duties elsewhere in the agency, the TS 3 job class is  
16 eliminated as an appropriate fit because the work now revolves around collections exclusively,  
17 including tasks involving discovery, subpoenas and auditing of financial statements. Appellants  
18 contend that even though the positions' collection duties are related to specific Unemployment (UI)  
19 tax laws, all RA 2s must learn specific rules and regulations of the agency they serve.  
20

21 **Summary of Respondent's Arguments.**

22 Respondent contends that the positions should remain allocated to the TS 3 job class. Respondent  
23 asserts there are numerous Board cases that speak to how positions should not be allocated to the  
24 general job class if the agency-specific job class fits the work. Respondent further asserts that the  
25 agency-specific job class of TS 3 includes collection duties. Respondent contends that the collection  
26 duties performed by the incumbents are specific to UI and performing this work requires a high level  
27 of technical skill and program knowledge in UI tax – knowledge and skill not required of RA 2s.  
28  
29

1 **Primary Issue.** Whether the director's determination should be affirmed and Appellants' positions  
2 should remain in the TS 3 job class.

3  
4 **Relevant Classifications.** Tax Specialist 3; Revenue Agent 2.

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

13  
14 Most positions within the civil service system occasionally perform duties that appear in more than  
15 one classification. However, when determining the appropriate classification for a specific position,  
16 the duties and responsibilities of that position must be considered in their entirety and the position  
17 must be allocated to the classification that provides the best fit overall for the majority of the  
18 position's duties and responsibilities. See *Dudley v. Dept. of Labor and Industries*, PRB Case No.  
19 R-ALLP-07-007 (2007).

20  
21 When comparing the assignments of work and the level of responsibility to the available class  
22 specifications, the class series concept (if one exists) followed by the definition and distinguishing  
23 characteristics are primary considerations. While examples of the typical work identified in class  
24 specifications do not form the basis for an allocation, they lend support to the work envisioned  
25 within the classification.

26  
27 The Definition of TS 3 states:

28 Provides senior-level professional unemployment insurance (UI) tax services, requiring a  
29 high level of technical skill and program knowledge, to the Washington State business

1 community, reporting agents, legal representatives, out-of-state businesses, unemployment  
2 benefit recipients, and other state and federal agencies. Performs program administration  
3 and/or provides direct services for inter-related tax programs (Status, Tax Accounting,  
4 Redetermination, Compliance, Audit, Experience Rating/Benefit Charging, Unified  
5 Business Identifier).

6 The Distinguishing Characteristic of the TS 3 states:

7 This is the fully skilled level of the series, and incumbents work independently with only  
8 general directions.

9 The Definition of RA 2 states:

10 Performs the full range of revenue collection activities.

11  
12 The Distinguishing Characteristics of the RA 2 states:

13 At the journey level, independently performs routine to difficult collection activities that  
14 includes (but not limited to) seizures, successorships, revocations, delinquent claims  
15 accounts, mainstream delinquent accounts, tax discovery investigations, compliance  
16 corporate officer liability assessments, and prime contractor liability. Incumbents are  
17 experienced in utilizing professional compliance methods and have a detailed  
18 understanding of program goals.

19 The Board recognizes the similarity between the Appellants' duties and the work stated in the RA 2  
20 class specification. However, as stated in the director's review decision, allocation to the specific  
21 classification must take primary consideration over allocation to a general classification. (See  
22 *Alvarez v. Olympic College*, PRB No. R-ALL0-08-13). Since the TS 3 is specific to ESD and  
23 incorporates the incumbents' duties and responsibilities around collections, allocation to the specific  
24 class must be considered first.

25  
26 While the typical work is not allocating criteria, it does aid in illustrating the Definition and  
27 Distinguishing Characteristics. The Definition specifies the TS 3 "provides senior-level professional  
28 UI tax services, requiring a high level of technical skill and program knowledge..." The Typical  
29 Work for the TS 3 includes planning and conducting "complete verification, request and IRS request

1 audits of employers' accounting records; reviews and analyzes for conformity with Employment  
2 Security Rules and Regulations..." The Typical Work also states that TS 3s "conduct detailed audit  
3 and analysis of employer records; acts on finding pertaining to any of the seven inter-related tax  
4 programs."

5 The scope of work in the TS 3 class specification encompasses the Appellants' duties and  
6 responsibilities specific to ESD collections. Therefore, consistent with prior Board decisions for  
7 similar cases, allocation of the positions to TS 3 is most suitable.

8  
9 Since classification revisions are outside the Board's jurisdiction, we strongly encourage ESD to  
10 work with the Classification and Compensation staff at OFM State HR to update the Tax Specialist  
11 class series to better reflect the work of the positions.

12  
13 In a hearing on exceptions, Appellants have the burden of proof (WAC 357-52-110). John Sem,  
14 et. al., has failed to meet the burden of proof.

**ORDER**

NOW, THEREFORE, IT IS ORDERED that the appeal on exceptions by James Botatis, Tim Carrothers, Lorraine Craig, James Dahlen, Paul Dean, Inna Dykes, Melissa Hartung, Diane Mollet, Melenie Motto, Thao Nguyen, Marilee Rehfield, John Sem, Peter Serrano and Phuong Shaw is denied and the director’s determination dated April 27, 2015, is affirmed.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2015.

WASHINGTON PERSONNEL RESOURCES BOARD

\_\_\_\_\_  
NANCY HOLLAND YOUNG, Chair

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SUSAN MILLER, Vice Chair

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VICKY BOWDISH, Member