

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 84**

**Representatives Sprague, Sweeney**

**Cosponsors: Representatives Becker, Blessing, Henne, Leland, Ruhl**

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**A BILL**

To amend section 718.37 of the Revised Code to  
require civil actions by taxpayers related to  
municipal income taxes be brought against the  
municipal corporation imposing the tax rather  
than the municipal corporation's tax  
administrator.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 718.37 of the Revised Code be  
amended to read as follows:

**Sec. 718.37.** (A) A taxpayer aggrieved by an action or  
omission of a tax administrator, a tax administrator's employee,  
or an employee of the municipal corporation may bring an action  
against the ~~tax administrator, against the municipal~~  
~~corporation, or against both,~~ for damages in the court of common  
pleas of the county in which the municipal corporation is  
located, if all of the following apply:

(1) In the action or omission the tax administrator, the  
tax administrator's employee, or the employee of the municipal  
corporation frivolously disregards a provision of this chapter

or a rule or instruction of the tax administrator; 19

(2) The action or omission occurred with respect to an 20  
audit or an assessment and the review and collection proceedings 21  
connected with the audit or assessment; 22

(3) The tax administrator, the tax administrator's 23  
employee, or the employee of the municipal corporation did not 24  
act manifestly outside the scope of employment and did not act 25  
with malicious purpose, in bad faith, or in a wanton or reckless 26  
manner. 27

(B) In any action brought under division (A) of this 28  
section, upon a finding of liability on the part of the ~~tax-~~ 29  
~~administrator or the municipal corporation, the tax-~~ 30  
~~administrator or the municipal corporation~~ shall be liable to 31  
the taxpayer in an amount equal to the sum of the following: 32

(1) Compensatory damages sustained by the taxpayer as a 33  
result of the action or omission by the tax administrator, the 34  
tax administrator's employee, or the employee of the municipal 35  
corporation; 36

(2) Reasonable costs of litigation and attorneys' fees 37  
sustained by the taxpayer. 38

(C) In the awarding of damages under division (B) of this 39  
section, the court shall take into account the negligent actions 40  
or omissions, if any, on the part of the taxpayer that 41  
contributed to the damages, but shall not be bound by the 42  
provisions of sections 2315.32 to 2315.36 of the Revised Code. 43

(D) Whenever it appears to the court that a taxpayer's 44  
conduct in the proceedings brought under division (A) of this 45  
section is frivolous, the court may impose a penalty against the 46  
taxpayer in an amount not to exceed ten thousand dollars which 47

shall be paid to the general fund of the municipal corporation. 48

(E) Division (A) of this section does not apply to 49  
opinions of the tax administrator or other information functions 50  
of the tax administrator. 51

(F) As used in this section, "frivolous" means that the 52  
conduct of the tax administrator, an employee of the municipal 53  
corporation or the tax administrator, the taxpayer, or the 54  
taxpayer's counsel of record satisfies either of the following: 55

(1) It obviously serves merely to harass or maliciously 56  
injure the tax administrator, the municipal corporation, or 57  
employees thereof if referring to the conduct of a taxpayer or 58  
the taxpayer's counsel of record, or to harass or maliciously 59  
injure the taxpayer if referring to the conduct of the tax 60  
administrator, the municipal corporation, or employees thereof; 61

(2) It is not warranted under existing law and cannot be 62  
supported by a good faith argument for an extension, 63  
modification, or reversal of existing law. 64

**Section 2.** That existing section 718.37 of the Revised 65  
Code is hereby repealed. 66