



## Ohio Revised Code

### Section 718.37 Actions against tax administrator or municipal corporation.

Effective: March 23, 2015

Legislation: House Bill 5 - 130th General Assembly

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(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;
- (2) The action or omission occurred with respect to an audit or an assessment and the review and collection proceedings connected with the audit or assessment;
- (3) The tax administrator, the tax administrator's employee, or the employee of the municipal corporation did not act manifestly outside the scope of employment and did not act with malicious purpose, in bad faith, or in a wanton or reckless manner.

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

- (1) Compensatory damages sustained by the taxpayer as a result of the action or omission by the tax administrator, the tax administrator's employee, or the employee of the municipal corporation;
- (2) Reasonable costs of litigation and attorneys' fees sustained by the taxpayer.

(C) In the awarding of damages under division (B) of this section, the court shall take into account the negligent actions or omissions, if any, on the part of the taxpayer that contributed to the damages,



but shall not be bound by the provisions of sections 2315.32 to 2315.36 of the Revised Code.

(D) Whenever it appears to the court that a taxpayer's conduct in the proceedings brought under division (A) of this section is frivolous, the court may impose a penalty against the taxpayer in an amount not to exceed ten thousand dollars which shall be paid to the general fund of the municipal corporation.

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

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

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

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