



Ohio Legislative Service Commission

Bill Analysis

Sam Benham

H.B. 84

131st General Assembly
(As Introduced)

Reps. Sprague and Sweeney, Becker, Blessing, Henne, Leland, Ruhl

BILL SUMMARY

- Requires 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.
-

CONTENT AND OPERATION

Municipal income tax civil actions

The bill limits the scope of a uniform standard through which a municipal income taxpayer may bring a civil action against a municipal corporation for certain acts or omissions of the municipal corporation or the municipal corporation's tax administrator or their employees. Essentially, the bill prohibits a taxpayer from employing the uniform standard to bring suit against a tax administrator by requiring the taxpayer to bring such an action solely against the municipal corporation.

H.B. 5 of the 130th General Assembly prescribed a uniform standard of justiciability on actions for municipal income tax-related damages brought by taxpayers for an action or omission of a tax administrator—the person responsible for administering the municipal corporation's income tax—or an employee of a tax administrator or a municipal corporation. Under this new standard, which will begin to apply in 2016, an action for damages is permissible if both of the following apply:

(1) An applicable state law or an instruction of the tax administrator is frivolously disregarded by the tax administrator, an employee of the tax administrator, or an employee of the municipal corporation. Frivolous conduct is that which obviously serves merely to harass or maliciously injure the taxpayer or that is not warranted

under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law.

(2) The action or omission challenged by the taxpayer occurred with respect to an audit or assessment and the review and collection proceedings connected with that audit or assessment.

Under continuing law, the proper forum for a taxpayer seeking damages in such an action is the court of common pleas of the county in which the municipal corporation is located. Upon a finding of liability on the part of the defending party, the court may award to the taxpayer compensatory damages as well as reasonable costs of litigation and attorneys' fees. A taxpayer is not permitted to seek damages from the defending party based on actions or omissions of the tax administrator or an employee of the tax administrator or municipal corporation that is manifestly outside the scope of employment or performed with malicious purpose, bad faith, or in a wanton or reckless manner. (Presumably, a taxpayer could seek damages from the individual who perpetrated the action or omission in such a situation.)

Current law authorizes a taxpayer to maintain a civil action for damages under this uniform standard against a tax administrator, a municipal corporation, or both. The bill removes a taxpayer's authority to bring such actions against a tax administrator, essentially requiring an aggrieved taxpayer to seek recovery solely against the municipal corporation.¹

HISTORY

ACTION	DATE
Introduced	02-25-15

H0084-I-131.docx/emr

¹ R.C. 718.37.

