

Republic of Iraq
Federal Supreme Court
Ref 151/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 2/7/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid, Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Munther Ibrahim Husain who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Tarek Samer Bahgat.

The Defendants:

1. The President of the Republic/ being in this capacity - His agent the chief legal expert Ghazi Ibrahim Al-Janabi.
2. Prime Minister/ being in this capacity – His agent the legal adviser Qasim Suhaib Shakur.
3. Speaker of the Council of Representatives/ being in this capacity - His two agents the official jurist Saman Mohsen Ibrahim and Aseel Samir Rahman.
5. Director General of the General Tax Authority/ being in this capacity.

The Claim:

The plaintiff claimed in the petition that the Income Tax Law No. (113) of 1982, as amended, exempted from tax under Article (7) thereof, many incomes, and this exemption did not include a large segment of Iraqi society, namely lawyers, although they pay the amounts of fees and expenses when working in the courts and official departments in the Iraqi state, therefore, the plaintiff asked the court to rule obliging the defendants to amend Article (7) of the aforementioned law, and to include the paragraph of lawyers within the pardoned within Article (7) thereof, within a period of (30) days from the issuance of the court's decision and the ruling on the eligibility of the state and not to claim any

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affected with the amounts retroactively, and to charge the defendants fees and expenses. After registering the case with this court No. (151/Federal/2024) and collecting the legal fee for it, and informing the defendants of its petition and documents in accordance with Article (21/1st and 2nd) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022, the first defendant's agent responded with the response statement dated 11/6/2024, which included detailed formal and substantive defenses according to which he requested to reject of the lawsuit, due to the lack of interest condition for its establishment, the lack of jurisdiction of the court to consider it, and the lack of litigation towards his client. The second defendant's agent responded with the reply dated 2/6/2024, according to which he requested to reject of the lawsuit for the same reasons stated by the first defendant's agent, and the third defendant's agent responded with a detailed response list dated 3/6/2024, in which he concluded the request to reject the lawsuit for lack of jurisdiction, as for the fourth defendant's agent, he answered the regulation dated 24/6/2024 and requested to reject of the lawsuit due to its lack of conditions for establishing it in accordance with Article (20/4th) of the Court's Rules of Procedure, after completing the procedures required by the rules of procedure of the court, set a date for the consideration of the lawsuit without pleading in accordance with Article (21/3rd) thereof, in which the court was formed and began to consider the case, the court scrutinized the plaintiff's requests and his support and the defenses of the agents of the first, second, third and fourth defendants, and after completing its scrutinies, the end of the minutes has been made clear and the court issued the following decision:

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The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff (Tariq Samer Bahgat) filed the lawsuit against the defendants and asked for a ruling obliging them to amend Article (7) of the income tax law No. (113) of 1982, as amended, and to include the paragraph (lawyers) within the exempted within the aforementioned article, as well as ruling on the state's eligibility and not claiming any injured person for the amounts retroactively. Upon scrutinized of these requests, the Court finds that the jurisdiction of the Court is that the competences of the Federal Supreme Court are defined by the Constitution by Articles (52,93) thereof, as well as Article (4) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, it is not among those competencies what was received from the requests of the plaintiff in the petition, so the plaintiff's requests fall outside the jurisdiction of this court, so the Federal Supreme Court decided to reject the plaintiff's lawsuit (Tariq Samer Bahgat), for lack of jurisdiction and charging him with fees, expenses and attorneyship fees of the defendants' agents ,the first (President of the Republic / being in this capacity), the second (Prime Minister / being in this capacity), the third (Speaker of the Council of Representatives / being in this capacity), and the fourth (Minister of Finance / being in this capacity) an amount of one hundred thousand dinars distributed among them in accordance with the law, and the decision has been issued unanimously, final and binding based on the provisions of Articles (93,94) of the Constitution of the Republic of Iraq for the year 2005, and (4 and 5/2nd) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 definitively and it has been edited in the session dated 25 / Dhu al-Hijjah / 1445 A.H. corresponding to 2/7/2024 AD.

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Judge
Jassim Mohammed Abood
President of the Federal Supreme Court

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