



The Judicial Review of the Income Tax in Iraq, the United Kingdom and the United States

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Abstract

The scope of this research is to identify and consider the methods by which courts in Iraq, the United Kingdom and the United States scrutinize income tax laws and their application. In order to compare the mechanisms of judicial review in these three countries, a comparative legal approach is used. This research analyzes constitutional and procedural landscape of judicial challenge of tax legislation by way of case law analysis, procedural rules, and case precedents. It also constitutes a study of the relationship between the judiciary as a detector and the legislative power as the maker of laws regarding taxation. The novelties in the tax laws and the numerous consequences of taxing and exemption procedures make significant concerns about the judicial exercise of interpretation and review of tax policies. Allegedly, this research aims to examine how efficiently judicial review works in relation to taxation laws across various legal frameworks and the problems when it comes to equal and proper implementation of taxation principles. Iraq, the UK, and the US have different constitutional and legal systems which determine their ways of dealing with Judicial Review. This paper examines the challenges a comparatively young legal system in Iraq experiences in exercising judicial review concerning tax issues. English law enables far reaching judicial review and the US has a robust system of review through the constitutionally provided checks and balances system. Both systems' consideration of how tax laws were to be reviewed has therefore been colored by history, politics and

societies in the two countries. The research finds that judicial review serves an important preventive function that helps maintain the legal and reasonable taxation regimes, at least as long as their highest courts continue to act as they have in the past; however, the intensity and aggressiveness of review have been decreasing gradually in the three countries. As with any major system of public regulation, judicial oversight and supervision remain crucial for global confidence in taxation systems while the presumption of the extend and scope of judicial intrusion remains very much open to debate in every system.

Keywords: Judicial Review, Legislation on Income Tax, Tax Jurisdiction, Comparative Tax Systems

بهراوردکردنی میکانیزمه کانی پیداجوونهوهی دادوهری له عێراق و بهریتانیا و ئەمریکا به وردی یاساکانی باجی داهاات
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پوخته

عێراق و شانیشینی یه کگرتوو (بهریتانیا) و ویلایه ته یه کگرتوووه کانی (ئه مریکا) سیسته می دهستووری و یاسایی جیاوازیان ههیه که شتوازه کانی مامه له کردن له گه ل پیداجوونهوهی دادوهری دیاری ده که ن.

ئه م توێژینه وهیه به دوا داچوون بو ئه و به رهنگاریانه ده کات که سیسته می یاسایی تارا ده یه ک مۆدێرن له عێراق له جیبه جیکردنی پیداجوونهوهی دادوهریدا له وهی که په یوهندی به پرسه کانی باجه وه هه بی ت. یاسای ئینگلیزی رێگه به پیداجوونهوهی دادوهری دوور مه ودا ده دات و ویلایه ته یه کگرتوووه کانی (ئه مریکا) سیسته میکی به هیژی پیداجوونهوهی ههیه له رێگه ی سیسته می پابهندی و هاوسهنگی که ئاماژه ی پیدراوه له دهستووره وه.

به م شپوهیه که بروانین له چۆنیه تی وردبینی کردن له یاساکانی باج له لایه ن هه ردوو سیسته می ولاته وه (عێراق و ئەمریکا) له ژیر کاریگه ری میژوو و سیاسه ت و کۆمه لگاکانی هه ردوو ولاته بوو.

ده رئه نجام : توێژینه وه که ده ریده خات که پیداجوونهوهی دادوهری ئه رکێکی گرنگی پارێزگاری ئه نجام ده دات که یارمه تی پاراستنی سیسته مه کانی باجی یاسایی ده دات که گونجاو بی ت،

لانیکه م تا ئه و کاته ی دادگا بالاکانیان به رده وام بن له کارکردن وه ک له رابردوودا؛ به لام له گه ل ئه وه شدا، چرپی و سووربوونی پیداجوونه وه که له هه ر سێ ولاته و رده و رده که میکردوو ه.

وهك ههر سیسته‌میکی سه‌ره‌کی رێكخستنی گشتی، چاودێری و سه‌ره‌پرشتی دادوه‌ری به‌ گرنه‌گ و یه‌كلایه‌كه‌ره‌وه‌ ده‌مێنێته‌وه‌ بۆ پاراستنی متمانه‌ی جیهانی به‌ سیسته‌می باج له‌ کاتێکدا که پاده‌ و مه‌ودای ده‌ستیوه‌ردانی دادوه‌ری به‌ کراوه‌یی ده‌مێنێته‌وه‌ بۆ مشتومر و گفتوگو له‌ هه‌موو سیسته‌مێکدا.

کلیله‌ و شه‌کان:

پیداچونه‌وه‌ی دادوه‌ری، یاسای باجی داهاات، ده‌سه‌لاتی دادوه‌ری باج، سیسته‌می باجی به‌راوردکاری.

1. Introduction

Judicial review is the foundation of modern governance in which the power of the state is balanced with the rights of citizens and economic justice about income tax legislation. The courts have the authority to review such laws and government action based on constitutionality or legality. Judiciary plays a different but integrated role in these countries regarding the interpretation, implementation, and sometimes objection of income tax legislation, especially in Iraq, the United Kingdom, and the United States. Comparing judicial review among these three legal systems has indicated how the legal tradition, political system, and social norms would influence the role of the judiciary with regard to income taxation.

Tax legislation in Iraq is largely shaped by the hybrid system of law that borrows features from both civil, Islamic, and customary law. Tax judicial practice, in turn, evolved *pari passu* with the overall political context which developed in the past ten years, or since Saddam Hussein's overthrow in 2003. This puts interpretation of tax law another hurdle for the Iraqi judiciary, as its measures taken in this area will be required to harmonize domestic priorities with international benchmarks. These are all especially urgent considerations because the country is still in the stage of reconstruction after war- an effort toward economic rebuilding. The typical Iraqi tax dispute typically tends to reveal the judiciary being laden simultaneously with the state revenue's burden and that of taxpayers' rights, which also gives new momentum for an improvement in judicial independence and integrity in these affairs.

The United Kingdom does provide an interesting contrast in addressing the judicial review of income tax issues, which mirror the country's common law heritage and its complex taxation system. British courts have traditionally been seen as traditionally deferential to Parliament on matters concerning taxation, due to their adherence to the principle that

Parliament is sovereign in all matters of the law. Judicial review has, however, found a widening space to look at how the tax law is implemented with specific focus when there appears to be a violation or unfair treatment on part of the administration. Consequently, the UK judiciary remains largely concerned with examining how the tax law is implemented as opposed to what is put in place; that aspect of the British adherence to the superiority of legislation and a role for judicial restraint within economic policy.

The cornerstone of the US constitutional framework on judicial review of income tax legislation lies in the principle of separation of powers that accords considerable authority to the judiciary in interpreting tax laws. Under this, the Supreme Court of the United States established principles guiding constitutionality under income taxes in reconciling federal power to tax and individual rights as secured under the Constitution. American courts are very much active in reviewing tax laws and regulations to ensure that they are constitutional, particularly regarding the doctrine of equal protection, due process, and federalism. The US judiciary often deals with issues related to income taxes touching on federal and state tax powers, rights of taxpayers, and fair administration, which reflect a significant check on legislative and executive powers in the tax area.

This comparative study sheds light on how the judicial approach to income taxation in each country reflects broader legal principles and governance philosophies. A comparison of the judicial frameworks in Iraq, the UK, and the US could potentially reveal how different legal systems balance state revenue needs with the assurance of the rights of taxpayers as a way of shaping the ongoing dialogue between state authority and individual freedoms in taxation.

2. Literature Review

2.0 The Judicial Review of the Income Tax in Iraq

The assessment of income tax in the context of Iraqi law offers interesting yet complex issues to the field of tax law and it endeavors to address the compelling socio-political, legal, and constitutional conditions within the country. Based on the civil law origins and Islamic legal legacy, the legal system of Iraq provides a structural backdrop for judicial intervention. Nonetheless, the effectiveness of this framework gets significantly limited by weak judicial accountability, significant executive dominance, and political instabilities.

This article also analyses the relationship between structure of legal system in Iraq with the other two countries.

2.1 Legal Structure on Taxation and Judicial Oversight

Hadiths or Sharia law regulations, as well as civil law, serve as the foundation for Iraq's taxation legislation. There is a legal framework for income taxes and judicial systems in Iraq because of its constitutional structure, which incorporates elements of both civil law and Sharia law. The principles of judicial absolutism, which enable checking the government's restriction of citizens' rights, are enshrined in the Iraqi Constitution of 2005. The judiciary arm of government operates independently and is not influenced by the other two departments of government, as stated in Articles 19 and 47 of the Iraqi Constitution. With reference to relevant constitutional norms, these clauses offer the possibility of constitutional control over income tax laws and policies during the adoption process. In a perfect world, the judiciary would be helpful in defending citizens' rights on how the government handles taxation. However, in reality, judicial review has not been prevalent or used to any appreciable extent in the tax's domain. However, the legal framework offers both formal and theoretical ideas for contesting or appealing the government's tax choices, the problems of judicial review, independence, and executive.

2.2 Judicial as an Aspect of Governance: The Case of Iraq

The fact that there is a lack of independence of the judiciary in Iraq maintains effective judicial control for taxation cases. Another way is that under political pressure the judiciary can become subordinate to the executive branch and is unable to critically observe tax legislation. This dynamism reduces citizens' power to contest government taxation rulings and pursue redress. The charge of executive influence over Iraqi judges is underpinned by various provisions in the legislation. The Judicial Organization Law No. 160 (1979) and the Judicial Institute Law No. 33 (1976) accord the executive authority a principal role in appointments and training. Additionally, regardless of constitutional assurances under Articles 87 to 101 of the 2005 Iraqi Constitution, the reality of judicial independence is still a mirage (Al-Khafaji & Aliwi, 2020; Al-Bsherawy, 2024).

2.3 Political Power and Taxation

To evaluate the role of judicial review as applied in the context of tax disputes, it will

be important to briefly review the types of decision made by the judicial authorities in those disputes.

In principle, the court may perform judicial review in Iraqi tax matters, but in fact local courts rarely get involved in cases that seek to quash tax legislation or other government policies on income tax. Analyzing this concern in political science perspective reveals the state power in taxation issues where government has most of the power. Existing scholarship on judicial review of tax disputes in Iraq provides valuable insights into its legal and practical challenges, though much of this literature remains underutilized in English-language studies. For instance, Al-Khafaji and Aliwi (2020) explore the jurisdiction of administrative courts in resolving tax disputes through a comparative lens, highlighting the tension between administrative authority and judicial oversight in Iraq's hybrid legal system. Similarly, Atiyah (2012) examines the legitimacy, constitutionality, and scope of administrative committees in handling tax appeals, arguing that their dominance undermines judicial independence. Hussein and Saleh (2020) further analyze the tax dialectic in settling disputes, weighing necessity against suitability and identifying gaps in the judicial process that hinder equitable taxation. These studies, sourced from the Iraqi Academic Scientific Journals (IASJ) platform, underscore the complexities of Iraq's tax adjudication framework. However, this research would benefit from incorporating additional Arabic and English references to provide a more comprehensive review of the field, as the current literature base is limited in scope and accessibility (Al-Khafaji & Aliwi, 2020; Atiyah, 2012; Hussein & Saleh, 2020).

Litigated cases always go in the favor of government authority, which tries to curtail civil and business rights to appeal against the assessment or policy. The executive branch is in charge of tax collection and operates fairly independently of external influence, which strengthens the judiciary's lack of interest in interfering.

This has been due to many barriers and complexities that apply to the citizens who want to challenge the tax decisions, hence resulting to little confidence on fair decisions. However, legislative oversight of the judiciary has insulated the tax system from an authoritative system of judicial review and holds the judiciary to compounded constitutionalism with modest capacity in checking executive actions on tax concerns. (Hooper, 2014)

2.4 Impact on Taxpayer Rights

Income tax Policies: Iraq is a country of the executive branch of the enforcement of income tax, whereby the role of the judicial branch is minimal. The judiciary herein is relatively passive and appeals that are made to reverse certain tax assessments are less likely to in favor of the appellants. This erodes the judicial check on state power, reduces the quest for legal redress by citizens and strengthens the executive branch's control of taxation.

2.5 Contemporary Debate for Reform and the Future

The Iraqi judiciary exists under two primary controlling forces which are political instability along with influence. Judicial independence suffers because executive authorities select judges who frequently remain under their control towards the executive power. Iraq's Judicial Organization Law No. 160 of 1979 created the judicial structure while giving executive leaders extensive power to control judicial appointments. The Judicial Institute Law No. 33 of 1976 controls how Iraq recruits and trains its judges, thus strengthening executive influence in judicial selection.

The decisive power of politicians influences every tax-related matter. As per the Code of the Iraqi State Council No. 65 of 1979 administrative courts have the power to resolve disputes regarding state decisions that extend to taxation matters. The judicial bodies demonstrate restricted independence to make rulings against executive taxation decisions. The Iraqi Constitution (2005) includes judicial independence provisions from Articles 87-101, yet fails to always shield tax-related cases from executive intervention.

Under such conditions the tax system develops into a political instrument operated for the purpose of ruling power rather than on the basis of legal principles. The limited review authority of courts over income tax disputes establishes further evidence that their system leans toward political interests instead of safeguarding tax rights of the public (Al-Khafaji & Aliwi, 2020).

With reference to tax, political influence on the judiciary in Iraq, realistic difficulties experienced in the courts of Iraq and eventualities regarding or arising from the rights of taxpayers and transparency/trial of the government (Setiawan, 2024)

2.6 Impact on Taxpayer Rights

A lack of independent judiciary functions remains an active issue in Iraq which thus blocks citizens from filing objections against improper taxation rules. Article 100 of the Iraqi Constitution (2005) states that any administrative choices and acts need to be reviewed by courts thus demonstrating that tax assessment should undergo proper legal inspection. The legal framework provided by Law No. 17 (2005) eliminated all restrictions which prevented judicial evaluation to allow taxpayers an opportunity to fight unfair taxation practices. Judicial oversight faces an unsustainable degree of weakness when practiced in the field. Both citizens and tax authorities refrain from using the Code of Income Tax No. 113 (1983) appeal mechanism because the executive holds extensive control over tax regulations and the appointments of judges. Tax-related judicial authority in Iraq is defined in the Code of Iraqi State Council No. 65 from 1979 and the Code of Kurdistan Region Consultative Council No. 14 from 2008 which gives administrative courts power to handle taxation conflicts. Judicial impartiality remains hindered by political intervention which discourages taxpayers to pursue legal action when their tax evaluations are found unjust or disproportionate (Al-Khafaji & Aliwi, 2020). Public trust in tax enforcement by the judiciary declines because existing laws do not match what happens in practice.

2.7 The Contemporary Debate for Reform and the Future

The Policymakers and scholars now strongly push for Iraqi judicial reform due to their belief that enhanced judicial autonomy protects taxpayer rights. Judicial independence must be strengthened because it secures fair implementation of tax laws. Judicial appointment procedures need revisions according to the Judicial Organization Law No. 160 (1979) to diminish executive influence.

Building a system of constitutional or statutory tax courts after the model of other jurisdictions should be part of law reform efforts due to their lower political tampering. Specialized tribunals dedicated to tax matters in both the UK and US operate to maintain fair taxation and legal compliance in their jurisdictions. Furthermore, the independence of taxpayer rights must be strengthened by adjusting Income Tax Law No. 113 (1983). Authentic tax dispute resolution disclosure was combined with independent operation of administrative courts according to the Code of Iraqi State Council No. 65, 1979. Training of judges in complex taxation matters will lower their need to depend on politically designated officials. The adoption of these legislative changes will allow Iraq to construct

an unbiased court system which raises taxpaying trust and maintains tax law compliance (Al-Khafaji & Aliwi, 2020).

In addition, there is scope for increasing transparency in the selection of judges as well as offering more training sessions on tax law to judges so that the judiciary can become even more independent and impartial. Measures such as these would come a long way in rebuilding the public trust in the independent judiciary to ensure that policies with respect to income tax is faithfully implemented and that a taxpayer who feels hard done by the system of tax has recourse in law to/questioning any undesirable decisions arrived at by the revenue (Almulhim, 2022).

2.8 The Judicial Review of the Income Tax in the United Kingdom

An important signification of the judicial review of income tax in the UK is to mitigate the powers of state to raise revenues against the rights of taxpayers. In the UK, as a principle of administrative law, judicial review of income tax laws is used to safeguard the application of laws as fair, understandable and constitutional. General rules of tax law in the United Kingdom are in strong connection with the principles of the common law system supplemented by statutes. In this article, the author analyses the structure and general attributes of judicial review in relation to tax cases and looks at the ways in which judicial review works in practice and the prospects for furthering taxpayer rights and government transparency (Ayub, 2022).

2.9 Legal Background of Judicial Review in Taxation Disputes

The United Kingdom has a common law tradition as its legal system, as is evident from the fact that it relies on precedents and judicial findings. Legal control in the UK also provides courts with the ability in enhancing scrutiny and evaluating exercises performed by the public authorities, particularly the HMRC, His Majesty's Revenue and Customs. It is an important protection against possible misuse of power by the tax bodies to oppress citizens in exerting their authority the state to impose taxes.

The United Kingdom applies its judicial review power mainly to the Administrative Court which belongs to the High Court of Justice through the Judicature Act 1873. Tax disputes are resolved by two specialized tribunals called the First-tier Tribunal (Tax Chamber) as well as the Upper Tribunal (Tax and Chancery Chamber) under the Tribunals, Courts and Enforcement Act 2007 (TCEA 2007 - Part 1 - Chapter 2). The tribunals operate under

Finance Act 2008 Sch 43 through tax professionals who manage tax disputes by overseeing HMRC compliance with legal principles (Finance Act 2008, Sch 43). The tribunals have judicial review power to verify the lawfulness and procedural fairness of HMRC decisions according to *R (Cart) v The Upper Tribunal* [2011] UKSC 28.

2.10 Use of Judicial Review in Income Tax Cases

In the aspects of judicial review of taxation laws and practice within United Kingdom major grounds include illegality, procedural impropriety, rationality, and procedural fairness.

Legalities make sure that HMRC operates within law imposing the courts to rule on any action that is ultra vires. The rule of procedural fairness requires that taxpayers be treated fairly by the Revenue authorities, afforded a right to a fair trial and adequate information concerning taxes. The Human Rights Act 1998 enshrined awareness on proportionality means HMRC actions will achieve revenue pursuits while inflicting the least on rights.

The reasonableness standard which developed from the *Wednesbury* unreasonableness test appears in *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB 223. To meet this requirement HMRC needs to avoid taking decisions which lack reason or are entirely unreasonable according to sound administrative standards. For taxation cases HMRC needs to show logical fairness when using tax laws according to *R (on the application of Wilkinson) v HMRC* [2005] UKHL 30.

The Human Rights Act 1998 together with *Keyu v Secretary of State for Foreign and Commonwealth Affairs* [2015] UKSC 69 provides the principle of proportionality to protect taxpayers from tax measures that exceed the necessary requirements to achieve legitimate policy goals.

These workplace principles merge to enhance tax administration practices by ensuring fair legal tax handling that avoids placing unnecessary burdens on taxpayers (*R v IRC, ex p National Federation of Self Employed and Small Businesses Ltd* [1982] AC 617).

2.11 Effect on Taxpayers and Oversight Role of Government

The use of judicial review for tax disputes occurs when taxpayers aim to examine how HMRC conducts tax law interpretation and enforcement. The Supreme Court declared in *R (on the application of Gaines-Cooper) v HMRC* [2011] UKSC 47 that it does not determine

if tax authorities made proper decisions instead it evaluates the legality of decision-making procedures followed by HMRC. Judicial review becomes necessary when taxpayers make claims about incorrect legal tax application or unprocedural practices or improper administration of authority according to the decision made in *R v IRC, ex p Preston* [1985] AC 835 that established all HMRC decisions need to follow administrative fairness principles.

Among all applications of judicial review in taxation, the General Anti-Abuse Rule (GAAR) stands out as the most recognized one because it came into effect through the Finance Act 2013 Part 5. The General Anti-Abuse Rule permits HMRC to stop tax avoidance based on artificial abusive tax planning schemes as per HMRC GAAR Guidance 2013. Taxpayers have the right to contest how HMRC applies GAAR through legal proceedings when they think the rule enforcement is either unjust or extends beyond official parameters (*R (on the application of Haworth) v HMRC* [2021] UKSC 25). The legal system controls HMRC's power by preventing misuse of the tax avoidance provisions that target only abusive transactions.

Tax avoidance disputes require important action from judicial review to ensure proper conduct. The rights of HMRC to disallow artificial avoidance scheme benefits were confirmed in *R (on the application of Tower MCashback LLP) v HMRC* [2011] UKSC 19 when the court declared that such actions were lawful if they had followed the existing tax law framework. The HMRC must properly carry out tax legislation interpretation along with maintaining procedural and statutory boundaries to avoid judicial review.

2.12 The Most Media-Aware and Seminal Decisions

Judicial review in the UK has some structures in that the taxpayers cannot go to court without permission to do so from the court. The court allows it if it considers that, on reasonable grounds, the taxpayer has a basis for litigative intervention, in order to prevent the consideration of groundless claims. To this effect, the permission stage serves to screen out dubious matters to ensure that the judiciary resources are conserved for legitimate legal and fairness related matters. In case of sanction, the judicial review mechanism analyses the behaviors of HMRC under the shadows of the legal touching rather investigating tax efficacy of the assessment. Unlike traditional cases, judicial review cases are ordinarily determined by the High Court, though either the Court of Appeal or the Supreme Court can hear an appeal. There are also additional layers of appellate which help

to give more independence to higher judiciary for examining cases involving tax structures (Abdulla, 2022).

2.13 The Most Media-Aware and Seminal Decisions

The research framework demonstrates that judicial review functions as the core protection method for taxpayers because it obliges HMRC to maintain decisions within boundaries of legal standards and equitable practices and correct allocation. Taxpayers who think HMRC has exceeded its legal power during assessment or penalty or enforcement actions may request judicial review through the court (*R (on the application of Gaines-Cooper) v HMRC* [2011] UKSC 47). The government needs to operate within legal boundaries through this vital oversight mechanism in order to prevent discriminatory and unfair tax applications.

Judicial review defends taxpayers by commanding HMRC to implement legal procedures as specified in *R v IRC, ex p Preston* [1985] AC 835. The use of judicial review enables tax law fairness standards and regulatory interpretation development through established precedent decisions (*R (Cart) v The Upper Tribunal* [2011] UKSC 28). Judicial review processes the protection of individual taxpayers and maintains state revenue stability through their contribution to tax law development according to *R (Cart) v The Upper Tribunal* [2011] UKSC 28 and *R v IRC, ex p Preston* [1985] AC 835 respectively.

The implementation of fair General Anti-Abuse Rule (GAAR) policies by HMRC through judicial review allows them to avoid unnecessary penalties when dealing with taxpayers (Finance Act 2013 Part 5; *R (on the application of Haworth) v HMRC* [2021] UKSC 25). The tax system obtains clearer guidelines by enforcing judicial review procedures both for unauthorized tax assessments and flawed administrative procedures thus it builds trust with taxpayers in tax administration practices.

Major judicial decisions influence how tax laws evolve in the UK especially when authorities of HMRC face challenges to their discretion. The Supreme Court evaluated in *R (Ingenious Media Holdings plc) v HMRC* [2016] UKSC 54 if HMRC violated taxpayer information confidentiality during their investigation. The court established that HMRC must utilize its powers according to specified legal requirements in order to uphold confidentiality standards during tax investigations.

Through *R (UNISON) v Lord Chancellor* [2017] UKSC 51, the Supreme Court decided that high tribunal fees elevated so as to restrict access to justice were found to be unlawful. The judiciary demonstrates its commitment to safeguard access to fair dispute resolution systems for taxes among all business entities and individuals through this case.

The judiciary made significant contributions to taxation by fortifying procedural security guidelines which maintain proper equilibrium between taxation administration and taxpayer defense measures.

2.14 Problems and Constraints of the Judicial Control in Tax Matter

The UK system of judicial review remains crucial for taxpayers but several limitations affect its practical use by taxpayers. The main obstacle stems from the intricate nature of tax legislation because UK tax laws consist of extensive technical details along with frequent amendments (Finance Act 2008). The complex nature of tax legislation creates a situation where taxpayers need professional legal help to oppose HMRC decisions and therefore become dependent on specialized tax lawyers for filing complaints.

Significant financial expenses linked to judicial review proceedings create a substantial impediment in taxpayers' access to the system. Under the Criminal Justice and Courts Act 2015, the costs of judicial review remain high because claimants need to pay significant legal expenses unless special legal aid provisions apply to them. *R (Cart) v The Upper Tribunal* [2011] UKSC 28 reveals that the Supreme Court recognized financial obstacles which may prevent access to judicial review procedures, especially when dealing with taxation matters.

The process to start judicial review faces limitations in its procedural demands. The Civil Procedure Rules specify through Part 54 that applicants need to establish a robust defensible position for judicial review proceedings to secure permission, but this condition prevents numerous tax matters from proceeding. The Court of Appeal in *R (oao Galdikas & Ors) v SSHD* [2016] EWCA Civ 476 established through its ruling that judicial review remains accessible only when strict procedural requirements are met because it acts as a final option for legal relief.

The UK government made tax tribunals operational through the Tribunals, Courts and Enforcement Act 2007 to offer taxpayers lower-cost review alternatives compared to judicial review. The tribunals established by the government fail to match the power of

superior courts and judicial review stands as the only solution to challenge HMRC decisions (R (on the application of UNISON) v Lord Chancellor [2017] UKSC 51).

2.15 Future Directions and Reforms

The expanding complexity of UK income tax legislation may lead to extended judicial powers in tax oversight, thus requiring broader tax matter authority. The tax appeals process efficiency stands as a main priority since provisions must ensure taxpayers can easily manage HMRC decision challenges. A recommended tax reform would entail revising tax legislation, thus courts can better interpret their provisions and prevent law-related disputes between parties. It is essential to raise judicial inspection of HMRC's discretionary decision-making processes to resolve current inconsistencies. To lighten the workload on higher courts, tax tribunals should avoid handling intricate constitutional tax disputes according to the principle established in Section 132 of the Tribunals Courts and Enforcement Act 2007.

The tax complexity also raises concern of burdening the higher courts hence the provision of S132 restricting tax tribunals from presiding on certain matters can also be a solution. Further, promoting better internal communication and openness in the HMRC may improve trust between the taxpayers and the organization and perhaps decrease the reliance on judicial review (Brodie, 2020).

2.16 The Judicial Review of Income Tax in the United States

When it comes to income taxation in the United States, judicial review intervenes with the necessity to outline the powers of the government within this sphere to defend the rights of the taxpayers, and finally, to elucidate the proper interpretation of the legal acts within the field of taxation. It enables courts to entertain issues as to the lawfulness and constitutionality of the actions of Internal Revenue Service (IRS) and any other tax related actions from the government. This mechanism strengthens the rule of law in tax issues, reveals the IRS's work within its powers and serves as a crucial platform for individuals and corporations to contest the tables and/or enforcement of taxes, appeals and other regulations on their part (Khalid, 2021).

In this article, the concept of judicial review in relation to the US taxation system is discussed alongside its importance; A brief review of major cases and principles that guide the area of tax law is also presented.

2.17 Judicial Review Mechanisms in U.S. Tax Law

The United States Judiciary uses judicial review as an established practice descended from *Marbury v. Madison* 5 U.S. (1 Cranch) 137 (1803). *Madison*, 5 U.S. (1 Cranch) 137 (1803). The United States Constitution grants Congress the power to impose taxes through Article I Section 8 together with the Sixteenth Amendment of the U.S. Constitution. The tax-related cases get heard in multiple courts including District Courts and U.S. Tax Court under 26 U.S.C. § 7441 as well as the Court of Federal Claims under 28 U.S.C. § 1346 for possible further appeals to the Supreme Court.

2.18 Principles Defining Judicial Review with Specific Reference to Taxation

Key principles of judicial review in U.S. income tax cases include:

- Chevron Deference: There is case law in that courts pay great obeisance to the pronouncements of the IRS as to the meaning of tax laws.
- a. Procedural Fairness: Promote fairness in as far as dealing with the IRS is concerned.
- b. Substantive Due Process: Checks that the legal provisions on taxes as well as the acts of the Internal Revenue Service are constitutional.
- C. Separation of Powers: The Courts oversee the executive branch to prevent the IRS from uncontrolled unlawful actions against the executive branch excess.

2.19 The Courts of the United States in Issues of Taxation

In matters dealing with taxes, the United States Tax Court operates as a basic trial authority at the first levels. Under Article I of the Constitution the Tax Court offers taxpayers the chance to dispute IRS decisions free from needing to pay the disputed amount first. When conducting matters before the Tax Court, the judges examine all legal and factual aspects of each case independently from the original IRS findings. Taxpayers gain an additional opportunity to fight for their defense under the above protocol.

Tax cases handled by federal district courts and the U.S. Court of Federal Claims can proceed only when a taxpayer makes tax payments according to Internal Revenue Service demands before seeking tax refund representation. Large corporate tax matters along with their accompanying complexities regularly go to the U.S. Court of Federal Claims for settlement. Significant tax disputes are addressed by these specialized courts while court of appeals handles appeals from these cases and the Supreme Court gets involved only

when extreme circumstances exist (26 U.S.C. § 7441). In the case of very crucial issue of tax law, U.S Supreme Court could be called in to determine the case (Newson, 2024).

2.20 Judicial Review in Constitutional Tax Challenges

Taxpayers file constitutional challenges to tax laws by using Due Process arguments when they believe tax provisions or IRS actions break the principles of fair treatment and equal treatment. Human rights guarantees aid taxpayers seeking justice from discriminatory tax laws through challenges focused on both Fairness and Equality of Protection in situations of gender or economic inequality. The First Amendment rights protection extends to certain circumstances that reveal how taxation can violate freedom of association or speech rights (*Speiser v. Randall*, 357 U.S. 513 (1958); *Randall*, 357 U.S. 513 (1958)).

2.21 Famous Examples in Tax Law of the Supremacy of the Judicial Branch in the United States

The research outlines major U.S. Supreme Court rulings regarding income tax judicial review through *Helvering v. Gregory* and *Commissioner v. Glenshaw Glass Co.* and *National Federation of Independent Business v. Sebelius*. The Supreme Court made two critical decisions in 1935 through *Gregory* and in 1955 through *Commissioner v. Glenshaw Glass Co.* *Glenshaw Glass Co.* delivered a 348 U.S. 426 (1955) ruling that enlarged the definition of taxable income while *National Federation of Independent Business v. The Supreme Court affirmed in National Federation of Independent Business v. Sebelius* (2012) that the Affordable Care Act individual mandate survived constitutional scrutiny through the power to tax.

2.22 Challenges of Judicial Review of Tax Matters

The following are issues that can complicate judicial review of tax laws in the U.S. The tax provisions involved usually contain extensive provisions that may even confuse the courts, and finally, the cost of pursuing legal cases against such laws is relatively high. Most taxpayers lack the resources to challenge a decision of the IRS because legal remedies are time consuming and costly, even though the Tax Court exists (*Torregrosa-Hetland*, 2022).

3. Comparative Discussion

Judicial review of tax laws on income is an important balance to be struck between governmental powers and the rights of individual taxpayers. Its nature and intensity,

however, differ substantially between Iraq, the United Kingdom, and the United States. In Iraq, while there are constitutional guarantees of judicial independence (Articles 87–101 of the 2005 Constitution), institutional protection and political interference erode practical application. Executive control of judicial appointments under Laws No. 160 (1979) and No. 33 (1976) also undermines impartiality in tax adjudication. Conversely, the United Kingdom maintains judicial review as an examination tool with a focus on procedural justice, not substantive tax policy. The doctrine of parliamentary sovereignty constrains judicial review of legislative substance, yet courts continue to be engaged in preventing tax authorities, particularly HMRC, from trespassing on legal limits. The United States has the strongest model, whereby courts regularly interpret and call into question tax legislation under the rubric of constitutional principles including due process and equal protection. Every system mirrors its more general governance philosophy: executive dominance in Iraq, parliamentary dominance in the UK, and constitutional dominance in the US. The difficulties of Iraq underscore the necessity for legal reforms to guarantee independent judicial oversight similar to the UK's procedural safeguards and the US's constitutional checks.

4. Recommendations for Strengthening Judicial Review in Taxation: A Focus on Iraq

To make judicial review more effective in Iraq's tax system, far-reaching reforms need to target structural, procedural, and institutional weaknesses. Judicial independence can be safeguarded by repealing or amending the Judicial Organization Law No. 160 (1979) and the Judicial Institute Law No. 33 (1976), which presently give the executive branch a role in shaping judicial appointments and training. A merit-based, transparent selection process for judges can restrain political interference. Second, the administrative judiciary should be given power to decide tax disputes objectively. The Code of Iraqi State Council No. 65 (1979) and the Code of Income Tax No. 113 (1983) need to be amended to make taxation matters subject to the power of administrative courts. In addition, Article 100 of the 2005 Constitution, banning immunity from judicial review, should be applied in practice to protect taxpayers. Third, a specialized tax court, as in the UK and the US, should be created to deal with sophisticated tax cases. Ongoing judicial education in tax law and cross-country tax principles is required in order to secure competent judgement. These changes would enhance people's faith in the courts, foster compliance with the law in terms of

taxes, and create a fair system safeguarding state revenue interests as well as individual taxpayers' rights.

5. Conclusion

The tax review process in Iraq shares distinct characteristics with the systems implemented in the UK and USA due to their separate legal backgrounds and tax management structures. Tax matters in Iraq are fully under the limited control of the judiciary because of political restrictions and judicial independence problems, along with inconsistent legal enforcement practices. The Iraqi Constitution of 2005 provides judicial independence protection through Articles 87-101, yet real-world executive control over courts prevents effective tax-related judicial review execution. The Code of Income Tax No. 113 (1983) together with the Code of Iraqi State Council No. 65 (1979) offer formal procedures for tax dispute resolution, yet courts take minimal part in tax-related decisions.

Judicial review in the United Kingdom addresses procedural matters instead of tax law content because this nation embraces parliamentary sovereignty in tax disputes. Tax tribunals, which the government established through the Tribunals, Courts and Enforcement Act 2007, operate as lower-cost dispute resolution mechanisms other than judicial review.

Judicial oversight in the United States works effectively to uphold constitutional tax law safeguards while ensuring proper tax enforcement. Through the *Helvering v. Gregory* (1935), and *Commissioner v. Glenshaw Glass Co.* (1955) and *National Federation of Independent Business v. Sebelius* (2012) cases, courts have created substantial developments in income tax legislation. *Gregory* (1935), *Commissioner v. Glenshaw Glass Co.* (1955), and *National Federation of Independent Business v. Sebelius* (2012). The U.S. tax litigation process consists of three levels starting at the U.S. Tax Court (26 U.S.C. § 7441) then moving to U.S. District Courts and the U.S. Court of Federal Claims (28 U.S.C. § 1346) before Supreme Court appeal is possible.

The strengthening of judicial review in Iraq depends on three main factors: judicial independence must improve, executive control over taxes must decrease, and the tax system needs to become more open when handling disputes. The deployment of dedicated tax courts would bring British and American-style justice to tax disputes by improving both efficiency and fairness in the system. A more knowledgeable taxpaying

public combined with better training for judges dealing with tax cases will establish effective links between established laws and their actual application.

Judicial review remains vital for tax administration because this research analyzes distinct systems which demonstrate that Iraq should implement established tax system practices for achieving better transparency and protecting taxpayers.

Unlike the United States, the United Kingdom common law grounds its judicial review of income tax on an important balancing of the sovereign power to tax and the rights of the subjects. British courts have always been engaged in the role of construction of tax laws to uphold legal principles and rules related to statutory interpretation to exist side by side with an effective mechanism whereby a government can fund services which are in the public interest.

In the United States, strong judicial review of income tax exists because of absolute constitutional mandates and respect for civil liberties. The U.S. courts, especially the Supreme Court, are actively involved in the interpretation of tax laws and also in resolving tax disputes and the court predominantly concerns itself with the aspects of due process, equal protection and federal power as entrenched in the Constitution. This structure gives the taxpayers a direct channel through which they can question the tax provisions, relieves the country from being thrown into a chaotic situation, but rather has a well-checked and balanced approach.

Overall, while the judicial review mechanisms vary across these jurisdictions, they share a common goal: promoting fairness, legality and accountability in the administration of the tax laws of any country. Both system's approach provides a mechanism of understanding how different legal systems can deal with income tax law complications.

6. Discussion

Judicial evaluation of income tax laws maintains order between state power and citizen rights when applied to taxation policy frameworks. The level of judicial review about income taxes differs between Iraq and the United Kingdom and the United States because of their separate regulations and judicial powers.

British authorities restrict judicial review through the principle of parliamentary supremacy because courts mainly interpret tax laws without the power to invalidate parliamentary legislation. Judicial oversight of tax matters in Iraq consists of evaluating procedural and

legal tax practices to defend taxpayers from administrative abuse alongside maintaining administrative equity.

Judicial review has a more active part in the development of tax laws within the United States than it does in the United Kingdom. The U.S. Constitution offers courts powerful legal tools to analyze tax legislation and verify its compliance with protection of equal rights as well as fair legal procedures. Landmark rulings such as *Commissioner v. Glenshaw Glass Co.* (1955) and *National Federation of Independent Business v. Sebelius* (2012), the judiciary system exercises notable control when examining the power of taxation exercised by governmental bodies. Judicial supervision in the United States features an advanced system of checks which stands apart from the limited judicial oversight structure in Iraq as well as the procedural method followed by the UK.

7. Recommendations for Strengthening Judicial Review in Taxation: A Focus on Iraq

Looking at the case of Iraq, the United Kingdom, and the United States, this comparative study of judicial review mechanisms is useful to policymakers and scholars of tax law and its regulation. Holding the scales between government power and taxpayer rights is always a dominating factor, which differs considerably in these three jurisdictions where the judicial review of legislation prevailed. Knowledge of these distinctions may help to shape future legal changes, particularly in Iraq, where judicial systems as well as tax rules are not as well developed as in other countries.

Public interest is well protected in the United States and judicial review strongly considers safeguarding the interest of the taxpayers as courts have always averted instances of denying the taxpayer justice and fairness in tax cases. In the same way, the UK also uses the doctrine of judicial review for challenging tax assessments, but the sovereignty of Parliament curbs this to some extent. Similarly, the judicial review of income tax is still in its infancy in Iraq, constrained by legal and political issues resulting in an effective remedy for taxpayers in many cases.

In the case of Iraq, practices from the US and the UK systems that can improve public confidence in the tax system include stated and more apparent taxpayer rights as well as tax appeal procedures. Furthermore, increase of judicial independence along with decrease of administrative duplication is also necessary to establish in Iraq transparent and accountable tax system.

This paper should be useful to policy makers in assessing how well formulated judicial review of taxation can assist in the attainment of equity and fairness in governance. It is worthwhile to turn to the experience of developed countries and implement their effective practices in the sphere of regulation of income tax regulation / Independent judicial review. To this end, it will be possible to create fairer legal and fiscal conditions in Iraq for its citizens.

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