

By the Judgement of 31 January 2023 No.5-II the Constitutional Court assessed constitutionality of Article 138, item 2 of Tax Code of the Russian Federation.

The provisions of Article 138, item 2 of the Tax Code of the Russian Federation were considered insofar as on their basis in the system of the current legal regulation, including in connection with the provisions of Article 1 and item 1 of Article 2 of the Tax Code of the Russian Federation, the question of the expiration of the period of judicial appeal (established in Article 198, part 4 of the Arbitration Procedural Code of the Russian Federation) against the acts of the tax authorities to refuse to grant subsidies from the federal budget in case of such act was initially appealed to a higher tax authority is resolved.

The challenged provisions were found not to contradict the Constitution of the Russian Federation, because by their constitutional and legal meaning in the system of current legal regulation, they cannot serve as a formal basis for refusal of the arbitration court to grant an application to invalidate such an act of the tax authority in this case, if the specified period has not expired, which calculated from the date when the person became aware of the decision taken by a higher tax authority on the complaint, or from the date of expiry of the deadline for the higher tax authority's decision on the complaint, established by Article 140, item 6 of the Tax Code of the Russian Federation.