



UNIVERSITI SAINS ISLAM MALAYSIA

جَامِعَةُ الْعُلُومِ الْإِسْلَامِيَّةِ الْمَالِيزِيَّةِ

ISLAMIC SCIENCE UNIVERSITY OF MALAYSIA

Islamic Law of Property

LAB2033

DR. ZULKIFLI HASAN

Contents

- Conceptual Framework of Zakat

Zakat

- Zakat was practiced since Prophet Shuaib, Prophet Ismail (al-maryam: 55) and other samawi religion such as Nasrani and Judaism.
- 2nd Year of hijrah- Only to faqir and miskin
- 9th Hijrah- Verse on 8 zakat recipients (al-taubah: 60)
- Allah associated zakat with salat in 82 verses. Some says 30 verses on zakat, 27 associated with zakat and solat, 8 madena and 22 Mecca.
- “And Be steadfasts in prayer and give zakat” albaqarah 110.

Zakat in Hadith

- Sunna corroborates the Quran.
- Islam is raised on five pillars ie the oneness of Allah, the establishment of salat, payment of zakat. Fasting of ramadhan and the hajj.

Charity in Other Religion

- Hinduism- in term of gifts, donation, not obligatory
- Judaism- exist a priestly class. a1/10 revenue was given to the priest
- Christianity- No precise law of charity
- Islam-Comprehensive law of charity

Meaning of zakat

- Purity
- To purify one's possession of wealth by distributing a prescribed amount imposed on the rich as an essential mode of ibadah.
- Sadaqa tatawu and sadaqa mafruda.
- Zakat signifies the obligatory contribution.
- There is no equivalent practice in other religions.

The Differences btn Zakat and Tax

Zakat	Tax
Religious duty	Economic responsibility
Muslim	All citizens
Never be waived	Tax can be forgiven
Fixed Rate	Changeable

Zakat	Tax
Methods of distribution are definite	Not definite
Taken from the rich to give to the poor	Not necessary so
Out of productive wealth	Can be taken out of consumption of expenditure
Exemptions are organic and realistic	Exemptions are not flexible but accountable

Zakat	Tax
Form of worship	Evasion is real possibility
Divinely granted	Non-divine right to collect money
No transfer of burden	Can transfer the burden to consumer
Wider base than taxation. Assets which are growing	Scope is narrow
Cheaper	Higher than zakat

The Importance of zakat

- Fourth pillar of Islam
- Zakat was made obligatory at Madena 2nd hijrah.
- Imam ak-Sarakhsi-Zakat equals one third of Islam.
- Zakat is associated with solat. 82 places in al-quran.
- Caliph Abu Bakar declared war against those who disassociated salat from zakat
- Equal distribution of economy.

Virtues and Benefit of Zakat

- Ibadah
- Equitable system of wealth distribution
- Social security
- Self-Refinement
- Social Role
- Saves Muslims from Misfortune
- Self Generating reformative system

Basis of Zakah

- 1. Productivity or growth (nama)
- Assets held for personal and family use ,such as household furniture and transportation are not subject to *zakah*
- Assets that do not grow ,such as bad debts are also not subject to *zakah*.
- All growing assets, according to the preponderant view of among jurists except with the Zahiriyyah are subject to *zakah* .
- 2. Possession and full ownership

3. Nisab

- 2.5% from the capital income
- 10% or 5% from the land crops
- According to detailed code of rates for livestock
- 20% of the found treasures

4. Hawl

- 12 full lunar months should pass over the possession of *zakat* payable asset from the beginning of its ownership. But this condition applies to capital assets ,such as money ,business stock and livestock
- In the case of earned income, such as crops,fruits, minerals and found treasure ,including wages, salaries professional fees it is not a condition they are classified as earned assets (*mal mustafad*).

What to exempt?

- 1. Deduction of essential needs: basic needs or essential goods and services that one needs to sustain himself and his dependent
- 2. Deduction of debt

On Whom?

- 1. Reason and Maturity
- 2. The State of Being Muslim
- 3. Free person
- 4. Nisab
- 5. Wealth should be 1. fully owned 2. in excess of his personal needs. 3. one year 4. productive in nature which he can derive profit.
- Property which lacks of productivity and basic essentials of life are exempt from zakah

Conditions for Taxability of Wealth

- 1. Legitimate ownership
- 2. Lasting value
- 3. Tallying with taxable wealth and limits.
- 4. Possession of a year except in agriculture.
- 5. Freedom from debt
- 6. Freedom from loan
- 7. Freedom from larceny or accidental loss.
- 8. Free accessibility and free disposability

Kinds of wealth

- Gold and silver and cash
- Article or merchandise
- Agricultural products
- Livestock
- Mineral and treasures
- Salaries and Professional Income

Silver, Gold and Cash

- As long as the amount constitutes a nisab.
- Gold- 20 Mithqal or 85 grams
- Silver- 200 dirhams or 595 grams
- Rate of zakat 2.5% of the value.
- Cash, Shares and Bonds equal value of gold or silver
- In Malaysia- RM6200.00

Zakat On Debt

- If debt is acknowledged by the debtor with the willingness to pay it off, the creditor should pay his zakat and vice versa.

Zakat on Jewellery

- Only gold and silver jewellery.
- Jumhur- if keep her jewellery as a treasure.
- Abu Hanifa- Must constitute nisab

Zakat Upon Articles of Merchandise

- Obligatory.
- Goods, estates, clothing, cars, buildings, fruits and etc.
- Nisab- same as cash.
- Hawl- one lunar year
- Intention of trade at the time of possession.

Zakat on Agriculture

- Rate: if the land is irrigated by artificial methods $1/20$.
- If the land irrigated by rivers- $1/10$
- Nisab: five wasaqs-651.4 KG for dates and 675 for grains.
- Types Subject to zakat:- Wheat, barley, dates and raisins-Obligatory.
- Jumhur- All types of agriculture yield which can be stored or regular food.
- It becomes due when the grains are matured and the fruits are ripened.

Zakat on Honey and Animal

- Including products based on honey and animal.
- Nisab- Five wasaqs
- Rate- 1/10 after covering expenses.

Zakah on Livestock

- Camels, cows, bulls, buffalos, sheep and goats.
- Nisab- 5 camels, 40 sheep, 30 cows
- Hawl: One lunar year.

Zakat on Minerals and Treasures

- Nisab- 2.5% of value as cash
- Rikaz- 1/5 of the value.
- Hawl- Do not require completion of a year.

Zakat on Income

- Obligatory
- 2.5% from the total yearly income deducting personal expenses

Zakat in Malaysia

- zakat on savings is levied at the rate of 2.5% on the lowest balance of a person's saving for the year,
- zakat on income is 2.5% of a person's zakatable income
- zakat on business is 2.5% of the zakatable assets of the business,
- zakat on shares is levied at 2.5% on the lowest value of the year of shares owned by the payer after deducting debts or loans on the shares,
- zakat on gold is 2.5% on the value of gold kept by a person for each year (if not less than nisab of 85 grams),
- zakat on crops or rice is 10% of the field value of the rice harvested if this is more than 1,620 kg
- zakat fitrah is about RM4.00 to RM5.00 per head

Year	Nisab (RM)
2007	6,200
2006	4,600
2005	4,200
2004	3,700
2003	3,000
2002	3,000
2001	2,900
2000	3,200
1999	2,900
1998	2,800
1994-1997	2,700

Asnaf

- 1. *Fakir* is Muslim who does not possess any permissible and qualified self-gained wealth (job) or has an income which represents lower than 50% from his daily basic need and his family based on a moderate life style.
- 2. A '*Miskin*' or needy is a Muslim who possesses some wealth, permissible and qualified work which represents more than 50% of his basic need and his family but insufficient and does not meet *Haddul Kifayah*.
- These two categories include the poor from orphans, widows, elderly, ill, and others who do not have a sponsor, low-income workers, families of lost individuals, and the unemployed.

Cont...

- **3. Muslim Converts (*Muallaf*)** Recent embracers of Islam
- Those who his heart being tamed or tends to accept Islam or a person who just embraced Islam that is ‘to tame his or her heart’ through assistance to strengthen their love towards Islam.
- **Debtors (*Gharimin*)**
- A Muslim who makes loans to fulfill his basic needs and his family members or a person who make loans to solve his community’s problems and needs. (Debtor is unable to settle his debts and the debt is for matters of good and permissible by the Islamic laws).

Cont..

- **For The Cause Of Allah (*Fi Sabilillah*)**
- *Fi Sabilillah* is any action / happening that leads to the needs and problems to upright the Islamic teaching. Therefore any acts, which strive in the cause of Allah to ensure that injustice against Muslim is stopped and upright Islamic teaching, are considered as *Fi Sabilillah*.
- **Wayfarer (*Ibnu Sabil*) Stranded Travelers**
- A Muslim who runs out of provision while on a journey or a person who wants to begin his journey but posses no provision on conditions (He begins his journey from his own hometown, The purpose of the journey is for a good cause permissible by the Islamic law).
- This would include people facing religious or racial persecution, political exiles or refugees, those seeking safety from oppression and those pursuing knowledge and education or involved in satisfying meritorious social wants away from home.

Cont..

- Riqab (liberating slaves)
- Even though there is no more slavery system in this contemporary world, the portion of Riqab is payable in terms of: Akidah rehabilitation aid and Akhlak rehabilitation aid

Amil

- The collectors ((المصدقون)), to collect the *Zakat* dues and deposit them in the authorized *Zakat*-centres.
- The distributors ((القسامون)), to apportion the *Zakat* funds.
- The custodians ((الحافظون)), to keep safe and disburse the *Zakat* funds to the lawful beneficiaries.
- The custodians include : the treasurers – the caretakers of the *Zakat* granaries and *Zakat* storehouses.
- The measures ((الكيالون)), to measure or weigh the cereals and other kinds of agricultural produce levied as *Zakat*.
- The scribes or clerks ((الكاتبون)), to keep the *Zakat* files and records.
- The accountants ((الحاسبون)), to keep account of the *Zakat* revenue and expenditure.
- The informers ((العارفون)), to seek out those persons who are deserving of receiving *Zakat* assistance and to inform the *Zakat*-officials of their condition and whereabouts.
- The assemblers ((الحاشرون)), to assemble the *Zakat*-payers or the beneficiaries of *Zakat*, when required.
- The officers in charge ((رؤساء العاملين)), to direct and manage the various *Zakat*-centres and responsible to the state and to the public for the proper functioning of their respective centres.

Issue on Time

- Zakat must be paid immediately at its due time.
- Deferment is prohibited unless has valid reason.
- Permissible to pay zakat in advance- Jumhur

Issue on Transfer of Zakat

- Consensus: zakat can be transferred from one city or country to another provided that the needs of the city or country have been satisfied.

Issues on zakat owed by a deceased person

- If one dies before he pays zakat, it must be paid from his estate.

Issue on the payment of the value

- At first majority of the scholars- not permissible to pay the value instead of item itself.
- Abu Hanifah, Ibnu Qudama, Ibnu Taimiya- approved paying the value.
- Must choose the way which suffice the needs of the needy and more beneficial.

Issue on Investment of zakat fund

- First view- Qureshi, Taqi Usmani-
- the zakat collection must be disbursed immediately
- The state has no locus standi to invest it with the view of generating more income.

Cont...

- Second View: Qaradhawi and Zarqa: Allowable
- Jumhur: ruler can spend the entire zakat fund for the benefit of one class and also at different rate. Permissible based on maslahah.
- It is not against principle of tamlik- feasting and clothing of the poor are allowable
- Disbursement does not have to be prompt. Can be given monthly basis
- The risk on investment could be avoided by proper planning- Hanafis and Shafiis in agreement that providing poor with tools for labor from zakat fund proves that zakat can be used for future security.
- It is not an innovation of denounced types as it benefit the recipients.