

# ZAKAT AND TAXATION: A CONCEPTUAL COMPARISON

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## Introduction

Zakat and taxation system are two important elements in an Islamic fiscal system. While both are imbued with the elements of obligation and compulsion (al-Qaradawi, 1999), they are two distinct concepts which need to be comprehensively understood and appreciated by the Muslim public. Based on this premise, it would be advantageous that these concepts being elaborated in order to enhance the level of awareness and understanding among the Muslims so as to improve their compliance to these systems.

This paper provides a discussion on conceptual comparison between *zakat* as prescribed in this *deen* of Islam and taxes as decreed by man-made taxation systems. The paper reviews both concepts from the point of view of their meanings, objectives and purposes, sources of regulation, conditions of zakatable or taxable assets, requirements of chargeability as well as their rates.

## Basic Concepts of Zakat

*Zakat* literally means increase, growth, purification as well as blessings (Zaim, 1989; Ahmad, 1989). The word '*zakat*' is derived from the Arabic root word '*zaka*'. Technically, *zakat* is "that portion of a man's wealth which is designated for the poor" (Sayyid Sabiq, 1991). It is also defined as: "a compulsory levy imposed on the Muslims so as to take surplus money or wealth from the comparatively well-to-do members of the Muslim Society and give it to the destitute and needy" (Zaim, 1989).

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This religious obligation means that by giving *zakat* to the rightful recipient will lead to increase of prosperity in this world, and growth of religious merit in the next. From the spiritual point of view, its payment purifies and cleanses the payer from greed, selfishness, arrogant, etc., as giving something he or she loves (i.e. wealth) only to attain blessings from Allah. The word *zakat* finds its origin in Allah's command, as mentioned in the *Al-Quran*, verse 103, in the ninth (*At-Taubah*) chapter: "Of their goods, take alms, that so thou mightest purify and sanctify them"<sup>1</sup>.

With regards to the avenues to spend *zakat*, *Al-Quran* has specified eight categories of legally qualified beneficiaries in *Surah At-Taubah*, verse 60:

"Alms are for the poor and the needy, and those employed to administer the (funds); for those whose hearts have been (recently) reconciled (to the Truth); for those in bondage and in debt; in the cause of Allah; and for the wayfarer: (Thus it is) ordained by Allah and Allah is full of knowledge and wisdom".

The aims and objectives of *zakat* are implied in the meanings of *zakat*. The meaning of 'growth' in *zakat* actually indicates that *zakat* in theory will ensure psychological growth in the soul of the poor and, material growth in their wealth. On the other hand, the meaning of 'increase' indicates that *zakat* is also aimed at increasing the contributors' religious merits and blessings.

Economically, *zakat* in theory will result in economic prosperity as *zakat* is paid from those who have surplus, to the poor. This will

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1. Translations of all Quranic verses in this article are based on Abdullah Yusuf Ali, *The Holy Quran: Text, translation and commentary*, Amana Corporation, Brentwood, Maryland, 1989.

improve the poor's purchasing power, which may lead to a higher demand on goods (Ahmad, 1977). Consequently, there will be more supply and thus, more production and more products will be sold. Then, more people, including the poor will be employed to facilitate the production. This will hopefully results in improved standard of living of the society as a whole. This, in theory, should be how *zakat* could contribute in the establishment of a more prosperous society.

'Purification' is also among the objectives and purpose of *zakat*. This includes purifying the wealth of the contributor because in the wealth of the relatively well-to-do, some portions of it are the right (due) of the others<sup>2</sup>. The Islamic concept of wealth viewed that all wealth bestowed by Allah as a Trust (*Khalifah*). The real owner of wealth is Allah alone (Abdalati, 1994). In the words of the *Al-Quran*<sup>3</sup>, Allah enjoins upon the proprietor to fulfill his financial obligations towards his fellow men, and to be moderate in his private spending.

The owners of wealth are not unreservedly free to spend their wealth the way they please. There are certain rules of spending as well as rules pertaining to earning of income and wealth. *Zakat* provides him an important role to play and a sacred mission to fulfill. It saves him from the pit of selfishness, greed and injustice. This is the true conception of property in Islam, and that is the actual status of proprietors (Abdalati, 1994).

*Al-Quran*<sup>4</sup> generally stipulates the aims and objectives of *zakat*, and specifies the categories of its beneficiaries. It was the Prophet Muhammad s.a.w., through *As-Sunnah*<sup>5</sup> that formulate the details

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2. *Al-Quran, Surah Al-Ma'arij* 70:24

3. *Al-Quran, Surah Al-Isra'* 17:26-27, 29-30

4. Refers to the word of God (in Muslims' belief), revealed in texts which were given numbers (by Prophet Muhammad) and assigned to verses (El-Ashker, 1987).

5. Refers to Prophetic traditions refers to all what the Prophet Muhammad said or did or acknowledged provided such action was inspired or revealed by God. If it is not Divine revelation, rather just Prophet.Muhammad's personal judgement in his capacity as a ruler during his time, it would not be binding on Muslims.

of the zakat laws, based on the Quranic general guidelines. Islam, however, allows considerable flexibility in using human reasoning for solving newly emerging problems. A jurist's use of his reasoning to find solutions to new problems keeping in view the intent and spirit of Islam is known as *Ijtihad*<sup>6</sup>. Methods of *Ijtihad* includes *Qiyas*<sup>7</sup>, *Istihsan*<sup>8</sup> and *Istislah* or *al-Masalih al-Mursalah*<sup>9</sup>. Besides that, *Ijma*<sup>10</sup> is also important in formulating policies in various spheres of a Muslim state. All these are part of the comprehensive Islamic legal system, which is highly necessary to derive any rules of *Syariah*.

Specifically for *zakat*, *Ijtihad* and *Qiyas* could be among the best ways to draw up new rules and regulations pertaining to it. This is primarily because *zakat* is part of the *Muamalah* (i.e. economic dealings between man and man) in Islam. *Zakat* is therefore subject to changes due to the rapid development of human's socio-economic environment. *Zakat*, accordingly, should take into consideration the dynamism of the *muamalah*. Islamic jurists are the most qualified and enlightened intellectuals and scholars (*mujtahideen*)<sup>11</sup> should study the modern conditions and find the most appropriate rules that benefit the general public (*maslahah 'ammah*) of the Muslim society as well as those that serving justice ('*adl*) to the majority. As long as it does not violates or contradicts against any Divine rule. *Ijtihad* and *Qiyas* are highly recommended by the Prophet, as mentioned in his *hadith*: "If the

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6. Also defined as exertion of effort in finding a ruling or something not mentioned clearly, following certain known methodology (Al-Qardawi, 1999).

7. Refers to analogical deduction, or using mental faculty, logic and common sense to certain issues that have no previously accepted judgement. It is one form of *Ijtihad*.

8. Refers to preference of one *Qiyas* over another or even abandonment of *Qiyas* for some strong reason (Ahmad, 1989, p.4). It also means to give verdict from one's heart only with a satisfaction, and one cannot express it. Only the Hanafi school of thought validates it while the rest of the schools reject it.

9. Refers to judgment on the basis of public welfare (Ahmad, 1989, p.4)

10. Refers to consensus of opinions or unanimous agreement among Muslim religious scholars.

11. Muslim scholars who have the capacity to perform *Ijtihad*. The determination of his capacity highly depend on his knowledge and values.

ruler use his own judgments and prove to be right, he will get two rewards. If his judgment is wrong, he still gets one reward".

Conditions for *zakatable* assets and income are specified and determined by Islamic *Syariah*. *Zakat* is traditionally levied not only on money, but also on commercial goods or merchandise, agricultural produce, livestock, minerals including gold, silver and treasure trove. Applying the methodology of *Qiyas*, the emerging and increasing types of wealth in the modern times such as bank deposits and financial securities like shares and bonds are also *zakatable* (Al-Qardawi, 1999), so as to ensure that the rightful recipients are not being denied from getting their rights as well as to ensure the society in general does not suffer due to the unfair redistribution of wealth.

According to Bakar (1998), *zakat* shall be due on all valuable items and the '*illah*'<sup>12</sup> for *zakatability* is the richness. The '*illah*' for *zakatability* is, according to him, no longer productive property but any property which is in excess of one's personal use and his dependents. Following this principle, all assets are now *zakatable*, including many modern forms of wealth and income since they are valuable property or *mal*. The *zakatable* wealth would include items of personal consumption if they are proven to be expensive and over and above the customary needs of a person and his dependants. Here, it proves that *zakat* is not a static law, but rather, could change according to time and environment.

Islamically, for any types of acts and contracts, they are judged in the light of the intention (*niyyah*) or the purpose it seeks to effectuate. The basis of this is the tradition of the Prophet (s.a.w.) which reads: "*Deeds are judged by intention and every person is judged according to his intentions*" (Al-Bukhari and Muslim). Similarly, for the *zakat* payment, its validity depends upon the payer's intention, meaning that, *zakat* payer should pay it for the sake of Allah, and *zakat* is an obligation to

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12. Refers to *ratio decidendi*. The issue of '*illah*' is the most important element in Islamic law as the ruling should be always attributed to '*illah*'; whenever the '*illah*' exists, the rule of law will also exist and if the '*illah*' does not exist, the rule of law will also not exist (Bakar, 1998).

be discharged as a sign of obedience towards Allah's command.

In general, *zakat* on most wealth becomes liable if its owner has owned the wealth for a period of one year. This concept is called *Haul*, or the yearly period of ownership. There are many *hadiths* stating that no *zakat* is due on a wealth before one year from the date of acquisition (Abu Saud, 1988). The most well-known *hadith* is that: "No *zakat* is due on wealth till one (full) year passes" (narrated by Ibn Majah, Al-Daruqutmi and Al-Bayhaqi).

However, there are some exceptions for this rule (Abu Saud, 1988). This exception is based on the Quranic verse which reads: "...but render the dues that are proper on the day that the harvest is gathered..."<sup>13</sup>. Here, Allah did not imply the one-year term for *zakat*. As such, for agriculture produce specifically, *zakat* is to be paid upon harvest, meaning that, it does not require *Haul* to be met. Analogically, other wealth such as income earned on a periodic basis during the year, including monthly salaries and wages, do not require that the *Haul* requirement be met. As in the case of *zakat* on mineral, *zakat* needs to be paid upon extraction.

Another requirement of *zakat* is *Nisab* that refers to "the minimum amount of wealth subjected to *zakat*". *Nisab* allows an objective measurement been made in order to exempt that amount which is sufficient to sustain the minimum average family for one year (Abu Saud, 1988)<sup>14</sup>. Consequently, it enables us to determine whether one is obligated to pay *zakat* or not. The Prophet exempted anything that is less than five camels, forty sheeps, two hundred silver dirhams or five wasqs of grain, fruits, or agricultural crops (Al-Qardawi, 1999). Among the *hadith* quoted for *Nisab* requirement is:

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13. Al-Quran, Surah Al-An'am 6:141

14. There is a difference of opinion among jurists on the point whether the *Nisab* must be completed every moment throughout the year or only at the beginning and end of the year (Ahmad, 1989).

“There is no sadaqah on cereals or dried dates unless the amount is five *awsuq*, and there is no sadaqah on less than five *zawd* (camels), and there is no sadaqah on less than five *awaq* (silver)”.

*Zakat* computation also allows other costs to be considered as deductible expense before arriving to the *zakatable* amount. This would include, the costs of the basic needs of the *zakat* payer, his household and all family members whom he is required by the *Syariah* to support (Al-Qardawi, 1999). Basic needs include food, shelter and clothing, and items needed for a job.

*Zakat* rates of the total *zakatable* wealth are specified in the *Al-Quran* and *As-Sunnah*. This includes 10 per cent, 5 per cent, 2.5 per cent and 20 per cent depending on different types of wealth and income (Ahmad, 1989). The highest rate of *zakat* is 20 per cent, imposed on the treasure trove. The rate is 10 per cent in the case of crops watered by rainfall where human work is only to prepare the land, plough it and sow the seeds. The rate has been reduced to 5 per cent, in the case of higher cost of production such as irrigation using machine. The rate has been decreased to 2.5 percent in case of merchandise and financial assets (Ahmad, 1989).

## Basic Concepts of Taxation

Taxation is literally defined in Oxford Advanced Learner's Dictionary of Current English (1989) as means of burden, estimation, charges and imposition. Technically, it means a sum of money to be paid by people or businesses to a government for public purposes (Oxford Dictionary, 1989). It is also defined as an obligation imposed by the state on the citizens. For a long time, governments imposed taxes to raise revenue only to cover the cost of administration and defense, and the provision of certain services by the state, and in the case of despotic monarchs the personal expenditure of the ruler (Hanson, 1972).

Nowadays, taxes are no longer imposed solely for those purposes, but also for the purposes of furthering social and economic policy. It is a compulsory contribution by people to the state to enable it to discharge its political and economic responsibilities. Abbasi (1985) viewed that state and tax are complementary and one cannot survive without the other.

Among the other reasons for the imposition of taxes, as outlined in Hanson (1972) are:

- (i) to check the consumption of commodities regarded as harmful, at least if consumed to excess. It is for this reason that spirits and, to some extent, tobacco are heavily taxed,
- (ii) to redistribute labour, for instance to encourage labour to move from employments in one industry to other types of industry, and
- (iii) to reduce inequality of incomes.

There are two systems of taxation: (i) the proportional principle, and (ii) the progressive principle (Hanson, 1972). The former principle means that taxation should be proportional to income. This principle is supported by Adam Smith, the well-known Scottish economists, as he considered it as the most equitable method of raising revenue open to the state. It was certainly, according to Hanson (1972), more equitable than equality of payment - a fixed sum per head - as in the case of some poll taxes<sup>15</sup> which were prevailing during his time<sup>16</sup>. The latter principle (i.e. progressive principle) suggests that the amount of tax to be paid increases *more than* proportionately with income (emphasis added). It can be more closely related to the ability to pay, and so where great inequality of income exists it is generally regarded as being more equitable than the proportional system, for the Law of Diminishing

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15. By the poll taxes of 1378-80AD each person was not, however, equally taxed. A whole village was assessed at so much per head, but the rich paid more than the poor.

16. Abu Yusuf (731-798AD), as in Sadeq (1992), argued for a proportional tax in agriculture, instead of a fixed levy on land, on the ground that the former was likely to yield larger revenue and facilitate expansion of land area under cultivation. This ideas was later propogated by Adam Smith during his time.

Marginal Utility shows that the marginal utility of £1 of income is much greater to the man with an income of £350 than to one with an income of £5000 (Hanson, 1972, p.541).

Adam Smith, an influential western thinker, had enunciated four canons of taxation in his book *The Wealth of Nations* (Hanson, 1972, p.541). According to Adam Smith, the amounts people paid in taxes should be equal, by which in fact he meant proportional to their incomes. This principle basically provided that every person in the society was equal and alike for the purposes of taxation. Secondly, Smith argued that there should be certainty with regard to the amount to be paid. This principle provided the detailed and known basis to the tax-payer and tax-collector. Nothing was left to the choice or pleasure of either the two<sup>17</sup>. Both knew what one is to pay and the other is to collect (Abbasi, 1985). Thirdly, there should be convenience of payment and collection<sup>18</sup>. Fourthly, economy should be observed, so that taxes should not be imposed of a kind where the cost of collections was excessive. It has been estimated that in the case of some former taxes the expenses of collection absorbed as much as 85 per cent of the yield (Hanson, 1952).

In short, Smith describes that a sound tax should reflect the ability to pay<sup>19</sup>, be certain and understandable, convenience to pay (to each subject) and minimum exaction (take as little from taxpayers as necessary) (Meera & Ahsan, 1992). In the historical context, Smith's famous canons of taxation appears as good political advice (West, 1990)

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17. Ibn Taimiyah (as cited in Islahi, 1992a, p.142 in Sadeq & Aidit) similarly, condemns injustice on the part of both tax payers and collectors. He says: "Very often, injustice (zulm) is done by the authorities as well as their subjects, the former demand what is not justifiable and the latter deny what is due".

18. Ibn Hazm (as cited in Aidit, 1992, p.69 in Sadeq & Aidit), was especially concern over the nature of the tax collection system. Abusive and exploitative means of collecting taxes must be prevented. Taxes were to be collected by not transgressing the limits of *Syariah*.

19. The concept of ability to pay in the principle of taxation had been previously brought up by Abu Bakr al-Tartusi (450H), as cited in Sadeq (1992, p.7 in Sadeq & Aidit). It means that tax should be imposed only on the surplus income after meeting all the basic needs.

and has been accepted and determined by people with their free will and consent (Abbasi, 1985).

A basic criterion for tax-structure design is the equity objective (Meera & Ahsan, 1992). In another Smith's major work, *The Theory of Moral Sentiments* (1759, as cited in Muller, 1993), he described the role of a state towards managing the financial welfare of its people: "He is certainly not a good citizen who does not wish to promote, by every means in his power, the welfare of the whole society of his fellow-citizens". As mentioned earlier, Smith is a strong proponent of the 'ability to pay' concept. Tax capacity is defined by Smith (as cited in Hollander, 1973, p.279) in terms of the total annual revenue: "*The riches and so far as power depends upon riches, the power of every country, must always be in proportion to the value of its annual produce, the fund from which all taxes must ultimately be paid*". Smith frequently clarified that (as cited in Hollander, 1973, p.204): "*It must be remembered, however, that it is the luxurious and not the necessary expence of the inferior ranks of people that ought ever to be taxed*".

Based on the foregoing discussion, the table below provides a summary of the conceptual comparison between *zakat* and taxation system.

TABLE 1- Conceptual Comparison between *Zakat* and taxation system

	ZAKAT	TAXATION
CONCEPTS	<ul style="list-style-type: none"> <li>* Source of regulation include <i>Al-Quran, As-Sunnah, Ijma, Qiyas</i></li> <li>* Levy sanctioned by Allah on muslims</li> <li>* Concept of <i>Nisab</i></li> <li>* Concept of <i>Haul</i></li> <li>* Rate &amp; distribution are specified</li> <li>* <i>Zakat</i> law relatively difficult to be amended since it is based on revealed doctrines</li> </ul>	<ul style="list-style-type: none"> <li>* Source of regulation determined by the government of the time &amp; place</li> <li>* Levy sanctioned by government on citizen</li> <li>* Concept of exemption</li> <li>* Concept of yearly assessment</li> <li>* Rate &amp; method of spending is relatively changeable</li> <li>* Tax law relatively easier to be amended since it has no direct relationship with revealed doctrines</li> </ul>

### Conclusion

From the preceding, it is safe to conclude that zakat and taxation are two distinct concepts although there are few elements of similarities. Based on the Malaysian practice of fiscal system, taxation has been an integral part of the system, as compared to zakat, where the former is been enforced and the tax rules has been strictly applied in the country. True though, zakat has always remained a pillar of Islam, it has ceased to be so in practice for many Muslims. Muslims worldwide thus, has an important role to play in striving for the re-establishment of this religion on earth, which in this context through the re-installation of zakat as a pillar in not only in theory but in our day-to-day practice of Islam.

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