

ZAKAH: SOME RELEVANT ISSUES

Zakah and Tax: Conceptual Difference

“Zakah” in the lexicon means a thing which increase gradually. Lisanul Arab, a major book on the meanings of Arabic words, explain it as “cleanliness, gradual increase, excess, praise”. In the technical Shariah meaning, Zakah means that part of wealth whose payment has been made obligatory by Allah and His Prophet (sm). Similarly, giving of specified part of the wealth who are entitled to get it, is also called Zakah.

Giving this wealth is called Zakah because it cleanses the heart and mind of the payer, it cleanses also his wealth (in the ultimate economic analysis). It gives increase to the poor in the sense that he gets something for his benefit and his mind is satisfied which is a psychological increase.

On the other hand, tax is an obligation imposed by the state on the citizens. Taxation is required to cover government expenditure. For a long time, governments imposed taxes to raise revenue only to cover the cost of administration and defence, and in the case of despotic monarchs for personal expenditure of the ruler. Now a days, taxes are no longer levied for defence and administration only, but also for the purpose of furthering social and economic policy of the state.

Similarities and Dissimilarities between Zakah and Tax

There are some important similarities and dis-similarities between Zakah and tax.

Similarities:

- a) Zakah is liable to be collected by force like tax, if the payer does not pay it willingly. This position is applicable where the state compulsorily collects Zakah, and in modern days, has legislated accordingly. The Quran and the Sunnah make it very clear that it is the obligation of an Islamic state which

follows Islam to collect Zakah. An important proof in this regard is the decision of Hazrat Abu Bakr (R.A.), the first head of the state of the Islamic Khilafat, to wage war against those who denied to pay Zakah to the state.

- b) Zakah collected in an Islamic state has to be kept in the Treasury, in a separate account, like tax, if collected by the state officials (Amelina Alaiha). However, if Zakah is collected by non-government organizations or communities, these should be kept safely as in the case of any public fund and should be strictly audited .
- c) Zakah, like tax, is paid though there is no direct and equivalent economic benefit is obtained by the payer. This is a different matter that Zakah payer expects return in the life hereafter and the tax payer may receive some services from the state in return but there is no direct co-relation.

Dissimilarities

- a) There are also important conceptual and other differences between Zakah and tax. Primarily, Zakah is an Ibadah (act of worship) which Allah has made compulsory on human being, to express gratitude to Him and to obtain His nearness (Taqwa).

Tax is not the same thing as Zakah. Tax is a social obligation without having special sense of gratitude to Allah or to obtain nearness to Allah while Zakah is essentially a matter between Allah and His servants, but tax has been primarily a matter between citizens and the state authorities.

- b) Zakah is based on Nisab, any wealth below a limit is exempted from Zakah. This is not true in case of many taxes in modern times. Concept of exemption is there in case of tax but it is applicable only when and where the government or tax authorities specifically prescribe.
- c) Zakah is a permanent and regular system. None can change it in any way. On the contrary, most of the taxes undergo change from time to time.

There is difference in the objective and intent between Zakah and Tax. As Allah has said,

Take from their wealth Charity (Zakah) so that thereby you make them clean and pure and pray for them. Your prayer (for them) is a source of comfort for them. Allah is all hearing, all-knowing... (Tauba: 103)

The intent of Zakah is to make wealth pure (in moral sense) and cleanse the heart of human beings from greed and hoarding. The object of Zakah is spiritual as well as economic. But the object of tax is much more mundane and worldly. Tax could never achieve the moral and spiritual objectives of Zakah in any time of history.

There is difference between Zakah and tax in respect of the utilisation of respective fund whereas tax can be spent for any purpose. Zakah is meant to be spent for specified objectives which are mainly provision for the poor (poverty alleviation), to free debtors from the debt, to free the people in bondage, for the wayfarer and for the good of the people i.e. Fi Sabi Lillah.

Items on which Zakah is Leviable

I am giving below the items on which Zakah is leviable from the annexure of Zakah rules of Bangladesh in the preperation of which this writer was involved. The list was essentially taken from Zakah Ordinance of Pakistan.

Sl No	Assets on Which Zakah is Payable	Nisab for Payment of Zakah	Rates at Which Zakah is Payable
1.	Cash in hand, cash in bank, share certificate, bond and the like (face value), amount received on maturity or as survival benefit or on surrender from life insurance during a year, amount received on final settlement or on non-refundable withdrawal from provident fund during a year	Value of 52.5 tola (612.36 gm) of silver	2.5% of the amount

2.	Gold, silver, precious metal, ornaments of gold and silver	7.5 tola (87.48 gm) in case of gold, 52.5 tola (612.36 gm) in case of silver and value of 52.5 tola (612.36 gm) of silver in case of gold and silver mixed	2.5% of the market value
3.	Stock in trade of commercial and industrial undertakings	Value of 52.5 tola (612.36 gm) silver	2.5% of book value or market value at the option of Zakah payer
4.	Agricultural produce	5 Wasaq or 948 kgs per crop	10% of produce in case of non-irrigated land and 5% of produce in case of irrigated land or value thereof
5.	Animals a) Sheep or goat b) Cows, buffaloes or other bovine animals	40 heads 30 heads	i. For owner of 1-39 heads: nil ii. For owner of 40-120 heads: 1 sheep/ goat iii. For owner of 121-200 heads: 2 sheeps/ goats iv. For owner of 201-300 heads: 3 sheeps/ goats v. For owner of every complete: for additional hundred head 1 sheep/ goat be added. i. For owner of 1-29 heads: nil ii. For owner of 30-39 heads: 1 year old calf iii. For owner of 40-59 heads: 2 years old calf iv. For owner of 60 heads or more: 1 year old calf for each 30 heads
6.	Mineral production	Any quantity	20% of the market value of mineral excavated
7.	Other assets	As per Shariah	As per Shariah

Legality of Raising Taxes in Addition to Zakah

Whatever were the differences in the early writings of Fuquaha (Jurists) of Islam in early period of Islam, there is no serious disagreement among the Fuquaha or Islamic economists of the current time, as regards of the legality of imposition of taxes in addition to Zakah.

Rather a consensus is likely to be prevalent in this regard. Current writings of Islamic economists, Fuquaha and recent books of Fatwa of the competent Ulama justify this view.

Dr Yusuf Al-Qaradawi in his monumental work *Fiqh-uz-Zakah* (Law of Zakah) has given the following arguments in favour of imposition of taxes by Islamic states, if needed:

Firstly, in his chapter on “Whether there is right on wealth other than Zakah”, it has been stated that jurists have, by and large, agreed on this point that in the case of genuine need for Muslims, tax can be imposed even after Zakah.

Secondly, there are needs which cannot be met by Zakah resources i.e. running of general administration, national infrastructure building and so on. This requires imposition of taxes beyond Zakah. Jurists are on the opinion that “which is necessary to complete wajib is wajib (obligatory).”

Thirdly, general principle of Fiqh is that “avoidance of damage will get priority over doing of good.” If proper economic duties are not performed by the state due to lack of resources, this will lead to serious public dissatisfaction and create violent situation. As such, the state has to obtain required amount of resources through taxes for carrying out its duties.

Fourthly, Allah has made it obligatory to carry out Jihad (defence of Islam and Islamic territory and to put an end to oppression anywhere in this world) through employing one’s life and wealth. This is a duty beyond Zakah. To carry out a major Jihad in this age, if needed, there is no other way but to raise resources through taxes.

Al-Qardawi also mentions that evidence against taxes beyond Zakah from the Hadith are either weak or not unequivocal, whereas the evidence in support of dues other than Zakah from the Quran and Sunnah are very strong.

There is also consensus among scholars now a days, that even if people pay other taxes, the obligation of payment of Zakah does not lapse. Zakah has been made compulsory, in part, on the Muslim citizen in Pakistan, through promulgation of Zakah and Ushr Ordinance, even though the Muslim citizens pay other taxes such as income tax, sales tax, import tax. However, Zakah paid is deducted from total income liable to income taxation.

The same provision has been made in Zakah Ordinance of Bangladesh though Zakah payment here is optimal. The Ordinance and the rules made thereunder provide for the items liable to Zakah, Nisab thereof and the rates of Zakah. In Bangladesh also, Zakah Payment does not mean that the payer can escape other taxes.

There is no reason why other taxes would not be paid if Zakah is paid, because the purpose of Zakah levy and the purpose of taxation, as discussed before in the paper, are very different. Zakah can not meet the need of general revenue.

Probable taxes in an Islamic state

What sort of tax can be levied under Islamic system after payment of Zakah? In my view, all sorts of taxes in whatever name can be levied under Islamic system, as long as revenues are needed for the development and defence of the country and for social welfare.

It is not necessary to levy special tax on the non-Muslims. As long as the non-Muslims pay taxes like income tax, customs duties, value added tax etc. as token of their obligation and obedience to the state, there is no need for a special tax only on non-Muslims. Islamic states of Iran, Pakistan, Saudi Arabia do not think it necessary to impose a special tax on non-Muslims in particular name.

This is also the view of the great jurist of the current age Dr. Yousuf Al-Qaradawi. (*Kitabul Amwal*). (Dr Monzer Kahf during discussion on the paper mentioned that Zizia is not relevant in the modern states as these are not conquered territories rather these states mostly have been established by the joint struggle of the Muslims and non-Muslims. Syed Abul-Ala Maududi has also stated in his book “*Rasail Wa Masail*” (Vol. IV, page 158,

Bangladesh Edition, published by Maududi Research Academy, Moghbazar, Dhaka) in response to a question on rights of non-Muslims that Zizia is applicable only in case of citizens of conquered territories and not applicable to the non-Muslim citizens of country like Pakistan and Bangladesh.

The beneficiaries of Zakah are well-known, they are the poor, the destitute, the Zakah officials, the debtors, the captives and for general welfare. (Sura Tauba, verse 60)

A few words about loan taken by the Zakah payer, this may be deducted against cash and liquid assets if taken for consumption purposes (such as daily necessities, marriage and educational expenses). Loan taken against business can be adjusted against business stock at the time of payment of Zakah. Loan taken against house and car can not be adjusted against cash or other assets as house and car are not themselves Zakatable assets (Please see the Pakistan Zakah Act). Creditor will pay Zakat on loan given by him only once when the creditor will get back the loan, this is the majority view of Fukaha.

Conclusion

As we have seen one of the major objectives of Zakat is poverty alleviation. The issue is, can Zakat be spent on non-Muslims for this purpose. The majority view is that for poverty alleviation of non-Muslims non-Zakat resources should be spent. There is no disagreement on the point that poverty alleviation and welfare of non-Muslims is an important concern for an Islamic state. In my view, Zakat receipt would be sufficient in most of the countries which have attained mid-level development in making provision for the poor and the unemployed. It may not be sufficient in some countries where there is massive poverty. These countries need other resources to tackle the problem of poverty.