

Fiqh of zakah

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Definition of Zakah

Literally Zakah means Blessing, purification, increase and goodness. It is so called as it blesses the wealth from which it is taken and protects it from misfortunes. Ibn Taimiah said, "The soul of one who gives Zakah is blessed and so is his wealth."

Technically Zakah is defined as"A determined portion taken from wealth and allocated to those deserving it, by a Qur'anic injunction." Sometimes Zakah is referred to in the Holy Qur'an as Sadaqah (alms). The Qur'an says, "Of their goods take alms, that so thou mightest purify and sanctify them; and pray on their behalf, verily thy prayers are a source of security for them." (Surah Al-Taubah, No.9, Verse: 103). In an authentic hadith, the Prophet (peace be upon him) said to his Companion Mu`adh, when he was sent to Yemen as governor, "Tell them that Allah has made Zakah obligatory for them, that it should be collected from the rich and distributed among the poor."

Fiqh of zakah resources

Zakah on legal tender (currency)

1. Money accounted for Zakah is that beyond one's basic needs.
2. The Nisab liable to Zakah on cash, banknote and coins is to be determined according to its corresponding value of gold (85 grams of fine gold), based on the current rates of the country in which the payer of Zakah resides.
3. If one's property of cash, banknote and coins is less than the Nisab, according to the Hanafi Juristic School, the value of other cash property (gold or silver) may be added to the value of cash, banknote and coins so as to complete the minimum amount counted for Zakah. Once the total reaches the Nisab, Zakah falls due.
4. Once Zakah is paid on a property, it absolves the owner, even though the property is then transferred to a type different from that on which Zakah has first been paid. For example, when crops or cattle are sold, thus transferred to cash money, this new type of property is not liable to Zakah at the same year on which Zakah is paid on the former type. This in fact leads to double payment of Zakah, which is contradicted by the Prophet's Hadith in which he observed, "There is no double payment of Zakah."

Debts owed to or by the payer of Zakah should follow the rules governing Zakah on debts.

Zakah on legal tender (gold)

1. If one's gold properties are less than the Nisab, according to the Hanafi Juristic School, the value of gold may be added to the value of silver currencies, coins, and banknote so as to complete the minimum amount counted for Zakah. Once the total reaches the Nisab, Zakah falls due.
2. Debts owed to or by the payer of Zakah should follow the rules governing Zakah on debts.

Zakah on legal tender (silver)

1. If one's silver properties are less than the Nisab, according to the Hanafi Juristic School, the value of silver may be added to the value of gold currencies, coins, and banknote so as to complete the minimum amount counted for Zakah. Once the total reaches the, Nisab Zakah falls due.
2. Debts owed to or by the payer of Zakah should follow the rules governing Zakah on debts

Zakah on ornaments and golden and silver objects

1. Though ornaments worn by women are not counted for Zakah, there must be criteria for defining the value of these ornaments. Such value is estimated according to the standard of living. However, ornaments kept for purposes other than wearing are inevitably counted for Zakah.
2. Likewise all ornaments that are not in current use because they are out of fashion are counted for Zakah.
3. Zakah is obligatory on unlawful gold or silver ornaments so long as they reach the allotted Nisab, whether by themselves or added to other jewelry. Such unlawful ornaments may include bracelets and watches worn by men and the ornaments for men when used by women. Zakah falls due if the amount of unlawful gold or silver reaches the Nisab by itself or when added to other amounts.
4. Lawful ornaments, such as silver rings for men, on the other hand, are not counted for Zakah.
5. Silver objects unlawful to use, such as spoons and vessels are not counted for Zakah unless they reach the allotted Nisab whether by itself or when added to other silver possessions.
6. Debts owed to or by the payer of Zakah should follow the rules governing Zakah on debts.

Zakah on Debts

1. Debts are counted for Zakah in case they are recoverable. After the repayment, the money is to be added to the total sum of properties counted for Zakah.
2. The amount of debt owed by the payer of Zakah is to be excluded from the portion liable to Zakah, provided that he remains in debt before Zakah falls due and finds no other property not liable to Zakah that exceeds his basic needs to repay his debt therefrom.
3. In long-term, installment debts, such as housing installments, and other debts that finance fixed assets, which are not counted for Zakah, the payer deducts the amount of annual installment all at a time, then calculates the total sum of the remaining property and pay Zakah on it if it still reaches the Nisab of Zakah.
4. Loans that are invested to finance any commercial business are to be deducted from the total sum liable to Zakah, in case the payer does not have fixed assets exceeding his basic needs.

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Zakah on cattle

1. The cattle raised for trade will be treated exactly as the commercial commodities; Zakah on them will be calculated on the basis of their value not number. Therefore, Zakah falls due on the cattle if their value reaches the minimum amount of money liable to the payment of Zakah. In this case, the cattle owner should add such value to what he possesses of money and commercial commodities.

2. Imam Malik and Al-Laith are of the view that all kinds of cattle, whether grazing or stall-fed, are counted for Zakah. This view is also held by the Legislative Committee of the Zakah House in Kuwait.
3. The Khultah, which results owing to the unity of pasture, watering place and stall, implies treating the sheep owned by two or more persons as owned by only one person. Thus it affects the estimation of the Nisab liable to the payment of Zakah and the duration after which Zakah is payable.
4. The term cattle includes camels, cows (including buffaloes) and sheep (including goats).
5. Offspring of the cattle are to be added to their mothers and follow them in determining the lapse of a full year. If one owns twenty-seven old cows and three young ones, the young cows should be added to them in order to complete the Nisab. In this case Zakah falls due.
6. Cattle exploited in cultivation are not counted for Zakah. This is confirmed by the Prophet's saying, "Nothing is due on the cattle used in cultivation."
7. If the possession is interrupted during the year due to selling cattle or bartering them, a new year is to be calculated from the day on which the cattle are sold or bartered, provided that the owner did not do that with the intention of evading the payment of Zakah. This is confirmed by the Prophet's Hadith in which he maintained, "Zakah is not due on a property unless after the lapse of a full year."
8. According to Abu Hanifah, Zakah on cattle can either be given out of the cattle or in cash proportionally.

Commercial commodities

1. Fixed assets: such as machinery, buildings, trucks and equipment. All fixed assets are not liable to Zakah.
2. Intention is the criterion of considering properties as commercial commodities or not. If a person purchases a car for personal use, but may sell it if it sells good, it should not be counted as a commercial commodity. But when a person purchases a number of cars for trade, then uses one of them, the used car will also be liable to Zakah as a commercial commodity.
3. The value of commercial commodities should be estimated according to the wholesale price, whether it will be sold by retail or by wholesale. This is the view approved by the Juristic Academy in Mecca.
4. A merchant should estimate the value of his commercial commodities according to the current market rate, whether it is higher or lower than the sale price. The sale price meant

here is the price when Zakah falls due.

5. If the company pays Zakah on its shares, the shareholder is not obliged to pay Zakah on his shares to avoid double payment of Zakah. Otherwise, a shareholder will be obliged to pay Zakah on his shares as follows: * If the shareholder exploits his shares in trade, the amount of Zakah due on his shares would be 2.5%, according to the market value at the time Zakah becomes due. * However, if shares are invested to obtain annual revenues, Zakah is paid in the following way: a) If the shareholder managed to examine the accounts of the company and know the amount of Zakah due on his shares, he would have to pay 2.5% as Zakah on this basis. b) If he does not have knowledge of the company accounts, he may simply add the share revenues to the total sum of his property counted for Zakah and pay a rate of 2.5% as Zakah after the lapse of a full year since the wealth has reached the allotted Nisab.

6. Though dealing in securities is not lawful, Zakah is due on their face value, which is to be added to other kinds of property, after reaching the Nisab and the lapse of a full year. The payable amount of Zakah is 2.5 %.

7. All kinds of debts whether owed or due should be included under the item of debts.

Zakh on crops and fruits

1. According to Imam Abu Hanifah, Zakah is due on all agro products and fruits produced through land investment. However, plants that grow without human efforts, such as wood trees, grass, reeds, etc. are not counted for Zakah, unless they are intended to be invested in trade. In such case they will be treated in the same way as commercial commodities.

2. Unlike other kinds of property, Zakah on crops and fruits does not become due after the lapse of a full year since reaching the Nisab. Rather, the determining factor here is the agricultural season and crop. This is confirmed by the Qur'anic verse, "But render the dues that are proper on the day that the harvest is gathered." (Surah Al-An`am No. 6, Verse: 141). Thus, Zakah will be due on each crop produced by the land at the same year.

3. Crops and fruits are not counted for Zakah unless they are intended to be invested in trade. In such case they are treated in the same way as the commercial commodities.

4. In case irrigation is sometimes made with the aid of an uncostly method and some other times with the aid of a costly method, the amount of Zakah would be estimated according to the major method of irrigation. But in case of equality, a fixed amount of 7.5% of Zakah would be given.

5. According to Ibn `Abbas and other jurists, all expenditures of ploughing, planting, fertilizing, and harvesting are to be deducted from the total amount counted for Zakah, provided that these expenditures do not exceed the rate of one-third.

6. A lessee of a land has to pay Zakah on its produce of crops and fruits. The owner of the land, on the other hand, will add the letting value to other cash money in his possession and pay Zakah on them at the rate of 2.5%.

7. In case the produce of land is shared due to a contract or crop-sharing (which implies that the owner appoints another person to take care of cultivating or irrigating the land in return for a portion of its yield), the Zakah is due on both parties once the yield reaches the Nisab.

8. Crops and fruits of like kind are to be added and estimated together, while those of different kinds, like fruits and vegetables, are to be estimated separately.

9. Though the owner of land should pay Zakah from the crop, some scholars maintain that it is permissible to pay it in cash according to the market value.

Zakah on mineral resources

1. Zakah on minerals is not paid on annual basis; it is promptly due on any extracted and filtrated portion of minerals so long as it reaches the Nisab liable to the payment of Zakah.

2. The Nisab of minerals liable to Zakah is estimated in accordance with the value of the Nisab of gold, i.e. 85 grams, no matter whether the minerals are extracted one at a time or in parts. In case the work ceases because of emergency such as repairing equipment or due to a strike on the part of the workers, the extracted minerals are to be added together in a way to complete the minimum amount counted for Zakah. However, in case the work ceases due to the transfer of the activity or for another reason, then resumed again this interruption is to be considered in calculating the minimum amount counted for Zakah in a way that the new extracted amounts of minerals will not be added to the amounts extracted before the halt.

3. The term 'minerals' refers to all minerals extracted from the earth or the seabed. Zakah on pearls, coral, fish, and amber is to be paid in the same way as commercial commodities.

Reaching Nisab (Minimum Amount Liable to Zakah)

The method of estimating the Nisab (minimum amount liable to Zakah) is applicable to cash money, gold, silver, commercial commodities and cattle. According to a prophetic hadith, "Gold is not liable to Zakah unless it reaches twenty dinars. Once it reaches this amount, half a dinar must be paid as Zakah on it. Likewise, silver is not counted for Zakah unless it reaches two hundred dirhams. Once it reaches this value, an amount of five dirhams must be paid as Zakah on it." Based on this hadith the Nisab of gold counted for Zakah is twenty dinars (85 grams) of fine gold, while the Nisab of silver is two hundred dirhams (595 grams) of fine silver. The Nisab of merchandise is an amount whose value equals eighty-five grams of gold. No Zakah is due upon other kinds of

property unless they reach their Nisab, which will be specified later on. Zakah becomes due upon reaching the Nisab or more than it. According to the Hanafi and Maliki juristic schools, the Nisab is calculated at the beginning and end of the year. Any decrease or insufficiency in between is overlooked. Any increase of property after reaching the Nisab during the year is to be included in the total sum counted for Zakah. This is considered the easiest and most applicable among the other juristic views, which has made the majority of scholars adopt it.

Time of Giving Zakah

a) Paying Zakah on its due time is obligatory. When Zakah falls due and the giver of Zakah is ready and able to pay it, it is not permissible to delay the payment. But if the money to be paid is not in hand, one may be granted respite until he gets the money. The prohibition to delay Zakah payment is also applicable to those charged to collect Zakah money and distribute it among the recipients. If they know the recipients and are able to distribute Zakah among them but do not pay it until it is ruined, they will be held responsible for affording it on their account.

b) One's death does not exempt one's property from paying Zakah. Zakah must be paid whether the deceased made will to that effect or not.

c) Time prescription does not affect the obligation to pay Zakah. If the property owner delays the Zakah payment until the advent of the following year, when he comes to pay Zakah for that second year, he has to deduct the value of Zakah for the previous year and pay Zakah for the remaining portion of his property. He still has to pay Zakah for the previous month, which is considered as a payable debt on the property.

If the property is ruined before Zakah falls due it will be exempted from Zakah if the following two conditions are fulfilled:

- Property ruin should have taken place before one gains ability to pay the Zakah.
- Ruin should not result from the property owner's negligence in keeping money.

d) If crops and fruits were plighted before the day of harvesting, they will be exempted from Zakah unless the remaining portion reaches the Nisab or more. Hence Zakah would be due on what remained.

e) Those employed to collect the Zakah money and distribute it among its recipients are responsible for guarding the money. But if it was affected for no negligence on their side, they would not be required to afford for it.

The Manner of Distributing Zakah

a) The Zakah giver is freed from its burden as soon as he grants its ownership to any of the first four categories of Zakah recipients: the poor, the needy, those employed to administer the Zakah, and those whose hearts are to be reconciled. Making either of these categories in full possession of Zakah is a condition for the verification of the payment of

Zakah. Granting full possession implies giving the recipient a certain amount of money, or buying a means of production or craft tools and granting their ownership to the recipient who has the capability to work. As for those in bondage, those in debt, fighters in the cause of Allah, and the wayfarers, it is sufficient to deliver Zakah to them through any means.

b) Concerning the poor, the needy, those employed to administer Zakah, and those whose hearts are to be reconciled, it is enough to have them meeting the conditions of receiving Zakah at the due time of the Zakah payment. If their state changed after Zakah had been paid to them, they are not required to pay it back.

c) As for those who are in debt, wayfarers, and fighters in the cause of Allah who receive Zakah, if their state changes or if they did not use the money to meet the necessity for which they deserved it, Zakah should be taken back from them.

d) Relief from debts due on Zakah recipient. If an insolvent borrower fails to settle up his debts to his lender who later acquitted him from paying them back, such debts will not be regarded as Zakah even if the borrower is a Zakah recipient. This is the opinion held by most scholars.

Zakah and Tax

a) Paying the tax levied by the state does not suffice for paying Zakah due to the different nature of Zakah and taxes as regards the source and aim of levying, the wealth upon which each of them is due, the due payment amount, and the channels.

b) Tax amounts are not to be deducted from the due amounts of Zakah. Rather, the already paid taxes can be deducted from the wealth upon which Zakah is due.

c) Taxes levied by the state to be paid before the time of Zakah payment are to be deducted from the wealth upon which Zakah is due, even if it was not yet paid.

d) To make it easy for those who pay Zakah, current taxation laws should be adjusted to allow deducting the value of the Zakah amounts from the tax amounts on condition that authentic legal proofs be submitted.

e) A tax for social solidarity that matches Zakah amounts should be levied upon all non-Muslim citizens under a Muslim state. Such taxes would serve as revenues to achieve social solidarity among all citizens living under Muslim rule.

COMMON QUESTIONS:

1. An employee saves a certain amount from his monthly salary. How can he calculate the amount of Zakah due on his savings, bearing in mind that some of the savings have not been in his possession for a full year?

If a man has an amount of money on which Zakah is payable, which has been in his possession for a full year, and due to inheritance, gifts, savings or bonuses this amount increased, should include this increment in the total sum on which Zakah is payable, regardless of whether this increment has been in his possession for a full year or not.

2. Is Zakah due on women's ornaments?

Women's personal ornaments are not countable for Zakah if they do not exceed the usual norm. However, there must be criteria for defining the amount of these ornaments. This amount is estimated according to a woman's standard of living. Ornaments kept for purposes other than wearing are countable for Zakah. Likewise all ornaments that are not in current use due to their being out of fashion (or any other reason) are counted for Zakah. Zakah is also payable on fine gold and silver when either reaches a certain weight. The increase of the value of gold and silver due to casting, manufacturing or containing precious stones is not considered.

3. How is the amount of Zakah on gold and silver estimated?

In case gold is not fully pure, we may make use of the following equation to find out the total amount of fine gold after leaving out the weight of other substances:

weight of gold x the standard of fineness x the gram value x 2.5%

Note: the gram value here means the value at the time when the gold reaches the weight at which Zakah is payable.

4. How Zakah is paid on trade activities?

When the time of Zakah is due, the commercial body, whether an individual or company, should make an inventory and estimate the actual value of goods in hand. The value of these goods together with cash assets, whether used in business or not, and the total of recoverable debts owed to him by others are considered the amount of trade activity on which Zakah is due, after subtracting the debts he owes to others from the total value. The following equation may be useful to conveniently get the percentage of Zakah:

The amount of Zakah = the value of goods in hand + cash assets + recoverable debts - debts x 2.5%

5. When estimating the amount of Zakah, should the merchants consider the purchase price or the sale price in evaluating their goods?

Zakah is estimated according to the current market price. According to juristic authorities, estimating the amount of Zakah is based on the wholesale price of

commodities. (This view is one of the recommendations of the First Contemporary Zakah Questions Symposium.)

6. Should a merchant pay Zakah out of his commodities, or must it be paid in cash?

Originally, Zakah on trade activities must be paid in cash. According to `Umar bin Al-Khattab's narration, the Prophet (peace be upon him) said to Hamas, "Give Zakah on your wealth." Hamas said, "I have no trade other than leather quivers." Whereupon the Prophet (peace be upon him) said, "Estimate their value and pay Zakah on them accordingly." However, a merchant can pay Zakah out of the commodities in which he is dealing to avoid undue hardship.

7. Transactions may be concluded with immediate payment or on credit; how should a merchant deal with mercantile debts?

Jurists classify debts into two types: First: debts owed to the merchant; it is of two types:

1. Recoverable debt:

It is a debt owed by one who acknowledges it and is able to pay, or by a debtor who denies the debt but there is an evident against him that in case he stands for trial he will be obliged to pay. This kind of debt is also known as a good debt. The merchant should add a recoverable debt owed to him by others to the total sum on which Zakah is payable.

2. Irrecoverable debt:

It is a debt owed by one who repudiates it, and there is no evidence against him, or by a debtor who recognizes the debt but often delays the date of repayment, or by a debtor who is insolvent. This kind of debt is also known as a doubtful debt.

The sum of such debt is not counted for Zakah unless it is actually repaid. Once this debt is paid, Zakah is payable on it for one year only, no matter how many years it has been owed by the debtor.

Second: debts owed by the merchant:

The amount of debts owed by the merchant or the company is to be left out of the total sum on which Zakah is payable.

8. What is the legal judgment concerning shares in trade?

Holding shares in a joint-stock company is judged on the basis of the kind of activities carried out by the company itself. Thus, holding shares in a company conducting usurious dealings or selling prohibited commodities such as alcoholic drinks is unlawful. Likewise, holding shares in a company that conducts certain prohibited transactions such as usury on credit sales or aleatory transactions is also unlawful.

9. How does a shareholder pay Zakah on his shares?

If the shareholder invests his shares in trade, the amount of Zakah will be 2.5%, according to the market price of the shares at the time the Zakah becomes due.

However, if the shares are invested to obtain annual earnings, Zakah is to be paid in the following way:

If the shareholder knows the value of every share as opposed to the assets owned by the company, he may pay Zakah according to this value. But if he does not know, it is sufficient for him to simply add the earnings of his shares to the total sum of his wealth countable for Zakah and pay a rate of 2.5% when a full year passes since the wealth has reached the minimum amount counted for Zakah.

10. What is the legal judgment concerning Zakat Al-Fitr [Fast-Breaking Zakah]?

Is it obligatory to be paid on behalf of one's children and servants?

Zakat Al-Fitr is incumbent on every Muslim, whether young or old, male or female. This is confirmed by Ibn `Umar's narration: "Allah's Messenger (peace be upon him) stated that Zakat Al-Fitr is to be paid as a Sa` of date or barely by every Muslim whether slave or free, male or female, young or old." It is to be paid on behalf of one's self, wife and all those he supports, including his parents. However, one is not obliged to pay Zakat Al-Fitr on behalf of his servants unless he chooses to do so, and after taking their permission. Also, he is not obliged to pay Zakat Al-Fitr on behalf of his child who has not yet been born before sunset of the last day of Ramadan.

11. What is the amount of Zakat Al-Fitr?

The amount of Zakat Al-Fitr is a Sa` of rice, or other foodstuffs like wheat, dates, corn, flour, powdered milk, cheese or meats, whether canned or not.

Note: The Sa` is a measure that equals approximately 2.5 kgs of rice, taking into account that grains may vary according to their density.

12. Can we pay Zakat Al-Fitr in cash? If yes, how much?

Some scholars maintain that it is permissible to pay Zakat Al-Fitr in cash according to its value in kind. This view is made to make it easy for people to pay Zakah.

However, it should be noted that estimating Zakat Al-Fitr by a fixed amount of money is not valid, since food prices may differ from one year to another and from one country to another.

13. When is Zakat Al-Fitr due? Can it be distributed during the early days of Ramadan?

Zakat Al-Fitr falls due upon the sunset of the last day of Ramadan, since it is levied as a means of purification for one who observes the Fast. As the Fast ends with the sunset of the last day of Ramadan, Zakat Al-Fitr falls due. According to the Sunna, Zakat Al-Fitr should be given before the `Id Prayer. This is confirmed by Ibn `Umar's narration: "The Messenger of Allah (peace be upon him) ordered that Zakat Al-Fitr be given before the people go to perform the `Id Prayer." However it is permissible to be given during the early days of Ramadan, especially when it is delivered to charitable organizations. This facilitates the process of distributing the Zakah among worthy recipients at the proper time.

14. What should a Muslim do in case he forgets to pay Zakat Al-Fitr before the `Id Prayer?

It is not recommended to delay ZakaAl-Fitr until after the `Id Prayer. The prime purpose of giving Zakat Al-Fitr is to meet the needs of the poor during the `Id day. The delay will stand against fulfilling this end. This is confirmed by Ibn `Abbas' Hadith in which he maintained: "Zakat Al-Fitr was ordained by the Messenger of Allah (peace be upon him) as a means of purification from idle talk in which the observer of Fast had indulged while fasting. It is a kind of charity."

However, there is no sin paying it after Prayer, but not after sunset. Delaying it after sunset incurs sin, and it remains obligatory to be paid.

15. Is it permissible to transfer Zakat Al-Fitr from one's country to another?

Zakat Al-Fitr can be transferred to a country other than that in which the payer of Zakah is staying depending on the priority of need or due to surplus. Otherwise, it should be distributed within one's country. This is confirmed by the Prophet's Hadith in which he maintained: "It (Zakat Al-Fitr) is to be taken from the rich among them and handed over to the poor (among them).

16. How can a Muslim estimate the amount of Zakah payable on his salary, or on his profit from businesses, gifts or other means of income?

A Fatwa was issued at the First Conference on Zakah held in Kuwait to the effect that: The worker's wages, employees' salaries, earnings from other professions such as physicians and engineers, and the like, are all considered income gained from one's work. The majority of the conference participants observed that such a gain is not counted for Zakah when first received. However, if there are savings from it, it should be added to other properties counted for Zakah. Then, Zakah is to be paid at the end of a full year. The full year is to be considered from the time the wealth reaches the minimum amount countable for Zakah. On the other hand, any savings attained from one's work are to be added to the total amount of wealth, even though they have not remained in the possession of the owner for a full year.

