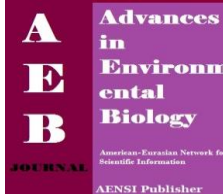




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## Comparative Study of Zakat and Taxation System for Muslims and Non-Muslims in Malaysia

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### ABSTRACT

The concept of Zakat and taxation for public Muslims can easily be misunderstood. In Islam, all taxes imposed by governments on citizens (Muslim and Non-Muslims) need to reflect the fact of Islamic ruling for it. Should taxes be levied on Muslim on basis of Zakat? Should taxes be imposed on Non-Muslims on the basis of Zakat or Kharaj? There is a need for researchers to provide answers to these questions in the light of shariah principles. The primary objective of the paper is, first, to compare between financial duties levied on Muslims and those imposed on Non-Muslims. Secondly, the paper aims to examine issues related to the implementation of zakah in modern time by reviewing the practices of zakah and taxation system exploring the issues in the context of Malaysia. The study found no differences in the payment of the total amount of taxes between Muslim and non-Muslim in Malaysia (i.e. there is equality in financial duties between Muslims and non-Muslims).

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## INTRODUCTION

The Financial obligations imposed on Muslims are Zakat al Fitr -fast-breaking zakah - (levied on persons), Zakat al Mal, and additional financial duties when necessary [9]. While the financial duties imposed on non-Muslims are al Jizyah - (levied on persons/ poll tax), al Kharaj (on the ground), and al 'Ushor (means one-tenth) customs duties levied on domestic and foreign trade if transmitted from one place to another in Dar al-Islam (house/abode of Islam) [7]. Muslims who meet the criteria are obliged to pay the zakat or tithes, a form of income tax under the Islamic law. In Malaysia, due to the dual system, many ends up double paying their tax dues while a few use the facility to dodge tax. One of the parties obligated to pay zakat is by those who are involved in business. As such, all Muslim owned businesses are required to disburse zakat if all the requirements for zakat have been fulfilled. At the same time, these Muslim businessmen also need to pay tax liability for a particular year of assessment [9]. The main objective of this paper is to explore the financial duties levied on Muslims and those imposed on Non-Muslims. This paper also aims to discuss few issues related to the implementation of the current practices of zakat and tax system between Muslim and Non-Muslims in Malaysia.

### 2. Financial obligations imposed on Muslims:

- 1) Zakat al-Fitr: is a symbolic zakat levied on persons (poll tax), i.e. on every Muslim, old or young, rich or poor [24].
- 2) Zakat al Mal: a Zakat on material things (other than zakat on people/poll tax) such as naturally pastured livestock, crops, fruits, trade assets and money.
- 3) Other financial duties which are of two types:
  - a) Alternative duties for financial resources to fill the public needs and interest like booty (Ghanimah: property of the enemy acquired in war) and fai' (property of the enemy acquired after laying down arms without fighting).
  - b) Extra duties added to Zakat, if it wasn't sufficient to meet the needs of the poor and needy.

Number of scholars defended these duties including Al-Jouini in his book AlGheithi 1401H, Al-Ghazali 488H, Ibn Hazm, Ibn Taymiyyah 1398 H, Shatby and other [6]. Muslim scholars have disagreed on the financial duties, some of them prevent it, and some consider it permissible in cases of (poverty, Jihad, famine, drought) conditioning (justice, compassion, ability) but they did not show how to deduct these duties.

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### 3. Financial costs imposed on non-Muslims:

First: Jizyah: a poll tax imposed on non-Muslims (who are defeated in jihad forcibly or entered under the authority of the Islamic state as a result of treaties) [24]. It's more specific than *fai'* although its distributions are the same. The evidence from Quran is (*Fight those who do not believe in God, nor in the Last Day, nor forbid what God and His Messenger have forbidden, nor abide by the religion of truth—from among those who received the Scripture—until they pay the due Jizyah, willingly or unwillingly. Surah al-taubah 29*). And the evidence from Sunna is: "Then if they refuse (i.e. entering into Islam) then ask them to pay Jizyah. If they respond positively to you, then accept it from them and refrain from (fighting) them. If they refuse to pay Jizyah, seek Allah's help and fight them." (Sahih Muslim 12/38, Sahih Bukhari 4/118). Jizyah is a goodwill symbol of the coexistence between non-Muslims and Muslims, and an incentive to Islam, to protect them; moreover it is one of the fiscal revenue of the state. It's obligated once a year (Twelve full lunar months or solar months if the Imam consider it appropriate) [24]. Non-Muslim will become free from Jizyah by Conversion to Islam, death, inability to pay, the state's inability to protect them, or serving in the Muslim army. Jizyah has no longer presence in Muslim countries due to the weakness and inability of Muslims from protecting non-Muslims and as a result of non-Muslims participation in war.

Second: Al-Kharaj is defined as "*taxes, revenue obtained from human property, tribute, rental, income, general property, a public's revenue or revenue from land, and sometimes it is defined as a rates*". Kharaj (land-tax): is a financial cost imposed on growing kharaji lands. kharaji lands are lands that are either conquered in war, and endowment to all Muslims, or left in the hands of their owners instead of being confiscated and distributed among the Muslim conquerors as booty, but remained as *fai'* and asked to pay Kharaj [2]. Some scholars said that the Kharaj put by Omar bin al-Khattab, may Allah be pleased with him, because he didn't divide the conquered land among conquerors, when there was an expanded conquests during his reign, instead he turn it into public endowment for all Muslims and obligates who planted it to pay Kharaj [16].

Kharaj is of two types: Kharaj Al Muqaasamah and Kharaj Al Wazifah:

- A. Kharaj Al Wazifah (fixed Kharaj): is a fixed amount determined according to land area and type of plant, not on the actual produce of the land, but being able to cultivate. Thus its levied either the land is cultivated or not. And it's obligated once a year (al-fatwa al-hindia 2/237, hashiat Ibn Abidin 4/186) [1].
- B. Kharaj Al Muqaasamah (proportional Kharaj): is Land revenue fixed as a percentage of the actual produce of the land such as 1/4 and 1/5, thus if the land is not cultivated there is no Kharaj, however its obligated whenever there is actual produce, even if it happens several times a year.

#### Kharaj Terms:

- 1) The land should be Kharajable not zakatable ('ushri), i.e. the Kharajable land is the land in which their owners lift it, or entered under the authority of the Islamic state as a result of treaties, or the lands that conquered in war, and Imam left it in the hands of their owners. While the land in which their owners entered Islam is zakatable land not Kharajable.
- 2) Be real arable growing land, where its subject to Kharaj Al Muqaasamah (proportional Kharaj), or discretionary arable growing land, where its subject to Kharaj Al Wazifah (fixed Kharaj).
- 3) To take into account the capability of the earth, cause the costs imposed according to capability.
- 4) To take into account the irrigation cost, because kharaj imposed on the ground irrigated by rivers and springs is more than kharaj imposed on the ground irrigated by Rainwater.
- 5) To take into account the kind of crops and fruits, because the value differs according to different kind of crops and fruits.
- 6) To take into account its distance from urbanization.
- 7) Treat non-Muslims with humane, and to take into account their basic needs.

Kharaj Al Wazifah imposed once a year while Kharaj Al Muqaasamah imposed each harvest. If Kharaj imposed on the land area then the year will count as twelve full lunar months, and If Kharaj imposed on the planted area then the year will count as twelve full solar months. At the present time there is no Kharaj longer in the Islamic country, it was replaced by taxes imposed on agricultural land, with no difference between Muslim or non-Muslim.

Third: 'Ushor: is customs duties levied on Muslims, non- Muslims and merchants who were people of the Pledge (from Dar al harb who enter Dar al-Islam with Temporary Assurance of protection) [3].

'Ushor is imposed on Muslims, non- Muslims and merchants of the Pledge. Ziad Bin harer said: Omar bin al-Khattab appointed me as ushr officer to collect 'Ushor, he told me to take 'Ushr (one-tenth) from merchants of the Pledge, one-half of one tenth from non- Muslims merchants and one fourth of one-tenth from Muslim merchants.

Muslims In dar al islam are subject to zakat on their naturally pastured livestock, crop, fruits, trade assets. While non- Muslims are not subject to any financial obligations.

At the present time there is no 'Ushor in the Islamic country, it was replaced by customs tax imposed on Muslim and non-Muslim [7].

#### 4. Is it possible to impose financial costs on non-Muslims equal to the financial obligations imposed on Muslims?

As we observed that Jizyah, Kharaj and 'Ushor is not exist nowadays in the Islamic countries, and there are difficulties in its application in contemporary life. As the legal provisions relating to financial duties are variable policy-relevant more than relate to the fixed principles [7]. Particularly according to some jurisprudence, this is left to the Imam with the advice of experts both in terms of their names or rates.

With all of these circumstances, and the supremacy of the principles of equality where religions consistent with systems, it may be possible to impose financial duties on non-Muslims equal to the financial duties imposed on Muslims. And can be called by other names than Zakat because Zakat is a special Muslim worship and one of the pillars of Islam. This is not such prohibited tricks but it is from accepted legitimacy policies [7].

This equality in financial duties between Muslims and non-Muslims provide greater financial toll of the Islamic state. As the financial duties imposed on non-Muslims are less than the financial duties imposed on Muslims, cause Jizyah and Kharaj both are symbolic fraction and 'Ushor is levied on non-Muslims money, which pass out of borders, not on their money inside the country Abu [1].

#### 5. How to impose zakat under the conventional economic system?:

It's fundamental in the Islamic country to impose Zakat in a clean environment free of tax, then, if it's not sufficient it's possible to impose financial duties to meet the required needs. But nowadays we live in countries where direct and indirect taxes levied on capital, income and expenditure, such as income tax on dividends, salaries and wages tax, tax on the proceeds of capital circulation, inheritance tax, and customs duties.

These taxes are not consistent with Zakat in nisab, rates, or distribution. Because the areas where it can be spent are specifically mentioned in the Qur'an; (The alms are only for the poor and the needy and those who collect them and those whose hearts are to be reconciled, and to free the captives and the debtors, and for the cause of Allah, and (for) the wayfarers) [9]. While the distribution of tax are more general as involving public expenditure on defense, security, social security, salaries, wages, pensions, subsidies, grants, health, education and the benefits of public loans.

Muslim scholars have different opinion regarding this subject: some believes that tax is substitute for Zakat, so it is not permissible for the Muslim to pay zakat in addition of tax. Because it is over capability and has an impact on competition between merchants and the ability to survive in the market [7].

The others believe that the tax is not a substitute for Zakat. Because of the different distribution and because zakah is worship. The chosen Opinion may combine the two views so that Zakat partly substitute tax because the tax is larger and its distribution are more general, so that the tax is paid in addition to Zakat for the other distributions not covered by Zakah. The Islamic state at the present time need this taxes due to the demise of the other resources Kharaj, Ghanimah and fai'. If Zakat introduced then the tax environment must be reformed in order to achieve justice between Muslims and non-Muslims in Islamic countries.

#### 6. Zakat and Tax in Malaysia:

The Zakat assessment practices for business in Malaysia involves several methods [13]. The most common methods are Working Capital Approach and Growth Capital Approach. The assessment of zakat in respect of both approaches is based on the Statement of Financial Position of an institution. On the other hand, the assessment of tax liability for institutions is based on the Statement of Comprehensive Income of such institutions [9]. In terms of incentive the Malaysian government has provided at least two incentives in their effort to promote zakah payment. Firstly, in light of the federal government, the authority granted an income tax rebate, for individual Muslim who had paid zakah to State Islamic Religious Councils (SIRCs) [23]. Secondly, for companies, in the 2005 Malaysian Government Budget, it had been announced that any zakah which is paid by company to State Islamic Religious Councils (SIRCs) will be granted as an allowable deduction in the computation of the corporate tax [15]. However, the amount of zakat paid by companies is allowed as a deduction subject to a maximum of 2.5% of the aggregate Income excluded zakat paid by cooperatives and trust bodies. In order to accord equal tax treatment between companies and trust bodies, zakat settled by cooperatives and trust bodies is also allowed as a tax deduction [9,13]. It is effective from year of assessment 2007. This is to be effective via section 44(11A) of the Income Tax Act 1967.

The above exemption is very minimal. Abdul Rahman [12] argued that this so-called 'partial rebate' for business entities should be replaced by full corporate tax rebate, in the same way rebate be granted to individual Muslims who paid zakah. He further explained that:

*"If government allows companies that pay zakah on business wealth to claim rebate from their tax liability, this will consequently ease their financial burden. Furthermore, the tax rebate will serve as an incentive for Muslim majority owned companies which have not paid in the past to pay zakah on business wealth".*

According to Amin [8], is that the Government would relinquish a material sum in annual income tax from the business sector.

A rebate is granted for payments of any zakat, fitrah or other obligatory Islamic religions dues in the basis year (for example, zakat paid in year 2012 can be claimed as tax rebate in income tax return form for year assessment 2012). The amount is subject to the maximum of tax charged (limited amount of total tax charged). However, the taxpayer is required to obtain and keep original receipts. The next table show the details:

Tax Computation for Mr A

Zakat Paid in Year 2012	RM 1,470
Employment Income	48,000
Rental Income	12,000
Aggregate Income	60,000
Less: Donation	1,500
Total Income	58,500
Less Tax reliefs: Individual & dependent relatives	9,000
Book and Magazines	700
Broadband subscription	500
EPF	6,000
Medical Insurance Premium	1,560
Total	17,760
Chargeable Income	40,740
Mr A's Tax liability:	
Tax on the first 35,000	1,525.00
Tax in the Balance 5,740 @ 12%	688.80
Tax Charged	2,213.80
Less: Zakat	1,470.00
Tax Payable	743.80
Monthly Tax Deduction	600.00
Balance Tax Payable	143.80

Muslims who meet the criteria are obliged to pay the *zakat* or tithes, a form of income tax under the *Shariah* principles. *Zakat* is compulsory only for Muslims. As the Income Tax Act 1967, Section: 6A (3) states, "a rebate shall be granted for any *zakat*, fitrah or any other Islamic religious dues, payment of which is obligatory." A Muslim has to make two compulsory payments levied on the same source of income every year, namely income tax and *zakat*. Therefore, this rebate is given to relieve a Muslim from the burden of "double taxation" on the same income. As for the non-Muslims, they have the choice to make donations to approved organisations/institutions and claim for tax relief up to 7% of their aggregate income.

In summary, in Malaysia there is equality in financial duties between Muslims and non-Muslims which provide greater financial toll to the government. The amount paid by the Muslim on the tax and *zakat* equal to the amount paid by a non-Muslim on the taxes and subsidies and donations.

### 7. Conclusion:

The paper identified the financial duties imposed on Muslim and non-Muslims which are under the Islamic law. The paper examined issues related to the implementation of *zakat* in modern time by reviewing the practices of *zakat* and taxation system between Muslim and non-Muslim. The study found no differences in the payment of the total amount of taxes between Muslim and non-Muslim in Malaysia (i.e. there is equality in financial duties between Muslims and non-Muslims).

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