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**PAPER PROCEEDINGS
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PAPER PROCEEDINGS
THE 6TH INTERNATIONAL
PROPHETIC HERITAGE CONFERENCE
(SWAN) 2018

“PROPHETIC APPROACH TOWARDS GLOBAL PEACE & HARMONY”

2nd – 3rd October 2018/ 22 – 23 Muharram 1440h
International University For Renewal (IUR)
Essenyurt, Turkey

Edited by:

Dr. Nurul Asiah Fasehah Muhamad
Dr. Syed Najihuddin Syed Hassan
Dr. Anuar Hasin
Dr. Nurulwahidah Fauzi

Hosted by:

Faculty of Quranic and Sunnah Studies
Universiti Sains Islam Malaysia (USIM)

In Collaboration With:

International University For Renewal (IUR)
Essenyurt Turkey

PROCEEDINGS OF THE 6th INTERNATIONAL
PROPHETIC HERITAGE CONFERENCE (SWAN) 2018

PROPHETIC APPROACH TOWARDS GLOBAL PEACE & HARMONY

First published in 2018 by

Penerbit USIM

Universiti Sains Islam Malaysia, Bandar Baru Nilai

71800, Nilai, Negeri Sembilan, Malaysia.

Email: info.penerbitan@usim.edu.my/swanfpqs18@gmail.com

Website: www.penerbit.usim.edu.my

Phone: +606-798 8226/6749

Perpustakaan Negara Malaysia

Cataloguing-in-Publication Data

International Prophetic Heritage Conference (6th: 2018: Turkey)

PAPER PROCEEDINGS: THE 6TH INTERNATIONAL PROPHETIC HERITAGE

CONFERENCE SWAN 2018: "PROPHETIC APPROCH TOWARDS GLOBAL

PEACE & HARMONY" / Edited by: Dr Nurul Asiah Fasehah Muhamad, Dr

Syed Najihuddin Syed Hassan, Dr Anuar Hasin, Dr Nurulwahidah Fauzi.

ISBN 978-967-440-536-6

1. Muhammad, -Prophet --632. 2. Islam and State-Congresses.
3. Prophet in the Qur'an --Congresses.
4. Islam-Customs and practices-Congresses.
5. Hadith-Congresses 6. Government publications-Malaysia.

1. Nurul Asiah Fasehah Muhamad, Dr.

2. Syed Najihuddin Syed Hassan, Dr.

3. Anuar Hasin, Dr. IV. Nurulwahidah Fauzi, Dr. V. Title

297.27

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The Practices of Zakat Payment by Islamic Financial Institution In Malaysia

Muhammad Ikhlas Rosele

Department of Fiqh and Usul
Academy of Islamic Studies, University of Malaya
ikhlas@um.edu.my

Luqman Hj. Abdullah

Department of Fiqh and Usul
Academy of Islamic Studies, University of Malaya
ikhlas@um.edu.my

ABSTRACT

The issue of zakat payment by legal entities or companies remains a dispute among current intellectuals. The bigger question arises regarding the capacity of company to become a zakat payer. In Malaysia, zakat payment is not only made by individuals but also made by establishment such as companies. Therefore, this article was developed to conduct a survey regarding the practice of zakat payment by companies, especially the Islamic financial institution in Malaysia. In this study, qualitative approach is used and analysis was carried out on the basis of the payment, types of zakat, and the method of zakat calculation by Islamic financial institution in Malaysia.

KEYWORDS: Zakat, Islamic financial institutions, legal entity, Malaysia

INTRODUCTION

Zakat (*almsgiving*) is one of the Five Pillars of Islam. As a servant of Allah, Muslim are obliged to pay zakat for their possession and wealth. Generally, it is known that the payment of zakat is made by Muslim individually. However, in Malaysia, zakat is not only made by individuals, but also made by a company. The payment of zakat by a company has become an issue and still debated by current intellectuals. Unfortunately, there are no consensus has been achieved particularly on deciding the status of zakat payment made by a company.

Among the major issues in zakat payment by companies are the question whether a company itself is qualified be considered as an ordinary person who obliged to pay zakat? In term of civil law, a company is regarded as one separate party from person, known as 'legal entity'. Legal entity therefore, is a concept which has been accepted and applicable in civil law. This concept conceives that; an entity resembles of a capable person. According to (Krishnan Arjunam, 1998), the law-made personality (or artificial legal person) has the rights to:

1. Perform all functions and role as a company incorporated;
2. Prosecute and to be prosecuted on behalf of their name;
3. Possess and utilize the properties;
4. Has the capacity to acquire, hold and transfer property, whether it is movable property or immovable property.

Therefore, the question arise is: whether this concept is accepted according to Islamic law? To answer this, current intellectuals have different opinions in determining whether this concept existed previously and was accepted in Islamic law. To start with, the concept of legal entity is known as *syakhsiyyah I'tibariyyah* according to Islamic law term. Due to difference in term of definition in rule setting, this effects the final verdicts on the status of zakat payment made by a company. This research will summarize current intellectual opinions regarding the zakat payment by company based on *syakhsiyyah I'tibariyyah* as follows (al-Khalil, 1462H; al-Ghafili, 2008):

1. Group which accept the concept of *syakhsiyyah I'tibariyyah* and legalized the zakat payment made by *syakhsiyyah I'tibariyyah*.
2. Group which do not accept the concept of *syakhsiyyah I'tibariyyah*, thus rejecting its obligation to pay zakat.
3. Group which accept the concept of *syakhsiyyah I'tibariyyah* but narrowing down the scope of permissibility of the zakat payment made by *syakhsiyyah I'tibariyyah*.

This research is in the favor of first group, which accept the concept of *syakhsiyyah I'tibariyyah* and permitted the zakat payment made by it. This idea of zakat payment by company is supported by argument that, the permissibility of zakat payment is the adaptation of the concept of zakat *al-khultah* (mixture of joined assets); or the principle of inclusion of zakat assets which used the name of '*illah al-nama*' on company; and government have the authority to collect zakat from the company. Therefore, the zakat payment practiced by several companies are permissible and acceptable. This stand is in accordance to the final decision of fatwa issued by National Council for Fatwa Committee of Malaysia's Islamic Religious Affairs where it states that:

For the business-based companies are compulsory to pay zakat when they achieved these requirements:

1. The business is owned by Muslim
2. The business is owned by freed-Muslim
3. Complete ownership
4. Completed the *nisab* (minimum amount that a Muslim must have before being obliged to zakat)
5. Completed the *haul* (achieved 1 lunar year/ 354.3 days)
6. Zakat rate upon the company is 2.5%

For a company that owned between Muslim and non-Muslim, they are compulsory to issue zakat on the amount of the share of Muslim counterpart only, based on the net profit received.

THE ZAKAT PAYMENT OF ZAKAT BY ISLAMIC FINANCIAL INSTITUTION

The payment of zakat by Islamic financial institution is seems to become a practice. This practice of zakat payment is due to encouragement of several factors, other than the exposure made by authority. There are several factors which is seems to be theoretical factor which encourage zakat payment by company. In general, the factors which encourage a person to pay zakat are: faithfulness, knowledge about zakat (Mohd Ali, Hairunizam & Nor Ghani, 2004), systematic management of zakat institution (Mohd Yahya, Fadlizan & Mohamad Ali, 2013), intention of the payer and the surrounding environment that influence the intention (Ram Al Jaffri, Kamil & Zainol, 2009).

In more specific, the factors in which influence a company to pay zakat are: Muslim-led board of directors or the one who plays role in zakat payment, Muslim shareholders, the size of business activities, profits gained (Mohd Rizuan, Zulkifli, Juliana Anis, Khairul Nizam & Abdul Aziz, 2014), types of industry (industry listed under shariah-based industry) (Halizah, Kasumalinda & Agoos Munalis, 2011). Adibah and Joni (2014) further added several other factors which encourage the company to pay zakat

which are: effective zakat institution management and government role and the authority for their role to encourage zakat payment.

All of that factors are actually able to become possibility as encouragement zakat payment by company. Other than that, there several factors which is said can be done improvement until can stimulate the potential of zakat payment by company. Among them are the role of the authority, if the current company which pay the zakat can enjoy deduction as much as 2.5% on maximum other than paying tax (Zahri Hamat, 2009). It is good to propose to raise up the percentage of the deduction to stimulate the zakat payment by company.

In regards to the zakat payment practice of Islamic financial institution in Malaysia, there are several institutions in Malaysia which have compensated business zakat, such as EON Bank, Bank Islam Malaysia Berhad (BIMB). There are also other institutions as well such as Tabung Haji Berhad (Jabatan Zakat Negeri Kedah), MBSB (MAIAMP; MAIDAM), Takaful Malaysia Berhad (Pusat Zakat Melaka), Maybank Islamic Berhad (MAIAMP) and others. These institutions paid zakat upon activities and a part from them paid on behalf of the depositor.

TH (*Tabung Haji*) is known to pay business zakat annually. The amount that has been produced also increasing by year. In year 2013, TH has compensated zakat for RM53 mil. (Lembaga Tabung Haji, 2013). BIMB also recorded to produce zakat. Based on Financial Resolution of BIMB year-end 31st December 2013, the amount of BIMB's business zakat is RM 12,436,000.00 (BIMB, 2013).

Financial Report MAA Takaful also shows that the company pay zakat. Allocation of zakat payment by MAA Takaful for 2013 year-end is RM 294,000.00 (MAA Takaful, 2013). From this statement and data presented, it is clear that Islamic financial institution in Malaysia inclined to pay zakat from the profit gained. Nevertheless, it should be determined what is the basis of the zakat payment made by every of those institution and their method of calculation involved.

BASIS AND PAYMENT METHOD

Study shows that TH and BIMB pay business zakat. This can be confirmed based on several statements made addressing their zakat payment. According to information from Islamic Development Bank (1995) based on Jeddah, TH is notified to pay business zakat from profit gained before distribution of dividend made to the company members. Other than that, TH payed zakat on behalf of the depositor based on permission (*al-izn*) contract. The payment of zakat also applied to all TH's subsidiary companies.

BIMB also pay business zakat. The zakat payment made based upon business activities operated by BIMB (Osman Sabran, 2001). Apparently, BIMB had settled the responsibility to pay business zakat since 1984, one year after its establishment (Mazlina Aini, 2008). Whereas MAA Takaful (has been changed to Zurich Takaful) did not pay business zakat. MAA Takaful produced income zakat based on service activities (Ismanizam Ismail, 2015). In regards to the calculation method of zakat, the basis of business zakat lies on two common methods which are; expanding capital method and work capital method.

1. Expanding Capital Method

Expanding capital method or *growth capital* (known as '*urfiyyah*' method), it considers the equity of the owner of a business establishment, sources of financing and adjustment whether it is added or otherwise. In short, the capital is added with profit (see table 1).

Table 1: Representation of the Calculation of Expanding Capital Method

| |
|---|
| Owner Equity + Long-term Liability – Permanent Asset – Non-current Asset |
|---|

2. Work Capital Method

Working capital (or known as method of *syar'iyah*) considers the status of current property at the time when the business minus the expenditure during the business and adjustment made with several things in relation to zakat involved. The adjustment made whether with mixing items identified needed to be added or subtracted (see table 2).

Table 2: Representation of Working Capital Calculation

| |
|---|
| Current Asset (Must Full Possession) – Current Liability |
|---|

TH carried out the zakat calculation based on adjusted working capital method. The period for zakat calculation is carried out based on Gregory calendar (current financial year) (Lembaga Tabung Haji, 2013). BIMB calculated their zakat by using expanding capital method. The calculation is made by BIMB balance sheet. Expanding capital method is indeed one calculation methodology suitable for banking institution, financial institution and takaful. This is because current asset and current liability are not clearly mentioned in company's accounting or by the institution itself (Mohamad Noor Shahidi, 2013).

On the other hand, the Islamic financial institution (including several others takaful institution, MAA Takaful calculated its zakat based on the calculation of income zakat. Therefore, the method of income zakat MAA Takaful is the profit before tax or PBT multiplied by 2.5% (Ismanizam Ismail, 2015).

The zakat payment method made by institution in this study also shows variation. TH hand over all the property for zakat to zakat collection center in every states (Lembaga Tabung Haji, 2013). The distribution of amount of zakat is in accordance to minimum mean of collective saving balance for each states. The similar practice also carried out by BIMB, BIMB handed over all property amount needed to zakat to the zakat collection center. The distribution of amount of zakat is made by the percentage of depositor for each state (Mohd Nazri, 2015). The zakat payment practice of MAA Takaful is different with TH and BIMB. MAA Takaful handed over its zakat collection based on ratio of 3:5, in which 5/8 is channeled to zakat center and 3/8 is distributed to three categories of *asnaf faqir* (poor), *miskin* (needy) and *mualaf* (new reverts) respectively via programs conducted (Ismanizam, 2015)

CONCLUSION

Based on the review, it is identified that several Islamic financial institutions in Malaysia made zakat payment. The zakat payment is motivated by several factors. TH, BIMB and MAA Takaful also pay zakat from its activities operated. TH and BIMB produced business zakat based in the capital work calculation model. Whereas MAA Takaful produced income zakat and calculation method used is PBT. Nevertheless, further research should be carried out on the significance of the payment basis and the method of calculation practiced by the Islamic financial institution.

ACKNOWLEDGEMENTS

It is encouraged to write the acknowledgement to research grant entitled “*Fiqh Kehartaan Malaysia: Konsep dan Amalan*” (BK001-2017) which is funded by *Bantuan Kecil Penyelidikan*, University of Malaya.

REFERENCES

- Adibah A. W. & Joni Tamkin B. (2014). Faktor Penentu Pembayaran Zakat oleh Entiti Perniagaan di Malaysia: Satu Tinjauan Teori. *Shariah Journal*, 22(3); 295-322.
- Al-Ghafili, ‘Abdullah bin Mansur (2008). *Nawazil al-Zakah: Dirasah Fiqhiyyah Ta’siliyyah li Mustajaddati al-Zakat*. Riyad: Dar al-Miman.
- Al-Khalil, Ahmad bin Muhammad (1462H). *al-Ashum wa al-Sanadat fi al-Fiqh al-Islami*. al-Dimam: Dar Ibn al-Jauzi.
- Bank Islam Malaysia Berhad (2013). *Reports and Financial Statements For The Financial Year Ended 31 December 2013*. Kuala Lumpur: BIMB.
- Halizah M. A., Kasumalinda A. & Agoos Munalis T. (2011). Factors Influence Company Towards Zakat Payment: An Explanatory Studies. In the Proceeding of 2nd International Conference on Business and Economic Research (2nd ICBER 2011): 2515-2522.
- Islamic Development Bank (1995). *Tabung Haji as an Islamic Financial Institution: The Mobilation of Investment Resources in An Islamic Way and The Management of Haji*. Jeddah: IRTI.
- Ismanizam Ismail, Head of Shariah, Department of Shariah, MAA Takaful. Interviewed on 7 April 2015.
- Jabatan Zakat Negeri Kedah, “Tabung Haji Bayar Zakat RM 2.8 Juta,” *zakatkedah.com*, accessed on 26 June 2013 from <http://www.zakatkedah.com/index.php/component/content/article/41-berita-kutipan/88-tabung-haji-bayar-zakat-rm-28-juta>
- JAKIM. “Zakat Ke Atas Syarikat.” Accessed on 27 August 2015 from <http://www.e-fatwa.gov.my/fatwa-kebangsaan/zakat-ke-atas-syarikat>
- Krishnan Arjunam (1998). *Company Law in Malaysia: Cases and Commentary*. Kuala Lumpur: Malayan Law Journal.
- Lembaga Tabung Haji (2013). *Laporan Tahunan 2013*. Kuala Lumpur: Lembaga Tabung Haji.
- Lembaga Zakat Selangor, “Enam Syarikat dan Bank Bayar Zakat Lebih Setengah Juta,” *e-zakat.com*, accessed on 26 June 2013 from <http://www.e-zakat.com.my/terkini/1636/>
- MAA Takaful (2013). *Statutory Financial Statements*. Kuala Lumpur: MAA Takaful Berhad.
- MAIAMP, “Majlis Pembayaran Zakat Perniagaan,” *maiamp.gov.my*, accessed on 12 September 2013 from <http://www.maiamp.gov.my/maiamp/maipk/index.php/berita-maipk-feed/225-majlis-pembayaran-zakat-perniagaan>
- MAIAMP, “MBSB Bayar Zakat RM 16,485.00,” *maiamp.gov.my*, accessed on 25 June 2013 from <http://www.maiamp.gov.my/maiamp/maipk/index.php/berita-maipk-feed/121-mbsb-bayar-zakat-rm16-485-00>
- MAIDAM, “MBSB Menunaikan Zakat Perniagaan,” *maidam.gov.my*, accessed on 26 June 2013 from <http://www.maidam.gov.my/zakat/index.php/laman-utama/1-latest-news/6-mbsb-menunaikan-zakat-perniagaan>
- Mazlia Aini M. T. (2008). “Keberkesanan Pelaksanaan Kutipan Zakat Korporat Perniagaan di Selangor.” Unpublished master’s dissertation, University of Malaya.

- Mohamad Noor Sahidi Johari (2013). "Issues on Implementation of Tax Rebate on Business Zakat: The Case of Malaysia." In *Laporan Zakat PPZ-MAIWP 2013*, pp. 104-118. Kuala Lumpur: PPZ-MAIWP.
- Mohd Ali M. N., Hairunizam W. & Nor Ghani M. N. (2004). Kesedaran Membayar Zakat Pendapatan di Kalangan Kakitangan Profesional Universiti Kebangsaan Malaysia. *ISLAMIIYAT*, 26(2): 59-67.
- Mohd Nazri Chik, Head of Shariah Officer, Shariah Department, BIMB, Interviewed on 9 June 2015.
- Mohd Rahim K., Ariffin M. S. & Abd Samad N. (2011). Compliance Behavior of Business Zakat Payment in Malaysia: A Theoretical Economic Exposition. Paper Presented at 8th International Conference on Islamic Economics and Finance, 19-21 December 2011, Doha.
- Mohd Rizuan A. K., Zulkifli Z. A., Juliana Anis R., Khairul Nizam S. & Abdul Aziz A. (2014). Factors Influencing a Business Towards Zakat Payment in Malaysia. *International journal of Science Commerce and Humanities*, 2(3): 147-156.
- Mohd Yahya M. H., Fadlizan M. & Mohamad Ali R. A. (2013). Kepatuhan Membayar Zakat: Analisis Kutipan dan Ketirisan Zakat Fitrah di Selangor. *Shariah Journal*, 21(2); 191-206.
- Osman Sabran (2001). *Urus Niaga al-Qard al-Hasan Dalam Pinjaman Tanpa Riba*. Skudai: UTM.
- Pusat Zakat Melaka, "Penyerahan Zakat Perniagaan Oleh Syarikat Takaful Malaysia Berhad," *izakat.com*, accessed on 27 June 2013 from http://www.izakat.com/index.php?option=com_content&view=article&id=114:penyerahan-zakat-perniagaan-oleh-syarikat-takaful-malaysia-berhad&catid=33:berita&Itemid=64&lang=bm
- Ram Al Jaffri, S., Kamil M. I. & Zainol B. (2009). Peraturan Pembayaran Zakat Kepada Institusi Zakat: Sikap Peniaga dan Kesannya Terhadap Gelagat Pembayaran Zakat Perniagaan. *Shariah Journal* 17(3): 607-630.
- Zahri Hamat (2009). Business Zakat Accounting and Taxation in Malaysia. Paper presented at Conference on Islamic Perspectives on Management and Finance, School of Management, University of leicester, United Kingdom, 2 - 3 July2009.