



In the name of Allah, The Beneficent, The Merciful

The Categories of Debt and Bad Debt for Zakāh Purposes – An Overview

This fatwa seeks to clarify the three categories of debt, strong, weak and medial, in order to determine the zakah liability of the creditor in relation to each.

The fatwa begins by defining strong debt as a debt that arises from a loan or the sale of commercial goods. In the example of a wholesaler and retailer, the wholesaler will remain liable for paying zakah on the strong debt before possessing the amount, however, the obligation to pay will only mature upon receiving the value of 40 dirhams.

A weak debt is defined as a debt that accrues without consideration, such as inheritance or with consideration of that which is not deemed property, such as compensatory divorce. Zakah is not liable upon such debt until it is recovered, and following recovery the rules of zakah will apply for the future and not retrospectively.

A medial debt is defined as a debt incurred in consideration of non-commercial goods, such as the sale of clothes or personal property to a friend or relative. Two opinions attributed to Imam Abu Hanifah are mentioned in this fatwa, the first ensuring liability of zakah from the time of sale and before possession with the obligation to pay being delayed until possession of 200 dirhams, after which zakah will be paid retrospectively. Imam Abu Hanifah's second and most correct opinion applies liability of zakah after receipt of 200 dirhams and the passage of a lunar year from the time of possession.

The fatwa thereafter details various circumstances where the solvency, insolvency and bankruptcy of the debtor affects the zakah liability of the creditor.

The fatwa states that whether solvent or insolvent, if the debtor acknowledges the strong debt then it can not be excluded from the creditor's zakah liability. However, if the creditor is unable to acquire the debt from the debtor despite his acknowledgement, then it is not liable to zakah.

With regards to bankruptcy, Imam Muhammad opines that provided the Qadi has decreed the debtor to be bankrupt, the debt is not liable to zakah. Imam Abu Hanifah considers judicial decrees of bankruptcy to be void during a person's life. Whilst Imam Abu Yusuf recognises bankruptcy decrees against living persons and states that as long as the person is able to earn, the decree serves only to delay the demand until a return to prosperity. The fatwa considers the opinion of Imam Muhammad to be the most suited to modern experiences of debt recovery.

The fatwa then examines the circumstances that arise as a result of the presence or lack of witnesses to the debt.

Imam Abu Hanifah, Imam Abu Yusuf and Imam Muhammad all conclude that if the debtor denies the existence of a debt and there are no witnesses to the contrary, then it is not subject to zakah.

However, the fatwa considers the scenario where there are witnesses to the denied debt to be slightly more contentious. Some jurists consider zakah to be payable whether the witnesses are presented or not. However, the preferred opinion is that there is no zakah upon denied debt.

The fatwa concludes by stating that according to the adopted position for fatwa, the Qadi can not rely upon his personal knowledge, nor can a private admission counteract a public denial with regards to the debt.