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EARNING HALAL

Importance & Key Issues

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- Acceptance of even purely devotional observances depends on correct observance of the rules on mu'āmalāt

عَنْ أَبِي هُرَيْرَةَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ « أَيُّهَا النَّاسُ إِنَّ اللَّهَ طَيِّبٌ لَا يَقْبَلُ إِلَّا طَيِّبًا وَإِنَّ اللَّهَ أَمَرَ الْمُؤْمِنِينَ بِمَا أَمَرَ بِهِ الْمُرْسَلِينَ فَقَالَ (يَا أَيُّهَا الرُّسُلُ كُلُوا مِنَ الطَّيِّبَاتِ وَاعْمَلُوا صَالِحًا إِنِّي بِمَا تَعْمَلُونَ عَلِيمٌ) وَقَالَ (يَا أَيُّهَا الَّذِينَ آمَنُوا كُلُوا مِنْ طَيِّبَاتِ مَا رَزَقْنَاكُمْ) ». ثُمَّ ذَكَرَ الرَّجُلَ يُطِيلُ السَّفَرَ أَشْعَثَ أَغْبَرَ يَمُدُّ يَدَيْهِ إِلَى السَّمَاءِ يَا رَبَّ يَا رَبَّ وَمَطْعَمُهُ حَرَامٌ وَمَشْرَبُهُ حَرَامٌ وَمَلْبَسُهُ حَرَامٌ وَغُذِيَ بِالْحَرَامِ فَأَنَّى يُسْتَجَابُ لِذَلِكَ ». [مسلم]

Abu Huraira reported Allah's Messenger sws as saying: O people, Allah is Good and He therefore accepts only that which is good. And Allah commanded the believers as He commanded the Messengers by saying: “O Messengers, eat of the good things, and do good deeds; verily I am aware of what you do”. And He said: “O those who believe, eat of the good things that We gave you”. He then made a mention of a person who travels widely, his hair dishevelled and covered with dust. He lifts his hand towards the sky (and thus makes the supplication): “O Lord,O Lord,” whereas his diet is unlawful, his drink is unlawful, and his clothes are unlawful and his nourishment is unlawful. How can then his supplication be accepted? [Muslim]



ZAKĀT

Payers, Recipients & Calculation



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ZAKĀT PAYERS AND RECIPIENTS

Conditions to be fulfilled for Zakāt to be payable

- A person must be a muslim, sane, adult, and sāhib un-nisāb

Recipients of Zakāt

- Primary recipients of Zakāt are **poor** and **destitute**
- A person's poor relatives should be given preference when distributing Zakāt above other poor people.

Those barred from receiving Zakāt

- Certain Hashimites, payer's lineal descendants or ascendants or payer's spouse

On current [05/05/11] market rates the Niṣāb level is £2,583.45 for Gold and £469.72 for Silver above which Zakāt is payable at 2.5%.

Intention at disbursement and recipient's ownership are necessary for the validity of Zakah



PERSONAL ASSETS

IMPORTANT RULES

1. All assets owned for PERSONAL USE are exempt from Zakāt except **Cash, Gold & Silver** which are always subject to Zakāt
2. Zakāt is always paid on the balance of the assets owned on the zakātable anniversary and not any fluctuating figure during the year.
3. Zakāt is NOT payable on Ḥarām income. This must all be donated to charity.
4. Zakāt is also payable on livestock and agricultural crops

BUSINESS ASSETS

ZAKĀT POSITION DEPENDS ON YOUR INTENTION

i) Clear intention to resell

Zakāt due on entire Asset value – always use Selling Price

ii) Clear intention to hold as an Investment

Zakāt not payable on entire asset value but payable on net income from asset. For shares, Zakāt ONLY payable on stock and cash. Zakāt is NOT payable on goodwill or fixed equipment.

iii) Clear intention to reside (if Asset is property)

No Zakāt Payable

iv) No clear intention

No Zakāt payable on asset value, but income received subject to Zakāt



BUSINESS ASSETS

INTENTION NOT TO RESELL IMMEDIATELY

- i) Business Owners – Zakāt payable on stock and cash only NOT on goodwill or on capital equipment / property
- ii) Shares – Zakāt is NOT payable on value of shares – Zakāt is payable ONLY on the cash balance and stock valuation – this needs calculating
- iii) Properties – Zakāt is ONLY payable on net rental income
- iv) Pensions – Zakāt is ONLY payable if you can choose how to invest the pension fund – the amount of Zakāt depends on the asset being invested in. (property fund / shares / cash fund etc.)
- v) Child Trust Fund – Zakāt is NOT payable. After child receives cash on 18th birthday, they are personally responsible for paying Zakāt .

LIABILITIES / DEBTS

DEBTS OTHERS OWE YOU

There are three categories of debt:

1. Strong debt – debts incurred in consideration of commercial goods or loans.
2. Weak debt – debt that accrues without consideration or in consideration of other than what is deemed 'property'.
3. 'Medial debt' – debt incurred in consideration of non-commercial goods.

Bad debts – lost all hope of recovery – Zakāt is not payable

DEBTS OWED TO OTHERS

1. Debts owed to others are deductible from your Zakātable total if they are to be repaid in full within the next twelve months.
2. For long term loans paid by instalments only twelve months worth of instalments may be deducted.
3. In conventional loans only the principal amount to be paid back may be deducted.



Case Study

Ayesha on her Zakāt Anniversary date, 10th of Ramaḍān, takes account of her finances as follows :

- Personal car / clothing / furniture: £15,000
- Personal Gold jewellery £2,000
- Owns 50% of home, worth £250k, diminishing mushāraka finance £125k
- Owns half of another property – rented out. Value of property £180k.
- Ayesha has an opticians business which has stock of glasses and contact lenses worth £20k.
- Cash in her business account totals £15k, in her personal account £10k
- Owns some shares in BP for resale only = £2k
- She has lent £3k to her friend
- She has a Personal Pension, chosen to invest in Sharī'ah compliant cash account, MV = £30k
- She owes £5k to suppliers of glasses
- 3 years worth of Instalments are outstanding on furniture purchased, total debt outstanding = £6k



CASE STUDY

Personal Car / Clothing / Furniture	Non zakātable
Gold	zakātable
Main Residence	Non zakātable
Investment Property	Not zakātable
Stock in business	zakātable
Cash	zakātable
Shares	Fully zakātable
Money owed to Ayesha	zakātable
Pension	zakātable
Money owed to supplier	Deductible for Zakāt
Debt on furniture	12 Months Deductible for Zakāt

SUMMARY

- Zakāt is the 3rd Pillar of Islam and compulsory if you are Sāhib un Nişāb
- Zakāt is a purification of one's wealth and a right of the poor over the rich
- Failure to pay Zakāt at all or to under pay Zakāt is a major sin
- Those whose total wealth, excluding basic necessities and debts is below Nişāb level can receive Zakāt.
- Zakāt should be calculated promptly on the annual Zakāt date and then paid as soon as possible, at the latest within one year.
- Three main assets are subject to Zakāt : 1.gold & silver 2.cash and 3. business assets
- Business assets include shares, pensions, CTF, home purchase plans, properties
- Debts receivable from others are added to Total Assets in the Zakāt Calculation
- Debts payable to others are subtracted in the calculation
- Zakāt is payable at 2.5% on Net Assets



Student Loans & Pension Schemes

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Student Loans

- Repayments start once graduate starts earning over a minimum salary threshold.
- Same value of loan paid.
- Amount to be repaid is linked to the rate of inflation commonly gauged by the CPI (consumer price index).
- Inflation is a rise in general prices of goods and a rise in inflation would mean a decrease in the purchasing power of money.



Pension Schemes

Pensions are long-term investments with special tax rules designed to help people save for retirement.

One may start receiving pension after an age of 55.

Four main types

- State pension
- Occupational Salary Related Schemes – eg. Final salary pension schemes
- Occupational Defined Contribution Schemes – Money Purchase pension schemes
- Personal Pensions

Pension Schemes

State Pension

- NI contributions are deferred salary and pension is a contract between the State and employee?
- Or NI contributions are a legal requirement and not deferred salary?
- The state pension must be a unilateral undertaking from the State.

Pension Schemes

Final Salary Pension Schemes

- Amount of pension dependent upon length of time served in the scheme, pre-retirement final earnings and scheme accrual rate.
- The pension payments are a deferred portion of the ujah.
- There is uncertainty in the amount of remuneration. Therefore, the employment contract is defective.
- Is final salary pension scheme a separate contract?

Pension Schemes

Money Purchase Schemes

- Amount of pension dependent upon total money paid, investment performance and annuity rate at the date of retirement.
- An annuity where a regular income for life is purchased in return of the pension fund; it is not compatible with Shariah.
- Shariah-compliant alternatives to purchasing annuities are available.
- Underlying investment must be Shariah-compliant.

Zakat on Pension Schemes

Zakah Payable – Before receiving pension

- Money Purchase Schemes
- Personal Pension Schemes

Zakah Not Payable

- Final Salary Pension Schemes
- State Pension

However Zakah will be payable after receiving pension



ISLAMIC WILLS & INHERITANCE PLANNING

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مَا حَقُّ امْرِئٍ مُسْلِمٍ لَهُ شَيْءٌ ، يُوصِي فِيهِ يَبِيتُ لَيْلَتَيْنِ ، إِلَّا وَوَصِيَّتُهُ
مَكْتُوبَةً عِنْدَهُ . [البخارى] وفي رواية لمسلم : ثَلَاثَ لَيَالٍ . وَقَالَ عَبْدُ اللَّهِ بْنُ
عُمَرَ : مَا مَرَّتْ عَلَيَّ لَيْلَةٌ مُنْذُ سَمِعْتُ رَسُولَ اللَّهِ -صلى الله عليه وسلم-
قَالَ ذَلِكَ إِلَّا وَعِنْدِي وَصِيَّتِي. [مسلم]

It is not the right of a Muslim who has something to bequeath that he should spend two nights except that his bequest should be recorded with him.

[Bukhari]

In the narration of Muslim, three nights are mentioned.

'Abd Allah b. 'Umar said: Not one night did pass upon me since I heard the Messenger of Allah say that except that my bequest was with me.

[Muslim]

Bequests cannot be made in favour of an inheritor



Bequests are valid up to only 1/3 of the estate

عَنْ عَامِرِ بْنِ سَعْدِ بْنِ مَالِكٍ عَنْ أَبِيهِ قَالَ قَالَ عَادَنِي النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - عَامَ حَجَّةِ الْوَدَاعِ مِنْ مَرَضٍ أَشْفَيْتُ مِنْهُ عَلَى الْمَوْتِ ، فَقُلْتُ يَا رَسُولَ اللَّهِ ، بَلَغَ بِي مِنَ الْوَجَعِ مَا تَرَى ، وَأَنَا ذُو مَالٍ وَلَا يَرِثُنِي إِلَّا ابْنَةٌ لِي وَاحِدَةٌ ، أَفَأَتَصَدَّقُ بِثُلْثِي مَالِي قَالَ « لَا » . قَالَ فَأَتَصَدَّقُ بِشَطْرِهِ قَالَ « الثَّلَاثُ يَا سَعْدُ ، وَالثَّلَاثُ كَثِيرٌ ، إِنَّكَ أَنْ تَذَرَ ذَرِّيَّتَكَ أَغْنِيَاءَ خَيْرٌ مِنْ أَنْ تَذَرَهُمْ عَالَةً يَتَكَفَّفُونَ النَّاسَ » . [البخارى]

'Aamir b. Sa'd narrated from his father, he said: The Prophet visited me during the year of the Farewell Hajj while I was suffering from a disease which brought me to the verge of death. I said, "O Allah's Apostle! My ailment has reached such a (bad) state as you see, and I have much wealth, but I have no-one to inherit from me except my only daughter. Shall I give 2/3 of my property as alms (in charity)?" The Prophet said, "No," I said, "Shall I give half of my property as alms?" He said, "No." I said, "(Shall I give) 1/3 of it?" He replied, "1/3, and even 1/3 is abundant. It is better for you to leave your inheritors wealthy rather than to leave them poor, begging people (for their sustenance).

[Bukhari]



Wife receives (of husband's estate)

$\frac{1}{8}$ = if he has a **child or son's child** however low

$\frac{1}{4}$ = if he has **no child or son's child** however low

Husband receives (of wife's estate)

$\frac{1}{4}$ = if she has a **child or son's child** however low

$\frac{1}{2}$ = if she has **no child or son's child** however low

Father receives

$\frac{1}{6}$ = if deceased has **no son, son's son** etc

$\frac{1}{6} +$ residue if any = if deceased has only a **daughter, son's daughter, or son's son's daughter, etc**

residue = if deceased has **no children**

Mother receives

$\frac{1}{3}$ = if deceased has **no child nor two or more brothers/sisters**

$\frac{1}{6}$ = if deceased has **a child or two or more brothers/sisters**

Sons get twice what daughters receive (of the residual estate)

If **2 or more daughters** exist = they receive $\frac{2}{3}$ of the estate.

If **One daughter** alone = she receives $\frac{1}{2}$ the estate.

SOME KEY RULES



ENGLISH INHERITANCE LAW

LAWS OF INTESTACY

- Any jointly owned assets (e.g. family home) pass automatically to surviving partner
- For assets owned in sole name, first £250,000 & chattels (personal belongings) to husband/wife
- Half balance of estate in Trust with husband/wife having right to income
- Remaining balance in Trust for children if under 18.

U.K INHERITANCE TAX

- Tax can be levied on death, regardless of whether a will is in place.
- Tax payable at 40% on assets above NRB
- NRB currently stands at £325,000 (2010)
- System can be at complete odds with Shariah

INHERITANCE TAX CASE STUDY

House	275,000
Stocks & Shares	10,000
Pension Fund	20,000
Cash in Bank	20,000
TOTAL ESTATE	<u>325,000</u>

TAXATION ON DEATH

Estate Value	£325,000
Less Allowance	£325,000
Net Estate	£0
Tax Liability @ 40%	=£ 0



INHERITANCE TAX CASE STUDY

House	£250,000
Stocks & Shares	£50,000
Pension Fund	£50,000
Cash in Bank	£50,000
Additional Property	£500,000
TOTAL ESTATE	<u>£900,000</u>

SAVING INHERITANCE TAX

THE KEY RULES

1. Single persons have £325k tax free allowance (NRB)
2. Married couples have double NRB (£650k)
3. No Inheritance Tax liability on transfers to spouse
4. Death within 7 years of making a gift may result in a tax liability
5. Use of Trusts



SUMMARY

- As English law does not ensure Shariah distribution of wealth on death it is vital each UK based Muslim has a Will – this is not optional but is arguably a Shariah obligation.
- Muslims who do not have inheritance tax concerns and are confident family dispute will not occur should use FREE template. They should contact a solicitor to convert jointly owned properties to tenants in common.
- Muslims with inheritance tax issues must seek professional advice.
- Muslims who have concerns over possible family disputes are recommended to seek professional advice.

