هيئة الزكاة والضريبة والجمارك
Zakat, Tax and Customs Authority

BOOK SUMMARY

FIQH OF ESTIMATION IN CALCULATING ZAKAH

AN APPLIED FUNDAMENTAL STUDY OF THE METHODOLOGY OF INVESTIGATION AND APPROXIMATION IN ZAKAH ON JOINT-STOCK COMPANIES

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The purpose of this summary is to give an outline of the book with little adaptation. This summary, however, is not to be regarded as substitute for the book, nor does it necessarily reflect the author's exact words.

Overview of the Summary

Nature of this summary: It is the first scholarly publication of Zakat, Tax and Customs Authority.

Author: Dr. \`Alî Ibn Muhammad Ibn Muhammad Nûr.

Summary: A methodology for summarizing this publication has been developed, and the summarization task was assigned to researcher: Nâsir Ibn Muhammadî Ibn Muhammad Jâd.

The Book: *"Fiqh of Estimation in Calculating Zakâh"* is an applied fundamental study of the methodology of investigation and approximation in calculating *Zakâh* for joint-stock companies. The book is a thesis submitted by the researcher to obtain PhD degree in the field of (Fiqh and Its Fundamentals) from the Department of Islamic Studies, College of Education, King Saud University. The thesis was discussed on Wednesday 14/4/1441 A.H.

The discussion committee consisted of the following members:

1- Prof. Dr. \`Abdul-\`Azîz Ibn Su\`ûd Ad-Duwayhî, as a supervisor and rapporteur.

2- Dr. Khâlid Ibn Rashîd Al-\`Adîm, as an assistant supervisor.

3- Prof. Dr. Yûsuf Ibn \`Abdullâh Ash-Shubîlî, as a member.

4- Prof. Dr. Nadhîr Ibn Muhammad At-Tayyib Ûhâb, as a member.

5- Prof. Dr. Muhammad Ibn \`Abdul-\`Azîz Al-Yumnî, as a member.

At the end of discussion, the discussion committee unanimously approved the researcher's thesis, with a recommendation to print and make use of it in relevant scientific bodies. The researcher was granted the PhD degree in Islamic studies (Fiqh and Its Fundamentals) with the grade: (Excellent).

Importance of Fiqh of Estimation in Calculating *Zakâh*

This book combines two important branches of knowledge: Fiqh and Accounting. This makes it an important scholarly addition to the calculation of zakatable base for joint-stock companies. This is because common accounting disclosure differs from disclosure and assessment required for calculating *Zakâh* properly, such as the assessment of goods stocked for trade for less than their cost or market value, or because such an application is contingent on some details that cannot often be obtained from financial reports. It helps many investors, who own shares in companies that do not pay the obligatory *Zakâh* on behalf of the shareholders, or even disclose the Shari'ah amount due on them, and thus they are unable to calculate the *Zakâh* themselves, to free themselves from the blame of Shari'ah.

Why this book?

Zakâh is both an act of worship and a social duty. It is a financial obligation. *Zakâh* is taken from capitals (principal amounts) and yields (returns) in specific proportions subject to the condition of *Niṣâb* (i.e. minimum amount determining a person's zakatability) and *Ḥawl* (i.e. *Zakâh* year) to be paid to the poor and the needy as an established right to them.

With the successive economic development in Islamic countries, the diversification of financial institutions, the spread of companies that own wealth, the expansion of their financial dealings, in addition to the complexity of many financial reports issued by these institutions that are prepared and published according to accounting standards that do not, necessarily, disclose the information needed for the process of calculating *Zakâh*, be it related to the conditions of obligating *Zakâh* on zakatable wealth, or to the determination of its amount. It is therefore necessary to consider what this development entails in terms of the development of rulings.

Therefore, an urgent need arises to set the principles of calculating *Zakâh* for joint-stock companies based on the companies' financial reports. This study, accordingly, establishes the foundation of the Fiqh of estimation in calculating *Zakâh*, its guidelines and impacts. It clarifies the Fiqh-based issues related to *Zakâh* regarding financial disclosure in joint-stock companies, and provides a Fiqh-based study of the issues for which estimation in calculating *Zakâh* for joint-stock companies is needed, for both the investor who can deal properly with these financial reports, and the investor who cannot do so. It also addresses methods of estimating *Zakâh* on shares for those who cannot deal with financial reports.

Concepts and Terminology

Since the calculation of *Zakâh* for joint-stock companies depends on accounting outputs of financial statements, it was appropriate to commence this study by clarifying the definition of *Muhâsabah* (i.e. accounting) and highlighting its significance and functions. Then, the study tackles the definition of *Zakâh* accounting as being a scientific and professional field that combines between the Fiqh of *Zakâh* and Accounting.

Accounting:

It is defined in many academic studies as: "A system for providing quantitative information about an entity and communicating this information to the relevant parties to be useful in making decisions."

Zakâh accounting:

Zakâh accounting is defined, as an application to the Fiqh of *Zakâh*, as: "Determining and measuring the amount of *Zakâh* on wealth, identifying its distribution to its various channels, and then disclosing all of that in accordance with the Fiqh of *Zakâh*."

Accordingly, the significance of *Zakâh* accounting is based upon the following:

1- It relates to *Zakâh* which is a pillar of Islam and one of its great rituals. No doubt that the importance of a science is measured by the importance of its subject.

2- It is a means of applying the rulings of *Zakâh* to our contemporary time; rather, it is necessary to know about it in order to apply *Zakâh* to some zakatable wealth properly, particularly in companies and commercial entities.

Joint-stock company:

The Saudi Companies Law defines a joint-stock company as: "The capital of a joint-stock company shall be divided into negotiable shares of equal value. A joint-stock company shall be solely liable for debts and liabilities arising from its activities."

The joint-stock company is distinguished by a number of characteristics:

- It is a corporation in which *intuitu personae* is not considered.
- Limited liability of shareholders, as the liability of the shareholder is equal to his shares.
- Shareholder does not acquire the trader status. As a result, the shareholder is not required to have the capacity to professionalize trade, and he is not bound by the obligations of traders.

Contemporary *Ijtihâd* (i.e. legal reasoning and discretion) of Fiqh has settled on the permissibility of joint-stock companies if their activities and purposes are permissible. This is the opinion adopted by the OIC International Islamic Fiqh Academy (IIFA) in Jeddah.

Purposes of Shari'ah in Calculating *Zakâh*

This blessed Shari'ah has been established to achieve great benefits and purposes. Acquaintance with these purposes is among the first priorities to be observed on the way to comprehend Shari`ah rulings and its application to practical cases. As a result of inducting Shari'ah texts and comprehending Shari'ah rulings, three purposes related to the calculation of *Zakâh* have emerged, as follows:

Clarification and explanation:

Among the considered purposes of Shari'ah is the clarification and explanation as to the rulings of *Zakâh* and the basics of determining the rate payable in this respect, so that it would be easy for both the payer of *Zakâh* and its collector. The aim of clarification and explanation is to help the payer of *Zakâh* be aware of what he is commanded to do, so that he would have reassurance about his compliance with the Shari`ah commands, and have argument which keeps him safe from the oppression and exploitation of *Zakâh* collectors.

Facilitation:

The main point here is facilitation for wealth owners. However, this purpose also includes facilitation for collectors and distributers of *Zakâh*, as well as the recipients of *Zakâh* in terms of benefitting from it.

With regard to facilitation for the owners of wealth, this is clear in the following four aspects:

- **Facilitation in the reason for obligating *Zakâh*:** *Zakâh* becomes obligatory only after possessing the minimum amount of *Niṣâb* indicative of richness, even if the affordability is assured below it.
- **Facilitation in payable rate:** The Legislator aimed at imposing a small amount as being the rate due on the payer, especially that he gives away what is much beloved to himself, so that he could pay *Zakâh* with a willing heart in obedience to Allah's command. So, the Legislator has prescribed a small rate of *Zakâh* to be paid out of much wealth, considering the hardships encountering the payer to collect and grow his wealth. Also, the Legislator forbade taking one's best (most expensive) belongings as shares of *Zakâh*.
- **Facilitation in calculating the *Zakâh* due:** The Legislator aimed at facilitating the calculation of *Zakâh* through a numerical value that is based on an accurate accounting system, so that it would be easier for the payer and the collector to comprehend.
- **Facilitation in the kind of the amount to be paid:** The Legislator obligates that *Zakâh* on livestock, crops and fruits should be paid out from the same kinds of wealth so as to facilitate the payment of *Zakâh* for the owners of wealth. However, Shari'ah has permitted to pay *Zakâh* from different kinds of wealth if there is a major benefit, such as the obligation of sheep in the lowest *Niṣâb* of camels, and the *Zakâh* on goods stocked for trade.

Justice:

Justice means to maintain balance between the right of wealth owners and that of the recipients regarding the estimation of *Zakâh*, so that *Zakâh* would neither inflict prejudice against the owners of wealth nor the poor.

Concept of Estimation in Calculating *Zakâh*

Estimation in the context of Fiqh and fundamentals:

Linguistic definition of the Arabic term *"Taqdîr"* is to measure (or estimate) something based on, in relation to, or using something else.

Terminological definition of *"Taqdir"*: Fiqh scholars and fundamentalists use the term *"Taqdîr"* to reflect meanings as follows:

The first is "determination" which is commonly used as "Shari'ah Estimates".

The second relates to the "Shari'ah-Based Estimations Rule".

First meaning:

"Shari'ah Estimates" can be defined as: "Any conditions and descriptions set out by the Legislator to achieve compliance with Shari'ah obligations." It is anything whose amount is determined by capacity, weight, number (of unit), or length, or whose time or place is determined by the Legislator. "Estimates" are to be based only on definitive ruling not on *Qiyâs* (i.e. analogical deduction). "Estimates" are to be specified based on *Tawqîf* (i.e. being bound by a Shari'ah text and not amenable to legal reasoning and discretion) and *Sam`* (i.e. hearing; a Shari'ah ruling transferred directly from a source of legislation) not on induced rulings. It is worth mentioning that the wisdom behind "Estimates" is often unknown. This is why any judgement or opinion regarding "Estimates" is to be relied totally on Shari'ah text.

Divisions of "Shari'ah estimates":

"Shari'ah Estimates" are divided or classified based on determination and approximation into three sections, as follows:

- **Where estimation is aimed at determination.** In this case, determination is to be strictly adhered to without any increase or decrease. An example is the determination made by Allah, the Exalted, of the amounts of inheritance
- **Where estimation is aimed at approximation.**
- **Where estimation is disagreed upon,** whether it is aimed to determination or approximation.

"Shari'ah Estimates" are classified based on deduction as follows:

- **"Shari'ah Estimates" whose proofs are based on texts from the Qur'an, Sunnah or other texts regard as Shari'ah text.** This is the principal rule for "Shari'ah Estimates".
- **"Shari'ah Estimates" deduced by means of *Qiyâs*:** Schools of Fiqh are of different opinions regarding this division. Some scholars stated that *Qiyâs* (i.e. analogical deduction) is not to be applied to "Shari'ah Estimates", which is the view adopted by the Hanafites based on the argument that the real meaning or wisdom behind "Shari'ah Estimates" is not recognizable. Other scholars viewed that Qiyâs may be applied to "Shari'ah Estimates", which is the view adopted by the majority of scholars, including the Malikites, the Shafiites and the Hanbalites based on the argument that "Shari'ah

Estimates" are in themselves Shari'ah rulings and therefore can be subjected to the rule of *Qiyâs* if the meanings or the wisdoms behind them are recognizable.

Zakâh is a matter in which the meaning of estimation appears clearly. In this regard, An-Nawawî says: "*Zakâh* is classified as obligatory because it is estimated and because it requires that the amount due be estimated. This is why the amount paid as *Zakâh* is called an obligation or an imposed share."

Second meaning:

"Shari'ah-Based Estimations rule":

The common definition of "Shari'ah-Based Estimations" is: "To give an existing matter the ruling of nonexistent, and to give a nonexistent matter the ruling of existent, and to give the advanced the ruling of the later, and to give the later the ruling of the advanced" or "to give the attributes and effects the ruling of the material objects."

"Estimations Rule" is a general rule in Shari'ah. It applies to both the Shari'ah points of consensus and disagreement. It is generally established, though disagreed upon with regards to some of its parts, as estimation is contrary to the origin.

"Shari'ah-Based Estimations Rule" is one of the rules intended to refer to correspondences and detailed cases. This is because detailed cases falling under this rule differ in terms of intent and evidence for each issue. They are very close to similarities and correspondences or Fiqh-related theories according to contemporary terminology. Imam Al-Qarâfî says: "It is announced that all matters should be interpreted based on one rule, which is the rule of estimations. It is a rule on which scholars have unanimously agreed. To interpret many individual cases based on one rule is always better than to interpret each individual case based on its relevant circumstances. This is more accurate for Fiqh and more beneficial for *Ijtihâd*. It is also the best method to be followed in Fiqh. This is exactly the method to be followed when it comes to interpreting Fiqh rulings, especially when it relates to Shari'ah rulings."

An example of giving a nonexistent matter the ruling of the existent is to apply to the trade profit or the production of freely grazing livestock the same rule applicable to its principal with regard to the *Hawl* (i.e. *Zakâh* year) in case of *Zakâh*.

An example of giving the existent the ruling of the nonexistent is that the *Nisâb* (i.e. minimum amount determining a person's zakatability) of *Zakâh*, owned by legally competent person, is to be considered as nonexistent if countered by a debt of an equal amount.

Relevant concepts and expressions:

- ***Ma`nawî* (i.e. Meaningful):** Relative to the meaning, which is the intention that appears and is highlighted in the expression.

  In terminology, it is defined as: "A considered description relied upon in Shari'ah judgments, and its existence is estimated in the subject matter, though not existing in reality."

- ***Hukmî* (i.e. Legal):** Relative to legality.

  In terminology, it is defined as: "Whatever given the ruling of another matter for an unreasonable matter. The opposite of legal is actual."

- ***I`tibârî* (i.e. Considered):** Relative to consideration.

  In terminology, it is defined as: "Consideration is to represent a thing by another thing and apply the ruling of the first to the latter."

- ***Iftirâḏ* (i.e. Assumption):** Derivative of "*Farḏ*" which implies the meanings of incising and cutting

  In terminology, it is defined as: "An estimated possibility which does not correspond to reality nor taken into account. It may or may not be possible." The same meaning applies to Fiqh of Assumption, which assumes the possibility of a matter (to be existent) in order to be examined and studied.

- ***Taẖarrî* (i.e. Investigation):** The aim or intention (to reach something or seeking for something).

  In terminology, it is defined as: "Seeking something based on probability where it is reality is not known."

Accounting Estimate:

Accounting Estimate is defined as: "An approximation of a monetary amount in the absence of a precise means of measurement." The term "Accounting Estimate" is relevant to the research topic. This is because it may be difficult to accurately estimate some financial items in financial statements by means of measurement, which is one of the accounting functions as mentioned earlier. This is because these financial items depend on results of future events, or because the appropriate data related to actual events cannot be obtained in a timely manner based on the cost-benefit basis. As a result, accountants usually use accounting estimate.

Estimation depends on professional judgment. It also involves judgments based on information available when the financial statements are prepared. This type of measurement depends on the conditions existing at the time of measurement. Examples of "Accounting Estimate" include allowance for price decline, allowance for doubtful accounts, asset useful life, waste value, depreciation expense, and provision for claims.

Estimation in Calculating *Zakâh* for Joint-Stock Companies

Concept and types:

The concept of estimation in calculating *Zakâh* for joint-stock companies can be defined as: "Practicing *Ijtihâd* (i.e. legal reasoning and discretion) to determine *Zakâh* of joint-stock companies on a basis of approximation."

There are two types of estimation in calculating *Zakâh* for joint-stock companies:

Overall estimation:

Where estimation of *Zakâh* is made in a way that does not depend on the companies' financial statements. This is due to the inability to access to these statements, or the inability to deal with the outcomes of the financial system.

Partial estimation:

It is related to single examples of partial questions when relying on the outputs of the accounting system in calculating *Zakâh*.

Importance of estimation in calculating *Zakâh*:

The need for applying estimation in calculating *Zakâh* for joint stock companies appears in the following:

(a) The information provided by joint-stock companies in their financial reports is intended to help the beneficiary to make his investment decision. It is not intended for providing the user with the information required for Shari'ah-based calculation of *Zakâh*. If the shareholder is required to know the information necessary to calculate the *Zakâh* due in the funds of joint-stock companies on the basis of investigation, then he will be provided only with such extent of information introduced by financial statements.

(b) Although joint-stock companies are treated as having independent legal personality, there is much overlap and interdependence among these companies. This makes it impossible to know the reality of the assets represented by the shares of these companies.

To illustrate, a person may invest in the shares of company (A), and this company is investing in another company (B). Meanwhile, company (B) is investing in company (A), which the shareholder wants to know the assets represented by its shares, or in other companies (C, D, E, ...etc.)

(c) Joint-stock companies may invest in other companies whose financial data cannot be accessed either because these companies do not publish their financial reports to the public or because its shares are not traded, or because investment is indirect, such as investing in equity investment funds. This makes it difficult even for company officials to know all the information required for calculating *Zakâh* on these assets.

(d) Accounting information provided by financial reports imply estimation and assumption, which indicates the fact that investigation is not possible to be achieved through estimation.

(e) Assuming that it is possible to verify the percentage represented by the share, this will imply cost and difficulty that exceed the desired interest in disregarding the potential error in estimation, whether this error is corrected in favor of the *Zakâh* payer or the person entitled to *Zakâh*. This violates the Shari'ah rules regarding observing and supporting interests and preventing and mitigating the harm inflicted.

Permissibility of Applying Estimation in Calculating *Zakâh*

Applying estimation in calculating *Zakâh* in accordance with considerable conditions is one of the licenses granted by Allah, Glorified be He, in this regard. This results in removing the hardship a *Zakâh* payer may suffer when calculating *Zakâh*, whether acting upon estimation requires reduction in the amount paid, payment before or after the due date, or inconsistency with requirements regarding description. All this is to be forgiven thanks to the licenses acted upon.

There is a variety of Shari'ah evidences indicating the permissibility of applying estimation in calculating *Zakâh*, including removing hardship regarding the rulings which Allah has prescribed for this (Muslim) nation:

[1] ***{"…and has not laid upon you in religion any hardship…"}***: This religion is based on easiness and facilitation with regard to acts of worship.

[2] ***{"Allah wishes to lighten (the burden) for you; and man was created weak."}***: Allah makes compliance with His commands conditional on ability to do so.

[3] ***{"…So, keep your duty to Allah and fear Him as much as you can; listen and obey…"}***: Shari'ah enjoins *Tasdîd* (i.e. performing good deeds properly) and *Muqârabah* (i.e. seeking closeness to proper performance of deeds), as indicated in the hadith, saying: *"So, seek Tasdîd, and Muqârabah"*.

[4] The Prophet (peace and blessings of Allah be upon him) ordered crops to be assessed for the sake of *Zakâh* payment. The majority of scholars are of the view that it is permissible for the Imam to send someone to assess how much dates and grapes are due for *Zakâh* on fruits. In this case, the fruits of dates and grapes are to be assessed or estimated (for *Zakâh*) after they dry out, which is regarded as permission for their owners to dispose of them whether by eating or selling. The four schools of Fiqh (the Hanafites, the Malikites, the Shafiites, and the Hanbalites) adopted this opinion as they agree on assessment as a method to find out the due amount of *Zakâh*, even if they differ in some of its effects, as in the case when it turns out that the assessment is contrary to the reality when the fruit dries up, or if the fruit is being heavily damaged by a blight. Whereas Shari'ah permits assessment for a *Maslahah Râjihah* (i.e. a major benefit) in case of grapes and dates, then this can be taken as an evidence for the permissibility of applying assessment where the *Zakâh* payer lacks the full knowledge required to comply with the Shari'ah ruling on *Zakâh*.

[5] Extrapolation of Shari'ah rulings and *Ijtihâd* of the scholars of Fiqh regarding *Zakâh* indicates that estimation can be used in calculating *Zakâh* in order to facilitate the process of calculating *Zakâh* for *Zakâh* payers, to relieve the owners of property and the people entitled to receive *Zakâh* from any hardship in this regard. This is despite the fact that estimation may result in a decrease or increase in the due amount of *Zakâh*.

Conditions of Applying Estimation in Calculating *Zakâh*

Whereas the application of estimation in calculating *Zakâh* is regarded as a deviation from the original ruling on calculating *Zakâh* with the aim of removing any hardship regarding the information disclosed in the financial statements of the joint-stock companies, then it is important to figure out the conditions subject to which estimation may be applied in the calculation of *Zakâh*.

These conditions are, generally, represented in the Shari'ah rules on removing hardship and on cases of necessity in Islamic Shari'ah, **which can be summarized in three conditions as follows:**

Condition (1): It is very difficult or impossible to calculate *Zakâh* accurately

This can be explained throughout three issues, as follows:

Issue (1): Rule of considerable need

According to this rule, estimation may be exercised only where a considerable need thereof arises. Regarding the rule of considerable need to calculation of *Zakâh*, it can be said: "It is the public or individual hardship incurred by *Zakâh* payer when calculating *Zakâh*, and which results in violation of one of the Shari'ah purposes with regard to calculation of *Zakâh*."

Issue (2): Relationship between the need and the obligated persons

The hardship incurred in calculating *Zakâh*, requiring estimation to be applied, relates to one of three persons as follows:

- **First:** The person required to pay *Zakâh*, i.e. the owner of the property or his representative. *Zakâh* payer in joint-stock companies may not have knowledge regarding financial statements or accounting. Moreover, he may have access only to such information as disclosed in financial statements.
- **Second:** *Zakâh* collector who collects and delivers *Zakâh* to entitled persons. He is the person appointed by the ruler to collect *Zakâh* and represented now by the bodies authorized to calculate and collect *Zakâh*.
- **Third:** Persons entitled to *Zakâh*, including the poor and others. Hardship may be incurred by the poor (entitled to *Zakâh*) due to the nature of the object paid as *Zakâh*. For example, where *Zakâh* is paid in the form of grains and fruits, the *Zakâh* receiver may experience hardship in storing them in proper condition. In this case, paying the value of *Zakâh* in cash may be more proper substitute for *Zakâh* receiver. Also, hardship in case of *Zakâh* receiver may relate to the time of payment, or quantity of *Zakâh*.

Issue (3): Categories of need in calculating *Zakâh*

Estimation may be applied to one of the following two cases:

- **First:** Where a *Zakâh* payer lacks the information required for calculating *Zakâh* in accordance with Shari'ah.
- **Second:** Where calculation of *Zakâh* results in a breach of the purpose of justice between the rights of the poor and the rich.

Condition (2): Estimation is to be based on Shari'ah principle

This Shari'ah principle, which, due to the considerable hardship involved, must be more preponderant than the original rule applicable to the calculation of *Zakâh*.

Condition (3): Applying estimation shall not contradict with another more considerable principle

This condition is based on three matters:

First: Applying estimation shall not contradict with a prohibition that, initially, prevents the exercise of estimation

As in the case where there is a definitive proof or absolute unanimity that prevents applying *Ijtihâd* (i.e. legal reasoning and discretion) on the matter in question.

Second: Estimation applied on *Zakâh* shall not to contradict another more considerable estimation

This is because where the original Shari'ah ruling cannot to be applied, then the closest method proper to establish the Shari'ah ruling is to be applied instead.

Third: Estimation resorted to is to be more likely to achieve Shari'ah interests in calculating *Zakâh*

This condition is the scale that a *Mujtahid* (i.e. a scholar practicing legal reasoning and discretion) should take into account in considering matters of estimation. Accordingly, he must examine the consequences of estimation, interests to be achieved and evils to be averted, taking into account the aforementioned purposes of the Shari'ah behind *Zakâh* in general, and in calculating *Zakâh* in particular, in an attempt to make a balance between the good and the best.

Impacts of Applying Estimation to Calculation of *Zakâh*

Ruling on the *Zakâh* paid by way of estimation:

Applying estimation discharges the payer's liability with regard to the amount to be paid as *Zakâh*, regardless of any reduction or time shift in the amount payable, or any difference in the description of the item to be paid for *Zakâh*.

However, if a *Zakâh* payer, having paid the *Zakâh*, finds that, due to the application of estimation, the amount paid differs from the amount due, then this requires that the amount paid is being considered to find out whether it fulfills his *Zakâh* obligation or the due amount is to be paid.

To elaborate on this issue, it can be divided into three sections as follows:

Section (1): Where estimation results in payment of *Zakâh* in different types

An example of this is when a merchant buys a crop after the due date (of *Zakâh*), which is at the beginning of the month of Muharram, and is not sure where *Zakâh* is due on him, and so he pays *Zakâh* on such grains and fruits thinking it is due on him. Having paid such a *Zakâh*, the merchant realized that it was due on the seller. In this case, if the merchant transferred his property on which *Zakâh* of cash and goods stocked for trade is due at the beginning of Muharram, would the *Zakâh* of crops and fruits which the merchant paid fulfils his obligation regarding *Zakâh* of goods stocked for trade on the same property?

Earlier scholars are of two opinions regarding this issue:

- **Opinion (1):** *Zakâh* payer is to correct what he paid based on the value. That is, if the value of the *Zakâh* paid fulfils the obligation of *Zakâh*, then *Zakâh* is to be considered as paid and fulfilled.
- **Opinion (2):** What the person paid as *Zakâh* is not to fulfill what is to be paid of wealth due to the fact that it contradicts with the due *Zakâh* in terms of quantity and description.

Section (2): Where the amount paid (as *Zakâh*) is found to be less than the mount due

In this case, *Zakah* payer is required to pay the difference since a clearly wrong assumption is not to be taken into account. This is the opinion adopted by the Hanifites, the Malikites, the Shafiites, and the Hanbalites.

Section (3): Where the amount paid (as *Zakâh*) is found to be more than the mount due

Excess, in this case, is to be regarded as voluntary act of worship. This is because payment of *Zakâh* implies both the intention to fulfill an obligation and the intention to perform an act of worship. Accordingly, if obligation appears not to exist, there remains the intention of worship, upon which the excess is regarded as a voluntary act of worship. Scholars of Fiqh state that if the person assigned to assess a property overestimates such a property, then his assessment is not to be taken into account. This is because assessment is meant to determine the amount by means of assumption. Accordingly, assessment is to be disregarded if proven wrong. This is the opinion adopted by the Hanafites, the Malikites, the Shafiites and the Hanbalites. The Malikites and the Shafiites, however, do not accept without a proof the claim that the person assigned to assessment has committed a mistake.

There are two issues regarding such excess, as follows:

Issue (1): The ruling on recovering the excess from the person who received it

This issue is attributed to the ruling on a person who pays *Zakâh* in advance and then, upon the elapse of the *Hawl* (i.e. *Zakâh* year), comes to know that he is not required to pay *Zakâh* due to the fact the property is damaged or that the due *Zakâh* is less than the *Zakâh* he pays due to the decrease in the *Nisâb* (i.e. minimum amount determining a person's zakatability) of *Zakâh*.

Scholars of Fiqh are of three opinions regarding this issue:

- **Opinion (1):** If *Zakâh* is found to be undue after it has been paid to the poor, then it must be deemed as a voluntary charity and thus the *Zakâh* payer shall not be entitled to recover it whether it is paid to the poor by him or by the ruler. However, if *Zakâh* is still in the possession of the ruler, it may be recovered, whether announced as paid in advance or not. This is the opinion adopted by the Hanafites and the Hanbalites.
- **Opinion (2):** *Zakâh*, if proven undue, is to be recovered if paid to the receiver (whether being the collector or the person entitled thereto) and the receiver comes to know that it is paid in advance subject to a condition to that effect or by announcement from the payer or by any other means. This is the opinion adopted by the Shafiites
- **Opinion (3):** If *Zakâh* is paid to the ruler, then it may be recovered whether a condition that *Zakâh* is paid in advance is made or not. If *Zakâh*, however, is paid to the poor, then it may not be recovered unless a condition to that effect is made. This is one of the opinions adopted by the Shafiites.

Here, it appears that if *Zakâh*, having been paid to the ruler, is found to be undue, it must be returned to the person who pays it (i.e. *Zakâh* payer). This is because the ruler is entitled to collect the due *Zakâh* only, and accordingly, if *Zakâh* is proven undue, it may be returned to the person who pays it. The same applies where a person repays a debt on behalf of another person. In this case, if such debt is proven undue, the person is entitled to recover what he has paid.

If *Zakâh*, however, is paid to a person entitled thereto, then it may not be recovered. This is because recovery, in this case, violates the objective of *Zakâh*, which is to show kindness and *Muwâsâh* (i.e., charity and support which does not cause hardship to the owner and is sufficient for the poor) to the poor. Also, *Zakâh* is paid for a valid reason, which is to perform an act of worship, and such reason does not cease to exist if the obligation is not present. Accordingly, the person entitled to *Zakâh* is not required to return it.

Issue (2): Is it permissible to consider excess as *Zakâh* paid in advance for the coming years?

A number of contemporary scholars of Fiqh argue that it is permissible to consider the excess in *Zakâh* as a *Zakâh* for the coming year, as stated in Article (20) of *"Dalîl Al-Irshâdât Li-Hisâb Zakât Ash-Sharikât"* (i.e. Corporate *Zakâh* Calculation Guide).

What appears is that this does not hold true because payment of *Zakâh* in advance must be accompanied by a *Niyyah* (i.e. intention) to that effect upon payment. Yet, excess is to be determined only after payment and accordingly cannot be regarded as *Zakâh* paid in advance without being accompanied by an intention to that effect. The researcher tried to trace the opinions of early scholars in an attempt to find out a rule or a principle based on which such excess can be regarded as a *Zakâh* paid in advance but he found no text regarding this. Rather the scholars of Fiqh are of the opinion that such excess is to be regarded as a voluntary charity where no *Zakâh* is due. They, however, disagree whether such excess may be recovered or not in this case.

Here, it can be said that if it is found that the amount paid is more than the amount due as *Zakâh*, the excess may be recovered if such amount is paid to the ruler. In this case, if the amount of *Zakâh* is not recovered, it is to be regarded as a debt established in the liability of the Treasury and the *Zakâh* payer shall be entitled to deduct such an amount from any *Zakâh* due on him for the next years, if any. In this case, the ruler may repay the debt (i.e. the excess amount) from the *Zakâh* of the next years. In fact, this is more appropriate than considering the excess amount as a *Zakâh* paid in advance. This because payment of *Zakâh* in advance is subject to certain conditions, which may not be satisfied in this case, such as the condition that the *Nis̱âb* of *Zakâh* shall not decrease or be damaged during the *H̱awl* (i.e. *Zakâh* year).

This has an important impact on estimation of *Zakâh* for joint-stock companies, which is that *Zakâh* paid in advance is to be accounted only for the person upon whom *Zakâh* falls due, i.e. the person who owns the shares at the time the excess amount is paid not the person to whom the share is transferred. If, however, such excess amount is regarded as a debt, then the share, along with any rights and obligations associated thereto, including the debt (i.e. the excess amount) due in the liability of the Treasury, is to be transferred to the new investor (owner), and accordingly may be paid as *Zakâh* for the new investor.

Financial Disclosure of Joint-stock Companies: Concept, Principles, and *Zakâh*-Related Issues

In this chapter, we approach financial disclosure of joint-stock companies and shed lights on its principles and how it affects calculation of *Zakâh* and how to deal with any issues that may arise as a result of applying such principles to calculation of *Zakâh*.

Financial disclosure: Concept, types, and relation to calculation of *Zakâh*

Disclosure is one of the key concepts of accounting. It is related to one of the main goals of accounting. Some researchers have indicated that there is no unified definition for the concept of disclosure in accounting studies. This is because disclosure is a relative concept that varies according to the purpose and the beneficiary category.

The concept of disclosure can be divided into two definitions: General and Specific

First definition:

This definition is more general, where disclosure is defined as: "Providing information and data to users in a correct, documented and appropriate manner, to help them make decisions."

Disclosure in this sense includes any information or data that the economic establishment reveals to the beneficiaries by any means, including financial reports, financial market announcements, or any other means that fulfill its purpose, whether provided to beneficiaries from inside or outside the establishment, regardless of their purposes and needs. Disclosure, in this meaning, is not restricted to a specific type of decision, a specific type of users, nor a specific means.

Second definition:

This definition is what is meant here, and it may be called financial report because it is issued in the form of reports. The American Institute of Certified Public Accountants (AICPA), defined disclosure as: "Fair presentation in conformity with generally accepted accounting principles should be set forth in the financial statement (which include related notes)."

Purposes of financial disclosure (financial report):

- **Special purpose accounting disclosure:** It is the disclosure that is made to special parties.
- **General purpose accounting disclosure:** It means the disclosure of the economic establishment's data to all beneficiaries who have limited access to financial information and data, and the purpose of which is to make economic decisions related to the establishment.

Disclosure in this case is made through financial reports of public benefit, referred to as financial statements, which are considered as: "A structured representation of the financial position and financial performance of an entity. The objective of financial statements is to provide information about the financial position, financial performance and cash flows of an entity that is useful to a wide range of users in making economic decisions. Financial statements also show the results of the management's stewardship of the resources entrusted to it."

To meet this objective, financial statements provide information about an entity's (assets, liabilities, equity, income and expenses including gains and losses, contributions by and distributions to owners in their capacity as owners, and cash flows).

Relation of financial disclosure to calculation of *Zakâh:*

The general accounting disclosure, represented in financial statements, which is subject in its preparation to the principles, concepts and standards of accounting, is the main source that enables users to obtain information related to *Zakâh* on shares in joint-stock companies. These users are: **(Management of the company, authorities responsible for calculating and collecting *Zakâh*, and shareholders)**.

It is noted that financial reports and the accounting principles and standards on which they are based are the main source for calculating *Zakâh* for all of these categories, taking into account the disparity between them in terms of ability to understand and deal with these financial reports, or to obtain information that the financial reports may not provide, and the cost involved to obtain and verify this information

That is why it is important to evaluate these accounting principles in terms of their suitability for calculating *Zakâh* in accordance with the requirements of the Islamic Shari'ah, and then consider the problems resulting from relying on them, with the aim of finding alternative solutions to calculate *Zakâh* in the light of these problems.

Accounting Principles:
Concept, Components, and Zakatable Assessment

Here, we aim at evaluating the accounting principles represented in the conceptual framework for financial accounting, as well as evaluating this Framework in terms of its impact on the suitability of these accounting standards and financial reports for the calculation of *Zakâh*.

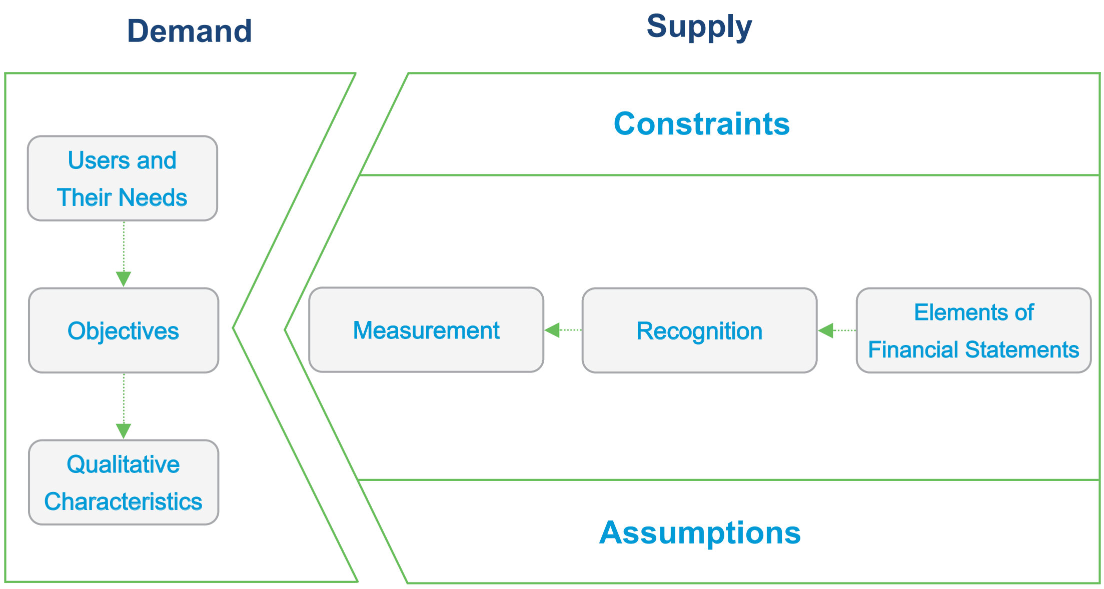
Accounting principles in accounting concept:

Accounting principles refer often to array of objectives, principles and limitations, the sum of which is called the conceptual framework for financial reporting, which is considered a temporary theoretical framework that can be continuously updated to serve as the basis for preparing accounting standards for financial reporting. This framework is intended to define the field of accounting and financial reports, as well as their limits and functions. It is also regarded as a basis for finding solutions to accounting problems.

The conceptual framework may be defined in brief as follows: "A coherent system that includes an interrelated set of concepts related to the objectives and fundamentals of science."

Components of conceptual framework for financial reporting and their impact on *Zakâh*:

The conceptual framework for financial reporting, in its current form, consists of eight concepts (principles), which together form the work plan for the conceptual framework for financial reporting.



[**Source:** *Intermediate Accounting, Kin Lo & George Fisher, (1: 65)*]

This diagram shows the concepts are divided into two sections, as follows:

- **Section (1):** The concepts of demand side of the financial reporting.
- **Second (2):** The concepts of supply side of the financial reports.

Statement of these concepts (principles) and their evaluation in terms of their impact on *Zakâh*:

First concept: Users

The conceptual framework for financial reporting defines the group of primary users in the conceptual framework specifically. The objective of general-purpose financial reporting is to provide financial information about the reporting entity that is useful to existing and potential investors, lenders and other creditors. It is established in contemporary Fiqh-related *Ijtihad* (i.e. legal reasoning and discretion) that the person in charge of *Zakâh* in joint-stock companies is the shareholder, and that the ruler may check whether that the person pays *Zakâh* according to the Shari'ah estimation and delivers it to those who deserve it. Accordingly, it can be said that those who use financial information to calculate *Zakâh* are: (the Shareholders and the State). Accordingly, the financial disclosure of *Zakâh* must be appropriate for these two categories in order to reach information about *Zakâh* due on the shareholders of the company.

Second concept: Objectives of financial reports

The conceptual framework defines the need or purpose that the general-purpose financial reports intend to meet for the specified categories, which is: "To provide financial information about the reporting entity that is useful to existing and potential investors, lenders and other creditors in making decisions relating to providing resources to the entity." The conceptual framework does not aim at addressing the shareholders' need to know the due amount of *Zakâh*. The outputs of the conceptual framework shall not necessarily be able to provide the shareholder with the information he needs to calculate *Zakâh*. It should be noted that the conceptual framework must disclose the amount of *Zakâh* in the event that the company gives it or the company is committed to pay *Zakâh* on behalf of the shareholders.

Third concept: Qualitative characteristics of financial information

The conceptual framework identifies six qualitative characteristics that make the accounting information included in the financial reports very useful for users in making decisions about the reporting entity. The qualitative characteristics of accounting information, in terms of their effect in providing useful information to users to make economic decisions related to the facility, are classified into:

- **Fundamental characteristics:** They are those characteristics that must be present in the information in order to be useful for the beneficiaries in making decisions, namely: relevance, faithful representation, completeness, neutrality, and free from error.
- **Enhancing characteristics:** They are: understandability, comparability, verifiability and timeliness.

An evaluation of the qualitative characteristics of the information can be summarized in the following points:

- **The concept of relevance** is related to the benefit of the information and data included in financial statements for the user in making an economic decision related to the facility. This characteristic is related to the general objective, and its effect appears in the connection between disclosing the item in financial statements and this objective. This means inconsistency for the consideration of *Zakâh* calculation whenever it contradicts the objective of accounting. The effect of this appears in a number of problems, in recognizing the item in financial statements, or the basis for its measurement, or the method of its disclosure, as will be discussed later in detail.

- **The principle of materiality** is related to the principle of relevance. The method of disclosing an item in financial statements is related to the materiality of the item for the user in making the economic decision. Accordingly, information that has an impact on the calculation of *Zakâh* may not be disclosed because its materiality in taking the economic decision is not significant, or because it includes a number of items within overall items due to its weak economic impact, such as including the item in the financial statements within general items that cannot be judged on the basis of *Zakâh*, such as saying, "other assets", or "other liabilities".
- **Faithful representation** is less important than the principle of relevance, and it is considered a substitute for reliability. From the *Zakâh* standpoint, this principle conforms originally with the principles of calculating *Zakâh*.
- **Understandability** is in principle consistent with the principles of Shari'ah regarding assignment in general, and regarding the calculation of *Zakâh* in particular. But the problem here is that accounting assumes that the users of financial statements have reasonable knowledge, and this may be a problem because the rulings of Shari'ah are established on the description of *"Ummiyyah"* (i.e. of the unlettered, since those who were its addressees were likewise). Hence, stipulating such a knowledge in the shareholder, whether by himself or by others, to calculate *Zakâh* contradicts with the Shari'ah principle stating that Shari'ah is *Ummiyyah* (i.e. of the unlettered), as was discussed in the purposes of Shari'ah in calculating *Zakâh*.
- **Comparability** may be said that it is ineffective, but it appears that accounting compares economic events that are converging in the economic impact, even if they are different in terms of legal and Fiqh-related adaptation, which is reflected in the method of recognizing these assets in the financial statements and the basis for their measurement.
- **Verifiability** may be said that it is a characteristic which does not affect the calculation of *Zakâh*. However, its impact becomes clear when we consider the funds of joint-stock companies as apparent wealth for which *Zakâh* is collected.
- **Timeliness** is one of the concepts compatible with *Zakâh* in principle. However, the concept of relevance is related to the objectives of investors, which explains why financial reports are not required to disclose information at times when *Zakâh* is due, such as the lunar year and *Zakâh* at harvest.

Fourth concept: Elements of financial statements

This concept is concerned with identifying the elements that are included in the statements, which are divided into two elements:

- **Elements related to the measurement of financial position,** which include three elements as follows:

[1] Asset, which is: "A present economic resource controlled by the entity as a result of past events, and from which future economic benefits are expected to flow to the entity."

[2] Liability, which is: "A present obligation of the entity to transfer an economic resource as a result of past events, the settlement thereof is expected to produce outflow from the entity for resources that include economic benefits."

[3] Equity, which is: "The residual interest in the assets of the entity after deducting all its liabilities."

- **Performance-related elements,** which include two elements, namely income and expenses. **They are defined as follows:**

[1] Income is increases in economic benefits during the accounting period in the form of inflows or increases of assets or decreases of liabilities that result in increases in equity.

[2] Expenses are decreases in economic benefits during the accounting period in the form of outflows or decreases of assets or increases in liabilities that result in decreases in equity.

It should be noted that examining the items in financial statements, whether on the assets or liabilities side, is not an easy task. This is because the judgment on any item in terms of its relevance to the calculation of *Zakâh* may depend on additional information that may not be provided by the financial statements. This in addition to the fact that a single item may include different funds to be considered in the calculation of *Zakâh*, which requires further clarification about the nature of what is included in this item to be considered in the calculation of the *Zakâh* base.

Also, with regard to liabilities, we find that the concept of liabilities in the conceptual framework is broader than the concept of debt. This is because it includes expected contractual obligations the reason for their fulfillment has not occurred yet, such as end-of-service benefits and leaves. It also includes non-contractual obligations where compliance thereto is a kind of policy intended by the company to attract its customers. This requires examining these liabilities and considering their effects on calculating *Zakâh*.

Likewise, with regard to the concepts related to performance, which are income and expenses, they do not originally affect the calculation of *Zakâh*. Rather, they affect the calculation of *Zakâh* when relying on the aspect of liabilities and equity in calculating *Zakâh*, in terms of their effect on profits of equity in the statement of financial position.

Fifth concept: Recognition

Recognition is: "The process of incorporating in the balance sheet or income statement an item that meets the definition of an element and satisfies the criteria for recognition."

The foundations on which the concept of recognition is based in the conceptual framework does not adhere, in view of the objectives of the statements, to the Shari'ah principles by which distinction is made between zakatable and non-zakatable wealth, which are related to the conditions of the obligation of *Zakâh* on wealth. This requires examining the items of financial statements for the purpose of calculating *Zakâh*, with the aim of distinguishing zakatable and non-zakatable wealth.

Distinguishing *Zakâh* assets may not be easy, especially when the information that enables the examiner to distinguish zakatable and non-zakatable wealth is not disclosed. Moreover, one financial item may include zakatable and non-zakatable assets, and information that enables the examiner to distinguish zakatable assets may not be disclosed.

Sixth concept: Measurement

Measurement is: "The process of determining the monetary amounts at which the elements of the financial statements are to be recognized and carried in the statement of financial position and income statement."

A number of different measurement bases are employed to different degrees in financial statements, including: (historical cost, current cost, realizable "settlement" value and present value).

This concept is considered one of the most affecting concepts on the calculation of *Zakâh*. This is because measurement depends in the accounting system on cash (the monetary unit), which implies that the accounting measurement is in principle more appropriate for *Zakâh* on assets, including cash, debts and goods stocked for trade than *Zakâh* on products of land and livestock.

This gives rise to the problem of the basis of measurement, which differs according to the financial items. This requires a comparison between the accounting bases of measurement and the Shari'ah basis for measuring zakatable wealth. For example, inventories are usually carried at the lower of the actual cost and realizable value. This contradicts the Shari'ah basis of measurement, which is the market value of goods stocked for trade.

Seventh concept: Cost constraint on useful financial reporting

This means that information provided by the financial report shall not be subject to considerations of cost and benefit. In principle, this concept is considered one of the principles corresponding to the Shari'ah principles. However, since the consideration of cost is compared to the benefit in the objectives of the accounting system, this leads to non-disclosure of important information in calculation of *Zakâh* due to its low relative importance to users of financial statements, or its high cost compared to its importance.

Eighth concept: Assumptions

The conceptual framework provides for an underlying assumption, which is going concern, and another assumption, appropriate for some environments, which is capital maintenance. This concept does not have a significant effect on the calculation of *Zakâh*, except for the effect of the assumption that the entity is going concern and has no intention or need to enter liquidation on choosing the basis of measurement for the financial items in financial reports, in a way that suits the objectives of the users of financial statements. This is due to the problem of measurement in financial statements.

Financial Disclosure:
Zakâh-Related Problems for Joint-Stock Companies

First: Problems of financial disclosure related to *Zakâh*

[1] Calculating *Zakâh* based on financial statements requires a reasonable knowledge, which may not be available to many specialists in Shari'ah and the public (*Zakâh* payer) in general.

[2] Acquiring such knowledge, even voluntarily, may result, in some cases, in significant hardship and cost, whose cost may exceed the amount of the money owned, not to mention the amount of *Zakâh* due on this money.

[3] The failure of the accounting system to provide the *Zakâh* payer, who is able to deal with these statements, with the information necessary to calculate *Zakâh*.

Second: Means of solving financial disclosure problems related to *Zakâh*

Preventive Measures:

This includes every solution aimed at improving financial disclosure in a way that brings it closer to the Shari'ah principles of calculating *Zakâh*. For example, the company shall take charge of calculating *Zakâh* on zakatable funds, whether it is the company that pays the *Zakâh* or the shareholders. The company has the ability to access information and financial data, and deal with financial disclosure problems in accordance with the Shari'ah provisions in calculating *Zakâh*, the matter which is not available to other bodies competent to collect *Zakâh* or to general shareholders.

Solutions:

Solutions refer to the means of solving those problems, which can be summarized as a whole in estimation, the subject matter of this study. The application of estimation may differ based on the problems of calculating *Zakâh* and the person in charge of calculating *Zakâh*, in terms of his ability to access financial information in joint-stock companies, and to deal with this information.

Estimation Regarding Conditions of *Zakâh* for Joint-Stock Companies

In this part, the author studies the issues of estimation regarding the conditions of *Zakâh* for joint-stock companies, which entails specifying the person obliged to pay *Zakâh*, and then determining the wealth subject to *Zakâh*.

The conditions of *Zakâh* related to *Zakâh* payer are: Islam and richness represented in full ownership of the *Nisâb* (i.e. minimum amount determining a person's zakatability).

The conditions of *Zakâh* related to wealth are: Wealth shall be one of the categories on which *Zakâh* is due, wealth shall reach the *Nisâb* of *Zakâh*, absolute ownership of the *Nisâb*, and a lunar year is to elapse from the ownership of the *Nisâb*.

Since joint-stock companies are based on a financial basis, where no consideration is paid to the legal entity of the shareholders, the financial reports of joint-stock companies are concerned with the statement of financial position of this legal person. It is easier for the concerned authorities and more beneficial for the poor to collect *Zakâh* directly from companies, instead of collecting it from individual shareholders due to the hardship involved in tracking individual shareholders and collecting *Zakâh* from them.

The person in charge of *Zakâh* for joint-stock companies:

Contemporary scholars of Fiqh have two approaches regarding the person in charge of *Zakâh* for joint-stock company. **Both of these approaches are based on "Shari'ah-Based Estimations Rule":**

- **Approach (1):** The legal entity of the joint-stock company is the one in charge of *Zakâh*. Accordingly, the responsibility in terms of the sin arising from the nonpayment of *Zakâh* falls upon the representatives of this legal entity.
- **Approach (2):** Shareholders are the ones in charge of *Zakâh* for joint-stock companies. Based on this, the company shall not pay *Zakâh* unless on behalf of its shareholders: If its statutes so stipulate, by virtue of a General Assembly ruling, if the law of the state requires that companies must pay *Zakâh* on behalf of its shareholders, or if a shareholder himself empowers the management of the company to pay *Zakâh* on his behalf. In the absence of any of the conditions indicated…, the payment of *Zakâh* shall become the responsibility of shareholders and holders of the investment accounts. In this case the Institution or the company has to indicate the amount of *Zakâh* payable per share or per a given balance of an investment account.

This opinion is adopted by most contemporary scholars of Fiqh and is supported by the resolutions of collective *Ijtihâd* institutions, including the First *Zakâh* Conference, the OIC International Islamic Fiqh Academy (IIFA), and the Shari'ah Board of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI).

What appears here is to give preponderance to the opinion adopted by collective *Ijtihâd* (i.e. legal reasoning and discretion), stating that the party responsible for *Zakâh* for joint-stock companies is the shareholder, and that establishing Shari'ah obligation for legal entities is not recognized in the Shari'ah rulings, and that the company may not pay *Zakâh* on shareholders' wealth except in the cases defined by the Islamic Fiqh Academy.

Estimation regarding the condition of absolute ownership:

We intend here to explain the disagreement with regard to the definition of share, and the impact of such a disagreement on the condition of absolute ownership.

A share is defined in the law as: "The share provided by the partner in joint-stock companies, and it represents a specific part of the company's capital. The share is represented in a deed given to the shareholder to prove his rights in the company."

The Fiqh-based adaptation of shares is consistent with the legal view that it represents a shareholder's right of ownership in the joint-stock company, but the nature and limits of this ownership are not the subject of agreement among contemporary scholars of Fiqh.

There are different opinions regarding the Fiqh-based adaptation of shares as follows:

- A share is a document that represents ownership of unidentified portion in all the assets of the company that issued it, including goods, benefits, and debts.
- A share is a security that does not represent the assets of the company, and the owner of the share does not own these assets, nor does he have any rights to them. Rather, these assets are owned by the company under its legal entity.
- A Share is a security that represents an unidentified portion in the legal entity of the company. This legal entity has a financial liability independent of its owners, who are the shareholders. It has full capacity, as it is subject to obligations and commitments.

The reality of the share is that it represents a portion in the assets of the company, as agreed upon by collective *Ijtihâd* in this issue. This goes in line with the reality of the legal entity clarified earlier. As for what contemporary laws state regarding transferring the ownership of the funds contributed by the shareholders to the legal entity of the joint-stock company, it is not intended to negate the shareholders' ownership of such funds. To prove, this ownership is established for the shareholders upon the company liquidation.

The company may not pay *Zakâh* on shareholders' wealth except in the cases defined by the Islamic Fiqh Academy, based on the argument that *Zakâh* is an act of worship requires intention. Accordingly, shareholder's approval is required for the company to pay *Zakâh* on his behalf.

Since it is difficult to consider the conditions of obligation for each shareholder in calculating *Zakâh* for joint-stock companies, and that the interest can be achieved by collecting *Zakâh* from joint-stock companies and not from individual shareholders, this necessitates considering a way that facilitates the calculation of the *Zakâh* due on shareholders, and paying it as one mixed wealth. **The way to achieve this goal is based on the two following principles:**

- **First principle: Imposing a tax on those who are not eligible for *Zakâh*,** provided that such a tax is to be estimated at the amount of *Zakâh* and allocated for the same channels as *Zakâh*. This includes the shares of non-Muslims, philanthropic societies and endowments.
- **Second principle: Mixed wealth (Partnership).** This is useful in considering condition of the elapse of one lunar year (*Hawl*) and the *Nisâb* (i.e. minimum amount determining a person's zakatability) in the obligation of *Zakâh* for all shareholders who are eligible for *Zakâh*, based on the opinion of those regard *Zakâh* as due on all kinds of wealth. Accordingly, *Zakâh* is to be paid on this wealth as being one mixed wealth.

Estimating *Zakâh* on *H̲arâm* (i.e. unlawful) wealth in joint stock companies:

Many joint-stock companies have unlawful transactions, which in return produce prohibited returns. Getting rid of such prohibited returns by the concerned company is the original Shari'ah ruling to be followed. If the company, whoever, does not get rid of such returns, and if *Zakâh* is deemed undue on such returns for being illegitimate, particularly where *Zakâh* is imposed by law, this can be regarded as an implicit approval for such prohibited returns, which may encourage illegitimate (Shari'ah non-compliant) forms of investment. Moreover, some investors choose to pay from their own wealth an amount equal to the prohibited investment as a way of getting rid of the unlawful wealth in their shares, which makes it difficult to determine with certainty the amount of unlawful wealth in the company.

For this reason, and others, a number of contemporary scholars are of the opinion that the amount of *Zakâh* is to be taken from this unlawful wealth, even if this amount is not considered as Shari'ah-based *Zakâh*, and does not render the unlawful wealth as lawful. Here, it is more appropriate to take an amount of such unlawful wealth than to keep it at the disposal of such companies.

Estimation regarding the condition of the elapse of *H̲awl*:

The balance sheet does not show the company's assets and liabilities except at the end of the period with comparison to the beginning of the statement period. This implies that there is a change in the company's assets during the lunar *H̲awl* of the zakatable assets. This change, in terms of its impact on the calculation of *Zakâh*, is either of no impact on the *H̲awl*, such as converting from cash to goods stocked for trade or vice versa, or it impacts the *H̲awl* due to wealth increase or decrease affecting the calculation of *Zakâh*.

There is no doubt that verifying the origins of this wealth, its sources, and the date of its acquisition is possible, but it entails difficulty of calculation. The opinion appearing to be the preponderant is that the Gregorian calendar (i.e. solar year) may be relied upon in the calculation of *Zakâh* for joint-stock companies.

Although Malikites do not consider the difference between the solar year and the lunar year with regard to the amount of *Zakâh*, the conclusion reached by the contemporary *Ijtihâd* that the difference in the amount of *Zakâh* is to be taken into account so that the amount due as *Zakâh* shall be estimated at 2.5775% is the most appropriate and closet opinion to the original ruling on calculating *Zakâh*. This is because when it is not possible to apply the original ruling, then the ruling most appropriate and closest to it is to be applied instead.

Estimation Regarding Conditions of Zakatable Wealth for Joint-Stock Companies

Estimation regarding *Zakâh* on contemporary currencies and goods stocked for trade:

It is known that contemporary currencies such as riyal, dollar and other currencies issued by the central banks are not gold or silver. Yet, the Shari'ah rulings regarding *Zakâh* on cash are related to gold and silver. So, shall *Zakâh* on currencies be treated as *Zakâh* on gold and silver or as another kind of *Zakâh*?

Contemporary *Ijtihâd* (i.e. legal reasoning and discretion) has paid particular attention to the issue of *Zakâh* on currencies because of the refusal to deal with gold and silver as a mediator when exchanging for these currencies.

The scholars of Fiqh differed regarding the ruling of *Zakâh* on cash into two views:

- **First view:** It has the same ruling as goods stocked for trade, so *Zakâh* is due on cash if it is intended for trade. However, *Zakâh* will not be due on cash if it is intended to be acquired and saved.

  This is the approved view according to the Hanafites, the Malikites, the Shafiites and the Hanbalites.

- **Second view:** *Zakâh* shall be due on cash if it is circulated or used for trade.

This is a view of the Hanafites, the Malikites, and the Hanbalites, and it is the view adopted in the resolutions of Fiqh Academies and Councils regarding *Zakâh* on contemporary currencies.

The most preponement opinion is that paper money used in place of gold and silver are subject to *Zakâh* just like gold and silver. This is because considering them as goods stocked for trade will lead to waive the right of the poor, which will, in turn, jeopardize a pillar of Islam (*Zakâh*).

Zakâh on goods stocked for trade is originally attached to *Zakâh* on gold and silver. This is why its *Nis̱âb* (i.e. minimum amount determining a person's zakatability) is estimated at the *Nis̱âb* of *Zakâh* on gold and silver, and it is valuated with them, and added to them in completing the *Nis̱âb*.

This is why *Nis̱âb* of *Zakâh* on cash and goods stocked for trade is valuated based on the most beneficial to the poor, which is, in these later times, to be valuated at silver, as no difficulty appears in this respect that entails changing it to the *Nis̱âb* of gold if the conditions of *Zakâh* obligation are being considered.

Moreover, one of the conditions for *Zakâh* on goods stocked for trade is that they are to be owned with the intention of trading, and the intention to trade is not the same as absolute intention to sell.

Zakâh is due on goods stocked for trade, given that they involve exchanging gold and silver, and its obligation is attached to gold and silver. That is why it is stipulated for the obligation of *Zakâh* on goods stocked for trade to be owned by means of trade. The most preponderant opinion in this regard is that of the Malikities, which is that they are to be owned through a *Mu`âwaḏah* (i.e. exchange) contract based on gold and silver, or goods based on gold and silver. The trading-manager is to valuate these goods every year if he liquidated something thereof, but the speculative trader (the monopolistic-trader) shall pay their *Zakâh* for only one year after selling them.

If two reasons for the obligation of *Zakâh* on wealth are combined together, then the reason for obligation of *Zakâh* on the basis of the asset is given priority to the reason of *Zakâh* on the basis of the value, which is goods stocked for trade. However, it is permissible to give priority to the reason of *Zakâh* on the basis of value by way of "Shari'ah-Based Estimations" if necessary.

Estimation regarding conditions of *Zakâh* on livestock:

If we look into financial statements of joint-stock companies, we find that the data and information they contain is not sufficient to calculate the *Zakâh* due on livestock. Therefore, it can be said that the financial statements of joint-stock companies are not suitable for *Zakâh* on livestock. This is why the collection of *Zakâh* in the Kingdom of Saudi Arabia and Sudan is not based on the financial statements.

However, the reality is that many agricultural companies invest in livestock, with various aims and purposes. The original ruling is that *Zakâh* is not due on this livestock unless it is most likely that the conditions of *Zakâh* are fulfilled, and no *Zakâh* is to be imposed based on uncertainty. This is because Shari'ah rulings can never be based on uncertainty.

The conditions for *Zakâh* on livestock to be due is to stipulate *Sawm* (i.e. free grazing on pasture) and being prepared for milk production and offspring. Presumptions, by which prevailing assumption can be obtained, are to be used with regard to applying these conditions to joint-stock companies. However, it is permissible to act according to the view of the Malikites that does not stipulate such conditions, which represents a deviation from the most preponderant view for a major benefit.

Estimation regarding conditions of *Zakâh* on minerals in joint-stock companies:

It is known that international agreements and laws consider mineral wealth to be the right of peoples, and that the State's duty lies in managing this wealth in a way that preserves the rights of present and future generations. This requires reconsidering *Taḫqîq Al-Manâṯ* (i.e. ascertaining the underlying cause) for *Zakâh* on minerals in these times, since mineral extraction has become different in terms of form and content as it is no longer a pure growth as it used to be in the past.

Based on this change in the reality of mineral extraction in terms of the laws regulating it, in addition to the costs of extraction, it appears that neither *Zakâh* nor *Khumus* is to be paid on extracted minerals at the time of extraction, and because it is no longer owned by its extractor but by the State itself. Minerals in the earth have become in the possession of the State, which has the exclusive right to dispose of them in a way that achieves the public interest.

In addition, the State, if it does extract these minerals by its own companies and authorities, grants the concession right to other companies in exchange for rights that must be given to the State in exchange for this concession. Accordingly, what the concessionaire acquired is nothing but compensation for extraction services. The concessionaire is to be subject to the ruling of *Zakâh* on acquired wealth if the extracted minerals are gold or silver, and the company shall pay the *Zakâh* due along with *Zakâh* on its wealth subject to the elapse of the *Ḫawl*.

But if the extracted mineral is not gold or silver, and is intended for trade, then it is likely to be subject to the ruling of goods stocked for trade, based on the fact that the companies acquired these minerals by means of purchasing the concession right, which is considered a *Mu`âwaḏah* (i.e. exchange) contract and accordingly an act of trade

No *Zakâh* is payable on minerals extracted by companies based on concession contracts when they are extracted. However, their *Zakâh* is to paid along with wealth in possession if intended for trade. Hence, financial statements are to be considered in calculating *Zakâh* at the end of the fiscal year.

In minerals that cannot be melted, such as oil or marine wealth extracted from the sea, nothing is to be paid as *Zakâh* on them when they are extracted. In addition, *Zakâh* is not due on the inventory thereof unless and until they are sold for cash, where the company shall pay *Zakâh* on them along with its property subject to the elapse of the *Hawl*.

Estimation Regarding Calculating Zakatable Wealth for Joint-Stock Companies

Estimation regarding calculating *Zakâh* on cash:

Naqd (i.e. Cash) is one of the most important financial items recognized in financial statements, and it is included in the list of current assets, given that it is the most liquid form of current assets.

Terminological meaning of *Naqd*:

Naqd (i.e. Cash) is used to refer to gold and silver in particular, be it coined or uncoined in the form of dirhams or dinars. This is the intended meaning as to *Zakâh*. It also refers to coined gold and silver, and to the opposite of deferment.

Legal meaning of *Naqd*:

In the legal convention, *Naqd* (i.e. cash) means anything that gains general acceptance, by virtue of custom, law, or the value of the thing itself.

Accounting meaning of *Naqd*:

In its broadest sense, *Naqd* (i.e. cash) comprises cash on hand and demand deposits.

Cash equivalents:

Cash equivalents are short-term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value.

Cash is the only item listed on the statement of financial position in which the measurement does not vary due to the difference of the accounting basis adopted in preparing financial statements, whether on the cash or accounting accrual basis. This is because cash is the unit of measurement in financial statements, but estimation relates to recognition and they relate to the conditions of obligating *Zakâh*, such as the elapse of a full lunar year (*Hawl*) on this cash.

That is, the cash may include acquired money that its *Hawl* has not yet elapsed, and it may also include ill-gotten money that is not subject to *Zakâh*. This has already been discussed earlier, and it seems sufficient in this respect.

If cash item included foreign currencies, then all currencies and assets owned by the company should be valued at the same currency that the company used in preparing its financial statements.

Current deposits are included in the concept of cash. Accordingly, they are recognized and measured like cash. If bank deposits are adapted as being loans between the bank and its clients, and an agreement is concluded to receive interests on these loans, then such interests fall prohibited (*Harâm*), and shall be rid of. If they have not been rid of, and thus mixed with lawful money, then the rate of *Zakâh* shall be paid out of them.

When considering *Zakâh* on current deposits, however, we find that it takes the same ruling as the received money, as resolved by the accounting standards, and that disagreement regarding *Zakâh* on debt does not work out for these deposits.

Estimation regarding calculating *Zakâh* on bank deposits:

A bank deposit is defined as: "Funds which individuals and institutions entrust the bank to keep, provided that the bank assumes the commitment to repay such funds or their equivalent to depositors or any other specific person, on demand or subject to the conditions agreed upon."

Bank deposits are numerous. **The names and types of these deposits vary from one bank to another, but most of these deposits fall into three basic types as follows:**

(a) **Demand deposit** (current deposit).

(b) **Notice deposit** (savings deposit).

(c) **Term deposit** (investment deposit).

The majority of contemporary scholars of Fiqh are of the view that bank deposits are loans from the clients to the bank. This is the view adopted by the OIC International Islamic Fiqh Academy (IIFA) in Jeddah.

Whereas these deposits are loans from the Fiqh-based perspective, then it is not permissible to take returns or interests on these bank deposits; because this falls under *Ribâ* (i.e. usurious transaction) of loans.

Since it is not permitted to pay interest to the clients on their bank deposits, the banks providing Shari'ah-compliant banking services offer alternatives to these deposits. **The most important of these alternatives are:**

(a) ***Mudârabah*-based investment deposits.**

(b) ***Murâbahah*-based investment deposits.**

When considering *Zakâh* on current deposits, however, we find that it takes the same ruling as the received money. Accordingly, the payer gives *Zakâh* on current deposits in the same manner as he pays the due *Zakâh* on his money deposited in the fund.

Current deposits originally take the same ruling as loan/debt. However, it is judged to have the same ruling as the received money in terms of *Zakâh*. The disagreement regarding *Zakâh* on debt does not work out for these deposits, and this is a form of "Shari'ah-Based Estimations".

The basic ruling on investment deposits is to pay *Zakâh* on the balance of the investment accounts (principal plus profit), and this is a kind of estimation in the calculation of *Zakâh* which is based on the constructive liquidation in these accounts, and if it is possible to know the zakatable assets related to these accounts, then its *Zakâh* is paid out according to the zakatable assets that they represent.

Estimation regarding calculating *Zakâh* on commercial papers:

Commercial papers are defined as: "Tradable certificates (*Sukûk*) that represent pecuniary rights payable at sight or after a short period. Customary practice regards them as instruments of payment and they act as substitutes for cash in transactions."

Commercial papers that have been regulated in international and local laws are three basic kinds as follows: Bill of exchange, promissory note and check.

Financial statements disclose commercial papers existing already in the company, which are not yet due, within the current assets, under the item: Receipt Papers. They are valued at the current value of the receipt papers at the end of fiscal year, after deducting the rate of discount or interest.

The scholars of Fiqh use the term "Dayn" to indicate: "A liability to pay, which results from any credit transaction."

In accounting convention, receivables are debts owed to a company by others (its debtors or customers) for goods or services provided by the company, or for any other reason. Theses debts are agreed to be repaid in a short-time.

The subject matter of these papers are specific amounts of money, so their ruling shall be the same as the ruling of *Zakâh* on debts.

Estimation regarding calculating *Zakâh* on receivables:

Accounts receivable are financial assets, because they ultimately generate future cash flows, and they are divided, as aforementioned, into receivable trade (trade-receivables) and receivable other (non-trade receivables). The receivable trade accounts in the company are usually large, because they arise from the primary activity of the company.

The basic ruling regarding these liabilities is to be valued at their fair value. However, since the receivable trade accounts (trade-receivables) are mostly due within 90 days or less, and less likely to be due after more than a year, taking into account the cost constraint on useful financial report, we find that the benefits resulting from the calculation of the current value of accounts receivable are short-term and limited compared to the costs of recognizing them. Accordingly, these liabilities are recognized at their nominal value, while the time value of money is not taken into account in the accounts of receivable trade.

Early and contemporary scholars of Fiqh differed strongly on this issue. The difference of opinions emerges from the controversy over *Ta<u>h</u>qîq Al-Manâ<u>t</u>* (i.e. ascertaining the underlying cause) for the condition of absolute ownership. **The views of the scholars of Fiqh regarding *Zakâh* on debt can be classified into three approaches:**

- **Approach (1):** *Zakâh* on debts is not required at all, since it is a non-growing wealth, as it is the case in privately owned property (i.e. non-commercial goods).
- **Approach (2):** Debt in terms of *Zakâh* is corollary to the cause and principal of the debt, and *Zakâh* is required on the growing debt that is repayable, but not the non-repayable debt.
- **Approach (3):** *Zakâh* is due on debt by all means, as it is the case regarding all the creditor's wealth.

Based on the opinion the researcher finds to be preponderant, measuring the impact of debt on the base of *Zakâh* is generally compliant with accounting standards, especially after adopting the principle of fair value for fixed assets, instead of historical cost; which would recognize fixed assets based on the cost of receiving them.

Zakâh on deferred debts is to be paid at their value, and this is to be measured on an approximation basis by paying *Zakâh* on the principal of debt plus one-year profit. This is the view of the Malikites regarding *Zakâh* on deferred debts, which is consistent with the accounting measurement of deferred debts in financial statements.

Doubtful debts are not subject to *Zakâh*, and the method of accountants in estimating these debts, even though it is not based on examining the debtors' positions in terms of solvency, can be considered in the light of "Shari'ah-Based Estimations Rule".

The debts owed by the *Zakâh* payer have an impact on the zakatable wealth. Such an impact is measured inasmuch as the spot value of the due debt (i.e. immediate payment) according to the accounting method by excluding the deferred profits. This impact is conditional on the nonexistence of any non-zakatable wealth to pay off the debt thereof.

Estimation regarding calculating *Zakâh* on payables:

Accounts payable are defined as: "Obligations to provide cash or other assets to external parties."

Accounts payable are one of the financial items listed on the statement of financial position under liabilities column. According to the International Accounting Standards (IAS), liabilities are broader than debt in its Shari'ah and legal meanings. **Accounts payable are divided into:**

1- **Trade payables** (also called trade accounts payable or accounts payable) are obligations to pay for goods delivered or services provided to the company.

2- **Other payables,** other payables which include a number of obligations, such as sales taxes payable, income taxes.

The scholars of Fiqh agree that a debt established in the debtor's liability after *Zakâh* has become obligatory for him shall not prevent the obligation of *Zakâh* thereof. **However, they disagree regarding the impact of debt on *Zakâh*, and whether its counter-value is to be deducted from the zakatable wealth, into two approaches:**

- **Approach (1): The debt has an impact on zakatable wealth.** This is the view of the majority of the scholars of Fiqh, and it is the approved opinion of the Hanafites, the Malikites and the Hanbalites.
- **Approach (2): The debt has no impact on zakatable wealth.** This is the view of Ash-Shâfi`î in his new school, Ibn Hazm Az-Zâhirî, and the fatwa adopted by the Permanent Committee for Scholarly Research and Ifta, as well as Sheikh `Abdul-`Azîz Ibn Bâz, and Sheikh Muhammad Ibn `Uthaymîn.

Based on the opinion the researcher finds to be preponderant, measuring the impact of debt on the base of *Zakâh* is generally compliant with accounting standards, especially after adopting the principle of fair value for fixed assets, instead of historical cost; which would recognize fixed assets based on the cost of receiving them.

The debts owed by the payer have an effect on the zakatable wealth, and their effect is measured inasmuch as the spot value of the due debt (i.e. immediate payment) according to the accounting method by excluding the deferred profits. This effect is conditional on the nonexistence of any non-zakatable wealth to pay off the debt thereof.

According to the view that the impact of debt on the wealth of *Zakâh* is conditional on financing zakatable assets, it is to be measured at the ratio of zakatable assets to the total assets.

Estimation regarding calculating *Zakâh* on operating and financing lease:

Terminologically, the scholars of Fiqh use the term "*Ijârah*" to indicate "transferring the ownership of usufructs in exchange for a consideration," and it is divided according to the majority of scholars into asset lease and work lease. The Malikites differentiate between *Ijârah* and *Kirâ'*, as *Kirâ'* often refers to asset lease, while *Ijârah* refers to work lease.

In legal convention, *Ijârah* (lease) refers to asset lease, and does not include work lease, considering that their provisions are regulated by the labor contract laws.

In accounting convention, the lease is defined as: "A contract, or part of a contract, that conveys the right to control the use of an identified asset (the underlying asset) for a period of time in exchange for consideration."

Contemporary scholars of Fiqh have different approaches regarding the way of paying *Zakâh* on the rental of leased assets, **the most important of these approaches are as follows:**

- **Approach (1):** *Zakâh* is payable on yield or the remaining portion thereof if a full lunar year (*Hawl* has elapsed from the date of its actual receipt. This approach agrees with the Malikites about considering the rental of the leased assets among the acquired wealth.
- **Approach (2):** *Zakâh* is payable on yield upon its actual receipt if a full lunar year (*Hawl*) has elapsed from the beginning of the lease contract. This approach agrees with the view of the Hanbalites that the rental is required from the time the lease contract takes effect.
- **Approach (3):** The rental is combined together, in both the *Nisâb* and the *Hawl*, with the profit-producing property in the owner's possession including wealth and goods stocked for trade, then one fourth of the one tenth (2.5%) shall be paid out as the due *Zakâh*. This approach agrees with the view of the Hanafites regarding the acquired wealth.

The rental received (in advance) is completely owned by the lessor, whether in terms of leasing works or leasing assets, and *Zakâh* thereof shall be paid.

Zakâh shall be payable on the debt of financing lease, such as all other debts owed to the payer, and the conditions of the obligation thereof is to be taken into account. As for the debt of non-financing lease, it appears that debt of leasing assets is a debt established in the liability, unlike the debt of hiring service (benefits to others).

Estimation Regarding Calculating *Zakâh* on Goods Stocked for Trade

Estimation regarding calculating *Zakâh* on inventories:

The International Accounting Standards (IAS) define inventories as: "Assets that are: (a) held for sale in the ordinary course of business; (b) in the process of production for such sale; or (c) in the form of materials or supplies to be consumed in the production process or in the rendering of services."

The general Shari'ah rule regarding valuation is to be based on justice, to eliminate any prejudice on the part of the *Zakâh* payer or the *Zakâh* recipients. The majority of scholars held the view that valuating goods stocked for trade shall take place at the market value at the date of *Zakâh* accrual. The majority of scholars view that there is no difference in valuation between unsalable goods (dead stock) and other goods, as valuation is required for all of them.

The scholars of Fiqh disagreed regarding the date of valuation: Shall it be at the date of *Zakâh* accrual or at the date of payment? There are two views in this respect:

- **First view:** The valuation shall take place at the date of *Zakâh* accrual, and this is the view of the Hanafites, the Malikites, the Shafiites and the Hanbalites.
- **Second view:** The valuation shall take place at the date of *Zakâh* payment.

There is no difference in valuation between unsalable goods (dead stock) and other goods, as valuation is required for all of them.

The contemporary collective *Ijtihâd* (i.e. legal reasoning and discretion) has concluded that articles of trade should be valued at selling market price in the place where they exist, and according to the method of their sale (retail, or wholesale, or if both whichever the predominant). Articles of trade should not be valued at cost or market price whichever the less. However, when other methods of valuation are extremely difficult, valuation at cost can be used for *Zakâh* purposes. When there is a price change during the period between the date of accrual and date of payment of *Zakâh*, the price at the date of *Zakâh* accrual should be adopted.

Based on the accounting definition, inventories can originally be considered as goods stocked for trade since the concept of inventories depends on goods purchased with the intention of sale. However, a problem arises regarding raw materials that may be needed in production process or services provision if they do not enter into the manufacture of goods intended for sale, in view that the conditions of goods stocked for trade do not apply to them.

Another problem is the valuation of inventories at cost or realizable value whichever the less, as they are difficult, if not impossible, to be valuated at the market value. For this reason, the Shari'ah Board of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) has permitted the adoption of the actual cost whenever it is difficult, or even impossible, to valuate these goods.

The accounting valuation of inventories is inconsistent with the Shari'ah-based valuation. Yet, the approximate value can be identified based on the following equation:

Realizable Value of Inventory = Cost of Inventory × (Total Sales ÷ Cost of Sales)

Estimation regarding calculating *Zakâh* on investment assets:

In financial markets, investment assets (also called financial instruments) are any securities designed to generate profits. They are defined as: "Any contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity."

These financial instruments are divided into three categories:

1- **Equities:** A contract gives its holder the right to a share of the residual value of the issuing entity after deducting all of its liabilities, including stocks, *Sukûk* (certificates), and investment funds.

2- **Derivatives:** Any financial instrument characterized by the following: (a) its value changes in response to a specific variable, such as the interest rate, and stock prices; (b) it requires no initial net investment or a small investment compared to other types of contracts that would be expected to have a similar response to changes in market factors; and (c) it is to be settled at a future date, such as stock options.

3- **Debt instruments:** They represent financial debts owed by others, such as bonds and treasury bills.

Referring to the collective *Ijtihâds*, we find that these assets are generally considered as a vehicle including a number of assets and liabilities. Hence, we can say that *Zakâh* due on stocks, *Sukûk* (certificates) and investment units is to be paid according to the zakatable assets they represent.

It seems that the best and most suitable indicator to rely upon in estimating *Zakâh* is the ratio of zakatable assets to total equities, and that the way to identify such indicator is through conducting studies into a number of companies of different sectors inside and outside the Kingdom to reach this indicator.

The researcher views that more applied studies are needed to verify the quality of this percentage. Such a quality can be verified through increasing the number of companies under study and reconsidering this indicator periodically, or through determining it based on sectors. This issue may be a subject of a number of scientific theses in accounting.

Estimation regarding calculating *Zakâh* on trading securities:

Trading securities are stocks, bonds and *Sukûk* (certificates) acquired for commercial purposes in financial markets.

The basic ruling regarding stocks, *Sukûk* (certificates) and investment units is that they represent investment assets, and their *Zakâh* shall be paid according to the zakatable assets they represent.

Estimation regarding calculating *Zakâh* on real estate and projects under development:

Contemporary scholars of Fiqh have disagreed regarding the ruling on real estate under construction, when the real estate is not usually sold during construction or put up for sale, into two approaches:

- **Approach (1):** *Zakâh* is due on real estate under construction.
- **Approach (2):** *Zakâh* is not due on real estate prepared for trade before the completion of construction.

It appears that *Zakâh* on real estate projects or other industrial projects, whose construction period exceeds one year, shall take the same ruling as goods of speculative trader (the monopolistic-trader), due to the length of the work cycle in these projects, so its due *Zakâh* shall be paid one time after selling each unit of the project. If the whole project or a part thereof is sold in installments, then its due *Zakâh* shall be paid on each payment upon its receipt or at the end of the fiscal year.

Hence, *Zakâh* on the real estate projects or other industrial projects, whose construction period exceeds one year, shall take the same ruling as goods of speculative trader (the monopolistic-trader), and its due *Zakâh* shall be paid one time after selling each unit of the project. If the whole project or part thereof is sold in installments, then its due *Zakâh* shall be paid on each payment upon its receipt, or combined together with other zakatable wealth in possession and paid at the end of the fiscal year, as it is the case with the debt of the monopolistic-trader's goods. If the whole project or part thereof is put up for sale after its completion, the ruling will not change thereby.

Estimation regarding calculating *Zakâh* on goods under delivery:

The goods under delivery or goods on the way are the goods the company has bought during the financial period and they have been shipped, but not received in warehouses. That is, they are still on the way by the end of the financial period. These goods are valuated in financial statements at the cost price, i.e. the purchase price plus their purchase expenses, such as shipping, insurance, and other expenses.

Articles of trade should be valued at selling market price in the place where they exist, and according to the method of their sale (retail, or wholesale, or if both whichever the predominant). Articles of trade should not be valued at cost or market price whichever the less. However, when other methods of valuation are extremely difficult, valuation at cost can be used for *Zakâh* purposes. When there is a price change during the period between the date of accrual and date of payment of *Zakâh*, the price at the date of *Zakâh* accrual should be adopted.

Estimation regarding calculating *Zakâh* on products of land:

The products of land refer to grains and fruits that are measurable and storable, be they food or not. *Zakâh* due on crops and fruits is a type of wealth whose estimation in financial statements is problematic since *Zakâh* is not obligatory on all crops and fruits, but on specific kinds only. The payable rate of *Zakâh* on these kinds is either one-tenth (10%) or half of one-tenth (5%). The zakatable kinds of crops and fruits are to be determined based on the most likely assumption, and the expenses of crops are to be determined based on the prevailing customary practice that the process of irrigation incurs expenses. Then, an amount of the inventories is to be added at the double of its realizable value (which is reached through multiplying the total value of the inventories by the rate of the company's total sales to the cost of sales), plus the rate of sold crops from the sales value (without duplication), then one fourth of the one tenth (2.5%) is to be paid from the sum total. The doubled amount is not taken from the income statement so as to prevent duplication in *Zakâh* payment (in one year) along with the cash acquired from the sale which are added to *Zakâh* base.

Estimation regarding calculating *Zakâh* on livestock:

Estimating the rate of *Zakâh* payable on livestock for joint-stock companies is a problematic issue because the payable rate is variable. That is, one goat will be sufficient for forty sheep as it will be sufficient for one hundred and twenty. Moreover, the original ruling on the payable rate is to pay from the livestock according to a certain age in each type. What appears to be the case is that the rate is to be valuated on the basis of one fourth of the one tenth (2.5%) because this is the basis for calculating *Zakâh* in general. This rate is noticeable in estimating what is payable for forty sheep, forty cows, and forty camels, and the Lawgiver's pardon for *Waqa<u>s</u>* (i.e. the value between two mandatory values in *Zakâh*, which does not increase the rate of the *Zakâh* due) in these rates was only for the purpose of facilitation so as to avoid *Tab`î<u>d</u>* (i.e. dividing the payable rate into parts or portions). So, if the payable rate is allowed to be paid at its value, then paying one fourth of the one tenth (2.5%) of the total estimated portion of this *Zakâh* will be a reversion to the original ruling on the payable rate of *Zakâh* to avoid *Tab`îd* for the purpose of facilitation.

Estimation regarding calculating *Zakâh* on minerals:

Nothing is payable on minerals and the wealth relevant to it because they are not among the property that could be owned by extraction according to the enacted laws and regulations governing the ownership and extraction of these wealth as being owned by the State. As a result, the condition of absolute growth does not apply to them any longer, as it was the case in the early times of this nation.

The rate of *Zakâh* payable on the inventory of minerals is one fourth of the one tenth (2.5%), and nothing is payable on these minerals upon extraction.

Inventories are wealth whose assets are not subject to *Zakâh*, such as marine wealth owned by catching, or flowers and rubber extracted from trees, since they are not acquired by means of trade. So, their price shall be combined together with the property in possession and the *Zakâh* thereof is to be paid according to the *Hawl*. However, if they are owned by means of *Mu`âwadah* (i.e. exchange) contract with the intention of trade, then they shall have the same ruling as goods stocked for trade.

Estimation of the *Zakâh* Base for Joint-Stock Companies

"Wi`â' Az-Zakâh"* (i.e. *Zakâh* base) or *"Al-Wi`â' Az-Zakawî" (i.e. zakatable base) is among the contemporary terminologies that have been taken from tax accounting. **Terminologically,** the scholars of Fiqh use the term *"Wi`â'"* to indicate the wealth on which *Zakâh* is due. The author, here, examines the accounting methods by which the *Zakâh* base of the companies is calculated, with the aim of determining the payable rate of *Zakâh*.

Methods of estimating the *Zakâh* base for joint-stock companies:

Equity method:

The equity method, also called the method of "net invested funds", "sources of funds", or "invested capital", mainly depends on the left column of the statement of financial position which represents the sources of funds listed on the assets column. The equity method can be summed up in the following equation:

Zakâh Base = (Equity + Non-Zakatable Liabilities) - Non-Zakatable Assets

Zakatable net assets method:

The net assets method is used to calculate the *Zakâh* base in a direct manner. It is the method prescribed by scholars of Fiqh, and this is why it is called (the scholars of Fiqh's method). Calculating the *Zakâh* base by using the net assets method is done as follows:

Zakâh Base = Zakatable Assets – Zakatable Liabilities

Working capital method:

The working capital is a direct method to reach an approximate calculation of *Zakâh*, and it is called "net current assets method" or "net current assets". Calculation of the *Zakâh* base by using the working capital method is done as follows:

Zakâh Base = Current Assets - Current Liabilities

Net profit method:

The net profit of the company is considered as *Zakâh* base in this method, and the payable *Zakâh* is calculated based on the profit distributed or realized.

Equity method and net assets method are among the adopted methods for calculating *Zakâh*. They both agree in terms of the outcome, provided that the items are classified and valuated in a consistent manner, taking into account the difference in the basis for valuation.

Working capital is among the methods used to estimate *Zakâh*, but it has many disadvantages that prevent its acceptance.

Adopting profit as a method for estimation is a considerable approach, but it is most preponderant to consider the methods by which the zakatable wealth of the company can be calculated, even if by investigation.

Impact of the shareholder's intention on estimating *Zakâh* base:

Since the shares are tradable, the shareholder's intention to invest in shares may vary. That is, he may intend to sell the shares in a short period, or to keep them until their price rises. What is the impact of this intention on estimating the calculation of *Zakâh*?

Contemporary scholars of Fiqh have two approaches to the classification of the shareholder's intention to own shares in terms of its impact on estimating the calculation of *Zakâh*:

- **Approach (1):** The intention to own shares is classified into two forms, namely the intention to invest, and the intention to trade (speculation) in the financial markets.
- **Approach (2):** The intention to own shares or the shareholder's intention to own the share is classified into three forms, which are: the long-term investment intention, the intention to trade, and the intention to save.

Also, contemporary scholars of Fiqh have different approaches with regard to how the investor pays his *Zakâh*, **the most important of which are the following three approaches:**

- **Approach (1):** *Zakâh* on shares is to be paid based on its corresponding portion of the company's zakatable assets.
- **Approach (2):** *Zakâh* on shares is to be paid in the same manner as *Zakâh* on exploited assets. Accordingly, no *Zakâh* is payable on the market value of share, but only on the basis of its dividends (the distributed profits).
- **Approach (3):** *Zakâh* on shares is to be paid in the same manner as *Zakâh* on goods stocked for trade, regardless of the activity of the company issuing the shares or the business in which its capital is invested.

It appears that the most preponderant approach concerning this issue is the one established by contemporary Fiqh-based *Ijtihâd* that the original ruling concerning shares is that they represent portions in the company's assets. Therefore, *Zakâh* is payable according to the assets these shares represent.

Estimation of *Zakâh* for a trading shareholder (speculator):

A speculative or trading shareholder is an investor in shares and financial papers, which he intends to sell during a period of less than one year.

Contemporary scholars of Fiqh have disagreed regarding the impact of the intention to trade in shares on *Zakâh* payable on these shares, and whether the shareholder shall pay an extra amount of *Zakâh* over what is payable on the zakatable assets of shares, be they paid by the shareholder himself or by the company on his behalf? **The scholar's disagreement on this issue can be explained in the following three views:**

- **View (1):** *Zakâh* on shares is due according to the zakatable assets of shares regardless of the shareholder's intention, whether his intention is aimed at trade (speculation) or long-term investment, and whether the company pays *Zakâh* on his behalf or he himself pays it based on his knowledge of the zakatable assets of his shares. Thus, the shareholder's liability shall be discharged thereby so as to prevent paying *Zakâh* twice (in one year), since the wealth payable cannot be levied twice.
- **View (2):** Making a distinction between the intention to trade and the intention to invest when calculating *Zakâh*. The advocates of this view argue that the investor shall pay the *Zakâh* due on the basis of the zakatable assets of the shares he owns, while the trader shall pay the *Zakâh* due on his shares in the same manner as paying the *Zakâh* due on goods stocked for trade, after making the

necessary deductions against the amount paid in the event that the company have paid it out on his behalf.

Impact of the intention to invest with the intention of saving on *Zakâh*:

The intention to invest with the intention of saving combines the two characteristics of investment and trade in financial papers. The contemporary scholars of Fiqh did not tackle this approach in detail because the majority of scholars held the view that there is no differentiation between the managing-trader and the monopolistic-trader.

The researcher's gives preponderance to the opinion that *Zakâh* on shares, regardless of the shareholder's intention, be it to invest, trade or save, shall be paid in accordance with its assets. If the shareholder, however, cannot know (from the company's accounts) the amount of zakatable assets for his shares, then he shall investigate the most suitable methods to determine the payable rate of *Zakâh*. The most suitable method of estimation and approximation is to adopt the rule of prevalence in such companies in proportion to the book value per share. When the *Zakâh* payer is unable to determine the amount of zakatable assets for his shares, then 40% of the book value can be considered as a *Zakâh* base, and hence 1% of the book value per share is to be paid as the rate of *Zakâh* due.

Whenever it is difficult, or even impossible, to check the financial statements of investment vehicles and papers, such as *Ṣukûk* (certificates), investment portfolios, and investment funds, *Zakâh* is to be estimated according to the prevailing practice used in their counterparts of similar investment vehicles, and the rate of the *Zakâh* due is to be paid according to the prevailing assumption.

Recommendations of Thesis

The author, based on his study of the research topic, cites some recommendations that we ask Allah to make useful, which are as follows:

[1] Commending the Shari'ah and Accounting Standards, as well as the Guides related to the calculation of *Zakâh* for joint-stock companies, clarifying the Shari'ah rulings on calculating *Zakâh*, and the commendable efforts exerted in this respect. In this regard, the researcher recommends the following:

[a] Developing these Shari'ah Standards and Guides to go in line with the International Accounting Standards and the emerging issues regarding the calculation of *Zakâh*.

[b] Developing a Shari'ah Standard regarding estimation in calculating *Zakâh*, as companies' undertaking of *Zakâh* calculation does not mean that all relevant problems have been addressed.

[c] Formulating a Standard for governance and ethics of those officials responsible for calculating *Zakâh*, aiming at developing methods and systems that contribute to organizing the procedures of calculating *Zakâh* in companies, and to free their procedures from errors and conflict of interests.

[2] Including provisions addressing a number of problems related to the calculation of *Zakâh* in laws regulating *Zakâh*, such as imposing a tax rate that equals *Zakâh* on persons who are not eligible to pay *Zakâh*, the calculation of which shall be based on the same methods as *Zakâh*, to be spent in the same designated channels of *Zakâh*. This is to spare joint-stock companies the difficulty of calculating *Zakâh* without considering the condition of shareholders with regard to obligation.

[3] Preparing applied studies for estimating *Zakâh* according to the financial sectors, so as to provide benchmarks that can be used in calculating the assets of joint-stock companies on the basis of estimation.

[4] Preparing economic studies aimed at explaining the impact of Fiqh-based *Ijtihâd* (i.e. legal reasoning and discretion) regarding *Zakâh* on shares on the behavior of investors in financial markets. This is because the researcher argues that obligating the shareholder, with the intention of trading in financial markets, to pay *Zakâh* on shares at the market value leads the investors to direct investment in financial markets, instead of institutional investment, the matter inflicting negative consequences on financial markets.

[5] Inviting universities, colleges and research centers to actively engage in qualifying the researchers with regard to contemporary issues of *Zakâh* through mastering the Shari'ah, legal and accounting aspects related to the emerging issues of *Zakâh*.

[6] Calling for the rationalization of contemporary *Ijtihâd* through considering the consequences, advantages and disadvantages of issues, and not limiting consideration to the Fiqh-based adaptations without paying attention to consequences thereof.

[7] Studying the Fiqh basis for estimating unlawful wealth in joint stock companies, and examining the practical problems of estimating this wealth according to financial reports issued by joint-stock companies, aiming at getting rid of this unlawful wealth.

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