

هيئة الزكاة والضريبة والجمارك
Zakat, Tax and Customs Authority



BOOK SUMMARY
ZAKÂH BASE
IN MODERN CORPORATIONS
AN APPLIED FIQH-BASED STUDY

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ZAKAT, TAX AND CUSTOMS AUTHORITY (ZATCA)

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 third scholarly publication of Zakat, Tax and Customs Authority.

Author: Dr. Mâjid Ibn `Abdur-Rahmân Âl Faryân.

Summary: Research & Zakat Advisory Deputyship has prepared a methodology for summarizing this publication, and assigned the task of summarization to Dar Suliman Almainan Publisher and Distributor.

The Book: “*Zakâh Base in Modern Corporations: An Applied Fiqh-Based Study*”. It is a thesis submitted by the author in fulfilment of the requirements for PhD degree in the field of (Fiqh and Its Fundamentals) from the Department of Islamic Studies, College of Education, King Saud University. The thesis has been discussed in 1435 AH.

The discussion committee composed of the following members:

- 1- Prof. Dr. `Abdullâh Ibn Mûsâ Al-`Ammâr, as a supervisor.
- 2- Dr. Sulaymân Ibn `Abdullâh Aṣ-Ṣaghîr, as an assistant supervisor.
- 3- Prof. Dr. `Abdullâh Ibn Mubârak Âl Sîf, as a discussant.
- 4- Prof. Dr. Ṣâlih Ibn Muḥammad Al-Fawzân, as a discussant.
- 5- Prof. Dr. Ṣâlih Ibn `Abdul-`Azîz Al-Ghalîqah, as a discussant.

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**).



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Significance of Studying *Zakâh* Base in Modern Corporations

This book deals with two important sciences in calculating *Zakâh*, especially with regard to current controversial issues for modern corporations, namely the science of Fiqh and the science of accounting, which makes it an important scientific addition in calculating the *Zakâh* base for these corporations. It highlights the importance of solidarity, as well as the interaction between accounting and Fiqh regarding the religious duty of *Zakâh*. It is not possible, under any circumstances, to separate the Fiqh-based aspect from the accounting one since the process of calculating, measuring, examining, and reporting on the *Zakâh* base is mainly subject to Fiqh rulings.

The hugeness of wealth under examination and abundance of their revenues, as well as the need to increase cooperation and solidarity in societies, call for researchers to examine these types of wealth in quest for Allah's right and in compliance with His command regarding *Zakâh*. The modern corporations are relying on some jurisprudential issues to withhold or reduce *Zakâh*, in addition to the scholars' disagreement regarding a lot of the corporations' financial statements items, and the great disparity in understanding the jurisprudential rulings and their application to the items of financial statements, which requires examining and describing the jurisprudential issues, as well as explaining their shortcomings and rulings.

Why this book?

Zakâh is a religious act of worship and a social duty at the same time. It is a financial obligation related to wealth which is paid out of capital and yields in specific proportions. It is taken from those who are possessing the *Nisâb* over which a *Hawl* has elapsed, and is given to the poor and needy as a Shari'ah-designated right for them.

In line with the increasing economic development in Islamic countries, the diversification of financial institutions, the proliferation of companies that own funds and the expansion of their financial dealings, as well as the complexity of many financial issues, it becomes necessary to consider the requirements of this development in terms of the development of rulings. This is why an urgent need appears for this study to find a common ground between modern corporations and the authorities responsible for collecting *Zakâh* by examining the Fiqh-based description of the *Zakâh* base-related issues in modern corporations and explaining the Fiqh-based rulings of the *Zakâh* base-related issues in a systematic research approach.

The importance of this book lies in supporting the chartered accountants to apply the Shari'ah rulings on accounting terms contained in the financial statements of modern corporations, as well as narrowing the gap of disagreement among the Shari'ah committees, Fiqh councils and scholarly Fatwas regarding the *Zakâh* base in modern corporations.

The discussion in this topic aimed at conceptualizing the items of the *Zakâh* base and their Fiqh-based description, as well as clarifying their Shari'ah ruling through a systematic Fiqh-based examination.

It is hoped that this study will contribute to examining and describing the jurisprudential issues, as well as explaining their shortcomings, rulings, application to the real-life practices of modern corporations, solving the practical problem of many issues of this topic, and the great disparity in the application of issues according to accountants and Shari'ah scholars, and dealing with the disagreement of Fiqh scholars over many *Zakâh* base-related issues, and the conflicting Fatwas regarding these issues.



Concepts and Terms

Concept of the *Zakâh* base:

The contemporary Fiqh scholars often use the term "*Wi'â'*" added to *Zakâh* to suggest the wealth on which *Zakâh* is due, or the elements subject to *Zakâh* from the corporations' financial statements, or "the net funds subject to *Zakâh* from the wealth owned by the company". It is a term commonly used by tax and accounting scholars.

Corporations:

In Islamic Fiqh, corporations (*Sharikât*) are divided into three categories:

- 1- *Sharikat Al-Milk* (ownership partnership):** "Two persons own a property by way of inheritance or purchase." It is usually created - for example - by ways of inheritance, wills, and gifts. The Hanbalites express it as a gathering in entitlement, while the Malikites call it *Sharikat Al-A'ammiiyyah* (general partnership).
- 2- *Sharikat Al-Ibâhah* (common sharing partnership):** "Gathering (or acquiring) things that are permissible for people to benefit from together, such as water, pasture, fire, and the like, of which no human has reached." It often falls within *Sharikat Al-Milk* (ownership partnership).
- 3- *Sharikat Al-'Aqd* (contract partnership):** "An agreement between two or more parties to combine their assets, or their labor, or their liabilities for the purpose of earning." This is the intended type of corporations in this study. The Hanbalites express it as a gathering in disposition, while the Malikites call it *Sharikat Al-Akhasiyyah* (special partnership). It is divided according to different considerations.

Corporations (*Sharikât*) are not defined in their general sense under most Arab countries' laws and regulations, since the law considers only one type of it, namely *Sharikat Al-'Aqd* (contract partnership).

The Saudi law defines corporations (*Sharikât*) as: "A legal entity incorporated in accordance with the provisions of this Law pursuant to articles of incorporation or articles of association under which two or more persons undertake to participate in a for-profit enterprise by contributing property or work, or both, to share any profit realized or loss incurred from such enterprise."

Mudârabah:

Mudârabah falls within the partnerships' reality. It is defined as: Providing the capital for someone to trade in and sharing some of its profit, or a partnership contract in which one party provides the capital, whereas the other party provides labor.

Classifications of modern corporations:

♦ **Modern corporations are classified, according to their work nature, into two categories:**

1- Civil companies: They are companies whose purpose and subject of activity are to carry out civil works, such as managing public utilities and agricultural investment.

In the Saudi law, these companies are subject to the provisions of corporations established in Islamic Fiqh, whose provisions differ according to the type of corporation.

2- Commercial companies: They are companies that carry out commercial activities, such as purchase transactions with the purpose of selling, banking, transportation, insurance, supply, contracting, and the like.



In the Saudi law, these companies acquire the capacity of a merchant. They are liable for the obligations arising from these activities, and subject to the Bankruptcy Law in case they stop paying their commercial debts.

♦ **Modern corporations are classified, according to their formation, into two categories:**

1- Partnerships: They are companies in which the personal element emerges upon formation, and consist of a small number of persons with a certain connection.

The civil code and the Saudi law include three types of partnerships, namely: joint-liability partnership, partnership in commendam, and allotment/particular partnership

2- Corporations: They are companies in which the personal element often diminishes, and are based on the capital provided by the partner, regardless of who the person may be.

The civil code and the Saudi law include three types of corporations, namely: stock company, partnership limited by shares, limited liability company.

Tax:

A compulsory financial obligation imposed by the State, without any expectation of return, on individuals with the purpose of covering public expenditures.

Accounting:

According to accountants, accounting is defined as: "The process of identifying, measuring and communicating economic information to permit informed judgments and decisions by users of the information."

As for *Zakâh* accounting (*Muhâsabah Zakawiyyah*), it is defined as: An independent branch of accounting that examines how to identify, measure, investigate and report on the *Zakâh* base for a specific accounting unit, with the purpose of calculating the *Zakâh* due on that base, and disclosing that to the relevant parties to enable them to take appropriate decisions, the most important of which is the correct performance of *Zakâh* in accordance with the rulings of Islamic Shari'ah, and in a manner that does not contradict these rulings in general, and the Fiqh of *Zakâh* in particular.

Share:

A document that represents an unidentified portion in the capital of stock company or company limited by shares.

The OIC International Islamic Fiqh Academy (IIFA) defined it as: "The unidentified portion of the company's assets."



Ruling of *Zakâh* on the Bases of Modern Corporations' Wealth

Scholars unanimously agreed that *Zakâh* is obligatory on the wealth of legitimately competent people, whether the wealth is owned by single individual or many individuals. Partnership has no effect on the obligation of *Zakâh* if its conditions are met for all competent persons, because the general purport of evidence related to the *Zakâh* obligation in origin, which are well-known, do not differentiate between the wealth in a sole proprietorship and partnership, and there is no evidence for the differentiation between sole wealth and joint wealth.

Scholars are in disagreement about some issues of partnership, not about the *Zakâh* ruling in origin.

Their disagreement can be determined in three points:

First: The obligation of *Zakâh* on the legal personality. It is instrumental in determining who is charged with paying *Zakâh*, whether he is the shareholder, or the corporation's legal personality, but it has no effect on the obligation of *Zakâh* in origin.

Second: The effect of *Khultah* (i.e., mixed wealth) on overlapping shares of partners.

Third: The effect of *Khultah* (i.e., mixed wealth) on overlapping the amount paid out.

As for the second and third point, they are irrelevant to the issue of obligation, and their relationship is limited to the effect of *Khultah* and participation on the *Nisâb* (i.e., minimum amount determining a person's zakatability) and the amount paid out.



Pillars of the *Zakâh* Base in Modern Corporation

Pillars of the *Zakâh* base can be determined by two different considerations:

- 1- Accounting components of the *Zakâh* base (financial statements).
- 2- Fiqh-based components of the *Zakâh* base (zakatable wealth).

The *Zakâh* base can be identified through the two statements of financial position (balance sheet), which are:

Statement of assets: It is a statement or report that expresses the aspects of investing money in the company's commercial activity. The statement of assets includes two substatements: Statement of current assets and statement of fixed assets.

Fixed assets are of two categories:

- 1- Operating tangible fixed assets, and income-generating tangible fixed assets.
- 2- Intangible fixed assets, such as incorporeal rights.

Statement of payables: It is a statement or report expressing the sources of the company's funds resulting from the owners or the lenders. The statement of payables includes two substatements:

- 1- Statement of owner's equity: The total equity of the shareholders in the company (the capital of the company subscribed by the owners, accumulated profits, and statutory or voluntary reserves).
- 2- Statement of liabilities: Obligations or liabilities of the company (current liabilities and non-current liabilities).

The two columns of balance sheet shall be equal. That is, the statement of assets shall be equal to the statement of payables (or liabilities). This is called the mathematical equation.

Pillars of the *Zakâh* base in terms of wealth (zakatable wealth):

There are four agreed upon zakatable wealth as follows:

- 1- The two types of *Naqd* (i.e., gold and silver) and their equivalent.
- 2- Products of land.
- 3- Animal wealth.
- 4- Goods-stocked for trade.

The same is to be applied to modern corporations regarding the *Zakâh* due on the property itself, by virtue of the predominance of the purpose (intention) of trading over others.



Controls of the *Zakâh* Base in Modern Corporations

Zakâh has conditions, some of which relate to the payer on whom *Zakâh* is due, and some others relate to the wealth on which *Zakâh* is due. The latter is the one that applies to the *Zakâh* base. These conditions include:

1- Absolute ownership

This condition saves the stipulation of being free from debt, or the absence of a nullifier, because the absolute ownership means being free from debt, and the absence of nullifiers. It is one of the most important conditions that Fiqh scholars have been concerned with due to the large number of issues affected by it.

The meaning of this condition can be summarized as follows:

- 1- Identification of the owner, so *Zakâh* is not due on any property with no specific owner.
- 2- Stability of the ownership, so that the possession should not subject to be taken away.
- 3- The ability to dispose of the property, to grow and benefit from it. That is, the wealth should be in the owner's hand to dispose of it as he wishes, and its benefits are due to him with no right is attached thereof to anyone else.

► Wealth excluded from this condition

- ◆ Wealth endowed for a public entity, such as mosques, shelters, etc.
- ◆ Publicly owned property, such as government property, *Fay'* (i.e., booty gained without fight) property, etc.
- ◆ *Harâm* (impermissible) property, such as bribery, usurpation, theft, and forgery, because it belongs to its owners, and is forbidden to the one who has it in his hand, whose his duty is to return it, not to pay its *Zakâh*.
- ◆ The immediate debts that *Zakâh* payer owes to other.

Its contemporary applications include: The statutory deposit that banks make at the Central Bank without being able to invest it. Likewise, the statutory deposit that insurance companies make at the Central Bank without being able to invest it.

2- Actual or deemed growth

Fulfillment of this condition may obviate the stipulation that wealth should be surplus to original needs, because the original needs are not growing, and the growing wealth is surplus to original needs.

What to be considered in growth is its assumption and probability, not its certainty, because it is highly variable and uncontrollable. The absence of growth in wealth indicates that *Zakâh* is not obligatory on it, however its presence does not necessitate that *Zakâh* is obligatory, for the possibility of a nullifier or an unfulfilled condition.

3- Elapse of *Hawl*

This condition applies to gold and silver, livestock, and goods-stocked for trade. It, however, does not apply to the products of land, such as crops, fruits, minerals, and *Rikâz* (i.e., buried treasures or natural ores), so the elapse of a *Hawl* is not a condition for *Zakâh* to payable for them all.



The difference between types of wealth for which the elapse of *Hawl* (i.e., *Zakâh* year) is considered and other types for which this condition is not considered is the assumption and probability of growth. This because the elapse of *Hawl* indicates the probability of growth and profit, so it is easier for the *Zakâh* payer to pay *Zakâh* from the growth and profit. As for crops and fruits, they are growable in themselves and their growth is completed at harvest, so *Zakâh* is taken from them at that time, and where they decrease, no *Zakâh* is due on them again. Likewise, minerals are taken out of the land in the same way as crops and fruits, unless they belong to item paid as a standard of value, such as gold and silver, where *Zakâh* is payable on them each *Hawl*. This is because item paid as a standard of value are more likely to grow, in terms that they represent the values of money and the capital of trade.

4-Reaching the *Nisâb*

Reaching the *Nisâb* is to own the amount less than which *Zakâh* become undue. It varies according to the types of zakatable wealth. For example, the *Nisâb* (i.e., minimum amount determining a person's zakatability) for camels is five camels, the *Nisâb* for cows is thirty, the *Nisâb* for sheep is forty, the *Nisâb* for gold is twenty *Mithqâls* (a unit of weight equals 4.25 grams), the *Nisâb* for silver is two hundred dirhams, the *Nisâb* for crops and fruits is five *Awsuq* (a kind of weight equals 180 kg. approx.), and the *Nisâb* for goods-stocked for trade is estimated by the *Nisâb* for gold or silver.



Types of the *Zakâh* Base in Modern Corporations

1- Types of elements included in the structure of *Zakâh* base

› Types classified under the statement of assets

They include: cash, receivables/debtors, prepaid expenses, receipt papers (bills and promissory notes), cheques, investments, commodity stocks (inventories), and the like.

› Types classified under the statement of payables

They include: accounts payable/creditors, deposits, accrued expenses, provisions related to liabilities, capital, retained earnings, reserves, and losses.

2- Types of the *Zakâh* base according to the amount payable

There are three types, as follows:

First type: For which one-fourth of the one-tenth (2.5%) is obligatory. This includes gold, silver and their equivalents, as well as goods-stocked for trade and their equivalents

Second type: For which the *Zakâh* on livestock is obligatory. This includes livestock kept for milk production and offspring.

Third type: For which one-tenth (10%) or half of one-tenth (5%) is obligatory. This includes the crops and fruits.

3- Types of the *Zakâh* base according to its accounts

There are two types, as follows:

First type: *Zakâh* base for corporations having regular accounts. This description can be found in all corporations, so they are held accountable and their *Zakâh* is determined by one of two methods: (i) the net assets method, and (ii) the wealth sources method, which is the method approved in the Executive Regulations for the Collection of Zakat in the Kingdom of Saudi Arabia.

Second type: *Zakâh* base for corporations having no regular accounts. This involves the corporations that do not issue financial statements, or issue financial statements but they do not reflect the reality of business activity and their *Zakâh* calculation is unattainable through the traditional methods, so their *Zakâh* accounting is calculated on the basis of estimation and valuation of the zakatable wealth that differ according to the type of corporation from which *Zakâh* is collected, since they may be commercial, industrial, real estate, contracting, or other types.



Methods of Calculating the *Zakâh* Base in Modern Corporations

Contemporary accounting thought has presented two methods for calculating the *Zakâh* base in modern corporations:

- 1- Net current assets method.
- 2- Invested wealth sources method.

The result in the two methods is supposed to be the same because they are used for extracting the *Zakâh* base which is unsusceptible to change if the Fiqh-based opinion is one. As for the accounting methods, they are means of determination and are not governing the Fiqh-based opinions.

The supposition that the two methods be identical has been argued from other researchers; who viewed that using one of the two methods in isolation from the other often leads to two different results. Further, the identical results do not occur except in case of sophistication to ensure consistency.

The researcher views that this argument is true in case the *Zakâh* inspector gets into details without paying attention to the result of other method, with the possibility of having the same result from the two methods in the following two cases:

First case: *Zakâh* inspector applies the overall method for these two methods to reach one result.

Second case: *Zakâh* inspector applies consolidated Fiqh-based opinions when dealing with each item of financial elements.

The researcher views that this argument is true and there should be no dogmatism about the overall method for one of the two methods, taking into account the differences between companies in business activities. The two methods will be explained as follows:

First method: Net current assets method

Net current assets are the total assets remaining in possession of the company after fulfilling all its obligations.

Net current assets are a direct method whereby the accounts of current assets and current payables that show in the company's balance sheet or its statement of financial position are being analyzed, then the current payables are subtracted from the current assets. After doing this, the remainder is considered the *Zakâh* base, which represents the net current assets or the net working capital.

This method drops the short-term debts from the *Zakâh* base. All debts can be dropped by deducting current and non-current payables according to those who argue that all types of debts prevent *Zakâh*, but this method is based on the supposition that what is deducted from the total current assets is the total current payables, which are the short-term debts.

Accordingly, its accounting equation is described as follows:

Total current assets - total current payables = net current assets, which is the *Zakâh* base

Second method: Invested wealth sources method

The invested wealth sources mean any financial right that the entity owes to others whether this right



belongs to partners or shareholders or other creditors. These rights are the company's invested wealth sources in the assets column of the balance sheet.

The statement of payables represents the company's invested wealth sources received from owners or lenders, and the statement of assets represents the wealth uses and the channels of their investment.

This method calculates the net invested capital on which *Zakâh* is due by subtracting the elements on which *Zakâh* is not due to reach the net invested capital.

The equation for this method can be summarized as:

(equity + long-term debts, not exceeding the non-current assets - net non-current assets) = *Zakâh* base.



Rulings of the *Zakâh* Base According to Net Assets Method

The statement of financial position is part of the general disclosure standard that governs the preparation of the financial statements. It is customary to classify the information that are included in this statement into: assets, payables, and equities. Moreover, the assets are classified into: current, and fixed. While the payables are classified into: current, and long-term.

Below we will discuss the statement of financial position components in terms of whether it is obligatory or not to pay *Zakâh* on them, according to the net assets method:

(1) Current Assets

The company's funds of all kinds and forms are called assets. These assets are classified into current and non-current, or current and fixed.

Fixed assets are those that are used in carrying out activities, such as built real estate, machinery, equipment, and vehicles.

Current assets are the field of such activity where they are circulated from one hand to another, and they change from one form to another during the business.

It can be defined as: Cash or property which the entity obtains and expects to transfer into liquid cash or expect to use it within one year or one accounting cycle.

An example of this would be the goods, securities, commercial papers, cash at banks, cash on hand, etc.

The elements of current assets:

➤ Cash

Fiqh scholars and economists adopted the view that the term cash is given to the currency of gold or silver and their equivalents as a means or medium of exchange that is widely accepted as a standard or measure of the value of things. According to the accountants, cash has a broader meaning compared to that definition adopted by Fiqh scholars and economists. It means: Liquid or easy-to-liquidate money, which are used as a unit of measurement, a store of values, and a means or medium of exchange, including: paper money (banknotes), coins, cheques, instant payment orders, demand deposits into current accounts, and savings accounts.

Accordingly, the accountants state that cash in treasury be in the form of paper money (banknotes), coins, cheques, bonds, or Sukuk (certificates); which the banks are keeping in accounts.

Therefore, *Zakâh* is due on cash, and it is included within the *Zakâh* base because it is either existing money or repayable debts expected to be collected.

➤ Receivables

Receivables is a term that stands for the value of the amounts due to be paid to the company by its customers for the commodities sold on deferred payment basis, or services that were provided to them on



credit. Receivables included in the current assets are the short-term debts. As for the long-term ones, they are counted in non-current assets.

Receivables are divided into four types:

- 1- Good receivables (repayable debts): Debts owed by a solvent debtor who recognizes the debt, and are considered to be collectable.
- 2- Bad receivables (non-repayable debts), or doubtful debts: Debts where the creditors do not know whether they will receive them or not.
- 3- Dead receivables, or dead debts: Debts that creditors have no longer able to collect from the debtors as a result of their bankruptcy, or termination of their period, or poor financial status.
- 4- Delayed receivables: Debts that must not be settled before their due date, and may be repaid either in a one-off payment or in installments, and their term may exceed one year.

The first three types are considered current assets. As for the fourth type (i.e., the delayed receivables), it is a non-current asset due to the long term.

The applications relating to receivables in the items of financial statements are shown in the form: debtors, loans, receipt papers (bills and promissory notes), the amounts retained from contracts if the institution has not been enabled to invest them, the statutory deposit for the sake of awarding license if the institution cannot withdraw or dispose of such amount, advance payments on signing contracts, prepaid expenses, accrued income, *Murâbahah* debtors, debtors of *Salam*, visas, *Istisnâ'* goods, the company's current accounts with third parties, and others. Their ruling differs according to its condition.

Debts in Islamic Fiqh are classified into divisions according to the following considerations:

First: Considering the debt owner or claiming it, and this consideration is divided into:

- 1- Debt to Allah, the Almighty: This type includes every debt that has no human claiming it as his/her right.
- 2- Debt to humans: This type includes every debt that has someone claiming it as his/her right.

Second: Considering the reasons for dropping the debt, and this consideration is divided into:

- 1- Valid debt: It is the established debt that is not waived except by payment or cancellation.
- 2- Invalid debt: It is the debt that is waived by payment, discharge, or any other means that result in its cancellation

Third: Considering the time of payment, and this consideration is divided into:

- 1- Immediate debt: It is the debt that must be paid immediately or at the request of the creditor.
- 2- Deferred debt: Debts that should not be settled before their due date, and may be repaid either in a one-off payment or in installments.

Fourth: Considering the creditor's ability to collect the debt, and this consideration is divided into:

- 1- Repayable (good) debt: A debt that can be collected, and the creditor hopes to obtain it.
- 2- Non-repayable (bad) debt: A debt that is not expected to be collected, and the creditor despaired of obtaining it.

Fifth: Considering relation or documentation, and this consideration is divided into:

- 1- Absolute debt: A debt is related to the debtor's liability only, while none of it is related to his wealth.
- 2- Documented debt: A debt is related to a financial property of the debtor's assets, confirming the creditor's right and documenting the side of collection, and this debt is considered as one of the debts that are likely to be collected (repayable debts).



By looking at the aforementioned considerations, the researcher found out that the two influential considerations in *Zakâh* are the third consideration and the fourth consideration. The receivables in the financial statements of accountants are debts according to Fiqh scholars. Therefore, the nature of research required that we learn about the ruling of *Zakâh* on debts of its three types: repayable debts, non-repayable debts, and deferred debts.

Ruling of *Zakâh* on the repayable debts:

There are four opinions on this issue as follows:

First opinion: *Zakâh* is obligatory on the debt, and the creditor (i.e., the wealth owner) should pay it whenever a *Hawl* has elapsed over it, even if he did not receive it.

Second opinion: *Zakâh* is obligatory on the debt, and the creditor (i.e., the wealth owner) should pay it when he receives the debt for all years that elapsed.

Third opinion: *Zakâh* is obligatory on the debt, and the creditor (i.e., the wealth owner) should pay it when he receives the debt for one year only.

Fourth opinion: *Zakâh* is not obligatory on the debt, and if it is received, then it is treated as the acquired wealth.

The disagreement on this issue can be attributed to the fact that there is no conclusive evidence regarding it, as it is evidenced by general purports and analogies, as well as the conflicting statements regarding this issue. The disagreement in this issue is real, and its effects are huge as well, especially according to the majority of scholars in describing current accounts as loans given to the banks, and that the depositor in the current account is a lender to the bank, since most of the people's money is in these banks, and saying that there is no *Zakâh* on these debts is a reason for depriving the poor from the *Zakâh* on most of the money.

Balancing and giving preponderance:

By examining the opinions, their evidence, arguments, counter-arguments, and refutations, it turns out that the first opinion are the soundest view as its evidence received the least objections.

This gives preponderance to the first opinion, which views that *Zakâh* is obligatory on the debt and is to be paid by the wealth owner (i.e., the creditor), whenever a *Hawl* has elapsed over it, even if he did not receive it.

Ruling of *Zakâh* on the non-repayable debts:

There are three opinions on this issue as follows:

First opinion: *Zakâh* is obligatory on it upon collection, and he is to pay for all years that elapsed.

Second opinion: *Zakâh* is not obligatory on it at all, and when he collects it, he resumes by it a new *Hawl* like other types of acquired wealth.

Third opinion: *Zakâh* is due on it after collection for one year only.

It appears that the reason of disagreement is similar to the issue of the repayable debt, namely there is no conclusive evidence on it, conflicting the statements reported concerning this issue, and the type of disagreement in this issue is real, and its effects are apparent.

Balancing and giving preponderance:

The soundest opinions in terms of evidence and the safety of all influential arguments is the second opinion which states that *Zakâh* is not obligatory on the non-repayable debt, and when he collects it then he resumes by it a new *Hawl*.



Ruling of *Zakâh* on the deferred debts and debts paid in installments:

Fiqh scholars agreed that *Zakâh* on debt is affected by factors of solvency and insolvency, procrastination and repayment, and the existence of evidence or not, and they differed concerning the details of those elements and their restrictions based on two opinions as follows:

First opinion: Postponement affects *Zakâh*.

Second opinion: Postponement does not affect *Zakâh*, with no differentiation between immediate and deferred debt.

They differed regarding the effect of insolvency on the deferred debt. Some observed this factor and hence made it two issues: the deferred owed by a solvent, and the deferred owed by an insolvent.

Others did not consider the financial status of the debtor before the maturity and they make the ruling the same in the deferred debt; whether the debtor is insolvent or solvent, and this is the most likely, due to the lack of knowledge about the status upon the maturity, as the insolvent may become solvent and vice versa.

They differed regarding the obligation of *Zakâh* on the deferred debt, into four opinions:

First opinion: *Zakâh* is obligatory on the deferred debt, and the creditor (i.e., the wealth owner) should pay it whenever a *Hawl* has elapsed over it, even if he did not receive it.

Second opinion: *Zakâh* is obligatory on the deferred debt, and the creditor (i.e., the wealth owner) should pay it when he receives the debt for all years that elapsed.

Third opinion: *Zakâh* is obligatory on the deferred debt, and the creditor (i.e., the wealth owner) should pay it when he receives the debt for one year only.

Fourth opinion: *Zakâh* is not obligatory on the deferred debt, and if it is received, then it is treated as the acquired wealth.

The disagreement over the issues of immediate and deferred debts arose for close reasons, and among the most prominent of these reasons are the lack of conclusive evidence in them, and the conflicting statements of the companions, as well as the disparity in understanding between the *Mujtahids* regarding the application of the condition of growth and the absolute ownership on debts.

The type of disagreement on this issue is real, and its effects are apparent on the *Zakâh* of the companies, their profits, their interest rate in long-term loans, and their ability to compete with other companies that do not consider the obligation of *Zakâh*, or do not believe that *Zakâh* is due on deferred debts and the like.

Balancing and giving preponderance:

The safest views are the elaboration and differentiation between debts that are based on good (interest-free) loans that do not arise from compensation, and commercial debts arising from compensation and deferred sales. So *Zakâh* is not obligatory on the deferred good loan which the Malikites call it the loan arising from non-compensation, and *Zakâh* must be paid on the commercial debts resulting from the sale of commodities at a deferred price in excess of the immediate price, as to these debts the growth is calculated over the term period.

Method of calculating *Zakâh* on the deferred debt according to those who say it is obligatory:

Those who view that *Zakâh* is obligatory on the debt disagreed regarding the method of calculating its *Zakâh*, according to the following three opinions:

First opinion: *Zakâh* on the deferred debt is calculated by its number.

Second opinion: *Zakâh* on the deferred debt is calculated by its value.

Third opinion: *Zakâh* on the deferred debt is calculated by its principal each year along with the profit for each year away from the rest of the profits.

Based on the preponderant view on this issue, deferred receivables, if they are commercial due to selling goods or providing services for a deferred price, and the growth was considered at the time of deferral by making an increase in value over the immediate price, then *Zakâh* is due on their number or value.

But if the loans are not commercial but are good loans for the employees, and subsidies in installments for them without interest, then *Zakâh* is not required on them.

Its *Zakâh* is accounted according to the (net assets) method by adding it to the zakatable assets, even with their inclusion (in accounting) within the non-current assets.

Such issue questions the generalization of an overall rule for the method of calculating *Zakâh*, because each item in the financial statements must be considered separately.

► **Receipt papers (bills and promissory notes)**

It is the third component of current assets under the net assets method.

Receipt paper is a document or an official paper that proves the debt given by an institution to someone else to be paid on the due date. It has two types: the bill of exchange and the promissory note and they fall within the commercial papers which consist of three things: the bill of exchange, the promissory note, and the cheque.

Relationship of receipt papers to the *Zakâh* base:

The Fiqh-based description of the receipt papers is that they are short-term debts that are owed by others, and hence their relationship to the *Zakâh* base is not different from the relationship of receivables. If the receipt papers are good, *Zakâh* is due on them, and they are added to the company's *Zakâh* base, and if they are not good, then they are removed from the *Zakâh* base.

If the value of receipt papers represents a usurious interest-added loan, or it is a debt for the price of commodity that its term has deferred in return for an increase in it, then the *Zakâh* is paid on the principal of the loan or the debt, without the interest, as *Zakâh* is not obligatory on it, but it (the interest) must be paid out in full.

But if the receipt papers represent commodities sold on credit for more than their immediate price, then this increase is permissible as long as it is included in the price, and the value of receipt paper is included as a whole within the *Zakâh* base.

► **Cheques under collection**

It is the fourth component of current assets under the net assets method.

In commercial law, cheque is defined as: A certificate that is issued in a particular form specified by law containing an order issued by a person (known as the drawer) to another person, mostly a bank, (known as the drawee) to pay a certain sum of money to a third person (known as the beneficiary) at sight.

Cheques are short-term debts owed by others. They are like receivables and receipt papers, unless their term exceeds one year, in which case they are deferred debts.

Relationship of cheques under collection to the *Zakâh*:

If it is decided that cheques are like debts, then what is said about receivables and receipt papers is said about them too, and there is no need to repeat it here.



► Provisions

Provisions in their general accounting meaning are discretionary amounts deducted from revenues.

Provisions vary according to their goal: they include provisions for doubtful debts, provisions for investment risks, provisions facing the possibility of cash withdrawal in banking companies, provision for staff leaves, provision for end of service benefits, provision for taxation, provision for *Zakâh*, and others.

These provisions can be classified into categories according to what they are relating to:

- 1- Provisions relating to current assets, such as: doubtful debts
- 2- Provisions relating to fixed assets, such as: depreciation
- 3- Provisions relating to liabilities, such as: staff leaves, and end of service benefits.

It can be said that the comprehensive Fiqh-based description of all types of provisions is that they are cash money that the company withholds at its own discretion without being required by law to do so. The company completely owns them, and the possibility of growth in them is realized, and it is mostly invested until the date of their repayment comes or their fulfillment time, because they are not real expenses until their cause and condition are fulfilled. Therefore, the researcher views that if they remain in cash, then their *Zakâh* shall be that of the gold and silver, and if they are invested in trade, then their *Zakâh* shall be that of the goods-stocked for trade.

Relationship of provisions to the *Zakâh* base:

- 1- Provisions are sums of money voluntarily withheld by companies as a precautionary measure, or early preparation for commitments.
- 2- Provisions are fully owned by modern corporations, and their disposition remains in them. They are held in order not to be shown in the profits, and this is not a real hold, rather it is an artificial hold.
- 3- Provisions are growing in modern corporations in most of their conditions or they are capable of growth, and it is known that companies record them in the provisions, while they still invest them and never set them aside.
- 4- Provisions cannot take the same description of the debt, because the condition of debt is not fulfilled in them, and if the condition of debt is met and established in liability then it not valid to be provision, rather it will be a credit or due items in the name of the subject to whom it is paid, such as taxes due.

Based on these determinants, the general rule in the provisions is that they are not deducted from the zakatable assets as long as they take the form of provisions and do not deviate from that by spending or payment.

If the form of provisions changed by spending them before the *Hawl* (i.e., *Zakâh* year) has elapsed, then they will be counted among the expenses of the financial year that were spent during it, and this affects the base of this year, but if the provision is established in liability and was not spent, then it will be counted among the debts of the year as much as the amount established, and hence it will be deducted from its base.

An exception is made if the provision was made to offset money on which *Zakâh* is not due and it was calculated among the zakatable wealth, then in this case this provision is deducted from the *Zakâh* base.

The following are all the provisions that the researcher came across along with their rulings and explanations according to their categories:

Provisions relating to current assets:

- 1- Provisions for doubtful debts: Such provisions are deductible from zakatable assets if the amount of doubtful debt has been fully included in the zakatable assets.



- 2- Provision for redemption of pre-operating expenses: Such provision is not deductible from zakatable assets because it is money owned by the company, so what applies to gold and silver should apply to it.
- 3- Provision for perishable or slow-moving goods: Such provision is not deductible from zakatable assets because it is money owned by the company, so what applies to gold and silver should apply to it.
- 4- Provision for probable declines in the prices of goods: Such provision is not deductible from zakatable assets because it is money owned by the company, so what applies to gold and silver should apply to it.
- 5- Provision for decrease in the price of currencies: Such provision is not deductible from zakatable assets because the considered in the estimation of zakatable assets is the market value.
- 6- Provision for deterioration in the value of investments in shares purchased for growth: Such provision is not deductible from zakatable assets because it is money owned by the company, so what applies to gold and silver should apply to it.
- 7- Provision for facing the possibility of cash withdrawal in banking companies: Such provision is not deductible from zakatable assets because it is money owned by the company, so what applies to gold and silver should apply to it.
- 8- Provision for cash discount for early repayment: Such provision is not deductible from zakatable assets because it is a probabilistic matter, because of the impermissibility of prior agreement on the discount in exchange for early payment in the debt contract according to the majority of Fiqh scholars.

Provisions relating to fixed assets:

- 1- Provision for depreciation of operating or income-generating fixed assets: Such provision is not deductible - in origin - from the zakatable assets, because the consideration for this provision relates to a decrease in the value of fixed assets, and it was not included in the zakatable assets provided that the fixed assets appear at their full value on the assets column, but if they appear at their net value after deducting depreciation, then this provision is deducted from the *Zakâh* base.
- 2- Provision for maintenance and renovation of operating or income-generating fixed assets: Such provision is not deductible from zakatable assets, because it was allocated for spending but it has not actually spent, so it is still in the company's possession, so what applies to the cash available with the company over which one *Hawl* has elapsed should apply to it.
- 3- Provision for insurance of fixed assets: Such provision is not deductible from zakatable assets, because it is amounts allocated for spending, and it is still in the company's possession.

Provisions relating to liabilities:

- 1- Provision for leaves: Contemporary Fiqh scholars differed regarding the deduction of such provision from the *Zakâh* base according to two opinions:
 - First opinion:** Such provision is deductible from the *Zakâh* base.
 - Second opinion:** Such provision is not deductible from the *Zakâh* base.
 - Preponderant opinion:** It depends: If its condition is not fulfilled, then the provision for leaves is not deducted from the *Zakâh* base. If its condition is fulfilled and it became due, then it is deducted from the *Zakâh* base.
- 2- Provision for taxes: Contemporary Fiqh scholars differed regarding the deduction of such provision from the *Zakâh* base according to two opinions:
 - First opinion:** Such provision is deductible from the *Zakâh* base.
 - Second opinion:** Such provision is not deductible from the *Zakâh* base.
 - Preponderant opinion:** It is not to be deducted from the *Zakâh* base, and *Zakâh* should be paid on it as long as it remains in the company's possession and under its disposal.



3- Provision for end of service and retirement benefits or pension salary: Contemporary Fiqh scholars differed regarding the deduction of such provision from the *Zakâh* base according to two opinions:

First opinion: Such provision is not deductible from the *Zakâh* base

Second opinion: Such provision is deductible from the *Zakâh* base.

Preponderant opinion: It is the view that this provision is not to be deducted from the zakatable assets, and *Zakâh* should be paid on it, like the rest of cash money that the company owns in absolute ownership.

4- Provision for judicial indemnities: Such provision is not deductible from the zakatable assets until it becomes due for payment by a final court decision.

5- Provision for *Zakâh*: Such provision is not deductible from the *Zakâh* base, because the amount of *Zakâh* due on the company for the current year is cash money over which a full *Hawl* has elapsed before the obligation of *Zakâh*, so it is included in the *Zakâh* base.

If this amount was for previous years, and it was assessed and became due to official authorities, but it was not received for any reason, then it is a due debt that prevents the obligation of *Zakâh* in its like, provided that it is separated in a special account and cannot be disposed of. But if it remains with the company's funds and is not paid out or separated, then it is money owned by the company over which a *Hawl* has elapsed, then *Zakâh* is due on it.

► Investments

It is the sixth component of current assets, within the net assets method.

Investment is defined as: "The use of funds in production, either directly by purchasing machinery and raw materials, or indirectly, such as buying shares and bonds".

Investment varies in terms of its nature into two types:

First: Physical, real, or in-kind investment, which means spending money in owning goods and services that increase the productive capacity of society, which is expressed in physical or tangible assets such as machines, buildings, and others.

Second: Financial investment, which means spending money on owning intangible financial assets, such as shares, bonds, investment certificates, etc. for the purpose of obtaining a return.

This type of investment is used to operate the funds in surplus of the original activity of modern corporations, and it may be for short or long terms.

Investment varies in terms of its term (duration) into two types:

First: A short-term investment, which belongs to the current assets, for example: the investments in securities for the purpose of trading.

Second: A long-term investment, which belongs to the non-current assets, for example: the investments in securities for the purpose of holding them.

Through the definition of investments, it became clear that these are growing zakatable wealth, but their ruling differs according to the type of investment in which it is used. If the investments are in buying and selling, then they are like goods-stocked for trade, and if they are in fixed assets that generate profit, then they are like the *Mustaghallât* (i.e., income-generating assets).

Ruling on some investments dealt with by contemporary corporations:

1- *Zakâh* on investment in shares:

Contemporary scholars have agreed that *Zakâh* is obligatory on shares, either on their principal or on their proceeds, when conditions are met and there are no impediments to them.



Scholars adopted three approaches regarding the method of *Zakâh* on shares:

First approach: Giving priority to the trading aspect, so they are treated the same as *Zakâh* on goods-stocked for trade, whatever the company's activity, and whatever the shareholder's intention.

Second approach: Giving priority to the investment aspect, so the shares are subject to *Zakâh* according to the assets they represent.

Third approach: Drawing distinction between trading and investment, so the contribution with the intention of trading in the same shares (*Mudârib*) takes the ruling of *Zakâh* on goods-stocked for trade, and the contribution with the intention of profiting from the share (investment) is in proportion to what the shareholder owns of that share.

2- *Zakâh* on investment in bonds:

The researcher needs to reach the ruling of *Zakâh* on them by examining two related issues: *Zakâh* on debt, and *Zakâh* on impermissible wealth.

Adopting the preponderant view in the two issues, i.e., *Zakâh* on repayable debts and *Zakâh* on impermissible wealth, we reach the conclusion that *Zakâh* is obligatory on the principal of bonds because they represent debts expected to be repaid, and their interests should be gotten rid of completely as they fall under the category of impermissible wealth. This is the opinion adopted by the International Shari'ah Board for Zakat and the Shari'ah Board of the Accounting and Auditing Organization for Islamic Financial Institutions.

However, contemporary scholars differed on the issue of *Zakâh* on bonds, which is based on the difference of opinion regarding the abovementioned two issues. Their opinions can be summarized in two key approaches as follows:

First approach: *Zakâh* is obligatory on the principal of bonds, rather than their interests. Principal of bonds refers to their nominal value. Thus, market value is not to be taken into consideration.

Second approach: *Zakâh* is obligatory on both the principal and interests of bond.

The researcher reached the conclusion that the first approach is preponderant, i.e., *Zakâh* is obligatory on the principal of bonds not on the interests regardless whether the purpose of their holder is trading or investment.

3- *Zakâh* of investment in investment certificates:

The term "investment certificates" is confusing because such certificates are issued in numerous types and having overlapping designations. However, Shari'ah-based approach necessitates giving no consideration to such different designations and focusing on the content and conditions.

Some researchers came to the conclusion that such certificates, no matter how various designations they have, are divided in no more than three types:

First type: Investment unit certificates. *Zakâh* is basically obligatory on companies' investments in the certificates of investment units and investment Sukuk. It should be added completely to the *Zakâh* base if the purpose behind buying such certificates was trading.

Second type: Nominal value certificates. Although these certificates have many designations in the realm of economy, Shari'ah views them all from the same perspective. Among these designations are: bonds, investment bonds, treasury bills and *Muqâradah* bonds.



Since they are the same as bonds from the Shari'ah-based perspective, then what is said about bonds is said about them too, and there is no need to repeat it here. Investigating the issue of *Zakâh* on bonds, the researcher came to the conclusion that *Zakâh* is obligatory on the principal of bond based on the fact that *Zakâh* is obligatory on repayable debt, and their interests should be gotten rid of as they fall under the category of prohibited usury. It should be taken into consideration that what is obligatory regarding impermissible wealth is getting rid of it completely rather than keeping it and paying *Zakâh* on it.

Third type: *Muqâradah* bonds certificates. These are financing instruments that represent ownership of units of equal value, registered in the names of holders in return for paying their registered value, repayable over a period of time out of the profits and returns, and guaranteed by a third party. They have some characteristics as follows:

- ◆ They entitle their holder to a restricted ownership.
- ◆ They are financing bonds and do not represent absolute ownership of the project.
- ◆ A third party guarantees the capital for subscribers.
- ◆ The issuer amortizes the value of bonds and returns its nominal value.

The researchers differ on the Fiqh-based description of *Muqâradah* bonds: Some scholars permit them on the basis that they belong to *Mudârabah* contracts. Other scholars do not permit them on the basis that they belong to loan contracts. According to both Fiqh-based descriptions, *Zakâh* is obligatory on them. However, *Zakâh* payment method differs depending on each description.

➤ **Commodity stocks (inventories) at the end of the period**

Commodity stocks (inventories) at the end of the period are all the goods and materials that are prepared for sale in their original form or after being manufactured, whether they are in the company's stores or others' stores, in transit or with selling agents, and are not sold till the time of stocktaking, at the end of an accounting period.

It is the seventh component of current assets, within the net assets method. It is one of the major *Zakâh* accounting components, on which *Zakâh* is obligatory. According to Islamic Fiqh, it is called "*Mubâ'â*", i.e., property prepared to be sold either primary such as off-the-shelf item, or secondary such as raw materials. Furthermore, it is one of the most important forms of goods-stocked for trade as they are defined by Fiqh scholars as: "Everything that is prepared for trading and selling in quest of profit."

Fiqh-based description of commodity stocks (inventories) at the end of the period:

Generally speaking, commodity stocks (inventories) belong to the goods-stocked for trade. This includes raw materials, materials in process, finished goods and products, goods in transit, goods to be sold by others, goods prepared for export through documentary credits to the benefit of the institution, goods imported through documentary credits covered by the institution and intangible rights prepared for trade. This is because all these things are prepared for trading and sale. The only exception to this is consumables such as industrial accessories (spare parts), maintenance materials, composting materials in farms, fodder in animal husbandry farms, containers of fixtures and trade chattels. Although these are stored goods, they are not prepared for sale and thus cannot be considered goods-stocked for trade; rather, they are to be considered property obtained for *Qunyah*.

The majority of scholars usually exclude some trade property from *Zakâh* obligation for the reason that they are not prepared for sale. Some of these excluded property fall under the category of inventory, such as containers of fixtures and trade chattels.



Relationship of commodity stocks (inventories) at the end of the period to the *Zakâh* base:

- ◆ If it is maintained for sale and trade, then *Zakâh* shall be due on such type of inventories.
- ◆ If it is maintained for service or production, then *Zakâh* due on the goods-stocked for trade do not apply to it and is not included in the *Zakâh* base.

► Other debit balances

These are amounts of money representing the company's rights held by others. They include mainly prepaid expenses and accrued revenues

Other debit balances differ according to their purpose: they can be loans borrowed by others or expenses that are no more owned by the company. In fact, this depends on their different contracts and circumstances.

As for accrued revenues, they fall generally under the category of receivables. Thus, the detailed ruling regarding repayable and non-repayable debt can apply to it.

Relationship of other debit balances to the *Zakâh* base:

Some researcher stated that *Zakâh* is obligatory on other debit balances. However, examining the two types of debit balances, the researcher comes to the conclusion that there is a difference between them, and this requires some detail. Thus, stating that *Zakâh* is either obligatory or otherwise is not probable.

- ◆ **Prepaid expenses**, which include amounts paid in advance for contracts signed, expenses paid for future financial periods, rent paid in advance for coming years and insurance paid in advance for coming years. Researchers expressed three scholarly opinions regarding this type whether or not it is obligatory. However, the third opinion detailed this issue: *Zakâh* is obligatory on it and will be included in the *Zakâh* base if the contract for which it is paid is not binding. If the contract is binding, *Zakâh* will not be obligatory.

The researcher views that the third opinion is preponderant for its safety from the abovementioned two arguments and immunity against potential tricks sought by some companies. Allah knows best.

As for the price of the purchased goods of *Salam* and *Istisnâ'*, which refers to the money paid for the goods of *Salam* and *Istisnâ'* purchased by the company but were not received yet, their Shari'ah ruling needs some details:

If the purchased goods of *Salam* and *Istisnâ'* are for the purpose of trade, these paid amounts should be included in zakatable assets because they are goods-stocked for trade and should be valued by the cost, which the capital of *Salam* and *Istisnâ'* paid for them.

If goods are purchased for the purpose of operation or generating revenue, they will be considered income-generating assets and thus *Zakâh* will be due on the revenues only if a *Hawl* has elapsed over them.

- ◆ **Accrued revenues**, which include the due investment revenues, due rent, credit balances for subsidiaries and associates, unpaid amounts from customers, loans and imprests held by employees of the company, non-repaid amounts of customers.

Their Fiqh-based description is that they are debts, and therefore *Zakâh* is obligatory on them if they are repayable and no *Zakâh* is due on them if they are non-repayable. This is based on the opinion preponderated by the researcher regarding the issue of debts.



(2) Fixed Assets

Fixed assets are tangible (physical) items or property that are not held for sale; rather they are held with the intention of being used for the purpose of producing goods or providing services. The period of using such fixed assets will be as long as their useful life. Fixed assets are divided into two types: tangible and intangible fixed assets.

► **Tangible fixed assets**

Tangible fixed assets generally refer to assets that are held for the purpose of being used as long as their useful life. They have a physical value and often serve more than one accounting period. Examples of these assets are business lands, vehicles, premises, equipment, inventory and machinery. Tangible fixed assets are divided into two types:

1- Operating fixed assets: These refer to assets used in operating a business regarding the productive, industrial, administrative or service processes. Examples of these assets are the company's premises, devices, vehicles, furniture and other things that may be used to operate the activity of the business without trading in these assets.

These assets are a synonym of property obtained for *Qunyah* according to Fiqh scholars, who define them as property held for consumption without selling.

2- Income-generating fixed assets: These refer to the property held and prepared for rent or investment in all its forms. such as rented buildings, vehicles and the like.

These assets are a synonym of *Mustaghallât* (i.e., income-generating assets) according to the Fiqh scholars and included under property obtained for *Qunyah* because income-generating assets are part of *Qunyah*.

Relationship of tangible fixed assets to the *Zakâh* base:

Through the Fiqh-based description of operating fixed assets, we realize that these refer to property that are not held for growth, but rather for use, as they belong to *Qunyah* (i.e., acquisition for personal use). Scholars express different views regarding them if they are used in investment projects. They are unanimous that no *Zakâh* is due on *Qunyah* held for consumption such as furniture and clothes unless they are made of gold, silver or any other material on whose physical substance *Zakâh* is obligatory. However, there are two different scholarly opinions on *Qunyah* invested in investment projects, such as the merchants' fixtures and trade chattels, manufacturers' tools and the like:

First opinion: *Zakâh* is not due on *Qunyah* used in investment projects.

Second opinion: *Zakâh* is due on the value of *Qunyah* used in investment projects.

The researcher gave preponderance to the opinion of the majority of scholars, that no *Zakâh* is due on *Qunyah* (i.e., acquisition for personal use) used in investment projects. This is because proponents of this view cited strong evidence, and that such goods do not primary generate revenues taking into account that one of the conditions for the obligation of *Zakâh* is generating revenue either on actual or deemed basis.

Through the Fiqh-based description of income-generating fixed assets, we realize that they are considered by scholars as income-generating assets or *Mustaghallât*. However, there are three views regarding the ruling



on the obligation of *Zakâh* on the *Mustaghallât* (i.e., income-generating assets):

First opinion: *Zakâh* is not obligatory on either the property of *Mustaghallât* or their value. *Zakâh* is due only on their net income at the rate of one-fourth of the one-tenth (2.5%) as the rest of other acquired wealth provided the *Nisâb* (i.e., minimum amount determining a person's zakatability) has reached and after the elapse of one *Hawl* (i.e., *Zakâh* year) since the day of receipt.

Second opinion: *Zakâh* is obligatory on both the value of property and their revenue at the rate of half of one-tenth.

Third opinion: *Zakâh* on income-generating agricultural land is applied to the *Mustaghallât*. Thus, *Zakâh* is due on their revenues at the same rate due on land products by the time of reaping the revenue, and it is not necessary that they have one lunar year cycle (*Hawl*).

The researcher gave preponderance to the opinion of the majority of scholars that *Zakâh* is not obligatory on either the property of *Mustaghallât* or their value, but *Zakâh* is due only on their net income at the rate of one-fourth of the one-tenth (2.5%) as the rest of other acquired wealth provided the *Nisâb* (i.e., minimum amount determining a person's zakatability) has reached and after the elapse of one *Hawl* (i.e., *Zakâh* year) since the day of receipt.

► Intangible fixed assets

Intangible fixed assets are the assets that do not have a tangible physical existence, and have statutory value, including incorporeal rights and financial rights.

Incorporeal/Intangible rights include attribution and disposition, and financial rights include exploitation and exchange. Examples of these rights include trademark, trade name, goodwill, invention and innovation.

Scholars differ on whether usufructs have monetary value based on their difference on their conceptualization of the wealth nature.

Scholars are unanimous that physical objects (assets) are wealth if they can be possessed, benefitted from and saved. They are also unanimous that non-monetary rights (abstract rights), such as the right to custody and guardianship of minors are not wealth. They, however, expressed two different scholarly opinions regarding whether usufructs and other similar incorporeal or intangible rights have monetary values, as follows:

First opinion: Usufructs are denominated, guaranteed property that are wealth as physical objects. They are possessed directly through possessing their origins (i.e., their assets).

Second opinion: Usufructs are property and possessions that wear out a bit by bit, and are not denominated property of monetary value.

The researcher gave preponderance to the opinion of the majority of scholars that usufructs are denominated property, and the intangible assets are included in them as they involve Shari'ah-introduced considerable usufructs.

Contemporary scholars expressed three different opinions on whether *Zakâh* is due on the values of intangible assets if they are held for trade, as follows:

First opinion: *Zakâh* is not due on the values of intangible assets, whether they were commercial or intellectual, and they cannot be considered as goods-stocked for trade. However, *Zakâh* is due on their revenue after the *Nisâb* is reached and after the elapse of *Hawl* (i.e., *Zakâh* year).

Second opinion: *Zakâh* is due on the values of intangible assets if they are held for trade. If a trader purchases patents, copyrights, brands or trademarks and sells them later for higher prices to make profits, *Zakâh* due on the goods-stocked for trade will be due on them.



Third opinion: Drawing distinction between patents, and brands and their likes. *Zakâh* is not due on patents and copyrights but it is due on brands and trademarks if they meet the requirements of *Zakâh* on the goods-stocked for trade.

The researcher gave preponderance to the second opinion that *Zakâh* is obligatory on the values of intangible assets, whether they are copyrights and patents, or brands and trademarks.

► Payables or liabilities

Payables or liabilities is a term used to describe any kind of financial obligation that a company or an institution owes to other than its owners at a specific time, usually the date of preparing the balance sheet.

Payables can be divided - in accordance with the term - into two types:

- 1- Current liabilities (also called short-term liabilities): These are obligations that a company has to pay within the fiscal year or a normal operating cycle, whichever is longer. Repayment should be from current assets. Examples include: accounts payable, short-term debts and overdraft accounts, equity of trade suppliers and creditors, and the like
- 2- Fixed or non-current (long-term) liabilities: These are obligations that a company owes to another party, whose term exceeds the fiscal year or the accounting cycle. Examples include: long-term payment papers, long-term debts, long-term bonds and the like.

Payables can be divided - in accordance with the use - into two types:

- 1- Liabilities used to finance zakatable assets, such as goods-stocked for trade, and *Murâbahah* transactions.
- 2- Liabilities used to finance non-zakatable assets, such as property obtained for *Qunyah*, including: premises, vehicles and the like.

It is clear that liabilities are debts owed by the company to other than its owners. They are listed under the statement of payables, and their value is calculated within the company's assets under the statement of assets. This calls us to wonder about their effect on the *Zakâh* base: Are all the assets liable to *Zakâh* regardless of debts? Or, should the value of debts be subtracted from assets, so that the *Zakâh* base will be the net assets after subtracting liabilities?

This issue has been addressed by many opinions which the study has presented along with their evidence and counter-arguments. After examining the abovementioned views, evidence, arguments and counter-arguments, the researcher gave preponderance to the opinion stating that immediate debt waives the obligation of *Zakâh* on its value of the zakatable assets and that deferred debt does not waive it. This view agrees with the second opinion, that debt waives *Zakâh* at all, as far as deferred debts are concerned. Also, it agrees with the first opinion, that debt does not waive *Zakâh* at all, as far as immediate debts are concerned.

***Zakâh* on a debtor whose debt decreases the amount of *Nisâb* but at the same time owns *Qunyah* that can be sold to repay the debt, and the debtor who used the debt to get *Qunyah*:**

Scholars, who view that debt waives *Zakâh*, differ on whether a debtor, who owns *Qunyah* (i.e., acquisition for personal use) that do not constitute a basic need and can sell them to repay the debt, should use them to pay off his debt. There are two scholarly opinions on the issue:

First opinion: A debtor, who owns *Qunyah* that do not constitute a basic need and can sell them to repay the debt, should use them to pay off his debt and pay *Zakâh* on the property liable for *Zakâh*. Consequently, it is a condition for a debt in order to waive *Zakâh* that the debtor has nothing to repay the debt except the *Nisâb*.

Second opinion: If a debtor owns *Qunyah* that do not constitute a basic need and can sell them to repay the debt, we should consider the following:

If debt is used to finance *Qunyah*, we should use them to pay off his debt and pay *Zakâh* on the property liable for *Zakâh* without deducting the value of the debt.



If the property obtained for *Qunyah* are owned before receiving the debt, while the debt remains the same or used to finance goods-stocked for trade or other things on which *Zakâh* is due, we should use them to pay off his debt and deduct it from the property liable for *Zakâh*. Accordingly, it is not a condition for a debt in order to waive *Zakâh* that the debtor has nothing to repay the debt except the *Nisâb*, but it is required that he does not finance assets liable for *Zakâh*.

The researcher gave preponderance to the second opinion stating that such a condition is not required and that the immediate debt waives *Zakâh* on equivalent zakatable assets even if the debtor owns such number of properties obtained for *Qunyah* as may be enough to pay off the debt. However, if the debt is used to finance assets that are not liable for *Zakâh*, the value of the debt should not be deducted from assets liable for *Zakâh*, because it was not calculated within it in origin.

➤ **Owner's equity**

They refer to the total equity of shareholders in the company, consisting of the company's capital subscribed by the owners, the profits accumulated for them, and the statutory or voluntary reserves.

Even if owner's equity is considered in accounting context obligations due on the institution to owners, they are not considered, according to Shari'ah, debts on the company. Rather, they are considered the core capital, income generators and reserves of partners. The researcher stated that they belong to goods-stocked for trade according to the consensus of scholars.

Relationship of owner's equity to the *Zakâh* base:

The inclusion of owner's equity in the *Zakâh* base according to the net current assets method is out of the question. This is because it had already included in the *Zakâh* base on the assets column, and it cannot be included in the *Zakâh* base twice. However, the question here is whether it is deducted from the *Zakâh* base, given that the equation of the net current assets method is described as follows:

Total current assets - Total current liabilities = *Zakâh* base.

To answer this question, the researcher views that the owner's equity are not debts, as shown in the Fiqh-based description, and therefore their value is not deductible from the *Zakâh* base.



Rulings of the *Zakâh* Base According to Wealth Sources Method

➤ Capital

Accounting speaking, capital means “the owners’ money in a project,” or in other words: “the amount invested by the shareholders in the company. The net capital is the difference between total assets and total liabilities.

Capital is divided into two parts: fixed capital and working (operating) capital.

Fixed capital is synonymous with fixed assets. Working capital is the amount invested in short-term assets that are called current assets, which are: cash, short-term securities, accounts receivable, commodity stocks, etc.

The net working capital is the surplus of current assets over current payables, which is an important indicator of the liquidity position and the ability to pay in the short term.

Fiqh-based description of capital:

The Fiqh-based description of capital differs according to its type, as follows:

Fixed capital: It is property and goods that the company does not prepare for sale. This type of capital corresponds to property obtained for *Qunyah* in terms of meaning and ruling as the Fiqh scholars defined it as: what is owned in order to benefit therefrom without selling it.

Working (operating) capital: It is the cash invested in short-term assets, and it is the type that is intended by the general meaning. Based on the wealth sources method, it is considered goods-stocked for trade, because if the cash is entered into trade, its *Zakâh* is converted from the *Zakâh* on gold and silver into the *Zakâh* on goods-stocked for trade, and cash is intended for growth by itself or by using it in business. The Fiqh scholars’ definition of goods-stocked for trade does not exclude cash used in trade, because it is preliminary included in the *Zakâh* of trade. Some scholars, however, use the expression “*Zakâh* of trade” instead of “goods-stocked for trade”, which is more comprehensive.

Relationship of capital to the *Zakâh* base:

Zakâh is due on the working capital, and it is included in the *Zakâh* base because the trade capital is converted from the *Zakâh* of gold and silver into the *Zakâh* of goods-stocked for trade, where *Zakâh* is due in both cases. This is because if it is not included into trade, then it is intended for growth by itself, and if it included in trade, then it is intended for growth by using it in business.

➤ Profits

In accounting terminology, profit is the difference between expenses and revenues.

Profit varies into different types based on considerations, including:

- 1- Consideration of operation: Profit is divided, according to this consideration, into operating profit, and non-operating profit, known also as capital profit. The difference between them is that operating profit results from sales of the company within the scope of its basic activity, and non-operating capital profit results from selling an asset owned by the company such as real estate, vehicles, equipment, investments, etc.



2- Consideration of distribution: Profit is divided, according to this consideration, into the profits distributed (dividends) and the profits retained by the company.

Fiqh-based description of profits:

According to accountants, profit includes two types, namely operating profit, and non-operating or capital profit.

As for the first type, which is operating profit, it corresponds to the Fiqh scholars' terminology for profit, where profit is defined as: Increase in the price of trade commodities over their original price, or in other words: Increase in the value of trade commodities, whether as a result of an increase in these commodities or an increase in their value. The Islamic Fiqh Academy defines profit as: The surplus to the capital, not the revenue or the yield.

As for the non-operating capital profit, it corresponds to the term of Fiqh scholars for the acquired wealth, as it is defined as: A thing which enters into a person's ownership after it was not, during the *Hawl*, by purchase, gift, endowment, will, salary, sale price, etc.

Some researchers pointed out the difference between the definition of profit according to Fiqh scholars and the definition of accountants, because profit according to accountants is the difference at the end of the financial cycle between revenues and expenses, and this includes operating and non-operating capital. As for profit according to Fiqh scholars, it is the difference between the value of goods-stocked for trade at the end of *Hawl* and their value at the beginning of *Hawl*. Based on this, profit according to Fiqh scholars is what pertains to these goods only, which accountants call operating profit.

Relationship of profits to the *Zakâh* base:

Profits of all kinds are money acquired by the company in different ways. Fiqh scholars discussed *Zakâh* on the acquired wealth, and established the points of disagreement and agreement, and their discussion is applicable to the issue of profits in companies. If the *Zakâh* payer does not have wealth, and he acquired zakatable wealth that does not constitute *Nisâb* (i.e., minimum amount determining a person's zakatability), then there is no *Zakâh* on it and no *Hawl* (i.e., *Zakâh* year) is calculated for it. If the *Nisâb* is reached, the *Hawl* will be calculated based on the time of reaching the *Nisâb*, and *Zakâh* will be due on it if one *Hawl* has elapsed over it. If the *Zakâh* payer has property on which *Nisâb* is applicable, and before the elapsed of *Hawl* he acquired wealth (property) from the same type of the wealth on which *Nisâb* is applicable or from what is added to it, then it can be divided into three categories, as follows:

First category: The wealth acquired is from the growth of the first property (capital or principal), such as profit from trade, and the production of livestock, which include operating profit. This acquired wealth is disagreed upon by scholars. Such a disagreement can be summarized in three opinions, as follows:

First opinion: The acquired wealth shall be added to the original wealth, and their *Hawl* shall be the same, which is the *Hawl* of the original wealth (principal), provided that the original wealth reaches a *Nisâb*.

Second opinion: The acquired wealth shall be added to the original wealth, and their *Hawl* (i.e., *Zakâh* year) shall be the same, which is the *Hawl* of the original wealth (principal), whether the original wealth reaches a *Nisâb* or not.

Third opinion: If the profit is obtained without liquidation, then it is added to the capital, but if the liquidation is achieved, then profit will be resumed by a separate *Hawl* starting from its liquidation.

It becomes clear to the researcher the preponderance of the first opinion.

Second category: The wealth acquired from a different type of owned property, as in the case where the



capital is camels, and the acquired profit is gold or silver. This category is disagreed upon by scholars based on two opinions, as follows:

First opinion: Its *Hawl* will be elapsed at the day it is acquired provided it constitutes a *Nisâb*, and it is not based on the *Hawl* of the capital, i.e., camels.

Second opinion: *Zakâh* shall be due on the acquired wealth immediately at the time of acquirement without the need to wait for a *Hawl* to elapse.

It becomes clear to the researcher the preponderance of the first opinion.

Third category: The wealth acquired from the same type of owned property that constituted a *Nisâb* and for which one *Hawl* has elapsed, far away from that acquired from the growth of the first property (capital or principal). This includes non-operating capital profit. For example: The company has twenty thousand owned in the beginning of *Muharram*, then the company earns one hundred thousand in the beginning of *Dhul-Hijjah* as a result of selling one of the company's vehicles that it does not need, or so. The scholars differed concerning that on three opinions, as follows:

First opinion: The acquired wealth shall be added to the wealth that reaches the *Nisâb* but not the *Hawl*, so *Zakâh* is paid for the first type of wealth reaching the *Nisâb* upon the elapse of one *Hawl* over it. Likewise, *Zakâh* on the second type (acquired wealth) is to be paid upon the elapse of one *Hawl* over it, even if it is less than the *Nisâb*; because it has reached the *Nisâb* when added to the first type of wealth.

Second opinion: The wealth acquired during the *Hawl* (i.e., *Zakâh* year) shall be added to the wealth that reaches the *Nisâb*, and *Zakâh* shall be paid for both upon the completion of the *Hawl*.

Third opinion: Differentiating between the grazing livestock and the cash money. The wealth acquired during the *Hawl* is to be added to the wealth reaching the *Nisâb*, and so *Zakâh* is paid on both of them when the *Hawl* is completed for the first type if it belongs to grazing camels, cows or sheep. However, the acquired wealth shall not be added to the wealth reaching the *Nisâb* if it belongs to cash money.

It becomes clear to the researcher the preponderance of the first opinion.

Accordingly, the capital profit of modern corporations is added to the *Nisâb* of the capital and a separate *Hawl* must be resumed thereto, because it is not a growth from the wealth of the trade, rather it generated from other kind of wealth. Also, the obligation to add it to the *Nisâb* that the company possesses under the pretext of facilitating the calculation implies hardship from the other hand, which is that *Zakâh* becomes payable by the company on this wealth without applying the condition of elapsing the *Hawl* on the grounds that it owns wealth for which the *Hawl* has elapsed or about to elapse.

► Reserves

Reserves are amounts deducted from profits by virtue of law (statutory reserves), or as required by articles of association of the company, or on the basis of a decision by the general assembly (voluntary reserves).

The purpose of reserves: "Reserves provide necessary funds for many purposes, such as: future expansion, facing probable losses, distribution of profits in the years when no profits are realized, and distribution of the accumulated amounts of the reserves when they are no longer needed."

Types of reserves include:

- 1- Capital reserves.
- 2- Revenue reserves.
- 3- Mandatory (statutory) reserve.
- 4- General voluntary reserve.



Reserves are classified in terms of disposition into two sections:

Section one: Voluntary reserves with the company, which can be disposed of when needed.

Section two: Mandatory (statutory) reserves deposited with the regulatory authorities, which cannot be disposed of.

This classification affects the obligation of *Zakâh*, as will be explained in the Fiqh-based description of reserves.

Fiqh-based description of reserves:

Based on the definition of reserves, it turns out that they are cash saved, taken from the profits or the capital, and the company does not them in its profits and revenues, but they are included in its reserves in order to fulfill legal regulations, or to strengthen the financial position of the project.

They are divided into two sections:

Section one: The company's voluntary reserves that it can dispose of when needed.

Section two: Mandatory (statutory) reserves deposited with the regulatory authorities, which cannot be disposed of.

The company's receivables in accounting terminology do not differ from the debts owed to the company in Fiqh-based terminology. These are debts that cannot be invested, so they resemble a non-repayable debt owed by the insolvent or procrastinator.

Relationship of reserves to the *Zakâh* base:

The researcher views that the voluntary reserves are included in the *Zakâh* base, and are considered one of its basic items. As for the mandatory (statutory) reserves that cannot be disposed of, they are to be deducted from the *Zakâh* base on the basis that they are non-repayable debts, according to the wealth sources method.

As for the net assets method, the voluntary reserves are not deducted from the zakatable assets, while the mandatory (statutory) reserves that cannot be disposed of are deducted from the zakatable assets. This is because *Zakâh* is not due for non-repayable debt, which, however, if collected, it shall be resumed a new *Hawl* (i.e., *Zakâh* year) for them.

► *Istidrâkât*

The researcher did not come across an accounting definition of *Istidrâkât* in all available references, but some accountants use *Istidrâkât* as a word synonymous with provisions or allocations.

Fiqh-based description of *Istidrâkât*:

Since the word *Istidrâkât* is synonymous with the word "provisions", it refers to cash saved, not stated in the company's profits and revenues in order to meet expenses or obligations that are certain to occur in whole or in part, and their amounts are not precisely specified. So, they are charged to the profits and stated under payables column. Therefore, the researcher views that *Istidrâkât* take the ruling of item they are used for. So, they are to be attached to the (ruling on) gold and silver if they remain as they are, or to (the ruling on) goods-stocked for trade if invested in trading and selling for the sake of profit.

Relationship of *Istidrâkât* to the *Zakâh* base:

The *Istidrâkât* that have not been proven due to others are included in the elements of the *Zakâh* base according to the wealth sources method, along with the capital, reserves, etc. If they are proven due to others, they will not be included in the elements of the *Zakâh* base as debts. As for the net current assets method, the



general rule is that they are not to be deducted from the zakatable assets as long as they are in the form of provisions or allocations, and does not change their form, either by spending or becoming due.

The exception is when the provision made against wealth on which *Zakâh* is not due is included in zakatable wealth. In this case, the provision is deducted from the *Zakâh* base, and stated in the provision for doubtful debts, and the provision for depreciation of fixed assets.

➤ **Government subsidies**

It is a financial or in-kind contribution from a government entity in exchange for the institution's commitment to implement specific government policies and programs aimed at serving the public.

Relationship of government subsidies to the *Zakâh* base:

Based on the cases of government subsidies and the extent to which they are related to commodities or not, it can be said that government subsidies are included in the acquired wealth according to the Fiqh scholars, which includes operating and capital profit. The researcher established the basis for this issue in his discussion about profits.

The following can be concluded regarding these subsidies:

(a) Government subsidies related to certain commodities are considered operating profits, because they are wealth acquired from the growth of the subsidized commodity.

These subsidies correspond to the first type of acquired wealth, which is that wealth acquired from the growth of the first property (capital or principal), such as the profit of trade, and the production of grazing livestock. This kind of acquired wealth is a matter of disagreement among scholars according to three opinions, as follows:

First opinion: The acquired wealth shall be added to the original wealth, and their *Hawl* shall be the same, which is the *Hawl* of the original wealth (principal), provided that the original wealth reaches a *Nisâb*.

Second opinion: The acquired wealth shall be added to the original wealth, and their *Hawl* (i.e., *Zakâh* year) shall be the same, which is the *Hawl* of the original wealth (principal), whether the original wealth reaches a *Nisâb* or not.

Third opinion: If the profit is obtained without liquidation, then it is added to the capital, but if the liquidation is achieved, then profit will be resumed by a separate *Hawl* starting from its liquidation.

The researcher gave preponderance to the first opinion that the acquired wealth be added to its origin, provided that the original wealth (principal) constitutes a *Nisâb*, due to the strength and consistency of its evidence, and the fact that this opinion agrees with the cautious approach in acts of worship.

(b) Government subsidies related to the company without a specific commodity are considered to be acquired wealth, or capital profit, because they are not a growth for the trade funds, rather they are acquired from somewhere else.

These subsidies correspond to the third type of acquired wealth, which is that wealth acquired from the same type of owned property that reached a *Nisâb* and for which one *Hawl* has elapsed, far away from that acquired from the growth of the first property (capital or principal). The scholars differed concerning that on three opinions, as follows:

First opinion: The acquired wealth shall be added to the wealth that reaches the *Nisâb* but not the *Hawl*, so *Zakâh* is paid for the first type of wealth reaching the *Nisâb* upon the elapse of one *Hawl* over it. Likewise, *Zakâh* on the second type (acquired wealth) is to be paid upon the elapse of one *Hawl* over it, even if it is less than the *Nisâb*; because it has reached the *Nisâb* when added to the first type of wealth.



Second opinion: The wealth acquired during the *Hawl* (i.e., *Zakâh* year) shall be added to the wealth that reaches the *Nisâb*, and *Zakâh* shall be paid for both upon the completion of the *Hawl*.

Third opinion: Differentiating between the grazing livestock and the cash money. The wealth acquired during the *Hawl* is to be added to the wealth reaching the *Nisâb*, and so *Zakâh* is paid on both of them when the *Hawl* is completed for the first type if it belongs to grazing camels, cows or sheep. However, the acquired wealth shall not be added to the wealth reaching the *Nisâb* if it belongs to cash money.

The researcher gave preponderance to the first opinion stating that the acquired wealth should be added to the wealth owned in terms of *Nisâb* but not the *Hawl*. So, *Zakâh* for first shall be paid upon the elapse of its *Hawl*, and *Zakâh* for the second shall be paid upon the elapse of its *Hawl*, even if it is less than the *Nisâb*. Also, the opinion of Hanafites or Malikites may be applied to facilitate the calculation, yet there is no clear evidence for the obligation.

► **Current account balance**

Current account is "the difference between the total amount of debit entries and the total amount of credit entries in an account", and "the word generally means the amount that you need to make two quantities equal or equivalent. More specifically, the word means: the remainder or the net difference between the amount credited and the amount debited in an account, or the net unpaid amount in a debit account. As a verb, the word means to make two accounts equal, by entering a specific amount in one of them with the aim of balancing them."

The current account contract is defined as: "The agreement between two persons that different payments of money, funds, and transferable commercial bonds handed over by each of them to the other are to be entered in one account, for the interest of the payer, as a debt on the receiver, without either of them having the right to claim the other for what he handed over to him with each payment separately, so that the final balance alone, when closing this account, becomes a debt due and ready for payment."

The current accounts are called current, movable and demand deposits. These accounts can be dealt with by the available means, such as cheques, bank transfers, ATM cards, online applications, phone banking, etc.

Fiqh-based description of current account:

The contemporary Fiqh scholars and researchers have different opinions on the Fiqh-based description of current accounts, the most important of which are two opinions as follows:

First opinion: It is a loan, where the depositor is the lender, and the bank is the borrower.

Second opinion: It is a deposit in the Fiqh-based sense, so the customer is the depositor, and the bank is the depositing entity.

The researcher concluded that the preponderant Fiqh-based description of the current account is that it is a loan, not a deposit.

Relationship of current account to the *Zakâh* base:

Based on the Fiqh-based description of current accounts, their *Zakâh* is as follows:

First party: The owner of current account, and his Fiqh-based description is that he is a creditor or lender to a solvent payer who is unrepudiated, because he puts his funds in the bank knowing that the bank benefits from, disposes of, and guarantee such funds with an equivalent amount of money. This disposal with the guarantee makes the transaction between the two parties a loan. The bank is regarded as a solvent payer because it is committed to paying immediately upon claim, and facilitating payment for customers by means of automated payment (ATMs) on the roads at all times.



Accordingly, *Zakâh* shall be according to the *Zakâh* on debt if it is owed by a solvent payer who is unrepudiated, whether the current account holder is an individual, an institution, or a company. It has been presented that the issue is disputed among scholars, and the researcher concluded that *Zakâh* is due on the creditor (the lender) whenever a *Hawl* has elapsed for him, even if the funds have not been received, as long as the debt is with a solvent payer who is unrepudiated, and the conditions for the obligation of *Zakâh* are met, including: the elapse of one *Hawl* for the funds in current accounts.

Accordingly, the credit current account of the institution's owner is to be included within the cash in the elements of the *Zakâh* base according to the net assets method. It has presented that the cash in the fund and the bank, including the current account, is included in the zakatable assets, according to the previously mentioned method.

As for the wealth sources method, the current account is not to be included in the *Zakâh* base, because it has been included in it in another way within the capital.

Second party: The bank in which the account is opened, and its Fiqh-based description is that it is a solvent debtor or borrower who is unrepudiated, and the debt it owes is immediate and has no term, and the lender can take his funds at any time.

Accordingly, the current accounts for it are immediate debts, and their *Zakâh* shall be according to the *Zakâh* of the immediate debts. The scholars have different opinions regarding the *Zakâh* for the one who owes an immediate debt, does he have to pay *Zakâh* on such debt? The researcher, however, concluded that *Zakâh* is not payable by the debtor for the immediate debt.

Accordingly, the debit current accounts or demand deposits are to be deducted from the zakatable assets according to the net assets method, and are not to be included in the elements of the *Zakâh* base according to the invested wealth sources method.

► **Debt balance**

Balance refers to what is left for the depositor in the bank from his current account, and debt balance is the account or accounts designated for debts, whether the account is in the bank or in the financial statements or accounting statements.

The debt balance for modern corporations includes two things:

- 1- The debts owed by the *Zakâh* payer to others, and appear in the statement of payables within the liabilities or accounts payable. Their Fiqh-based description is that they are debts owed by the company to others.
- 2- The debts owed by the *Zakâh* payer to others, and appear in the statement of assets within receivables. Their Fiqh-based description is that they are debts due to the company from others.

Relationship of debt balance to the *Zakâh* base:

The relationship to the *Zakâh* base is as follows:

- (a) The current debts owed by the company to others: The researcher concluded that the immediate debt cancels *Zakâh* obligation for its amount, while the deferred debt does not. Applying this to the invested wealth sources method means not counting these immediate debts in the *Zakâh* base, and accordingly, accounts payable are not included in positive elements of the *Zakâh* base.
- (b) The debts due the company from others: The researcher concluded that the debts due to companies from others are divided into three sections: repayable debts, non-repayable debts, and deferred debts.

► **Amounts collected for goods under delivery**

They are cash revenue received in advance for goods that has not delivered or services that has not performed yet.



Relationship of amounts collected for goods under delivery to the *Zakâh* base:

These collected amounts are divided into two parts, as follows:

First: If they are for goods under delivery, and in this case:

- 1- The delivery takes place on time before one *Hawl* has elapsed over the money, so the amounts received will be acquired wealth on which *Zakâh* is due when the *Hawl* has elapsed over it; or
- 2- The delivery of goods is delayed until one *Hawl* has elapsed over the money with the seller and he has not delivered the goods to the buyer. This issue is controversial, and the researcher gave preponderance to the elaboration related to the stability of ownership.

Second: If they are for services under implementation and such services have not been implemented, then *Zakâh* is not due based on the fact that the payments are considered a debt to others as the ownership of payment is not stable due to the possibility of annulling the lease (service) with an excuse.

Some researchers restrict this to whether the contract gives the creditor company the right to recover these amounts in the event that it stops obtaining services, which is the opinion adopted by the researcher; so that this may not lead to some of the growing wealth not being subject to *Zakâh*.

Accordingly, the general rule regarding the amounts collected for goods under delivery is that they are included in the *Zakâh* base if the seller or service provider fulfills his obligations.

They, however, are not included in the *Zakâh* base if the seller does not fulfill his obligations, or if the contract provides for refunding the amount.

Accounting treatment, in this case, will be according to the (invested wealth sources) method, by not deducting it or adding the amount paid.

This amount is not added to the *Zakâh* base because it is added before within the owner's equity in profit and revenue.

It is not deducted either because *Zakâh* is payable for it unless it is for services that have not been implemented and the contract provides for the recovery of the amount.

► **Losses**

Losses are the decrease in the capital as a result of trading and exchanging money, as well as the decrease in the capital without trading, such as if it was struck by a heavenly blight, drowning, or fire. This is called by the Fiqh scholars a deficiency or loss.

Relationship of losses to the *Zakâh* base:

The losses decrease the *Zakâh* base by its amount, so if there no profit, then *Zakâh* is due on the principal of wealth. If the loss extends to the principal of wealth, and what remains of it is subject to *Zakâh* according to its conditions, then *Zakâh* shall be due on it. This is because *Zakâh* is due on the capital in the first place, and what is deducted from the *Zakâh* base is the net loss.

► **Prepaid amounts**

Prepaid amounts are money that the company has fully possessed but paid it in advance for services to be delivered in a future period, or for manufactured goods. Examples include: amounts paid in advance for contracts, expenses paid in advance for future financial periods, rent paid for future years, and insurance provided for subsequent years, and the amounts of *Salam* and *Istisnâ'* goods purchased.

Such amounts are included in the current assets of financial statement, and they are expressed in different accounting terms.



Relationship of prepaid amounts to the *Zakâh* base:

The amounts paid in advance or advance payments are other debit balances in the accounting terminology and their counterpart is such amounts collected for goods or services under delivery.

The summary of discussion regarding this amounts as being other debit balances is that contemporary researchers have disagreed about it into three opinions, as follows:

First opinion: *Zakâh* is due on such amounts.

Second opinion: *Zakâh* is not due on such amounts.

Third opinion: *Zakâh* for such amounts is obligatory on the paying company and included in its *Zakâh* base if the contract in which they have been paid is not binding, or the contracting company fails to fulfill its obligations. *Zakâh* for them, however, will not be obligatory on the paying company if the contract is binding, and the contracting company fulfills its contractual obligations. The obligation for *Zakâh* in this case is transferred to the receiving company because it takes ownership thereof under binding contracts and it has fulfilled its obligations.

The researcher has adopted the third opinion for its safety from arguments and immunity against potential tricks sought by some companies.

► Board members' remunerations

The remuneration element is included in the expenses statement within the income statement. The remuneration of the members of the board of directors can be classified as one of three types: wage, specified compensation (*Ju'l*), or working for a portion of the profit. Accordingly, they are agents on behalf of the shareholders for wage, or agents on behalf of the shareholders for consideration, or workers for themselves for a portion of the profit. This is related to the type of remuneration paid to the member of the board of directors and to the status of the member of the board of directors in terms of being an owner in the company or not.

Under the Saudi law, a member of the board of directors may be a shareholder or not. This leads to stating that the Fiqh-based description of the remuneration of the members of the board of directors can be in the form of either two cases:

First case: The member is an owner in the company, in which case his reward (remuneration) shall be a part of the profit if the work of management is governed by a separate contract.

Second case: If the management or membership work is governed by a separate contract, then the Shari'ah Board of the Accounting and Auditing Organization for Islamic Financial Institutions has confirmed the permissibility of assigning one of the company's tasks a partner under a contract separated from the company's contract so that he can be dismissed without consequently amending or dissolving the company's contract, and the permissibility of allocating a wage specific to him.

If the member of the board of directors does not own a share in the company or owns a share but the management work is governed by a separate contract, then it is permissible for the reward (remuneration) to be in the form of a specific salary, an allowance for attendance at the sessions, in-kind benefits, etc. The member, in this case, shall be dealt with as the agent for wage or the agent for consideration.

If the reward (remuneration), in this case, is a certain percentage of the profits, then it maybe a specified compensation (*Ju'l*), or a percentage of speculation, provided the compensation or percentage shall be known.



Relationship of Board members' remunerations to the *Zakâh* base:

The remunerations shall be in either of two cases, as follows:

First case: If the member is a partner in the company, and his management work is not governed by a separate contract, then he is not allowed to receive a salary, but he is given a percentage of the profit added to his shares.

Second case: If the member is not a shareholder in the company or he is a shareholder in it but his management work is governed by a separate contract, then the remuneration and fees he receives are considered of the expenses that are charged to the profit and not a distribution of the profit. Accordingly, they are to be deducted from the *Zakâh* base.

➤ Incorporation expenses

"They are all expenses that are paid by the founders when establishing a new company to carry out its business, such as legal and accounting fees and all company registration fees."

Incorporation expenses are considered part of the intangible fixed assets or intangible assets that do not have a tangible physical existence, and have a statutory value, including incorporeal rights and financial rights.

Relationship of incorporation expenses to the *Zakâh* base:

The consideration for incorporation expenses from intangible assets or fictitious assets is not considered zakatable wealth in itself because it belongs to property obtained for *Qunyah*. This consideration is deductible from the *Zakâh* base according to the wealth sources method. It has turned into denominated *Qunyah* and accordingly became fixed assets. They have been discussed in the net assets method under the name of intangible fixed assets.

➤ Donations and charitable works

Donations and charitable works that companies take out or implement for the benefit of society or some groups in the society are considered optional expenses to serve the community.

Donations are among the applications of income and treated like other expenses that come out of the company's ownership before one *Hawl* has elapsed over them.

Relationship of donations and charitable works to the *Zakâh* base:

Based on the Fiqh-based description of these donations as optional expenses paid before one *Hawl* has elapsed, they are not included in the *Zakâh* base for companies, provided that they are recognized, because *Zakâh* is only due on the possessed wealth. Expenditure, however, goes out of the ownership (of the company) and accordingly no *Zakâh* is payable for it. The fact that it is a donation does not affect its reality; it is an expense goes out of the ownership, regardless of the entity for which it is paid.

➤ Issuance premium

It is the additional capital resulting from the difference between the subscription price and the nominal value of the shares issued and collected from the shareholders or subscribers to the new shares issued by the company after deducting the issuance expenses, in order to achieve equality between old and new shareholders in light of the prosperity that the company enjoys in its business, solidity of its position, and goodwill it has.

The issuance premium is considered an additional capital for the company. It is an increase in the capital, provided by the new shareholders when subscribing to the new shares.



Relationship of issuance premium to the *Zakâh* base:

If it turns out that the issuance premium is an additional capital, then it is jurisprudentially not different from the capital, so it should be dealt with based on the form it takes, whether cash, goods-stocked for trade, fixed assets, or others. Accordingly, the same ruling of capital, regarding the form it takes, shall apply to the issuance premium.



Corporations Having No Regular Accounts

► Ruling of collecting *Zakâh* from corporations having no regular accounts

If corporations do not have regular accounts whereby the accurate amount of *Zakâh* can be identified, then an important condition for the payment of *Zakâh* as precisely as required has not been fulfilled. However, this does not exempt these corporations from collecting *Zakâh* for some reasons, including:

- 1- The owners of these corporations are subject to *Zakâh*, and they own zakatable wealth that meet its conditions. Their failure to keep the books and records does not exempt them from the obligation of *Zakâh*, so the authorities responsible for collecting the *Zakâh* raise assessment on deemed basis without an exact calculation of the details.
- 2- This practice was widely common among Muslims throughout the ages, as the *Zakâh* collectors were neither specialized in *Zakâh* accounting, nor the payers used to keep accounting books. However, this situation did not exempt them from collecting *Zakâh*, as it was calculated according to the person's apparent condition and wealth on a deemed basis cannot be ignored.

► Method of determining the *Zakâh* base in corporations having no regular accounts

If the corporation does not have regular accounts, then the calculation of its *Zakâh* will be based on the data available to the *Zakâh* collector. In this case the capital is checked at the beginning of the year in comparison to the profits, what is in the payer's possession of goods, sales certificates, invoices and the like, and the current account, if any. If such data are available, then his work is not considered as a *Khars* (estimation), but doing as much as possible to identify the *Nisâb* (i.e., minimum amount determining a person's zakatability) available for the payer.

On the other hand, if these data are not available, then the *Zakâh* collector can estimate the base according to his experience and the controls established for him. This is not considered as consuming the wealth unjustly, because the person liable for *Zakâh* is commanded by the ruler to keep books and records so that he should not be wronged. If the payer neglects, it is as if he wants to evade *Zakâh*, and it has legitimately proven to discretionarily punish the person who abstains from paying *Zakâh* by taking half of his wealth. This confirms the ruler's right to collect *Zakâh* and to discretionarily punish for withholding it. Zakat Collection Law in the Kingdom of Saudi Arabia stipulates specific methods for determining the calculation of *Zakâh* base according to the payer's activity. All of these methods do not exceed doing as much as possible to reach a fair estimate of the *Zakâh* base when there are no accounts lead to accurate assessment.

The *Zakâh* payer should know that conjecture cannot be adopted if certainty is possible. In case the payer knows his *Zakâh* base, then his liability shall not discharge if the *Zakâh* collector counts less than what is obligatory on him.



Rulings of the *Zakâh* Base in Insurance Corporations

► Fiqh-based description of insurance corporations

Insurance corporations are divided into two types:

- ◆ **Commercial insurance:** "An exchange-based contract whereby the insurer undertakes to pay to the insured or the beneficiary a financial indemnity."
- ◆ **Cooperative insurance:** "A collective insurance contract whereby each participant undertakes to pay a specific amount of money as donation to indemnify any member of the group who encounters the risk insured against." It has two forms:
 - 1- Simple or rudimentary cooperative insurance.
 - 2- Compound or advanced cooperative insurance.

The difference between the two forms is visible in terms of the Fiqh-based description as follows:

- 1- Simple cooperative insurance is a contract of donation only, while the compound cooperative insurance is composed of donation, remunerated agency, and *Mudârabah*.
- 2- The existence of donation in the simple cooperative insurance is clearer than its existence in the compound cooperative insurance, and therefore some researchers do not consider what the insured (insurance seeker) pays in the advanced cooperative insurance as a form of donation.
- 3- Scholars do not differ on the permissibility of simple cooperative insurance, unlike the advanced cooperative insurance, which is a controversial issue.
- 4- Simple cooperative insurance does not aim at making earnings, neither in the primary subject matter nor in a corollary, unlike the advanced cooperative insurance that aims to profit in a corollary, and not in the primary subject matter.

► Fiqh-based differences between two types of insurance corporations

The Fiqh-based difference between cooperative insurance and commercial insurance can be illustrated as follows:

- 1- The main purpose of cooperative insurance is cooperation between the participants and *Takâful* (mutual support) in bearing the damages at the lowest possible cost, while the profit is not intended in itself and the earnings are intended in a corollary.
- 2- The commercial insurance premiums collected by the company come into its ownership, and the surplus - after paying the amounts of indemnities - is deemed a profit for the company. As for cooperative insurance, the contributions collected by the company do not come into its ownership, but they are deposited into a special account called the participants' account, and the surplus - after paying the amounts of indemnities - is distributed among the policyholders (in proportion to their respective contributions). This account is completely separate from the founders' account.
- 3- The premiums in cooperative insurance are variable according to the increase and decrease in the amounts of indemnities, because it is based on cooperation and *Takâful* (mutual support), and that is why insurance is called non-fixed premiums.
- 4- The capacity of the insurer and the insured is combined with each participant in cooperative insurance, unlike the commercial insurance where each of them (the insurer and the insured) is independent of the other.



5- The commercial insurance is an exchange-based contract whereby the company undertakes to pay a financial indemnity in return for the premiums it receives, so it involves *Gharar* (uncertainty) and *Ribâ* (usury). As for the cooperative insurance, it is a donation contract according to most contemporaries, so it does not involve *Gharar* and *Ribâ*, because the company's earnings are based on accidents not occurred yet. As for *Gharar* in cooperative insurance, it is in a corollary because the company gets its earnings from the agreed-upon remuneration and its specified percentage of the profits, while its earning from the accidents not occurred yet is in a corollary and not in the primary subject matter because the more money the participants pay, the more remuneration the company receives.

It is clear from these differences that the commercial insurance is an exchange-based contract, and the money paid to the insurance company belongs to it in return for paying indemnities. As for the cooperative insurance, it is a donation contract and its advanced cooperative insurance is composed of the agency and *Mudârabah* contracts in addition to the donation.

► **Ruling of collecting *Zakâh* from insurance corporations**

Commercial and cooperative insurance companies, like other companies, are obligated to pay *Zakâh*, as they take possession of the payers' money either for safekeeping or using it for the purpose of profit. The scholars unanimously agree that *Zakâh* is obligatory on the payers' wealth, whether it is intended for trade or insurance, as long as the money is owned by specific individuals, and the conditions for *Zakâh* are met.

Regarding the commercial insurance companies, a Fatwa (Shari'ah-based opinion) was issued by the International Shari'ah Board for Zakat, which reads:

"*Zakâh* is calculated on the funds of commercial insurance companies that are not owned by the State."

► **Method of determining the *Zakâh* base in insurance corporations**

If the laws allow the commercial insurance, then the authorities will collect *Zakâh* from them, just like others because paying some impermissible money is better than keeping it.

As for the view that it is permissible, *Zakâh* should be collected from them, like other companies.

► **The participants' assets in cooperative insurance**

The cooperative insurance is a system based on the donation of all or some of the contributions provided by the participants to pay indemnities to those affected among them. The contributions collected by the company do not come into its ownership, but they are deposited in a special account called the participants' account, and the surplus - after paying the amounts of indemnities - is distributed among the participants (in proportion to their respective contributions). This account is completely separate from the founders' account.

Accordingly, the amounts spent in indemnities during the *Hawl* (i.e., *Zakâh* year) are considered an expense on which *Zakâh* is not due since a *Hawl* does not elapse over it.

As for the residual of contributions at the end of the fiscal year after paying all indemnities, it is the insurance surplus in cooperative insurance.

The insurance surplus shall have any of the following cases:

Case (1): The insurance surplus remains as it is during the year without investment for the benefit of subscribers, and if it made any earnings, it should be considered as a contribution for the benefit of the fund.

The scholars differed as to whether *Zakâh* is obligatory in this case into two opinions:

First opinion: *Zakâh* is not obligatory on the insurance surplus in cooperative insurance.



Second opinion: *Zakâh* is obligatory on the insurance surplus in cooperative insurance.

Having examined the two opinions, their evidence, arguments and counter-arguments contained therein, the researcher gives preponderance to the first opinion that *Zakâh* is not obligatory on the insurance surplus in cooperative insurance companies.

Case (2): The insurance surplus or part thereof be distributed among the subscribers. If the insurance surplus or part thereof it is distributed among the participants at the end of the fiscal year, then their ownership is absolute over it, and it takes the ruling of the acquired money. Hence, each one of them must pay *Zakâh* on his share after a *Hawl* (i.e., *Zakâh* year) has elapsed over its distribution, provided other conditions shall be met.

Case (3): The company invests the insurance surplus for the benefit of the fund. If the investment is for the benefit of the fund, *Zakâh* is not obligatory on the principal of money or its profit related to the fund, by analogy with the investment of *Waqf* property, where *Zakâh* is not obligatory on it or its profits.

Case (4): The company invests the insurance surplus for the benefit of the subscribers. If the company invests the insurance surplus for the benefit of the subscribers and does not distribute it among them, then *Zakâh* is obligatory on the principal of money plus its profit, provided other conditions shall be met. This is because the surplus in this case is owned by them, and the company's disposal on their behalf is carried out by way of remunerated agency, or on the basis of *Mudârabah* for a portion of the profit.



Definition of *Zakâh* Base Valuation

Zakâh base valuation means estimating the monetary price (value) of *Zakâh* base in the corporation.

► *Zakâh* base valuation for regular accounts

Zakâh base in modern corporations means the wealth on which *Zakâh* is obligatory, and it has two categories:

Category (1): The wealth for which valuation is not required, and it involves two types:

First type: Crops and fruits.

Second type: Livestock.

These two types do not subject to valuation because their *Nisâb* (i.e., minimum amount determining a person's zakatability) is stipulated by a Shari'ah-designated estimate, and likewise their amount due is specified in detail by the Prophet (peace and blessings of Allah be upon him).

Category (2): The wealth for which valuation is required, and it involves three types:

First type: Gold and silver, and their equivalent in currency (paper or coins). This type requires valuation in three cases:

- (a) Valuating the gold and silver at the paper money.
- (b) Valuating the local paper money at its value in gold and silver.
- (c) Valuating the foreign currencies at the local currency according to the prevailing exchange rate.

Second type: Goods-stocked for trade, and they are valued at their monetary value, because they are the standard values.

Goods-stocked for trade have two values:

First: The market value, which refers to the realistic value at which sellers and buyers would agree to trade something. The market value includes two types of prices:

Second: The book value, which is terminologically expressed as the historical cost, or the real value. It is the sum at which the goods were purchased, plus shipping and storage charges or other costs paid by the trader for these goods.

Scholars differed, regarding the value to be considered for calculating *Zakâh* on goods-stocked for trade, into two opinions:

First opinion: The market value at which the trader can buy, which is called the exchange value or the wholesale value.

Second opinion: Goods-stocked for trade are valued at the book cost price, or the so-called historical value.

The researcher views that the majority's opinion, which is the valuation at the current exchange value which is equal to the wholesale price, is most likely preponderant in this issue.

Third type: Debts. The valuation of debts was previously discussed in the method of calculating *Zakâh* on deferred debt according to those who argue that it is obligatory, and the researcher has mentioned three opinions in this issue as follows:



First opinion: *Zakâh* is paid on the number of deferred debts.

Second opinion: *Zakâh* is paid on the value of deferred debts.

Third opinion: *Zakâh* is paid on the debt by calculating its principal each year, plus the profit for each year without any other profit.

The researcher held the view that *Zakâh* on the deferred debts is paid by their number, and it may be paid on their value when needed.

➤ ***Zakâh* base valuation for non-regular accounts**

The valuation of *Zakâh* base for non-regular accounts does not differ from regular accounts. Therefore, their valuation is based on the current exchange value as chosen by the researcher.

➤ **Valuation Price**

The most preponderant opinion is to measure it at the exchange value, which is a kind of market value.

The party whose argument shall prevail in case of dispute over the *Zakâh* base valuation:

The disagreement over *Zakâh* base valuation involves two cases:

Case (1): The valuation is pertaining to a Shari'ah-prescribed punishment.

Case (2): The valuation is not pertaining to a Shari'ah-prescribed punishment, and this case has two forms:

First form: The disagreement between the obligor and the obligee over the valuation. It is represented by the disagreement between the damager and the one upon which the damage has been inflicted, or between the usurper and the one who has been usurped. The Fiqh scholars stipulated that if the obligor and the obligee has disagreed over the valuation, then the obligor's statement shall prevail.

Second form: The disagreement between the valuers themselves, who are the attestants to the value. It is represented by the disagreement between the evaluators, so some of them attest that it is valued at such-and-such, and some others attest that it is valued at such-and-such. Fiqh scholars differed on this issue into two opinions:

First opinion: Giving preponderance to the attestation which considers the higher valuation over the lesser valuation.

Second opinion: Giving preponderance to the attestation which considers the lesser valuation over the higher valuation.

The researcher illustrates the issue as follows:

- 1- If the disagreement is between two valuers, the lesser valuation is adopted because it is agreed upon by two valuers. As for the increment, it is not enough to be adopted by one valuator because the valuation is attached to the attestation (evidence) which is stipulated by the increase in number.
- 2- If the disagreement is between two or three valuers from both sides, then the issue involves two cases:
 - (a) Either party can be given preponderance over the other by the increase in experience and the like, so its opinion is adopted because the increase in experience has an impact on accepting the evaluator's statement and its matching to reality.
 - (b) Either party cannot be given preponderance over the other in terms of experience; either because this is not possible, or because they are equal in this aspect. In this case, the statement of those who are large in number is adopted because the large number provides assurance that the valuation process is



correct. If they are equal in number, then an average value is adopted because the preponderance is not given without evidence making it preponderant, and here either party has no evidence making its opinion preponderant over the other, so no opinion cannot not be given priority over the other.



Impact of Disagreement on the *Zakâh* Base Valuation

In case the evidence differs in valuating the *Zakâh* base, then the impact of this difference appears in considering the lesser or the higher valuation according to the disagreement and the preponderance as previously mentioned in the previous treatise. If the disagreement is between two valuers, then the lesser valuation shall prevail. If the disagreement is between more than two valuers, then the issue involves two cases:

- (a) Either party can be given preponderance over the other, so the preponderant one is adopted.
- (b) It is not possible that one party has preponderance over the other, so the statement of those who are large in number is adopted. If they are equal in number, then an average value is adopted.

The most prominent valuation problems emerge as follows:

- 1- The methods for the total valuation of *Zakâh* base are differed. This often leads to a difference in the result of valuation for each of the two methods, unless the valuator is mandated to make a compromise between these two methods, so that he should calculate once by the first method and once by the second method, then approves one method and adapts the other to match it.
- 2- The Fiqh-based opinions, regarding what is included in or excluded from the *Zakâh* base, are differed. This is a wide section in the financial statements of modern corporations, and the researcher found many issues over which the difference of opinions has emerged among scholars due to many aspects of dispute associated with these elements, which would then lead to a difference regarding the elements that could be included in or excluded from the *Zakâh* base.
- 3- The values of many zakatable wealth are differed, as there is a market value, a real value, and an exchange value. When the Fiqh scholars agree to choose one of these values for the purposes of *Zakâh*, the problem remains unresolved in the practical application because there is more than one concept for interpreting the value chosen for the purposes of *Zakâh*. When the market value is chosen, some scholars interpret it as the total market value, while others interpret it as the net market value, and a third party interprets it as the market exchange value, then they differ over interpreting the market value, whether it means the wholesale or retail sale price. Thus, the problem of concepts in accounting remains influencing the *Zakâh* valuation.
- 4- The accounting designations of the elements of financial statements are different from the Shari'ah-based facts. For example, reserves are an essential element in the accounting and commercial laws for companies, but - in reality - the Fiqh scholars count these reserves as profits, and the *Zakâh* accountant sometimes describes these elements according to their Shari'ah-based facts, and according to their accounting definitions at other times, and this leads to confusion.
- 5- Using estimation and Fiqh of the possible to determine the *Zakâh* base for businesses that do not have regular accounts. This leads to a big difference in valuation if the valuers are honest and righteous, but if they have problems, then the valuation is a vast opening for tricks and circumvention to decrease or increase the *Zakâh* base.
- 6- Valuating and classifying debts is considered one of the valuation problems in the *Zakâh* base. While the majority of Fiqh scholars hold that debt is repaid in kind and in number, and the value is not considered in it, others hold that it is valued according to the low and high level of prices, and "the persistent accounting problem represents in the disagreement of some contemporary writers and researchers about the value on which the debt must show in the statement of financial position... Is it shown at its nominal or current value?"



Cautious Approach in the *Zakâh* Base of Modern Corporations

Scholars have differed over the definition of cautious approach (Arabic: *lhtiyât*) into three approaches:

First approach: Considering the meaning of hesitation and doubt.

Second approach: Considering the meaning of reservation and protection.

Third approach: Considering the two meanings together.

➤ Ruling of cautious approach in the *Zakâh* base

By considering the rule of general cautious approach, it was found that scholars view that cautious approach is recommended in general terms, and it may be obligatory if the probability (which provokes a need for being cautious in dealing with what happens of facts) has increased, and the basis (from which its rulings has been established) is proven. Accordingly, whenever the probability is strong and the basis is proven, then the cautious approach shall be obligatory, and whenever the probability and doubt in the basis are weak, then the cautious approach shall be recommended. The Quranic Verses include a command to avoid some of what is not sinful for fear of falling into what is sinful, and this implies the meaning of cautious approach.

➤ Cautious approach in the *Zakâh* base

The cautious approach in the *Zakâh* base has two sides:

First side: *Zakâh* payer, so he takes precautions not to leave some of his wealth without *Zakâh* either by trick or leniency. He should be cautious about calculating all the zakatable wealth over which a *Hawl* (i.e., *Zakâh* year) has elapsed. This side is established by the general evidence of cautious approach's legitimacy.

Second side: *Zakâh* collector, so he takes precautions not to take from the *Zakâh* more than the due amount.

The cautious approach has been legitimated for the right of both the rich and the poor. This corresponds with the justice of Shari'ah, so that either party should not oppress the other party.

➤ Means of cautious approach in the *Zakâh* base

Means of cautious approach have two sides: The first relates to the payer, and the second relates to the collectors of *Zakâh*:

Means of cautious approach from the payer's side:

1- Adopting *Qiyâs* in the *Zakâh* base: Adopting *Qiyâs* (analogical deduction) is considered a cautious approach in the *Zakâh* base, because it is forbidden to leave *Zakâh* on a wealth in which the effective cause of obligation is fulfilled.

Qiyâs in the *Zakâh* base means that the similar object is associated to its counterpart, or the detailed case is joined to its main rule in terms of obligation or non-obligation of the *Zakâh* due to the commonality (effective cause) between them.

The *Zakâh* base is subject to *Qiyâs*, because the zakatable wealth are being reasoned and analogous with the matters matching them in reasoning.

An example of *Qiyâs* in the *Zakâh* base: *Zakâh* on banknotes by analogy with gold and silver, because they



share the effective cause (*Illah*), which is *Thamaniyyah* (i.e., their capacity of being standard of value), and the lack of *Qiyâs* excludes banknotes from *Zakâh*.

2- Regularity and accuracy of accounts: Regular accounts are an important means of cautious approach in the *Zakâh* base, because overlooking the cautious approach turns to estimation, which is less accurate than calculation, and it is resorted to only when the exact calculation is not available. Regular accounts, if associated with a Shari'ah-based consciousness, are considered an important means of cautious approach in the *Zakâh* base on both sides

Means of cautious approach from the collector's side:

- 1- Calculation and auditing: The researcher considers this method as a means of cautious approach in the *Zakâh* base.
- 2- Dispatching those who are knowledgeable about Fiqh rulings and have experience in collection and accounting: The researcher considers that qualifying and training highly competent professionals to collect and assess *Zakâh* for the modern corporations as a means of cautious approach in the *Zakâh* base in terms of increase or decrease.
- 3- Allowing for appeal and litigation before the judicial authorities to resolve disputes: The researcher views that allowing for litigation is a means of cautious approach in the *Zakâh* base.
- 4- Avoiding the best of belongings: The researcher views that the prohibition of taking the best belongings of people is a Prophetic application of the cautious approach in the payers' wealth, because the purpose is not its value when the poor sells it, but the sizes of livestock and the weights of crops and fruits.
- 5- Leaving one-third of the *Zakâh* on *Kharṣ* (estimation), as instructed by the Prophet (peace and blessings of Allah be upon him).



Disagreement about Determining the *Zakâh* Base of Modern Corporations

► **Shari'ah ruling on judicial pleading regarding the *Zakâh* base**

Wealth is rights belonging to their owners, who have the right to defend it against being taken unlawfully. The ruler is empowered to collect *Zakâh* following the example of the Prophet (peace and blessings of Allah be upon him) and his rightly guided caliphs. He also has the right to enforce it.

This is a different issue from withholding *Zakâh*, which is the argument regarding the *Zakâh* base due to a mistake in calculating *Zakâh*, or conflicting standpoints. If there are conflicting points of view or the *Zakâh* payer views that his wealth is taken from him wrongly as an amount larger than the Shari'ah-prescribed *Zakâh* is taken from him, then he can plead to the judiciary to decide on his case.

► **The party whose argument shall prevail when determining the *Zakâh* base**

The four schools of Fiqh: The Hanafites, the Malikites, the Shafiites, and the Hanbalites, unanimously agree that the argument to be adopted is that of the *Zakâh* payer based on his oath. They, however, disagreed on cases where no oath is taken.

Therefore, the researcher views that if the *Zakâh* payer argues that his base is such-and-such, or that he has a debt that consumes the value of *Zakâh*, or if he after giving an oath says that this grazing livestock is not owned by him, he shall be believed unless there are other statements and documents to the contrary. This is because he is trustworthy regarding what he owes of *Zakâh*, and he is associated with the original non-liability, taking into account adopting precautionary measures, and obligation to produce usual evidence against dishonesty, and inclination of some people to evade *Zakâh*. Fiqh scholars stipulated taking oath from the accused or the one whose argument is contrary to the facts.

► **Impact of disagreement on the *Zakâh* base**

Zakâh payer's argument over the *Zakâh* base legitimately affects the correctness of *Zakâh* base calculation. This is because the majority of scholars are of the view that his argument is to prevail over that of the *Zakâh* collector, since the *Zakâh* payer is trustworthy and his liability is originally discharged of the duty to pay *Zakâh*. Meanwhile, *Zakâh* collector is regarded, in this case, as a claimant contrary to the original ruling.

Based on that, the researcher stresses the importance of *Zakâh* declaration on the part of *Zakâh* payer. If there is no declaration, this case between the payer and the collector is to be decided before the collection of *Zakâh*. If an obligation is imposed on the *Zakâh* payer regarding something that he does not acknowledge, then he is entitled to litigation, and his statement is to prevail unless there is no accusation of circumvention or a claim contrary to the facts. If there is an accusation or a claim contrary to the facts, then it is permissible, in this case, to take his oath, and to demand him to produce evidence and so on in a manner that guarantees preserving the obligation of *Zakâh* and preventing the circumvention to evade or reduce it. Meanwhile his statement regarding anything for which there is no accusation against him, and where facts and evidence prove his honesty, shall never be overlooked. In the case of companies with legal personality, the judge shall take oath from the chairman of the board of directors because he is the company's representative before the judiciary.



Accordingly, the disagreement regarding *Zakâh* base results in the following impacts:

- 1- Postponing, but not cancelling, the collection of *Zakâh*.
- 2- Preventing the authorities responsible for *Zakâh* collection from enforcing its assessment and inspection.
- 3- Judges shall give precedence to the argument of *Zakâh* payer over that of the *Zakâh* collector, unless the argument of *Zakâh* payer is contrary to the facts.
- 4- If the *Zakâh* payer is accused or his argument is contrary to the facts, then he may be requested to give an oath or produce evidence, etc.



Tricks in the *Zakâh* Base of Modern Corporations

Tricks are divided according to their legitimacy into lawful tricks and impermissible tricks.

Permissible tricks are the tricks that are used to get rid of sins and reach lawful things, rights, or to ward off falsehood. They do not destroy a Shari'ah-based foundation or contradict a Shari'ah-based interest.

Impermissible tricks are the tricks that are used to reach unlawful things, or invalidate rights, or camouflage falsehood or introduce suspicion about it, and destroy a Shari'ah-based foundation or contradict a Shari'ah-based interest.

➤ **Trickery and circumvention in the *Zakâh* base**

There are accounting operations and claims made by companies that lead to a reduction in the *Zakâh* base. However, it is difficult to judge that they are intended as a way of trickery because the accounting operations are so complicated and intertwined which make the auditor of financial statements does not assert that the company resorts to it as a way of trickery. Yet, the authorities responsible for *Zakâh* collection should have prudence and skills required to understand the financial statements in a way that prevents companies from decreasing the *Zakâh* base unjustly. These tricks can be avoided through adopting some means of precautionary measures with regard to the *Zakâh* base from the collector's side, as the researcher has mentioned. This includes: calculation, auditing, field *Zakâh* examination, dispatching those who are knowledgeable about Fiqh rulings and have experience in collection and accounting, allowing for appeal and litigation before the judicial authorities to resolve disputes, as well as opening the way for the collecting authority to raise a revised assessment if it received information contrary to that provided by the *Zakâh* payer. All of these procedures are in force at by the Zakat, Tax and Customs Authority in KSA.

➤ **Forms and claims that are made, intentionally or unintentionally, to reduce the *Zakâh* base**

- 1- Forgery by reducing sales in order to reduce profits, so the company submits forged papers in order to reduce the *Zakâh* base.
- 2- Reducing the value of the company's loans, so the equity side decreases, and thus the *Zakâh* base decreases too.
- 3- Reducing the value of cash in the fund, current account, or investment portfolios through, among other forms, recording the shares purchased for trading at their nominal value, even though their market value is higher and profitable on the pretext that the profits and the losses resulting from the valuation of investments are realized only when selling or disposing of these investments. The right approach, however, is that the profit or the loss resulting from the revaluation of securities is considered for *Zakâh* purposes.
- 4- Raising the value of imports in excess of the customs data to raise the amount of cost and decrease the amount of profit without proof of this increase, so the amount received by the Zakat, Tax and Customs Authority from the Customs Information Center is different from the amount defined by the *Zakâh* payer, which is the authority that is supposed to represent the reality of the *Zakâh* payer's imports. In this case, the amount declared by the *Zakâh* payer is much more than this amount on the pretext that he added the expenses of transportation, shipping, clearance and loading without proving these expenses, which is a wide door for trickery when his statement is accepted without proof.
- 5- Registering lease contracts ending with ownership (*Ijârah Muntahiyah Bit- Tamlik*) as income-generating assets to be deducted from *Zakâh* base, although disclosure standards require them be registered as finance leases and the remaining amounts as debts, and therefore *Zakâh* is due on them.



6- Registering real estate and mansions owned by the owners of the company in the name of company, to deduct their value from the *Zakâh* base.

7- Registering investments in the company's statements that are not registered in the company's name. Therefore, the Zakat, Tax and Customs Authority requires that for investments to be deducted from the *Zakâh* base they must be owned by the company and registered in its name. Otherwise, the *Zakâh* payer shall give convincing reasons that prevent the investment from being registered in the name of company.

If this condition is not stipulated, it is possible for the companies to register many investments in their statements and deduct them from their *Zakâh* base while they are not owned by such companies.

8- Demanding the deduction of the announced profits, without proving their distribution or separating them from the company's accounts in separate accounts.

9- Announcing write-off of some debts on which *Zakâh* is due, despite the lack of sufficient justifications for writing off these debts, which, however, can be collected at a lower value. If the *Zakâh* payer, however, proves that the cost of claiming these debts is higher than their value, then his claim is to be accepted.

Examples include: Dairy companies' claims to retail and catering stores for small amounts, while these stores are many, and the demands of all these stores cost more than the value of the debt, thus the company decides to write off the debt, which is to be accepted in this case.

10- Demanding the deduction of debts for which a *Hawl* (i.e., *Zakâh* year) has not elapsed on the pretext that *Hawl* has not yet elapsed on them, even though it becomes clear to the inspector that these debts financed the company's fixed assets, which have already been deducted from the *Zakâh* base. So, such companies demand deduction of debts and fixed assets under the pretext that the fixed assets have been self-financing from the company's treasury. In case of responding to such demands without due verification, a significant reduction in the *Zakâh* base results.

11- Demanding the deduction of some fixed assets that were not registered in the company's name, justifying that they are not registered in the company's name in order to speed up regulatory matters, and that they are originally owned by the company and financed by the company's funds. Such claims may be correct, and they also may be a trick to reduce the *Zakâh* base. To decide on this matter, such claim must be proven, or prove an indebted-current account in the name of the partner in whose name it was registered to meet the settlement of this land, or give convincing reasons that prevent that, or prove the company's seriousness in transferring the ownership of the land to itself.

12- Demanding the inclusion of companies being invested in on the basis of the consolidated declaration, even though they are not fully owned by it.

13- Demanding the deduction of long-term investments in companies abroad under the pretext that they are long-term investments, without presenting their financial statements, or providing evidence that these companies has paid *Zakâh*, or requesting that they be deducted while not being registered in the name of company but rather in the name of one of the partners.

14- Demanding the deduction of investment in government bonds as a *Qunyah* (i.e., acquisition for personal use) that are not subject to *Zakâh*, excluding the profits thereof. This is despite the fact that bonds, in reality, do not differ from loans or other debt instruments provided by financial institutions for the purpose of achieving a return against the term. Therefore, they are subjected to the provisions of *Zakâh* applying to debts in terms of the solvency of debtor, but not treated in terms of *Zakâh* as an investment.

15- Inflating the remunerations of the board of directors or managers in a way that is not commensurate with the company's capital, the volume of revenues and profits, demanding being as expenses. In reality, they are not paid in exchange for management, but rather as a part and a percentage of the profits, on which *Zakâh* is supposed to be due, but not to be deducted from the *Zakâh* base.



- 16- Inflating the general and administrative expenses as being expenses deductible from the *Zakâh* base, while not documenting them with invoices and receipts, etc., which raises doubts about their classification within the expenses permissible to be deducted from the *Zakâh* base.
- 17- Demanding the deduction of long-term investment losses, in addition to deducting the value of the investment itself from the *Zakâh* base as a long-term investment in a company that pays *Zakâh*, which means, in the event of a response to such request, a double deduction from the *Zakâh* base, which harms the poor and decreases the real value of *Zakâh*. The reason why it is a double deduction is that the long-term investments are deducted from the original *Zakâh* base, so if they are deducted in their entirety, then how can the deduction of their losses be added to their deduction?
- 18- Demanding the deduction of overdraft accounts and short-term debts under the pretext that the *Hawl* (i.e., *Zakâh* year) has not yet elapsed, even though the company pays off the debt and then takes a replacement, which in reality, resembles a long-term debt, or they take the debt and request that it be deducted in the first year because *Hawl* has not yet elapsed, and then pay it in the second year and demand its deduction because it was paid off even though it remained in their possession for a full *Hawl*. The most appropriate way for dealing with these renewable and continuous loans is to be considered as long-term loans, and to be dealt with by taking the balance at the beginning of the year or at the end of the year, whichever is less, and deducting the amounts confirmed to be paid and for which the *Hawl* has not yet elapsed. This is because deducting the amounts paid during the year leads to dropping *Zakâh* on amounts for which the *Hawl* has elapsed.
- 19- Demanding the deduction of the short-term investments on the ground that they are long-term without fulfilling the conditions for considering them as long-term investments. The Zakat, Tax and Customs Authority requires the fulfilment of two basic conditions for investments to be considered as long-term investments that can be deducted from the *Zakâh* base, namely the availability of documented intention of the owner of authority before the issuance of decision to invest; and the absence of trading operations (movement) during the year on those investments.
- 20- Demands made by some banks to deduct long-term investments even though it turns out upon audits that they were financed from customer deposits that are not added to the *Zakâh* base. So, the banks demand that these investments be deducted from its *Zakâh* base even though the financing sources were not added to the *Zakâh* base, which finally results in the decrease of the *Zakâh* base. In fact, some bank declarations have a negative *Zakâh* base because of this method. The correct method, however, is that these investments are not to be deducted from the *Zakâh* base if it is proven to be deductible unless their financing sources are added to the *Zakâh* base, to avoid double deduction from the *Zakâh* base.

➤ **Ruling on trickery and circumvention in the *Zakâh* base**

The four Imams of Fiqh Schools agreed on the prohibition of trickery to drop or reduce *Zakâh* after it has become due. They, however, differed regarding the effect of this trickery, whether it drops *Zakâh* or not, and regarding the trickery in *Zakâh* before it becomes due.

➤ **Penalty prescribed for tricker and circumventer in the *Zakâh* base**

Trickery and circumvention in the *Zakâh* base involve one of two cases, as follows:

First: If trickery in the *Zakâh* base is a result of a false belief represented in denying the religious duty of *Zakâh*, then the evader of *Zakâh* will be punished in this world and in the Hereafter, because the evidence for the obligation of *Zakâh* is apparent in the Qur'an and in the Sunnah, and it is established by the consensus of Islamic nation.

Second: If the evasion of *Zakâh* is a result of miserliness and scarcity, not ingratitude and denial, then the



evader of *Zakâh* will be punished in the Hereafter, which is represented in the painful torment that will be inflicted upon him in the Hereafter, as explained by the Prophet (peace and blessings of Allah be upon him):

“No owner of the treasure who does not pay Zakâh (would be spared) but (his hoards) would be heated in the Fire of Hell ...”

As for the worldly penalties that the lawgiver has imposed for evading the payment of *Zakâh* out of miserliness, they include:

- (a) Paying *Zakâh* by force.
- (b) The penalty for refraining from paying *Zakâh*.

The contemporary forms of punishment for those who refrain from paying *Zakâh* include distraint of property, suspension of services, accounts and commercial records, deprivation of entering government competitions, prevention of labor recruitment, and prevention of obtaining or renewing work records and permits that enable practicing activity until the due *Zakâh* is paid.



Conclusion

► First: Key findings

- ◆ The linguistic meaning of “*Wiâ*” suggests joining, collecting, and containing a thing, and falls within it whatever is similar to or takes its meaning. The most relevant of which is “a container for an object” in which it is kept.
- ◆ The usage of the term “*Wiâ*” by earlier Fiqh scholars does not go beyond the linguistic meaning of a container for an object, even they do not have a special term of different indication apart from its linguistic meaning. As for the contemporary Fiqh scholars, they often use the term “*Wiâ*” added to *Zakâh* to suggest the wealth on which *Zakâh* is due, or the elements subject to *Zakâh* from the corporations' financial statements.
- ◆ Despite a wide usage of zakatable base among contemporary scholars of Fiqh and its accurate reliance on the Arabic language, it was not prevalent among the earlier scholars of Fiqh. Therefore, this term is not original in the Fiqh-based terminology, but it is borrowed from tax and accounting scholars who use it widely.
- ◆ Fiqh Scholars do not differ about the essence of *Zakâh* in its Shari'ah-based meaning, or in the application of the term “*Zakâh*” to the determined share of wealth to be paid and the action of payment, but they have different expressions and multiple methods. The researcher approbates the Hanbalites' definition mentioned by Ibn Muflih, and endorsed by others, which states: “An obligatory right in a specific wealth.”
- ◆ The researcher views that the chosen definition of partnership is: “An agreement between two or more parties to combine their assets, or their labor, or their liabilities for the purpose of earning.”
- ◆ *Zakâh* base in modern corporations is defined as: “The items subject to *Zakâh* from the company's wealth.”
- ◆ Scholars unanimously agreed that *Zakâh* is obligatory on the wealth of competent people, whether the wealth is owned by single individual or many individuals. Partnership has no effect on the obligation of *Zakâh* if its conditions are met for all competent persons.
- ◆ *Zakâh* base in modern corporations can be identified through the two statements of the financial position (balance sheet), which are the statement of assets and the statement of payables (or liabilities). The researcher views that these two statements are the pillars of the *Zakâh* base in terms of form.
- ◆ The accounting elements in the statements of assets and payables (or liabilities), after their Fiqh-based description, fall under one of the Fiqh-based zakatable wealth. Therefore, the researcher considered that the zakatable wealth are pillars of the *Zakâh* base, and he dealt with them in this place under this consideration
- ◆ One of the issues related to *Zakâh* on goods-stocked for trade, and occurs frequently in modern corporations, is the ruling which should be applied if the company takes for trade what *Zakâh* is due on its property, such as livestock, crops and fruits. It is a controversial issue and the researcher prevails the aspect of intention in view of the fact that things are determined by their purposes, and that the original purposes take precedence over subsidiary ones, as is well known. The same is to be applied to modern corporations regarding the *Zakâh* due on the property itself, such as the animal production of livestock, crops and fruits. Therefore, the company can be treated as working in the commercial activity, by virtue of the predominance of the purpose (intention) of trading over others.
- ◆ *Zakâh* has conditions, some of which relate to the payer on whom *Zakâh* is due, and some others relate to the wealth on which *Zakâh* is due, and the latter is the one that applies to the *Zakâh* base. These conditions



include: the absolute ownership, the actual or deemed growth, the elapse of *Hawl* (i.e., *Zakâh* year), and reaching the *Nisâb* (i.e., minimum amount determining a person's zakatability).

- ◆ *Zakâh* base varies, with regard to the elements included in its structure, into many types. The designations of its elements differ according to the basis of its calculation method, and all these types are included in the statement of assets and the statement of payables (or liabilities).

- ◆ *Zakâh* base varies in modern corporations, with regard to amount payable, into three types:

First type: For which one-fourth of the one-tenth (2.5%) is obligatory. This includes gold, silver and their equivalents, as well as goods-stocked for trade and their equivalent.

Second type: For which the *Zakâh* on livestock is obligatory. This includes livestock kept for milk production and offspring according to those who hold that the property side should prevail over the goods-stocked for trade side (i.e., *Zakâh* is connected with the property itself).

Third type: For which one-tenth (10%) or half of one-tenth (5%) is obligatory. This includes the crops and fruits according to those who hold that the property side should prevail over the goods-stocked for trade side (i.e., *Zakâh* is connected with the property itself).

- ◆ *Zakâh* base varies in modern corporations, with regard to its accounts, into two types:

First type: *Zakâh* base for corporations having regular accounts.

Second type: *Zakâh* base for corporations having no regular accounts.

- ◆ Contemporary accounting thought has presented two methods for calculating the *Zakâh* base in modern corporations. The researcher views that their results vary in case the *Zakâh* inspector gets into details without paying attention to the result of other method, with the possibility of having the same result from the two methods in the following two cases that the researcher reached through the applied practice, namely:

First case: *Zakâh* inspector applies the overall method for these two methods to reach one result. This often leads to violating some Fiqh-based conditions, while reaching a close approximation to the real *Zakâh* base.

Second case: *Zakâh* inspector applies consolidated Fiqh-based opinions when dealing with each item of financial elements, while perusing the notes, completing the appropriate disclosures for *Zakâh*, and taking into account the two methods. In this case, the inspector can reach one result.

- ◆ The equation of net current assets method can be described as:

Total current assets - total current payables = net current assets, which is the *Zakâh* base.

- ◆ The equation of the invested wealth sources method can be described as:

Long-term obligations or liabilities - net fixed assets = *Zakâh* base.

- ◆ The company's funds of all kinds and forms are called assets. These assets are classified into current and non-current, or current and fixed.

Fixed assets are the assets that are used in carrying out the activity, such as built real estate, machinery, equipment, and cars.

Current assets are the field of activity where it circulates from hand to hand, and changes from form to form during the trading activity.

- ◆ *Zakâh* is due on cash, and it is included within the *Zakâh* base because it is either existing money or debts expected to be collected. *Zakâh* is obligatory on cash, because it is prepared to grow by itself, without trading as in goods-stocked for trade, and without grazing as in livestock. Also, *Zakâh* is due on debt owed to the company from others, whenever one *Hawl* (i.e., *Zakâh* year) elapses over them, even if it did not receive them provided that they are repayable.



- ◆ Receivables are the debts owed to the company from others. All debt-related issues are a point of disagreement. The researcher concluded that *Zakâh* is obligatory on the immediate repayable debt, while it is not obligatory on deferred and non-repayable debts, unless the deferment factor was considered in determining their value, then *Zakâh* becomes obligatory, and are calculated by their number according to the preponderant view.
- ◆ Receipt papers are short-term debts that are owed by others, and hence their relationship to the *Zakâh* base is not different from the relationship of receivables. If the receipt papers are good (repayable), *Zakâh* is due on them, and they are added to the company's *Zakâh* base, and if they are not good (non-repayable), then they are removed from the *Zakâh* base. This is based on what the researcher has reached to be the preponderant regarding the issue of repayable debts and non-repayable debts.
- ◆ Cheques under collection are short-term debts - often - owed by others. They are like receivables and receipt papers, unless their term exceeds one year, in which case they are deferred debts.
- ◆ The comprehensive Fiqh-based description of all types of provisions is that they are cash money that the company withholds at its own discretion without being required by law to do so, and completely owns them, and the possibility of growth in them is realized, and it is mostly invested until the date of their repayment comes or they are fulfilled; because they are not real expenses until their cause and condition are fulfilled. Therefore, the researcher views that if they remain in cash, then their *Zakâh* shall be that of gold and silver, and if they are invested in trade, then their *Zakâh* shall be that of goods-stocked for trade
- ◆ The basic principle in investments is that they are funds that are surplus to the need in the company's original activity, so it uses them in other safe activities, while giving them relative protection by establishing provisions for the decline in investments. This indicates that they are growing zakatable wealth, but their ruling differs according to the type of investment in which they are used. If the investments are in buying and selling, then they are like goods-stocked for trade, and if they are in fixed assets that generate profit, then they are like the *Mustaghallât* (i.e., income-generating assets).
- ◆ The basic principle is that *Zakâh* is obligatory on the companies' investments in shares, and that their full value is included in the *Zakâh* base if the intent of buying the shares is to trade, and in proportion to what the shareholder owns of that shares if the intent is to invest.
- ◆ The researcher concluded that *Zakâh* is not obligatory on the impermissible money, and that there is need to be disposed of completely. Whoever has disposed of impermissible money in accordance with the amount of *Zakâh* is lighter in offence and sin than the one who keeps the impermissible money and consumes it completely, so the more he consumes the impermissible money, the more sinful he gets, and the more he disposes of the impermissible money, the less sinful he shall become.
- ◆ *Zakâh* is obligatory on the principal of bonds, rather than the interest, whether the bondholder's purpose is trading or investment.
- ◆ Shari'ah ruling on the commodity stocks (inventories) varies depending on its purpose, and it is divided from this aspect into two types:

First type: Commodity stocks (inventories) with the purpose of sale and trade. This type includes: finished goods, goods in process, raw materials intended for manufacturing, goods in transit, goods to be sold by others on commission (by agency), and intangible rights prepared for trade such as copyright, patent right, trademarks. *Zakâh* is due on such a type of inventories because it is prepared for sale. Thus, *Zakâh* due on the goods-stocked for trade apply to it.

Second type: Commodity stocks (inventories) with the purpose of service and production. This type includes: machine spare parts, production equipment, display racks and packaging materials if not intended



for trading separately and do not increase the value of goods. This type is not prepared for sale, but rather for usage. Thus, *Zakâh* due on the goods-stocked for trade do not apply to it and is not included in the *Zakâh* base.

- ◆ Other debit balances: Amounts that represent the company's rights held by others, and they mainly include prepaid expenses and accrued revenues, and their ruling differs according to their types. *Zakâh* is obligatory on prepaid expenses (and what is included in them), and they are included in the *Zakâh* base if the contract in which they were paid is not binding. If the contract is binding, *Zakâh* will not be obligatory. As for accrued revenues (and what is included in them), they are classified as debts. Therefore, *Zakâh* is obligatory on them if they are repayable and no *Zakâh* is due on them if they are non-repayable. This is based on the opinion outweighed by the researcher regarding the issue of debts
- ◆ Tangible fixed assets are divided into two types:
 - (a) **Operating fixed assets:** Through their Fiqh-based description, it is clear that they refer to property that are not held for growth, but rather for use, as they belong to *Qunyah* (i.e., acquisition for personal use). Scholars express different views regarding them if they are used in investment projects, and the researcher gave preponderance to the non-obligation of *Zakâh* on them.
 - (b) **Income-generating fixed assets:** Through their Fiqh-based description, they are considered by scholars as falling under income-generating assets or *Mustaghallât*. However, there is a number of scholarly views regarding the ruling on the obligation of *Zakâh* on *Mustaghallât*, and the researcher gave preponderance to the non-obligation of *Zakâh* on either the property of *Mustaghallât* or their value. *Zakâh* is obligatory only on their net income at the rate of one-fourth of the one-tenth (2.5%) as the rest of other acquired wealth provided *Nisâb* (i.e., minimum amount determining a person's zakatability) has reached and after the elapse of *Hawl* (i.e., *Zakâh* year) since the day of receipt.
- ◆ Intangible fixed assets are the assets that do not have a tangible physical existence, and have statutory value, including incorporeal rights and financial rights. The researcher gave preponderance to the opinion that they fall under usufructs and the usufructs are denominated property for which *Zakâh* is due on its value if it is prepared for trade, and not due on its value if it is not prepared for trade.
- ◆ Liabilities are debts owed by the company to other than its owners. They are listed under the statement of payables, and their value is calculated within the company's assets under the statement of assets. The ruling of *Zakâh* on them is based on two premises:
 - First:** Establishing the Shari'ah ruling on *Zakâh* for those who are indebted, and the researcher gave preponderance that the immediate debt waives the obligation of *Zakâh* on its value of the zakatable assets, unlike the deferred debt. Accordingly, current liabilities are deducted from the zakatable assets, and non-current liabilities are not deducted.
 - Second:** Establishing the Shari'ah ruling for the debtor who owns *Qunyah* (i.e., acquisition for personal use) that can be sold to pay off his debts and the debtor who uses the debt in *Qunyah*, and the researcher gave preponderance that the immediate debt waives the obligation of *Zakâh* on its value of the zakatable assets even if a person owns *Qunyah* that can be used to pay off the debt, unless the debt is to finance assets on which *Zakâh* is not due, in which case the value of the debt is not deducted from the zakatable assets because it has not been calculated in the first place.
- ◆ Owner's equity is the total equity of shareholders in the company, consisting of the company's capital subscribed by the owners, the profits accumulated for them, and the statutory or voluntary reserves. The inclusion of owner's equity in the *Zakâh* base according to the net current assets method is out of the question, because it had already included in the *Zakâh* base on the assets column, and they are not deducted



also because they are not a type of debt. Accordingly, they are not considered in the calculation of *Zakâh* according to the net current assets method.

- ◆ Capital is the project owners' money in the project, or the amount invested by the shareholders in the company. It is divided into two parts: fixed capital, and working capital.

Fixed capital is synonymous with fixed assets, as it includes industrial and commercial buildings, machinery, equipment and other requirements that produce goods and provide services.

Working capital is the amount invested in short-term assets that are called current assets.

The capital is included in the *Zakâh* base according to the invested wealth sources method, and it is not included according to the net assets method.

- ◆ Profits of all kinds are money acquired by the company in different ways, and the Fiqh scholars spoke about *Zakâh* on the acquired wealth, and pointed out the points of disagreement and agreement, and their discussion apply to the issue of profits in companies.
- ◆ Reserves are amounts deducted from profits by virtue of law (statutory reserves), or as required by articles of association of the company, or on the basis of a decision by the general assembly (voluntary reserves). Reserves provide necessary funds for many purposes such as future expansion, facing probable losses, distribution of profits in the years when no profits are realized, and distribution of the accumulated amounts of the reserves when they are no longer needed.

The researcher views that the voluntary reserves are included in the *Zakâh* base, and are considered one of its basic items. As for the mandatory (statutory) reserves that cannot be disposed of, they are to be deducted from the *Zakâh* base on the basis that they are non-repayable debts, according to the wealth sources method. As for the net assets method, the voluntary reserves are not deducted from the zakatable assets, while the mandatory (statutory) reserves that cannot be disposed of are deducted from the zakatable assets. This is because *Zakâh* is not due for non-repayable debt, which, however, if collected, it shall start a new *Hawl* (i.e., *Zakâh* year) for them.

- ◆ Governmental subsidies are financial or in-kind contribution from a government entity in exchange for the institution's commitment to implement specific government policies and programs aimed at serving the public. The researcher concluded that they are included in the acquired wealth according to the Fiqh scholars, which includes operating and capital profit, as follows:

- (a) Government subsidies related to certain commodities are considered operating profits, because they are wealth acquired from the growth of the subsidized commodity.

These subsidies correspond to the first type of acquired wealth, which is the wealth that is acquired from the growth of the first property (capital or principal), such as the profit of trade, and the production of grazing livestock. The researcher concluded that the acquired wealth shall be added to its origin, provided that the original wealth (principal) constitutes a *Nisâb*.

- (b) Government subsidies related to the company without a specific commodity are considered to be acquired wealth, or capital profit, because they are not a growth for the trade funds, rather they have been acquired from somewhere else.

These subsidies correspond to the third type of acquired wealth, which is that wealth acquired from the same type of owned property that reached a *Nisâb* and for which one *Hawl* has elapsed, far away from that acquired from the growth of the first property (capital or principal). The researcher gave preponderance to the first opinion that the acquired wealth is to be added to the acquired wealth in terms of the *Nisâb*, but not the *Hawl*, so *Zakâh* is to be paid for the first (property) according to its *Hawl*, and for the second (property) according to its *Hawl*, even if it is less than the *Nisâb*.



- ◆ Based on the researcher's Fiqh-based description of current accounts, their *Zakâh* is as follows:

First party: The owner of current account, and his Fiqh-based description is that he is a creditor or lender to a solvent payer who is unrepudiated. Thus, its *Zakâh* shall be according to the *Zakâh* on debt if it is owed by a solvent payer who is unrepudiated, whether the current account holder is an individual, an institution, or a company.

Accordingly, the credit current account of the owner of the institution is included within the cash in the elements of the *Zakâh* base according to the net assets method. As for the wealth sources method, the current account is not included in the *Zakâh* base, because it has been included in it in another way within the capital.

Second party: The bank in which the account is opened, and its Fiqh-based description is that it is a solvent debtor or borrower who is unrepudiated, and the debt it owes is immediate and has no term, and the lender can take his money at any time. Thus, its *Zakâh* shall be according to the *Zakâh* on the immediate debts.

The scholars have different opinions regarding the *Zakâh* for the one who owes an immediate debt, does he have to pay *Zakâh* on such debt? The researcher, however, concluded that *Zakâh* is not payable by the debtor for the immediate debt.

Accordingly, the debit current accounts or demand deposits are to be deducted from the zakatable assets according to the net assets method, and are not to be included in the elements of the *Zakâh* base according to the invested wealth sources method.

- ◆ The losses decrease the *Zakâh* base by its amount, so if there no profit, then *Zakâh* is due on the principal of wealth. If the loss extends to the principal of wealth, and what remains of it is subject to *Zakâh* according to its conditions, then *Zakâh* shall be due on it. This is because *Zakâh* is due on the capital in the first place, and what is deducted from the *Zakâh* base is the net loss. There is no need to stipulate actual realization of the loss that is deductible from the *Zakâh* base because this loss is to be deducted even if it is estimated as long as the goods-stocked for trade's valuation is at their current sales value.
- ◆ The Board members' remunerations are of two cases:
 - First case:** If the member is a partner in the company, and his management work or membership of the Board is not governed by a separate contract, then he is not allowed to receive a salary, but he is given a percentage of the profit added to his shares. In this case, these remuneration and fees are considered a distribution of profit, and not a charge to it. Accordingly, they are not to be deducted from the *Zakâh* base.
 - Second case:** If the member is not a shareholder in the company or he is a shareholder in it but his management work is governed by a separate contract, then the remuneration and fees he receives are considered of the expenses that are a charge to the profit and not a distribution of the profit. Accordingly, they are to be deducted from the *Zakâh* base.
- ◆ The consideration for the incorporation expenses is considered to be of *Qunyah* (i.e., acquisition for personal use). This consideration is deductible from the *Zakâh* base according to the wealth sources method and the net assets method.
- ◆ Donations and charitable works are considered optional expenses. If they are paid before *Hawl* (i.e., *Zakâh* year) has elapsed over the wealth, they are not included in the *Zakâh* base for companies.
- ◆ The issuance premium is the additional capital resulting from the difference between the subscription price and the nominal value of the shares issued and collected from the shareholders or subscribers to the new shares issued by the company after deducting the issuance expenses, in order to achieve equality between old and new shareholders in light of the prosperity that the company enjoys in its business, solidity of its position, and goodwill it has. The researcher views that the issuance premium does not differ jurispruden-



tially from the capital, so it should be dealt with based on the form it takes, whether cash, goods-stocked for trade, fixed assets, or others.

- ◆ If the corporation does not have regular accounts, then the calculation of its *Zakâh* will be based on the data available to the *Zakâh* collector.

It may be thought that this deemed calculation is attached to *Kharṣ* (estimation) or *Juzâf* (random estimate) applied to fruits, which is not correct. This is because it does not depend on conjecture and guessing only, but rather depends on all the data available about the capital at the beginning of the year, and the comparison with others, and what the payer possesses of goods, sales certificates, invoices, etc. Further, *Zakâh*, throughout the ages and before knowing the accounting science, was depending on the diligence of the collector in calculating the *Zakâh* due on the payer from the wealth available in front of him, and he was not asking for written accounts or the like, and none of the scholars over the years has claimed that it is similar to *Kharṣ* or *Juzâf* applied to fruits.

- ◆ Commercial and cooperative insurance companies, like other companies, are obligated to pay *Zakâh*, as they take possession of the payers' money either for safekeeping or using it for the purpose of profit. The scholars unanimously agree that *Zakâh* is obligatory on the payers' wealth, whether it is intended for trade or insurance, as long as the money is owned by specific individuals, and the conditions for *Zakâh* are met.
- ◆ The premiums that commercial insurance company collects from the participants come into its ownership directly because these premiums are paid in return for an exchange-based contract. The amounts of premiums spent in indemnities during the year are not subject to *Zakâh* since the *Hawl* (i.e., *Zakâh* year) has not elapsed over them, in view of the fact that the first premium is received upon concluding the insurance contract. As for the remainder of total premiums after paying all indemnities, it is called the insurance surplus, and it is like the profit that the company obtains from the insurance process.

The ruling of *Zakâh* on this surplus is related to the controversy over the ruling on commercial insurance: The scholars who view the permissibility of commercial insurance obligate *Zakâh* on these surpluses as being legitimate and permissible profits. As for the scholars who view the prohibition of commercial insurance, they attach these insurance surpluses to impermissible money.

- ◆ The insurance surplus in cooperative insurance shall have any of the following cases:
 - Case (1):** The insurance surplus remains as it is during the year without investment for the benefit of subscribers, and if it made any earnings, it should be considered as a contribution for the benefit of the fund. The researcher views that *Zakâh* is not obligatory on it in this case.
 - Case (2):** The insurance surplus or part thereof be distributed among the subscribers. If the insurance surplus or part thereof it is distributed among the participants at the end of the fiscal year, then their ownership is absolute over it, and it takes the ruling of the acquired money. Hence, each one of them must pay *Zakâh* on his share after a *Hawl* (i.e., *Zakâh* year) has elapsed over its distribution, provided other conditions shall be met.
 - Case (3):** The company invests the insurance surplus for the benefit of the fund. If the investment is for the benefit of the fund, *Zakâh* is not obligatory on the principal of money or its profit related to the fund, by analogy with the investment of *Waqf* property, where *Zakâh* is not obligatory on it or its profits.
 - Case (4):** The company invests the insurance surplus for the benefit of the subscribers. If the company invests the insurance surplus for the benefit of the subscribers and does not distribute it among them, then *Zakâh* is obligatory on the principal of money plus its profit, provided other conditions shall be met. This is because the surplus in this case is owned by them, and the company's disposal on their behalf is carried out by way of remunerated agency, or on the basis of *Mudârabah* for a portion of the profit.



- ◆ Goods-stocked for trade, according to the preponderant opinion, is valued at the current exchange value which is equal to the wholesale price.
- ◆ *Zakâh* on the deferred debts is paid by their number and not their value, according to the preponderant view adopted by the researcher, and *Zakâh* may be paid on their value when needed.
- ◆ Cautious approach is recommended in the *Zakâh* base, and it may be obligatory. It has two sides:
 - First side:** *Zakâh* payer, so he takes precautions not to leave some of his wealth without *Zakâh* either by trick or leniency.
 - Second side:** *Zakâh* collector, so he takes precautions not to take from the *Zakâh* more than the due amount.
- ◆ Argument regarding the *Zakâh* base due to a mistake in calculating *Zakâh* differs from withholding it. If there are conflicting points of view or the *Zakâh* payer views that his wealth is taken from him wrongly as an amount larger than the Shari'ah-prescribed *Zakâh* is taken from him, then he can plead to the judiciary to decide on his case.
- ◆ The four schools of Fiqh: The Hanafites, the Malikites, the Shafites, and the Hanbalites, unanimously agree that the argument to be adopted is that of the *Zakâh* payer based on his oath. They, however, disagreed on cases where no oath is taken.
- ◆ *Zakâh* payer's argument over the *Zakâh* base legitimately affects the correctness of *Zakâh* base calculation. This is because the majority of scholars are of the view that his argument is to prevail over that of the *Zakâh* collector, since the *Zakâh* payer is trustworthy and his liability is originally discharged of the duty to pay *Zakâh*. Meanwhile, *Zakâh* collector is regarded, in this case, as a claimant contrary to the original ruling.
- ◆ The ruling of collecting authorities is not to be enforced on the *Zakâh* payers except with their consent. If an obligation is imposed on the *Zakâh* payer regarding something that he does not acknowledge, then he is entitled to litigation, and his statement is to prevail unless there is no accusation of circumvention or a claim contrary to the facts. If there is an accusation or a claim contrary to the facts, then it is permissible, in this case, to take his oath, and to demand him to produce evidence and so on in a manner that guarantees preserving the obligation of *Zakâh* and preventing the circumvention to evade or reduce it. Meanwhile his statement regarding anything for which there is no accusation against him, and where facts and evidence prove his honesty, shall never be overlooked.
- ◆ Trickery in *Zakâh* base is forbidden, which is intend to drop *Zakâh* from some elements of the *Zakâh* base by reducing the value of zakatable wealth or increasing the value of non-zakatable wealth.
- ◆ The four Imams of Fiqh schools agreed on the prohibition of trickery to drop or reduce *Zakâh* after it has become due. They, however, differed regarding the effect of this trickery, whether it drops *Zakâh* or not, and regarding the trickery in *Zakâh* before it becomes due.
- ◆ Shari'ah has prescribed worldly and hereafter penalties for circumventing (trickery in) the payment of *Zakâh*, which differ according to the intent of the evader from paying *Zakâh*. The intended circumvention (trickery) in the *Zakâh* base is used to reduce the *Zakâh* after it has become due, and it is subject to the same rulings of *Zakâh* evasion.
- ◆ Trickery and circumvention in the *Zakâh* base involve one of two cases, as follows:
 - First:** If trickery in the *Zakâh* base is a result of a false belief represented in denying the religious duty of *Zakâh*, then the evader of *Zakâh* will be punished in this world and in the Hereafter, because the evidence for the obligation of *Zakâh* is apparent in the Qur'an and in the Sunnah, and it is established by the consensus of Islamic nation.
 - Second:** If the evasion of *Zakâh* is a result of miserliness and scarcity, not ingratitude and denial, then the evader of *Zakâh* will be punished in the Hereafter.



- ◆ The worldly penalties that the lawgiver has imposed for evading the payment of *Zakâh* out of miserliness are: paying *Zakâh* by force, and it is permissible to punish him with other various penalties.

► **Second: Key recommendations**

- 1- Conducting a separate thesis on the *Zakâh* base in the insurance companies, which studies, analyzes and provides Fiqh-based description for the items of their financial statements.
- 2- Teaching *Zakâh* accounting in Shari'ah colleges. This is because *Zakâh* is not less important than the inheritance science, and it has some aspects that prevents the scholar from applying its rulings to reality, such as the financial statements of companies.
- 3- Issuing standards for *Zakâh* accounting, so that companies should observe these standards in their disclosures.

There are now the Saudi Accounting Standards which include a standard for *Zakâh*, but the current disclosures do not help to identify the issues affecting *Zakâh*, except with painstaking attention, examination and investigation with the company.

- 4- The researcher recommends that the Islamic countries should comply with Allah's command regarding the collection of *Zakâh*, in His saying:

{“Take, [O, Muḥammad], from their wealth a Ṣadaqah (i.e., Zakâh) by which you purify them and cause them increase, and invoke [Allah’s blessings] upon them...”}

Praise be to Allah, with Whose grace good deeds are accomplished, and may Allah's blessings and peace be upon our Prophet Muḥammad, his household and all his companions.



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