METHOD OF *ZAKAT* ASSESSMENT ON SHARES IN MALAYSIA: AN OVERVIEW

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ABSTRACT

The main purpose of this paper is to identify the method of zakat assessment on shares in Malaysia. Shares is a form of wealth currently in Malaysia in which zakat is permissible. The method of zakat assessment on shares is still debated among scholars. The question is, what is the method of shares zakat assessment discussed among scholars? What is the method of zakat assessment on shares practiced in Malaysia? Based on content analysis, various methods of zakat assessment on shares have been identified in Malaysia. This variability is caused by the zakat management authorities including determining the method of zakat assessment which falls under the jurisdiction of the various states in Malaysia.

Keywords: shares, zakat, assessment

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1. INTRODUCTION

Tracing the history of obligating *zakat*, it is inherently compulsory in the *Shariah* (laws) of previous prophets even before the advent of Rasulullah SAW. The obligatory duty on *zakat* occurred in stages (Mujaini Tarimin, 1995). While in Mecca, *zakat* was only carried out by the rich among the Companions on a voluntary basis according to their respective capabilities (Hailani Muji Tahir, 2006). *Zakat* began to be officially made compulsory in the second year of the *hijra* (migration) of Rasulllah SAW to Medina (Mustafa al-Khin, et al., 2006).

The source of properties in which *zakat* was compulsorily imposed in the early days of Islam was limited to traditional sources. Among such sources where *zakat* was imposed were gold, silver, barley, wheat, palm, corn, camel, cow, goat and its products (Yusuf al-Qaradawi, 1999). These resources were the source of wealth of the Arabs at that time. However, the socio-cultural and economic realities of today's society are far different from the days of Rasulullah SAW. In fact, the form of ownership and interests of a property has changed. However, Islam is not rigid. In certain circumstances, Islamic jurisprudence is flexible in meeting the change. Moreover, the openness of *ijtihad* (legal reasonings) has given way to today’s scholars to expand *zakat* resources where it can bring great benefits to the society’s interests (*maslahah ummah*) (Sanep Ahmad and Hairunizam Wahid, 2005). For example, shares has been deemed by *fatwa* (juristic decree) as one of the new sources of *zakat* in the First *Zakat* Conference held in Kuwait in 1984. However, the adoption of guidelines on the method of *zakat* assessment on shares is not defined (Sanep Ahmad and Hairunizam Wahid, 2005). This situation has led to the ongoing discussion among scholars. The question is, what is the method of *zakat* assessment on shares discussed among scholar? What methods of *zakat* assessment on shares are practised in Malaysia? Hence, this paper intends to examine and dismantle these questions.

The structure of this paper is divided into three parts. The first part highlights the methods of *zakat* assessment on shares discussed among scholars. The second part reviews the methods of *zakat* assessment on shares in Malaysia. The third part provides a conclusion to these discussions.

2. HIGHLIGHTS OF METHOD OF *ZAKAT* ASSESSMENT ON SHARES

Issues related to *zakat* on shares had been raised by some scholars since the 1950s, such as the form of shares which are subjected to *zakat*, determination of the party whose obligations to pay *zakat* rests and its methods of assessment. However, a comprehensive study of *zakat* shares was still low (Abdul Azim Islahi and Mohammed Obaidullah, 2004). However, the efforts of the discussion about zakat shares was done at the international level. For example, the First *Zakat* Conference held in Kuwait in 1984 discussed about methods of zakat assessment on shares. The method of assessment is based on the determination of whether the purpose of the acquisition of shares is for trading or to obtain the annual dividend. However, the implementation of the assessment was not clearly defined (Sanep Ahmad and Hairunizam Wahid, 2005).

According to Yusuf al-Qaradawi (1999), there are two schools of thought in determining the method of *zakat* assessment on shares. The first school of thought determines the method of assessment based on the type of the companies that issue the shares. Company issuers of shares can be divided into two categories. First companies in the service sector such as hospitality, advertising and transportation. Shares of these companies are not subject to *zakat*. Second companies involved in the production and trading of goods such as companies dealing with trade and manufacturing. The company's shares are subject to *zakat* as imposed on business goods. However, Yusuf al-Qaradawi (1999) pointed out that the distribution on the patterns of thought pertaining to shares has no clear basis either from the sources of the Qur'an, Sunnah, *ijma '* (consensus) or *qiyas* (analogy). In fact, shares of both types of companies are the types of property that can be developed and provides continual profitability to their owners.

The second school of thought does not distinguish the types of companies that issue shares. Shares are treated as akin to properties that can be bought and sold which are by way of *qiyas* (analogy) to business goods (Yusuf al-Qaradawi, 1999). The method of *zakat* assessment on shares is treated like a business *zakat* in which *zakat* is imposed on the value of shares and profits gained after sufficient *nisab* (minimum quantification for imposition of *zakat*) at the end of the year. *Zakat* rate charged is 2.5 percent.

Husein Syahatah and Athiyyah Fayyadh (2004) on the other hand examine the method of calculating *zakat* on shares which should follow the period and the purpose of acquiring the shares. For example, if the ownership on shares is short-term with the aim to sell, then the method of calculating *zakat* on shares is similar to *zakat* on business goods. Conversely, if the ownership on shares is for long term and seeks to earn the annual dividend, then the method of calculating *zakat* on shares is akin to *zakat mustaghallat* property. This view is in line with Muhammad Kamal 'Atiyah (1995) who divided shares into two categories. The first category is the fixed assets purchased for its annual dividend yield. The second category, the variable assets purchased to be transacted akin to business goods.

The view put forward by Muhammad Akram Khan (2005) is different to that of Husein Syahatah and Athiyyah Fayyadh (2004) and Muhammad Kamal 'Atiyah (1995). According to his view, zakat on shares ought to be imposed on investment gains only, while the *zakat* rate is at 5 percent or 10 percent.

In summary, the above discussions show the various dimensions used by scholars in determining the method of *zakat* assessment on shares. These differing views arise due to the difference of opinion of scholars on the importance and value of the shares itself.

3. *ZAKAT* ASSESSMENT ON SHARES IN MALAYSIA

In Malaysia, *zakat* management institutions are under the jurisdiction of the states, led by His Majesty the Yang Di-Pertuan Agong or His Majesty the Sultan or Raja (Siti Mashitoh Mahamood, 2007). Typically, the Islamic Religious Council of State (MAIN) is given the responsibility of carrying out all activities related to the management of *zakat*. However, to improve the efficiency and effectiveness of *zakat* management, some MAIN corporatised part of its *zakat* management (Ahmad Shahir Makhtar, et al., 2011). Up to now, there are eight states that have corporatised the institution of *zakat.* The states are Melaka, Negeri Sembilan, Pahang, Pulau Pinang, Perak, Sabah, Sarawak and the Federal Territory. The six other states, Johor, Kedah, Kelantan, Perlis, Perak and Terengganu have not incorporated any part of its *zakat* management (Ahmad Shahir Makhtar, et al., 2011). The list of *zakat* institutions in every state in Malaysia is described in Table 1.

Table 1: The List of *Zakat* Institutions in Every State in Malaysia

Institusi–Institusi Zakat	
Corporatised *zakat* Institutions	Pusat Pungutan Zakat Wilayah Persekutuan (PPZ)
	Lembaga Zakat Selangor (LZS)
	Pusat Kutipan Zakat Pahang (PKZ)
	Zakat Pulau Pinang (ZPP)
	Pusat Zakat Melaka (PZM)
	Pusat Zakat Negeri Sembilan (PZNS)
	Pusat Zakat Sabah (PZS)
	Tabung Baitulmal Sarawak (TBS)
Non-incorporated *zakat* institutions	Jabatan Zakat Negeri Kedah (JZNK)
	Majlis Agama Islam Perlis (MAIP)
	Majlis Agama Islam Negeri Johor (MAINJ)
	Majlis Agama Islam dan Adat Melayu Perak (MAIAMP)
	Majlis Agama Islam dan Adat Melayu Terengganu (MAIDAM)
	Majlis Agama dan Adat Istiadat Melayu Islam Kelantan (MAIK)

Source: Ahmad Shahir Makhtar, et al. (2011) and Sanep Ahmad, et al. (2006)

Table 1 displays the 14 *zakat* institutions representing every state in Malaysia. *Zakat* institutions can be divided into two categories. First, there are total of eight institutions of *zakat* whose management is incorporated. These institutions consist of Selangor Zakat Board (LZS), Zakat Pulau Pinang (ZPP), Zakat Collection Centre of the Federal Territory Islamic Religious Council (PPZ), Zakat

Centre Melaka (PZM), Pusat Zakat Negeri Sembilan (PZNS), Zakat Collection Centre Pahang (PKZ), Sabah Zakat Centre (PZS) and Tabung Baitulmal Sarawak (TBS). Second, there are the remaining six institutions of *zakat* whose management has not been incorporated. These institutions consist of Zakat Department of Kedah (JZNK), Islamic Religious Council of Perlis (MAIP), Islamic Religious Council of Johor (MAIJ), Religious and Malay Customs of Perak (MAIAMP), Religious and Malay Customs of Terengganu (MAIDAM) and Council of Religion and Malay Custom of Kelantan (MAIK).

Zakat institutions in Malaysia are generally operated under the advice and adhere to the *fatwas* (legal rulings) issued by the State Fatwa Council respectively. Pulau Pinang is the first state to issue a *fatwa* about *zakat* on shares in 1983 through the Fatwa Committee of Pulau Pinang. The *fatwa* issued was on the obligation to pay *zakat* by the shareholders' in the Amanah Saham Nasional (ASN) investment. The Pulau Pinang Fatwa Committee decided *zakat* is to be imposed on capital and the profits gained after the conditions of *nisab* (minimum quantification for imposition of *zakat*) and *haul* (minimum one *hijrah* calendar year) have arisen.

Then, the Perlis Shariah Committee in 1988 also gave a *fatwa* obligating *zakat* on the shares (eFatwa, 2013). The Perlis Shariah Committee decided the obligation of *zakat* on shares is limited to shares classified as Shariah-compliant only. In other words, there is no obligations for *zakat* on non-compliant shares. However the *zakat* assessment on shares was not described in detail.

The Shariah Committee for the State of Melaka on 2 April 2009 also issued a *fatwa* for the method of zakat assessment on shares. The Melaka Shariah Committee divided the shares in which *zakat* is obligatory into two categories. First, the shares traded throughout the *haul* in which the method of *zakat* assessment on shares is based on the sale of shares after deducting the cost of purchase of shares. Upon meeting the conditions of *nisab* and *haul*, *zakat* is charged at 2.5 per cent. Second, shares which are still owned at the end of the *haul*. The method of assessment is based on the lower value between the market price and the purchase price. However, if it is difficult to determine the lower price between the market price and the purchase price, then the shares' price at the end of the *haul* will be used. After meeting the conditions of *nisab* and *haul*, *zakat* is charged at 2.5 per cent (eFatwa, 2013).

Selangor is the later state in issuing a *fatwa* for the method on *zakat* assessment on shares. The government state of Selangor gazetted the method on 31 March 2011. The Selangor Fatwa appears to provide a detailed method of *zakat* assessment on shares. For example, the conditions for obligating *zakat* on shares and the justifications on its obligation were explained in the said *fatwa*. The Selangor Fatwa Committee decided that shares invested in the capital market is analogous to business goods (*arudh al-tijarah*) (Fatwa Selangor, 2013). The method of *zakat* assessment on shares was divided into two categories as shown in Table 2.

Table 2: Method of Zakat Assessment in the State of Selangor

Category	***Assesment***
Shares in the form of savings	Value of shares at the end of *haul* x 2.5%
Shares that are traded	[Value of shares at the end of *haul* (+) profit (-) brokerage fee] x 2.5%

Source: Fatwa Selangor (2013)

Based on Table 2, shares in the form of savings is subjected to *zakat* at 2.5 percent of the value of the shares at market price at the end of *haul*. Meanwhile, for shares that are traded, *zakat* is charged at 2.5 per cent of the shares at market price at the end of *haul* and combined with profit gained throughout the *haul* after deducting brokerage costs.

For the purpose of standardizing the *zakat* assessment in the various states in Malaysia, *zakat* assessment guidelines on assets known as *Panduan Zakat di Malaysia* (Zakat Guideline in Malaysia) was published by the Department of Islamic Development Malaysia (JAKIM) in 2001. In 2008, the *Manual Pengurusan Pengiraan Zakat (Manual on Zakat Calculations Management)* was published by the Department of Awqaf, Zakat and Hajj (JAWHAR). Both of these publications presented the same method of *zakat* assessment on shares. Based on these two guidelines, shares which are subjected to *zakat* are divided into two categories. The division is as follows (JAWHAR, 2008):

i. Shares traded throughout the *haul*. The method of *zakat* assessment is based on value of the sale of shares after deducting the cost of purchase of shares. Upon meeting the conditions of *nisab* and *haul*, *zakat* is charged at 2.5 per cent.

ii. Shares which are still owned at the end of the *haul*. The method of *zakat* assessment is based on the lower value between the market price and the purchase price. After *nisab* and *haul*, *zakat* is charged at 2.5 per cent.

Such a division on shares shows that for shares purchased for the purpose of trading, *zakat* is imposed on profits only. This means that *zakat* is not imposed in the event of loss in trading shares. For shares that are not traded or kept, *zakat* is imposed on the lower value between the market price and the purchase price. The lower value between the market price and the purchase price represents the fixed ownership of the shareholder within *haul*.

Based on the above discussion, there are at least four methods of *zakat* assessment on shares practiced in Malaysia. First, *zakat* assessment on shares based on the lower value between market price and purchase price. Second, the *zakat* assessment on shares based on the market price at the end of *haul*. Third, the *zakat* assessment on shares based on profit. Fourth, *zakat* assessment on shares based on the value of the shares at market price at the end of the *haul* combined with profits gained throughout the *haul* after deducting the brokerage costs.

4. CONCLUSION

On the whole, there are various methods of *zakat* assessment on shares in Malaysia. This variability is caused by the *zakat* management authorities including determining the method of *zakat* which falls under the jurisdiction of the various states in Malaysia. However, the Malaysian government through JAWHAR is seen as endeavouring to standardize the various methods of *zakat* assessment on shares with the publication of *Manual Pengurusan Pengiraan Zakat* to be implemented in the states in Malaysia. Nevertheless, the success of such standardization is subject to the cooperation of all *zakat* institutions in Malaysia.

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