

# CHAPTER OF ZAKAT

*Based on - Al-Hidayah fi-Sharhil-Bidayatil-Mubtadi and Binayah fi Sharhil  
Hidayah*



**Aadil Mangera**

08.10.2020

Jamiah-Ilm-Wal-Huda

Edition 1

Any queries please email me at: [aadilmangera7@gmail.com](mailto:aadilmangera7@gmail.com)

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

<b>FORWARD</b>	<b>2</b>
<b>INTRODUCTION</b>	<b>3</b>
كتاب الزكاة	5
<b>THE RULING OF ZAKAT AND THE CONDITIONS THAT MAKE IT OBLIGATORY</b>	<b>5</b>
<b>IS ZAKAT NECESSARY IMMEDIATELY OR WITH DELAY?</b>	<b>10</b>
<b>ZAKAT ON CHILDREN OR INSANE PEOPLE</b>	<b>12</b>
<b>ZAKAT ON A MUKATAB SLAVE</b>	<b>16</b>
<b>ZAKAT OF THE DEBTOR</b>	<b>17</b>
<b>ZAKAT ON RESIDENTIAL HOUSES, PERSONAL CLOTHING, HOUSEHOLD ASSETS AND</b>	<b>24</b>
<b>SIMILAR ITEMS</b>	<b>24</b>
<b>ZAKAT ON LOST WEALTH, DESTROYED WEALTH AND STOLEN SLAVE</b>	<b>26</b>
<b>RULING OF DUAL INTENTION</b>	<b>31</b>
<b>THE CONDITION OF INTENTION IN ZAKAT</b>	<b>34</b>
<b>RULING OF ONE WHO GIVES CHARITY AND DOES NOT INTEND ZAKAT</b>	<b>35</b>
<b>APPENDIX</b>	<b>38</b>
<b>REFERENCES</b>	<b>40</b>

## FORWARD

All praise in reality is due to Allah the Almighty, the only being worthy of praise. Allah is one, free from partners and the ever living being. We praise him in all circumstances, seek his help and forgiveness. Peace and blessings be upon the best of mankind, the final messenger of Allah Muhammad صلى الله عليه وسلم, his family, his companions and all those who follow them with goodness till the day of judgement.

### About the book

The following document is an explanation of the rulings of Zakat, that is primarily based on the famous Hanafi text 'Al-Hidayah fi-Sharhil-Bidayatil-Mubtadi' written by Imam Burhan-uddin Ali al-Murginaani [593 HJ]. The author will attempt to explain the rulings contained therein, using البناية شرح الهداية. Also when the author references Hidayah it will be in reference to the above book - Al-Hidayah fi-Sharhil-Bidayatil-Mubtadi.

The main rulings of Zakat that will be explained are the following -

- The ruling of Zakat
- The conditions that make it necessary
- The ruling on withholding Zakat
- The obligation of giving Zakat immediately or with delay
- Zakat on the wealth of a Mukatab
- Zakat of the debtor (one who has a debt)
- Zakat on needs (Items and properties like Houses, Clothes and Vehicles)
- Zakat on books and tools
- Zakat on lost wealth, runaway, lost and stolen slaves
- Zakat taken by the rulers
- Zakat on dual intentions
- Conditions of intentions in Zakat
- Ruling on a person who gives charity and does not intend Zakat
- Derivatives in the condition of intention in Zakat

There will also be other related rulings that will be discussed if Allah wills [Insha-Allah]

---

## INTRODUCTION

Zakah in terms of language means to purify, this is taken from the verse of the Quran, in which Allah says -

قَدْ أَفْلَحَ مَنْ تَزَكَّى

Successful indeed are those who purify themselves (87:1)

Also it refers to growth. Just like how a farmer plants a seed and then it grows.

As for its legal/technical meaning (Shar'e) it is based on the verse of the Quran - 'And give Zakah', meaning give from your wealth. Zakat is the decree of Almighty Allah, the Lawgiver, that the owner of a set amount makes a poor Muslim owner of a set portion of his wealth for the sake of Allah, in a way that the first owner terminates his benefits of ownership in all aspects.

The rulings of Zakat are mentioned after the chapter of Salah, due to the statement of Allah Ta'ala:

وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ وَارْكَعُوا مَعَ الرَّاكِعِينَ

And establish prayer and give zakah and bow with those who bow [in worship and obedience]. (2:43)

Also in the Sunnah:

عَنْ ابْنِ عُمَرَ - رَضِيَ اللَّهُ عَنْهُمَا - قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " بُنِيَ الْإِسْلَامُ عَلَى خَمْسٍ شَهَادَةِ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَأَنَّ مُحَمَّدًا رَسُولُ اللَّهِ، وَإِقَامِ الصَّلَاةِ، وَإِيتَاءِ الزَّكَاةِ، وَالْحَجِّ، وَصَوْمِ رَمَضَانَ "

Allah's Messenger (ﷺ) said: Islam is based on (the following) five (principles):

To testify that none has the right to be worshipped but Allah and Muhammad is Allah's Messenger (ﷺ). To offer the prayers dutifully and perfectly. To pay Zakat (i.e. obligatory charity). To perform Hajj. (i.e. Pilgrimage to Makkah). To observe fast during the month of Ramadan.

## كتاب الزكاة

### Chapter of Zakat

#### [حكم الزكاة وشروط وجوبها]

#### THE RULING OF ZAKAT AND THE CONDITIONS THAT MAKE IT OBLIGATORY

##### Ruling

الزكاة واجبة على الحر العاقل البالغ المسلم إذا ملك نصابا كاملا ملكا تاما، وحال عليه الحول.

Zakat is obligatory on each free, sane and mature muslim when he owns the Nisab thorough complete ownership and has it for a complete year.

##### Definition

**Zakat is obligatory** which means it has been proven by indisputable proof (daleel qat'e), which is the Quran, Sunnah and the Consensus (Ijmaa) of the Ummah. However its detailed amounts (furoo) is proven through singular narrations (Khabar Ahad). The statement of Allah ta'ala 'And give Zakah' (2:43), is mujmal (not completely clear and needs further elucidation through the sunnah) in terms of its detailed amounts but not Zakat itself being obligatory as mentioned before.

When any obligation is proven through the following three sources - which is termed as indisputable proof - then it becomes incumbent on us to accept it as a part of our religion.

**Table 1: Indisputable Evidences in Shariah**

Evidence	Definition *
Quran	The book/speech of Allah
Mutawatir Sunnah / Ahadith	A hadith that has been narrated by many companions. **
Ijmaa	Consensus and agreement of the majority of the Scholars

\* For more detailed definitions refer to the relevant books.

\*\* They have reached such a stage that there is no need to authenticate the hadith.

Note: It is important to be aware of, that there are differences on how the Fuqaha, interpret or explain the verse or hadith. So despite the above three being legislative sources, there are differences on its interpretation.

The question might arise what is the difference between a Fardh and a Wajib? Many definitions have been given by the Ulama, and a very easy way to understand is that when both of the following conditions are fulfilled then it is Fardh, if only one is fulfilled then is Wajib -

- Establishment of the Hadith (In terms of the chain of the hadith)
- Meaning of the Hadith (In terms of the explanation of the hadith)

So many scholars might agree on the establishment of the Hadith that is authentic, however the meaning is disputed and different explanations of the hadith are given. Also the opposite is also possible, agreement of the meaning but not its establishment.

Extra notes:

Allamah Ayni (855HJ) mentions in his masterpiece -

- The verse of the Quran 'And give Zakah' is an unrestricted command (amr-mutlaq). This is the chosen view according to the Fuqaha and the people of

principles (Usuliyyin).

- The proofs of Zakah being obligatory in the Sunnah are many, for example the Hadith narrated by Imam Tirmidhi (279AH) ‘Fear Allah, offer your daily five prayers, fast your month (ramadan), give Zakah from your wealth, obey your leaders and you will enter the paradise of your lord (Hadith Hasan Sahih upon the conditions of Muslim). The Hadiths on Zakat being obligatory are mutawatir and can be found in books of Hadiths.
- The ummah of our Prophet صلى الله عليه وسلم from the beginning till our present time have agreed upon the obligation of Zakat. To the extent that Abu Bakr as-siddiq رضي الله عنه waged war on those who refused its obligation, this itself is sufficient proof of the obligation of Zakat.
- As for logical proofs, Imam Kasaani (1191HJ) mentions three logical proofs. Number One: It helps the poor and strengthens them to fulfill what Allah has imposed upon them from Tawhid and Worship. So this -wealth- then becomes a means for him to perform the obligatory actions. Number two: It is a purification of his soul and character due to the reason that it creates generosity and sympathy in himself for those who are less fortunate than him. Number three: It is a means of being grateful to Allah for the blessing of wealth, and being grateful to Allah is obligatory logically as well as according to Islamic law.

**On every free, sane mature muslim, when he owns the Nisaab, complete ownership, for a complete year.** There are 8 conditions (Shuroot) mentioned for Zakat to be obligatory on a person. All 8 conditions have to be fulfilled, only then Zakat will be necessary.

The conditions are as follows:

1. Free person (not obligatory on a slave, despite him having wealth)
2. Mature person (not obligatory on a child, who hasn't reached the age of puberty. More details on condition 2 and 3 will be mentioned later, Insha-Allah).
3. Intelligent/Sane person (Not obligatory on insane people).
4. Muslim (not obligatory on non-muslims. Due to the reason that Zakat is an act of worship, and a Muslim will be rewarded in the hereafter. Contrary to Non-Muslims who will not be rewarded in the hereafter. So therefore, the command does not apply to them and also the verse does not prove punishment upon them for not paying Zakat).
5. He owns the Nisaab (Which in its original sense is all those types of wealth,

without it Zakat is not due. It is necessary that he owns the amount of Nisaab because the Prophet صلى الله عليه وسلم determined the cause through it. This is mentioned in a hadith of Sahih Bukhari in which he صلى الله عليه وسلم says "No Zakat is due on property mounting to less than five Uqiyas (of silver), and no Zakat is due on less than five camels, and there is no Zakat on less than five Wasqs" ). \* 1 Wasq is 60 Saa and 1 Saa is 3KG approximately. The difference between the cause, condition and purpose is mentioned below:

**Table 2: Cause, condition and purpose**

Term	Definition	Explanation
السبب The Cause	Makes the action necessary	To have complete ownership of the value of Nisab
الشروط The Condition	Needs to be there for the action to go through	These 8 conditions that are mentioned
العلت The Purpose	Why is the action necessary	To purify our wealth (More purposes are mentioned on page 5 )

6. Complete ownership (he has complete ownership of it and no one else. He is able to make transactions with it).
7. Has it for a complete year (the wealth remains with him, for a complete year. This is further established with a hadith in Abu Dawud "There is no Zakat on wealth until a year has passed over it. Also within a year there is enough time for the wealth to grow within the various seasons and generally the rates vary within them. So the rule revolves around it).
8. To be free from necessary needs (Haajatul-Asliya). More details on this will be mentioned later in Insha-Allah.

Important notes:

- The wealth he has, has to be completely owned by him without any restrictions, barriers and conditions.



- The ability to use the wealth in such a way that does not relate to any penalty in this world nor consequences in the hereafter.
- Complete ownership is that it fulfills all signs of ownership. So excluded from complete ownership is owed wealth (creditors money), mukatab (slave who made a contract with master of purchasing his freedom), lost wealth, divorce allowance (Khul'a), and dowry before possession. Also a person who takes wealth without any consent or a person who steals or usurps wealth, due to the reason that he does not have complete ownership. Added to that a person who gifts wealth to someone, because it has now left his ownership. However if the gift is returned to him then he will have to add it to his Zakatable assets, since now it is in his ownership. In summary a person has to have complete ownership of that wealth, in order for it to be added to his Zakatable assets.

### Examples

Example 1: Abdullah has £2000 and is 23 years old. He had the wealth from the 1st Ramadan 1441 till 1st Ramadan 1442. The wealth was completely owned by him. He will have to give 2.5% on his wealth which is £50.

Example 2: Umar is 17 years old. He receives wealth as his inheritance share, which equals £5000. The date he received the money was the 23rd Safar 1441. This wealth is in his complete ownership. He has this wealth for a complete year, and only spent £500. So now he has £4500 and the date is 23rd Safar 1442. He will have to give 2.5% on his wealth which is £112.50.

## **IS ZAKAT NECESSARY IMMEDIATELY OR WITH DELAY?**

### Ruling

ثم قيل: هي واجبة على الفور، وقيل: على التراخي؛

Is Zakat necessary immediately or with delay?

### Definition

There are 2 views in the Hanafi Madhab on this issue. These two views are mentioned below.

## View 1

Imam Karkhi (341HJ) mentions that Zakat is necessary immediately, which means it should be performed in its first possible time (i.e immediately). According to Imam Muhammad Ash-Shaybani (189HJ) that a person who delays his Zakat is sinful and his testimony is not accepted (If there is a valid reason for delaying then there will be no sin). Also Imam Muhammad mentions that it is not permissible to delay Zakat. This is due to the general command (mutlaq al-amr) of the Quran ‘to give Zakah’, which is the command of need. Which is to fulfill the needs and rights of the poor. The evidence for that is when a person gives his Zakat in the first possible time, he then has fulfilled his responsibility. This position is also preferred by many other Hanafi scholars.

However Allamah Ibn Humam mentions in Fathul-Qadeer ‘That the chosen view according to the Usul (principles) is that Mutlaq al-amr does not necessitate either immediately or with delay.

## View 2

Abu Bakr Jassas (370HJ) has preferred the view that is obligatory upon delay. This is different to Hajj as Hajj is to be performed in a specific month, which comes once in a year. So if a person delays it then he has missed it, and this is not the case with Zakat. To the extent that if he is prevented from giving Zakat by the authorities or his wealth is destroyed (due to external factors), he will not be held liable for being negligent for immediate payment. Also if he prevents the Zakat wealth on a certain individual -who is eligible for Zakat- by not appointing him, he will not be held responsible because he can give it to someone else. Also because the entire life of a human is the duration for the performance of Zakat so it is not permissible to specify the first possible time (immediately) for performance of Zakat.

The 4 schools of jurisprudence (Madhahib) have differed on whether a person will be held liable if his wealth gets destroyed after its performance becomes necessary. Mainly Imam Abu Hanifah (150HJ) differs with the other three Imams.

**Table 3: Position of the 4 Imams**

Imam	Position
Imam Malik (179HJ), Imam Shafi (204HJ), Imam Ahmad Ibn Hanbal (241HJ)	Will be held liable for payment of Zakat, because it becomes a debt owed by him.
Imam Abu Hanifah (150HJ)	Will not be held liable for payment of Zakat. However if he destroys the wealth then he will be held liable and will become a debt owed by him.

The chosen opinion of the madhab mentioned by Ibn Abideen Ash-Shami (1252HJ) is that he will be sinful for delaying it without a reason, and upon this is the fatawa.

#### Examples

Example 1: Yasin has £24,000 in his bank and had it for an entire year. However he has not given his Zakat on his due date and 10 months have passed since his due date. According to the preferred opinion is that he will be sinful for delaying it, without a valid opinion.

Example 2: Hamza has £30,000 and has had this money for 3 complete years. He didn't give Zakat in those 3 years. He will be sinful for delaying the Zakat without a valid reason and must give Zakat on all those years.

## **ZAKAT ON CHILDREN OR INSANE PEOPLE**

**Zakat is not necessary on children (who have not reached the age of puberty) and also on insane people (mental illness).** This is also the position of many other Ulama such as Abu Wa'il, Saeed Ibn Jubair, Ibrahim Naka'e, Shabi, Sufyan Thawri and Hasan Basri. It is narrated from Hasan Basri that there is Ijmaa (consensus) of the Sahabah on this. Saeed ibn Musayyib says that 'Zakat is not fard except for those who Salah and fasting is necessary.

This position is contrary to Imam Shafi, Imam Malik, Imam Ahmad who say it is necessary on the wealth of a child or insane person. However there is a slight difference in their respected positions. Imam Shafi says that it is necessary on the wealth not on the

person and the Hanabilah say that it is necessary on the person. There evidences are several, for example the Hadith mentioned by Imam Tirmidhi that the Messenger of Allah صلى الله عليه وسلم said “One who becomes the guardian of an orphan, who owns property, must trade on his behalf and not leave it (saved and unused) until it is all eaten up by Zakah (which is paid yearly)”. The answer to this Hadith mentioned by the Hanafi’s is that this refers to Sadaqatul-fitr. There are also other hadiths, which are mentioned in Binayah Fi Sharhil Hidayah and other books.

The reason why it is necessary -upon children and insane people- according to Imam Shafi is because he considers it -Zakat- as a Monetary Tax. Which means that the cause of the obligation of Monetary Tax is on the actual wealth, and being a child does not stop its obligation. Just like all taxes such as expenditure of the parents or wife, so therefore it becomes like Ushur and Kharaj, which will be taken from their wealth (taxes that are imposed upon the produce of the land and the land itself).

**According to the Hanafi Madhab, Zakat is a form of worship, and it cannot be performed without a choice in the matter, establishing the meaning of a test.** Our evidence that it is necessary is the hadith recorded by Imam Bukhari and Imam Muslim from Ibn Umar (see page 4). So worship is not established except with correct and rational choice. This correct or rational choice establishes the meaning of the test because we have been tested by Allah with regards to our rationality, so it becomes apparent who is obedient and who is disobedient.

Allah says:

أَحْسِبَ النَّاسُ أَنْ يُشْرَكُوا أَنْ يَقُولُوا ءَامَنَّا وَهُمْ لَا يُفْتَنُونَ. وَلَقَدْ فَتَنَّا الَّذِينَ مِنْ قَبْلِهِمْ فَلَيَعْلَمَنَّ اللَّهُ الَّذِينَ صَدَقُوا وَلَيَعْلَمَنَّ الْكٰذِبِينَ

Do people think once they say, “We believe,” that they will be left without being put to the test? We certainly tested those before them. And ‘in this way’ Allah will clearly distinguish between those who are truthful and those who are liars.

[29:2-3]

He also says:

الَّذِي خَلَقَ الْمَوْتَ وَالْحَيٰوةَ لِيَبْلُوَكُمْ أَيُّكُمْ أَحْسَنُ عَمَلًا ۗ وَهُوَ الْعَزِيزُ الرَّحِيمُ

‘He is the One’ Who created death and life in order to test which of you is best in

deeds. And He is the Almighty, All-Forgiving. [67:2]

There are many verses in this regard and there are famous & well known.

This is also the statement of Ibn Umar and Aaisha.

Since there is no rational choice in a child or insane person due to the absence of rational intelligence. So like this even if a rational child gives Zakat from his own behalf it won't be accepted and neither will it be allowed for the person receiving Zakat to accept it if he knows that his choice is not correct (due to what is mentioned above).

If people object by saying that Zakat is a form of worship and is sufficient to appoint someone to distribute the Zakat. Then how can't a guardian distribute the wealth for them -child or insane person- based upon being appointed/represented? Then the answer is that them being appointed/represented proves that they have been appointed or by establishing the Shariah as the representative for his representative forcibly, and having a choice in the matter is not found. As for Sadaqatul Fitr, it is worship and the element of Tax is secondary to it (See below table).

This is different to Kharaj (tax imposed on the land) because it is tax on the land and this is our -Ahnaaf's- answer to the Qiyaas of Imam Shafi. The same is for Ushur (tax imposed on the produce of the land) as it is a tax and the worship element is secondary to it. So like this it is not a condition -in Kharaj and Ushr- for the whole year to pass and also being in debt does not drop the obligation. The table below summarises the Hanafi position on the above discussion:

**Table 4: WORSHIP AND TAX**

TERM	DEFINITION	EXAMPLE
عبادة محضة	Only Worship	Zakat
مؤنة فيها معنى العبادة	Primarily Tax with the meaning of Worship	Ushur
عبادة فيها معنى مؤنة	Primarily Worship with the meaning of Tax	Sadaqatul Fitr
مؤنة محضة	Only Tax	Kharaj

With regards to an insane person, if he recovers for part of the year then he will be like a person recovering/getting better in the month of Ramadan. Meaning that if a person is well -not insane- for even a part/portion of the year, whether it is at the beginning of the year or at the end then Zakat is obligatory on him, after owning the Nisab amount. So just like this if a person gets well during a part of the month of Ramadan whether it is during the night or day then fasting is obligatory for the entire month. This is the opinion of Imam Muhammad ash-Shaybani. As for Imam Qadhi Abu Yusuf (182HJ) then he takes into account the majority -because majority is like the entire year- of the year and does not differentiate between a person who is always insane and a person who is insane later on.

Insanity is of two types -

1. Always Insane since Maturity (His ruling is that of a child, Zakat not obligatory).
2. Was Sane since Maturity and then became Insane later on (His ruling is that Zakat is obligatory when he recovers, if he possesses the right amount of wealth. The year starts the moment he recovers, just like when a child reaches and that is taken into account).

\* This is the ruling of Imam Abu Hanifah and Imam Muhammad, which is mentioned in Zahirir-riwayah with regards to Imam Abu Hanifah and Nawadir with regards to Imam Muhammad. In Hidayah it gives the impression that this is a narration from Imam Abu Hanifah, rather this is not correct. It is the Madhab of Imam Abu Hanifah, and that is correct.

#### **Additional Note:**

Another evidence to prove the Hanafi position is mentioned in a hadith of Tirmidhi:1423

عَنْ عَلِيٍّ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ رُفِعَ الْقَلَمُ عَنْ ثَلَاثَةٍ عَنِ النَّائِمِ حَتَّى يَسْتَيْقِظَ وَعَنِ الصَّبِيِّ حَتَّى يَشِبَّ وَعَنِ الْمَغْتَوِّهِ حَتَّى يَعْقِلَ

The Messenger of Allah, peace and blessings be upon him, said, **“The pen is lifted from three people: a sleeping person until he awakens, a child until he becomes an adult, and an insane person until he regains his sanity.”**

Also a narration from Imam Muhammad from Imam Abu Hanifah from Laith(175HJ) from Mujahid from Ibn Masood: 'There is no Zakat on the wealth of an orphan'. Also Imam Baihaqi (458HJ) narrates this with a different chain from Laith.

Obligatory acts such as Salaah, Zakat and Hajj are not obligatory on children and an insane person. Those who object by saying that the Ahnaaf can't use this as an evidence because they regard Sadaqatul Fitr Wajib on children. The answer is mentioned in the previous table, that Sadaqatul fitr and Zakat are different categories, hence it is perfectly valid to use this hadith.

If a child wishes to give money to the poor then he can give it as Sadaqah, and this will be completely fine.

### Examples

Example 1: Zaid who is 10 years old and has £5000 for an entire year. This money is completely owned by him. Since he does not fulfill one of the conditions of Zakat (Maturity), he will not need to give Zakat. However, once he reaches the age of puberty then he will have to give Zakat if he has wealth according to or more than the Nisab. This wealth has to be owned by him for a complete year.

Example 2: Umar is 13 years old and has £3000. The date is 22nd Dhul Hijjah 1441. He now reaches the age of puberty\*. This wealth then remains with him till the next year - 22nd Dhul Hijjah 1442. He will now have to give Zakat on 2.5% of £3000, which is £75.

\* The age of puberty has a range of opinions according to the Ulama. From the ranges of 12,13 and 14 according to the solar/gregorian calendar. According to the Lunar/Islamic calendar 15 lunar years is the preferred opinion. However if someone goes through one of the signs of puberty, that will be sufficient.

The signs of puberty in a male are the following:

- Wet Dream
- Ejaculation
- The boy makes a girl pregnant

The signs of puberty in a female are the following:

- Periods
- Wet Dreams

- Gets pregnant

An important point is that the growing of pubic hair and armpit hair is not a sign for puberty for males. For females the growing of bosoms is not a sign of puberty

## ZAKAT ON A MUKATAB SLAVE

### Ruling

وليس على المكاتب زكاة؛

Zakat is not necessary on a Mukatab Slave.

### Explanation

**Zakat is not necessary on Mukatab Slaves**, due to the reason that he is not a complete owner from all aspects. Due to that which contradicts, which is slavery. Hence, one of the 8 conditions for Zakat was to be free from slavery. Also due to his ownership is incomplete, defective and lacks having complete ownership over the wealth (which also contradicts one of the mentioned 8 conditions of Zakat). For this reason, it is preventing him from the obligation of Zakat.

Imam Nawawi (676HJ) mentions in Sharhil Madhab that Ibn Munzir mentions ‘There is consensus from the Ulama that Zakat is not necessary on the wealth of a Mukatab Slave, until he is freed. This is the statement of Jabir ibn Abdillah, Ibn Umar, Ataa, Masrooq. Also according to Sufyan Thawri, Imam Malik, Imam Shafi and Imam Ahmad Ibn Hanbal. However according to Abu Thawr, Abu Ubaid and Ibn Hazm, Zakat is obligatory on the wealth of a Mukatab”.

As for the slave, if he owns a debt that is more than his wealth, then Zakat is not obligatory either on him or his master, according to Imam Abu Hanifah. The reason is because either are not in complete ownership. However according to Imam Qadhi Abu Yusuf and Imam Muhammad if the slave owns the wealth for his master and has no debt then upon the master is to give Zakat on the wealth once the year is completed.

### Example

A slave has £3000 in his possession, however it is not completely owned by him. He will not give Zakat on this wealth.



## ZAKAT OF THE DEBTOR

This section is of three primary rulings:

1. Zakat on a debt that covers his entire wealth.
2. Zakat on the surplus wealth
3. Debt of accumulating Zakat payments.

### Ruling

ومن كان عليه دين يحيط بماله فلا زكاة عليه

If a person has a debt (such as loan) that covers his entire wealth, then there is no obligation of Zakat on him.

### Explanation

**If a person has a debt (such as loan) that covers his entire wealth, then there is no obligation of Zakat on him.** This is the statement of Uthmaan Ibn Afaan, Ibn Abbas, Ibn Umar, and also Ta'oos, Ataa, Hasan al-Basri, Sulayman Ibn Yasaar, Zuhri, Ibn Sireen, Thawri, Layth Ibn Sad and Imam Ahmad Ibn Hanbal. Imam Malik mentions that the obligation of Zakat is dropped with regards to gold and not livestock.

Imam Shafi mentions that he has to give Zakat, due to the reason that the cause -sabab- has been completed, which is the complete Nisab. Which means that once a person has wealth equal to or more than the Nisab then it is necessary for him to give Zakat despite having a debt, due to the reason that the cause has been completed (See previous table: Table 2). The reasoning is that the debt is not related to wealth but to the *dhimmah* (responsibility) of the debtor and does not affect the wealth or the Nisab.

Imam Nawawi mentions three opinions in the Shafi Madhab. “Number 1: He is not prevented/excused from giving Zakat, and this is mentioned in most of his new books. Number 2: He is prevented/excused from giving Zakat and this is mentioned in his older books. Number 3: He is prevented/excused in ‘inner wealth’ which is wealth like silver or gold. However he is not prevented/excused from ‘apparent wealth’ which is wealth like livestock, land, fruits and minerals. Also it is the same if the debt is immediate or delayed and like this the debt of people and the debt owed to Allah are equal.”

According to the Madhab of Imam Abu Hanifah that he has to be free from ‘Hajatul

Asliyah' which is one of the 8 conditions of Zakat. Hajatul Asliyah is a person's primary needs which is repayment to the creditor in this case, so therefore it is deemed non-existent (the cause of Zakat, hence exempted). This is just like the ruling of Tayammum which is that if a person possesses water but is very thirsty, then he is allowed to drink the water and do Tayammum. So like this the cause is not established, and therefore Wudu is not obligatory.

Also because of the reason that he is in need (Taqqeeran - see Table ?) of that wealth to pay back the creditor and not being able to pay back can result in consequences in this world -i.e prison- and punishment in the hereafter.

Below is a table showing the above information with regards to the Four respected Imams of Fiqh.

**Table 5: Zakat of a person who has a debt that covers his wealth**

<b>Imam</b>	<b>Position</b>
Imam Abu Hanifah (150HJ)	Zakat is not compulsory
Imam Malik (179HJ)	Zakat is not compulsory on wealth but on livestock
Imam Shafi (204HJ)	Zakat is compulsory*
Imam Ahmad Ibn Hanbal (241HJ)	Zakat is not compulsory

\*According to Imam Shafi's latest position

Important Notes:

- Every loan is a debt but not every debt is not a loan. For example credit sale is a debt but is not a loan. A credit sale is what is termed as 'Advanced Payment'. This is when the seller agrees to sell his goods and receive payment on a later date. Another example is tax to the government. A person has a debt to the government whilst the government has not given him a loan.
- 'Haajah' (need) is of two types:

**Table 6: Two types of Haajah**

حَقِيقِي	Genuine Needs. I.E - Clothes, Water.
تَقْدِيرًا	Need to pay back the creditor. This is when it is possible to get into trouble from those who you owe money to.

### Examples

In all the below examples, the Nisab amount is £300.

Example 1: Abdullah has £400 in total, however £300 was from a loan and the Nisab amount is £300. So if the loan is deducted from the total amount then Abdullah only has £100, which is not equal to the value of Nisab. Hence, Zakat is not compulsory.

- There is a difference between an immediate debt and a delayed debt. In summary, a delayed debt will not be taken into account and a person will have to give Zakat without including the delayed debt into his Zakatable assets. One can refer to more detailed books on this subject.

Example 2: Ibrahim has £500 in total, however he owes his friend £400. So if the loan is deducted from the total amount then he only owes £100, which is less than the Nisab rate. So therefore Zakat is not necessary.

---

### Ruling

If his wealth exceeds his debt, then he is to give Zakat on the surplus if it reaches the Nisab.

### Definition

**If his wealth exceeds his debt, then he is to give Zakat on the surplus if it reaches the Nisab.** Meaning he gives Zakat on what is excess/extra from the debt (see examples below for practical scenarios). The reason (for this ruling) is because it is free from his primary needs and his possession of the wealth is established. So therefore this falls under independency (richness) and Zakat is obligatory on those that are independent

(rich). The meaning of debt here and also the previous ruling (whoever has debt that covers his wealth) refers to those debts that are claimed by other persons.

Such as the cost of the item, renting, loans and expenditure of the wives after the decree. It is mentioned in the chapter of Nikah that the expenditure does not become a debt due to the decree until the period of time for making her independent is dropped. This period of time is estimated to be one month (So, it only becomes a debt after a month).

This is different to a debt created through a vow (nadhr) and an expiation (kaffarah). These debts -Vow and expiation- do not stop the obligation of Zakat. Also Sadaqatul-fitr, the necessity of Hajj and Udhiya (sacrifice on the day of Eid al-Adha).

**Does not stop the obligation of Zakat**



Sadaqatul Fitr	Hajj	Udhiya	Oath
----------------	------	--------	------

Examples

Example 1: Zubair has £4000 and has a debt of £1000. Then he will have to give Zakat on 2.5% of £3000. The £1000 debt will be deducted from his total amount. So therefore, he will have to give £75.

Example 2: Abu Bakr has £9000 and has a debt of £8000. He will deduct £8000 from his total amount, which will leave him with £1000. So he will give Zakat on 2.5% of a £1000, which is £25.

**A debt that is created by accumulating Zakat payments (i.e - he has not paid for previous years) does prevent the completion of the Nisab, because these are deducted from the Nisab.**

According to Imam Abu Hanifah and Imam Muhammad ash-Shaybani the obligation of Zakat is prevented in both types of wealth, inner (silver, gold) and also apparent wealth (livestock, land). This does not matter, whether it is regarding the actual wealth or the wealth in his responsibility, with the destruction of the Nisab (wealth is destroyed due to external factors in his responsibility. See Table 7). According to Imam Zufar (158HJ) it does not prevent the obligation of Zakat. According to Imam Abu Yusuf if it is regarding the actual wealth then it prevents the obligation of Zakat and if it is destroyed in his responsibility (external factors) then it does not prevent the obligation of Zakat.

An example of this is: If a person owns 1000 dirhams and he has for an entire year, until 25 Dirhams of Zakat becomes necessary upon him. Then he earns 40 Dirhams and that lasts with him for a year. So the destruction of the 1000 dirhams does not prevent the obligation of Zakat of the remaining 40 dirhams (which will be one dirham). This is according to Imam Abu Yusuf, however according to Imam Abu Hanifah and Imam Muhammad the obligation of Zakat will be waived off and Imam Zufar said the obligation of Zakat is not waived off, because it is worship and therefore becomes an obligation.

**Table 7: Debt of Zakat for previous years, then money gets destroyed/lost**

This table shows both scenarios and the position of Imam Abu Hanifah and his students.

**Key**

**Debt 1:** Debt of Zakat (from previous year/s).

**Debt 2:** Debt of Destroyed wealth due to internal factors (he himself without reason, foolishly destroys it).

<b>Imam</b>	<b>Debt 1</b>	<b>Debt 2</b>
Imam Abu Hanifah (150HJ)	Debt is deducted from the total amount	Debt is deducted from the total amount
Imam Muhammad (189HJ)	Debt is deducted from the total amount	Debt is deducted from the total amount
Imam Abu Yusuf (182HJ)	Debt is deducted from the total amount	Debt is <u>not</u> deducted from the total amount
Imam Zufar (158HJ)	Debt is <u>not</u> deducted from the total amount	Debt is <u>not</u> deducted from the total amount

Few key rulings to be aware of:

- After deducting the debt - the two debts mentioned above - if the amount of wealth is above the Nisab then he will have to give Zakat on that wealth.
- After deducting the debt - the two debts mentioned above - if the amount of wealth is below the Nisab then he will not have to give Zakat on that wealth.
- If a person loses the wealth or gets destroyed due to external reasons - not his fault - then he will not pay Zakat. Loses the wealth means he has no hope of retrieving it.
- This narration of Imam Qadhi Abu Yusuf is not found in the books of Zaahirir Riwayah, rather it is a narration from him. This has been mentioned in Hidayah to explain that it is a narration from him. Like the verse in the Quran -

وَلْتُكَبِّرُوا لِلَّهِ عَلَىٰ مَا هَدَانَا (1)

So that you praise Allah (upon finishing the act of worship) upon guiding you. [2:185]

(You praise Allah for guiding you. This verse is related to fasting, explaining that when a person is ill or travelling, then he must make up his fasts on another suitable day.

The reason for Imam Abu Yusuf reasoning - on the 2nd debt - is that there is a claimant and that is the Imam (Zakat Collector). The Zakat collector can come whenever he wants and request -the zakat- from the apparent wealth and inner wealth (Free roaming animals and gold & silver), due to him being appointed for the task from the ruler. This is taken from the verse:

خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً

Take from they wealth Charity (Zakat) [Tawbah: 103]

---

This verse establishes that the Imam can take from all types of wealth and without differentiating between the two debts. This was the way of The Messenger of Allah صلى الله عليه وسلم and the two Caliphs after him -Abu Bakr and Umar- until the time of Uthmaan. He then made it obligatory that the owners of the inner wealth -gold & silver- are responsible for giving Zakat (i.e themselves). The reason was due to the Zakat collectors having their own personal interest, due to greed for wealth and also due to businessmen hiding their wealth. So he -Uthmaan Ibn Afaan- entrusted giving Zakat upon themselves.

### Examples

Example 1: Umar has £5000 and loses £4800, and has no hope in retrieving it. Since the Nisab rate is £300 and he only has £200, he will not give Zakat.

Example 2: Uthmaan has £9000 and £8900 of his money gets stolen and has no hope in retrieving it. This leaves him with £100, which is below the Nisab rate. Hence, Zakat will not be necessary.

## الزكاة دور السكنى والثياب وأثاث المنازل ونحوها

### ZAKAT ON RESIDENTIAL HOUSES, PERSONAL CLOTHING, HOUSEHOLD ASSETS AND

#### SIMILAR ITEMS

##### Ruling

وليس في دور السكنى، وثياب البدن، وأثاث المنازل، ودواب الركوب، وعبيد الخدمة، وسلاح الاستعمال زكاة؛ لأنها مشغولة بالحاجة الأصلية، وليست بنامية أيضاً، وعلى هذا كتب العلم لأهلها وآلات المحترفين لما قلنا.

There is no Zakat on residential houses, personal clothing, household assets (i.e - furniture), riding animals (conveyances), slaves for personal use and weapons kept for use. As they are used for primary needs, and they do not grow either. The same rule also applies for the books of knowledge for those who are expert in those fields and professional tools due to what we have said.

##### Definition

**There is no Zakat on residential houses, personal clothing, household assets (i.e - furniture, utensils), riding animals (conveyances), slaves for personal use and weapons kept for use, as they are used for primary needs.** As these items do not fulfill two of the 8 conditions of Zakat, which is growth (condition 7) and being free from primary needs (condition 8).

Primary needs are those things that without them it can result in the destruction/death of a person. Like essential money clothes which he is need off, to protect him from the heat and cold. Also utensils as long as they are not made from gold and silver. Added to that is pearls, jewels, rubies and emeralds as long as they are not used for business. In Mabsut



Allamah Sarakhsi (483HJ) has also mentioned that there is no Zakat on money that is bought for spending (due to it being for personal use).

**They do not grow either** means that in those things mentioned there is no growth (natural or unnatural). Growth is of two types which are mentioned in the below table:

**Table 8: Two types of growth**

Growth Type	Example	Definition
Natural/Internal	Silver, Gold*	These items will grow/increase naturally, as everyone is interested in them.
Unnatural/External	Merchandise	These items will <u>not</u> grow/increase naturally as not everyone is interested in them.**

\* Imam Shafi mentions that there is no Zakat on jewellery. For more details on this ruling please refer to Shafi Fiqh Books.

\*\* Anything that you buy with the intention of selling.

This has also been mentioned by Imam Shafi, Imam Ahmad Ibn Hanbal and Abu Thawr.

So items that are used for personal use, will not fit in either of the growth types.

**The same rule also applies for the books of knowledge for those who are expert in those fields, and professional tools.** There is no Zakat on this due to the reason that it does not fulfill the conditions of Zakat that we have mentioned. The reason why Allamah Murghinani (593HJ) has mentioned ‘for those who are expert in those fields’ is because if they are used for business, then there will be Zakat on them.

Some commentators of Hidayah (Allamah Kakhi) have mentioned that even if the books are in possession of those who are not in need of it, there still will be no Zakat due to the absence of growth (table 8), even if there is an abundance of books.

Professional tools - there is no Zakat - due to it being from Primary needs (Haajatul-Asliyah). Examples of professional tools are items such as pots for cooking,

dyers, bottles of perfumes, tools for engineers.

### Examples

Example 1: Ali owns two houses for personal use and also owns two cars for personal use. He will not need to give Zakat on them.

\* However if someone is very wealthy and owns many houses & cars and anything similar for personal use and has a debt that is more than he owns. He will have to add up all the extra properties or items and then give Zakat on them, due to them not being from his personal needs.

Also if a person changes his intention from personal use to business then he will have to give Zakat on it.

## [زكاة المال المضمار والمفقود والمغصوب]

### ZAKAT ON LOST WEALTH, DESTROYED WEALTH AND STOLEN SLAVE

#### Ruling

ومن له على آخر دين فجده سنين ثم قامت له بيينة، لم يزكه لما مضى، معناه صارت له بيينة بأن أقر عند الناس وهي مسألة مال المضمار

Whoever has a claim of debt upon another, and they dispute it for many years. Then evidence is established, he will not give Zakat for those past years. The meaning here is evidence becomes available to him like - the debtor admitting it in front of the people and this is the issue of lost wealth.

#### Definition

**Whoever has a claim of debt upon another, and they dispute it for many years. Then evidence is established, he will not give Zakat for those past years.** When the proof does become established then he will have to give Zakat.

However later scholars (including Imam Muhammad - according to a narration of Hisham) have said that he will not give Zakat until he gets the money. This is due to all judges and witnesses not being just.

Lost wealth (al-Maal-ud-Dimaar) is that in which he has no hope in getting it back. If he does have hope in getting it back then it will not fall into lost wealth.

There are different opinions amongst the Imams in this. The table below outlines the differences.

**Table 9: Zakat on lost wealth**

This table refers to when there is no hope of getting the lost wealth.

Imam	Position
Imam Abu Hanifah (150HJ)	No Zakat is due
Imam Zufar (158HJ), Imam Shafi (new opinion)*, Imam Ahmad (241HJ)	Zakat is due on the past years
Imam Malik (179HJ)	Zakat is only due for one year. This is because he was not able to benefit from that (extra) wealth.

ومن جملته المال المفقود، والأبق، والضال والمغصوب إذا لم يكن عليه بينة،

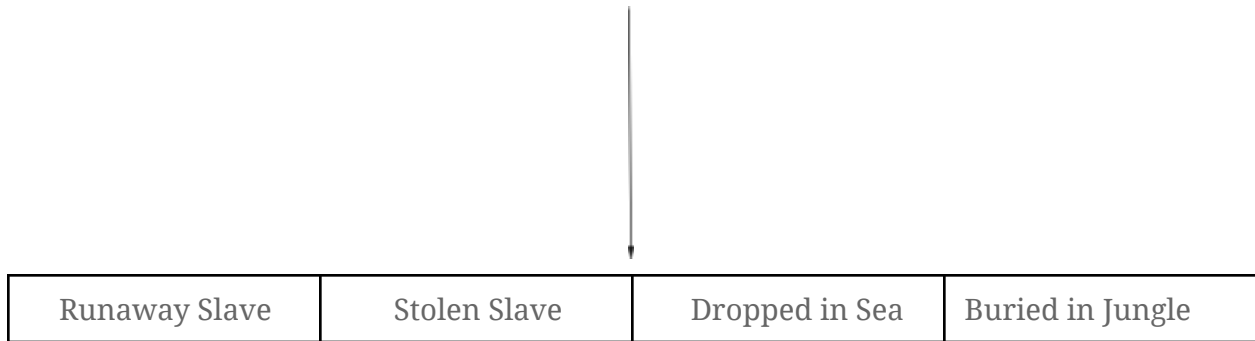
والمال الساقط في البحر، والمدفون في المفازة إذا نسي مكانه،

والذي أخذه السلطان مصادرة ووجوب صدقة الفطر بسبب الأبق والضال

**Included in this is lost wealth, runaway slave, lost slave, stolen slave when he has no proof to claim them. Also wealth that is lost in the sea or buried in a jungle in a place where he forgot, and wealth taken by the forces (authority) oppressively (i.e without permission). The obligation of Sadaqatul fitr on the runaway slave, lost and stolen is upon this disagreement.**

All this is when there is no proof. If there is proof then it is necessary (However, as mentioned before, later scholars said no Zakat until the wealth is received).

### Included in Lost Wealth



In all these and other similar examples, there is no hope in getting the wealth back.

Due to this the Hanafi school of jurisprudence says that there is no Sadaqatul fitr on a runaway, lost, stolen slave which is in contrast to Imam Zufar and Imam Shafi. Their reasoning is that the cause has occurred, which is ownership of wealth. They add that if a person does not have possession of the wealth, this does not affect the obligation, an example is a traveller.

Our response to this is that a traveller can make transactions with the wealth, which can be done through a deputy, that he has appointed.

According to the school of Imam Abu Hanifah our cause is growing wealth, and in these cases the wealth can't grow. This is known as a bad debt which is wealth that does not grow actually or potentially (see table 8). An example is wealth that is attained through Riba (interest) which is prohibited and is not allowed to be used for any kind of debt, hence does not grow.

However with regards to wealth buried in a house, there is Zakat. This is due to the ease of the access towards it. Scholars have differed with regards to an orchard and land.

وفي المدفون في أرض أو كرم اختلاف المشايخ - رَحِمَهُمُ اللَّهُ -

**With regards to wealth buried in land or an orchard, there is a difference of**

### opinion from the scholars.

Scholars here refer to the scholars of the Bukhar region and land refers to owned land.

With regards to access of wealth, then there fit into the following three types:

**Table 10: Types of Access**

Type	Strength
Easy	Access is easy
Medium	In-between
Hard	Difficult

So you can see from the above table, that wealth in the house will fit into the Easy type, due to the access being easy.

ولو كان الدين على مقر مليء أو معسر تجب الزكاة؛ لإمكان الوصول إليه ابتداءً أو بواسطة التحصيل، وكذا لو كان على جاحد وعليه بينة أو علم به القاضي لما قلنا.

**If the debt is upon a rich person who is admitting or a poor person: Zakat is obligatory due to the possibility of having access towards it, either at the beginning (initially) or through a medium to achieve it. Likewise if proof is established or the Judge is aware of it, due to what we have said.**

With regards to the rich person, the debt can be accessed without a medium, due to the presence/existence of the wealth (It can be accessed easily). As for the poor person who is earning, he can inherit an inheritance or receive a gift from another.

So, therefore Zakat is obligatory in both cases, due to the possibility of accessing the wealth and will not fall into a bad debt. (As mentioned before a bad debt is wealth that does not grow, hence Zakat is not obligatory - condition 7). Hasan Ibn Ziyad said - رحمه الله -: 'If the debt is on a poor person admitting it and a year passes, then he gets it. There will be no Zakat because he was not able to benefit from the wealth, and will be like he just received it.

Likewise Zakat is obligatory upon a person who is disputing and proof then becomes established, due to the ease of access towards it. Hisham has narrated from Imam Muhammad that the disputed debt when the owner had evidence and a year passes like this, then there is no Zakat. This is because the evidence can be accepted or rejected, so he was not able to benefit from the wealth.

Also Zakat will be obligatory if the judge is aware of the debt because he will decree with the knowledge he has with regards to the wealth. Since the owner failed to recover the wealth, he is not excused. This is all because of the ease of accessing the wealth.

From this we can also deduce the rulings of pensions. This will be added at the end as an appendix, because this ruling is separate from Hidayah.

ولو كان على مقر مفلس فهو نصاب عند أبي حنيفة - رحمه الله - لأن تفليس القاضي لا يصح  
عنده وعند محمد - رحمه الله - لا تجب لتحقق الإفلاس عنده بالتفليس وأبو يوسف مع محمد  
-رحمهما الله- في تحقق الإفلاس ومع أبي حنيفة - رحمه الله - في حكم الزكاة رعاية لجانب  
الفقراء

### Ruling

**If the debt is upon a bankrupt person then it is part of the Nisab according to Imam Abu Hanifah, because bankruptcy declared by the Judge is not valid according to him. As for Imam Muhammad, it does not become part of the Nisab because bankruptcy is established by being declared ‘taflis’ (bankruptcy). Imam Abu Yusuf is with Imam Muhammad in a person being declared ‘taflis’ and with Imam Abu Hanifah in the ruling of Zakat out of consideration for the poor.**

### Explanation

Meaning if the debt was upon a person who acknowledges the debt, then he must give Zakat before getting the wealth, according to Imam Abu Hanifah. This is because wealth comes and goes, and his ‘dhimmah’ (responsibility) is valid as it was before him.

As for Imam Muhammad Zakat is not obligatory because it becomes like a bad debt (also

like disputed debt, as mentioned before), due to it being like one who lost his wealth and is not capable upon paying it back. This is what was mentioned by Abu Bakr al-Jassas.

Imam Abu Yusuf is with Imam Muhammad in the establishment of bankruptcy, until the claim drops till the time of affluence. However in regards to giving Zakat he is not with Imam Muhammad, that Zakat is not obligatory. Rather he is with Imam Abu Hanifah in giving Zakat, and this is out of precaution and in favour of the poor.

## [حكم من اشترى جارية أو شيئاً للتجارة ثم نواه للخدمة أو القتية]

### RULING OF DUAL INTENTION

#### Ruling

ومن اشترى جارية للتجارة ونواها للخدمة بطلت عنها الزكاة؛ لاتصال النية بالعمل وهو ترك التجارة، وإن نواها للتجارة بعد ذلك لم تكن للتجارة حتى يبيعها. فيكون في ثمنها زكاة؛

Whoever buys a slave for trade and then intends for her personal use, there will be no Zakat on it. Due to the linking of intention with personal use, and this is leaving trade. Even after that he intends for her trade, it will not be used for trade until he sells her, so whatever price she gets, will be Zakat.

#### Definition

All actions are due to intentions and in this case the intention is no longer trade, rather it is for personal use. So it becomes just like any other item that is used for personal use. Although this refers to a slave woman, this can also apply to any other personal item, such as cars. So when the intention changes or even if there is a dual intention, then there is no Zakat.

When the intention changes back to trade then until the item is sold, it will not be under the category of trade. Once the item is sold, then there will be Zakat on it (i.e - it will be added to the person's Zakatable assets).

To conclude, the intention is taken into consideration and the ruling will revolve around it. When something else is intended, then the original intention is dropped.

This is the same as the ruling of travelling, that a person who is travelling becomes a resident just by intention whereas a resident does not become a traveller until he undertakes a journey. This is because residency is to leave of travelling and this is found in the mere intention.

As for a fasting person he does not break his fast by mere intention to break the fast, he becomes a fasting person by mere intention at its time. Added to that, a Muslim becomes a disbeliever with the intention of disbelief if he believes it.

### Ruling

وإن اشترى شيئاً ونواه للتجارة كان للتجارة؛ لاتصال النية بالعمل، بخلاف ما إذا ورث ونوى التجارة لأنه لا عمل منه،

If he purchases something and intends trade then it will be for trade, due to the intention of trade. This is different to wealth that he inherits and intends trade, because there is no action from him.

### Definition

As mentioned before, all the actions revolve around intention, so when a person purchases something with the 'intention' of trade then it will fall under trade and any money received from the trade will be added to the Zakatable Assets.

If a person purchases something and doesn't intend trade, then it doesn't become trade, hence no Zakat is obligatory on it.

### **Different intentions result in different outcomes**

Intends Trade -----> Income will be added to Zakatable assets

Does NOT intend trade -----> Will not be added to Zakatable assets.



If a person gets possession of the wealth through a gift, bequest, or Nikah (Dowry that which was a debt upon him, so when his wife dies, he possesses it), Khula' or Qisas (retaliation) and intends for it for trade, then according to Imam Abu Yusuf it will be for trade. This is contrary to Imam Muhammad, who says that it will not become for trade due to it -intention- not being linked to an act of trade. As all of these contracts/agreements are not from contracts of trade, hence they will not become for trade (i.e - Zakat on trade will not be obligatory), and this is the correct opinion.

Imam Nawawi mentions if a person intends trade after the contract then it will not become for trade.

It is also said that this disagreement between Imam Abu Yusuf and Imam Muhammad is actually the opposite of what is mentioned above. Imam Asbayjani mentions in Sharh' Tahawi that the difference is actually between Imam Abu Hanifah and Imam Abu Yusuf, who say that they do not become for trade. As for Imam Muhammad, it becomes for trade.

So despite a person intending trade with such wealth (e.g - inherited wealth or gifted wealth), it will not be for trade, unless he makes a transaction with such wealth. Once he has made a transaction - along with the intention of trade - then it will be for trade, and this is the correct opinion.

### Examples

Example 1: Ahmad gets £2000 as inheritance, then this amount of wealth will not become for trade, according to Imam Muhammad which is the correct opinion. This is, unless he makes a transaction in such wealth. Once, he has made a transaction and intends trade, then it will be for trade.

Example 2: Ikrimah gets £5000 as a gift, then this amount of wealth will not become for trade, unless he makes a transaction in such wealth.

## [اشتراط النية في الزكاة]

### THE CONDITION OF INTENTION IN ZAKAT

#### Ruling

ولا يجوز أداء الزكاة إلا بنية مقارنة للأداء أو مقارنة لعزل مقدار الواجب

It is not permissible to give Zakat except with an intention or setting aside the Wajib (the obligatory amount of Zakat).

#### Definition

The reason why an intention is needed is because Zakat is a worship and from the conditions of worship is intention. The majority of Ulama (Ijmaa) have agreed that an intention is needed in Zakat except for Imam Awza'e, who says that there is no absence of intention in giving Zakat, just like freeing slaves, Wasayah (wills) to the poor, financial endowment despite it being worship (i.e - By giving Zakat the intention is automatically found). Our response is that Zakat is an intended obligation which is specific so it is necessary to have an intention, just like Salah and Fasting.

Setting aside the obligatory amount of Zakat will also be valid, because the intention is required to separate the payment each time and there is difficulty in that (i.e - separating the payment for Zakat has an intention found in the act).

#### Acts of Worship



Needs an associated Intention

## [حكم من تصدق بماله لا ينوي به الزكاة]

### RULING OF ONE WHO GIVES CHARITY AND DOES NOT INTEND ZAKAT

#### Ruling

ومن تصدق بجميع ماله لا ينوي الزكاة سقط فرضها عنه استحسانا

Whoever gives all his wealth in charity and does not intend Zakat, then his obligation will be fulfilled out of Istihsan.

#### Definition

Whoever gives all his wealth as charity and does not intend Zakat then he will be absolved of his duty of Zakat and will not need to give Zakat after this.

According to Qiyas (Analogy) his obligation will not be absolved and this is what has been said by Imam Zufar, Imam Shafi, Imam Malik and Imam Ahmad. This is also a report from Imam Muhammad who said 'Fardh and Nafil acts are stipulated therefore it is necessary to have a specific intention, just like Salah'.

However according to Istihsan his obligation will be fulfilled because his Wajib (obligatory amount of Zakat) is specified in it, so there is no need to specify it. This is just like fasting in Ramadan, where there is no need to specify the intention (It is generally understood that a person will fast the entire month of Ramadan).

### Ruling

ولو أدى بعض النصاب سقط زكاة المؤدى عند محمد - رحمه الله - لأن الواجب شائع في الكل، وعند أبي يوسف - رحمه الله - لا تسقط لأن البعض غير متعين لكون الباقي محلاً للواجب بخلاف الأول والله أعلم بالصواب

If he gives part of the Nisaab - as charity - then the Zakak is absolved according to the paid amount by Imam Muhammad. The reason is because the obligation is spread out in the entire wealth. According to Imam Abu Yusuf it does not fulfill the obligation, because what is given is not fixed. This is because the remaining becomes the object of obligation, which is different from the first case. Allah knows best what is correct.

### Definition

If a person gives part of his Nisaab as charity then his Zakat is paid of according to what is given, or if he gives his entire wealth as charity, then according to Imam Muhammad his Zakat is paid off. This is also the position of Imam Abu Hanifah.

Whereas Imam Abu Yusuf mentions that what was given stays undecided (i.e - doubtful) as what is left continues to be the part of the obligation, which is different from the first case (giving the entire wealth in charity).

The table below simplifies the above:

**Table 11: Giving half of the wealth in Charity**

According to Imam Muhammad



The 2.5% obligatory amount of Zakat is spread throughout the entire wealth.

Hence by giving half of the wealth, the 2.5% will be given, whichever of the two halves you pick.

According to Imam Abu Yusuf



The 2.5% obligatory amount of Zakat is fixed throughout the entire wealth.

Hence by giving half of the wealth, there will be a possibility that the wrong half is given in Zakat, so therefore Zakat will not be fulfilled.

## APPENDIX

A common modern day question is: 'Is there Zakat payable on pensions?'. The answer can be taken out from the text found in the books of Hanafi Fiqh, which includes 'Hidayah'. The text is 'the ability to have access towards it'.

Before answering the question it is important to know that there are various types of pensions, some are Zakatable assets and others are not. This is all based on the 8 conditions of Zakat, that is mentioned in the beginning of the book.

The types of pensions can be broken down into two - Zakatable and non-Zakatable.

The Zakatable type of pensions is - **Defined Contribution/ Money purchase**. This is Zakatable during employment. This type of pension is a scheme where your own contributions are invested, and all the money earned through investment is received after retirement.

The non-Zakatable type of pension is - **Defined Benefit and State Pension**. This is non-Zakatable during employment. This type of pension is based around the employer or the board of trustees. These are the people who are responsible for everything with regards to the scheme.

As for state pension, which is money received by the government when you reach the age of pension. This is not Zakatable during employment, however it is Zakatable when you reach the age of pension and have successfully received the money.

- These pensions can be broken into sub-types, which will follow the same ruling as the parent (main-type).

The reason why Defined Contribution is Zakatable is because of the following -

- Complete ownership (condition 6)
- Zakat is obligatory on growing wealth (condition 7)
- The wealth has to be productive - investment (See table 8)
- Having direct or indirect access (yourself or through a medium - fund manager)
- There is an increase and decrease in this investment. (Productive wealth)

The reason why defined benefit and state pensions are non-Zakatable is because of the following:

- Not complete ownership
- The wealth is not growing (the risks are taken by the employer - not you)
- The wealth is not productive - no investment
- There is no direct or indirect access (the scheme administrator is not delegated by you)

### Important notes

1. If the Zakat payment is large, then the Zakat can be spread out throughout the year and given in advance.
2. On a person's Zakat anniversary then he must ensure that his Zakat is paid off.
3. The investments made during employment must be Sharia compliant (lawful). Any non-Sharia compliant investments (unlawful) must be given in charity without any intention of reward.

### **Easy formula to calculate your Zakat**

Easy formula to calculate your Zakat in the following three steps:

**Number 1:** Having complete ownership - you have full rights to the money

**Number 2:** Add up all your assets and minus your debts (long term debts are not included according to the correct Hanafi view)

**Number 3:** Give 2.5% of the total (divide your total amount by 40 - if above the Nisab)

## REFERENCES

1. Sahih Bukhari
2. Sahih Muslim
3. Sunan Tirmidhi
4. Al-Hidayah fi-sharhil-bidayatil-mubadi, Bushra Publications
5. Binayah fi Sharhil Hidayah, Maktaba Haqaniyah
6. Mirqaat al Mafaatih, Darul Kutub Ilmiyah
7. Masail Al Qudoori, Zam Zam Publishers