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Comments on **Abdul Azim Islahi** and **M. Obaidullah:** *Zakah* on Stocks: Some Unsettled Issues*

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The paper has taken the existing discussion on the subject a step further. However, to my mind the entire discussion on the subject is somewhat misplaced. It has generated out of a segmented approach to the subject of *zakah* law and *zakah* accounting. A different approach would not even raise the questions that are being discussed in this paper and elsewhere in the literature.

The whole problem emanates from the first assumption: treating investment in shares as stock in trade. See how this assumption may not be realistic or at least problematic. Suppose two persons have one million dollars each. Both of them buy shares of a company with that money. One *intends* to keep that investment over a long period and the other has bought these shares for the purpose of selling when the market is favorable. According to the paper under review, we cannot treat both of them alike. For this purpose we would need to know the *intention* of each one of them. In accounting matters, such a situation could be problematic and nothing can be calculated on the basis of invisible intentions.

Instead, let us take another route to the problem. We treat all investment in shares as *investment*. We need not distinguish between investment in sole proprietorship, partnership, joint stock company, for services or for manufacturing, etc. An investment in business is investment, irrespective of the nature of the business.

All wealth can be divided into two types: (a) liquid cash not invested anywhere, kept in bank, locker or in personal wallet. This is unproductive and idle wealth. (b) The other is investment in an asset. The asset could be for personal use such as a house, a car or a machine, etc. It could be for gaining profit in whatever form. The *zakah* accounting should follow consistent rules in all situations.

The *zakah* on idle cash would be levied at 2.5% of the value. This is straightforward and requires no discussion. The investment of wealth in assets of personal use is exempt from *zakah* by a consensus. The *zakah* on business investment requires discussion, however. For the sake of consistency we should take a lead from those cases in which there is a consensus. For example, in case of agricultural produce, there is no *zakah* or

(*) *Journal of King Abdul Aziz University : Islamic Economics*, vol. **17**, No. **2**, 1424H/2004, pp. 3-17 *ushr* on the capital value of land by a consensus. It is the produce of land that is subject to *zakah* @ 5% or 10%, depending upon whether it is irrigated or fed by rainfall. Similarly, if a person has let out a house, there is no *zakah* on capital value of the house. The *zakah* is payable on income of the house @ 5% or 10%. If you are operating a taxi, there is no *zakah* on capital value of the car. The *zakah* is payable on the rental income @ 5% or 10%. The question arises: If there is no *zakah* on capital invested in land, house or car, why should it be payable if the money is invested in shares of a company? The anomaly becomes obvious if we imagine two persons each having one million dollars. One invests in a business (buys shares), the other buys a building for leasing and earning through rental income. If we tax the capital value of the shares and do not tax the capital value of the house we are introducing an anomaly. Instead, if we tax the dividend income of the one and rental income of the other, we shall be consistent. In brief, we should not worry about the valuation and other related question of the share capital. The *zakah* is payable on the income from business, and capital remains exempt so far it is invested. It would be subject to *zakah* if it were lying idle for a year or more.

The question would arise: what if a person invests in shares for a short while and keeps on rotating his capital in buying and selling of shares and he never earns any dividend? The answer is: In that case, each time he buys or sells shares, he would be making some financial gain or loss. At the year-end, all these gains and losses would be net off and if there is a net gain, he pays *zakah* @10% on the net gain. The capital would remain exempt until it is included in the idle cash and remains sitting there for a year.

This approach dispenses with the whole question of valuation of shares, treatment of fixed assets, volatility of market prices and direct or indirect collection of zakah, etc. In fact, the whole debate on the subject becomes redundant.(1)

(1) I have dealt with this subject at length in my published paper, "Some Accounting Issues Relating to *Zakah*", *Islamic Studies*, Islamabad (39:1), 2000, pp. 103-120. It seems that the author of the paper did not have the opportunity of seeing that paper. I would encourage him to have a look at my paper.