

Zakat is More Significant Than Tax

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ABSTRACT

Tax and zakat are two different terms based on its resource or the basic of its collection, but these are similar to its nature as an effort to take citizens' wealth for social purposes. Zakat is for benefit which is ruled by religion; meanwhile, tax is used for benefit which is ruled by government through legitimate democratic process. The difference between both implementations become problematic when there are similarities in some aspects, both of them have equal obligations which must be accomplished by citizens. Tax is forced by state law while zakat is forced by God law. These have some questions, which are more significant between zakat and tax. Zakat is the manifestation of social solidarity, the form of humanity and fairness senses, inner binder between rich and poor people, and wiper of the gap between rich and poor people. However, the lack socialization about zakat and the incessant socialization about taxes from the government causes most of the people unconsciously assume that taxes are the significant thing than zakat. This study tries to explain that zakat is more significant than the tax due to Islam stands on unity principles, equation of degrees, and togetherness obligations.

Keywords: Zakat; Tax

1. INTRODUCTION

1.1 Background

One day, there was a 50-year-old man who had built a huge and luxury home. There were two tax officers who intended to give tax counseling to him. When the tax officers explained about the monthly income was received by this man must be deducted for tax with rate at least 5% and most 30%. Eventually, this man against it then said "how dare the tax deducted my income up to 30% while Allah (God) told me to pay zakat only 2,5%. Why the tax rate was greater than zakat?"

Meanwhile, the former of Directorate General of Taxation, Mr. Tjiptardjo disagrees if *zakat* regulation rules tax deduction. Directorate General of Taxation Mr. Mochammad Tjiptardjo argues that *zakat* payment does not correlate to tax deduction. Mr. Tjiptardjo explicitly says that *zakat* is the matter for God (*Hablun Minallah*), whereas taxes are the matter with human (*Hablun Minannas*). "Do not correlate our business for God with *hablun minannas*," as cited on kompas.com (27/8/2010). As we know, The National *Zakat* Forum has proposed a revision of Law No. 38 Year of 1999 on the Management of *zakat* to the legislative parliament (DPR). This forum argues that *zakat* payment becomes tax deduction of taxpayer income.

"When it is applied that *zakat* can reduce taxes, in the fact that it can influence to *zakat* and tax receipt," said the General Chairman of National *Zakat* Forum, Mr. Ahmad

Juwaini. However, Mr. Tjiptardjo refuses this argument. He is the objection if the tax deduction is from net income after reducing *zakat*.

Many people do not spend *zakat* due to the state has deducted tax to replace *zakat*. Moreover, the state does not collect *zakat* from its people, meanwhile the lack of information from the government about *zakat* and the more incessant information from the government about tax causing many citizens think that government prefers tax to *zakat*.

The tax burden is required by the state to the citizens which are not invalidate the obligation of *zakat* from those who have treasures which already reached *nishab* and passed a year (he has the treasure). This person is obliged to pay *zakat* and distribute to people who are entitled according to Islamic law.

1.2 Problems of the Study

Based on above explanations, problems of this study are:

1. Can *zakat* be equated with tax?
2. Which one is more significant between *zakat* and tax?

1.3 Purposes of the Study

This study aims to explain whether the tax can be equated with *zakat* and which one is more significant between tax and *zakat*.

2. THEORETICAL REVIEW

Tax is citizen contribution to state treasury under the law (it can be enforced) and it does not get benefit directly. It is collected under the legal norms in order to cover goods production cost and collective service to reach general wealth. Thus, the tax is the prerogative of the government, obligatory contribution which is collected by the government from citizens (taxpayer) to cover state routine expenditure and development cost without getting benefit which can be pointed by law directly.

2.1 There are various restrictions and definitions of taxes according to the experts such as:

2.1.1 Article 1 of Law No. 28 Year of 2007 about the General Rules and Procedures of taxation: Tax is obligatory contributions to the state payable by the individual or entity that is enforceable under the Act in which they do not get benefit directly, it is used for the purposes of the state for the greatest prosperity of the people.

2.1.2 Prof. Dr. P. J. A. Adriani: tax is the citizen contribution to the state (it can be forced) that is payable by taxpayer according to the general rules (laws) which do not get the direct return and the purpose is to cover public expenses which correlate with the state tasks to govern the country.

2.1.3 Prof. Dr. H. Rochmat Soemitro SH.: Tax is the citizen contribution to the state treasury based on the laws (it can be forced) which do not receive direct services and can be used to pay general expenses.

2.1.4 Sommerfeld Ray M. Anderson Herschel M. & Brock Horace R.: Tax is a transfer of resources from the private sector to the government sector. It is not due to

violation of the law but it must be implemented based on the provisions that have been determined, and without obtaining direct benefit and proportional, so that the government can carry out their tasks to do the governance.

2.1.5 Smeets: Tax is the payable accomplishment to the government through general norms and can be enforced without the contrary achievement which can be shown in individual rights to cover government expenses.

2.1.6 Suparman Sumawidjaya: tax is obligatory contributions in the form of goods which is collected by the authorities based on legal norms, in order to cover the cost of good production and collective services to achieve common prosperity.

2.2 Five elements in tax definitions are:

1. Contribution from citizens to the state
2. Tax is collected based on laws
3. Tax can be forced
4. Tax is non-returnable service or contrary-achievement
5. Tax is used to cover household country (the public expenses of government)

2.3 Tax characteristics in the tax definitions are as follows:

2.3.1 Tax is collected by the state, either by the central government or by local government based on laws and rules of its procedure.

2.3.2 Tax collection implies the transfer of funds (resources) from the private sector (taxpayers pay tax) to the state sector (tax collector / tax administrator).

2.3.3 Tax collection is to cover for general government cost in order to carry out governmental functions, both for routine and development.

2.3.4 Tax can be shown by the existence of benefit (contrary-achievement) individually by the government to tax payments which are done by the taxpayer.

2.3.5 Tax is for budgetary or fills state coffers/ state budget which is needed to cover the government expenses. A tax also has a function as a tool to organize or carry out state policy in the economic and social sectors (the function is to rule/ regulative).

2.4 Tax Types

In general, tax prevailing in Indonesia can be divided into Tax Center and Local Tax. Tax Center is the tax which is managed by the central government; this is partly managed by the Directorate General of Taxation - Ministry of Finance. Local Tax is managed by local governments both the provincial and district.

2.5 Central Taxes which are managed by Directorate General of Taxation are as follows:

2.5.1 Income Tax (VAT)

Income tax (PPh) is a tax which is imposed on individual or entities toward receivable income or acquired in a taxable year. The definition of income is every additional economic capability coming from either Indonesia or foreign country that can be used for consumption or it can add richness with the name or the other forms. Thus, income can be business profit, salary, honorarium, reward, and etc.

2.5.2 Value Added Tax (VAT)

Value added tax (Vat) is a tax which is imposed on taxable consumption goods or taxable services in the custom area. Individual, company or government which consuming taxable goods or taxable services are imposed VAT. Basically, every goods or service are taxable goods or taxable services, unless these are determined by VAT law. VAT rate is single, it is 10%. For export business, VAT rate is 0%. Custom is Indonesian territory which including land, water, and airspace of its territory.

2.5.3 Sales Tax towards Luxury Goods (PPn BM)

Tax imposed PPN for the certain taxable luxury goods and also imposed PPn BM. Taxable luxury goods are:

1. The goods are not essential good; or
2. The goods are consumed by certain people; or
3. Generally, the goods are consumed by people who have high salary; or
4. The goods are consumed to show people' status; or
5. If the goods are consumed, these can damage people health and their moral, and also interfere people' discipline.

2.5.4 Stamp Duty

Stamp duty is a tax which is imposed on documents, such as the letter of agreement, notary deed, payment receipt, securities, and the stock exchange that mentioned total amount or nominal on above of certain amount based on the provisions.

2.5.5 Land and Building Tax (PBB)

PBB is a tax which is imposed by the ownership or land and building utilization. PBB is the Tax Centre but it is almost all revenue realization that is submitted to both Provincial and District/ City.

2.5.6 Fees for Acquisition of Rights to Lands and Buildings

BPHTB is a tax which is enforced toward the acquisition of the right of land and or building. As well as PBB, even though BPHTB is managed by the central government, the realization of BPHTB is entirely submitted to the regional government, both provincial and district/ city based on its provision.

2.6 The taxes are collected by local governments both provincial and district/ city as follows:

2.6.1. Provincial Taxes

- a. Motor vehicle tax and vehicle on the sea;
- b. Customs of rename for motor vehicle and Vehicle on the sea;
- c. Fuel tax of motor vehicle;
- d. Collection tax and utilization of ground water and surface water.

2.6.2. District / City Taxes

- a. Hotel tax;
- b. Tax

- c. Restaurant tax
- d. Entertainment Tax;
- e. Advertising Tax;
- f. Street Lighting Tax;
- g. Collection tax of Minerals Group C;
- h. Parking Tax.

2.7 ZAKAT DEFINITIONS

2.7.1 Zakat According to Etymology

Zakat according to etymology means blessing, clean, and well grown. These are called *zakat* since these can develop and keep away the treasures that have been taken its *zakat* from danger. According to Ibn Taimiah, hearts and treasures of people who pay the *zakat* become pure and clean as well as meaningfully develop.

2.7.2 Zakat according to the terminology

Zakat according to the terminology means a certain amount of assets required by Allah Subhanahu wata'ala. It is given to *mustahik* (people who have the right to receive *zakat*) who are mentioned in the Qur'an. It also means a certain number of a particular asset which is given to a specific person. *Zakat* can also mean a number of assets which are taken from people who give *zakat*.

Zakat in the Quran and hadith is sometimes referred to charity, such as the word of Allah Subhanahu wata'ala which mean, "*Take zakat from their treasures, by giving zakat you cleanse and purify them and pray for them because it would be a peace prayer for them.*" (Surah At-Tauba, 103). In an authentic hadith, the Prophet sallallaahu 'alaihi wasallam. When he dispatched Muaz bin Jabal to Yemen, he said, "*Advise them that God requires paying zakat from the treasury wealth of the rich that will be given to needy people among them.*"

2.7.3 Pillars of Zakat

Zakat are the third pillar of the five pillars of Islam which is the pillar of religion that cannot stand without this pillar. *Zakat* is required in the second year of Hijrah. Its legitimacy is gained through several sentences in the Qur'an, such as the words of Allah Subhanahu wata'ala which mean, "*Build pray, pay zakat and be together with those who pray.*" (Surat al-Baqara, 43) And also in the word of Allah Subhanahu wata'ala which means, "*and those in their wealth are provided certain rights for those who beg and those who have not fared well.*" (Surat al Ma'arij, 24-25).

2.7.4 How To Pay Zakat

Muzaki (*zakat* payer) obligations in paying *zakat* are:

1. Intend to pay *zakat*.
2. Calculate all the treasures/ assets that have *zakat* obligatory
3. Pay *zakat* to Amil of *zakat* (*zakat* administration)
4. The *zakat* payer asked for the prayers to Amil (administration) of *zakat* recipients.

2.7.5 The Requirements of Zakat for Obligatory Treasures

2.7.5.1 Fully Owned (*Almilkuttam*)

Namely: the treasures/ assets are in their authority and fully control, and also these can be fully utilized. Those treasures are obtained through ownership process that is justified by Islamic law, such as business, inheritance, giving of state or others and legitimate ways. If those treasures are obtained by unlawful ways, the *zakat* for the treasures are not obliged because those treasures must be relieved of their duties by returning to the beneficiary or their heirs.

2.7.5.2 Developing

The treasures can increase or develop when those are attempted or have the potential to develop.

2.7.5.3 The Treasures Reach *Zakat* Provision (*Nishab*)

This means that the treasures have reached a certain amount based on the provisions the treasures are not reached its provision, these will be free of *zakat*.

2.7.5.4 Treasures are More than Basic Necessity (*Alhajatul Ashliyah*)

Basic necessities are minimal requirements for a person and his burden family for survival. This means that if these necessities are not fulfilled, they cannot live properly. The requirements are such as primary necessities or minimum life necessities (KHM), for example, daily expenses, clothing, house, healthy, education, and etc.

2.7.5.5 Free of Loans

People who have loan can reduce as much as the *zakat* provision (*nishab*) which have to be paid at the same time (the time of paying *zakat*), then the treasures are free of *zakat*.

2.7.5.6 The Treasures Pass One Year (*Al-Haul*)

The point is that the treasures ownership has already been passed one year. This requirement only applies to cattle, saving treasures and commercial property. While agricultural products, fruits and artifacts (*rikaz*) do not have a requirement (*haul*).

2.8 Treasures (*maal*) are obliged to pay *zakat*, as follows:

2.8.1 Cattles

2.8.2 Farm animals including great animals (camel, cattle, buffalo), small animals (goats, sheep) and poultry (chickens, ducks, birds)

2.8.3 Gold And Silver

The treasures are categorized as gold and silver are the currency which is prevailing at the period in each country. Therefore, all the forms of storage for saving money, such as deposits, checks, stocks or other securities, are included in the gold and silver category. Hence, the determination of the *zakat* provision (*nishab*) and its amount of *zakat* is same with gold and silver.

Likewise, the other treasures, such as houses, villas, vehicles, land, and others, which exceed purposes based on the provision (*syara'*) or those are purchased/ constructed by the goal to save money and sometimes can be

redeemed, gold and silver or any other forms of jewelry which are not excessive and are not required to pay *zakat*.

2.8.4 Commercial Property

Commercial Property is all kind of product being traded, such as tools, clothing, food, jewelry, etc. Those commercial properties are organized individually or union as CV, PT, cooperatives, etc.

2.8.5 Agricultural Product

Agricultural products are the result plants that have an economic value such as grains, tubers, vegetables, fruits, ornamental plants, grasses, leaves, etc.

2.8.6 Natural Resources (Ma 'din)

Ma'din (natural resources) are the objects in the bowels of the earth and have economic values such as gold, silver, tin, copper, marble, jade, petroleum, coal, etc. Marine resources are products which are exploited from the sea, such as pearls, amber, marjan, etc.

2.8.7 *Rikaz*

Rikaz is a buried treasure from ancient times. It is commonly called as a treasure trove. It is including treasure which is found and no one who claims to be the owner.

3. DISCUSSION

According to Ahmad Sarwat, The Equations between *zakat* and Tax are:

1. The tax has obligatory and binding on the population's treasures of a country, if people neglect it, they will be given a penalty.
2. *Zakat* and tax must be remitted to the official institutions in order to achieve the efficiency for both collecting processes and allocating distributions.
3. In the Islamic government, *zakat* and tax are managed by the state.
4. There is no provision to obtain certain material rewards in the world.

Based on the purpose side, there are similarities between both of them, namely; to resolve the economic problems and alleviate poverty in society.

3.1 The Differences between *zakat* and Tax

Based on the similarities above, these do not mean that the taxes could be simply equated with *zakat*. Because in the fact that there are basic differences and essential between both of them.

The Difference		between <i>zakat</i> and tax
definition	Clean, increasing, and developing	Contribution from citizen to its country (it can be forced)
Legal basis	Al-Qur`an and As Sunnah	Law taxation of a country
Provision (Nishab) and Rate	It is determined by Allah and the characteristic is absolute.	It is determined by state and the character is fluctuating based on the balance of state budget, but <i>zakat</i> has fixed measurement.
Characteristic	Obligatory and continuity	The obligation is based on the necessities and it can be erased.

Subject	Islam	Citizen
Object allocation of the receiver	It has 8 groups	It is for development and routine expense.
Treasures which are imposed	Productive treasures	All treasures
Requirements of its consent (Ijab Kabul)	It is required	It is not required
Rewards	Grants from Allah and promises of blessing.	There are goods and public services.
Penalty	From Allah and Islamic government.	From the state
Payment Motivation	Faith and devotion to God, obedience and fear to the country and sanctions.	Taxation Law regulatory compliance and fear of the taxation law sanctions.
Calculation	It is entrusted to Muzaki (<i>zakat</i> administration) and it can also help <i>zakat</i> administration.	Taxpayers calculate tax payable by themselves.

The Differences between taxes and *zakat* according to Prof. Dr. Abdullah bin Muhammad Ath-Thayyar are as follows:

1. *Zakat*: It is the obligatory right for certain treasure, certain people. It is collected in a certain period, to earn the pleasure of Allah, self-cleaning, treasure and as well as the community.
2. While Taxes: It is set by the government, which is collected as an obligation and it is used to cover the general budget in terms. In short, to complete the economic goals, social, political, and other goals which are proclaimed by the state.
3. *Zakat* is accomplished for worship (taqarrub) to God/ Allah. While its value (meaning) cannot be met on Taxation. Because the tax only can be determined by the state.
4. The *zakat* level is direct required by the provision (syari'at), without giving an opportunity for lust and desire of the human to participate in determining it.
5. The tax is determined by the government, which is the value can be added at any time when the government wants it in accordance with private benefit and community.
6. *Zakat* has been determined the allocation place by its provision (syari'at). Groups that are eligible to receive *zakat* has been directly determined by Allah Subhanahu wa Ta'ala. But the taxes are collected only in the state treasury and spent according to different interests.
7. *Zakat* is obligation that is already established and eternal as long as there is Islam and there are Muslims on this earth. Meanwhile, taxes do not have fixed nature and eternity, both in terms of its type, the measurement of the minimum obligatory, value, and the place of the expenses.

4. CONCLUSIONS

From the above descriptions can be summarized as follows:

- 4.1 Basically, *zakat* is not able to be equated with the taxes because both of them have a different legal basis. *Zakat* is based on the Al-Qur'an and the *Sunnah*, while the taxes are based on the tax laws. This can cause many other differences such as motivation, sanctions, rewards, characteristics, subjects etc.
- 4.2 *Zakat* has the virtue than tax because *zakat* is the third pillar of Islam which must be done based on Islamic teachings and the order to pay *zakat* is directly pointed by God, as God says in Surah Al-Bagarah 43 "*Build pray, pay zakat and bow with those who are bowing.*" While the tax is based on the tax laws made by human and required paying taxes by the ruler/ government.
- 4.3 Because of the *zakat* percentage is smaller than tax, so actually paying *zakat* is easier than paying tax.

5. SUGGESTIONS

- 5.5. Tax regulation should be adjusted, so it can allow a number of *zakat* to reduce taxable income, to facilitate people who indefinitely pay *zakat*, as long as those people can submit valid evidence that they have paid the *zakat*.
- 5.6. The government always intensively announces the programs to increase tax revenues. However, the government should also intensively announce the *zakat* payment programs because if *zakat* is well informed and intensively announce to the community, the result can be a "great power" to prosper the people, as it happened in the Rasulullah SAW period.

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