

ANALYSIS OF THE FORMULATION OF ZAKAT MAL TAX INCENTIVE POLICY AT THE DIRECTORATE GENERAL OF TAXES (DGT)

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Abstract: Focus of this research is the formulation of taxation policies related to zakat mal tax incentives at the Directorate General of Taxes (DGT). The problems in this study include, first, how the zakat mal tax incentive policy is formulated and its problems. Second, there are certain perceptions that hinder the development of zakat mal tax incentive policies and thirdly there are considerations of costs and not benefits in its formulation. This type of research is normative research with a juridical and analytical approach. The results of the study concluded that there was an error in the formulation of the zakat mal tax incentive policy in the form of errors in the interpretation and grouping of zakat in Law 36 of 2008 Income Tax.

Keywords: zakat, formulation, income tax

Introduction

The low utilization rate of mall zakat tax incentives in Indonesia is one of the causes of the wide disparity in zakat potential with the realization of zakat collection in Indonesia. National Zakat statistics show that the number of realizations of zakat collection in 2019 and 2020 is as follows:

Table 1: Realization of Zakat Collection

Collection Agencies	2019	2020
Baznas	296.234	385.126
Baznas Provinsi	583.919	489.538
Baznas Kabupaten/Kota	3.539.980	1.735.824
LAZ	3.728.943	4.077.297
OPZ	2.078.865	5.741.459
Total	10.277.943	12.429.246

Source : Otulook National Zakat 2022

Table 1 shows that the realization of zakat, infak and alms collection reached Rp10.2 trillion based on zakat collection institutions in Indonesia. Meanwhile, if referring to the results of IPPZ research, it shows that there is a potential for zakat of 233.8 trillion in 2019 where zakat income is the sector with the largest potential of 139.07 trillion, zakat income of 58.76 trillion and zakat money and 19.76 trillion, agricultural zakat and 9.51 trillion from livestock zakat. The small realization rate of zakat causes a very small distribution of zakat which results in a high poverty rate in Indonesia. As Ali Hudaefi et al. (2020) know that zakah has been playing a substantial role in poverty alleviation in Muslim communities. Tika Widiastuti et al. (2020) affirm Zakat is an Islamic-economic instrument that acts as an alternative solution in reducing poverty. If you look at the poverty rate in Indonesia for the September 2022 period reaching 9.57% or 26.36

million people, it can be concluded that the high poverty rate indicates that zakat as a tool to alleviate poverty is not functioning as expected even though the government has tried to increase zakat receipts by issuing a zakat mal tax incentive policy in the form of zakat as a deduction from gross income in Law Number 36 of 2008 Income Tax. However, in its implementation, this policy has not provided maximum results. Fairness should be widely recognized as one of Zakat's fundamental goals. (Alosaimi, 2018; Kahf, 1999). Equity is an integral part of social systems and involves the distribution and allocation of valuable resources (Saeed Awadh Bin-Nashwan, 2020) The mall zakat tax incentive policy does not have a significant effect in increasing zakat receipts in Indonesia. This is evidenced by the low utilization data. This raises a big question mark as to why zakat mall tax incentives have not been utilized by taxpayers who are Muslim. Whether the tax incentives are unattractive or whether there is a fallacy in the regulation that the policy cannot be utilized as it should be.

Literature Review

Zakat has several meanings including blessing (albarakatu), purifying (at-thaharatu), growth and development (al-namaa), cleanliness (ash-shalahu), and good (thayyib). In terms of terms, zakat means part of property with certain conditions, which is required by Allah SWT to be given to a person who is entitled to receive it (mustahik) with certain conditions as well (Hafidhuiddin, 2002), (Az-Zuhaili, 2011), and (Qardawi, 1991). The amount of wealth expended is called zakat because the wealth can become numerous, make it more meaningful, and protect that wealth from destruction. The party that issues zakat is called muzaki, while the party who receives zakat is called mustahik. In QS At-Taubah verse 60 it mentions a mustahik group consisting of eight ashnaf including the fakirs (fuqara), the poor (masakin), the amilin alaiha (zakat administrators), the nasealaf who are persuaded of their hearts (muallaf qulubuhum), sahaya servants or slaves (riqab), those who owe debts (gharimin), for the way of Allah (fi sabilillah), and travelers (ibn sabil). Zakat is the third pillar of Islam which is a community (social) pillar. The law of zakat is mandatory for every Muslim who has qualified either to purify himself or nafs (zakat fitrah) or purify wealth (zakat mal). Zakat is an obligation similar to the obligation of prayer (QS 2:43, 110, 177, 277; 4:162; 9:103; 24:56; 73:20; 98:5). Zakat is part of the portion of the wealth of other Muslims who need to be in part of the muzaki property so that zakat is not only given, but also distributed. Whoever does not or is late in paying zakat is classified as an evil act to fellow human beings (Ethica Institute of Islamic Finance, 2013).

In addition to zakat, Muslims in Indonesia are also subject to the obligation to pay taxes as stipulated in Law Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax. Zakat Mal Tax Incentives are regulated in Article 9 paragraph (6) of the Income Tax Law regulating *“To determine the amount of Taxable Income for domestic taxpayers and permanent establishments, no deductible of donated property, assistance or donations, and inheritance as referred to in Article 4 paragraph (3) letter a and letter b, except donations as referred to in Article 6 paragraph (1) letter i to letter m and zakat received by the amil zakat agency or amil zakat institution established or authorized by the government or religious donations that it is mandatory for adherents of recognized religions in Indonesia, which are accepted by religious institutions established or authorized by the government, whose provisions are regulated by or based on Government Regulations.* Therefore, zakat and taxes become multiple obligations where in other countries this obligation is only required by one of them. In this regard, the government issued a zakat mal tax incentive policy as a deduction from gross income. As is known in the Income Tax Law, it has regulated two concepts of tax incentives, namely tax exemption and tax deduction. To unravel this, it is necessary to take the theories underlying the provision of tax incentives in Indonesia. This theory is intended as the basis for the foothold of tax incentive policies used in Indonesia in accordance with tax incentive

policies in force in other countries. The taking of this theory is based more on theories used by world bodies and institutions including the United Nation (UN) Model, the International Monetary Fund (IMF) and the theory used by developing countries, namely the Organisation Economic Co-operation and Development (OECD). According to the United Nations Conference on Trade and Development (UNCTAD).¹ *FDI incentives may be defined as any measurable advantages accorded to specific enterprises or categories of enterprises by (or at the direction of) a Government, in order to encourage them to behave in a certain manner. They include measures specifically designed either to increase the rate of return of a particular FDI undertaking, or to reduce (or redistribute) its costs or risks.*"

Tax regulations issued by the government cannot be separated from general public policy. As a public policy that has specific goals for what a country must achieve, it is determined that the main objectives of tax policy are:

1. Increased well-being and prosperity;
2. Fair distribution of income;
3. Stability.

Sahya Anggara (2014) in her book entitled Public Policy, stated that there are stages in decision-making related to public policy where public policy is divided into policy analysis, public policy, and policy recommendations. Public policy broadly includes the stages of policy problem formulation, policy implementation, and policy evaluation. In terms of the formulation of a policy, the problem formulation phase is a very crucial and decisive phase. The problem formulation phase becomes the basic fundamental and the first step in making policy. This initial step will determine how the policy will be structured. If the issue raised is wrong, it will be fatal. Therefore, it is not uncommon for public policies to ultimately afflict, not side with the people. Given the importance of this phase, William Dunn (1999) stated that there are four stages in problem formulation, including problem search, problem definition, problem specification, and problem sensing..

Method

The type of research used in this study is descriptive qualitative research. The selection of this qualitative method is based on the problem studied, namely the problem of formulating zakat mal tax incentive policies at the Directorate General of Taxes. This research is used to make previously indistinct realities brightly lit and not to confirm reality as in quantitative hypothesis testing. This research explores and analyzes the existing literature and confirms it with tax rules and analyzes it from the side of public policy. Primary data were obtained by conducting in-depth interviews with research informants. The secondary source of data for this study is the Law on zakat and taxes, supporting textbooks that provide information on zakat and taxes.

Result and Discussion

Questioning the formulation of policies in the field of taxation in Indonesia is one of the authorities of the Directorate General of Taxes (DGT) as the tax authority. This authority is contained in the Minister of Finance Regulation 118/PMK.01/2021 concerning the Organization and Work Procedures of the Ministry of Finance, including in the form of policy formulation in the field of taxation, implementation of policies in the field of taxation, preparation of norms, standards, procedures, and criteria in the field of taxation, provision of technical guidance and

¹ United Nation, Design and Assessment of Tax Incentives in Developing Countries, United Nation, New York, 2018, 5.

supervision in the field of taxation, implementation of monitoring, evaluation, and reporting in the field of taxation, implementation of the administration of the Directorate General of Taxes; and the performance of other functions.² From this authority, several problems were found in formulating the mall's zakat tax incentive policy. From the regulation of Article 9 paragraph (6) letter h of the Income Tax Law, it is known that zakat is interpreted or grouped as a donation. Zakat is not defined but is interpreted by attaching it to the article regarding the costs that are allowed to be deducted from gross income. This is contrary to article 6 which states costs that can not be deducted from gross income include donations. When viewed in terms of etymology, zakat means holy, growing, developing, and blessings. Meanwhile, according to the terminology, zakat means the level of certain assets given to those who are entitled to receive it under certain conditions. (A. Hidayat & Mukhlisin, 2020) while in Law Number 23 of 2011 concerning zakat management, the definition of zakat is defined as property that must be issued by a Muslim or business entity to be given to those who are entitled to receive it in accordance with Islamic law. Meanwhile, based on the Big Indonesian Dictionary (KBBI), the word zakat comes from the word zakat /za kat/, which means a certain amount of wealth that must be spent by Muslims and transmitted to the rightful group (poor fakir, etc.) in accordance with the rules set by Shari'a. Meanwhile, the KBBI defines the donation as /sum bang an/ n 1. to give as an aid (at wedding celebrations, etc.); Join; 2.Favors; support;- while voluntary donations; - Mandatory donations in the form of money and so on that must be paid. From this definition, it is concluded that zakat is not a donation. This interpretation is certainly very wrong if it is related to the meaning of donation in the Big Indonesian Dictionary (KBBI). This certainly greatly understates the meaning of zakat itself as an obligation in the pillars of Islam (Kasri & Yuniar, 2021), (Bin-Nashwan et al., 2020). As the main fundamental foundation in religion, every Muslim is obliged to fulfill zakat as commanded by Allah Almighty in the Qur'an, Surah Al-Baqarah verse 43 "And establish prayers, cash in zakat and ruku'lah along with those who are ruku'. This is in line with Aziz your Rehman's explanation which says that "Zakat is defined as one of the fundamental pillars of Islam; it is therefore mandatory for every Muslim". Allah Almighty in surah At-Taubah verse 103 says: "Take zakat from some of their treasures by which you purify and sanctify them and pray for them. Surely your prayers (became) peace of mind to them. And God is omniscient again. After the zakat is collected, it should be distributed as the main idea as instructed by Allah Almighty in the Qur'an Surah At-Taubah verse 60. Indeed, the zakats are, only for the wicked, the poor, the administrators of zakat, the mu'allaf who are persuaded by their hearts, to (set free) slaves, those who are in debt, for the way of Allah and for those who are on their way, as a decree required by Allah, and Allah is All-Knowing again All-wise. Thus zakat is commanded as evidence of worship from a form of obedience to Allah SWT as Allah Almighty also said in the Qur'an Surah Al-Bayyinah verse 5. Whereas they were not told except to worship God by purifying obedience to Him in (practicing) a righteous religion, and that they should establish prayers and perform zakat; and thus is the upright religion. Based on the hadith of the prophet Muhammad SAW from Abdurrahman Abdullah bin Umar bin al-Khattab, narrating the hadith about the command of zakat as the third pillar of Islam with the hadith as follows : From Abi Abdurrahman Abdullah bin Umar bin al-Khattab he said: I heard the Messenger of Allah say: Islam is founded on five foundations; 1) testify that there is no God but Allah, Muhammad is the messenger of Allah; 2) establishing prayers; 3) fulfilling zakat; 4) perform hajj and 5) fasting in the month of ramadan (HR. Al-Bukhari and Muslims) Secondly, the object of zakat is equated with the object of income tax. This causes an error in calculating zakat for taxpayers who have income below Rp.60 million. This is evidenced by the absence of a zakat column on the Annual Income Tax Return for taxpayers who have income below Rp.60 million because it is considered that there is no zakat obligation. Zakat is not only calculated

based on the amount of income per year but zakat is charged against certain objects at a certain rate and is intended for certain recipients. Income below IDR 60 million does not mean that you do not have zakat obligations. This is of course due to the difference in the definition of zakat with income. Zakat is not always defined as income but zakat can be imposed on stored property that has exceeded a certain size (nisab) when the treasure is not rotated. This treatment is inversely proportional to the assumption that zakat paid to baznas is a fee and not a tax. The DGT authorities should have made the same treatment. If zakat obligations are equated with taxes in terms of calculating zakat (source of income) then so is the case in treating it in terms of its tax credit. Third, erroneous interpretation or definition causes complexity in the administration of its taxes. This is evidenced by the inconsistency of tax forms or documents with the promulgated provisions. As a result, the Annual Tax Return (SPT) form of PPh 1770SS can not accommodate zakat as a deduction from gross income including taxpayers with final income. This happens because of the collection of taxes based on the assumption of income (presumed tax).

Based on these things, the government should restore the interpretation of zakat according to the legal basis of the Quran and Hadith according to its essence as an obligation of Worship and not a donation. That the perception of zakat reducing taxes will be contrary to the concept of tax incentives for the corona disease-19 pandemic, the result will be the same, on the one hand it will reduce tax revenue on the other hand will save economic growth. Likewise, zakat whose effect will increase economic growth on the one hand and not to spend the budget from the spending side. One of the principles that must always be adopted in the formulation and application of tax formulations and incentives is the equal treatment of all taxpayers or tax cases that are substantially equivalent and which must refer to applicable laws and regulations. Based on these things, the DGT should need to reformulate zakat tax incentives as a deduction from gross income.

Conclusion

Based on the results of the analysis, the author makes the following conclusions: First, there is a mistake in the interpretation of zakat as a contribution in the Income Tax Law. Zakat is an obligation in the Pillars of Islam and not a donation. Secondly The perception of zakat if credited it will reduce tax revenue is a short-term perception because in the long term zakat does not reduce taxes in essence. Zakat can reduce the government's burden in terms of spending on the State Budget (APBN). The misinterpretation of zakat results in administrative complexity where the perception that zakat is not mandatory for taxpayers with income below 60 million is incorrect because zakat is not caused by income which results in an error in the OP Income Tax Annual Tax Return form (1770SS). Therefore, the DGT should reformulate the interpretation of zakat based on the Quran and Hadith where zakat is an obligation in the Pillars of Islam. Zakat is not a donation as interpreted by DGT today. The re-formulation of this tax incentive policy is expected to provide this is expected to provide Increased welfare and prosperity, Fair distribution of income and Public stability.

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