

## **Taxes In Islamic Law Perspectives** **Raden Bambang Jaeng Rono**

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**Abstract:** *The majority of Indonesian people are muslim. Muslims related to wealth and income there is an obligation in the form of zakat for those who have fulfilled the requirements. As Indonesian citizens, muslims also have tax obligations for those who have fulfilled the requirements, because a law has been made that requires it. Taxes in Islamic law which are a source of state revenue are not known. Therefore, the different scholars agree on the status of tax law in terms of the concept of Islamic economics. In the concept of Islamic law tax is a liability that can be temporarily, obliged by ulil amri as dharibah, due to the lack of Baitul Mal, and can be removed if the condition of Baitul Mal has been refilled, obliged only to rich muslims, and must be used for their interests (muslims), not in the public interest, as a form of muslim jihad to prevent greater danger if that is not done. Second, there are two opinions in this regard, those who argue that tax is permissible in Islam after the obligation of zakat. Others argue that taxation is not permissible in Islam, because in Islam the obligation of a muslim in property is only on zakat.*

*Keywords: Tax, Islamic Law, Perspectives.*

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### **Introduction**

The way the government withdraws funds from the public is commonly known as taxation. Tax is essentially an instrument of the government to help the weak community, which is called the "*distribution of welfare*". For the government itself "*distribution of welfare*" is a social benefit (Ibrahim Hosen : 1995). The total welfare is enjoyed by all members of the community.

Tax is a mandatory contribution to the state owed by individuals or entities that are coercive based on the law, with no direct compensation and used for the country's needs for the greatest prosperity of the people (Rochmat Soemitro : 1998). Taxes are levied by the government based on legal norms to cover the cost of producing collective goods and services to achieve public welfare (R. Santoso Brotodihardjo : 2000).

In Indonesia, the government agency that manages state taxation is the Directorate General of Taxes, which is one of the general directorates under the auspices of the Ministry of Finance of the Republic of Indonesia (Arip Purkon : 2014). Tax collection in Indonesia refers to the self-assessment system. Self-assessment system is a tax collection system that gives authority, trust, responsibility to taxpayers to calculate, calculate, pay and report the amount of tax to be paid (Casavera : 2009).

Contemporary economists define tax as an obligation to pay cash determined by the government or a competent authority in the absence of certain rewards or direct benefits (Mardani : 2011). Tax (*dharibah*) itself in Islam is one source of state revenue which is only as a solution in an emergency, that is if other sources of income cannot meet the needs of Baitul Mal (*state treasury*) but if Baitul Mal is sufficient the tax (*dharibah*) must be removed (Muhammad : 2007).

In determining the law on matters relating to society such as taxes, one of the Islamic Sharia based on public benefit. One of the rules of *usul fiqh* states: "*The general benefit is prioritized over special benefit.*" That basis can be used as a reference for tax collection as stated by figures from the Mazhab Maliki (J. Sayuti Pulungan : 1994).

In the Islamic view, tax is one form of muamalah in the economic field. If the main sources of state income such as *zakat*, *infaq*, *alms*, *ghanimah* and others are not able to meet these needs, then the authorities can set taxes as additional income to fill the vacuum or lack of state coffers (Gusfahmi : 2011). Therefore in this study, the writer wants to know about the taxation system applied by the Indonesian government according to Islamic law

The concept of taxation according to Islam is not a new concept but has been applied for approximately 13 centuries during the Islamic caliphate. Based on the concept, the tax is temporary, meaning that the tax is only applied when the state's financial condition (Baitul Mal) is empty. If enforced, the collection is only borne by the rich, so that the poor do not have to shoulder the tax burden. This paper aims to discuss how differences in taxation in Indonesia with the taxation system according to Islamic law and how taxation in Indonesia in the perspective of Islamic law.

### Literature Review

The tax is a *compulsory levy made by the public authorities for which nothing is received directly in return* (Simon James and Christopher Nobes : 2003). Sommerfield defines the tax is a transfer of resources that must be done from the private sector to the government sector based on regulations without getting a direct and balanced return, so that the government can carry out its duties to run the government (Kesit Bambang Prakosa : 2005).

Tax from an economic perspective is understood as the transfer of resources from the private sector to the public sector. This understanding gives the picture that the existence of taxes causes two situations to change. First, the reduced ability of individuals to master resources for the mastery of goods and services. Second, increasing the ability of state finances in the supply of public goods and services which are the needs of the community (Adrian Sutedi : 2011).

While understanding tax from a legal perspective according to Soemitro is an engagement that arises because of the existence of a law which causes the obligation of citizens to deposit a certain amount of income to the state, the state has the power to force, and the tax money must be used for governance. This legal approach shows that the tax collected must be based on the law so as to guarantee legal certainty, both for the fiction as the tax collector and the taxpayer as the taxpayer (Waluyo dan Wirawan B. Ilyas : 2003).

According to Law Number 16 of 2009 concerning General Provisions and Tax Procedures (UU KUP), Article 1 number (1) states: "*Taxes are mandatory contributions to the state owed by individuals or entities that are coercive based on the law, by not getting a direct reward and being used for the needs of the country for the greatest prosperity of the people.*"

Tax in Arabic is called the *Dharibah*, which means: obliging, determining, determining, hitting, explaining, charging and others (Dahlan Abdul Aziz : 1996). In terms interpreted as a burden or levy drawn from the people by the tax collectors. Ibn Jarir narrated from Ibn Aliyah that he said, "In the past, in addition to *zakat*, they also donated something, but they overdid it," then a verse came down as the word of Allah in Surah Al-An'am: 141, namely (Tim Baitul Kilmah : 2014):

وَهُوَ الَّذِي أَنشَأَ جَنَّاتٍ مَّعْرُوسَاتٍ وَغَيْرَ مَعْرُوسَاتٍ وَالنَّخْلَ وَالزَّرْعَ مُخْتَلِفًا أَكْلُهُ  
وَالزَّيْتُونَ وَالرُّمَانَ مُتَشَابِهًا وَغَيْرَ مُتَشَابِهٍ كُلُوا مِنْ ثَمَرِهِ إِذَا أَثْمَرَ وَآتُوا حَقَّهُ  
يَوْمَ حَصَادِهِ وَلَا تُسْرِفُوا إِنَّهُ لَا يُحِبُّ الْمُسْرِفِينَ

It means: "*And it is He Who makes gardens that uphold and do not uphold, date palms, plants of various kinds of fruits, olives and pomegranates that are similar (shape and color) and not the same (taste). Eat from the fruit (the various kinds) when he*

*bears fruit, and exercise his rights on the day of reaping the rewards (by giving it to the poor); and don't overdo it. Surely Allah does not like exaggerated people.”* (Q. S. Al-An'am:141).

Gusfahmi mentions several provisions regarding taxes (*dharibah*) according to Islam, which distinguishes them from taxes in non-Islamic systems, namely:

1. Tax (*dharibah*) is temporary, not continuous, may only be collected when there is no wealth in Baitul Mal or less. When the Baitul Mal has been refilled, the tax liability can be abolished.
2. Tax (*dharibah*) may only be levied for financing which is an obligation for Muslims and is limited to the amount needed for the compulsory financing, may not be more.
3. Tax (*dharibah*) is only taken from Muslims and is not collected from non-Muslims. Because, the tax (*dharibah*) is levied to finance the needs that are an obligation for Muslims, which are not an obligation for non-Muslims.
4. The tax (*dharibah*) is only levied from wealthy Muslims, not levied from anything else. Rich people are people who have excess assets from financing basic needs and other needs for themselves and their families according to the suitability of the surrounding community.
5. Tax (*dharibah*) is only levied according to the amount of financing needed, not more.
6. Tax (*dharibah*) can be deleted if it is not needed.

Therefore, tax or *dharibah* is something that is required by the State for the property of people or their principal/capital (Muhammad Rawwas Qal'ahji : 1999). Thus, a tax or *dharibah* is a compulsory contribution to the State based on the law to finance state expenditure and as a tool to regulate welfare and the economy.

## Method

This type of research is a normative legal research that is a scientific research procedure to find scientific truth based on the legal scientific knowledge of the normative side. The scientific logic is built on the basis of scientific discipline and the workings of normative legal science, namely *sui generis* law (Jhony Ibrahim : 2006). In connection with the research topic, the research is to find scientific truths about tax in the perspective of Islamic law.

The author will collect data through several primary and secondary sources. Then all data will be described descriptively and analytically. The author focuses on the meaning contained in a phenomenon under study, which can be extracted from the perception of the object of research.

## Result

### 1. Tax Characteristics in Islamic Economy

Taxes are permissible in Islam if they have the following characteristics:

- a. Taxes are collected after zakat is paid. Zakat is the third pillar of Islam and has a very strong legal basis because it is based on the Qur'an and hadith so it must be fulfilled first, and then to fulfill tax based on the *ulil amri* (government) command.
- b. The tax obligation is not due to assets, but because of urgent needs, while the Baitul Mal is empty or insufficient.
- c. There are burdens besides zakat which Allah does indeed impose on Muslims. The use of zakat funds has been determined for eight groups, so that for other

- needs such as construction of public facilities, disaster management, national defense, etc. can be charged to Muslims through taxes.
- d. Only the rich or capable are burdened with additional obligations, the rich are people who have fulfilled all their basic needs properly. Namely people who have excess property from basic needs for himself, his wife and children such as eating, drinking, clothing, shelter, vehicles, and tools that are needed (Didin Hafidhuddin : 2002).
  - e. Tax enforcement is siteional, not continuous and can be abolished if the Baitul Mal has been refilled.

## 2. Tax in the perspective of Islamic law

Scholars differ in opinion whether there is a muslim obligation on property other than zakat. The majority of fuqaha argue that zakat is the sole obligation of muslims on property. Whoever has paid zakat, then clean up his property and free his obligations. The basis is various traditions of the Prophet Muhammad. On the other hand there are opinions of scholars that in wealth there are other obligations besides zakat. The evidence is Q. S. Al-Baqarah: 177; Al-An'am: 141; Al-Ma'un: 4-7; Al-Maidah: 2; Al-Isra ': 26; An-Nisa ': 36; al-Balad: 11-18, and others. The middle ground of these two differences of opinion is that the obligation on compulsory assets is zakat, but if conditions come that require additional needs (*darurah*), then there will be additional obligations in the form of taxes (*dharibah*). This opinion for example was stated by Qadhi Abu Bakar Ibn al-Aarabi, Imam Malik, Imam Qurtubi, Imam Syatibi, Mahmud Syaltut, and others.

It is permissible to collect taxes according to the scholars mentioned above, the main reason is for the benefit of the people, because government funds are insufficient to finance various "expenses", which if the expenditure was not financed, there would be awareness. While preventing harm is also an obligation. As the rules of ushul fiqh: *Ma layatimmul obliged illa bihi fahuwa mandatory* (an obligation will not be perfect, except in the presence of something, then something earlier the law becomes mandatory).

Therefore taxes should not be collected by force and power alone, but because there are obligations of muslims who are borne to the State, such as providing a sense of security, treatment and education with expenses such as subsistence for the army, salary of employees, judges, and so forth. Therefore, taxes are an obligation of citizens in a muslim country, but the State is also obliged to fulfill two conditions (*conditions*) (Umer Chapra : 2000):

- a. Tax revenue receipts must be viewed as a mandate and spent honestly and efficiently to realize tax objectives.
- b. The government must distribute the tax burden evenly among those who are obliged to pay it.

The scholars who support the permissibility of collecting taxes emphasize that what they mean is the implementation of a fair taxation system, which is in harmony with the spirit of Islam. According to them, a fair taxation system is if it meets 3 (three) criteria, namely:

- a. Taxes are levied to finance expenditures that are really needed to realize *maqasid syariah*.
- b. The tax burden must not be too rigid with the people's ability to bear and equally distributed to all people who can afford it.
- c. The collected tax funds are spent honestly for the purpose for which taxes are required.

In Arabic terms, tax is known as *adh-dharibah*, which means burden. It is called a burden because it is an additional obligation on property after zakat, so that in practice it will

be felt as a burden. In terms of language and tradition, *dharibah* in their use does have many meanings, but the ulama use the expression *dharibah* to refer to the collected assets as liabilities and to be a source of state revenue. Whereas *kharaj* is different from *dharibah*, because *kharaj* is a tax whose object is land (*conquered*) and the subject is non-Muslim. While *jizyah* the object is the soul (*an-nafs*) and the subject is also non-muslim.

### 3. Tax Law In Islam

Based on the description of some opinions of scholars there are differences of opinion regarding taxes in Islam, namely: The first opinion states that taxes should not be charged to muslims because muslims are already burdened with the obligation of zakat.

Second opinion, the ulama stated the ability to take tax from the muslims, if indeed the country really needs funds, and to implement this policy must also be met first several conditions. Among the scholars who allow the Islamic government to take tax from Muslims is Imam Ghazali, Imam Syatibi and Imam Ibn Hazm.

In the Indonesian context, a legal umbrella for the Directorate General (DG) of Taxes to not be selective in applying the taxation rules on sharia-based in Indonesia has been published, namely Government Regulation Number 25 of 2009 concerning Income Tax of Sharia-Based Business Activities. So starting this year, income derived from sharia-based businesses and transactions both by personal and corporate taxpayers (WP) will be subject to this regulation. The issuance of Government Regulation Number 25 of 2009 concerning Income Tax of Sharia-Based Business Activities is a form of implementing regulations mandated by Article 31D of Law Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax.

In the end, the writer can conclude that tax law in Islam is permissible, the reason being to realize the people's prosperity and in Indonesia sharia-based taxation has been issued which is regulated in Government Regulation Number 25 of 2009 concerning Income Tax of Sharia-Based Business Activities.

### Conclusion

In Islam there are two opinions of tax collection, there are those who allow and some who do not allow it, with all the arguments that underlie it. However, the scholars allow tax collection provided that it meets the specified requirements, namely: (1) The state is committed in implementing Islamic law. (2) The state is in dire need of funds for public needs and benefits such as the purchase of war equipment to protect the State borders. (3) There are no other sources that can be relied upon by the State, either from *zakat*, *jizyah*, *al-usyur*, except from taxes. (4) There must be agreement from the scholars and community leaders. (5) The collection must be fair, that is, to be collected from the rich only and not to be collected from the poor. Distribution must also be fair and equitable, may not focus on certain places, especially those that contain elements of sin and immorality. (6) This tax is temporary and not applied continuously, but only at certain times. When the State is in a crisis or there is a very urgent need. (7) Excessive funding must be eliminated first and only squandering money. (8) The tax rate must be adjusted to the immediate needs at that time.

### References

- Abdul Aziz Dahlan, *Ensiklopedia Hukum Islam*, (Jakarta: Ichtiar Baru Van Hoeve, 1996).  
Adrian Sutedi, *Hukum Pajak*, (Jakarta: Sinar Grafika, 2011).  
Arip Purkon, "Aksi Boikot Pajak Menurut Hukum Islam," *Jurnal Salam; Jurnal Sosial Dan Budaya Syar-i*, Volume I, Nomor: 1 (2014).  
Casavera, *Perpajakan*, Edisi Pertama, (Yogyakarta: Graha Ilmu, 2009).

- Didin Hafidhuddin, *Zakat dalam Perekonomian Modern*, (Jakarta: Gema Insani Press, 2002).
- Gazi Inayah, *al-Iqtishad al-Islami az-Zakah wa ad-dharibah*, Edisi Terjemah oleh: Zainuddin Adnan dan Nailul Falah, *Teori Komprehensif Tentang Zakat dan Pajak*, (Yogyakarta: Tiara Wacana, 2005).
- Gusfahmi, *Pajak Menurut Syariah*, Edisi Revisi, (Jakarta: Rajawali Pers, 2011).
- Ibrahim Hosen, *Zakat dan Pajak*, (Jakarta, Bina Rena Pariwisata, 1995).
- J. Sayuti Pulungan, *Fiqh Siyasah*, (Jakarta: Raja Grafindo Persada, 1994).
- Jhony Ibrahim, *Teori dan Metode Penelitian Hukum Normatif*, (Malang, Bayumedia, 2006).
- Kesit Bambang Prakosa, *Hukum Pajak*. (Yogyakarta: EKONISIA, 2005).
- Mardani, *Hukum Ekonomi Syariah di Indonesia*, (Bandung: Refika Aditama, 2011).
- Muhammad, *Aspek Hukum Dalam Muamalat*, (Yogyakarta: Graha Ilmu, 2007).
- Muhammad Rawwas Qal'ahji, *Ensiklopedia Fiqh Umar Bin Khathab*, (Jakarta: Raja Grafindo Perkasa, 1999).
- Rochmat Soemitro, *Pengantar Singkat Hukum Pajak*, (Bandung: Eresco, 1998).
- R. Santoso Brotodihardjo, *Pengantar Ilmu Hukum Pajak*, (Bandung: Eresco, 2000).
- Simon James and Christopher Nobes, *The Economics of Taxation*, Ed. 7, (Edinburgh: Pearson Education Limited, 2003).
- Tim Baitul Kilmah, *Ensiklopedia Pengetahuan Al-Qur'an dan Hadist*, (Yogyakarta: Kamil Pustaka, 2014).
- Umer Chapra, *Islam and The Economic challenge*, diterjemahkan oleh: Ikhwan Abidin Basri, *Islam dan Tantangan Ekonomi*, (Jakarta: GIP, 2000).
- Waluyo dan Wirawan B. Ilyas, *Perpajakan Indonesia*, (Jakarta: Salemba Empat, 2003).