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## Shariah Analysis of Zakat on Shares in Modern Capital Markets

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### **Abstract**

This study critically examines the issue of Zakat on shares (zakāt al-ashum) as a contemporary jurisprudential and economic challenge arising from the expansion of modern capital markets and the proliferation of joint-stock companies (sharikāt musāhamah). It explores the Shariah adaptation of shares, the fiqhī ruling on their transactions, and the mechanisms of Zakat accountability within the framework of Islamic commercial law and finance. The study aims to define the concept of the share (ḥiṣṣah), elucidate its economic and legal characterization, and distinguish between the nominal value (al-qīmah al-ismīyah) and the market price (al-sūqīyah), highlighting their implications for Zakat valuation (taqwīm al-zakāh).

The study analyzes the Shariah rulings on the buying and selling of shares, with reference to the objectives of Shariah (maqāṣid al-sharī‘ah) and the principles of Islamic financial jurisprudence (fiqh al-mu‘āmalāt).

A central focus is placed on the obligation of Zakat on shares, examining its existence (wujūb), quantum (miqdār), and the responsible party (al-mukallaf). The study presents a comparative analysis of the positions of contemporary jurists regarding whether Zakat is incumbent upon the company as a juridical person (shakhsiyyah i‘tibāriyya) with independent financial liability, or upon the shareholders as the real owners of capital (ḥaqīqat al-milk).

The study emphasizes the necessity of assessing the valuation date (hawl al-hul) and applying fair market value for accurate computation, in order to fulfill the objectives of Zakat in promoting social justice, economic development, and wealth redistribution, consistent with the overarching principles of Fiqh and Uṣūl al-Fiqh governing financial transactions.

**Keywords:** contemporary zakat, issues in zakat, zakat on equity, zakat on Shares, zakat on companies, Zakat on Bonds

## Introduction

Before knowing the ruling on Zakat on shares, it is important to understand the concept of Zakat, Shares and Companies in the context of contemporary modern world.

### Linguistic and Technical Definition of Zakat

#### Linguistic Meaning

The term “Zakat” (zakāh) is an Arabic word derived from the triliteral root Z-K-Y (ز ك و), which conveys meanings associated with purity, growth, and increase. Linguistically, it encompasses notions such as:

- Being virtuous and righteous (*ṣāliḥ, zakī*),<sup>1</sup> To grow, flourish, or increase (*nashū’ wa ziyādah*), To purify or make wholesome (*tahārah, ṣalāh*), To give or receive Zakat (*ākhadh al-zakāh / ‘atā al-zakāh*), To contribute in charity (*ṣadaqah, taṣadduq*)

An increase or beneficial portion of something (*farḍ, juz’ muḥīd*),<sup>2</sup>

#### Technical Definition

technical definition of زكاة (Zakat) is as follows:

تمليك جزء مال عينه الشارع من مسلم فقير غير هاشمي ولا مولاه أي معتقه مع قطع المنفعة عن المملك من كل وجه لله تعالى<sup>3</sup>

In jurisprudential terms, this means: the transfer of ownership of a prescribed portion of specific wealth (ma’lūl al-nisāb) by a Shariah-compliant Muslim to a needy Muslim who is neither of the Banu Hāshim nor a freed servant of Banu Hāshim, while fully depriving the owner of the usufruct (iqtīā’ al-manfa’ah min al-mamlūk) in every respect, for the sake of Allah (ta’ālā).

### Kinds of Companies

Before knowing the ruling on Zakat on shares, it is important to understand what a share is because to understand the issue of Zakat on shares, it is necessary to understand shares.

Companies are classified into capital-based companies and partnership-based companies.

#### First: Capital-Based Companies

Capital-based companies are founded primarily on financial consideration rather than the personal identity of the partners. Accordingly, such companies are not affected by the death, bankruptcy, or insolvency of any shareholder. They comprise three main types:

##### (a) Joint-Stock Company (Corporation):

A joint-stock company is an entity whose share capital is divided into equal-value shares that are freely transferable. Each shareholder’s liability is limited to the value of their shareholding in the company’s capital. The company is not named after any of its shareholders, but rather derives its name from the purpose or commercial activity it undertakes.

**(b) Limited Partnership by Shares:**

This type of company resembles a joint-stock company in that its capital is divided into equal-value, negotiable shares, transferable without the need for approval from the other partners. However, it differs in that it consists of two distinct classes of partners:

- General partners, who bear unlimited liability for the company's debts and are responsible for its management and administration; and
- Shareholding (limited) partners, whose liability for the company's obligations is restricted to the value of the shares they own, and who do not participate in management.

**(c) Limited Liability Company (LLC):**

A limited liability company is formed by a restricted number of partners, not exceeding a statutory limit, and public subscription to its capital is not permitted. The permissible number of partners varies by jurisdiction. The company's capital is divided into equal ownership interests (quotas or units), and each partner's liability is limited to the amount of capital contributed.

**Second: Partnership-Based Companies**

Partnership-based companies are established on the basis of the personal consideration of the partners and are therefore affected by changes in their personal status, such as bankruptcy, insolvency, or death. They include the following type:

**(a) General Partnership:**

A general partnership consists of two or more persons conducting business jointly, where the partners bear personal, joint, and several liability for the debts and obligations of the partnership.

**(b) Simple Limited Partnership.**

A simple limited partnership consists of two distinct categories of partners. The first category comprises the general (managing) partners, who alone are entitled to manage the company and who bear unlimited personal liability for all the company's debts and obligations. The second category consists of limited partners, who contribute capital to the partnership but have no right to participate in management. Their liability is strictly limited to the amount of their respective capital contributions.

**(c) Joint Venture (Silent Partnership).**

A joint venture, also known as a silent partnership, is formed between two or more persons to undertake a specific financial or commercial project, whereby each party contributes a specified share of capital or labor and agrees to share in the resulting profits and losses. For example, two or more parties may jointly invest in the purchase and

sale of a seasonal agricultural output and subsequently divide the profits and losses. This type of partnership is distinguished from other corporate forms by its non-disclosed nature; it does not possess separate legal personality, nor does it have a trade name or an **independent financial liability (separate patrimony)**.

The focus of the present study is limited to the first type of capital company, namely the joint stock company, to the exclusion of other corporate forms. This focus is justified by the fact that the joint stock company is the most significant and widely prevalent corporate structure worldwide. Moreover, other forms of capital companies are effectively subsumed within it, and the same Sharī'ah rulings and legal principles applicable to joint stock companies extend to those forms as well.<sup>4</sup>

### **Definition of Shares (Stocks):**

Linguistically: Shares are the plural of “share,” which in ordinary language denotes a portion or part. In this context, it refers to the proportionate entitlement.<sup>5</sup>

**Technically (Terminologically):** A share is the portion in which a shareholder participates in the partnership.<sup>6</sup>

The International Association of Islamic Scholars (Ijma' al-Fuqaha' al-Islamiyyin al-Duwaliyyin) defines it as:

حصّة شائعة في موجودات الشركة<sup>7</sup>

*a common proportion in the assets of the company.*

Both definitions converge in meaning: the share in which a shareholder participates in the partnership represents the ownership of the corresponding assets of the company in co-ownership (shar'ī ownership by commonality). Attempts by some legal scholars to differentiate between the two notions — namely, shares as proportional entitlements vs. shares as common ownership of assets — and to recognize the former without the latter, arise from legal necessities and regulatory frameworks, which do not fall under the domain of Sharī'ah rulings.<sup>8</sup>

### **Background and Concept of Share**

In ancient times, the nature of business was very different from that of modern business. It was not as complex and widespread as it is today. For example, in the past, one or a few people would pool their capital and do business together. But in the modern era, the industrial revolution came and business expanded. Due to the industrial revolution, the nature of business became so extensive that now limited capital became insufficient for it and billions and trillions of rupees were needed for each project. Which was

obviously not usually enough for one or a few people. To solve this problem, the concept of pooling capital of thousands and millions of people came into being. This concept of participation is in the modern era in the form of a Joint Stock Company in which capital is collected from thousands and millions of people and each person participates in this business to the extent of his capital. As a participant in the business, he is responsible for the profit and loss of this business. It is a company and some participants or employees manage and control its operation, while other participants who do not participate in the operation of the business are called a person who<sup>9</sup>. participates in this business because of investing his capital is called a 'shareholder' or Share Holder and this part of his in the business is called 'share' or in Arabic, saham. The person who gives his capital in the business is given a certificate in which it is written that the person holding this certificate owns that much share in this company. This certificate is also called a share because it is proof of his participation in the business. Generally, companies also allow people involved in the business to sell their share to someone else if they want to leave the business and no longer want to be involved in this business. The price of this share varies in the market, which depends on the financial condition of the business and the reputation and management performance of the company. And sometimes it is higher and sometimes lower. In this way, sometimes existing companies and business entities also sell some parts of their business to raise more capital. For example, if the business of this entity is worth two billion (including the cost of all items related to the business), then they offer the business worth one billion for sale in the market and in this way they can expand their business by involving more people in the business and raising more capital. Since this business is very extensive and the number of participants in it is in the thousands of millions and on a daily basis many people want to sell their business shares and many other people want to participate in his business, therefore the business of buying and selling shares of these companies is very extensive. To run this vast business in an organized manner, Stock Exchange institutions have been established in different countries where the business of buying and selling these shares is done, such as Islamabad Stock Exchange, Karachi Stock Exchange, etc. Therefore, businessmen interested in buying and selling shares do the business of buying and selling shares through these established institutions.

### **Share Price**

There are two prices of shares. One is the face value and the other is the market price.

**Face value:** This is the price that is written on the certificate on the basis of which capital is raised.

**Market price:** This is the market price of the shares and it keeps changing in view of market conditions, the company's performance and reputation, and the security of its assets. For example, if the face value of a share is ten rupees, it is possible that the market is trading shares for one hundred rupees.

### **Sharia ruling on buying and selling shares**

Buying and selling shares is permissible with the following conditions.

#### **Ruling on buying shares of a new company**

A new company that has just been established. And if a business is about to start, then becoming a shareholder in the business of that company, that is, buying shares of that company, is permissible with the condition that that company has been established to do a halal business, for example, a sugar mill or an automobile company is being established, then buying its shares is permissible.

But if the main business of the company is not halal, for example, a wine factory or an insurance company is being established, then becoming a shareholder in such a business and buying its shares is not permissible.

#### **Buying shares of an already established company or shares from the stock exchange**

Buying shares of an already established company from the stock exchange is permissible with the following conditions.

First condition: The first condition is that the main business of the company is halal, and there is no haram business, such as an insurance company or a wine factory.

Second condition: The second condition is that not all the assets and properties of this company are in liquid form, but some assets (even if they are small) are in the form of non-cash. If all the assets are in liquid (cash) form, then it is not permissible to buy the shares of this company for more than its face value.

For example, there is a company and it has cash assets of two billion, if someone buys the shares of this company, he cannot buy more than the face value written on the share. For example, if the price of a share is ten rupees, then he can buy only ten rupees. It is not permissible to buy less or more because it will be interest. This is because this share has been issued only against ten rupees in cash. Now if someone buys twelve rupees, the seller will be taking two rupees in interest, which is haram.

But if some of the assets of the company are in the form of non-cash, then it will be permissible to buy these shares. In the above example, if the shares are sold for twelve rupees, then ten rupees will be compared to ten cash and

two rupees will be compared to the same fixed asset. Because in this case, the shares are representing both cash and cash, so this will not be interest and is permissible.

### **2.3. Difference between shares and bonds**

Shares represent a share in the company, that is, the shareholder participates in the business of the company to the extent of his share, so he is directly affected by the decrease or increase in the profit and loss of the company. If someone has 10% of the shares of the company, then he owns 10% of the company.

Whereas a bond is a debenture, i.e. a loan document. Which means that the person holding this document has lent the amount written on the document to the company or institution that has issued it. Therefore, the bondholder is a borrower and receives a specified additional amount from the company. He does not participate in the profit and loss. It is not permissible to buy such interest-bearing bonds.

Purposes of buying shares

1. Some people buy shares as investors, that is, they invest. That is, they buy because they are getting annual profits. The profit earned on shares is called dividend.

2. Some people do not buy and sell shares in this business for the purpose of capital, but rather the purpose is to earn profit by selling this share onward. In this way, their purpose is to buy shares at a low price and sell them at a high price in the market. The profit earned in this way is called (Capital Gain).

In Sharia, it is permissible to sell only that which is in your ownership or possession, so it is not permissible to sell it onward until the possession of the shares is taken, that is, until its risk is transferred.

## **The issue of Zakat on shares**

Shares of companies are also included in the trade of goods and there are two forms of it, as mentioned above. Ruling on Zakat on Company Shares  
The opinions of contemporary jurists regarding Zakat on company shares are as follows:

### **Opinion of Maulana Muhammad Taqi Usmani**

According to him, shares are purchased for two purposes.

One case is that the shares of a company have been purchased for the purpose of making a profit for the company and receiving an annual dividend from the company. The other case is that the shares of a company have been purchased for capital gain, meaning that the intention is that when their price increases in the market, they will sell them and make a profit.

Now if there is another case, meaning that at the time of purchasing the shares, the intention was to sell them, then in that case, Zakat will be due on the entire market price of the entire share. For example, you bought shares for fifty rupees and the intention was that when their price increases, you will sell them and make a profit. After that, on the day on which Zakat is calculated, the price of the shares has become sixty rupees, so now the value of these shares will be calculated at sixty rupees and Zakat will have to be paid on it at the rate of two and a half percent.

But if the first case is the case, i.e. the company's shares were purchased with the intention of receiving annual profits from the company and there was no intention to sell them, then in this case there is scope to see how many of the assets of the company in which these shares are held are fixed, such as buildings, machinery, cars, etc., and how many of the assets are in the form of cash, merchandise, and raw materials. This information can be obtained from the company itself. For example, suppose that sixty percent of the assets of a company are in the form of cash, merchandise, raw materials, and finished goods, and forty percent of the assets are in the form of buildings, machinery, and cars, etc., then in this case, zakat will be paid on sixty percent of its value by applying the market price of these shares.

For example, if the price of a share was Rs. 100 and 60% of the company's assets were Zakatable and 40% of the assets were Zakat-ineligible, then Zakat will be paid on the full price of these shares, i.e. Rs. 60 instead of Rs. 60. And if the details of the assets of a company cannot be known, then as a precaution, Zakat should be paid on the full market price of these shares.

Apart from shares, all other financial instruments, whether they are bonds or certificates, are in the order of cash, and Zakat is obligatory on their original price.<sup>10</sup>

#### **Opinion of Sheikh Abdul Rahman Issa and Dr. Wahba Al-Zuhaili**

The opinion of Sheikh Abdul Rahman Issa and Dr. Wahba Al-Zuhaili<sup>11</sup> is that shares can belong to two types of companies.

1. Shares of industrial companies
2. Shares of commercial companies

1. **Purely industrial companies:** Those that do not engage in any kind of commercial business, such as transportation companies, postal companies, advertising companies, and airline companies, Zakat is not obligatory on the shares of these companies. However, if their shares generate profits and reach the Nisab when combined with other assets, then they will be eligible for Zakat along with other assets. This is because these shares do not represent commercial goods, but are only proof of ownership in assets that are not commercial goods, meaning that the goods themselves are not for

sale and purchase, so Zakat is not obligatory on them because Zakat is obligatory on commercial goods.

**2. Trading companies:** These are companies that buy and sell goods and services, such as international trading companies, import and export companies, companies that produce and sell raw materials, such as petroleum companies and factories, yarn and fabric manufacturing companies. Zakat will be obligatory on the shares of such companies because the shares of this company are proof and certificate of participation in the trade of goods and services, so Zakat will be obligatory on such shares. However, those companies that carry out both industrial and commercial activities, such as sugar mills, printing houses, shipbuilding companies, and motor companies, then Zakat will be obligatory on the shares of these companies based on their market value.

But since these shares are proof of participation in commercial assets, they are also proof of participation and ownership in some non-commercial assets, so Zakat will be paid on those non-commercial assets. The assets of the company will be calculated by calculating their value and then applying the prevailing market value of the shares.

For example, if the face value of a share is Rs. 10, then Zakat will not be calculated on the basis of Rs. 10, but rather on its market value, for example, if shares are being sold for Rs. 100 in the market, then Zakat will be calculated on the basis of Rs. 100. But in this too, it will first be seen what percentage of the company's non-trading assets are of the total value of the company, for example, if they are 40 percent. So, by deducting 40 rupees from 100, the remaining 60 rupees will be considered as Zakatable property. And Zakat will be paid on it at the rate of 2.5 percent.<sup>12</sup>

## **Zakat on Shares: Quantum and Liability**

### **Quantum of Zakat on Shares.**

Since shares (ḥiṣāṣ) are treated, in terms of their legal characterization, as trading assets (māl al-tijārah), Zakat becomes obligatory on them at the rate of two and a half percent (2.5%), in accordance with the established ruling on māl al-tijārah under Islamic jurisprudence.

### **Who is Liable to Pay Zakat on Shares?**

Modern commercial legislation has affirmed that a joint-stock company possesses an independent legal existence separate from the existence of its owners, and a distinct legal personality independent of the personalities of the shareholders. This personality is referred to as juridical (or artificial) personality, and it enjoys an independent financial liability (dhimmah māliyyah mustaqillah), with its own assets and liabilities, distinct from the

financial liabilities of the shareholders. Accordingly, the company's assets are owned exclusively by the company itself, and not as undivided joint ownership (milk shāyi') among the shareholders.

As for the shareholder, he is entitled to a share in profits upon distribution, and to a proportionate share of the company's assets upon liquidation.

This represents the legal characterization (al-takyīf al-qānūnī) of the joint-stock company. The question then arises: Do our jurists accept this characterization, affirming for the company the same legal rulings established by positive law, and consequently impose the obligation of Zakat upon the company ab initio and in its own right, in its capacity as the owner of wealth? Or do they reject this characterization and instead hold that the obligation of Zakat lies with the shareholders?

Contemporary jurists and researchers have diverged into two main positions on this issue:

The first view holds that Zakat is obligatory upon the joint-stock company itself, by virtue of its status as a juridical person owning wealth and possessing an independent financial liability.<sup>13</sup>

Under this view, the company is required to calculate the Zakat due on all Zakat-able assets owned and controlled by it and to discharge this obligation on behalf of the shareholders. However, if the company fails to fulfill this responsibility, the obligation then shifts to the shareholders, who must individually ensure that Zakat is duly paid on their respective shareholdings.<sup>14</sup>

The second view maintains that Zakat is obligatory upon the shareholders, on the basis that they are the real (ultimate) owners of the wealth. This view has been advanced by Shaykh 'Abbād al-Raḥmān 'Īsā, Dr. al-Ṣādiq al-Darīr,<sup>15</sup> Dr. Wahbah al-Zuḥaylī.<sup>16</sup>

### **.Ruling on Zakat on Bonds**

Since bonds are a form of religious obligation, which means that the bondholder has given such amount to the government or the bond issuer, the ruling on Zakat on them will be the same as the ruling on receivables that has been passed in the previous pages.

However, the interest earned on it is not permissible to take it, nor is Zakat obligatory on it according to the most correct view. Rather, its reward without intention must be given as charity to someone who does not have the Nisab himself, that is, is deserving.

### **The Relevant Time for Valuation (Taqwīm)**

Jurists have differed regarding the determination of the legally relevant time for valuation (taqwīm).

The majority of jurists hold that the relevant time is the day on which Zakāt becomes due, because the obligation is attached to value (qīmah) rather than

to the physical asset itself (‘ayn). Continuous valuation of trade goods at every moment would cause undue hardship and would require constant monitoring of markets and price movements. Accordingly, they consider the time of obligation—namely, the end of the Zakāt year (ḥawl)—to be the relevant benchmark.<sup>17</sup>

Abū Ḥanīfah agrees with the majority that the relevant time is the day of obligation; however, he grounds this position on a different legal rationale. He argues that the Zakāt payer (muzakkī) has a legal option (khiyār) either to discharge Zakāt in kind or to pay its monetary equivalent. The time at which this option becomes legally effective is the time of obligation; therefore, that moment is decisive for valuation.

His two students (Abū Yūsuf and Muḥammad al-Shaybānī), however, maintain that the relevant valuation is that of the day of actual payment, because, in their view, the obligation pertains to a proportionate part of the asset itself, and the payer merely possesses the authority to substitute it with its value. Consequently, valuation should be determined at the time of substitution, analogous to the case of a deposited asset (wadī‘ah).<sup>18</sup>

The majority of jurists further hold that Zakāt on trade goods (‘urūḍ al-tijārah) is discharged by first valuing them and then paying Zakāt based on their prevailing market value. Some jurists, however, argue that Zakāt should be calculated on the original purchase price, rather than the current market value.<sup>19</sup>

Dr. Muḥammad Sulaymān al-Ashqar (رحمه الله) prefers valuation based on cost price rather than market price, arguing that market appreciation often arises from the trader’s effort, skill, transportation, or storage of goods, rather than from trade activity itself, and such factors are not subject to Zakāt under Sharī‘ah.<sup>20</sup>

He further adds that even if market pricing is adopted, it should be based on the replacement cost—that is, the price at which the trader could purchase a similar good at the present time—rather than the expected selling price, since the latter would incorporate unrealized gains that have not yet materialized in economic reality.

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