



The government's right to tax from the viewpoint of Shia Jurisprudence

Hosein Ali Amini,

Law lecturer and PhD student in Theology. Islamic Azad University, Najaf Abad Branch, Iran

Hossen1351@yahoo.com

Masoud Raei,

Associated Professor. Department of Theology, Islamic Azad University, Najaf Abad Branch, Iran

Masoudraei@yahoo.com

Abstract

The economic growth and development of Islamic government increases the public expenditures. In order to overcome and reduce the primary deficit, expansion of Islamic taxes (Zakat , Khums ,...) or new and modern taxation are suggested . Thus, in Islamic society, there are mutual rights and obligation between nation and government.

In this regard, some important questions raised here: despite the existence of Zakat and Khums(one fifth of gain), is the Islamic government authorized to receive other taxes? Is a typical citizen in Islamic country required to pay modern taxes in addition to Zakat and Khums? Can Zakat and Khums be called taxes? In the current article it has been tried to answer the questions. The authority and legitimacy to pass tax rules and regulations is one the sovereign rights of the Islamic government. The concept of common interests justifies the right based on Islamic jurisprudence .Therefore, creating official taxes, based on Islamic jurisprudence legal support, is the right of the Islamic sovereignty and guarantees progress in all aspects of Islamic society.

Keywords: tax, Khums, Zakat , right , obligation , government



Introduction

Islam has set different tax resources such as Zakat (tax on food grains; fruit; camels, cattle, sheep, and goats; gold and silver; and movable goods—and is payable each year after one year's possession. , Khums(one-fifth of gain) , Kharaj (A tax on land) and Anfal ("spoils of war, booty). Some believes that the sources that have been set by Islam are enough and the government is not allowed to enact new tax legislations.

In fact, this group according to Verses and Ahadith insists on the issue that the Zakat is enough to cover poor and needy portion of Islamic society and The God did not pass any other form of tax. (Al-Hurr Al-Aamili , Wasial Al -Shia, 6, p.3-5). On the contrary, some believes that Zakat and Khums are the only obligatory religious taxes of Muslims and several proofs in Islamic tradition have limited the Zakat to the nine objects mentioned earlier. Thus, Zakat cannot be expanded anymore. If more financial sources are needed more that Khums and Zakat , taxation is allowed as an emergency and due to Islamic secondary ruling (Javadi Amoli , governmental taxes from the viewpoint off Islamic Jurisprudence and financial system .p.259).

On the other hand, some believe that taxation is the right of Islamic sovereignty and tax payment is the religious duty of Muslims. Moreover, they acknowledged the common interests and the society requirements as two priorities that help the Islamic sovereignty to manage the society by creating more taxes. As an illustration, Emam Ali during his rule imposed a tax on a special kind of horse which was not included in Zakat. This is an example of government decree¹ (Sheikh Hurr Ameli , Hedaytol emameh fi Ahkamel Aemeh , vol 4 .p22).

The current study investigated the capacity of Islamic taxes, Islamic legal evidences of taxation by government and Islamic leader as well as the duty of Muslims to fund their society.

The concept of the governmental rules and regulations

Each state has its own rules and regulations and this is true in the case of Islamic society. Islamic rules are divided into two categories: 1- the rules that have been enacted by Islamic legislator such as khums and Zakat as fixed and unchangeable ones 2- governmental rules and regulations which are the rights and authorities of the government. In this regard, when the government is legitimate, its rules and regulations are legitimate too unless they are inconsistent with Islamic principles.

The concept of Tax

^۱ وضع امیرالمومنین(ع) عن الخیل العتاق الراعیه فی کل فرس فیکل عام دینارین، وجعل علی البرازین السانمه الاناث فی کل عام دینارا.



Tax is defined as the amount of money that is received from natural persons and legal entities in order to provide public facilities and services. The money, as a cost associated with social life, would further strengthen state power and provides sources for public expenditures. Taxation is the most prominent way used by states in order to provide social welfare. Thus , when Islamic sovereignty generates new tax entries based on Islamic authorities and citizens' welfare state, citizens have no right to refuse² (Ghomi , Kalemate Sadideh fi Masael Jadiddeh , vol 1 , p19) .

In Islamic society, taxation and revenue anticipation as pre-Islamic Arabia social obligations have been approved by Islam. As a result, tax system can be in harmony with economic activities of the state in such a way that it decreases taxes in economic crisis, and conversely it increases taxes in progress and financial prosperity periods (PoorMoghdam , public economy , p.9) .

The concept of the government and Islamic system

Sometimes, the term state refers to executive branch of government and sometimes it is used to name all the branches (executive, legislative and judiciary) of the government. By the concept of the Islamic system we mean the system that was presented by Islam to manage the society. Here, the second meaning of state has been used by the author. Accordingly, state is a system involving all three branches of government headed by sinless or infallible Imam. In the period of occultation, the Islamic society would be governed by wise, righteous and mighty Islamic leader. Here, state is defined as Islamic sovereignty that was based on the theory of Velayat-e faqih.

Problem:

As stated earlier, there are mutual rights and obligations between nation and government. Therefore, providing welfare and public services as well as economic justice are the duties of the government. On the other hand, people are obliged to pay taxes in order to enjoy such services. The legitimacy of the tax rules, as a right of Islamic sovereignty, was derived from the concept of common interests. Imam Khomeini paved the way for the practical Islamic rule of law and became the symbol of Islamic state and Velayat-e faqih (Yosefi , Islamic financial system ,p.48) .When financial resources are needed to expand economic justice and to eliminate all forms of discrimination; and the public interests necessitate it as well, taxation is authorized . Of course, specific terms and conditions for taxes are prescribed by Islamic leader. This is an example of sovereignty rights and it was categorized as secondary laws in Islam³ (Ghomi, Kalamat Sadideh fi masele Jadid .vol 1.p.19).Imam Khomeini in his meeting with Ayatollah Safi, the former secretary of the Guardian Council, stipulated that "rule by decree is a primary law in Islam" (Emam Khomeini, Sahifeh Noor, Vol 20 .p.174.1987).

Tax or Khums and Zakat?

^۲ انه اذا توقفت اداره امر الامه بالنحو المناسب والمقتضى على ان ياخذ ولي الامر من الامه شطرا من اموالهم فاقتضت مصلحتهم ذلك فله ان ياخذ منهم هذا الشطر، وليس لهم ان يابوا عن ادائه اليه ورضاهم في الاداء غير معتبر
^۳ الظاهر ان هذا معنى ما كان ينتقل عن السيد الاستاذ الامام الفقيه الراحل قدس سره الشريف، من ان جعل الضرائب الماليه على الناس ليس من قبيل الاحكام الثانويه وهو واضح مما قدمناه...



The questions that arise here are: what is the logic behind the necessity of taxation in addition to Khums and Zakat? Whether Khums and Zakat are examples of taxation?

Based on Islamic trainings, the principles of Islamic sovereignty as well as the necessity of the issue are rational and self-explanatory. In Islamic economy, multiple funding sources had been anticipated to realize the common interests considering cultural, economic, and social aspects of Islamic society. If Islamic sovereignty fails or neglect to realize common interests, it would be incompetent and fragile. Thus, taxation is one the most prominent sources of revenue for states and guarantees the executive power of them. Consequently, based on various reasons which will be mentioned below, new taxation entries seem logical. According to an Islamic legal theory, Khums and Zakat are the only religious duties of Muslims and it has been stipulated in verses and Ahadith (Islamic quotes) that Zakat should not be extended and cover more than nine items that mentioned earlier. Moreover, it has been emphasized that Zakat is enough and no more duties made obligatory upon all Muslims by Allah (Hurr al-Amel, Vasaal Shiea, vol 6, p.3-5).

On the contrary, some believe that based on considerations regarding Zakat consumption and usage creating new tax entries is justifiable. As an illustration, Emam Ali used his sovereignty and extended Zakat to cover a special kind of horse (Almontazeri, Derasat fi velayat-fighih, vol 3, p.31).

In this regard, Mohamad Hadi Marefat stipulated: "taxes are necessary to meet the needs of Islamic government and based on our understanding of Quran and biography of Imams (Sirah) tax payment is a primary sentence in Islam and it is obligatory apart from Khums and Zakat and other religious payments (Yosefi, Islamic financial system (a series of articles) 2000, p.276).

Hence, based on the acceptance of Velayat-e faqih by Muslims, all the just and accurate rules and regulations passed by Islamic sovereignty, taking in to account the public interests and the Prophets and Emams' Sirah, are obligatory upon Muslims (Emam Khomeni, 2, p.460-500; Montazeri 1408, vol 1, p. 3).

Islamic Financial Resources

The fund of the Islamic state is divided into two groups of Islamic taxes and state taxes. The Islamic taxes are Khums, Zakat, Kharaj and Ransom and state taxes are the tax entries that have been passed by Islamic government.

Financial resources during the early days of Islam

Despite the fact that Zakat has been more emphasized in Quran, Islamic jurists (Faqihs) put more emphasize on Khums.

At the time of Prophet Muhammad and Emams, Zakat was the prominent issue and some pointing to the verse on Khums in Quran, stipulated that the subject of the verse is spoils of war. They concluded that the absence of physical wars in modern times negates the concept of Khums. Such discussions are raised with several objectives including escaping religious duties. In the case of Zakat, it has been argued that Zakat covers only nine items and currently because of drought, Zakat is not compulsory for farmers and ranchers.



Khums and Zakat or tax?

At the time of Prophet Muhammad: there are verses in holy Quran containing the words Zakat and charity and most of them belong to Meccan Suras . Zakat had not specific meaning in Mecca or at least it was not used in its current sense. The rich and wealthy people were helping poor new Muslims and slaves. Wealthy Muslims donated money voluntary. It is worth to mention that these payments were not limited and specified. Moreover, they were more than the amount of Zakat that become obligatory in subsequent years. As an illustration, all of Khadijah's wealth was spent in the way of Allah (Sireh alnabavieh Ebne Hesham vol 1 and 2 .p 319).

In the same vein, in Medina, Muslims have facilities such as gardens and farmlands. Muslims, who had migrated secretly from Mecca, had difficult life. Thus, the Prophet introduced Meccan Muslims as the guests of Medina and made brotherhood contact between each two of them (Muslims of Media and Meccea). Accordingly, the residents of Medina have shared nearly half of their income with poor Muslims, most of them were migrants from Mecca. Despite the fact that no Khums and Zakat were specified, the Muslims of Medina spent half of their income in the way of Allah (Hashr, verse9).

The Muslims of Medina confirmed that there is no need for compulsory taxes such as Khums and Zakat.

With the passage of time and rapid expansion of Islam, the population of Muslims increased although new Muslims were not so sincere and selfless.

Power and special status of Islam and Muslims tempted them and they converted to Islam having self-interested viewpoints. Under such circumstances, Zakat became compulsory and the holy Prophet was obliged to receive Zakat based on a verse in Quran. In the verse it was stipulated that Zakat is a charity to be cleaned and purified (Surah AL-TAWBA, verse 103⁴). In another verse, the main heads of the expenditure of zakat were declared (Surah AL-TAWBA, verse 60⁵).

In both verses the term "Charity" has been used instead of "Zakat". Thus, Muslims were sincere and honest in their payment and the Prophet spent it in eight heads of the expenditure of Zakat.

After the revelation of the verse (Surah AL-TAWBA, verse 103), the holy Prophet differentiated nine types of obligatory Zakat and the various laws involved. All other types of properties were not included in Zakat .The specified amount of charity was enough to resolve the problems of poor and needy Muslims (Sheikh Hurr Amelia, Vasel Al-shia, vol 9. p.57-60).

In the same vein, it has been stipulated in Islamic quotes:" A share was assigned in the wealth and possessions of the rich for the needy and the destitute that is enough for them (Al-Hurr al-

^۴ خذ من اموالهم صدقه تطهرهم وتزكئهم بها.

^۵ انما الصدقات للفقراء والمساكين والعاملين عليها والمولفه قلوبهم وفي الرقاب الغارمين وفي سبيل الله وابن السبيل فريضه من الله



Aamili , Wasial al Shia ,Vol 6,p.3⁶) and if he knew that the share would not be paid he had increased it (Majlesi,Bahar l-Anavr , vol 96, p.28⁷) .

In fact, poverty is not something from Allah; it exists because some Muslims did not fulfill their duties. Based on above quotes, it is concluded Zakat should be paid in such a way that covers all the needy and poor (Al –Hur al-Aamili , Wasial al Shia ,Zakat section ,articles 3,6,and 7).

Other quotes confirmed that the Prophet confined Zakat to nine items and overlooked others. Hence, the Prophet did not expand the Zakat Items mainly because there was no need to do that⁸ (Al –Hur al-Aamili , Wasial al Shia ,Zakat section ,articles 3). From these facts we can infer that the Islamic sovereignty can receive Zakat in such a way that cover all the disadvantaged people in the same way that Imam Ali extended Zakat to horses (Al –Hur al-Aamili , Wasial al Shia , section 16 ,articles 1,2,3,and 4)..Another conclusion that can be drawn is that in early days of Islam , voluntary charity eliminated the need to compulsory Zakat.

At the time of Imams:

During the period of Abbasid and Umayyad, religious rules and obligations including Islamic payments were neglected and Imams issued different sentences on the budget of the Islamic state based on the conditions of space and time.

Under such circumstances, Imams tried to stabilize the primary concept of Zakat. They stopped the expansion of Zakat by caliphs. At the same time, they used other potential capacities, which have been introduced in Quran, to receive money from loyal riches and distribute it among the poor.

Using Khums by Imams:

Khums of all incomes was specified in Quran and at the time of the prophet was not used for the reasons that were already mentioned: (A) the Ansar were paying half of their income B) Zakat was enough to cover all the needy Muslims C) The prophet was managing all the poor).

Khums of all incomes was stipulated in Surah Anfal verse 41: "And know that one fifth of whatever you take as spoils belong to Allah, the Messenger, kinsmen of the Messenger, the orphans, the needy, and the destitute traveler; if you believe in Allah and what We sent down to Our worshiper on the day of victory, the day when the two armies met. Allah has power over all things."⁹

Some argue that the term "spoils" in above verse includes the spoils of war. On the contrary, Saheb Al-tahghigh described "spoils" as attainment and acquisition of something irrespective of the way it was acquired. Trading profit, spoils of war and all types of benefits are the examples of spoils.

^۶ إن الله عز وجل فرض للفقراء في مال الاغنياء....
^۷ إن الله فرض على أغنياءالناس في اموالهم قدر الذي يسع فقراءهم.
^۸ (وضع رسول الله الزكاة على تسعة وعفى عما سوى ذلك...
^۹ Qarib translation



Ragheb described spoil as something that is attained (Al-Ragheb ,Mojem mofrad ,Alfaz Quran , Madeh Ghanam ,p.378). In Arabic proverbs, the term "spoil" was used as benefit .As an illustration, profit vs. loss¹⁰ .

It can be deduced that the term "spoils" does not include only the spoils of war. It covers all the benefits. According to Saheb Al-tahghigh the concept of "spoil" consists of profits that are the results of efforts and actions and the profits that are attained in other ways such as inheritance, gift and donation have other names (Al-tahghigh fi kalamate Al Quran Al karim , vol 7 . p 332) .

However, different capacities were anticipated in Quran as the financial resources of Islamic state. In the same vein, there are resources to cover the needy portion of Muslims. In early days of Islam, voluntary charities of Muslims eliminated the necessity of Khums and Zakat . Increasing the population of Muslims, the prophet was ordered to receive charities (103 of Surah AL-TAWBA, verse 103) and to spend in specified entries. (Surah AL-TAWBA, verse 60).

During the Imamate of Imam Muhammad al-Baqir (as) and his son, Imam Ja'far al-Sadiq , when they were deprived of everything, the Khums was received secretly from Shias and it was spent on expenditures of poor Shias and the household of the Prophet .Sometimes, in order to hide the financial sources of Shia the Imams ordered not to pay the Khums . In this regard , there is a section¹¹ in book titled "Vasael Shia " which stipulated that Imam's share from Khums is permissible for Shia when its delivery to Imam is impossible (Al-Hurr al-Aamili , Wasial al Shia ,Abavab AL-Anfal va ma yakhtas be Imam , section 4) .

The Khums was received by Imams and it was spent on the expenditures of Shia. Currently at the time of the Absence of Imam Mahdi , Jurists and clerics of Islam perform the task .

However , based on Islamic quotes , a share was assigned by Allah in the wealth and possessions of the rich for the needy and the poor ,and if he knew that the share would not be paid he had increased it (Al-Hurr al-Aamili , Wasial al Shia ,vol 6 , 33¹²) .

The ownership right and the people's control over their assets and properties are reserved for Islamic citizens although the ownership is not absolute. Some religious payments are obligatory with different values based on different considerations. There are Islamic quotes and Ahadith on Khums elimination by Imams in different periods of history. There are different types of justifications for elimination of Zakat by Imams 1) to prevent Shias to be publically known 2) Good economic statues of Muslims in some years eliminated the need for Khums 3) The Shias was obliged to pay the taxes that were specified by Caliphs and they could not afford Khums as well . By examining Quran verses including Surah Al- TAWBA ,verse 60 and verse 103 the term "Charity " was defined as Zakat . Zakat means granting money and granting money may be in form of Zakat , Khums and charity.

One may ask why Shia jurists have put more emphasis on Khums? In addressing the question it should be noted different historical considerations were involved. Most notably corrupt

^{۱۰} الغنم بالغرم

^{۱۱} اباحه حصه الامام من الخمس لشيعة مع تعذر ايصالها اليه .

^{۱۲} ان الله فرض في اموال الاغنياء للفقراء ما يكفيهم.



governments have gathered taxes but they did not spend them in specified ways. Moreover, urbanization has intensified the concept of Khums and Islamic jurists confirmed it as well.

The viewpoints of Imam Khomeini on Khums

Shi'a scholars believe that Khums is an issue related to the position of Imam and in the absence period, it is one the government affairs. On the other hand, some of the scholars state that Khums is property of Imam himself. The second scholars shall be divided into two groups: the first group stipulates that there is no obligation to pay Khums. The second group thinks that Khums should be collected, deposited safely and delivered to Imam himself. Imam Khomeini¹³ (Khomeini ,Al-biye,Vol 2, p.495) believe that khums , Zakat and Anfal does not belong to a person or a post. They are owned by the state treasury and Imam only has the right to manage it. He had the same idea regarding the Sadat's share. He stipulated that Imam is obliged to spend khums on three groups of Sadat(orphan , poor and the wayfarer) and the rest may be spend on the common interest of Muslims .

In continuation of the discussion of Imam Khomeini (Khomeini, Al-beyea,Vol 2, p. 496), it can be inferred that at the time of the Absence of Imam Mahdi , fully qualified jurist have the competencies of Imam .Thus , he can manage the Khums too .

Zakat

Zakat, as an obligatory religious duty, is a step towards economic prosperity. In Quran, the word "Zakat" and its derivations repeated 32 times and in 27 cases Zakat and "Salat"(prayer) are mentioned together. In Surah AL-TAWBA verse 5 and 11 Zakat mentioned as a requirement to be accepted and recognized in Muslims' community. Saheb Javaher stated:" Zakat is like prayer and it is coupled with prayer to announce that prayer is not accepted if one does not pay Zakat". (Al-Najafi, Javaher AL-kalam fi Sharhe Sharaye AL-Islam ,Vol 15.p 65).

To help the poor and needy people:

Imam Sadigh peace be on him, said:" a share was assigned by Allah in the wealth and possessions of the rich for the needy and the destitute and if it was not enough, certainly, The greater amount was determined. The misery of the poor is the result of the ignorance and negligence of the rich (Al-Hurr al-Aamili , Wasial al Shia , Section 3 .p.99) .

According to results of studies on the relationship between the amount of Zakat and malnutrition, the amount of Zakat in different modes is more than the amount of budget needed to address malnutrition (Kia Al-hoseini, Zakat estimation in Iran and Its role in meeting the essential needs, p.84).

Zakat in Islamic quotes and Ahadith

Mohammed bin Ali bin Hussein bin Babawayh quoted Abdullah bin Sinan : "Imam Sadigh stated that when the verse 103 of Surah AL-TAWBA was revealed during Ramadan the

^{۱۳} و بالجمله، من تدبیر فی مفاد الایه و الروایات یظهر له أن الخمس بجمع سهامه من بیت المال و الوالی ولی التصریف فيه، و نظره متبع بحسب المصالح العامه للمسلمین و علیه اداره معاش الطوائف الثلاثه من السهم المقرر و ارتزاقهم منها حسب ما یری كما ان امر الزکوات بیده فی عصره، يجعل السهام فی مصارفها حسب ما یری من المصالح.



Prophet stipulated that the Zaka is obligatory as the prayer ... pay Zakat if you want your prayer would be accepted (Al-Hurr al-Aamili , Wasial al Shia , vol 6,p.33) .

Abu Basir quotes Imam Sadiq ('a) as saying:"Zakat payment is not something praiseworthy, it is an obligation. It is the necessary condition to being Muslim and to be preserved (Al-Hurr al-Aamili , Wasial al Shia , vol 6,p.18).

Zakat in other religions

Zakat is one of the main funds of Islamic state. In Surah AL-ANBIA verse 73 it was stated that:" and appointed them leaders to guide by Our Command and We revealed to them to do good deeds, and to establish the prayer, and the giving of charity, and they were for Us worshippers."¹⁴

In Surah Maryam verse 31 quoted Jesus Christ:" He made me to be blessed wherever I am, and He has charged me with prayer and charity for as long as I shall live."¹⁵

Zakat exists in all divine religions. It was generally stated in Quran and specifying the main heads of the expenditure is the right of Islamic leader. The holy prophet extended Zakat to nine items during his rule.

Zakat on current currencies

Shia jurists believe that Zakat on money is obligatory if two conditions were satisfied: 1) Money is made of gold or silver 2) The money is used in trading. When money is not made of gold or silver, Zakat is not obligatory. Thus, Zakat is not obligatory on current banknotes.

On the other hand , some current Shia jurists such as Shahid Sader , Sheikh Mohamad Javad Moghniyeh , Ayatollah Montazeri and Allameh Mohmad Taghi Jafari stated that the Key criteria in determining Zakat on money is the exchange value . Thus, Muslims should seek Fatwa on Zakat for money (Fegheh Ahle Beyt Maganzine , vol 1 , no12, p.282).

Montazeri in his book titled "Zakat" stipulated that Zakat is not limited to nine items and obligatory Zakat covers more than nine items. The amount of Zakat is the function of the needs of Muslims in different times and places. Moreover, the amount of Zakat is determined by Islamic leader. He continued that Zakat is the basic principle of Islam (Montazeri, Zakat Book , Vol 1, p.147-150) .He did not give an explicit Fatwa regarding Zakat on money . He pointed that Shia jurists made Zakat obligatory on nine items and he implicitly stipulated that some are not in agreement with them. Later, he in his book "Rules of Taghlid" added a rule and stated that:" Currently, gold and silver are outdated and paper money has been replaced. It is likely Zakat covers this type of money. So, for periods of time up to 11 months, and after fulfillment of other conditions Zakat is obligatory (Montazery , Rules of Taghlid , rule no. 1790).

Allameh Jafari have confirmed the issue and stated that the Islamic sovereignty determine the amount of Zakat based on the particular circumstances of time and place (Allameh Jafari , Juridical book,p.67).

¹⁴ Qarib translation

¹⁵ Qarib translation



Hence, Zakat was obligatory on gold and silver because they were currencies in that time. The issue is extended to paper money and Zakat is obligatory on paper money as well.

Several quotes have confirmed the issue. Based on the quotes if cold coins were melted down in such a way that they were withdrawn from circulation, Zakat is not obligatory.

Ali Abn Yaghtin quotes Imam Kazem ('a) as saying: " Zakat is not obligatory on melted gold. Someone asked if melting was an attempt to avoid payment of Zakat , what is the Fatwa ? Imam said: they are not currency anymore and no Zakat is obligatory on them. ((Al-Hurr al-Aamili , Wasial al Shia ,Ketab Al-Zakat , Zakat Al-naghadin , quote 2¹⁶).

Imam stipulated that melted coins cannot be used in financial transactions. Moreover , in other Islamic quotes it was mentioned frequently Zalut is obligatory on gold and silver coins and it is not obligatory on other forms of gold and silver (Al-Hurr al-Aamili , Wasial al Shia,section 13 , 9 and 8.Zakat Al-naghadin bab).

The issue has been criticized on a number of counts:

1- Gold and silver coins had financial value in addition to their economic value as currencies. On the contrary, paper money is not valuable inherently.

2-Gols and silver coins are not equal to paper money. When economy experiences inflation, the value of paper money falls. Thus, they cannot be managed identically. Based on a Islamic quote, someone asked Imam I lent ten Dirhams to someone and the state withdrew those Dirhams form circulation .What should I do ? Imam stated : "you should receive the former Dirhams" (Sheikh Sadogh , Man la Yahzareh Al-faghieh ,vol 3,p. 191) . In other words, the weight of the former Dirhams should be received.

In the book "rules of taghlid" Montazeri stated : " if the Mahr (dowry) was specified using paper money currencies and with the passage of time the value of money decreased drastically , the woman's consent should be obtained .If the Mahr (dowry) was specified in other things such as Gold , Silver , land ,... the specified amount must be paid even if their value has been decreased (MontaZeri, 2000,rules of taghlid ,p.468.Article 2621).

Thus, there are differences between paper money and valuable currencies as well as lands.

Taxation in financial system of Islamic state

Systems of government along with financial resources are essential elements of sovereignties. In this regard, Islam specified different tax entries and source of income for the Islamic state (Sadr , Eghtesadana , p. 65-68) .

Imam Ali stated : " Allah specified a share in the wealth and possessions of the rich for the needy and the disadvantaged that is enough for them . The misery of the poor is the result of the accumulation of wealth in the hands of the rich and certainly they will be punished. (Abo Obied , 1987, p.709) .

Change, development and progress in human societies necessitate new governments' duties and authorities. The early Islamic State duties were limited to managing the society and

^{۱۶} لا تجب الزكاة فيما سبك،قلت:فإن كان سبكه فرارا من الزكاة؟فقال:ألا ترى أن المنفعة قد ذهبت منه فلذلك لايجب عليه الزكاة



adopting strategies to meet the needs of the poor. In order to perform these duties Islamic financial sources such as Khum , Zakat ,and Anfal were sufficient and there was no need for new taxations .

As the enforcement of Islamic rules without Islamic sovereignty is incomplete, when the Islamic taxes such as Khums , Zakat , ... do not meet the needs of society, other taxes are enacted by Islamic sovereignty . Passing new tax entries are based on the divine right of Islamic leader as well as the common interest of Muslims.

Does tax replace Khums and Zakat in Islamic state?

Religious people in Islamic society pay Khums and Zakat as well as their taxes. On the other hand, non –believers do not pay Khums and Zakat and they attempt to evade assessment or payment of a tax imposed by government.

Based on above mentioned discussion, taxation is completely independent of Khums and Zakat and they cannot be imposed interchangeably. Islamic sovereignty, based on common interests, may declare tax exemptions.

Mohamad Hadi Marefat stated:" the first taxation in Islam history was performed in order to provide war budget .According to Surah Al-Baghareh ,verse 195 : " Spend in the way of Allah and do not cast into destruction with your own hands. Be good doers; Allah loves the good doers"¹⁷ . Muslims Should pay in the way of Allah and any negligence will weaken the foundations of the Islamic system and ultimately destructs Muslims. He continued that tax payment based on the above verse is a primary Islamic rule that is deducted from Quran and Sonat (Yosefi , Islamic financial system (articles),2000. p.276-277.

Conclusion: Tax payment as an Islamic duty is obligatory based on Quran verses and Islamic quotes. Moreover , the theory of velayat-e faqih has confirmed it . The amount of tax and payment conditions is determined by Islamic sovereignty. Other religious payments such an Khums and Zakat are duties that exists independent of taxes.

Thus, tax payment is not a substitute for Khums and Zakat payment. In the same vein , Khums and Zakat do not replace tax payment . Moreover, the nature of Khums and Zakat as well as their heads of expenditure are completely different from those of taxes.

References

- 1- The Holy Quran
- 2- Nahjolbalaghe
- 3- Ibn Babawayh , Mohamad Abn Ali (sheikh sadogh).(1993). Man la yahduru al-Faqih. Dar-Altaref Lelmatboat : Beirut
- 4- Ibn Abi Jomhor,(1982). Awali Allyaly Aziziya per Alahadys Aldynyh . Mojtaba Eraghi publication,



- 5- Ajen , Mohsen.(1995). Emam and Islamic economy . Keyhan institution , Tehran .
- 6- Pourmogheim ,Seid Javad . Public Sector Economy.(1996). Ney publication:Tehran.
- 7- Al-Jaziri, Abdorahman.(1986). Al-Fiqh ala Almazahib Alarba'a. Dar-o-Ahya Al-Taras Al-Arabi.
- 8- Jafari , Mohamad Taghi. Manshorat Keramat institution : Tehran .
- 9- Jafari, Mohamad Taghi,Autom and winter. (1997). Fegheh Ahale beyt Magazine .No 11and 12.
- 10 –Javadi Amoli , Abdollah .(2000). Govermental taxes from jurisprudence viewpoint, Islamic financial system(articles) . Edited by Ali Yousefi ,Farhang and Islamic thinking of Imam institution.
- 11- Khamenei ,Seid Ali .(1995). Ajybh Al-astftayat. Dar Al-vasileh: Birot
- 12-Khomeini,Seid Roholalh .(2002), Valayat Faghih . Publication and adjustment of Imam Khomeini works institution. Tehran ,Iran . 12 edition .
- 13- Khomeini,Seid Roholalh ,Sahifeh Imam , Vol 21. Publication and adjustment of Imam Khomeini works institution .Tehran,Iran,
- 14- Khomeini,Seid Roholalh ,(1986) .Tahrir Al-vasileh. Manshorat Maktabeh Etemad AL-kazami. 5th edition. Tehran
- 15- Khomeini,Seid Roholalh .(1987).Tahrir Al-vasileh. Translation of Ali Islami.Vol 2. Ghom publications.
- 16- Khomeini,Seid Roholalh .,(1987).Ketab Al-beiy.Esmaeilyan publication .
- 17- Deilami ,Hasan Abn Mohamad. (2013). Ershad Al-gholob Ela Savab.Vol 2. Al-Sharif AL-razi .Ghom.First publication .
- 18- Delshad Tehrani ,Mostafa . (2014).Taraze Hayat ,Tehran: Darya publication .
- 19- Delshad Tehrani ,Mostafa .(2016).Lohe Binaee ,Tehran : Darys publication.
- 20- Shahidi ,Sied Jafar.,(1983). Tarikh tahlili Islam ,Tehran :Tehran university publication.
- 21- Sadr,Sied Mohamad Baghr .(2006). Eghtesadena , DarAl-taarof:Birot
- 22- Sadr,Sied Mohamad Baghr . (1981). Eghtesadena , DarAl-taarof:Birot
- 23- Ziao Al-din. (1994). Financial system of Islamic State, Translation of Fathali Akbari, University of Isfahan publication, first edition.
- 24- Tabatabai, Hakim, Seid Mohsen. Mehhaj Al-salehin, Dar Al-Taraof lel Matboat.
- 25- Tabatabai, Hakim, Seid Mohsen.(1996).Al-mizan fi Tafsire AL-Quran. Daftare entesharat Islami ,ghom



- 26-Tabatabai , Sied Mohamad Kazem.(1999).Al-Orvatol Vosgha Ma Talighat Eeda Men Al-foghaha AL-Ezam .Vol.6. Nashre Islami Ghom publication .
- 27- Tabatabai ,Yazdi , Seid Mohamad Kazem . (1984) . Al-Orvatol Vosgha.AL-Maktabeh AL-Elmiyeh AL-Islamieh.Tehran .3rd edition .
- 28- Tabarsi , Fazl Ebn Al-Hasan. (1993). Majma Al-Bayan fi Tafsire Al-Ghoran . Naser Khosro Publication .Tehran .
- 29- Tarihi,Fakhr Al-Din . (1987). Majma Al-Bahrin . Farhang Islami publication .
- 30 – Tosi,Ebe Jafar Mohamad Abn Al-Hasan .(1979).AL-Eghtesad AL-Hadi Ela AL-Tarigh AL-Ershad .Khayam publication :Ghom
- 31- Tosi ,Ebn Abi Jafar Abn AL-Hasan.(1993). Al-Nashre AL-Islami AL-Tabeye L-Jameh .AL-Modaresin Moshrefeh.Ghom.
- 32- Ameli ,Hur ,Mohamed Abn Hasan .(1993). Hedayeh AL-Omat Ela AL-Ahkam Eyemeh.Vol 8. Mashahd ,1st edition .
- 33- Ameli ,Hur ,Mohamad Abn Hasan .(1988). Vasaal AL-Shia ,Vol 30 . Ahle Beyt Publication.Ghom. First edition .
- 34- Ghomei ,Mohamad Momen .(1994). Kalamat Sadideh fi Masael Jadideh .Islami Entesharat ,Iran ,Ghom.
- 35- Gulpaigani . Majam Akl-Masel . Dar AL Quran AL-Karim.
- 36-Momen ,Mohamd. (2000). The relationship between Khums and Zakat and governmental taxes . Farhang and Anisheh Islam Publication .Tehran .
- 37- Majlesi,Mohamd Bagher . (1992). Bahar AL-Anvar , Dar-Al-Vozo,Birot
- 38 – Majlesi , Mohamad Bagher .(1994). Bahar AL-Anvar ,Ketabchi Publucation :Tehran
- 39- Moghniyeh ,Mohamad Javad . (1983).AL- Fegheh Ala-Al Mazaheb AL-Khomseh ,Dar AL-javad ,Birot .
- 40 - Moghniyeh ,Mohamad Javad .(2000). Fegheh AL-Emam AL-Sadegh.Vol2 . Ansarian,Bi ja :Ghom.
- 41- Makarem Shirazi , Naser .(2005). Reseleh Al-Tozieh Al Masael.18th edition . Hatef publication :Mashhad .
- 42- Mosavi Ardebili , Seid Abd Al-Karim. (2007).Resaleh Tozih Al-Masael ,Nejat Publication ,5th edition :Ghom
- 43- Al-Mosavi AL-Khomeini. Seid Rohollah , (1989).Ketab Al-Biye ,Esmaelyain publication :Ghom.
- 44- Montazeri ,Hosein Ali. (1990).Derasat Fi Velayat AL-Faghih Va Al-Dolat Al-Islami,Vol 1,2,3,4 .Al-Markaz lederasat Al-Islami .Dar Al-Fekr :Ghom



- 45- Montazeri , Resaleh Tozih Al-Masel . (1998).Tafakor publications ,16th edition :Ghom.
- 46- Montazeri .(2003).Ketar Al-Khums ,Dar Al-Fekr :Ghom
- 47-Montazeri. (1983), Ketab Al-Zakat, Maktab Al-Alam ,1th edition : Ghom.
- 48- Mir Moezi , Seid Hosein .(2011). Islamic economic system . Pazhoheshgah Fargang Va Andisheh Islamic publication.
- 49-Najafi , Mohamad Hasan. (1982) , Javaher Al-Kalam. Vol 16. Dar Al-Ahya Al-Tarase Al-Arabi ,7th edition :Ghom
- 50- Najafi , Mohamad Hasan.(1365),Javaher Al-kalam Dar Ahya Fi Sharhe Sharaye Al-Islam, Dar Al-Ketar Al-Eslamiyeh:Tehran
- 51-Yosefi ,Ahmad Ali.(1379).Islamic financial system. Farhang and Andisheh Islami Publication.