

THE COMPARISON OF ZAKAT PROVISIONS IN INCOME TAX LAW BETWEEN INDONESIA AND MALAYSIA

Atin Hafidiah

Pasundan University, ahafidiah@gmail.com

ABSTRACT. *Tax Law in Malaysia is quite welcoming and friendly, both for local tax payers and foreign investors who invest there. Implementation of the provisions of zakat in Malaysia showed charity is rebating and reducing the tax burden imposed. In Malaysia, zakat is managed by each state with full rights and privileges. So the zakat is not collected and distributed centrally. There are differences over the treatment of zakat in two income tax laws of the country, where the two countries have embraced a different pattern in the treatment of charity and of course this will have implications on the tax burden borne by the tax payer. Judging from the pattern adopted by the State of Malaysia who treat charity as a tax deduction then the impossible happened loading dual experienced by a Muslim, it is different from what happened in Indonesia, because Indonesia has only just treat charity as a deduction PKP, then definitely there will be charging double charged on the same object. Zakat mechanism ensuring economic activity can be run on a minimum level that is at the level of fulfillment of the primary needs. While infak-shadaqoh and other similar instruments to encourage aggregate demand, because the function that helps humanity to attain the standard of living above the minimum level. That's why infak-shodaqoh and instruments like this is by Baitul Mal used to alleviate poverty through development programs.*

Key Words: *Zakat Provisions, Income Tax Law, the Indonesia-Malaysia*

INTRODUCTION

Overall the taxation laws in Malaysia are quite welcoming and friendly, both for local tax payers and foreign investors who invest there. Malaysia does not recognize Tax on Wealth Tax on Land, Tax on Gifts and State Tax (Local Tax). In addition, the Malaysian government also does not make specific rules on Controlled Foreign Company, Thin capitalization and transfer pricing. All of the above conditions is made to create a tax system that is simple and easy in the administration and implementation and to encourage the influx of foreign investments into Malaysia.

In Malaysia, there are two competent institutions taking care of tax issues, namely the Institute of Malaysian Home Results (LHDN) and the Customs and Excise Department under the Ministry of Finance Malaysia. Results of the Interior institutions authorized to manage the type of direct taxes such as corporate income tax and individual, of the Income Tax Oil and Gas, Taxes on Gain from Sale of Land and Buildings, as well as stamp duty. While the

Department of Customs and Excise manage indirect taxes consist of Customs, Duty, Sales Tax, Tax on Services, Taxes on Entertainment, and some other tax types.

In the territory of the organization, the management of *zakat* in Malaysia was placed in the House of Islam. Coordination Council of the Islamic religion in a non-departmental ministerial is function to make strategic institution that is responsible directly to the Prime Minister. Management of *zakat* in Malaysia is under the Prime Minister through the Minister responsible directly to the Prime Minister. Under Chancellery there are several agencies, such as the Islamic Advancement of Malaysia Position and Islamic Religious Council which are in each State. Islamic Religious Council is an institution authorized to take care of the religious problems in every state, including the management of *zakat*. In addition to these two institutions, in Position Prime Minister there are also other institutions, namely Position *Wakaf*, *Zakat* and Hajj are given the task to take care of the *waqf*, *zakat* and hajj. This position will coordinate with the State Islamic Religious Council in the framework of the collection, management, and distribution of *zakat*.

In Malaysia, *zakat* is managed by each state with full rights and privileges. So the *zakat* is not collected and distributed centrally. Each state has a charity organization in the form of private companies *zakat* and *Baitul Maal* or *Zakat* championship under the power of the State Islamic Council on the basis, purpose, and function of each. In some states the collection and distribution of *zakat* is conducted by two institutions. *Zakat* collection is done by a private company under the MAI, while the distribution is done by *Baitul Maal*. States that implements such management system are Wilayah Persekutuan, Melaka, Negeri Sembilan and Pahang. In the state that has only *Baitul Maal*, both collecting, processing, and distribution of *zakat* entirely done by *Baitul Maal*. The state only has Baitul Maal namely Perlis, Johor, Terengganu, Sabah, Kedah, Perak and Kelantan. By contrast, in the state that only has *zakat* management company, either collection, management, or distribution of *zakat* entirely run by the company. State which only has this company is Selangor, Penang and Sarawak. Individual and Firm. The income tax on the body will also be discussed as both taxes imposed on income derived by a resident in Malaysia and regulated in the same law. In Malaysia every state has a law *Zakat* different, made by the Legislative Assembly of each State. This causes different management rules of *zakat* among State. *Wilayah Persekutuan zakat* management regulated in *Zakat* and *Fitrah* Regulations, 1974, while in Selangor by Administration of Muslim Law Enactment, 1952, *Syariah* Crime Enactment 1995. arrangements regarding *Zakat Negeri Sembilan* contained in the Administration of Muslim Law Enactment 1960, *Fitrah* Regulations, 1962, and Enactment Legal *Pentadbiran Syara 'Sembilan* 1991/79 State. Likewise, the other States which have separate legislation in the regulation of *zakat*. However, specific to the imposition of *Zakat* on income is now compulsory for all Muslims in Malaysia through a fatwa issued by Mufti and reported via news news Empire No.(PNM-0020 Klt. 2; PUN (M) 351/27 dated 22 May 2000). Thus, specifically for *zakat* revenues is an equal treatment in all the states and the central government.

ZAKAT PROVISIONS COMPARISON OF INCOME TAX LAW BETWEEN INDONESIA AND MALAYSIA

Indonesia is not the first country to impose *zakat* provisions in the income tax regulations, it turns out other countries have also implemented this regard, one of which is Malaysia. Implementation of the provisions of *zakat* in Malaysia has been implemented since 1967 as

stipulated in the Individual Income Tax 1967 which are described in the regulation that the charity is rebates and reducing the tax burden imposed. As set forth in the Income Tax Act 1967 as follows: "*Zakat*, Islamic or religious nature is allowed as dues deducted from tax rebates and charged". The difference for the individual income tax treatment, particularly from the *zakat*, is presented in Table 1. From table 1 (one), then it can be compared between the provisions of the income tax in Malaysia and Indonesia, which draws on the table according to the topics raised by the authors in this paper is contained in point 1 which stated that:

- 1) In Indonesia, *zakat* on income that can be used as a reduction of the cost, and revenue rose not from income subjected to final tax. While in the Malaysian state of all kinds of charity, be it *zakat mal* overall and tithes, issued by the individual taxpayer can be used as a tax deduction (prepaid tax).
- 2) In Indonesia charity as a cost reducing PKP apply to individual taxpayers and corporate taxpayers, while in Malaysia the provisions of *zakat* as a tax deduction to be applied only for individual taxpayers only.

Table 1

The Differences In The Calculation of Income Tax Zakat Between Malaysia And Indonesia

Indonesia	Malaysia
1. The fees can be used to reduce taxable income by WPOP WP Muslim or Muslim entity whose owners as it appears in Article 9 paragraph 1 letter g just <i>Zakat</i> on income paid to the BAZ or LAZ which was approved by the government. And <i>zakat</i> on income is not from income subjected to final tax.	1. What can be used as a deduction (rebates) taxes by WPOP is <i>Zakat</i> , in this case the whole tithe (includes <i>zakat mal</i> and <i>zakat fitrah</i>) that is paid by private persons. So not only are becoming <i>zakat</i> income tax deduction but all kinds of <i>zakat</i> .
2. Calculation Method used <i>zakat</i> according to the tax rules are direct methods ie 2.5% of the gross income deducted directly without the cost of basic necessities. But in practice it is different, there are several LAZ and BAZ are using the method of calculation of direct and indirect.	2. Calculation Method used <i>zakat</i> according to the method of calculating the tax regulations are directly and indirectly (both recognized).
3. In calculating the indirect calculation method, there are no clear standards for basic needs whatever be the deduction. So standards are used each BAZ and LAZ different.	3. In calculating the indirect calculation method, which is used as a basis as a deduction from the tax relief is a basic requirement (PTKP).
4. Layer the rates used between 5% -35% (Article 17 of the Act. The income tax) Consisting of: - Up to 50 million charged at 5% - Rp 50 million s.d.250 million charged a rate of 10% - Rp 250 million s.d.500 million charged a rate of 25%	4. Layer used progressive rates of between 1% -29%, which is divided into nine layers of fare. Consists of: - Up to RM 2,500 exposed to 0% - RM 2,500 5,000 s.d the tariff of 1% - RM 5,000 20,000 s.d the tariff of 3%

<p>- More than US \$ 500 million subject to tariffs of 30%</p> <p>5. PTKP consists of:</p> <ul style="list-style-type: none"> - WPOP Rp 13,200,000 - In addition to WP married (husband / wife) Rp 1,200,000 - In addition to a wife whose husband's income is combined with income of Rp 13,200,000 - Supplement for each child and by blood by marriage (max 3) Rp 1.2000.000 	<ul style="list-style-type: none"> - RM 20,000 s.d. 35,000 affected by rates of 7% - RM 35,000 50,000 s.d the tariff of 13% - RM 50,000 70,000 s.d the tariff of 19% - RM 70,000 s.d. 100 000 24% hit rate -rm 100,000 s.d. 250 000 27% hit rate - More than RM 250,000 with the tariff of 28% <p>5. Tax Relief (PTKP):</p> <ul style="list-style-type: none"> - Taxpayers private person RM 8000 - In addition to WP married (husband / wife) RM 3,000 - Supplement for each child RM 1000
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Source: Summary of Tax System Malaysia, 2004 (www. Treasury.gov.my, accessed on 15 October 2007)

From Table 1, it is clear the differences over the treatment of *zakat* in two income tax laws of the country, where the two countries have embraced a different pattern in the treatment of charity and of course this will have implications on the tax burden borne by the tax payer. Judging from the pattern adopted by the State of Malaysia who treat charity as a tax deduction then the impossible happened loading dual experienced by a Muslim, it is different from what happened in Indonesia, because Indonesia has only just treat charity as a deduction PKP, then definitely there will be charging double charged on the same object.

Table 2

Tax Calculation Comparison Between Indonesia and Malaysia

The tax burden when living in Indonesia	Tax burden when staying in Malaysia
* Calculation method directly:	* Calculation method directly
Fiscal net income = Rp 300.000.000	Net income minus fiscal = 125,000 RM:
Minus :	Relief (PTKP):
Minus :	- Personal = RM 8000
1. <i>Zakat</i> on income:	- Wife = RM 3000 - Children = RM
(2.5% x 300,000,000) = Rp 7,500,000	(2X1000) *Total Tax Relief = (RM
2. PTKP (K / 2) = (Rp 67.5 million)	13000)
Total PKP = Rp 225. million Income	Chargeable income: RM 112,000
Tax Due:	0% x RM 2500 = RM 0
5% x Rp 50,000,000 = Rp. 2,500,000	1% x RM 2500 = RM 25
15% x Rp 175 million = Rp 15.000,000	3% XRM 15,000 = RM750
Total Income Tax Payable = Rp 17,5 million	7% XRM 15,000 = RM 1,050
	13% x 15,000 = RM 1950
	19% x 20,000 = RM 3800

	<p>24% x RM30.000 = RM 7200 27% x 12,000 = RM 3240 Income tax chargeable = RM 18.015 Less: Rebate = 1. <i>Zakat fitrah</i> = RM 35 2. <i>Zakat on Gold</i> (RM 1333 x 2.5%) = RM 33.3 3. <i>Zakat on income</i> = RM 3125 (2.5% x RM 125,000) Total Income Tax Payable = RM 14821. Converted to IDR = (14821.7 x Rp 2400) = Rp 35.572.08</p>
* Calculation method Indirect (Netto):	* Calculation method Indirect (Netto):
<p>Fiscal net income = Rp300.000.000 Minus : 1. <i>Zakat on income</i>: Taxable income <i>zakat</i> = Rp 300 million – 180million (2.5% x 120,000,000) = Rp. 3,000,000 2. PTKP (K / 2) = (Rp 67,5 million) Total PKP = Rp 229,5 million Income Tax Due: 5% x Rp 50,000,000 = Rp. 2,500,000 15% x Rp 179.,5 = Rp 26,925 million Total Income Tax Payable = Rp 56,35 million</p>	<p>Net income minus fiscal = 125,000 RM: Relief (PTKP): * Total Tax Relief = (RM 13000) Income tax chargeable = RM 18.015 Less: Rebate = 1. <i>Zakat fitrah</i> = RM 35 2. <i>Zakat on Gold</i> (Limit <i>Uruf</i> 60 grams of gold) great <i>zakat</i> RM 1333 x 2.5% = RM 33.3 3. <i>Zakat on income</i> = RM 2800 (2.5% x RM 112,000) Total Income Tax Payable = RM 15146. Converted to IDR = (15146.7 x Rp 2400) = Rp 36.35208 million</p>

The most significant visible (in addition to the number of different PTKP) that make the difference of tax calculation results between the two countries is on the side of charity. Where all forms of charity entirely recognized as prepaid tax (prepaid taxes) to reduce the income tax payable WPOP by the Malaysian government, while in Indonesia *zakat* recognized in the tax system. Then *zakat* new earnings and even then merely as a deduction from taxable income.

COMPARATIVE ANALYSIS OF TOTAL DEFERRED TAX AND ZAKAT BETWEEN INDONESIA AND MALAYSIA

Comparison of the results of the acquisition of *zakat* and taxation between Malaysia and Indonesia are presented in Table 3. (The next page)

Table 3

Summary Results of The Tax and Zakat Negara Malaysia Year 2010-2015

Year	2010	2011	2012	2013	2014	2015
Tax Amount (In millions RM)	470,173	490,576	660,861	690,171	720,050	800,594
The amount of Zakat (In Million RM)	2586.9	3203.7	3739.2	4084.3	4730.27	5730.8
Relative Pesentase total zakat against tax	0.00548	0.00645	0.00559	0.00589	0.00656	0.00711

Source: Economic Report (financially sector lay) Negara Malaysia and the Malaysian Center reports levy *Zakat*

Table 4

Summary Results of The State Tax and Zakat Indonesia Year 2010-2015

Year	2010	2011	2012	2013	2014	2015
Tax Amount (In millions RM)	723	874	981	1077	1143	1294
The amount of Zakat (In Million RM)	410.326	620.159	770.943	70,4	820,947	980,947
Relative Pesentase total zakat against tax	0,000057	0,000071	0,785874	0,00000785	0,00000781	0,000000758

Sumber: Dirjen Pajak & Forum Zakat

From the results table of the number of *zakat* and tax of the Malaysian state, it seems that there is a positive correlation between the results of the tax due, and where the total amount of *zakat* that is increasing every year also accompanied by a rise in the total amount of tax collected. With the existence of this data, an empirical fact that practically uncontested that the increase in the number of results alms, do not necessarily lead to decreasing the amount of tax revenue. With this data, the government should not have to worry if the amount of *zakat* up it will reduce the amount of taxes, because it turned out to be disproved by the results obtained tax and *zakat* Malaysia country.

ANALYSIS OF ECONOMIC EFFECT ZAKAT

Zakat mechanism ensuring economic activity can be run on a minimum level that is at the level of fulfillment of the primary needs. While *infak-shadaqoh* and other similar instruments to encourage aggregate demand, because the function that helps humanity to attain the standard of living above the minimum level. That's why *infak-shodaqoh* and instruments like this is by *Baitul Maal* used to alleviate poverty through development programs. So *zakat* and *sadaqah* donation have their respective roles. At the community good condition where the level of faith at a good level, then the state revenue that comes from donation-*sadaqah* should

be greater than the *zakat*. If further examination, the real charity instrument can be used as a last shield the economy from being hit in a crisis situation when the ability of consumption stagnated (under consumption). *Zakat* allow the economy continues to run at a minimum level. As a result of the consumption guarantee basic needs by the state through the *Baitul Maal* using accumulated *zakat*.

Even in the Journal of Money and Banking in Islam (Dr. Metwally: 1996) revealed that *zakat* is quite positive effect on the economy, because the instrument charity will encourage consumption and investment and will suppress the accumulation of money (assets). Because the treasures that are not invested will be eroded by charity. So *zakat* has contributed in improving the macro-economic growth. Logically, *zakat* impressed or as if it has a negative correlation to the level of consumption figures. This happens due attention *zakat* discussion focused on the mechanisms involved in community groups *Muzakki*. Though a very dominant group in connection with the charity is *mustahik* class, where consumption figures they rely heavily on the distribution of *zakat*. So alms received *mustahik* will always be spent on consumption. In other words, the charity has a positive correlation to the consumption figures that will move the economy.

Further research conducted by Dr. Monzer Kahf, revealed that the charity had a positive effect on the level of savings and investment. The increase in the saving rate due to the increase in income will cause increased levels of investment. Because there is no precedent that *zakat* was also imposed on the savings that exceed *nisab*. So, in order to maintain the value of the investment wealth certainly be one way out for the *Muzakki*, thus automatically increasing the overall investment figure. Besides, Monzer Kahf also revealed that the charity is likely to decrease the risk of financing / loans (non-performing financing/ NPF), because one of the charity fund allocation is to help people who are trapped debt.

Zakat As A Deduction Income Taxable Income

Although charity can be recognized as a reduction of income taxable income, but if we examine in depth the Act. Income Tax 2000, to report his income as a deduction PKP charity, the taxpayer must meet several requirements are cumulative should be included in the annual income tax return (Annual Income Tax Return), among which:

1. *Zakat* must be virtually paid by an individual taxpayer or a Moslem and corporate taxpayers in the country owned by Moslems. For this requirement will not be difficult to fulfill, because the obligation to pay *zakat* can be ascertained only by individual Muslims.
2. *Zakat* is paid to the *amil zakat* board or other *amil zakat* institutions established or approved by the government as stipulated in the Act. No. 38 of 1999 on the management of *zakat*. The second condition is also actually not difficult to meet, as long as the taxpayer knows *amil zakat* institutions *amil zakat* board or ratified by the Government.
3. *Zakat* paid *zakat* associated with the income tax is the object. This requirement is often not informed in full to the tax payers and taxpayers, where there is suspicion 'that the provision of charity as income tax deduction applies to all types of *zakat* paid, whereas the provisions of *zakat* as a deduction PKP by Director General of Taxes Decree No. 163 / PJ / 2003, a new income *zakat* and that too on the income which is subject to tax that income tax is not final. So if we pay *zakat* on income from interest on deposits, because the deposit interest income has been subject to final withholding tax of 20% by the bank, then *zakat* income paid on deposit interest income cannot be recognized as a reduction of income tax. In addition to the presence of the requirements are cumulative, and restrictions and procedures that make it difficult for tax payers to claim tax on *zakat*, paid, reporting

zakat in SPT (especially for WPOP) can backfire for WP itself, just because it claims *zakat* as a tax deduction causes examined by the tax office due to report its annual tax overpayments.

CONCLUSION

1. Overall Tax Law in Malaysia is quite welcoming and friendly, both for local tax payers and foreign investors who invest there. This condition creates a tax system that is simple and easy in the administration and implementation and to encourage the influx of foreign investments into Malaysia.
2. In Malaysia, *zakat* is managed by each state with full rights and privileges. So the *zakat* is not collected and distributed centrally. Each state has a charity organization in the form of private companies *zakat* and *Baitul Maal* or *Zakat* championship under the power of the State Islamic Council on the basis, purpose, and function of each. In Malaysia every state has a law *Zakat* different, made by the Legislative Assembly of each State. This causes different management rules of *zakat* among State.
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4. In Indonesia charity as a cost reducing PKP apply to individual taxpayers and corporate taxpayers, while in Malaysia the provisions of *zakat* as a tax deduction to be applied only for individual taxpayers only.
5. From the results table of the number of *zakat* and tax of the Malaysian state, it seems that there is a positive correlation between the results of the tax due, and where the total amount of *zakat* that is increasing every year also accompanied by a rise in the total amount of tax collected. With the existence of this data, an empirical fact that practically uncontested that the increase in the number of results alms, do not necessarily lead to decreasing the amount of tax revenue.

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