

Innovations in sharia tax governance: Aligning sharia principles with the national tax system

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Abstract

Tax is an activity carried out by the state on individuals and entities and is coercive in nature. The income from tax collection is given to the state for state needs and the prosperity of the people. This tax has certain characteristics according to Sharia in Islam. Tax collection is carried out through various systems in accordance with the provisions determined by the state. Apart from that, tax collection must also be in accordance with the basic provisions that apply in Indonesia. In Indonesia itself there are several basic provisions for tax collection that apply. There are two positions of tax in Islam, one of which is the view of approving the existence of taxes, apart from that, in Islam, taxes have Islamic governance, compliance with sharia principles, making it a thing that differentiates them in general.

Keywords: Taxes, Collection, Characteristics and Position of Taxes in Islam

INTRODUCTION

According to Law no. 16 of 2009, Tax is a mandatory contribution to the state owed by an individual or entity that is coercive based on the law without receiving direct compensation and is used for state needs for the greatest prosperity of the people. Taxes, as the country's main source of income, are very important for every citizen because they have a big influence on the state treasury and other sectors. Apart from affecting the state treasury, taxes also contribute to development. Taxes are considered a justice system, which means that when someone pays a certain amount of tax, the resulting funds will be used by the state for the welfare of society (Waid, 2020). In terms of tax administration, each country has its own regulatory provisions.

Taxes have a mandatory and coercive nature just like the law. Every individual or entity that has tax obligations is obliged to pay taxes to the government. However, unlike levies which can be felt directly by the reciprocal relationship, taxes themselves cannot be felt directly by the reciprocal relationship by taxpayers, both individuals and bodies. Tax returns will be felt by the public through the use of the state budget to build public facilities, provide subsidies, and pay for public goods that can only be provided by the state, such as security. In this case, taxes serve as a function budgeteer (Tumanggor, 2022). In Indonesia itself, as one of the countries with the largest Muslim population in the world, maintenance Taxes have many pros and cons, especially in Muslim communities.

Economic growth in Indonesia itself is also experiencing increasingly rapid development, especially in the field of sharia economics. The implementation of an economy based on Islamic principles and values is called sharia economics and emerged since the time of the Prophet Muhammad SAW. Sharia economics regulates governance and provisions related to the economy according to sharia and is sourced from the Al-Qur'an and the Sunnah of the Prophet. Even though it is a country with a majority Muslim population, the Indonesian government does not yet have the ability to implement a universal sharia economic system, which prioritizes transparency, justice and good governance in managing business and state assets. This also includes taxes, where the taxation system in Indonesia still uses a conventional taxation system, but it does

not rule out the possibility that in the future, the sharia economic taxation system will also be implemented in Indonesia, as is the case with the sharia banking system.

Islamic economics includes the concept of Islamic taxation which is based on philosophical values such as the values of Tauhid, Justice, Deliberation, Freedom, and Trust or responsibility. To ensure that economic activities are always in accordance with Islamic law, these Islamic values can be used as guidelines, foundations and foundations. Many aspects of Islamic economics are based on Maqashid Sharia. The concept of Maqashid Sharia, which is the idea of the rights that every Muslim should have, has little to do with the ethics of tax collection from an Islamic economic perspective. As is known, the tax system in Indonesia has a conventional system which is clearly different from the concept of sharia in Islam, so it may not be in accordance with the tax system in Indonesia. Muslims must follow Islamic values that are in accordance with the Muslim community. Until now there has been no decision from the Indonesian Ulama Council (MUI) stating that taxes are halal. Ironically, something as important as this has not yet received a fatwa from the MUI even though the MUI has even issued issues regarding things such as cigarettes, instant noodles and Ahmadiyah heresy.

According to (Rasyid, 2007) as quoted in (Surahman, Maman., & Ilahi, Fadilah., 2017), because Islam has required zakat for people who have met the requirements, tax (*dharibab*) as a source of state income is not justified in the Al-Quran and hadith. However, in certain situations where state income is no longer sufficient for zakat, it is possible to levy taxes (*dharibab*) with very strict provisions that have been decided by Ahlil Halli wa Aqdi.

One form of muamalah in the economic field is tax or (*dharibab*) which is used to meet the needs of the state and also the community to pay for various collective needs. Because there are no clear requirements for supervising the imposition of taxes in the Islamic religion, this has resulted in differences of opinion between fiqh experts regarding the status and law of collecting taxes.

According to research (Turmudi, 2015) the aim of taxes and zakat is the same, namely to obtain funds to build a community that is just, prosperous, equitable and materially and spiritually sustainable. As shown by (Sari, 2010) in the study tax is one of the responsibilities in an Islamic country on the grounds that the state budget is sufficient to pay costs which therefore means that taxes should not be collected by force and are pure authority.

Based on the introduction above, the author took the title "Innovation in Sharia Tax Governance: Harmonizing Sharia Principles and the National Tax System". This research aims to find out whether Sharia Principles can work with the National Tax System in Indonesia as well as the harmony between Sharia Principles and the applicable National Tax System. It is hoped that the results of this research can be a reference for future researchers to optimize Sharia Principles and the National Tax System in Indonesia so that the National Tax System can apply Sharia Principles like Sharia Banking which has previously implemented Sharia Principles in the banking world.

LITERATURE REVIEW AND HYPHOTESIS DEVELOPMENT

Literature Review Understanding Tax

According to Law Number 16 of 2009, tax is a mandatory contribution to the state that is owed by individuals or a body that has a coercive nature based on the Law, without obtaining direct reciprocity and is used for the needs of the country to be as useful as possible for the prosperity of the people.

Understanding Taxes according to Experts

According to Rochmat Soemitro, taxes are people's contributions to the state treasury, which is a transfer of wealth from the private sector to the government sector without receiving direct reciprocity, and is used to finance general expenditure and financing *public investments* (Rochmat Soemitro in Mardisono, Taxation Revised Edition 2009, Yogyakarta).

So from the definition above, tax can be interpreted as a levy which is a transfer from society to the state in order to finance general state administration. Tax levies are the largest source of state financing, this is also due to the high level of awareness of individual citizens in paying their obligations so that it really helps state financing.

Understanding Taxes according to Islamic Law Experts

Qardhawi explained that tax is an obligation imposed on taxpayers which must be paid to the state in accordance with the provisions and without obtaining achievements or reciprocity from the state and the results can be used to finance general expenses on the one hand and to realize several economic benefits and goals, social, political and other goals to be achieved by the state (Qardhawi, Zakat Law: Comparative Study of the Status & Philosophy of Zakat based on the Qur'an and Hadith, 2007).

Understanding About Sharia Tax

Etymologically, tax in Arabic is called Dharibah which means: determine, oblige, determine, collect, explain and so on (Munawwir, 2002). In language and tradition, *dharibah* has many meanings but scholars use the word *dharibah* to pay assets collected as liabilities.

In the Qur'an, *dharaba* is a verb (fi'il), while its noun (isim) is *dharibah* which can mean burden. *Dharibah* in the singular noun (singular noun) with its plural form is *dharib*. It is called a burden, because it is an additional obligation on property after zakat, so that in its implementation it will be felt as a burden.

In the Al-Qur'an (Arabic) only once does the word "tax" appear, namely in the translation of QS AT-TAUBAH [9]:29

"Fight those who do not believe in Allah and the Last Day, and they do not forbid what Allah and His Messenger have forbidden and do not follow the true religion (religion of Allah), (i.e. those who are given al - the book to them, until they pay (jizyah) obediently while they are in a state of submission."

So, *dharibah* is property that is collected compulsorily by the state for other people *jizya* and *kharaj*, even though the two can generally be categorized as *dharibah*. The definition of tax in Arabic terms is known as Al-Ushr or Adh-dharibah, meaning "levies collected from the people by tax collectors". Apart from that, other similar terms have been found, such as al-kharaj, which is usually used for levies related to land specifically.

Types and Functions of Tax

1. Various Taxes

a. According to his group

Direct Tax, namely tax that must be borne by the Taxpayer himself and cannot be charged or transferred to other people. Example: Income Tax.

b. According to its Nature

Subjective Tax, namely tax that is based on the subject, in the sense of taking into account the personal condition of the Taxpayer. Example: Income Tax

Objective Tax, namely tax that is based on the object, without taking into account the personal condition of the Taxpayer. Example: Value Added Tax and Sales Tax on Luxury Goods.

c. According to the Voting Institute

Central Tax, namely tax collected by the central government and used to finance state households. Examples: Income Tax, Value Added Tax, Sales Tax on Luxury Goods, Land and Building Tax.

Regional Taxes, namely taxes collected by regional governments are used to finance regional households. Regional Taxes consist of:

1. Provincial Taxes, for example: Motor Vehicle Tax and Motor Vehicle Fuel Tax.

2. Regency/City Taxes, Examples: Hotel Tax, Restaurant Tax, Advertisement Tax, Parking Tax and Entertainment Tax.

2. Tax Function

a. Function *Budgets*

Taxes are a source of funds for the government to finance Its productions.

b. Tax regulates (*regulatory*)

Taxes are a tool for regulating or implementing government policies in the social and economic fields. Example: High taxes are imposed on liquor to reduce alcohol consumption, high taxes are imposed on luxury goods to reduce consumptive lifestyles.

METHODS

The research method used in this research is a descriptive method with a correlational type. The research method is the method chosen to solve the problems presented in this research. According to Best (in Kusumawati, 2015) descriptive research is a research method that tries to describe and interpret objects according to what they are. Descriptive research is often called non-experimental because the nature of the research means that researchers do not control or manipulate research variables. Meanwhile, according to Sugiyono (2009), descriptive research is used in research to determine the value of a variable without comparing it with other variables. Considering that the aim of this research is to find the relationship between two variables, the correlation method is used as the method. According to Arikunto (2010), the correlation method is a method that determines the relationship between two or more variables without manipulating existing data.

RESULTS AND DISCUSSIONS

1. Tax Characteristics (*Dharibab*) according to Sharia:

Some provisions regarding taxes (*dharibab*) based on Islamic law, which can differentiate it from taxes in the national system, namely:

- a. Tax (*Dharibab*) may only be levied for financing which is an obligation for Muslims and is limited to the amount required for the obligatory financing, not more. Meanwhile, national taxes are intended for all citizens without distinction of religion
 - b. Tax (*Dharibab*) is only collected from Muslims who have sufficient wealth or are rich, not collected from others. The definition of a person with sufficient assets or wealth is a person who has excess assets to cover basic needs and other needs for himself and his family. Meanwhile, national tax is a tax collected from all citizens without knowing who the subject is but rather looking at the object (goods or services) consumed.
 - c. Tax (*Dharibab*) is only collected in accordance with the amount of financing required and cannot be more
 - d. Tax (*Dharibab*) can be deleted if it is no longer needed. Meanwhile, according to national tax theory, taxes cannot be abolished because taxes are a source of state income
- Therefore, according to (Gusfahmi, 2007) tax is the obligation of citizens in a country, but the state is also obliged to fulfill two conditions, namely:
- a. Receipt of tax proceeds must be viewed as a trust and spent honestly and efficiently to realize the tax objectives.
 - b. The government must be able to distribute the tax burden evenly among those who are obliged to pay it.

2. Tax Collection System

Indonesia adheres to a tax collection system known as the Self-Assessment system. The Self-Assessment system provides the understanding that the state gives full trust to taxpayers to be able to fulfill their tax obligations from calculating the amount of tax, depositing the amount of their tax obligations, and reporting the amount of tax that must be paid to the state. The principle of Self-Assessment is contained in the provisions of article 12 of Law Number 6 of 1983 which has been amended to become Law Number 16 of 2009 concerning General Taxation provisions, which states as follows:

- a. Every taxpayer has the obligation to pay the tax owed in accordance with the provisions of the applicable tax laws and regulations, without relying on a tax assessment letter.
- b. The amount of tax payable according to the notification letter submitted by the taxpayer is the amount of tax in accordance with the provisions of the applicable tax laws and regulations.

- c. If the Director General of Taxes obtains proof that the amount of tax payable according to the notification letter as intended in paragraph 2 is incorrect, the Director General of Taxes shall determine the amount of tax payable.

By giving full trust to taxpayers, it means that it is hoped that all taxpayers can play an active role in carrying out their tax obligations without having to wait for the issuance of a tax assessment letter issued by the tax authority, and the calculation of the amount of tax paid is temporarily considered as a valid calculation according to with existing provisions, and the tax authorities also have the authority to calculate the amount of tax that has been reported if the tax authorities have data that the taxpayer has indications that they have not carried out the calculation of fulfilling their obligations correctly.

3. Principles of Tax Collection

In the book "Wealth of Nations" by Adam Smith, in achieving the goal of tax collection, it is necessary to adhere to the principles of tax collection. According to Adam Smith, the principles of tax collection include:

- a. Basis of Equality (Basis of Balance or Basis of Justice).
In this principle, tax collection must be fair in accordance with the abilities and income of the taxpayer, without taking sides or discriminating.
- b. Basis of Certainty
This principle explains that every tax collection carried out must be in accordance with the law and there should be no irregularities in the collection process.
- c. Basis of Convenience of Payment
This principle is often referred to as the principle of timely tax collection because tax collection is carried out when the taxpayer is in a good and happy moment, such as when receiving income tax or just receiving a gift.
- d. Basic Efficiency
In this principle, tax collection costs are carried out as efficiently as possible to reduce the administrative costs of tax collection to be greater than the tax revenue itself.
The principles outlined above aim to ensure that the tax collection system does not interfere with economic progress. The principle of justice in tax collection must be able to be implemented in the tax collection system. One of the foundations of justice in tax law is equality (equal treatment) for taxpayers, without distinction of nationality, whether native or foreign, and without differences in religion, political sect, etc.

4. Taxes in Islam

In Arabic, taxes are known as Adh-Dharibah or known as Al-Maks, which means "levies collected by tax collectors from the community". Meanwhile, according to Imam Al-Ghazali and Imam Al-Juwaini, taxes are what the Muslim government requires from rich people by confiscating what they consider sufficient (the needs of the state and society in general. When Baitul Mal did not have cash funds, Abdul Qadim Zallum believes that taxes are assets required by Allah SWT for Muslims to cover public needs and Baitul Mal expenses.

There are other terms for tax and Adh-Dharibah, namely:

- a. Al-Jizyah is the respect or tribute that must be paid by the figures of the people of the book to the Islamic government.
- b. AL-Khalaj is a land tax owned by an Islamic country
- c. AL-Unshur is a customs center for non-Muslim traders entering Islamic countries.

Based on the terms above, taxes are required for non-Muslims to the Islamic government as payment for security guarantees. So when taxes were required to be paid by Muslims, the scholars of the time of the Prophet's companions, the tabi'in, to this day have different opinions on how to respond to it.

5. Tax Status According to Islam

There are two views regarding tax law according to Islam, namely:

1. The first view is that collecting taxes is an act of injustice that is haram.

The first view states that no taxes should be imposed on Muslims because they are obliged to pay zakat. The following are the Sharia arguments that underlie this view:

 - a. Allah Ta'ala says in QS. An-Nisa verse 29: "*O people who say, do not consume your neighbor's wealth in a false way*". In this verse, Allah forbids His servants from consuming each other's property unreasonably. Taxes are one way that can be used to consume other people's wealth.
 - b. The Prophet SAW said: *Don't do it wrong doer he said three times. In fact, it is not halal for a Muslim's property unless the owner agrees.*" (HR. Imam Ahmad V72 no. 20174 and shahihkah oleh Al-Albani dalam shahih Wa Dhaif Jami'ush Shagir no. 1761 and 1459)
 - c. From the several arguments above, many scholars classify taxes imposed on Muslims unjustly and arbitrarily, as a major sin, as stated by Imam IbnuHamz in Maratib al Ijma' Imam Az-Zahabi in his book Al-Kabair, Imam Ibnu Hajar al-it won't die in az-Zawajir'an confession al kabair, shaykh Shiddiq Hasan khan in the ar-clothes an-Nadiyah, sheikh Syamsul al-Haq abadi in Aun al-ma'bud and others.

Ibn UmarRadiyah anhumas was once asked "whether Umar bin Khattab RA. Never collected taxes from Muslims." He answered "No, I never knew."

2. The second view is to agree with the existence of taxes

This second view states that taxes may be taken from Muslims, if

Indeed, the State really needs funds and to implement this policy it must fulfill several conditions. Among the sharia propositions that underlie this opinion are as follows:

- a. Allah Ta'ala says in QS. Al-Baqarah verse 177 which has the meaning:

"Virtue is not turning your face towards the east and the west, but that virtue is (the virtue) of those who believe in Allah, the Last Day, the angels, the orphans, the poor, the travelers, beggars, and to free the servants of the Sabaya, who perform prayers and pay zakat, those who keep their promises when they make promises, and those who are patient in poverty, suffering, and in times of war. They are the righteous people and they are the pious people."

In this verse, Allah teaches about true goodness and true religion by juxtaposing:

 - Giving property to relatives, orphans, the poor, travelers, beggars, and freeing slaves.
 - Faith in God, the Last Day, angels, books, prophets, praying, and keeping promises, etc.

The first point above is not something that is Sunnah, but is part of the law fardhu, because it is aligned with things that are fardhu, and is not included in zakat, because zakat is mentioned separately too.
- b. In the Qur'an, Allah SWT threatens those who refuse to give help to those in need, as is the case in QS. Al-Maun verses 1-7. Allah SWT said:

"Do you know people who reject religion? (1), Then that is the person who rebukes orphans, (2), and does not encourage feeding the poor. (3), So woe to those who pray, (4), (namely) those who neglect their prayers, (5), who do riya', (6), and are reluctant (to provide) assistance. (7)"

Allah SWT deems woe to those who refuse to help with useful things along with those who commit riya'.

From the explanations of the ulama and their arguments, the middle ground between the two different opinions is that there is no obligation for Muslim property other than zakat.

However, if a financial emergency arises, it is permissible to collect it in the form of dharibah tax. The main reason is to realize benefits for society and the government is unable to meet or fund these costs. If the government does not have financial resources, the prosperity of the people will also be disrupted.

Ulama who argue that the government can collect taxes from Muslims must fulfill several conditions first, namely:

1. The state is obliged to implement Islamic law

2. Only rich people can be taxed and poor people are not allowed to be taxed.
3. Tax distribution must be fair and impartial and must not focus on certain locations or areas, especially those that contain elements of sin and immorality.
4. This tax is temporary and is not collected continuously but only at certain times
5. If the country is in a critical situation or the funding needs are very small and urgent.
6. Eliminate excessive financing and waste of funds through tax collection.
7. The tax amount is adjusted to current urgent needs.

Apart from that, according to data released by the Directorate General of Taxes in 2008, 70% of APBN funds were obtained from tax revenues. There are many sectors such as health, tourism, education and security that still require funding from the APBN. From this explanation, taxes are something that is permitted because these taxes will later be enjoyed by the community in the form of services and facilities provided by the State. Tax payments are still considered valid if they are carried out in accordance with the law and the principles of justice. Taxes can also be considered as additional worship after zakat. Therefore, taxes are permitted as long as the funds from tax revenues are used for the welfare of society and taxes can also be mandatory because they are a form of obedience *Waliyyul amrior* government.

Even though tax and zakat are almost the same, there are several differences, which make the position of tax and zakat not equal. The following are the differences between tax and zakat:

- a. From the Source of the Command
Taxes come from the government which has been determined through law with the approval of The House of Representatives, Republic of Indonesia, while zakat is a direct order from Allah SWT. which Muslims must carry out because it is one form of implementing the pillars of Islam.
- b. In terms of the perpetrator
Taxes are an obligation for the entire community in accordance with applicable regulations, while zakat is only for Muslims who are required to do so.
- c. Acceptance Object
Taxes are levied by the government with the aim of social welfare. However, sometimes fraud often occurs where taxes are not only for social purposes but are instead used for personal interests. Meanwhile, in Surah At-taubah verse 60 it is explained that zakat is distributed only to 8 groups who are entitled to receive zakat.
- d. From a legal perspective
There are two views regarding tax law, namely the first view that taxes are permissible and even mandatory in the form of obedience to leaders and the second view that taxes are considered haram based on the Al-Qur'an and hadith. Meanwhile, zakat is one of the pillars of Islam which makes it obligatory for all Muslims who meet the requirements to do zakat.

Taxes and zakat are different in terms of sources and methods of collection, but they are both the same in terms of collecting wealth from each other. The term tax was born from the concept of the state, while zakat was born from the Islamic concept. However, in practice, these two levies become a problem when they are compared, namely that they have the same position and must be fulfilled by the community.

CONCLUSIONS

Based on the results of research regarding the aligning sharia principles and taxes national system, it can be concluded that Taxes are payments from the private sector to the state based on applicable statutory provisions, taxes are one of the instruments in state economic policy. Tax revenue is considered to be something that is generally done by various countries, taxes are considered as a system that bridges the distribution of society's wealth to be fairer, taxes are collected from the whole community and managed by the state, of course there are various regulations that regulate taxation both in terms of collection, tax management, and accountability.

Indonesia is a country where the majority of the population is Muslim, with this giving rise to the potential for Indonesia to implement various laws contained in Islamic economics. In Islam, taxes still have two pros and cons regarding allowing or not allowing taxes. However, in general, the concept of

taxation has been used since the time of the Prophet Muhammad with the name: *dharibah*.

Islam stipulates several conditions related to taxation provisions, including tax collection, Islam stipulates various provisions that must be taken into account. These provisions are based on sharia principles which regulate Muslim rights and things that must be taken into account so that a Muslim's rights are not disturbed. Therefore, tax collection must be based on ethics in tax collection, sharia principles must pay attention to the following:

1. Principle of justice.
2. In managing taxes, the government must be responsible for the use of taxes that have been collected from the community.
3. The tax collection system and government must have professionalism, integrity, and uphold morality and credibility.
4. In terms of tax collection, it should not be a burden on the public as taxpayers.
5. Tax collection costs cannot be greater than the amount of tax paid
6. Taxes collected from taxpayers must be accountable for the use of the tax and must have clear limits on the amount of tax collected.
7. The use of taxes by the state must be carried out appropriately.
8. The country needs funds for general purposes aimed at the prosperity of its people.
9. Tax collection must be carried out fairly, namely collected from people who have excess assets and in terms of distribution it must be carried out using the principles of justice and equity.

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