120371 - He owes a debt that is to be paid in instalments; can it be deducted from his zakaah?

the question

How should zakaah be paid in the case of debt that the debtor is paying off in instalments over ten years?

Detailed answer

The fuqaha' differed as to whether zakaah is waived in the case of debt. There are two well-known opinions, the first of which is that zakaah is not waived in this case. Hence if a person possesses the minimum threshold of wealth (nisaab) and a full hijri year has passed since he acquired it, he must pay zakaah on it, no matter what debt he has. This is the view of ash-Shafa'i (may Allah have mercy on him) and it is the view that was regarded as more correct by many scholars.

That is because of the general meaning of the evidence that indicates that zakaah is obligatory for the one who possesses the minimum threshold of wealth, and because the Prophet (blessings and peace of Allah be upon him) used to send his workers to collect the zakaah, but he did not instruct them to ask for details as to whether those who possessed wealth had any debts or not. Moreover, zakaah has to do with the wealth itself, whereas debt has to do with obligation, so the one does not rule out the other.

Those who held the other view, who are the majority, quoted as evidence the report from 'Uthmaan ibn 'Affaan which says that he used to say: "This is the month of your zakaah; let the one who owes a debt pay it back so that you can give the zakaah of your wealth." According to another version: "Whoever owes a debt, let him pay off his debts and give zakaah on the rest of his wealth."

But this does not constitute proof. The one who has paid off his debt is not obliged to give zakaah on it. The difference of opinion has to do with the one who has not paid off his debt and has kept

the money in order to benefit from it; is zakaah waived in his case?

An-Nawawi (may Allah have mercy on him) said: Does debt mean that zakaah is not obligatory? There are three views concerning that, the most correct of which according to our companions, which was also stated by ash-Shaafa ‘i (may Allah have mercy on him) in most of his later books, is that it is obligatory… To conclude, the correct view is that zakaah is obligatory whether the wealth is hidden or apparent, and whether it is of the same nature as the debt he owes or not. Our companions said: (It is the same) whether it is a debt owed to people or to Allah, may He be glorified and exalted, such as zakaah as mentioned above, or expiation (for breaking an oath) or fulfilment of a vow and so on.

End quote from al-Majmoo‘, 5/317. See also: Nihaayat al-Muhtaaj, 3/133; al-Mawsoo‘ah al-Fiqhiyyah, 23/247.

Shaykh Ibn Baaz (may Allah have mercy on him) said: With regard to debt that he owes, that does not mean that zakaah is waived, according to the most correct scholarly opinion.

End quote from Majmoo‘ Fataawa ash-Shaykh Ibn Baaz, 14/189

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said: What I regard as most likely to be correct is that zakaah is obligatory in all cases, even if he owes a debt that brings his wealth to a level lower than the minimum threshold (nisaab), apart from a debt that becomes due before the end of the zakaah year, which must be paid, then he should give zakaah from what is left after that.

End quote from ash-Sharh al-Mumti‘, 6/39

It makes no difference whether the debt is currently due or is deferred, apart from the fact that some of the fuqaha’ who said that debt means that zakaah is waived made an exception in the case of a deferred debt, and said that it does not mean that zakaah is waived in that case. This was narrated from Imam Ahmad (may Allah have mercy on him). See also: al-Insaaf, 3/24

Some contemporary scholars said: Only the instalment for one year should be deducted. So if a person owes twelve thousand, to be paid in instalments of one thousand each year, he may

deduct one thousand from the money on which zakaah is to be paid, and pay zakaah on the remainder.

But according to the more correct opinion, there is no difference between a deferred debt and one that is currently due. Neither has any impact on zakaah. So the individual should look at whatever he has of wealth that is subject to zakaah, and pay zakaah on it if it fulfils the conditions of zakaah, which are that it should reach the minimum threshold (nisaab) and one full hijri year should have passed since acquiring it, regardless of what instalments he owes.

It should be noted that the majority of scholars who say that debt should be deducted from wealth on which zakaah is to be paid stipulate that the individual should not have any other wealth with which to pay off his debts, surplus to his basic needs.

It says in al-Mawsooʻah al-Fiqhiyyah (23/247): Of those scholars who say that if a person owes a debt, the amount he owes may be deducted from the wealth he has, then he should pay zakaah on the rest, the majority stipulate that the individual should not have other wealth with which he could pay off his debts apart from that on which zakaah is due. If he does have other wealth that is surplus to his basic needs, then he must put it towards paying off the debt, so that the wealth that is subject to zakaah will remain intact and zakaah may be paid on it. End quote.

And Allah knows best.