

193690 - Will her deceased husband be punished because his mother delayed giving his wife her due share of the inheritance?

the question

My husband died before the marriage was consummated, and I have an inheritance with his mother, but she is depriving me of it and will not give me the value of that share. Almost one year has passed; am I obliged to give zakaah on it? I do not know how much it is.

Also, will my husband be punished or kept from being granted bliss in his grave because of the delay in sharing out of the inheritance? In order for him not to be punished, do I have to let him off with regard to my mahr and my inheritance?

Detailed answer

Taking possession and gaining ownership of the wealth is one of the conditions of zakaah being obligatory; there is no zakaah on wealth when possession and ownership thereof is not established, because when possession and ownership are not established, the owner of the wealth cannot dispose of it in his own interests, so it is more appropriate that no one else should be entitled to any rights over it before possession and ownership are established.

The scholars of the Standing Committee were asked:

My father died – may Allah have mercy on him – and he left behind in his estate some money that was deposited in bank accounts. Because the division of this money to the heirs was not completed until after more than two years had passed since the death of our father for a number of reasons, some of which were beyond our control and others were due to the fact that some of the heirs live abroad and were late in appointing someone to attend court, and it took some time for those banks to decide about division of the estate, no zakaah has been paid on that money since the death of our father, may Allah have mercy on him. As a little more than two years have passed since then, should the zakaah be paid on the shares of all the heirs put together or should it be paid on each share on its own, and what is the rate of zakaah?

The committee replied:

If the situation is as described, then no zakaah is due on the wealth of your father for the two years during which the estate was not divided, because it was not possible for each of the heirs to take possession of his share, for reasons that were beyond the control of the heirs, and because some of the heirs were far away and they were scattered, which was a cause of the delay in the division of the estate being carried out, as you mentioned. So the share of each heir comes under the ruling on wealth the ownership of which is not established, and one of the conditions of zakaah being valid is that possession and ownership should be established. But when each heir has taken his share of the estate, if one full year passes and it reaches the minimum threshold (nisaab), then zakaah becomes due at the rate of one quarter of one tenth (2.5%). End quote.

Based on that, you do not have to pay zakaah on any inheritance which you have not been able to take possession of or have it at your disposal, or know the value thereof, because your ownership is not established and you are not able to dispose of it in your own interests or in the interests of anyone else. If you do become able to take possession of it or dispose of it, then you must pay zakaah on it from the time when you become able to dispose of it, if it reaches the minimum threshold, when one full year has passed.

Secondly:

Your husband will not be punished for what his mother does of delaying your inheritance or depriving you of the inheritance to which you are entitled, so long as he did not leave instructions to that effect or ask his mother to deprive you of the inheritance, and he did not approve of that during his lifetime, because he has no control over this wealth after his death. When he died, it passed to his heirs and it is now the property of his heirs, and is not his property. So he will not be accountable for what others do with his wealth. Allah, may He be exalted, says (interpretation of the meaning): “On no soul does Allah place a burden greater than it can bear. He gets reward for that (good) which he has earned, and he is punished for that (evil) which he has earned” [al-Baqarah 2:286].

Al-Bukhaari (6442) narrated that Ibn Mas‘ood said: The Prophet (blessings and peace of Allah be upon him) said: “Which of you loves the wealth of his heir more than his own wealth?” They said: O Messenger of Allah, there is no one among us but his own wealth is dearer to him than that of his heir. He said: “Verily his wealth is that which he has sent on ahead (by spending it in charity and good causes, so the reward for it is stored up for him), and the wealth of his heir is that which he has kept back.”

After his death it is described as his heir’s wealth.

Al-Haafiz (may Allah have mercy on him) said:

Everything that the deceased leaves behind becomes the property of the heir.

End quote from Fath al-Baari (11/260)

Please see also question no. [117209](#)

And Allah knows best.