249774 - If he buys land with unclear intentions, then he builds apartments on it for sale, does he have to give zakaah?

the question

I am living in my father's house with all of my family (father,mother,brothers), I purchased a plot (PLOT-1) for my own house construction, later on I purchased another plot (PLOT-2) joint with previous plot to extend my new house area. Then I purchased another plot (PLOT-3) joint with previous two plots but this time my intend was either to resale this plot or to joint with other 2 plots for my house construction. Now these three plots are joint and at same location. Now I had purchased fourth plot (PLOT-4) at different location where I changed my decision and decided to construct my house and also construction started. From the previous plots (PLOT-1 and PLOT-3) now my intend to build commercial houses for sale and for PLOT-2 my intend to sale it to utilize this amount for the construction of these commercial houses. It will take at least 2,3 years to be in position to construct these houses and sale it. So my question is
1. Shall I have to give zakat on these three plots (PLOT-1,2,3) now as only PLOT-2 is for resale purpose and PLOT-1,3 are for construction of houses for sale
Or
I have to give zakat only at the time of house sale.

Detailed answer

Firstly:

If someone buys land with the intention of building on it and living on it, then he does not have to give zakaah, because land is not usually regarded as wealth that is subject to zakaah unless it is kept for the purpose of selling it.

Ibn Qudaamah (may Allah have mercy on him) said: An item is not regarded as being for trade unless two conditions are met:

Firstly: that he takes possession of it through some action, such as buying, or through marriage, khul‘, accepting a gift, a bequest, war booty, or other permissible ways of acquiring wealth, because the item that is not subject to zakaah when he acquires it does not become subject to it by means of a mere intention… And it makes no difference whether he acquires it through buying and selling or through some other means.

Secondly: that he has the intention when taking it into his possession that it is for trade. If he does not have the intention when taking it into his possession that it is for trade, it is not to be regarded as being for trade, even if he intends that later on.

If he takes possession of it through inheritance and intends that it is to be for trade, it is not regarded as a trade item, because in principle it is something to be kept, and to keep it for trade is something that occurs later (and is not the principle of the matter). So it does not become trade goods by means of a mere intention, just as if one who is not travelling intends to travel, he does not come under the rulings on travel without taking appropriate actions. End quote from al-Mughni (2/623).

Some of the scholars are of the view that it does become trade goods by means of the intention, even if he took possession of it without any action on his part. This was narrated from Ahmad (may Allah have mercy on him).

Ibn Qudaamah said, after the comments quoted above:

It was narrated from Ahmad in another report that an item may become trade goods by means of a mere intention, because Samurah said: The Messenger of Allah (blessings and peace of Allah be upon him) instructed us to give zakaah on what we had prepared for sale.

Based on that, it does not matter if he acquired it through his own actions or he took possession of it through trading; rather once he decides that it is for trade, it becomes trade goods. End quote from al-Mughni (2/336).

The first view is the view of the Hanbalis, Hanafis, Maalikis and Shaafa‘is.

See: Badaa'i' as-Sanaa'i' (2/12); Sharh al-Khurashi 'ala Khaleel (2/195); al-Majmoo' (6/5); al-Mawsoo'ah al-Fiqhiyyah (23/271).

Secondly:

If someone buys land and is unsure about what he intends to do with it – whether to live there or sell it – then no zakaah is due on it.

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) was asked: A man has some land but he is not sure about what he wants to do with it; he does not know whether he will sell it, develop it, rent it out or live on it. Should he pay zakaah when one full hijri year has passed?

He replied: No zakaah is due on this land at all, so long as he has no definite intention that it is for trade. No zakaah is due on it because he is uncertain, and if there is uncertainty, even one per cent, then there is no zakaah on it. End quote from Majmoo' Fataawa Ibn 'Uthaymeen (18/232).

He also said:

If a person is hesitant and says: By Allah I do not know whether I will sell it or keep it, such as if he has land and he says I do not know whether to sell it or keep it or put a high-rise building on it, is zakaah due on it or not?

Answer: No zakaah is due on it, because the basic principle is that no zakaah is due unless one has a clear intention of selling it.

End quote from al-Liqa' ash-Shahri (3/5).

Thirdly:

If someone buys land to sell it, then decides to keep it, then it is regarded as a personal item, and no zakaah is due on it.

Ibn Qudaamah (may Allah have mercy on him) said:

If he buys it to sell it, then he decides to keep it, then he decides to sell it, no zakaah is due on it until he sells it and waits until one year has passed with regard to the money he received for it. There is no difference in our view if he intended to keep something that he originally intended to sell; in that case it is to be regarded as personal property and zakaah is no longer due on it. This is the view of ash-Shaafa'i and ashaab ar-ra'y.

End quote from al-Mughni (2/628).

Fourthly:

It is clear from your question that you bought four pieces of land, and no zakaah is due on any of them.

With regard to the first and second pieces of land, no zakaah is due on them because you never bought them with the intention of selling them; rather you bought them to build yourself a house and extend it.

As for the third piece of land, when you bought it you were not sure whether to sell it or add it to your house, so no zakaah is due on it either, even if you decide that you will build apartments on it to sell them.

As for the fourth piece of land, no zakaah is due on it because you are going to build a house on it to live in, regardless of your intention when you bought it and regardless of whether you intended to sell it, then you decided to keep it. If a person buys land in order to sell it, then decides to keep it, it becomes personal property (so no zakaah is due on it), as mentioned above.

Fifthly:

If you sell any of the apartments and take possession of the money, then wait until one year has passed. Then when one year has passed, if it is still at or above the minimum threshold (nisaab), then you must give zakaah.

Similarly, if you receive some payment, if it reaches the minimum threshold by itself or when added to other wealth, and one full year has passed, then zakaah becomes due.

The nisaab is the equivalent of 595 grams of silver.

The rate that must be given is one quarter of one tenth, i.e., 2.5%.

And Allah knows best.