

**287867 - He is going to obtain an agency to distribute goods on condition that he deposit a sum of money with the company for which interest will be paid to him**

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### **the question**

We are about to obtain a "Biscuit Distribution Agency". We have to make a Deposit with them for a Year which is a mandatory requirement. In addition to sales commission, they will pay us 1% interest for the above mentioned deposit on a monthly basis which will be given to us by way of Goods.

What are we supposed to do with these GOODS? To what extent this AGREEMENT is Sharia Compliant?

### **Detailed answer**

Firstly:

There is nothing wrong with undertaking to distribute goods in return for commission. This comes under the heading of agency in return for payment. The agent is a trustee who is only liable if there is transgression or negligence on his part, and it is not permissible to stipulate that he be liable, because this is contrary to his being a trustee.

It is permissible to take a sum of money from the agent as a surety to be used in the event of any transgression or negligence on his part, on condition that this surety not be used; rather it should be kept for its owner or may be invested between both parties on the basis of an Islamically acceptable contract, such as mudaarabah (profit-sharing).

The reason why it is haraam to use it is that if the company uses it, it will be using it when it is liable for it and will return it to its owner if there is no transgression or negligence on his part. This comes under the rulings on loans; a loan is wealth that may be used but it or its equivalent must be returned.

It is not permissible to make a loan conditional upon a business contract such as buying or selling, renting, or acting as an agent in return for a fee, because the Prophet (blessings and peace of Allah be upon him) forbade sales combined with loans (two deals in one). Narrated by at-Tirmidhi (1234), Abu Daawood (3504) and an-Nasaa'i (4611); classed as saheeh by at-Tirmidhi, Ibn 'Abd al-Barr and al-Albaani.

It says in al-Ma'aayeer ash-Shar'iyah (p, 134) regarding indication of serious intent: it is permissible for the organisation to request the would-be tenant to pay a stipulated amount of money to the organisation, to be kept by the latter as a guarantee that the client is serious in his promise to rent and abide by any commitments that result from that.

This sum that is paid in advance as a sign of commitment is either a trust to be kept by the organisation, in which case it is not permissible for the organisation to dispose of it;

Or it is a trust for investment, for which the client gives permission to the organisation to invest it on the basis of a shar'i mudaarabah (profit-sharing) contract between the client and the organisation. End quote.

Based on that, it is not permissible to deposit this money if it is known, or thought most likely, that the company will use it, unless there is a prior agreement that the company will invest it, on the basis of a shar'i mudaarabah (profit-sharing) contract.

Secondly:

It is not permissible to take interest on this deposit, because that comes under the heading of interest on a loan, which constitutes riba according to scholarly consensus.

Thus it becomes clear that it is not allowed to use this deposit at all, and that it is forbidden to charge or give interest on it.

The way to make the obtaining of this agency permissible is as follows:

1. Cancel this deposit;
2. Or make an agreement that the company will keep it and not use it;

3. Or make an agreement that the company will invest it for you according to a shar‘i mudaarabah (profit-sharing) contract.

As for the company using it, that is haraam, because in that case the contract will be combining a loan and a transaction.

If you add to that the taking of interest, then this is riba (usury).

It is not permissible to accept this agency in either case.

And Allah knows best.