152090 - He bought an apartment for investment and it was not handed over to him and the company has gone bankrupt; does he have to pay zakaah?

the question

Ive invested to buy flats, unfortunately the company has gone bankrupt, I'was suppose to get my flats last year. My intention was to rent these flats, i'm not sure when the flats will be handed over to me, my question is, do i need to pay zakah on the money i've paid. Please note as per the deal the comapny has given me a check of 50,000 to encash it after the hand over of the flats (this was additional to the flats). I've the checque with me, but they are not allowing me to enchash it, as they've gone bankcrupt. Do i need to pay zakaah on this check amount. Kindly advise.

Detailed answer

Praise be to Allah.

Your buying the apartment must be either of two scenarios:

1.You bought it to live in or to rent it out; in this case no zakaah is due on it or on the money that you put down to purchase it, but if it is rented out, you should pay zakaah on the rent when one full year has passed, if it reaches the nisaab (minimum threshold) by itself or when added to other wealth you have;

2.Or you bought the apartment with the intention of trading in it, i.e., selling it. In this case, the issue of zakaah is subject to further discussion:

a.If the construction of the apartment has been completed, it should be evaluated when one full year has passed and zakaah should be paid on it.

b.If construction has not been completed, then there is a difference of opinion with regard to paying zakaah on it during the construction phase. Some of the scholars say that zakaah must be

paid on it, so zakaah should be paid on its capital or on its value if it has a value greater than the capital, taking into account the value of the land and construction materials, if the purchaser of the apartment owns a share of the land.

And some of the scholars said that no zakaah is to be paid on real estate until construction is complete.

And some scholars said that if it is offered for sale during construction, zakaah must be paid on it, but if it is not offered for sale, no zakaah is due on it until construction is complete.

See: al-Zakaah fi'l-'Aqaar by Dr. Saalih ibn 'Abd-Allah al-Laahim.

But if the company has gone bankrupt and has not handed over your apartment, then the money you paid is regarded as a debt owed by the company, and if a debt is owed by someone who has gone bankrupt or is taking a long time to pay it back, no zakaah is due until the money is received then one full year has passed, but if the person pays one year's zakaah on it when he takes possession of it, that is more on the safe side.

The same may be said concerning the cheque that has been given to you; it is a debt that is owed by the one who is bankrupt, so zakaah does not have to be paid on it until you take possession of the money and one full year has passed, but if you pay one year's zakaah on it when you take possession of it, that is good.

To sum up: if the apartment was intended to be kept and lived in or rented out, you do not have to pay any zakaah on it. But if you bought it with the intention of selling it, then the company went bankrupt and did not hand over the apartment, you do not have to pay any zakaah either until you get your money back or the apartment is handed over to you.

See also the answer to questions no. 143816 and 141431.

And Allah knows best.