

Who is Responsible for Paying Zakah on the Rent Paid Years in Advance?

Darulifta Ahlesunnat (Dawateislami)

Question

What do the noble scholars and jurists of Islamic law say about the following: I rented a shop for five years, for which the total rent amounted to 30 million rupees. I paid the full amount to the shop owner in advance and then took the shop. Apart from this, I also own the amount of nisab, and my zakah year completes in the month of Ramadan. My question is: Will I be responsible for the zakah on the 30 million rupees that I paid to the shop owner in advance as rent, or not?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
الْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اللَّهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

In the inquired situation, you are not required to pay the zakah on the amount you paid to the owner as rent in advance. This is because when the tenant pays the rent to the owner, that amount leaves the tenant's ownership, even if the rent for a long period is paid in advance all at once. The recipient of the rent becomes the owner of the wealth, and he can do 'Tasarruf' (dispose) of that money as an owner. The tenant has no further connection with that amount; it is for this reason that jurists have clearly stated that the zakah of this wealth will be obligatory upon the recipient of the rent, not on the tenant. Therefore, in the inquired situation, this 30 million no longer has any connection to you, nor do you have to pay the zakah for it. The zakah of this wealth is in the responsibility of the owner of the shop, i.e., if the other conditions of zakah are found, the owner of the shop must pay the zakah for that amount.

If the rent of a leased item is paid in advance, the other person (recipient) becomes the owner of that money. It is stated in the famous work of Hanafi jurisprudence, Al-Hidayah:

الأجرة لا تجب بالعقد وتستحق بأحد معان ثلاثة: إما بشرط التعجيل، أو بالتعجيل من غير شرط، أو باستيفاء المعقود عليه. وإذا استوفى المنفعة يثبت الملك في الأجر لتحقق التسوية. وكذا إذا شرط التعجيل أو عجل؛ لأن المساواة تثبت حقاله وقد أبطله

(Al-Hidayah, Book of Ijarah, Chapter: When is the wage entitled to, Vol. 3, p. 231, Publ. Dar Ihya' Al-Turas Al-'Arabi, Beirut)

It is stated in Al-Muheet Al-Burhani:

وكذا إذا عجل الأجرة من غير شرط ملكها؛ لأنه إذا عجل فقد أبطل ما يقتضيه مطلق العقد

(Al-Muheet Al-Burhani, Book of Ijarah, Chapter two, Vol. 7, p. 400, Publ. Dar Al-Kutub Al-'Ilmiyah, Beirut)

The recipient of the advance rent can exercise full ownership and 'Tasarruf' over it. Thus, it is stated in Badai' Al-Sanai':

وَمَلِكُ الْآجَرِ الْبَدَلُ حَتَّى تَجُوزَ لَهُ هَبْتُهُ، وَالتَّصَدُّقُ بِهِ، وَالْإِبْرَاءُ عَنْهُ، وَالشِّرَاءُ، وَالرَّهْنُ، وَالْكَفَالَةُ، وَكُلُّ تَصَرُّفٍ يَمْلِكُ الْبَائِعُ فِي الثَّمَنِ فِي بَابِ الْبَيْعِ

(Badai' Al-Sanai', Book of Ijarah, Chapter about the rulings of Ijarah, Vol. 4, p. 204, Publ. Dar Al-Kutub Al-'Ilmiyah, Beirut)

Sadr Al-Shari'ah, Mufti Muhammad Amjad Ali A'zami رحمه الله عليه writes:

اجاره کا حکم یہ ہے کہ طرفین (کرایہ پر لینے دینے والے دونوں شخص) بد لین کے مالک ہو جاتے ہیں، مگر یہ ملک ایک دم نہیں ہوتی، بلکہ وقتاً فوقتاً ہوتی ہے، مگر جبکہ تعجل یعنی پیشگی لینا شرط ہو تو عقد کرتے ہی اجرت کا مالک ہو جائے گا۔ اجارہ میں اجرت محض عقد سے ملک میں داخل نہیں ہوتی یعنی عقد کرتے ہی اجرت کا مطالبہ درست نہیں یعنی فوراً اجرت دینا واجب نہیں اجرت ملک میں آنے کی چند صورتیں ہیں: (1) اُس نے پہلے ہی سے عقد کرتے ہی اجرت دیدی دوسرا اس کا مالک ہو گیا یعنی واپس لینے کا اُس کو حق نہیں ہے۔ (2) یا پیشگی لینا شرط کر لیا ہو اب اجرت کا مطالبہ پہلے ہی سے درست ہے۔ (3) یا منفعت کو حاصل کر لیا۔

Translation: The ruling about Ijarah is that both parties attain ownership of the exchange, but this ownership doesn't take effect at once; instead, it happens gradually. However, if the condition of 'Ta'jeel' (advance payment) is placed, then he (the recipient) will attain ownership of the wage as soon as the contract is done. The wage doesn't enter one's ownership merely by the contract, i.e., it is not valid to demand the wage immediately after the contract, and it isn't wajib to give the wage immediately. There are a few ways through which the wage enters the ownership: (1) He paid the wage in advance after agreeing to the contract; in this case, he (the recipient) has attained ownership, and he (the payer) is not rightful to take it back. (2) The condition of advance payment was placed. In this case, it is valid to demand the payment from the outset. (3) After attaining the benefit (or receiving the service). (Bahar-e-Shari'at, Vol. 3, Pt. 14, p. 109-110, Publ. Maktaba-Tul-Madinah, Karachi)

Who is responsible for paying the zakah on this money? Evidence regarding this:

It is stated in Fath Al-Qadeer:

وَأَمَّا زَكَاةُ الْأَجْرِ الْمَعْجَلَةِ عَنْ سَنِينَ فِي الْإِجَارَةِ الطَّوِيلَةِ الَّتِي يَفْعَلُهَا بَعْضُ النَّاسِ عَقُودًا فَتَجِبُ عَلَى الْآجَرِ لِأَنَّهُ مَلِكُهَا بِالْقَبْضِ
(Fath Al-Qadeer, Book of zakah, Vol. 2, p. 165, Publ. Dar Al-Fikr, Beirut)

It is similarly stated in Badai' Al-Sanai':

وَذَكَرَ الشَّيْخُ الْإِمَامُ أَبُو بَكْرٍ مُحَمَّدُ بْنُ الْفَضْلِ الْبُخَارِيُّ فِي الْإِجَارَةِ الطَّوِيلَةِ الَّتِي تَعَارَفُهَا أَهْلُ بَخَارٍ أَنَّ الزَّكَاةَ فِي الْأَجْرِ الْمَعْجَلَةِ تَجِبُ عَلَى الْآجَرِ؛ لِأَنَّهُ مَلِكُهُ قَبْلَ الْفَسْخِ، وَإِنْ كَانَ يَلْحَقُهُ دَيْنٌ بَعْدَ الْحَوْلِ بِالْفَسْخِ
(Badai' Al-Sanai', Book of zakah, Vol. 2, p. 6, Publ. Beirut)

Declaring this to be the Hanafi position, it is stated in Al-Mawsoo'ah Al-Fiqhiyah Al-Kuwaitiyah as follows:

وقوله الكاساني عن محمد بن الفضل البخاري الحنفي، وهو قول عند الشافعية: إن الأجرة المعجلة لسنين إذا حال عليها
الحول تجب على المؤجرز كاتها كلها، لأنه يملكها ملكا تاما من حين العقد. بدليل جواز تصرفه فيها
(Al-Mawsoo'ah Al-Fiqhiyah Al-Kuwaitiyah, The received wages, Vol. 23, p. 240, Publ.
Kuwait)

وَاللَّهُ أَعْلَمُ عَزَّ وَجَلَّ وَرَسُولُهُ أَعْلَمُ صَلَّى اللَّهُ تَعَالَى عَلَيْهِ وَآلِهِ وَسَلَّمَ

(Allah Almighty knows best and His Messenger صَلَّى اللَّهُ تَعَالَى عَلَيْهِ وَآلِهِ وَسَلَّمَ knows best.)

Answered By: Mufti Muhammad Qasim Attari

Ref No: Aqs-2760

Date: 13th Ramadan Al-Mubarak 1446 AH/ 14th March 2025



Dar-ul-Ifta Ahlesunnat (Dawat-e-Islami)



www.fatwaqa.com



[daruliftaahlesunnat](https://www.facebook.com/daruliftaahlesunnat)



[DaruliftaAhlesunnat](https://www.youtube.com/DaruliftaAhlesunnat)



[Dar-ul-ifta AhleSunnat](https://play.google.com/store/apps/details?id=com.daruliftaahlesunnat)



feedback@daruliftaahlesunnat.net