

Will Zakah be paid on the land received in Inheritance?

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Question

What do the noble scholars and jurists of Islamic law say about the following: Zaid's father bought some plots of land intending to sell them, and he would pay their zakah. Before the end of this year, Zaid's father passed away. Zaid received one plot of land in inheritance. So, the question is, is it necessary for Zaid to pay the zakah for this plot, even though Zaid himself possesses the nisab amount and pays the zakah of his trade goods, money, etc? Furthermore, please inform me when it will be fard to pay the zakah of this land, after one year has passed with that plot or before that?

Answer

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

Zaid's father possessed that land as a trade good; therefore, it will still be considered a trade good when Zaid receives it in inheritance. Since Zaid was already the owner of nisab because of his trade goods and wealth, and his zakah year is already in progress, then as soon as the zakah year is complete, it will be necessary to immediately pay the zakah of this land along with the zakah of his other assets. A separate year will not be calculated for this plot because when any asset from the category of zakah-payable assets is attained during the zakah year, it is joined with the other assets, and its zakah year is counted together with them (provided that this doesn't cause zakah to be paid twice on the same asset). In this matter, cash, trade goods, gold, and silver are all considered one category.

The ruling mentioned above will apply when Zaid intended zakah on that land, or even if he didn't have any intention. But, if Zaid intentionally excluded this plot from the trade goods at that time or later on, i.e., he decided not to sell this plot but to use it for his personal use, then this land will be excluded from 'trade goods' and its zakah will not be fard upon Zaid.

The details of this matter are: When anyone receives the trade goods of a deceased in inheritance, if they had intended for it to be a trade good after the passing of the deceased, it will be a trade good for the heir as well. But, if the heir didn't intend for it to be a trade good after the passing of the deceased, there are two opinions regarding whether that will be

considered a trade good for the heir or not. The 'Rajih' (preferred) opinion is that it will be regarded as a trade good for the heir even without this intention, because an heir receives the assets as a substitute and successor of the deceased. Therefore, the status of the wealth with the original owner will remain for that wealth with the substitute and successor as well. However, if the heir excluded it from trade goods and intended to use it for his personal use, it will no longer be considered a trade good for the heir.

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

مورث کے پاس تجارت کا مال تھا، اس کے مرنے کے بعد وارثوں نے تجارت کی نیت کی تو زکاۃ واجب ہے۔

Translation: If the deceased had any trade goods and the heirs intended to trade with it after their passing, zakah will be wajib. (Bahar-e-Shari'at, Vol. 1, Sect. 5, p. 883, Publ. Maktaba-Tul-Madinah, Karachi)

It is stated in Al-Fatawa Al-'Alamgiri with reference to Muheet Al-Sarakhsi: وفي السائمة، ومال التجارة إن نوى الورثة الإسماء أو التجارة بعد الموت تجب وإن لم ينووا قيل تجب وقيل لا تجب كذا في محيط السرخسي

(Al-Fatawa Al-'Alamgiri, Book of zakah, Vol. 1, p. 174, Publ. Dar Al-Fikr, Beirut)

It is stated in Tuhfah Al-Fuqaha':

فأما في مال التجارة والإسماء فإن نوى الورثة التجارة أو الإسماء بعد الموت تجب وإن لم ينووا قال بعضهم تجب لأن الوارث والموصى له خلف الميت فينتقل المال إليهما على الوصف الذي كان مالم يوجد التعيين من جهتهما بأن وجدت منهما نية الابتداء والإعلاف وقال بعضهم لا بد من وجود النية لأن الملك قد زال عن الميت حقيقة وتجدد الملك للوارث والموصى له (Tuhfah Al-Fuqaha', Vol. 1, p. 295, Book of zakah, Topic: Zakah of grazing animals, Publ. Dar Al-Kutub Al-'Ilmiyah)

In the case that no intention is formed, there are two opinions, but the Zahir and Rajih' opinion is that zakah will be wajib because:

(1) This has been mentioned first in Muheet, Tuhfah, etc., and mentioning any opinion first indicates that it is preferred, as it is stated in Radd Al-Muhtar:

وتقديمهم قول محمد يشعربترجيحه

Translation: Jurist mentioning the opinion of Imam Muhammad first tells that it is preferred. (Al-Durr Al-Mukhtar Wa Radd Al-Muhtar, Vol. 2, p. 264, Publ. Dar Al-Fikr, Beirut)

The Imam of Ahl-Us-Sunnah, Imam Ahmad Raza Khan رحمه الله stated while

mentioning the reasons for reference [اسباب ترجيح]:

ومعلوم ان التقديم يشعربالاختيار كما في كتاب الشركة من العناية والنهر والدر المختار

Translation: It is known that precedence indicates preference as stated in the Kitab Al-Shirkah of Al-'Inayah, Al-Nihayah, and Al-Durr Al-Mukhtar. (Fatawa Razawiyyah, Vol. 10, p. 93, Publ. Raza Foundation, Lahore)

(2) In the absence of intention, there is more benefit for the destitute when considering this wealth a trade good, and the jurists ensure that in the rulings of zakah, the opinion that has more benefit for the destitute is adopted. Therefore, this opinion is preferred in this respect as well. While discussing a differed upon ruling in the chapter of zakah, when the Imam of Ahl-us-Sunnah, Imam Ahmad Raza Khan رحمہ اللہ mentioned the different opinions of the scholars, he mentioned the reasons that one opinion was Rajih (preferred) and mentioned one of those reasons of preference in the following words:

وسادساً: بانه الانفع للفقراء وقد علم ان للعلماء بذلك اعتناء عظيم في الزكاة والوقف

Translation: Sixth: This is more beneficial for the destitute, and it is known that the scholars ensure this in the chapter of zakah and waqf. (Fatawa Razawiyyah, Vol. 10, p. 95, Publ. Raza Foundation, Lahore)

(3) Furthermore, the ruling of receiving trade goods as inheritance is the same as receiving 'Saimah' (grazing animals) as inheritance, and these both were mentioned together in the texts. In the case of receiving 'Saimah' as inheritance, the preferred opinion is that even if the heirs didn't intend to make them 'Saimah', even then zakah will be obligated on the heirs. Qadi-Khan chose this and the author of Al-Durr Al-Mukhtar, Allamah Shami, and Bahar-e-Shari'at also took this. Therefore, if trade goods are received in inheritance and no intention was formed, the 'Mukhtar' (chosen) opinion is that it will be considered a trade good for the heir. It is stated in Al-Durr Al-Mukhtar Ma'a Radd Al-Muhtar (the text of Radd Al-Muhtar is between the parentheses):

في الخانية: لو ورث سائمة لزمه زكاتها بعد حول نواه أولا (أي نوى السوم أولاً لأنها كانت سائمة فبقيت على ما كانت وإن لم ينو خانية)

(Al-Durr Al-Mukhtar Wa Radd Al-Muhtar, Vol. 2, Book of zakah, p. 273, Publ. Dar Al-Fikr, Beirut)

It is stated in Sharh Al-Nuqayah Lil-Barjandi:

ثم السائمة ان كان ميراثا فلا حاجة الى النية

(Sharh Al-Niqayah (manuscript), Vol. 1, p. 94)

The author of Bahar-e-Shari'at writes:

چرائی کے جانور وراثت میں ملے، زکاة واجب ہے چرائی پر رکھنا چاہتے ہوں یا نہیں۔

Translation: If grazing animals are received in inheritance, zakah will be wajib regardless of whether they want to keep them as grazing or not.

(Bahar-e-Shari'at, Vol. 1, Chapter of Zakah, p. 883, Publ. Maktaba-Tul-Madinah, Karachi)

If any wealth from the category of the nisab is attained during the year, it will be combined with the other wealth, and the year for it will be completed along with the year of the other wealth. Regarding this, it is stated in Fatawa Razawiyah:

جو شخص مالک نصاب ہے اور ہنوز حولانِ حول نہ ہوا کہ سال کے اندر ہی کچھ اور مال اسی نصاب کی جنس سے خواہ بذریعہ ہبہ یا میراث یا شریا و وصیت یا کسی طرح اس کی ملک میں آیا تو وہ مال بھی اصل نصاب میں شامل کر کے اصل پر سال گزرنا اُس سب پر حولانِ حول قرار پائے گا اور یہاں سونا چاندی تو مطلقاً ایک ہی جنس ہیں خواہ ان کی کوئی چیز ہو اور مال تجارت بھی انہی کی جنس سے گنا جائے گا اگرچہ کسی قسم کا ہو کہ آخر اس پر زکوٰۃ یوں ہی آتی ہے کہ اس کی قیمت سونے یا چاندی سے لگا کر انہیں کی نصاب دیکھی جاتی ہے، تو یہ سب مال زروسیم ہی کی جنس سے ہیں اور وسط سال میں حاصل ہوئے، تو ذہب و فضہ کے ساتھ شامل کر دئے جائیں گے بشرطیکہ اس ملائے سے کسی مال پر سال میں دوبار زکوٰۃ لازم نہ آئے۔۔۔۔۔ تنویر الابصار و در مختار میں ہے: ”المستفاد ولو بھبة (او شریا و میراث او وصیۃ اھش) وسط الحول یضم الی نصاب من جنسہ (مالہ یمنع منہ مانع ہو الثنی المنفی بقولہ صلی اللہ تعالیٰ علیہ وسلم ولا ثنی فی الصدقة اھش) فیز کیہ بحول الاصل ولوادی زکوٰۃ نقدہ ثم اشتری بہ سائمه لا تضم (الی سائمه عندہ من جنس السائمه التی اشتراہا بذلک النقد المزکی ای لایز کیہا عند تمام حول السائمه الاصلیۃ عند الامام للمانع المذکور اھش) اھ بالتلخیص وفی ش ایضا احد النقدین یضم الی الآخر و عروض التجارة الی التقدین للجنسیۃ باعتبار قیمتہما بحر اھ ملخصاً واللہ تعالیٰ اعلم

Translation: Before the completion of the year, if the owner of nisab received more assets from the category of nisab whether as a gift, inheritance, by purchasing, through a will, or it came into his ownership in any other way, that wealth will also be included in the original nisab and completion of a year on the original nisab will be considered completion of a year on everything. Gold and silver are one category, even if there is anything made of these. Trade goods will also be considered from their category, regardless of what they are, because the nisab of the gold or silver is considered after the price is calculated according to the price of gold and silver. Since all these assets are from the category of gold and silver, and they were received in the middle of the year, they will be joined with gold and silver, given that joining them will not cause zakah to be obligatory on one asset twice... It is stated in Tanwir Al-Absar Wa Al-Durr Al-Mukhtar: Whatever is gained in the middle of the year, whether as a gift, by purchasing, as inheritance, or through a will, it will be joined with the nisab of its category given that there is no prevention, which is the repetition of zakah which has been prohibited by the Prophet ﷺ: There is no repetition on charity. Therefore, zakah will be paid according to the

year of the original assets. If one paid the zakah on 'Naqd' (monetary assets) and then purchased grazing animals, these animals (which were bought with the Naqd for which zakah has already been paid) will not be joined with the other grazing animals, i.e. he will not pay zakah for them at the end of the original grazing animal's zakah year according to Imam A'zam because the previously mentioned prevention (summarized). It is also stated in the Sharh that one Naqd will be joined with the other, and trade goods will be joined with both Naqds' because they are from the same category from the aspect of their prices. (Fatawa Razawiyyah, Vol. 10, p. 86, Publ. Raza Foundation, Lahore)

Note: If the deceased left behind any assets other than the trade goods and the heir intends to trade that item, even then that asset will not become a trade good, and its zakah will not be wajib on the heir. This is because the intention of trading at this time isn't considered. The intention of trading can only be formed when something is being attained through 'Aqd Mu'awadah' i.e. a contract of exchange.

It is stated in Al-Hidayah and it's Sharah Al-Binayah:

(وإن اشترى شيئاً ونواه للتجارة كان للتجارة لاتصال النية بالعمل، بخلاف ما إذا ورث ونوى التجارة؛ لأنه لا عمل منه) ش:
يعني لا يكون للتجارة بالإجماع؛ لأن النية تجردت عن العمل

(Al-Binayah Sharh Al-Hidayah, Vol. 3, Book of zakah, p. 310, Publ. Dar Al-Kutub Al-'Ilmiyah)

It is stated in Al-Muheet Al-Burhani:

واتفقوا أيضاً أنه لو ملك هذه الأعيان بالإرث ونوى التجارة وقت موت المورث لا تصير للتجارة، ولا تعمل نيته

(Al-Muheet Al-Burhani, Vol. 23, Book of zakah, p. 248, Publ. Dar Al-Kutub Al-'Ilmiyah)

وَاللّٰهُ اَعْلَمُ عَزَّوَجَلَّ وَرَسُولُهُ اَعْلَمُ صَلَّى اللّٰهُ تَعَالٰى عَلَيْهِ وَاٰلِهٖ وَسَلَّم

(Allah Almighty knows best and His Messenger صَلَّى اللّٰهُ عَلَيْهِ وَاٰلِهٖ وَسَلَّم knows best.)

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