

بسم الله الرحمن الرحيم

Series of Questions Addressed to Scholar Sheikh Ata Bin Khalil Abu Al-Rashtah,
Ameer of Hizb ut Tahrir through his "Fiqhi" Facebook Page

Answers to Questions:

1. Zakat on Secured Currency

2. The Lands which the Islamic State Lays its Hands on

To: Abu Osama

(Translated)

Question:

Assalamu alaikum wa rahmatullah wa barakatuhu my dear respected brother. I became confused on two matters for which I would like you to please clarify them, may Allah (swt) reward you with all good and help you.

The first matter is related to the Zakat on secured paper currency. It is mentioned in the book "*Funds in the Khilafah State*" that the representative paper currency is treated the same as gold or silver because it represents either gold or silver. This is clear. It is also mentioned that Zakat on compulsory paper currency is obligatory because it is linked to the currency *'Illah*, and its value is evaluated with gold or silver depending on its purchase value in the market and its Zakat is calculated after the *Nisab* and the passing of one year. This is also clear. As for the "reliable paper currency" which has a specific cover of gold and silver according to a specific proportion which is less than the nominal value of currency as determined by the State or by the entity authorized to do so by the State. For example, assuming that one Jordanian Dinar was issued by the State to equal to one gold Dinar but it adhered to covering it by 50%, i.e. by one-half of a Gold Dinar, so the Jordanian Dinar was divided to half, the first half is considered representative paper currency, and the second half is considered compulsory paper currency.

When the book explored the *Zakat* of this money, it considered the representative half only and did not address the other compulsory half, although it has a market value and has fulfilled the currency characteristic, it was still not considered. Please clarify this.

The second matter is related to lands and properties (individual, public and state). Two points were cited regarding the lands that belong to the Islamic State. The first: there is no fourth type of properties. Secondly: that all of these lands belong to one of the three properties. It is mentioned in the book *Funds in the Khilafah State*: 1- Types of State Property: deserts, mountains, sea coasts (beaches) and uncultivated (barren) land not owned by individuals, which the State has laid its hands on legitimately.

And the phrase "the state laid its hands on, if the state lays its hands on..." was mentioned in its explanation many times, which caused for me some confusion, it is not talking about the lands of individual property, nor of public property, it is also talking about lands that belong to the State yet still mentions "which the state laid its hands on legitimately", causing me to understand that as though there are lands within the State that are not a property of anyone. Please explain this. May Allah (swt) reward you with Khayr. Your brother, Abu Osama from Al-Quds." **End.**

Answer:

Wa Alaikum Assalam Wa Rahmatullah Wa Barakauhu,

Your question is twofold:

Answer to the first part of the question:

The reliable paper currency (Watheeqa) is representative paper, i.e. it can be substituted for gold at any time, but it is substituted with a portion of the value that is written on it, and this is a value that is declared and known to all, thus it is handled on this basis, and when using both kinds of representative paper currency, compulsory paper currency is not used. To clarify this matter, currency dealing occurs either with actual gold, or with representative paper, or with the compulsory paper:

The Zakat on actual gold currency is clear...

As for dealing with representative paper currency, whether it is exchanged upon request with gold at the specified value that is written on it or whether it is exchanged with gold with a portion of what is written on it, as known and declared to the people, then it is like dealing with gold because it is a substitute for it. And it cannot be said that the reliable paper currency that is exchanged with gold with only a portion of what is written on it

(of value), it cannot be said that the rest of this value would be considered as compulsory paper currency, because:

The compulsory paper currency cannot be exchanged with gold or silver, it only takes the value of gold or silver by the law of the State depending on the strength of its economy, without this, there is no value to this type of currency, and there is no law that gives a value on the remainder of the currency, therefore there is no value for it...

Hence, upon using both divisions of the representative paper, then the compulsory paper will not be used...

Also, the State's writing on the paper does not affect the value of the paper except with the value of exchanging it with gold, which is known to the people with the reliable paper currency...

Therefore, the reliable paper currency is a representative paper that takes its value from the portion of exchanging it with gold, thus its Zakat is done according to the gold value it is exchanged with.

As for dealing with the compulsory paper currency, it has no real value, and it is not exchanged for anything of gold and silver, it has a statutory value according to the law issued by the State in accordance with its economic strength. **And Zakat for it is obligatory as per the 'Illah of currency, and not because it is gold or silver,** that is why it is evaluated with gold or silver and Zakat is obliged in it when it reaches the *Nisab* over which a year passes in accordance with its evaluation with gold or silver.

Answer to the second part of the question:

There are two reasons for mentioning "**The State legitimately put its hands on it**" in the texts which you referred to from the book "*Funds in the Khilafah State*":

First: The State could lay its hands on lands in an illegitimate way like abducting the lands of people, in this case, the State does not legitimately own these lands even if they were in reality at its disposal and in its possession, because Hukm of abduction in Islam is applied if the State abducts money, that the rule of ownership stays with the owner, **so if the state illegitimately lays its hands on a land, then it has no legitimate right to either sell it, lease it, or cultivate it...**

Second: **Even if the barren land was under the State's authority, it is permissible for people to own it, and they do not need the permission of the Imaam to own it by *Ihya*' (revival) or *Tahjeer* (private ownership)... when these lands become under the ownership of the State then it is impermissible for anyone to own them without the State's permission, and the State can thus dispose of it by selling, leasing and cultivating...** according to what it sees fit from a Shari' perspective... this was all outlined in the book *Funds in the Khilafah State*, page 102 from the Arabic book, and the following was mentioned in this regards:

"It is apparent from the Hadith that *Tahjeer* (closing the land as private property) is the same as revival, is done in the dead land, and not anything else..."

This differentiation between barren land and cultivated land, **is evidence that the Messenger (saw) gave permission to the people to own a barren land through cultivating it and closing it off as private property, thus it became permissible, and therefore it does not need the permission of the Khaleefah to cultivate it or closing it off as private property; it is what the Khaleefah lays his hand on, and became known as lands of the State.** An evidence for this is when Bilal Al-Muzni asked the Messenger of Allah (saw) to allocate a land for him, and he did not become its owner until the Messenger (saw) allocated it for him, and if it were to be owned by cultivation of closing it off as private property, he would have surrounded it with a sign indicating his ownership of it, and he would have owned it without seeking permission to allocate it for him." **End.**

Therefore, the barren land is permissible for the use of people except that which the State laid its hands on, and the rest of the barren land remains permissible for people, i.e. even if the barren land is under the authority of the State, but in terms of ownership, it is permissible for the people as shown by the Shariah.

Your brother Ata' Bin Khalil Abu Rashtah

30 Jumada II 1436 AH

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Link to the Question and Answer on the Ameer's Facebook page:

<https://www.facebook.com/Ata.abualrashtah/photos/a.154439224724163.1073741827.154433208058098/433299393504810/?type=1>