ISSN: 2655-6251

Fiscal Policy Design in Malaysia and Indonesia about Zakat and Taxes

Aulia Rizka Destiana[1] and Muhammad Zilal Hamzah[2]
[1]Universitas Indonesia, Indonesia, aulia.rizka01@ui.ac.id
[2]Universitas Trisakti, Indonesia, mhd_zilal_hamzah@trisakti.ac.id

Paper to be presented at the 5th International Conference of Zakat (ICONZ)
22-23 November 2021, Jakarta, Indonesia

ABSTRACT

This paper aims to compare zakat and taxation relations in two countries in Southeast Asia where the majority of the population is Muslim, namely Malaysia and Indonesia. This type of research is normative, empirical legal analysis with a comparative approach. There are several aspects showing the difference between zakat and tax. First, zakat is a form of Muslim obedience to religious teachings. While taxes are the obedience of a citizen to the policies of the state. Second, the amount of zakat has been determined in the Qur'an and Hadith. While taxes are determined by the provisions of state law. Third, zakat is only given by certain Muslim groups. Meanwhile, taxes are issued by every citizen regardless of their religious status. Fourth, taxes are used for state expenditures and for economic, social, and political goals to be achieved by the state. At the same time, zakat is distributed to those Muslim individuals who are entitled to receive zakat (mustahik zakat). The results show relational and functional differences in the position of zakat and taxes in Malaysia and Indonesia. Malaysia uses zakat as an individual tax deduction, even up to 100%. Meanwhile, in Indonesia, paying zakat can reduce taxable income.

Keywords: zakat management, tax management, Muslim countries.

JEL classification: G18; G21; G28

INTRODUCTION

Background

Indonesia is a country with Muslims as the demographic majority. Demographic conditions have an impact on public order. Government laws and policies mostly accommodate the needs of Muslims such as hajj, halal guarantees, sharia financial institutions, and zakat management. Accommodation from the recognition of Islam is part of the state guarantee of the spiritual rights of citizens. Article 29 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that "the State is based on God" in the One and Only God." The article implies that Indonesia is not a country based on religion. However, the administration of the state must be in accordance with the principle of One God and Only God. In other words, the state administration must not conflict with the existing religious norms in Indonesia, including the norms regulated in Islamic law.

Therefore, Article 29 paragraph (2) of the 1945 Constitution of the Republic of Indonesia stipulates that "the State guarantees the freedom of every citizen to embrace his religion and worship" in accordance with that religion and belief." This article places the government's obligation to guarantee all Indonesian residents to carry out worship according to their religion, including Islamic guarantees of recognition to implement Islamic law. For Muslims, freedom of worship means freedom to perform prayers, norms, and rules that are listed in the Qur'an as the holy book of Muslims, and the sunnah as the words, customs, and behavior of the Prophet Muhammad Shalallahu 'Alaihi Wassalam. The obligatory prayers for Muslims refer to the five pillars of Islam. They consist of declaring the shahada (acknowledging that Allah is the only God and Muhammad is His Messenger), praying five times a day, paying zakat, fasting in the holy month of Ramadan, and going on the pilgrimage to Mecca (Purbasari, et al, 2018).

Malaysia is a multiracial country consisting of various ethnic groups, mainly Malays, Chinese and Indians. They are free to embrace any religion. However, according to article three of Malaysia's constitution, Islam is the official religion. Malaysia is ruled by mostly Muslims and they try to follow Islamic law to the satisfaction of Muslims. Zakat is the obligatory obligation of Muslims to pay a certain amount of their income (under some conditions) to the beneficiary called al-mustahiqqin with the main goal of achieving socio-economic balance (Muhammad, 1980). The collection and distribution of zakat must be managed by a Muslim Government or a Muslim supervisory body that has been assigned by that Government. In Malaysia, the management of zakat is under the supervision of the state government. Zakat is not a pillar of Islam to worship Allah SWT, but is the right of the poor (Norulazidah, et al, 2010). So, the government imposes Muslims must pay zakat and taxes. On the other hand, non-Muslim people in Malaysia have to pay income tax only. Though, Malaysia is following a mixed economy but the states are allowed to introduce related rules to the Islamic religion. This means that the ruler of the state or the sultan has freedom of religious affairs outside the federal government.

Research Objective

Indonesia and Malaysia are two countries in Southeast Asia that have almost similar economic systems. Both implement zakat and tax policies in their economic activities. This paper aims to compare zakat and taxation relations in two countries in Southeast Asia where the majority of the population is Muslim, namely Malaysia and Indonesia.

LITERATURE REVIEW

Zakat Theory

Linguistically, zakat comes from the Arabic zaka-yazku-zakaan, which means blessing, growing, clean and good. In mu'jam al-Wasith it is explained that zakat in language is a blessing, holy, good, growing, and clean something (Arifin, 2011). The word zakat sometimes means praise, for example in the word of Allah QS. An Najm : 32

فَلَا تُزَكُّوٓا۟ أَنفُسَكُمْ ۖ هُوَ أَعْلَمُ بِمَنِ ٱتَّقَىٰٓ

"...So do not claim yourselves to be pure; He is most knowing of who fears Him."

This word sometimes also means good (shalah). Rajul Zakyy's statement means that people are getting better. Assets that are issued, according to syara' are called zakat, because they increase and protect them from destruction. Allah says in QS. Al Baqarah : 43

وَءَاتُوا۟ ٱلزَّكَوٰةَ

"...and give zakāh..."

Etymologically, the meanings of zakat above can be collected in the following verse, His word in QS. At Taubah : 103

خُذْ مِنْ أَمْوَٰلِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِم

"Take, [O Muḥammad], from their wealth a charity by which you purify them..."

In the Qur'an and al-Sunnah, *shadaqah* also means zakat, therefore Imam al-Mawardi states: The sentence *shadaqah* sometimes means zakat, and zakat in question is *shadaqah*, two different words, but having the same substance (Ridho, 2007 in Atabik, 2015). So, the meaning of the verse above is, zakat will be able to purify the person who issued it and will grow his reward. Meanwhile, according to syara', zakat is a certain calculation of assets and the like where syara' obliges to issue it to the poor, and the like with special conditions (Mustafa, tt.:395 in Atabik, 2015). According to another opinion, zakat is a right that must be removed from property. According to the Shafi'i school, zakat is an expression for the release of property or body in a special way, and is given to 8 groups who are entitled to receive zakat. This is stated in His word in QS. At Taubah:60.

إِنَّمَا ٱلصَّدَقَٰتُ لِلْفُقَرَآءِ وَٱلْمَسَٰكِينِ وَٱلْعَٰمِلِينَ
عَلَيْهَا وَٱلْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِى ٱلرِّقَابِ وَٱلْغَٰرِمِينَ وَفِى
سَبِيلِ ٱللَّهِ وَٱبْنِ ٱلسَّبِيلِ ۖ فَرِيضَةً مِّنَ ٱللَّهِ ۗ وَٱللَّهُ
عَلِيمٌ حَكِيمٌ

> *"Zakāh expenditures are only for the poor and for the needy and for those employed for it1 and for bringing hearts together [for Islām] and for freeing captives [or slaves] and for those in debt and for the cause of Allah and for the [stranded] traveler - an obligation [imposed] by Allah. And Allah is Knowing and Wise"*

Zakat is issued at a special time, in the sense that the ownership is complete for a year (haul), whether property in the form of livestock, money, or merchandise, as well as seeds (products of rice fields or fields), picking fruits, digging mining goods, income and professions (according to some scholars'), all of which are obliged to pay zakat. So, it can be concluded that according to syara', zakat is the fulfillment of obligatory rights contained in assets. Zakat is also intended as a part of certain assets and which is required by Allah to be given to the poor (al-Zuhayli, 2005 in Atabik, 2015).

The scholars divide zakat into two parts, namely: First, zakat fitrah, which is removing 2.5 kg (3.1 liters) of the relevant staple food (every Muslim: big, small, old, young, master and servant) is given to those who are entitled to receive it (*mustahik*). The implementation time is up to the implementation of the Eid prayer, and may take precedence (*ta'jil*) during the month of Ramadan. Second, zakat mal. This type of zakat includes: i) professional zakat; ii) livestock, such as camels, cows, buffalo, and goats; iii) gold and silver; iv) filling food and the like; v) fruits; and vi) commercial property (Rofiq, 2012).

Tax Theory

The concept of taxes already existed in BC. As far as modern man knows, the history of taxes begins in Egypt. During several periods of Pharaoh's reign, tax collectors were known as Scribes. During the period Scribe imposed a tax on cooking oil. To ensure that citizens do not try to avoid the cooking oil tax, Scribe will conduct an "audit" of households to ensure the amount of cooking oil consumed and taxes are not imposed on used cooking oil (Mustaqiem, 2014).

In times of war the Athenians were subject to the Eisphora tax which was used to finance the war. There is no one who passes the alias gets the exemption from this tax. Citizens can ask for a tax refund (restitution) at the end of the war whose funds are sought by the tax authorities from other additional sources. There is no official information that says whether restitution also applies if the war ends in the defeat of the Athenians themselves. In addition, the Athenians were also subject to a monthly toll tax known as Metoikion. This tax must be imposed on foreign taxpayers, namely those whose mothers and fathers are not Athenians, the amount is one Drachma (their currency) for men and half Drachma for women (Mustaqiem, 2014).

The first tax introduced in Rome was the Customs Duties on imports and exports called the Portoria. Emperor Augustus was considered a tax strategist in the Roman empire. During his reign, Publicani's position as tax collector, as a tax collector for the central government was abolished. During this period the city of Rome was given the power to collect taxes. Emperor Augustus instituted an inheritance tax to provide a pension fund for the military. This tax is 5% on all inheritance except for gifts to children and spouses. England and the Netherlands refer to the inheritance tax created by Augustus in an effort to develop an inheritance tax. During the time of Julius Caesar there was a sales tax levied at 1 (one) percent on sales. Especially for the sale of slave subject to 4 (four) percent. In 60 BC, Boadicea, Queen of East Anglia led a revolution against corruption by tax collectors in the British Isles. This revolution resulted in the killing of all Roman soldiers within a 100 miles radius captured in London. More than 80,000 people were killed during this revolution. Queen Boadicea mustered an army of 230,000 men. This revolution was successfully broken by Emperor Nero and led to the appointment of a government for the British Isles (Mustaqiem, 2014).

Taxation is a mandatory payment to the government based on ownership of the tax base (Mikesell, 2003). This is an important economic and political issue (Connolly & Munro, 1999). The purpose of taxation is to raise funds for administrative and defense costs, and some other public services in the country as well as for government spending (Hanson, 1972). There are two types of taxation. One is based on the proportional principle, meaning that the tax is proportional to income and the other is based on the progressive principle, meaning that the amount to be paid as tax increases more than in proportion to the income of the taxpayer. The principle of proportion was strongly supported by the Scottish economist Adam Smith because he considered it the most reasonable method of collecting income from the taxable income of the people of the country (Hanson, 1972).

METHODOLOGY

This research is qualitative in the form of literature study. The data sources used are various scientific research results that explain the zakat and tax management system in Malaysia and Indonesia. The research approach used is comparative, namely comparing the relationship between the concepts of taxation and zakat in Malaysia and Indonesia.

RESULTS AND ANALYSIS

There are several aspects showing the difference between zakat and tax. First, Zakat is a form of Muslim obedience to religious teachings. While taxes are the obedience of a citizen to the policies of the state. Second, the amount of zakat has been determined in the Qur'an and Hadith. While taxes are determined by the provisions of state law. Third, Zakat is only given by certain Muslim groups. Meanwhile, taxes are issued by every citizen regardless of their religious status. Fourth, taxes are used for state expenditures and for economic, social, and political goals to be achieved by the state. At the same time, Zakat is distributed to those Muslim individuals who are entitled to receive zakat (Islamy and Aninnas, 2020).

Zakat and Tax Regulations in Malaysia

Malaysia is one of the countries in Southeast Asia that is unique in its arrangement and management of zakat. In this country, the authority to collect and distribute Zakat exists in each region (Ridwan, 2014) in (Islamy and Aninnas, 2020). This fact causes the zakat management model in each region to have their own policies in determining zakat management (Wira, 2019). Therefore, it is not surprising that every region in the country has different zakat management laws from other regions (Ridwan, 2014 in Islamy and Aninnas, 2020).

The existence of various model of zakat management policies in each region as above in the practical realm has resulted in coordination problems between regions, because there are differences in the amount of nishab, the classification of assets that must be issued zakat, even groups of users who are entitled to receive Zakat/*asnaf* (Ridwan, 2014) in (Islamy and Aninnas, 2020). Not only that, there were three different aspects of the administration of zakat management at that time. First, aspects of the types of zakat that may be collected by various official institutions. Second, the aspect of prosecution for various zakat errors. Third, aspects of the type of punishment and the amount of fines imposed by each zakat law enforcement agency (Alfin, 2014).

Malaysian zakat institutions are characterized by a number of characteristics such as: social, independent, and not controlled/centralized in the hands of the federal government but the state government. There are 13 states in Malaysia, and 3 federal territories, each having a Sultan and a religious council that acts as the body responsible for collecting and issuing zakat. (Figure 1) illustrates how zakat is administered and shows the functions of the state religious councils. This illustration also shows the relationship between the federal government, the Sultan of the state, and the state religious council. One might assume that the federal government may be at the top of the hierarchy, but that is not the case. However, since zakat is public money, the national government corruption agency has the responsibility to review the records and financial statements of each religious council at all times. As for management, the federal government can cooperate, but the state of the Sultan is the highest authority when it comes to the management of the religious council that oversees the operations of the zakat institution (Migdad, 2019).

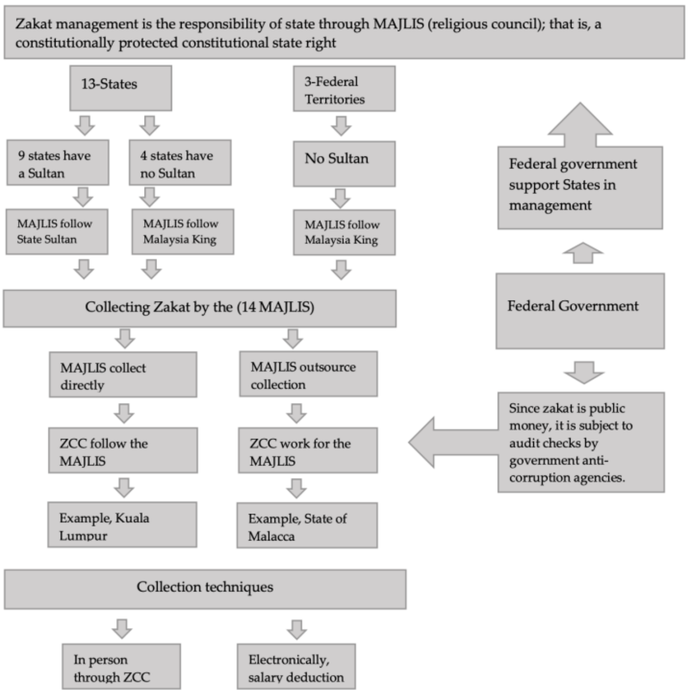

Figure 1. Management and Collection of Zakat in Malaysia

Source: Migdad, 2019

ISSN: 2655-6251

The relationship between Zakat and taxes in Malaysia can be seen from the domestic regulations, which stipulate that zakat can reduce tax obligations. The Malaysian government has established a policy of giving discounts to individual zakat payers. The reduction is through a scheduled tax discount or a monthly discount system. They will be able to enjoy a tax deduction which is equivalent to the payment of Zakat which can be used to reduce taxes by up to 100%. The purpose of this step is to avoid double tax payments on the income of zakat payers (Suprayitno, et al, 2013). But it's important to know, and this applies if Muzaki pays zakat to zakat institutions recognized by the government, such as the Zakat Collection Center (PPZ) (Ridwan, 2014 in Islamy and Aninnas, 2020).

Zakat and Tax Regulations in Indonesia

In the context of the implementation of zakat in Indonesia, it has been going on since Islam came to the archipelago (Sunarso, 2018). During the Islamic kingdoms, the existence of Zakat was interpreted as a spirit which was manifested in the form of paying taxes to the Islamic government at that time. During the Islamic Kingdom of Aceh, people paid zakat and taxes to the State. The government plays an active role in collecting these zakat and taxes. The domain establishes institutions that are handled by the royal officials in charge of collecting taxes or zakat. This obligation also applies to the Banjar Kingdom people, who also play an active role in collecting Zakat and taxes. This tax is imposed on everyone, whether officials, farmers, traders, or others. The types of taxes that apply also vary, such as head tax, land tax, tenth rice tax, gold pan tax, diamond tax, merchandise tax, and city tax. Interestingly, taxes on various crops are collected every year after the harvest season, in the form of money or produce. Everything is to follow the provisions of the payment of agricultural zakat in Islamic teachings (Faisal, 2011).

Post-independence precisely during the New Order government, the government began to be involved in zakat management to optimize zakat potential. This rule is stated in the Regulation of the Minister of Religion Number 4 of 1964 concerning the Establishment of the Amil Zakat Agency and the Regulation of the Minister of Religion Number 5 of 1964 concerning the Establishment of Baitul Maal. Since then, a number of amil zakat institutions in various regions have continued to emerge, known as the Amil Zakat, Infaq, and Alms (BAZIS) agency (Triantini, 2015).

In next developments, the 1999 Law was born, namely Law Number 38 of 1999 concerning the management of zakat. This law is a milestone in the revival of zakat management in Indonesia and the most important turning point in the world of national zakat. Currently, the zakat management institution is named BAZNAS (National Amil Zakat Agency), which is assisted by the Amil Zakat Agency (BAZ) and the Amil Zakat Institution (LAZ). To achieve a more optimal goal in the management of zakat for the welfare of the people (Saidurrahman, 2013). Regarding the existence of taxes in Indonesia based on Law Number 16 of 2009 concerning General Provisions and Tax Procedures, it is stated that tax is an obligation for contributions to the State owned by individuals or entities that are coercive under the law without receiving direct compensation and used for the needs of the state for the greatest prosperity of the people (Hidayati, 2014 in Islamy and Aninnas, 2020).

Regarding the relationship between Zakat and taxes, we can understand it from the explanation of Law no. 38/19991, which states that the position of zakat is only a fiscal incentive for zakat payers, or zakat is a tax deduction. The law also states that zakat received by BAZ or LAZ and Mustahik is not included in the category of tax objects, and income zakat paid by

Muslim individual taxpayers and/or domestic corporate taxpayers belonging to Muslims to BAZ or LAZ becomes deduction factor in determining the amount of Taxable Income. This has also been regulated in Government Regulation Number 571 and Taxation Law Number 17 of 2000 concerning Income Tax, which allows for rebates, namely income tax deductions for those who have issued zakat (Ridwan, 2014 in Islamy and Aninnas, 2020).

CONCLUSION AND RECOMMENDATION

Conclusion

Based on the description that has been stated above, the relationship between taxes and zakat in countries where the majority of the population is Muslim can vary. Because the management of zakat in Indonesia applies a tax reduction system, the zakat paid can reduce taxable income. Meanwhile, Malaysia uses Zakat as a tax deduction on the condition that zakat is paid at an official government institution. Zakat in Malaysia can be deducted from individual taxes even up to 100%.

Recommendation

From this comparison, it can be concluded that Indonesia can adopt tax and zakat management in Malaysia in order to maximize zakat receipts and provide incentives for *muzzaki* to start paying zakat. In addition, the management of zakat with a decentralized system in Malaysia makes zakat management more focused and on target.

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Aulia Rizka Destiana
Universitas Indonesia
aulia.rizka01@ui.ac.id.

Muhammad Zilal Hamzah
Universitas Trisakti
mhd_zilal_hamzah@trisakti.ac.id