



GIFTS AS OBJECT OF ZAKAT IN A REVIEW OF POSITIVE LAW AND ISLAMIC LAW IN INDONESIA

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Abstract

This research was motivated by the rise of gift zakat along with the rise of professional zakat today. As we know gifts are gifts from one person to someone else because of affection, achievements or bonuses from the results of our hard work. Some opinions say that zakat gifts have no nisab and are issued when getting without waiting for the haul. Therefore, this study aims to find out whether there are laws or propositions that can analogize gifts as objects of zakat. This research uses a type of normative legal research using a statutory approach and a conceptual approach. The data collection that the author did through literature studies, secondary legal materials that the author used includes, the Qur'an and hadith, the Compilation of Sharia Economic Law, Fatwa DSN MUI No. 3 of 2003 concerning Zakat Income and Law No. 23 of 2011 concerning Zakat Management. The primary legal material is a legal source that is not directly related to the object of research but only as a support. The results showed that in positive law, referring to article 4 paragraph 2 letter h of Law No. 23 of 2011 concerning zakat management, the gift zakat obtained from holiday allowances is included in the assets that must be zakat because it is analogous to mall zakat in the form of income and services, if the gift has reached nisab and is fully owned. In Islamic law that has been mentioned in surah Al-Baqarah verse 267, hadith narrated by At-Tarmuzi and Ibn Majah, Compilation of Sharia Economic Law Chapter III article 678 and Fatwa DSN MUI No. 3 of 2003 concerning Zakat Income, which if the gift is obtained in a halal way, can be owned, used and has reached with nisab then it has been included in the requirements of property as an object of zakat, for which 2.5% zakat must be issued.

Keywords: Zakat, Gifts, Positive Law, Islamic Law

Abstrak

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Penelitian ini dilatarbelakangi oleh maraknya zakat hadiah seiring dengan maraknya zakat profesi pada zaman sekarang. Sebagaimana yang kita ketahui hadiah adalah pemberian dari seseorang kepada seseorang lain karena kasih sayang, prestasi ataupun bonus dari hasil kerja keras kita. Beberapa pendapat mengatakan bahwa zakat hadiah tidak memiliki nisab dan dikeluarkan ketika mendapatkan tanpa menunggu haul. Maka dari itu penelitian ini bertujuan untuk mengetahui apakah ada Undang-Undang ataupun dalil-dalil yang dapat menganalogikan hadiah sebagai objek zakat. Penelitian ini menggunakan jenis penelitian hukum normatif dengan menggunakan pendekatan perundang-undangan (Statue Approach) dan pendekatan konseptual (Conseptual Approach). Pengumpulan data yang penulis lakukan melalui studi kepustakaan (library research), bahan hukum sekunder yang penulis gunakan

meliputi, Al-Qur'an dan hadis, Kompilasi Hukum Ekonomi Syariah, Fatwa DSN MUI No 3 Tahun 2003 Tentang Zakat Penghasilan dan Undang-Undang No 23 Tahun 2011 Tentang Pengelolaan Zakat. Adapun bahan hukum primer yaitu sumber hukum yang tidak berhubungan langsung dengan objek penelitian tetapi hanya sebagai pendukung. Hasil penelitian menunjukkan dalam hukum positif, merujuk pada pasal 4 ayat 2 huruf h Undang-Undang No 23 Tahun 2011 Tentang pengelolaan zakat, maka zakat hadiah yang didapatkan dari tunjangan hari raya termasuk dalam harta yang wajib zakat karena dianalogikan dengan zakat mal yang berupa pendapatan dan jasa, apabila hadiah tersebut telah mencapai nisab dan dimilikinya secara penuh. Dalam hukum Islam yang telah disebutkan dalam surah Al-Baqarah ayat 267, hadis yang diriwayatkan oleh At-Tarmuzi dan Ibn Majah, Kompilasi Hukum Ekonomi Syariah Bab III pasal 678 dan Fatwa DSN MUI No 3 Tahun 2003 Tentang Zakat Penghasilan, yang apabila hadiah tersebut didapatkan dengan cara yang halal, dapat dimiliki, digunakan dan telah mencapai dengan nisab maka telah termasuk dalam syarat harta sebagai objek zakat, yang mana wajib dikeluarkan zakatnya sebesar 2,5%.

Kata Kunci : Zakat, Hadiah, Hukum Positif, Hukum Islam

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INTRODUCTION

In Islam we are encouraged to help each other Religious people, especially to our fellow Muslims. It is purposeful in order to create peace, harmony and social sensitivity between people Religious. Islam itself trains its people to fulfill their lives with work and don't let their time go to waste. In the Quran and Hadith has a lot to say about the well-being of human life with commandments Sharia, such as the command to seek halal sustenance, to pay zakat, the obligation to care for orphans, care for the poor and poor and enforce the law against munkar and other acts.¹

In the teachings of Islam, there is a normative concept that aims regulate the lives of the people. This concept includes prohibitions against usury practices, control of property, and participation in cooperation with the crowd. Islam views poverty is one thing that can harm creed, morals, logic thinking, family and also society. However, if poverty persists, it must be faced with patient, captive, and accompanied by efforts to escape from Islam teaching various ways to alleviate poverty, one of which is through Zakat practice.

Zakat is also one of the elements in shaping the welfare of Islam. Apart from being a way to clean soul and property, zakat is also a way to maintain maintenance,

¹ Selvia Rustyani and Suherman Rosyidi, "Measurement of Efficiency and Productivity of Zakat Institutions in Indonesia Using Data Envelopment Analysis and the Malmquist Productivity Index," International Journal of Zakat 3, no. 3 (2018): 71

Improvement and regulation of wealth. Zakat is also beneficial in giving aid and support to the poor and poor, guiding them towards a better and prosperous life.²

From a linguistic perspective, the word "zakat" comes from the root word "zaka," which has the meaning of growing, clean, good, and blessings. In the context of fiqh, zakat defined by Nawawi and refers to Wahidi's opinion as "a number of certain treasures that God requires and are given to those who entitled." The amount of property issued is called zakat because it is believed that By giving zakat, one's wealth will increase and be protected from damage. Ibn Taymiah states, "The soul of one who gives alms will be clean, and his property will be clean too." The importance of the meaning of "growing" and "sacred" applies not only to wealth, but also to individuals who performing zakat, in the word of Allah in Sura at-Tawbah/9:103

خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا وَصَلِّ عَلَيْهِمْ إِنَّ صَلَاتَكَ سَكَنٌ لَهُمْ وَاللَّهُ سَمِيعٌ عَلِيمٌ

"Take zakat from their possessions (in order to) purify and cleanse them, and pray for them, for verily thy prayer is peace for them. Allah is All-Hearing again All-Hearing Know."

In the early days of Islam, zakat only included livestock zakat, gold and silver zakat, trade zakat and hidden treasure zakat (rikaz). However, along with the rapid development of the global economy, zakat also It has expanded in line with the postulates of ijmal and qiyas (analogies). Examples These developments include professional zakat, corporate zakat, stock zakat, zakat gifts, and zakat for other sectors. Of all these types of wealth If the zakat can be managed properly and correctly, there will be a lot of zakat Assets that can be taken and subject to mandatory zakat.³

So what about gifts? Often we also receive gifts from someone either because of the results of our hard work as a form of appreciation or The prizes we get are free. Now the term zakat gift is even began to flourish, along with the rise of professional zakat today. Zakat A gift is a zakat given for a gift that a person receives from a party other. In this case, the author wants to know if there is a law that set out clearly or postulately propositions that can define the prize as object of zakat.

Discussion

² Fiky Nila Mustika, Eni Setyowati, and Azar Alam, "Analysis of Effect of ZIS (Zakat, Infaq and Shadaqah), Regional Domestic Products of Bruto, Regional Minimum Wage and Inflation on Levels Poverty in Indonesia 2012-2016," *Journal of Islamic Economic Laws* Vol.2, No.2 (July 2019): 195.

³ Zakiah Daradjat, *Zakat Pembersih Hati Dan Jiwa* (Jakarta: Bulan Bintang, 1986): 25

The origin of the word "zakat" comes from the Arabic *زكاة* which means blessing, grown, clean, and good. In terms, zakat refers to a number of assets that It is required by Allah Almighty to be given to mustahik. The concept of zakat is also Contains the meaning of thaharah which means clean. The law of zakat is compulsory for every Muslim who has fulfilled Certain conditions. According to Wahbah al-Zuhaili breaks down the terms of zakat into two categories, namely Mandatory and Legal Requirements. Mandatory conditions include independence, Islam, puberty and intelligence, property has reached nisab, full property, haul, absence of debt and obtained in a halal way. The legal requirements for zakat are the intention of muzaki and the transfer of ownership from muzaki to mustahik.⁴

In addition, there are also conditions for property to be the object of zakat, namely, full property, the property is found in a lawful way, can develop, is quite nisab, free from debt, has been last a year, more than ordinary needs.⁵

Research Results

The results of the study revealed that in the positive law contained in article 4 paragraph 2 letter h of Law No. 23 of 2011 states assets that are the object of zakat are income and services.

Based on the results of this explanation, according to the author that each prize that is received while halal, either self-managed or given only only by others in any form, whether moving objects or not move, which when the gift has reached nisab and belongs to him In full, the zakat must be issued. In this context, it gives the understanding that the existence of zakat income in Law No. 23 of 2011 concerning the Management of Zakat, which Contained in Article 4 paragraph 2 letter h has been formally and bindingly if The gift has fulfilled the requirements of the property that is the object of zakat.

In Islamic law refers to the Hadith narrated by at-Turmuzi and Ibn Majah, Fatwa DSN No. 3 of 2003 concerning Zakat Income and Compilation of Sharia Economic Law Chapter III articles 678 and 679 zakat gifts can be analogous to zakat income where the nisab of zakat producers is as much as 85 grams of gold and the content is 2.5% and the time of expenditure is when producing.

Research Methods

Types, Properties and Research Approaches

⁴ Fakhruddin, *Fiqh & Manajemen Zakat di Indonesia* (Jawa Timur: UIN Malang Press 2018), 49

⁵ Yusuf Qadrawi, *Hukum Zakat* (Bogor: Litera Antar Nusantara, 2002), 150

The type of research that the author uses is legal research normative that examines law from an internal perspective with an object research.⁶ The nature of the research applied by the author is descriptive qualitative, which aims to tell the solution to the problem that exist based on certain facts, situations, and events. Research approach, this study adopts a review approach law, which includes analysis both from a positive legal perspective as well as Islamic law.

Legal Data and Materials

The data collected in this study covers these aspects related or related to gifts from as objects of zakat, analyzed from the perspective of positive law and Islamic law in Indonesia. In this study using two legal materials, namely secondary legal materials, namely in Islamic law based on Qur'anic postulates and hadith related to zakat, Compilation of Sharia Economic Law and MUI Fatwa Number 3 Year 2003 About Zakat Producing Positive Law based on Law Number 23 of 2011 concerning Zakat Management. The second legal material is the primary legal material, that is, that which is not is directly related to the object of study but functions as support. Examples are books, articles, journals, and other resources.

Data Collection Techniques

In normative legal research, data are collected can be legal material such as regulations, doctrines, or legal understandings that documented in various forms of media such as books, journals, papers, magazines, records of legislative hearings, court rulings, and more. Strictly In summary, these data are obtained from literature reviews or bibliographies. Approach data collection in this context involves obtaining primary legal sources and secondary legal documents. This process of collecting legal documents is carried out through literature study in libraries or other sources that present legal material.⁷

Conclusion

In positive law, refer to article 4 paragraph 2 letter h of the Law No. 23 of 2011 concerning Zakat Management, the zakat gift obtained from a bonus including the property that must be zakati, because it is analogous to zakat mal in the form of

⁶ I. Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum* (Prenada Media, 2016), 12.

⁷ Muh Fitrah and Luthfiyah, *Metodologi Penelitian : Penelitian Kualitatif, Tindakan Kelas & Studi Kasus* (Jejak Publisher, 2018), 7

income and services, if the prize has reached nisab and belongs to it in full then the zakat must be issued.

In the slam law mentioned surah Al-Baqarah verse 267, the hadith is narrated by al-Turmuzi and Ibn Majah, Compilation of Economic Laws Sharia Chapter III article 678 and Fatwa DSN MUI No. 3 of 2003 concerning Zakat Income, zakat gift both etymology and terminology Included in the definition of property obtained in a good way and halal, can be owned and used, which in the provisions of the provision if it has reached nisab then it must be zakrated.

Suggestion

1. When receiving a treasure in the form of a gift, it is advisable to examine in advance the form of the gift and the amount of zakat that is obligatory we take it out, because this can anticipate us in wearing rights of others.
2. Suggestions for future research are to be able to study further about Zakat Contemporary zakat that is developing today for add deeper insight and knowledge.

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