

## **A COMPARATIVE ANALYSIS ON ZAKAH AND CONVENTIONAL TAXATION**

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### **ABSTRAK**

*Zakat sering diterjemahkan sebagai sejenis cukai. Pandangan sebegini mempunyai implikasi yang besar kerana ada pihak yang mungkin menganggap mereka boleh memilih untuk membayar di antara keduanya. Kajian ini cuba mencari jawapan adakah wajar zakat itu dikenali sebagai salah satu jenis cukai. Berdasarkan pengertian cukai konvensional dalam kes *MacCormick v FC of T 84 ATC 4230*, kami cuba membandingkan ciri – ciri yang digariskan dalam pengertian cukai konvensional ke atas zakat. Didapati bahawa zakat tidak memenuhi kebanyakan ciri-ciri percukaian konvensional. Kelebihan zakat berbanding cukai juga dibincangkan secara tidak langsung dalam kertas ini. Dapatan dari kajian ini diharap dapat mengurangkan kekeliruan umat Islam dan bukan Islam ke atas zakat.*

### **INTRODUCTION**

The word *zakāh* (religious levy) is often literally treated as another form of taxation. Some people may simply jump into conclusion that there is no difference between paying conventional taxes and zakah. After all, conventional taxes are enforceable by law whilst *zakāh* is not. Do *zakāh* and conventional tax meant the same thing? Do they

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share the same characteristics? If it is true, why do the people (at least in Malaysia<sup>1</sup>) need to pay conventional taxes and at the same time (for Muslims), need to pay the *zakāh*? Few authors state that *zakāh* is not a tax in the normal sense understood in secular western culture<sup>2</sup>. These questions motivate the authors to embark on this study.

The authors sought to examine the meaning of conventional tax that was laid out by the High Court of Australia in *MacCormick v FC of T 84 ATC 4230* against *zakāh*. In other words, we would like to answer the question whether *zakāh* fits into the definition of taxation. In *MacCormick v FC of T 84 ATC 4230*, the meaning of taxation was elaborated well, where six main characteristics of taxation were identified to explain the correct meaning of taxation. Therefore, the study limits its discussion based on these characteristics alone. In some instances, this study will highlight the supremacy of *zakāh* over conventional taxation.

The findings of this study should be useful to Muslims as well as non-Muslims. It helps the Muslims to have a clear understanding of *zakāh* and hopefully later motivates them to pay *zakāh*. The non-Muslim will find the study helps them to compare and have an objective view on conventional taxation and *zakāh*.

This paper is organized as follows: in the next two sections, the authors will provide an overview of conventional taxation and *zakāh*. It then analyses the conventional taxation characteristics with *zakāh* characteristics. Finally, the paper outlines the conclusion and limitations of this study.

## Overview of Conventional Taxation

The British was responsible for introducing the Income Tax Ordinance 1947 in the Peninsular Malaysia. Five years after the formation of Malaysia (where the Peninsular Malaysia, Sabah and Sarawak decided to unite), the Ordinance was replaced by the Income Tax Act 1967. The Act was effective from 1 January 1968. Basically, the Act was introduced as a result of consolidation on three income tax laws in the Peninsular

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<sup>1</sup> In Pakistan and Sudan, all taxes on Muslims were replaced by *zakāh*. See T.E.Gambling & R.A.A Karim (1986), "Islam and 'Social Accounting'", *Journal of Business Finance & Accounting*, 13(1), p. 46.

<sup>2</sup> For examples, see Baydoun, N and Willet, R (2000) *Islamic Corporate Report Abacus*. Vol. 36, No. 1, p.75 and F.Craig Clarke, R & Hamid, S. (1996), "Physical asset valuation and Zakat: Insights and Implications", *Advances in International Accounting*, pp. 195-208

Malaysia, Sabah and Sarawak – (i) Income Tax Ordinance 1947; (ii) Sabah Income Tax Ordinance 1956; (iii) Sarawak Inland Revenue Ordinance 1960. Other statutory were subsequently formed after that period<sup>3</sup>. Thus, it is not surprising to find that our statutes mostly are based on the British statutes, with few amendments made to suit the local settings.

However, taxes in Malaysia are not confined to income tax *per se*. There are various forms of tax levied in Malaysia, for instance real property gains tax, sales tax, stamp duty and excise. All these conventional taxes are presently governed by statutory requirements such as Income Tax Act 1965, Real Properties Gains Tax 1976, Sales Tax Act 1980 and Service Tax Act 1975. In the absence of the statute's provision or in case any dispute arise concerning the proper interpretation of any provision in the law, rulings by the honourable judges from the previous cases (known as case law), general rulings and circulars issued by relevant authorities (such as Inland Revenue Board and Sales Tax Office) are used.

As the requirement to pay tax is governed by the statutes, any person found guilty of evading taxes would be subject to litigation by the authorities. In addition, the statutes also cover the liability of any party that involved in assisting a person to finally understate or falsify any information in arriving at the amount of tax payable. For instance, in section 114 (1A) of the Income Tax Act 1967, it is stated that

*'any person who assists in or advises in the preparation of any return of another person should exercise reasonable care in giving the advice. Failure to do so, and the return results in an understatement of the tax liability would make such person liable a court fine of between RM2,000 and RM20,000, imprisonment of not more than 3 years or both'*

Despite the fact that tax payment is enforceable by law, there are other reasons to explain why people pay taxes. Numerous researches<sup>4</sup> were conducted to research on this matter. Among the theories to explain why people pay or not to pay taxes are (i) fear of being caught; (ii) high penalties for tax evaders; (iii) probability of being audited;

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<sup>3</sup> For more details on the history of revenue law in Malaysia, see Veerinderjeet (1999). *Malaysia Taxation Administrative and Technical Aspects*, 4<sup>th</sup> edition, Selangor. Longman, pp. 4-6.

<sup>4</sup> For instance see D. Kahneman, & A.Tversky, (1979), "Prospect Theory: an Analysis of Decision Under Risk", *Econometrica* 47, p.263-291 and McClelland Alm.J., G.H. & W.D Schulze, (1992), "Why Do People Pay Taxes", *Journal of Public Economics* 48, pp. 21-38.

(iv) treat tax payment as social responsibility; and (v) people's perception on the value of goods and services provided by government.

Tax rates are subject to change by the ruling government. It differs among the types of goods as well as between the different countries in the world. For instance, current income tax rate ranges from 0% to 28% for individuals, a flat rate of 28% for corporations, 5% for service and sales tax on certain goods and service and up to 150% for custom duties. Normally, the government will reduce the tax rates in every year. In some instances, the government will set a higher tax rate or duties to discourage the use or engagement in buying of product or activities such as custom and excise duties on alcohol, cigarettes and imported cars.

According to Concise Oxford Dictionary, tax is defined as a contribution levied on persons, property or business for the support of the government. Other definitions of tax can be obtained in two Australian cases:

- (i) In *Matthews v The Chicory Marketing Board 1938 60 CLR 263*, where the learned judge defined tax as a compulsory exaction of money by a public authority for public purposes enforceable by law; and
- (ii) In *R v Barger 1908 6 CLR 41*, where tax is defined as the process of raising money for the purpose of government by means of contributions from individual persons.

The definition of tax was further elaborated by the High Court of Australia in *MacCormick v FC of T 84 ATC 4230*. It listed out six usual characteristics of taxation as follows:

- (i) Tax is compulsory payment.
- (ii) The money is raised for government purpose.
- (iii) The exactions do not constitute payment for service rendered.
- (iv) The payments are not penalties.
- (v) The exactions are not arbitrary.
- (vi) The exactions should not be incontestable.

Each of the above tax characteristics will be elaborated in the next section when the authors discuss about the differences and similarities of *zakāh* and conventional taxation.

## Overview of Zakāh

Zakāh is the third tenet of Islam. It was made mandatory to all Muslim since the second year of Hijriyah<sup>5</sup> (624 C.E.). The obligatory nature of zakāh is obtained from the *Qur'ān*, the *Hadīth*, and consensus of the companions and the Muslim scholars. The requirement to make proper calculation and payment of zakāh was mentioned in 30 Ayah (verses) of 18 *Sūrah* (chapters) in the Quran<sup>6</sup>. Most of the times (more specifically, 27 times), the requirement of zakāh was stated vis-à-vis with *salāt* (prayer), for instance, in the *Holy Qurān*, Allah says:

*“So establish regular prayer and give zakāh and obey the Messenger; that ye may receive mercy”*

[Surah An-Nūr (24):56]

At other place, Allah says:

*“What God has bestowed on His Apostle (and taken away) from the people of the townships, belongs to God, to his Apostle and to kindred and orphans, the needy and the wayfarer; in order that it may not (merely) make a circuit between the wealthy among you. So take what the Apostle assigns to you, and deny yourselves that which he withholds from you. And fear God: for God is strict in punishment”*

[Surah al-Hashr (59):7].

The Prophet Muhammad (PBUH<sup>7</sup>) further emphasises on the importance of zakāh in Islam as narrated by various of his *Ṣahābah* (companion) such as Ibn ‘Abbas, Abū

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<sup>5</sup> Hijriyah refers to the Islamic calendar, which began with the establishment of the Islamic state in 622 in Al-Madinah Munaw'warah. The Gregorian year is 11 days longer than the Hijri'ah year.

<sup>6</sup> See O.A. Zaid, (2004), “Accounting Systems and Recording Procedures In The Early Islamic State”, *Accounting Historians Journal*, Vol. 31, No. 2, p. 154 for the details of the Ayah (verses) containing the commandment of zakah by Allah s.w.t.

<sup>7</sup> PBUH stands for ‘may peace and blessings of Allah be upon him’. It is a mandatory salutation by a Muslim whenever the name of the Prophet Muhamad is mentioned.

Ayyūb and Abū Hurayrah (*Radiāllahu ‘Anhum*<sup>8</sup>). An example of the *Hadith* is stated below<sup>9</sup>:

*Narrated by Ibn ‘Abbās (Radiallāhu ‘Anhu): The Prophet Muhammad (PBUH) sent Mu‘adh (Radiallāhu ‘Anhu) to Yemen and said, ‘Invite the people to testify that Lā ilāha ill-Allāh (none has the right to be worshipped but Allah) and I am the Allah’s Messenger, and if they obey you to do so, then inform them that Allah has enjoined on them five Salāt (prayers) in every day and night, and if they obey you to do so, then inform them that Allah has made it obligatory for them to pay the Sadaqā (zakāh) from their properties and it is to be taken from the wealthy among them and given to the poor among them’*  
(*Sahih Bukhari*)

The importance of *zakāh* can be further illustrated by the following sayings of Abū Bakr (*Radiallāhu ‘Anhu*) when the Arabs refused to pay *zakāh* upon the death of Prophet Muhammad (PBUH)<sup>10</sup>:

*“By Allah, if they deny to give me even a rope (to tide the animal), which they used to give Allah’s Messenger (PBUH) in zakāh and all the trees, stones, jinns and men support them for that, even then I will rage war (jihad) against them until my spirit meets Allah. Certainly Allah has not separated the zakāh and the salat. He has gathered two things together”.*

Muslims make pledge with Allah that they believe in the Oneness of Allah and the Prophet Muhammad (PBUH) as His Messenger<sup>11</sup>. The *Shahādah* implies that Muslims will submit themselves to all commandments and restrictions by Allah. As *zakāh* is the third tenet in Islam, all Muslims should therefore comply with this obligation.

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<sup>8</sup> *Radiallāhu ‘Anhum* is a salutation used to address a group of companions of the Prophet Muhammad (PBUH). Meanwhile, *Radiallāhu ‘Anhu* is the salutation used to address a male companion of the Prophet (PBUH) while *Radiallāhu ‘Anhā* is used to address a female companion of the Prophet (PBUH).

<sup>9</sup> See Summarized Sahih Al-Bukhari: Arabic – English, translated by Dr. Muḥammad Muḥsin Khan, al-Madina al-Munawwarah: Maktaba Dār-us-Salām, p. 349.

<sup>10</sup> See Mohamad Yousuf Kandhlawi (1995), *Ḥayātus Ṣahābah (The Lives of Sahabah)*, translated by Dr. Majid Ali Khan, Vol. I, Pakistan. Darul Ishaat, p. 550 for the full version of the story.

<sup>11</sup> This is called *Shahādah*

In addition, paying *zakaāh* is an act of worship for Muslims, thus warrants some rewards by Allah, if He decides so. Contrary, a person is considered sinful if he/she neglects to fulfill the *zakaāh* obligation, thus liable for punishment, if He decides so. An example of Hadith on punishment that awaits a person that neglects *zakaāh* is as follows:

*Narrated by Abū Huraira (Radiallāhu ‘Anhu): The Prophet Muhammad (PBUH) said, ‘Whoever is made wealthy by Allah and does not pay the zakah of his wealth, then on the Day of Resurrection his wealth will be made like a bald-headed poisonous male snake with two black spots over the eyes (or two poisonous glands in its mouth). The snake will encircle his neck and bite his cheeks and say, ‘I am your wealth, I am your treasure.’ Then the Holy Prophet (PBUH) recited the Holy Quran.*

Surah An-Nisaa’ (V.3: 180)

In fact, Islam encourages Muslims to become generous with their wealth, so that Allah can repay them back in the hereafter. Allah says in the Holy Quran:

*‘Who is he that will lend to Allah a goodly loan so that He may multiply it to him many times? And it is Allah that decreases or increases (your provisions), and unto Him ye shall return’*

[Surah Al-Baqarah (2):245]

The word *zakaāh* comes from the word *zakaāh* which means barakah<sup>12</sup>, growth, pure and good. The *fiqh* definition of *zakaāh* is stated by Al- Qaraḍāwī (1987) as ‘a specified amount of wealth to be given to the right people (that is the poor and needy) and it is being made compulsory by Allah. Al-Bukhārī defines *zakaāh* as a certain fixed proportion of the wealth and of the each and every kind of the property liable to *zakaāh* of a Muslim to be paid yearly for the benefit of the poor in the Muslim community<sup>13</sup>.

In Malaysia, Jabatan Kemajuan Islam Malaysia (JAKIM) identifies ten types of *zakaāh*. Below are the lists of *zakaāh* in Malaysia:

- 1) *zakaāh al-Fitr*;
- 2) *zakaāh* on gold and silver;
- 3) *zakaāh* on business;

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<sup>12</sup> Barakah literally means peace and tranquility, normally due to blessing of Allah.

<sup>13</sup> See Summarized Sahih Al-Bukhari: Arabic – English, op. cit.

- 4) *zakāh* on livestock;
- 5) *zakāh* on agricultural;
- 6) *zakāh* on savings;
- 7) *zakāh* on mineral deposits and buried treasures;
- 8) *zakāh* on shares;
- 9) *zakāh* on income; and
- 10) *zakāh* on the Employee Provident Fund savings<sup>14</sup>.

Implementation of *zakāh* that is based on a total justice signifies the main characteristic of the Islamic economic system. According to M.A. Mannan<sup>15</sup>, *zakāh* consists of six main principles:

1. Religious principle belief; *zakāh* payment relates to the manifestation of Islamic belief.
2. Equality and justice principle; *zakāh* is a social obligation by sharing one's wealth in more justifiable and equitable manner.
3. Principle of productivity; stresses that *zakāh* is compulsory based on judgment that one's belonging produces profit after passes certain duration (*nisāb*).
4. Rationality principle; Rational behind why only wealth that has growth is liable for *zakāh*.
5. Principle of independent; *zakāh* is only liable to those that has independent (not for slave).
6. Principle of etiquette and justification; *zakāh* cannot be collected without rules.

### **Analysis of Characteristics of Taxation on *Zakāh***

The above discussions provide an overview understanding of *zakāh* and conventional tax. As stated earlier, this article did not intend to discuss and make in depth comparison on each type of tax or *zakāh* – for instance comparing between income tax and *zakāh* on income, but rather trying to assess whether *zakāh* fits into the definition of conventional taxation. The following assessment will be based on the six conventional tax characteristics stated in *MacCormick v FC of T 84 ATC 4230*.

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<sup>14</sup> Nor Aini Ali (2003), "Perakaunan Zakat Saham: Kajian di Pusat Pungutan Zakat, Majlis Agama Islam, Wilayah Persekutuan", *Jurnal Syariah*, Vol. 1, No. 2, p. 82.

<sup>15</sup> M.A. Mannan *Islamic Economics: Theory and Practice*, Lahore, 1970



## **Characteristic 1: Compulsory Payment**

Basically, this characteristic applies to both conventional tax and *zakaāh*. However, the authority that rules *zakaāh* and conventional tax as compulsory is different. Conventional taxes are made compulsory by the ruling government (i.e. the creation) through the enforcement of law. *Zakaāh* on the other hand is indeed the order Allah, the Creator of all creations.

The authors already discuss in the earlier section the reasons for people to pay conventional taxes and *zakaāh*. Basically, just to name a few, people pay taxes due to fear of being caught, high penalties and their perception on government spending. *zakaāh* is purely paid on the basis of faith and sincerity (i.e. due to the fear of Allah or to please Allah). Thus, in theory, people should be more willing to pay *zakaāh* than conventional taxes.

One has to understand that both conventional tax and *zakaāh* is only incumbent on a person upon his/her fulfillment to a number of specific conditions. Again, the specific conditions for *zakaāh* and conventional taxes are different.

Generally, the conditions needed to make a person liable to conventional taxes are stated in the relevant statutes. For instance, to determine whether a person is liable for income tax, he/she needs to look at Income Tax Act 1967 and other source of revenue laws such as case law and general rulings by the Inland Revenue Board (IRB). Similarly, to determine whether a person is liable for sales tax, he/she needs to look at Sales Act 1980 and other source of revenue laws.

Since the laws (both statutes and cases) were written and decided among human being themselves, a lot of confusions, misunderstanding and disputes arose. In other words, the conventional laws are open to challenge and disagreement by people. Thus, in this sense, the determination of taxable person is not really fixed.

*Zakah* becomes mandatory once the following six conditions are fulfilled:

- (i) *Islām*. *Zakaāh* is mandatory to Muslims but not on the non believers.
- (ii) *Independent*. *Zakaāh* is incumbent upon independent person and not applicable to slaves.
- (iii) *Full ownership*. A Muslim is required to pay *zakaāh* only if he/she has full legal ownership of an asset.

- (iv) *Assets intended for increasing wealth.* *Zakāh* is levied on an asset that is purposely acquired to increase the wealth or has a potential to generate wealth to its owner<sup>16</sup>. Examples of such asset are livestock or crop acquired for trade, inventory of goods for trading and investment in shares, gold or silver that has potential for appreciation in value.
- (v) *Completion of hawl.* The *fuqahā'* (Islamic scholars) defines *hawl* as the period for holding a zakatable asset for at least one Islamic or *Hijri'ah* year. Thus, *zakah* is not payable on assets hold for a period less than a year.
- (vi) *Completion of nisāb.* The term *nisab* stands for the minimum value required before an asset is subject to *zakāh*. *Zakāh* needs to be paid on those assets that exceed a minimum value *Jumhūr* (majority) of *ulamā'* (Islamic Scholars) recommend to use gold as the basis for the calculation of *nisāb*. Thus, the minimum value is calculated based on the market price of 85 grams of gold or 595 grams of pure silver. For some types of *zakāh*, such as *zakāh* on shares, the *nisāb* is determined by the *zakāh* collection authority<sup>17</sup>.

All of the above conditions show that the requirements set out by Islam is very firm and clear. It offers less area for disputes to the public. Even if there is any disagreement or dispute on the matter, the discussion involves only the *ulamā'* and not the public<sup>18</sup>. Once the *ulamā'* has reached their agreement, it is mandatory for the Muslims to follow. Thus, it is safe to conclude that *zakāh* requirements are clearer and offer fewer disputes among the people.

## Characteristic 2: Money Raised for Government Purpose

Conventional taxes collections become parts of the government's revenue. The government is expected to use the money for the benefit of the country uses. Despite the fact that the government tables its annual budget openly, there are no specific guidelines or rulings to state 'to whom' or 'on what' the government should spend. Thus, the government is free to decide its spending pattern in every year. It is also implies that the government spending will change over the years as the needs change over time. Perhaps the only underlying guideline for the government to spend the

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<sup>16</sup> See Yūsuf al-Qarḍhāwī (1998), *Hukum Zakat* (translation), Jakarta. PT Pustaka Litera Antarnusa, hh. 138-139.

<sup>17</sup> Nor Aini Ali (2003), op. cit.

<sup>18</sup> See M. Kahf (1989), "Zakat: Unresolved Issues in the Contemporary Fiqh", *Journal of Islamic Economics*, Vol. 2, No. 1, January, pp. 1-22 for the discussion on this matter.

taxpayers' money is to spend according to the interest of developing and serving the public and the country.

*Zakāh* is a form of social security where financially able Muslim setting aside a proportion of their possessions for those in needs. Thus, the purpose of collecting *zakāh* is to create a society based on mutual assistance and, if properly developed, guarantees a minimum level of living to all people in the Islamic society. The payment is treated as something that rightly belongs to the poor and needy. The Holy Quran clearly states categories of people to whom *zakāh* should be distributed.

*'As-Ṣadaqāt (here it means zakāh) are only for the: (1)Fuqarā' (the poor who do not beg),(2) and Al-Masākīn (the poor who beg), and (3) those employed to collect the (funds), (4) and for to attract the hearts of those who have been inclined (towards Islam), (5) and to free the captives, (6) and for those in debt, (7) and for the Allah's cause (i.e. for Mujāhidīn – those fighting in the Holy war), (8) and for the way-farer (a traveller who is cut off from everything). (Thus is it) ordained by Allah. And Allah is All-Knower, All Wise.*

[Surah At-Taubah (9):60]

In another place, Allah says:

*What God has bestowed on His Apostle (and taken away) from the people of the townships, belongs to God, to His Apostle and to kindred and orphans, the needy and the wayfarer; in order that it may not (merely) make a circuit between the wealthy among you. So take what the Apostle assigns to you, and deny yourselves that which he withholds from you. And fear God; for God is strict in punishment.*

[Surah al-Hashr (59):7]

However, some religious scholars agree that the *zakāh* fund can be spent on health, education and some other services but not to pay salaries and wages of those working in these sectors<sup>19</sup>. Islam also does not prevent the use of *zakāh* money for the public at large such as building schools and other public utilities<sup>20</sup>.

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<sup>19</sup> Gambling & Karim (1986), op. cit.

<sup>20</sup> Norazlina Abd. Wahab, (2002), "Social Security : How Islam Does It", *Jurnal IKIM*, Vol.10, No.2, p.125

### **Characteristic 3: It Does Not Constitute Payment for Service Rendered by the Government**

Neither conventional taxation nor *zakāh* is a payment in exchange of services served by the government. In the earlier paragraph, we have discussed that the people's perception on the government spending has an impact on taxpayers' behaviour. Do taxpayers treat paying taxes similar to a business transaction, where the seller provides services and the buyer has to pay to enjoy the services? If this is true, then people have misunderstood the true meaning of taxation.

This characteristic does not apply to *zakāh* at all because the money raised is not meant for the government.

### **Characteristic 4: Not Penalties**

Taxes should not be viewed as penalties. Thus, it is wrong to assume that the government should warrant tax exemptions to all good and loyal citizens of the country. If this happen, then the government would find problems in maintaining and developing the country due to shortage of fund to execute its planning.

This characteristic is not applicable to *zakāh*. In fact, *zakāh* should be viewed as an act of worship and a means to get reward from Allah. Muslims must realise that everything they own in this world belongs to Allah, and that they are acting as the trustees. Very soon they will be accountable in front of Allah in the hereafter. Therefore, Allah has every right to take the wealth back, either in proportion or entirely, voluntarily or by force. The Holy *Qurān* reminds the Muslims on the story of *Qārūn*, an arrogant servant of Allah who refuses to pay *zakāh* on his wealth and end up being punished by Allah.

### **Characteristic 5: The Exactions are not Arbitrary**

The determination of tax payable is not by chance or random. It is determined using a set of specific procedures by the statutes and other source of revenue laws. However, the level of clarity of the procedures is not guaranteed. Moreover, the procedures and tax rates can change over time.

Similarly, the amount of *zakāh* payable is not arbitrary. The *zakāh* rate is fixed at 2.5% for stock items, 10% for agricultural products when they are watered by rivers, canals

or rain, 5% for the produce of irrigated land and 20% for fond treasures<sup>21</sup>. Thus, unlike the conventional tax rates, the government has no power to change the rate of the *zakaāh*.

### **Characteristic 6: The Exactions should not be Incontestable**

Under the law, one has the power to challenge the amount of taxes imposed on him/her. The appeal procedures may differ from one type of tax to another. However, the appellant need to provide justification for his or her appeal. Unless the government agrees with the appellant, the amount of taxes due will not be revised. In case where the disagreement between the taxpayer and the government continues, the matter needs to be heard in the court. Normally, the appeal process takes time and in the meantime, taxes due need to be settled.

This characteristic may not be suitable for *zakaāh*. In principle, *zakaāh* is given out by the Muslim to fulfill his obligation to Allah. Thus, if he or she is truly sincere in his/her act, the issue of contesting the amount of *zakaāh* payable should not appear at all.

In fact, Muslims should be willing to give more than the required amount of *zakaāh*. This is evident in the story of a companion (the name was not mentioned) of the Prophet Muhammad (PBUH) narrated by Ubay bin Kaab (*Radiallāhu 'Anhu*). He was supposed to *zakaāh* equivalent to one-year baby camel but insisted of giving a fine grown-up camel. The Prophet (PBUH) accepted his request and sought Allah's blessing for him<sup>22</sup>.

It is clear to see that *zakaāh* cannot fit into the meaning of conventional taxation. Thus, it is not proper to treat *zakaāh* as a form of taxation. The result supports the earlier statement by Baydoun & Willet (2000) and Clarke, *et. al.* (1996)<sup>23</sup>. *Zakaāh* is unique in its own way for it comes from Allah, the Creator. The previous discussions also did highlight a few of advantages of *zakaāh* over the conventional taxation. The comparison between *zakaāh* and conventional taxation is summarised in Table 1.

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<sup>21</sup> M. Kahf, (1989), *op. cit.*, p. 6.

<sup>22</sup> For details of the story, please refer to Zakariyya Kaandhlawi (1998), *Stories of the Sahabah* (translation), New Delhi: Idara Ishaat E Diniyat, pp. 98-99.

<sup>23</sup> *Op. cit.*

Characteristics of Taxation	<i>Zakah</i>
Compulsory Payment	Applicable to <i>zakāh</i> . However, differences lie with regards to: (i) Obligation of <i>zakāh</i> is derived from Allah, the Creator and not by the creations. (ii) Conditions pertaining to whom <i>zakāh</i> is levied differs from conventional taxation. The level of clarity is also different.
Money raised for government purpose	Not applicable to <i>zakāh</i> . <i>Zakāh</i> is raised to be distributed among the identified categories of people, in which government per say is not one of them.
Not Constitute Payment for Service Rendered by the Government	Not applicable to <i>zakāh</i> . <i>Zakāh</i> has no relationship with the service provided by the government.
Not Penalties	Not applicable to <i>zakāh</i> . <i>Zakah</i> is not penalties but rather an act of worship that will be rewarded in the hereafter.
The Exactions are Not Arbitrary	Applicable to <i>zakāh</i> . In addition, the <i>zakāh</i> rate is fixed at 2.5% whilst the tax rates may change over time.
The exactions should not be incontestable	Not applicable to <i>zakāh</i> . Muslims are not encouraged to question the zakatable amount, as it is an act to please Allah.

Table 1: Comparison between *zakāh* and conventional taxation

## CONCLUSION

The study attempts to examine whether *zakaāh* shares the same characteristics as conventional taxation. The comparison was carried out based on the six taxation characteristics in *MacCormick v FC of T 84 ATC 4230*. It is found that the *zakaāh* did not fit into the true meaning of conventional taxation. The main characteristics of conventional taxation are found to be inapplicable to *zakaāh*. As such, *zakaāh* stands on its own with its unique characteristics. It should not be treated the same as taxation by Muslim as well as non-Muslims.

This study examines the difference between *zakaāh* and conventional tax at the general level. It does attempt to go into depth on each type of *zakaāh* and taxes. Perhaps future researchers can look at a more specific type of *zakaāh*, say *zakaāh* on income and compare it with income tax. The findings may provide further clarification between the difference and similarities for each type of *zakaāh* and conventional taxation.

The study limits its analysis to the characteristics of taxation stipulated in *MacCormick v FC of T 84 ATC 4230*. Future studies may be expanded its scope to include a few other characteristics such as the level of fairness, compliance issues and level of compliance.