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Calculating Zakāt on Pension Schemes

In the name of Allāh, the Most Gracious, the Most Merciful

Abstract

Pension schemes come in various forms but the contribution made towards any of these types of pension scheme and then acquired upon retirement affect the injunctions of calculating Zakāt. Zakāt is an obligatory act applicable to all those personal assets that generate productivity like cash which inevitably includes pension. In this article, the author elucidates the necessity of paying Zakāt on pension funds but only after receiving the funds upon retirement when all of the other conditions of Zakāt are fulfilled. Zakāt is not levied during the course of one's contribution towards his or her pension.

Introduction

Paying Zakāt is one of the essential pillars in our Deen on lawful income acquired when all of its prerequisites are fulfilled. This would include pension schemes also. Pension schemes come in various forms as in, in some instances, a certain percentage is deducted involuntarily from the employee's salary payable to the government as his contribution towards his pension. The government then pays him the amount of funds accumulated over the years in the form of pension when he retires. Other types involve the pension provider (i.e. the insurance company or building society) investing the employees' pension into specific schemes for instance, shares to increase profit on the capital with or without the employees' consent. As a result of this, the employee receives a significant amount during retirement due to investment. This begs the question of how and when to calculate Zakāt on such schemes because paying Zakāt is obligatory on every sane, Baligh Muslim person upon meeting the threshold amount for it to be now Zakatable. To begin with, first a detailed exploration of the most common forms of pension schemes will be discussed then followed by the application of the Zakāt on the various pension schemes using the classical judicial principles and cases.





The Most Common forms of Pension

1. State Pension

The state pension is paid by the government to those who claim it after reaching state pension age. The pension fund comes from the employee's individual National Insurance (NI) contribution (deducted at net pay salary). The amount received at retirement age depends on the individual's NI contribution amount over the years. In order to receive the full amount, the employee must at least have 30 qualifying years of NI contribution. Each tax year (e.g. April 2015 to April 2016) amounts to one qualifying year. If the employee does not have 30 years of successful contribution then he will receive less than the full amount. Alternatively, the employee can qualify for additional state pension depending on the contribution. The pension age varies between gender and the year in which one was born. Currently the pension age of a man is 65 and for a woman is 60.¹ In this case the employee's contribution is automatically deducted through NI and thus not given a choice in this respect. But claiming his funds after retirement from work is guaranteed for sure.

2. Personal Pension

Personal pension is a private pension arranged by the individual with the pension provider (i.e. the insurance company or building society). The individual pays a certain percentage from his salary that goes into a pot (saving for his funds) provided by the pension provider. The total amount of pension he receives during retirement depends on his contribution over the years. People choose to join this scheme because;

- to save money for retirement in addition to workplace pension
- self-employed and don't have a workplace pension
- Not being able to work but can afford to pay towards a private pension

Another type of pension included among this category is Stakeholder pension. This is the case when the individual pays the pension provider some funds for his pension. The

¹ It must be noted that the pension age is anticipated to change in the future years.





company then invests his funds into stock markets and shares for profit gain. The benefit in this scheme is to increase the pension fund with added profit (from the initial funding).

It is clear that in both personal and stakeholder pension, the company acts as a *wakeel* (agent) for the individual, thus their investment is his investment except that he cannot claim his funds until after reaching the retirement age. Until then he does not have full possession over his funds.

3. *Workplace Pension*

This is another form of saving money for retirement except that in this case, the employer agrees to contribute with the employee in the pension scheme provided that the employee is eligible to automatic enrolment. The employee's contribution is deducted directly from his wage and the employer supports his employee with his contribution towards the employee's pension fund. It is clear that there is a joint contribution from both parties which the employer retains the full right over the funds until the employee retires.²

There are a number of factors can be drawn from the various pension schemes detailed above;

1. During the course of contributing, the employee has no complete ownership or control over his funds or investments. What is for certain however is that receiving his funds upon retirement is guaranteed.
2. If the employee chooses to invest in a company (pension provider) then clearly the pension provider acts as a *wakeel* on his behalf. This implies that the company's ownership affects his ownership except that in this case, the employee

² See the following link to view more details on the various forms of pension scheme

<https://www.gov.uk/pension-types>

<https://www.citizensadvice.org.uk/debt-and-money/pensions/types-of-pension/>

Welfare Benefits and Tax Credits 2016/17 pp. 746-757



is given full right of *Qabdh* (physical ownership) of the investment after reaching a specific age, should he continue with this scheme until then.

3. Where there is a joint contribution between the employer and employee, the employer retains the right of ownership, resulting in the employer incurring a debt upon himself payable to his/her employee.

Calculating Zakāt on the Pension scheme

Among the pre-requisites for the obligation of Zakāt is complete ownership, by which it generally implies physical ownership or full control along with reaching the *Nisab* level and the elapsing of a complete lunar year.³ As was understood from the above analysis, the employee does not have full control over his wealth (*Qabdh*) even though the funds are coming from his salary; voluntarily or involuntarily. Thus, in the first two categories of scheme; State and Personal pension, Zakāt is not levied upon him until after taking physical possession over the funds reaching the *Nisab* rate and the elapsing of a complete lunar year.

As for the ruling regarding the third type of pension scheme; Workplace pension, it was made clear that the employer incurs a debt upon himself towards the employee and does not act as an agent on the employee's behalf. The dealing is not similar to *wakalat* where the agent's ownership affects the represented party's ownership but instead, the employer simply becomes duty-bound of fulfilling his agreement by contributing his share towards his employee's pension along with retaining significant portion of his employee's funds. The liability of Zakāt of this scheme will be determined through the application of Zakāt ruling on debt. However, the classical Hanafi *fuqaha* (Muslim jurists) elucidate various categories of Zakāt on debt. To determine which of the specific category is applicable in this case, each type must be explored first. The *fuqaha* categorise debts in to three types;

³ Ibn Ābideen Shāmi, Kitāb Zakāt, p. 175-5 vol 3

(وَسَبَبُهُ) أَي سَبَبِ افْتِرَاقِهَا (مَلِكٌ نَصَابٌ حَوْلِيٌّ) نِسْبَةٌ لِلْحَوْلِ حَوْلَانِهِ عَلَيْهِ (تَامٌ) بِالرَّفْعِ صِفَةٌ مَلِكٍ
أَقُولُ: وَلَا حَاجَةَ إِلَى ذَلِكَ، فَمَدَّ ذَكَرَ فِي الْبَدَائِعِ مِنَ الشُّرُوطِ الْمَلِكُ الْمَطْلُوقُ. قَالَ: وَهُوَ الْمَلِكُ يَدًا وَرَقَبَةً،



1. *The Stronger Debt (Qawi)* – The scholars define this form of debt as that which has incurred in exchange of commercial goods such as clothes etc. In other words, a retailer for instance has purchased goods from the wholesaler and the retailer bears a debt for the goods payable to the wholesaler. Money borrowed also falls in this category of debt. All the scholars unanimously agree that the wholesaler is liable to pay Zakāt on the previous years (according to the lunar calendar) whenever he receives the entire lump sum. However, he is at liberty to pay Zakāt all at once on the previous years after taking full possession over his wealth or pay as when each year elapses before taking full possession. If the payment of debt was agreed through instalment payment then Zakāt becomes liable upon receiving 20% of his payment and a complete lunar year elapses.
2. *The Weak Debt (Dha'eef)* – Is defined as debt incurred without the exchange of anything in return such as dowry, inheritance, Will, Khula and so forth and reach the *Nisāb* rate of Zakat. All scholars agree that Zakāt is not payable until after receiving the full amount of any of the above and a complete lunar year elapses. Zakāt is not payable on the previous years.
3. *The Medial Debt (Mutawasit)* – It is defined as a debt incurred in exchange of an item not intended for trade such as debt incurred purchasing household furniture or basic living essentials. Scholars state that Zakāt becomes payable on the creditor upon receiving the full amount reaching the *Nisāb* rate and a complete lunar year elapses. The Hanafi scholars differ whether paying Zakāt on the previous years (like in the case of *Qawi*) is mandatory or not. One opinion is that this category falls in the same category as *Qawi* in which Zakāt is payable on the previous years. Ibn Sam'ā reports from Imām Abū Yusuf رحمته الله that Imām Abū Haneefah رحمته الله considers this similar to *Dha'eef* debt, in that Zakāt is not payable on the previous years. Kāsani reports this second opinion and Allamah Shāmi رحمته الله, after quoting Kāsani رحمته الله prefers this view.⁴

⁴ Ibn Ābideen Shāmi, Kitāb Zakāt, *Bāb Zakāt Māl*, pp.237-9 vol 3



In the weak and medial category, Zakāt is payable upon receiving the full amount that reaches the *Nisab* rate and a complete lunar year elapses. Zakāt on the previous years is

(و) اعلم ان الدُّيُونَ عِنْدَ الْإِمَامِ ثَلَاثَةٌ: قَوِيٌّ، وَمُتَوَسِّطٌ، وَضَعِيفٌ؛ (فَتَجِبُ) زَكَاتُهَا إِذَا تَمَّ نَصَابًا وَحَالَ الْحَوْلُ، لَكِنْ لَا قَوْلًا بَلَّ (عِنْدَ قَبْضِ أَرْبَعِينَ دِرْهَمًا مِنْ الدِّينِ) الْقَوِيَّ كَقَرَضٍ (وَبَدَلِ مَالِ تِجَارَةٍ) فَكُلَّمَا قَبِضَ أَرْبَعِينَ دِرْهَمًا يَلْزُمُهُ دِرْهَمٌ (و) عِنْدَ قَبْضِ (مَائَتَيْنِ مِنْهُ لِعَرِيضَا) أَيِّ مِنْ بَدَلِ مَالٍ لِعَرِيضِ تِجَارَةٍ وَهُوَ الْمُتَوَسِّطُ كَتَمَنِ سَائِمَةٍ وَعَبِيدِ خِدْمَةٍ وَنَحْوِهِمَا بِمَا هُوَ مَشْغُولٌ بِحَوَائِجِهِ الْأَصْلِيَّةِ كَطَعَامٍ وَشَرَابٍ وَأَمْلاكٍ. وَيُعْتَبَرُ مَا مَضَى مِنَ الْحَوْلِ قَبْلَ الْقَبْضِ فِي الْأَصْحَحِ، وَمِثْلُهُ مَا لَوْ وُورَتْ ذُبْنًا عَلَى رَجُلٍ (و) عِنْدَ قَبْضِ (مَائَتَيْنِ مَعَ حَوْلَانِ الْحَوْلِ بَعْدَهُ) أَيُّ بَعْدَ الْقَبْضِ (مِنْ) دَيْنٍ ضَعِيفٍ وَهُوَ (بَدَلُ غَيْرِ مَالٍ) كَمَهْرٍ وَدِيَّةٍ وَبَدَلِ كِتَابَةٍ وَخُلْعٍ إِلَّا إِذَا كَانَ عِنْدَهُ مَا يُضْمُّ إِلَى الدِّينِ الضَّعِيفِ كَمَا مَرَّ

(قَوْلُهُ: إِذَا تَمَّ نَصَابًا) الضَّمِيرُ فِي تَمَّ يَعُودُ لِلدِّينِ الْمُتَمُّهُومِ مِنَ الدُّيُونِ، وَالْفِرَازُ إِذَا بَلَغَ نَصَابًا بِنَفْسِهِ أَوْ بِمَا عِنْدَهُ بِمَا يَمُ بِهَ التَّصَابُ (قَوْلُهُ: وَحَالَ الْحَوْلُ) أَيُّ لَوْ قَبِلَ قَبْضُهُ فِي الْقَوِيِّ وَالْمُتَوَسِّطِ وَبَعْدَهُ الضَّعِيفِ ط (قَوْلُهُ: عِنْدَ قَبْضِ أَرْبَعِينَ دِرْهَمًا) قَالَ فِي الْمَجْهِدِ: لِأَنَّ الزَّكَاةَ لَا تَجِبُ فِي الْكُفُورِ مِنَ النَّصَابِ الثَّانِي عِنْدَهُ مَا لَمْ يَبْلُغْ أَرْبَعِينَ لِلْحَرَجِ فَكَذَلِكَ لَا تَجِبُ الْأَدَاءُ مَا لَمْ يَبْلُغْ أَرْبَعِينَ لِلْحَرَجِ

(قَوْلُهُ: فَكُلَّمَا قَبِضَ أَرْبَعِينَ دِرْهَمًا يَلْزُمُهُ دِرْهَمٌ) هُوَ مَعْنَى قَوْلِ الْفَتْحِ وَالْبَحْرِ وَيَتَرَاخَى الْأَدَاءُ إِلَى أَنْ يَقْبِضَ أَرْبَعِينَ دِرْهَمًا فَيُفِيهَا دِرْهَمٌ وَكَذَا فِيمَا زَادَ بِحِسَابِهِ. قَوْلُهُ: أَيُّ مِنْ بَدَلِ مَالٍ لِعَرِيضِ تِجَارَةٍ) أَشَارَ إِلَى أَنَّ الضَّمِيرَ فِي قَوْلِ الْمُصَنِّفِ مِنْهُ عَائِدٌ إِلَى بَدَلٍ وَفِي لِعَرِيضَا إِلَى التِّجَارَةِ، وَمِثْلُ بَدَلِ التِّجَارَةِ الْقَرَضُ (قَوْلُهُ: كَتَمَنِ سَائِمَةٍ) جَعَلَهَا مِنَ الدِّينِ الْمُتَوَسِّطِ تَبَعًا لِلْفَتْحِ وَالْبَحْرِ وَالتَّهَرُّ لِتَعْرِيفِهِمْ لَهُ بِمَا هُوَ بَدَلٌ مَا لَيْسَ لِلتِّجَارَةِ، وَجَعَلَهَا ابْنُ مَلِكٍ فِي شَرْحِ الْمَجْمَعِ مِنَ الْقَوِيِّ، وَمِثْلُهُ فِي شَرْحِ دُرِّ الْبَحَارِ، وَهُوَ مُنَاسِبٌ لِمَا فِي غَايَةِ الْبَيَانِ، حَيْثُ جَعَلَ الدِّينَ الَّذِي هُوَ بَدَلٌ عَنْ مَالٍ قِسْمَيْنِ: إِمَّا أَنْ يَكُونَ ذَلِكَ الْمَالُ لَوْ بَقِيَ فِي يَدِهِ تَجِبُ زَكَاتُهُ أَوْ لَا يَكُونُ كَذَلِكَ. اهـ.

قَبْدَلُ الْقِسْمِ الْأَوَّلِ هُوَ الدِّينُ الْقَوِيُّ، وَيَدْخُلُ فِيهِ تَمَّنُ السَّائِمَةِ؛ لِأَنَّهَا لَوْ بَقِيَتْ فِي يَدِهِ تَجِبُ زَكَاتُهَا وَكَذَا قَوْلُهُ فِي الْمَجْهِدِ الدِّينُ الْقَوِيُّ مَا يَمْلِكُهُ بَدَلًا عَنْ مَالِ الزَّكَاةِ (قَوْلُهُ: وَيُعْتَبَرُ مَا مَضَى مِنَ الْحَوْلِ) أَيُّ فِي الدِّينِ الْمُتَوَسِّطِ؛ لِأَنَّ الْخِلَافَ فِيهِ، أَمَّا الْقَوِيُّ فَلَا خِلَافَ فِيهِ لِمَا فِي الْمَجْهِدِ مِنْ أَنَّهُ تَجِبُ الزَّكَاةُ فِيهِ بِحَوْلِ الْأَصْلِ، لَكِنْ لَا يَلْزُمُهُ الْأَدَاءُ حَتَّى يَقْبِضَ مِنْهُ أَرْبَعِينَ دِرْهَمًا.

أَمَّا الْمُتَوَسِّطُ فَيَقْبِضُ رَوَاتِبَانِ فِي رَوَايَةِ الْأَصْلِ تَجِبُ الزَّكَاةُ فِيهِ وَلَا يَلْزُمُهُ الْأَدَاءُ حَتَّى يَقْبِضَ مَائَتِي دِرْهَمٍ فَيُرَكِّبُهَا. وَفِي رَوَايَةِ ابْنِ سِمَاعَةَ عَنْ أَبِي حَنِيفَةَ: لَا زَكَاتَ فِيهِ حَتَّى يَقْبِضَ وَيَحْوِلَ عَلَيْهِ الْحَوْلُ؛ لِأَنَّهُ صَارَ مَالِ الزَّكَاةِ الْأَنْ فَصَارَ كَالْحَادِثِ الْبِدَاءِ.

الْحَاصِلُ أَنَّ مَبْنَى الْإِخْتِلَافِ فِي الدِّينِ الْمُتَوَسِّطِ عَلَى أَنَّهُ هَلْ يَكُونُ مَالِ زَكَاتٍ بَعْدَ الْقَبْضِ أَوْ قَبْلَهُ؟ فَعَلَى الْأَوَّلِ لَا بُدَّ مِنْ مَضِيِّ حَوْلٍ بَعْدَ قَبْضِ النَّصَابِ. وَعَلَى الثَّانِي الْإِبْتِدَاءُ الْحَوْلُ مِنْ وَقْتِ الْبَيْعِ، فَلَوْ لَهُ أَلْفٌ مِنْ دَيْنٍ مُتَوَسِّطٍ مَضَى عَلَيْهَا حَوْلٌ وَنَصَفَتْ قَبْضَتُهَا يُرَكِّبُهَا عَنْ الْحَوْلِ الْمَاضِي عَلَى رَوَايَةِ الْأَصْلِ، فَإِذَا مَضَى نَصَفَتْ حَوْلَ بَعْدَ الْقَبْضِ زَكَاتًا أَيْضًا. وَعَلَى رَوَايَةِ ابْنِ سِمَاعَةَ لَا يُرَكِّبُهَا عَنْ الْمَاضِي وَلَا عَنْ الْحَالِ إِلَّا بِمَضِيِّ حَوْلٍ جَدِيدٍ بَعْدَ الْقَبْضِ وَأَمَّا إِذَا كَانَتْ الْأَلْفُ مِنْ دَيْنٍ قَوِيٍّ كَبَدَلِ غُرُوضِ تِجَارَةٍ، فَإِنَّ الْإِبْتِدَاءَ الْحَوْلُ هُوَ حَوْلُ الْأَصْلِ لَا مِنْ حِينَ الْبَيْعِ وَلَا مِنْ حِينَ الْقَبْضِ، فَإِذَا قَبِضَ مِنْهُ نَصَابًا أَوْ أَرْبَعِينَ دِرْهَمًا زَكَاتُهُ عَمَّا مَضَى بَانِيًا عَلَى حَوْلِ الْأَصْلِ

قُلْتُ: لَكِنْ قَالَ فِي الْبَدَائِعِ: إِنَّ رَوَايَةَ ابْنِ سِمَاعَةَ أَنَّهُ لَا زَكَاتَ فِيهِ حَتَّى يَقْبِضَ الْمَائَتَيْنِ وَيَحْوِلَ الْحَوْلُ مِنْ وَقْتِ الْقَبْضِ هِيَ الْأَصْحَحُ مِنَ الرِّوَايَتَيْنِ عَنْ أَبِي حَنِيفَةَ اهـ وَمِثْلُهُ فِي غَايَةِ الْبَيَانِ، عَلَيْهِ فَحُكْمُهُ حُكْمُ الدِّينِ الضَّعِيفِ الْأَبِي

Kasani, Badai Sanai, Kitāb Zakāt p. 392-3 vol 2

جُمْلَةُ الْكَلَامِ فِي الدُّيُونِ أَمَّا عَلَى ثَلَاثِ مَرَاتِبٍ فِي قَوْلِ أَبِي حَنِيفَةَ: دَيْنٌ قَوِيٌّ، وَدَيْنٌ ضَعِيفٌ، وَدَيْنٌ وَسَطٌ كَذَا قَالَ عَامَّةُ مَشَائِخِنَا أَمَّا الْقَوِيُّ فَهُوَ الَّذِي وَجِبَ بَدَلًا عَنْ مَالِ التِّجَارَةِ كَتَمَنِ عَرَضِ التِّجَارَةِ مِنْ ثِيَابِ التِّجَارَةِ، وَعَبِيدِ التِّجَارَةِ، أَوْ غَلَّةِ مَالِ التِّجَارَةِ وَلَا خِلَافَ فِي وُجُوبِ الزَّكَاةِ فِيهِ إِلَّا أَنَّهُ لَا يُخَاطَبُ بِأَدَاءِ شَيْءٍ مِنْ زَكَاتِهِ مَا لَمْ يَقْبِضْ أَرْبَعِينَ دِرْهَمًا، فَكُلَّمَا قَبِضَ أَرْبَعِينَ دِرْهَمًا أَذَى دِرْهَمًا وَاحِدًا. وَعِنْدَ أَبِي يُوسُفَ وَحَمَّادٍ كُلَّمَا قَبِضَ شَيْئًا يُؤَدِّي زَكَاتَهُ قَلَّ الْمُقْبُوضُ أَوْ كَثُرَ. وَأَمَّا الدِّينُ الضَّعِيفُ فَهُوَ الَّذِي وَجِبَ لَهُ بَدَلًا عَنْ شَيْءٍ سِوَاهُ وَجِبَ لَهُ بِعَرِّ صُنْعِهِ كَالْمِيرَاثِ، أَوْ بِصُنْعِهِ كَمَا لَوْصِيَّتِهِ، أَوْ وَجِبَ بَدَلًا عَمَّا لَيْسَ بِمَالِ كَالْمَهْرِ، وَبَدَلِ الْخُلْعِ، وَالصُّلْحِ عَنِ الْفُضَاصِ، وَبَدَلِ الْكِتَابَةِ وَلَا زَكَاتَ فِيهِ مَا لَمْ يُقْبِضْ كُلُّهُ وَيَحْوِلَ عَلَيْهِ الْحَوْلُ بَعْدَ الْقَبْضِ. وَأَمَّا الدِّينُ الْوَسْطُ فَمَا وَجِبَ لَهُ بَدَلًا عَنْ مَالٍ لَيْسَ لِلتِّجَارَةِ كَتَمَنِ عَبْدِ الْحِدْمَةِ، وَتَمَّنِ ثِيَابِ الْبِدَالَةِ وَالْمَهْنَةِ وَفِيهِ رَوَاتِبَانِ عَنْهُ، ذَكَرَ فِي الْأَصْلِ أَنَّهُ تَجِبُ فِيهِ الزَّكَاةُ قَبْلَ الْقَبْضِ لَكِنْ لَا يُخَاطَبُ بِالْأَدَاءِ مَا لَمْ يَقْبِضْ مَائَتِي دِرْهَمٍ فَإِذَا قَبِضَ مَائَتِي دِرْهَمٍ رَكَّبَ لِمَا مَضَى، وَرَوَى ابْنُ سِمَاعَةَ عَنْ أَبِي يُوسُفَ عَنْ أَبِي حَنِيفَةَ أَنَّهُ لَا زَكَاتَ فِيهِ حَتَّى يَقْبِضَ الْمَائَتَيْنِ وَيَحْوِلَ عَلَيْهِ الْحَوْلُ مِنْ وَقْتِ الْقَبْضِ وَهُوَ أَصْحَحُ الرِّوَايَتَيْنِ عَنْهُ،



not mandatory. Zakāt becomes payable upon the previous years in the strong category of debt only.

Category of Debt for Workplace Pension

For any debt to fall within the *Qawi* category must involve exchange of goods with the purpose of trade. It is considered strong as according to Kasāni, the exchanged item (with the intention of trade) becomes a form of *Māl* (property) upon which growth (*numā*) is accrued, otherwise debt itself is not *Māl* in essence. For this reason Zakāt becomes liable from both perspectives (i.e. the retailer and the wholesaler). Pension scheme is not clearly the case as the funds are placed into a pot and differed until retirement. Henceforth, the *Qawi* debt is non-applicable to any of the pension schemes. *Mutawasit* also entails a form of transaction except that the item exchanged is not for trading but instead for basic essentials which are excluded from being Zakatable e.g. a customer purchasing household goods from a retailer. Zakāt is not applicable on the customer. Albeit it involves transaction between two people, it comes second to *Qawi* however pension scheme does not include transaction nor exchange of items. As for *Dha'eef* category, the incurred debt involves no transaction except through gift or other financial obligation, which according to Allamah Shāmi's ﷺ understanding also includes remuneration of a trading servant. He explains that the *Zāhir* opinion suggests that debt of remuneration is a medial debt but the preferred opinion is that it is a weak debt (because of it being financial obligation through labour).⁵

Allamah Shāmi ﷺ is essentially excluding services payable to the slave (employee) from the strong debt. In this respect, the employee becomes liable to pay Zakāt after receiving his remuneration when a complete lunar year elapses. This ruling becomes applicable to workplace pension scheme also.

⁵ Ibn Ābideen Shāmi, Kitāb Zakāt, *Bāb Zakāt Māl*, pp.239 vol

[تَنْبِيْهُ] مَا ذَكَرْنَاهُ عَنِ الْمُجْبِطِ صَرِيْحٍ فِي أَنَّ أُجْرَةَ عَبْدِ الْبِحَاةِ أَوْ دَارِ الْبِحَاةِ عَلَى الرَّوَاةِ الْأُوَلَى مِنَ الدَّيْنِ الضَّعِيْفِ وَعَلَى ظَاهِرِ الرَّوَاةِ مِنَ الْمُتَوَسِّطِ.





Conclusion

Tamleek (physical possession or control) is a pre-requisite for the obligation of Zakat. It is clear that the employee is deprived of actual ownership or control over his funds, therefore the pension funds are not Zakatable until after reclaiming those funds when retiring and a complete lunar year elapses on it because only when receiving the funds will it then be considered *Tamleek*. This generally applies to all those forms of pension schemes that do not fall within the debt category. The scheme where a debt is incurred such as workplace pension, the employer's contribution towards his employee's pension is due to his service which falls under the category of weak debt. It could be argued that state pension also falls within weak debt also because his NI contribution towards the government is on the account of service, resulting in the government falling in debt towards the employee. Whatever the case being, the end result is that the liability of Zakāt applies only after receiving the funds during retirement once it reaches the *Nisab* level and a complete lunar year elapses on it. Paying Zakāt on the previous years during one's contribution is not necessary.

[Allāh Knows Best]

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