Research Article,

The Existence of Tax as an Instrument of the State Revenue in the Perspectives of Islamic Law and Economics

DWI Sulastyawati¹, Havis Aravik², Nur Rohim Yunus³

¹Institut Agama Islam Negeri (IAIN) Curup, Bengkulu.
²STEBIS IGM Palembang
³Universitas Islam Negeri Syarif Hidayatullah, Jakarta.

Abstract: Tax Is One Of The Media Of The State Revenue. The Position Of Tax Is Very Important And Determines The Prosperity And Glory Of A State. This Study Discusses The Existence Of Tax As An Instrument Of The State Revenue In The Perspectives Of Islamic Law And Economics. The Method Used In This Study Is A Qualitative Method On The Basis Of Literature Study With The Analysis Using Content Analysis. The Findings Of This Study Indicate That Tax Is One Of The Important Instruments Of The State Revenue With The Aim Of Reducing The State Burdens In Fulfilling The Society's Needs In Order To Capably Create Welfare And Prosperity. Tax In Islam Had Been Enacted Besides Zakat Since The Era Of Rasulullah SAW To The Eras Of Islamic Dynasties Though There Were Few Rejections Here And There.

Key Words: Tax, the State, Law, Islamic Economics, Indonesia

INTRODUCTION:

Tax Terminology:
Tax Is An Important Component Of The State Revenue Source. Based On Law Number 28 Of 2007 Article 1, Tax Is Defined As An Obligatory Contribution To The State Stipulated By Individuals Or Agencies That Are Coercive Pursuant To The Law With No Direct Compensation And Used As The State Needs For The
Greatest Prosperity Of The People.¹ According To Financial Experts, Tax Is The Obligation Set For Taxpayers, Which Has To Be Deposited To The State With Provisions, Without Getting A Return From The State, And The Proceeds Are Used To Finance Public Expenditures On The One Hand And To Realize Part Of The Economic, Social, Political, And Other Goals To Be Attained By The State.² S.I Djajadiningrat Stated That Tax Is the People’s Obligation to Share Some of Their Wealth with the State Treasury, And It Can Be Imposed by Law, Without Direct Contraprestation, With the Aim of Preserving Public Welfare. In The Meantime, The Tax Main Goal Is More To Increase The State Revenue Instead Of Burdening The Society.³ From A Legal Perspective, According To Soemitro, Tax Is An Engagement That Arises Because There Is A Constitution Which Leads To Citizens’ Obligation To Deposit A Certain Amount Of Income To The State. The State Has Authority To Impose, And The Tax Money Has To Be Used For The Govermental Administration. From This Legal Approach, It Is Shown That The Tax Which Is Collected Must Be Based Upon The Law, So It Guarantees The Legal Certainty, Both For The Fiscal Officers As The Tax Collectors And For The Taxpayers Who Pay Taxes.⁴ Sommerfeld Ray M, Anderson Herschel M, And Brock Horace R Opine That Tax Is A Sort Of The Source Transfer From The Private Sector To The Govermental Sector. It Is Not Due To The Violation Of Law, But It Is Compulsory To Be Undertaken On The Basis Of Predetermined Provisions, Without Receiving Direct And Proportional Rewards, So That The Government Can Carry Out The Duties Of Governance.⁵ Thus, It Can Be Understood That Tax Is An Obligation Stipulated By The State In The Sense Of The Contribution Made By Society To The State, Which Is Imposed Based On The Law For The Sake Of Fulfilling The State Needs In An Effort To Create The Society’s Welfare And Prosperity, But Not To Burden The Society.

The Perspectives of Islamic Law and Economics on Tax:

Principally, Tax Is Not A New Discourse In The Literature Of Islamic Law And Economics. Tax Was Already Known And Well-Practiced In The Era Of Either Rasulullah SAW (The Prophet Muhammad, Peace Be Upon Him), Khulafaurrasyidin, Or Islamic Dynasties Such As Umayyab, Abbasiyab, Fatimiyab, Syafawiyab, And Utsmaniyab. Tax, In Islamic History, Was Called Dharibah. Dharibah Is Derived From The Words Dharaba, Yadhribu, And Dharban That Mean To Oblige, To Stipulate, To Determine, To Hit, To Explain, Or To Impose. Dharibah Is Wealth That Must Be Paid By Muslims In Order To Finance Various Needs And Expenditure Items Which Are Indeed Compulsory For Them, In The Condition When There Is No Money In Baitul Maal.

Gusfahmi States That Either Literally Or Traditionally, Dharibah In Its Use Indeed Has Many Meanings, But The Muslim Scholars Agree With Using The Word Dharibah To Refer To The Assets Collected As An Obligation. This Right Seems Obvious In The Statement That Jizyah And Kharaj Are Collected In A Way Of Dharibah, Which Is In A Compulsory Way. Some Muslim Scholars Even Call Kharaj A Dharibah.

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Thus, *Dharibah* Is The Wealth Or Assets Collected In A Compulsory Way By The State For Those Other Than *Jizyah* And *Kharaj* Even Though Both Of Them Can Be Categorized Into *Dharibah*.\(^6\)

According To Islamic Law, The Important Elements That Must Be Included In The Tax Provisions Are That It Is Obliged By Allah Swt; The Objects Are Assets (*Al-Maal*); The Subjects Are Rich Muslims (*Ghaniyyun*); The Purpose Is To Finance Their Needs (Muslims) Only; It Is Enacted Because Of An Emergency (Specific Condition); And It Has To Be Immediately Addressed By The Government (*Ulil Amri*). Viewed From The Aspect Of State Revenue, The Principles That Must Be Fulfilled In The Islamic Economic System Are That There Must Be *Nash* (Referential Texts) From Both The Al-Qur’an And Al- Hadith Which Command Each Source Of Income And The Collection, Separate The Sources Of Tax Revenue Between Muslims And Non-Muslims, Present The System Which Guarantees That The Tax Collection Is Only Subjected To The Rich People Who Have Excessive Assets To Carry The Main Burden In Terms Of Taxes, And Indicate That Tax Is Intended For The Demands Of The Public Interest.\(^7\)

Historically, *Dharibah* Was Originated On The Basis Of The Law That Allah Had Obliged The State And The People To Get Rid Of The Harmfulness Which Befell Other Muslims. Therefore, Allah Gave The State The Right To Gain Assets In Order To Fulfill A Variety Of Needs, As Well As To Minimize In Order That Similar Cases Would Not Happen In The Future. The Obligation Only Prevailed Among Those Who Had Excessive Finance In Fulfilling Various Basic And Complementary Needs, And It Was Carried Out In A *Ma’ruf* (Good) Way And In A Way That Was Free From Injustice And Tyranny. Furthermore, Tax Became One Of the State Revenues As Well As What Differed Between Muslims and Non-Muslims. In The Era Of Islamic Governance, *Dharibah* Became One Of The Important Sources Of The State Revenue Besides Other Sources. Early In Islam, The State Revenue Source Was *Zakat* That Was Intended To Clean Up One’s Wealth. Continuously, It Was *Jizyah*, The Protection Tax That Was Imposed On Infidels (Non-Muslims) Living Under The Islamic Authority (*Dzimmi*) As The Return For The Protection Given To Themselves, Their Families, And Property, The Land Tax (*Kharaj*), The Booty Of War (*Ghanimah*), The Tax On Mining And Treasure (*Rikaz*), And Other Levies. Even, For Maximizing The State Revenue, It Was Established The Institution Of Taxation Known As *Diwan Al-Kharaj* That Specifically Handled; *Ghanimah*, *Zakat*, *Sadaqah*, *Kharaj*, *Jizyah*, *Fai’, Ushr*, And *Wakaf*. Since Then, There Emerged The Muslim Scholars Who Were Concerned In The Realm Of Taxation Such As Abu Yusuf, Yahya Ibn Adham, Imam Al-Mawardi, Imam Abu Ubaid Bin Salam, Imam Shafi‘i, And Others.


\(^7\)Nurul Ichsan, “Tinjauan Penerapan Pungutan.......”, h. 79.
Zone of Land Location. This is Of Course Very Burdensome and Sets a Bad Precedent for the Society’s Welfare. Tax Is Imposed In A Variety Of Forms Such As Revenue Tax, Tax Of Sales, Motor Vehicle Tax, Land And Building Tax, Restaurant Tax, Parking Tax, Income Tax, And So On. Taxes Imposed On The Society Are Not Differentiated According To The Forms Of Business And Occupation, So They Tend To Cause Instability And Injustice. Even, Taxes Are Imposed By Producers On Consumers By Means Of Raising The Prices Of Goods Or Services. While, The Muslim Scholars Who Are In Agreement With The Permissibility Of Tax Rely On Surahs In The Qur’an Such As Surah Al-Baqarah [2]: 177, Al-An’am [6]: 141, Al-Ma’un [107]: 7, Al-Ma’idah [5]: 2, Al-Isra’ [7]: 26, An-Nisa’ [4]: 36, Al-Balad [90]: 11-18 And Others. The Main Reason For The Permissibility Of Tax Collection Is The People’s Benefits Because The Governmental Funds Are Not Sufficient To Finance Various Expenditures In Which If The Expenditures As Such Are Not Financed, They Will Cause Harmfulness, Whereas Preventing Harmfulness Is An Obligation.8 In Addition, Tax Is A Kind Of Muamalah In The Realm Of Economics, As An Instrument Of Fulfilling The State And Society’s Needs To Finance Various Collective Needs9 The Material Obligation In The Form Of Tax As Such Is Undoubtedly Valid Because Every Country Nowadays In Fact Requires A Huge Revenue Budget, In Which Its Entirety Cannot Be Covered By Zakat. Therefore, A Muslim Is Obliged To Pay Both Tax And Zakat In Order To Meet The State Needs. Muhammad Hamudah And Mustafa Husein In Al-Mu’amalah Maliyah Fi Al-Islam Stated That Dharibah Has Been The Largest Source Of The State Revenue In Today’s Modern Era, And It Is Impossible For The State To Deny It Considering The Increasing Obligations That Must Be Fulfilled In Both Social And Economic Fields.10 Tax As The Material Basis Of A State Plays A Pivotal Role In Assisting The Government In Carrying Out The Function Of Governance.11

An Effective Policy Of Taxation Can Play A Role In Maintaining The Balance Of Economy And Inflation. For This Reason, Muhammad Abu Zahrah Refutes The Opinion Of Groups Rejecting The Tax Application. According To Him, The Obligation Of Zakat Aims To Overcome Poverty, Help The Poor As Well As Fulfill The Needs Of Destitute People, And Finance The Continuity Of Islamic Propagation. The Aforementioned Goals Are Not Included In The Areas Financed By Tax Funds. Although There Is Little Tax Spending For The Poor, It Is Secondary And Not The Primary Goal.12 Yusuf Qardhawy Views That Zakat Is No Longer Capable Of Covering The State Needs Amid The Complexities Of Society’s Needs And Interests. Meanwhile, Other Sources Are Also Insufficient To Cover State Funding. If A Modern Islamic State Is Left Without Taxation, It Can Be Assured That Within A Short Time It Will Lose Its Capability, Become Weak, And Become Vulnerable To Military Aggression.13 Muhammad Umer Chapra Stated That The Right Of An Islamic State To Increase Resources Through Taxes Besides Zakat Has Been Maintained By A Number Of Fiqahs That Principally Have Represented All Mazhabs (Schools) Of Fiqh.14 In The Meantime, Murtadho Ridwan Stated That The Obligation Of Tax Besides Zakat Is Allowed According To 4 (Four) Considerations: First, There Is Social Security In The State, Wherein When It Is Insufficient, The Government May Take Other Levies Besides Zakat, And It Was Ever Done In The Era Of Rasulullah SAW

12 Nurul Ichiyan, “Tinjauan Penerapan Pungutan……….”, h. 83.

Islamic Law And Economics Teach Every Muslim To Ally In Kindness. This Concept Of Humanism Is Embedded From An Early Age, And Humans Are Demanded To Be Responsible. As Citizens, The Obligation To Shoulder Burden And Responsibility Together Is Also Reflected In The Life Of The State, And An Individualistic Attitude Is Prohibited In The Social And State Life. In The Life Of The State, Islam Strongly Emphasizes The Importance Of Knowing Each Other (Ta‘aruf), Understanding Each Other (Tafahum), Helping Each Other (Ta‘awun), And Sharing And Completing Each Other (Takaful) As The Reflection Of The Kaffah Muslims (Insan Kamil), Those Who Put Their Heart And Soul Into For The Sake Of Creating A Civil Society That Leads To The Shared Prosperity In The State. Tax is one of the Goals of Ta‘awun Principle, Namely Helping or Cooperating with Each Other between the State and the Society,

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15 Murtadho Ridwan, ‘Zakat Vs Pajak.........”, h. 133-134.
Wherein the State Interests Become the Responsibility of the Entire Society, and the State Shortcomings are Complemented by the Society’s Contributions. Apart from that, Yusuf Qardhawi underlines that Tax as an Instrument of the State Development may not be collected recklessly and arbitrarily by the leader. The tax imposed on the society must meet at least 4 (four) major requirements, namely: First, Tax is strongly needed, and there are no other sources that can replace its position. Second, Tax is collected fairly and does not burden the society. If necessary, the tax collection must consider the aspects of economy, social, and society’s needs as regards development. Third, Tax must be intended to finance various people’s interests, but not for things which are contrary to the Islamic teachings. Fourth, the tax collection must get approval from the experts whose morality is valid, but not merely rest upon the leader’s will alone.

Tax is a general phenomenon which is as a source of the state revenue that prevails in various countries. From the study findings, it is shown that almost all countries in the world apply taxation to their citizens unless a few countries which are rich in natural resources used as the main source of the state revenue do not apply taxation. Every country makes rules and regulations in implementing and collecting taxes, in which they generally follow the principles or rules of taxation. Furthermore, it is necessary to be re-emphasized that there are different principles between the conventional tax applied in Indonesia and the tax (Dharibah) according to Islamic law and economics. They are: (A) Tax (Dharibah) is temporary, not continuous, and only allowed to be collected when the assets in Baitul Maal experience a deficit. (B) Tax (Dharibah) is only allowed to be collected for financing that becomes an obligation for Muslims and that conforms to the amount required for the compulsory needs of financing, not more than that. (C) Tax (Dharibah) is only collected from Muslims, but not from non-Muslims. (D) Tax (Dharibah) is only collected from rich Muslims, not from other than those. (E) Tax (Dharibah) is only collected according to the financing amount as needed, but not more. (F) Tax (Dharibah) can be stopped if it is no longer needed.

The Politics of Taxation Law in Indonesia:
The formation of a country including Indonesia is generally intended to protect and prosper the society’s standards of living in various sectors such as economy, politics, social, culture, and so forth. In an effort to realize the vision and mission as such, the government executes various planned programs and processes, or those often referred to as development. The programs of development and governance will run well if they are supported by sufficient funds. Therefore, the responsibility for the development of a country is taken by the government and society. Both of them are connected by the relationship known as mutualism, and they are actively involved in a direct way to bear the burdens of development together. One of the means in order that society is involved in national development so that it is successful is through taxation. Since the beginning, tax has been conceptualized as a governmental instrument for the distribution of welfare. Tax is included in a political, legal, and administrative state because tax functions as the governmental effort to finance the activities of improving the society’s standards of living and welfare. The source of governmental revenue is indeed not only limited to taxes. However, there is no country in this world that finances its national development by only relying on the assistance from other countries.

18 Murtadho Ridwan, “Zakat Vs Pajak.....”, h. 129.
19 Amin Purnawan, “Rekonstruksi Sistem Pemungutan.....”, h. 45.
20 Nur Kholis, “Perpajakan di Indonesi........”, h. 22.


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²² Kazwaini, “Epistimologi Perpajakan.....”, h. 87.
²⁵ Nur Kholis, “Perpajakan di Indonesia ......”, h. 11-12.
²⁶ H. Atang Hermana, “Pembentukan Peraturan......”, h. 56.
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To Its Citizens To Calculate, Take Account Of, And Pay Their Own Taxes. 27 Fourth, There Are Common Rights And Obligations Between Taxpayers And The Fiscal Officers. 28 Therefore, The Excessive Power Of Tax Authorities May Not Occur Because It Can Be A Source Of Abuse And Uncertainty In The Application Of Taxation Laws. 29

Tax Is One Of The Main Sources Of The State Revenue For Preparing The Draft State Budget (In Indonesian Term Known As RAPBN). RAPBN Is Proposed By The Government To The People's Representative Council (DPR) In Order That It Is Further Legalized As The State Budget Law (APBN). APBN Is The Portrayal Of The Activities Carried Out By The Government In Obtaining Revenue For Expenditures To Carry Out The Continuity Of The State Governance And Development. The Roles Of The Society And All Stakeholders Are Very Important In Realizing The Ideals Of Indonesia As The Welfare State As Has Been Clearly Mandated In The State Philosophy Of The Pancasila And The 1945 Constitution. 30 Therefore, Legal Reform In The Field Of Taxation Is Necessary So That Tax Can Really Support The National Economic Development. The Tax Reform Must Be Able To Provide The Spirit Of Business. Going Along With The Development Of The Business World, The Tax Government Will Be Greater As Well. The Taxation Policy Is Very Influential On The Incoming Investments. 31 Tax Funds Can Be Used For Financing In Order To Provide Security For All Levels Of Society From Birth To Death. Tax Can Also Be Used To Subsidize Goods That Are Needed By The Society, To Pay Foreign Debts, To Help Micro, Small, And Medium Enterprises (Msmes), Both In Guidance And Capital. 32 Tax Compliance Achieved By Encouraging Tax Reform Is Aimed At Tax Amnesty In Order To Be Able To Return Assets From Abroad To Indonesia. 33 Therefore, Tax Reform Must Be Able To Provide Continuous Information For Taxpayers And Tax Offices. Although So Far The System Used Is Highly Dependent On Paper Documents Sent By Taxpayers And Entered By Tax And Service Officials, The Transparency And Accountability Of Tax Officials Need To Be Improved. 34 Moreover, Today The Indonesian Government Is Confronted With Acute Economic Problems, Ranging From Low Economic Growth, High Unemployment And Inflation, To Financial Difficulties. In Addition, Other Challenges Are The Efforts To Achieve Fiscal Sustainability, Specifically The Decline In Oil And Natural Gas Income, And The Commitment To Gradually Reduce Foreign Debts. Therefore, The Government Has No Any Other Choice Except For Increasing Revenue From Taxes In An Effective And Sustainable Way. Tax Has Great Potential To Become The Main Source Of Governmental Funding. The Tax Revenue Can Be Achieved By Improving Tax Administration, Expanding Taxes, Or Raising Tax Rates. 35

29 Amin Purnawan, “Rekonstruksi Sistem Pemungutan......”, h. 43. 30 Cucu Solihah dan Aji Mulyana, “Pembayaran Zakat......”, h. 19. 31 Amin Purnawan, “Rekonstruksi Sistem Pemungutan......”, h. 43. 32 Muhammad Tarmudi, “Pajak dalam Perspektif.......”, h. 136.
Conclusion:

Based On The Above Elaborations, It Can Be Understood That Tax Is One Of The Main Components Of The State Revenue Other Than Other Sources. In Islam, Tax Is Known As Dharibah. Since The Beginning, Tax Has Been A Source Of The State Revenue Besides Zakat. It Had Even Been Done Since The Era Of The Rasulullah SAW (The Prophet Muhammad, Peace Be Upon Him) To The Eras Of Islamic Dynasties. Principally, In The Implementation Of Tax, There Is A Rejection From Some Muslims Who Perceive That After Paying Zakat, There Are No Other Levies For Them. However, Some Believe That Zakat Alone Is Not Enough As The Source Of State Revenue. Moreover The Object Of Zakat Is Only Very Limited To Asnaf Zakat, So It Cannot Be Devoted To The Improvement Of Facilities, Scholarships, And So On. In The Indonesian Context, Tax Is Regulated In A Special Regulation Called The Law And Drafted In The Draft State Revenue Budget (RAPBN) Although There Are Still Found Shortcomings Here And There In Its Practice, Especially In Its Application In The Field. Therefore, Since The Era Of Reformation, There Have Arisen Society's Voices In Order That Taxation In Indonesia Is Reformed And Restructured So That It Can Better Provide More Benefits And Prosperity Amid Society.

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