Comparison Between The Modern and Islamic Concept of Taxation

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Abstract

The existence of taxes in many countries around the world dominate the government revenue. Most of the people, especially Muslims still question the Islamic concept of taxation. This paper will try to discuss comparisons between the modern tax and the concept of Islam. Taxes in Islam, there is still disagreement about whether the government should collect taxes from the people.

This paper tries to criticize the application of three types of income tax is the largest and the terms of the sharia, the Income Tax (PPh), Value Added Tax (PPN), Land and Building Tax (PBB). Income Tax (PPh) contains a number of disadvantages. The tax subject and object does not differentiate between Muslims and non-Muslims as well as according to the Shari'a or not and the people who have the same income is taxed the same. Gusfahmi (2007) also added that the imposition of PPN on the consumption of halal goods or services not provided for in Al-Quran and Hadith, whereas if it is identified with the customs (ushr) is also inaccurate. As for the Land and Building Tax (PBB), the PBB in some ways contrary to Islamic law. Subject to the tax imposed on Muslim land and or buildings are occupied.

***Keywords**: Modern Taxation, Islamic Concepts*

INTRODUCTION

Most countries in the world has a system of taxation to pay for government expenditures. The existence of tax in Indonesia dominate the government's budgetary resources. On the other hand, the majority of Muslims, especially the taxpayers are still questioning the Islamic concept of the tax or how Islam regulate about taxes. In Indonesia in particular, the tax regulate by the government more and more types and numbers. This certainly is a burden on society in general, especially for those who are capable of lower-middle economy.

Islam is multidimensional. Islam has a set of rules that are both hablumminAllah (the relationship between man and al-Khaliq) and hablumminannas (relationships among humans in all aspects, namely social, economic, cultural, political, legal, health, etc.). In the economic field, Islam regulates how to earn income in the context both of the individual and the state. Revenue in this case that the state is the biggest source of income for subsistence in a region of the State. Indonesia that has not been basing his state ideology in the Islamic Shari'a. Without any reference to Sharia in any decision-making, then this tax policy would be able to further oppress Muslims. For Muslims, the tax in the era of modern economy should be applied syar'i to be doing more tax benefits for society at large.

2. DISCUSSION

2.1. Taxes in the Islamic Perspective

The concept of taxes in Islam there is still a difference of opinion among the holy man (ulama) about whether the government should collect taxes from the people. Here is an explanation of the reasons allowing and rejecting of activities (policy) taxation that is:

2.1.1. First view of the Tax Policy

This first view is derived from figures (ulama) which allows the existence of tax policy. The scholars who argue that tax is allowed in order to fulfill the needs of countries for various things, such as eliminating poverty, etc. which, if not fulfilled from zakat, sadaqah infak and then allowed to search for new alternative sources that is taxes or debt. If the choice of risky loans to borrowers affected by riba then the tax is the best second choice.

Taxes as a model of fiscal policy implemented in Muslim countries can be imposed for not deviated from the purpose of sharia. Taxes in the context of Muslim countries categorized as a new discourse. Therefore, as long as there are no texts that explicitly refer to the dictum "command" or "prohibitions", then the rules of fiqh that is used is the suggestion that it means: "According to the original, everything is permissible". Tax is literally so far found no legal status, both in the Al-Quran and Hadith. Thus, the tax law can be restored to the rules above, whether the tax status is mubah or haraam. The fact that the tax is intended for the good of society in the form of infrastructure development, education, and so on, it can be concluded that the tax law to the extent not permissible to bring harm.

Abu Yusuf in his book Al-kharaj, Ibn Khaldun (in his book Muqaddimah), Marghinani (in his book al-Hidayah), Umer Chapra (in Islam and the Economic Challenge), Hasan al-Banna (in his book-Rasa'il Majmuatur), Ibn Taymiyyah (in Majmuatul Fatawa), Abdul Qadeem Zallum (in Al-Amwal fi Daulah al-Khilafah), Sayyid Rashid Rida, the whole idea of the figures quoted in Gusfahmi (2007) stated allowing to collect tax.

Abu Yusuf said that all the four caliphs was reported that the tax should be collected by the justice and mercy, not allowed to exceed people's ability to pay, also not to make them unable to meet their basic needs everyday. Abu Yusuf supported the right of authorities to raise or lower the tax burden according to ability of the people. A good tax will increase revenue and enhance development of the State.

Consensus of the companions and Muslim scientists that the practice of taxation based on the classical principles (Dahlan, 2008):

First, the determination of the taxpayer, other than those mentioned clearly in the Sharia, there are three main principles:

1. Tax is only levied on the financial capacity of the rich which is a basic criterion in determining the tax liability. The concept of excess (excess) or abundance (richness) is the main indications of taxation. Although security is a determinant of the subsistence level of taxation, but taxes may not be held against those who have sufficient means of livelihood, above subsistence, but under the category of rich.
2. Taxes on capital gains and windfall profits are not unexpected (windfall).
3. The charges are common to non-Muslim traders may be collected, especially when the entry of commodities abroad are determined by the agreement specifies the obligations of duties based on a reciprocal basis.

Second, the imposition of tax procedures and tax collection must prioritize the important principles.

1. Imposition of all income must be fair and easy. Payers must be given a sense of fun and satisfaction, these mistakes should be borne by the appraiser, and claim exemption-release, such debts can be accepted unless there is proof.
2. Load obligations should be distributed evenly among the people as equals. Fairness in the distribution of the load (burden) of a lot of revenue the State shows that the incidence (onset) tax burden is one of the materials at issue in the final analysis. A study by research on the incidence of changes should be made to avoid inequities in the distribution of the burden of all state revenue.
3. Many jurists creed which does not include taxes or levies on the injustice that is possible because an action that would lead to an even greater injustice.

Yusuf al-Qaradawi, an Egyptian Muslim scholar, in addition to allowing the tax obligations of charity, with some provisions of the requirements for tax collection : (Qaradawi, 1997):

1. The Government really needs funds and no other source that can cover their needs. Taking property from people and find loads of material to those that can not be justified except in emergencies or compelling needs. When there is no compelling need, or there are compelling needs but still there are other sources of funds outside of tax, the government levies a tax is not justified.
2. Equitable distribution / division of the tax burden fairly. If the country really need the money and not found the source of funds to cover the needs of the tax unless the tax is not only permitted, but would be obliged to impose a tax on condition of equitable tax burden to the people with justice does not mean equal.
3. Spent fo maslahah people, not for disobedience and not to indulge the passions and desires of individuals or certain groups. Taxes should be levied in a way that haq (truth) and utilized at the target of truth. This has been exemplified by the Khilafat al-Rashidun and the Companions who emphasize the use of public property on the goals established Personality '.
4. With the approval of ahl al-shura, the ahl al-halli wa al-'Aqd (approval of experts and scholars). According to the rules of fiqh, that in principle an individual property is preserved, and in principle independent of the load dependent. When the needs and mashlahah demand to take some personal possessions, the obligations imposed on an individual property, then it must get approval from the ahl al-shura, as they are able to maintain Personality-requisites above, may request the information aspects needs of government, can know whether or not sufficient other funding sources, and may exercise the right of control over the utilization of tax money. In the present era of tax provisions must be approved by the House of Representatives (DPR).

The author concludes that the tax is allowed to stay awake all aspects of justice and because of state revenue sources are inadequate to fulfill the basic needs of society, that if these needs are not met will cause harm. One rule of usul fiqh mention "everything that can not be abandoned in favor of the implementation of obligations in addition to him, then that something was obligatory. Contemporary fiqh scholars argue that there is material in the form of tax liability is not discredited because the state requires a huge budget revenues that might not entirely satisfied with zakat.

2.1.2. Second views of the Tax Policy

The scholars who have a second view argues that the tax is haram (forbidden in Islam). This is because in the history of Islam during the Prophet Muhammad and the Caliph was never to tax to the Muslims. Muslims only have an obligation to pay zakat. Some figures who hold this second view of them is Dr. Hasan Turobi (in Chapra, 2000) stated that the existing governments in the Muslim world in a very long history in general is not valid. Hence the fuqaha worry if allowed to collect taxes will be abused and become a tool of oppression.

KH. A. Cholil Ridwan, Lc in a view on one internet site (Ridwan, 2010) forbids taxes and distinguish it from dharibah. In fact in many modern (capitalist) in this world is the main source of income tax and dominant. Even in its development, although the Islamic state has required a tax levied on every citizen. According to some figures the tax is one form of tyranny wrapped in regulations so that the state was entitled to take property that is not actually his. Islam has prohibited all forms of levies. Charges taken by the state of his people should have the runway or syar'i legislation. Allah says in Al-Baqarah [2]: 188, which means “And eat up not one another property unjustly (in any illegal way stealing, robbing, deceiving, etc.), nor give bribery to the rulers (judges before presenting your cases) that you may knowingly.”

In the opinion of Ridwan (2010) Islam does not recognize the tax, there is Dharibah. Dharibah is a required property of Allah to the Muslims to fund a variety of needs and expenditure items that are prescribed for them when the conditions in the Baitul Mal (State financial institution) no property / money. Dharibah postal revenue is derived from the Muslims for the _financing which aims to serve the interests and welfare of many communities, while at the Baitul Mal there is no treasure.

Allowed tax collected as a source of state revenue as a solution only in emergencies, which collected the special conditions, namely when the source of income from major sources such as zakat, sadaqah, fay'i not able to provide. If it has been fulfill then the tax should be abolished. Ihsan (2010) stated that in the Islamic economic system of government is not allowed even forbidden to levy taxes and structured routine, but just one incidental income and on certain conditions. In Gusfahmi (2007) mentioned that there is a Hadith which reads: "No taxation officer to go to heaven", this is interpreted by scholars that the officer who took ushr of property by force Muslims who exceed the limits so that there is sin and the fear of sanctions.

Based on the above it appears that there is a difference of opinion on the concept of taxes in the Islamic perspective. Both views have their justification of relatively equal strength. The author argues that in fact the government has the responsibility for the welfare of his people, both materially and spiritual welfare. To achieve this it needed a budget (financing) or funds that are not small. Under conditions where the people are not sincere, then the status of tax collectors are making other people's property, and of course it is haraam.

2.2. Overview of Taxation in Islamic Perspective in the Era of Modern Economic (Study Case in Indonesia)

Indonesia is one country in the world with abundant natural resources. Potential of Natural Resources (SDA) which is owned spread over land and sea. Besides, mineral mining, oil and gas there is also a tremendous amount in Indonesia. But in fact this is all it was not enough to support his country. It has long been trying to get a state income tax from the people. Indonesia as a country that has the largest Muslim population in the world imposes a duty to pay taxes, in addition to also have an obligation to pay zakat which is the religious orders.

Tax is related to state obligations, namely article 23 paragraphs 2 of the UUD 1945, "All taxes for the state based on law." Tax in Indonesia has a very big role. Each year the APBN (Budget of the State) put the tax as a source of income (revenue) major. Data revenues are reflected in the Central Government Financial Statements (LKPP) from 2005 to 2010 it appears that the state's largest revenue comes from taxes. Muslim-majority Indonesia, so it can be concluded that there is a potential source of tax revenue to the Muslims.

Tax in Indonesia has not fully become a major instrument for the welfare of the nation. Substantial tax should be charged to taxpayers could be the solution for poverty. Tax is only a source of State revenue and its allocation is still limited to a majority for the State administration has not allocated the maximum to increase the welfare of the poor. Tax system as a social instrument still many weaknesses in it. More will be discussed one by one the following three types of taxes which are the largest revenue and in terms of the sharia.

2.4.1 Income Tax Analysis In Sharia Perspective

Income tax (*dharaib ala al*-Dakhl) a direct taxes that worn by government on income. Income tax (PPh) in Indonesia regulated first time with The Law No 7 of 1983. Furthermore this regulation is amendment by: 1) The Law No 7 o1991,2) The Law No 10 of 1994,3) The Law No 17 of 2000, and 4) The Law No 36 of 2008.

In general, if seen from the history, Sholihin (2010) told in sub chapter of Income tax that direct taxes tax as a beginning of income tax, have found in ancient roman period, as exemple pickings existence that named *Tributum* which operative up to year 167 prechristian (before bc). Imposition income tax explicitly that regulated in a law as income tax have just could be found at English in the year 1799. At United State, income tax for known at New Plymouth in the year 1643, under colour of tax imposition “a person's faculty, personal faculties and abilities”. While tax imposition in Indonesia begun with existence tenement tax (huistaks) in the year 1816, which is of a kind tax that worn as lease towards to them that use earth as place stand it house or building. In first period until year 1908 found taxation treatment difference between aborigines citizen with non-aborigines. Since 1982 up to 1916, has known existence poll tax that the imposition based on individual status, house ownership and soil.

Tax object in income tax is income which is every economical ability addition that is accepted or got taxpayer, both come from Indonesian also from outside Indonesia, usable for consumption or for taxpayer wealth increase concerned, by the name of and in whatever form. Indonesia income tax law professes principle taxes on income in vast explanation, that is that tax is worn on every economical ability addition that accepted or be got taxpayer from which even also originally that can be used for consumption or taxpayer wealth increase. Definition of income in law income tax doesn't pay attention income existence from certain source, but in economical ability addition existence. Economical ability addition that is accepted or got taxpayer is best measurement about taxpayer ability to come along together shoulder cost that need by government for routine activity and development. Seen from its use, income usable for consumption and can also be saved for taxpayer wealth increase. Law of income tax profess vast income explanation, all income kinds that accepted in one year tax is united to get base tax imposition. Thereby, when in one year tax a effort or unprofitable activity, the loss will be compensation with another income (compensation horizontal), except loss that got from foreign, but such when a income kind worn tax with rate has finals or excepted from tax object, income may not be united with other income that worn general rate (Sholihin, 2010).

Subject tax in income tax is not discriminated between Moslem and non-Moslem, so that for Moslem is worn tax twice with tithe. So also with tax object, has sameness with tithe object and found tax object kind not yet appropriate syariat like present. Beside that income tax doesn't question what appropriate syariat income source or not.

Gusfahmi (2007) give alternative solution in order to repair aims to harvest income tax appropriate with sharia, like :

a. First, distinguishes on taxpayer Moslem and class non-Moslem, so that for Moslem is called tax (dharibah) while for non-Moslem is jizyah (tax).
b. Second, taking tax doesn’t because of corporation name, but on behalf of per person, because in Islamic economy system doesn't obligate tax/tithe on body. Therefore, corporation profit must be divided perlembar owner share. Then on behalf of each owner is worn tax (dharibah) per person.

c. Third, make tithe payment as full tax credit. Moslem may not be weighed down with two taxes same on one sources. Thereby, in annual notice, the location tithe column in tax credit or as substrahend of income

d. Fourth, make tithe acceptance as country acceptance source, with special estimation account, is not mixed with other income source. This matter has caused tax clear its use for special things. Tax belong acceptance without ceremony, so that its use differ from tithe.

e. Fifth, allocate fund of tax to use just for matters genuinely need, be Moslem duty, useless for doubt activities (subhat) , even less prohibited.

Follow opinion author, its necessary also get attention income taxpayer, not one who has income same worn tax same, but one who has income that have tax same be worn tax same. Income that got taxpayer which the total every person unequal, but depend on family composition.

2.4.2 Value Added Tax Analysis In Sharia Perspective

Value Added Tax begins popular in Indonesia around year 1980 because relative easy for government to pick it. Value Added Tax is picked when goods is sold cash and clear the total. Basically every goods and service goods hits tax or service hits tax, except determined other by law Value Added Tax. Rule of the Law that regulate this tax is Law No 42 year 2009 (about third change on Law No. 6 year 1983 about goods value added tax and service and sales tax on luxurious goods) and Law No. 18 year 2000 (second changes on Law No. 8 year 1983 about goods value added tax and service).

Imposition Value Added Tax evoke troubleshoot that is tax load justice existence because rate equation, so that intermediate society downwards is hited tax load proportion same. Value Added Tax evoke heavy load in society group whose earns low. This matter opposes sharia that is existence injustice in burden load. Value Added Tax be prohibited if that hitted poor class. Several fundamental conditions that must chockablock with fulfill tax structure is tax structure must as according to standard justice and society ability.

Gusfahmi (2007) also suggest that go into effected of Value Added Tax on goods consumption or rightful service not yet is regulated in Koran and Hadits, while if identified with customs (ushr) also imprecise because ushr worn bot because of merchandise, but as balancing for unbeliever that enter Moslem area.

Value added tax on assorted goods that sold according to principle is not suggested in Islam with same reason to tax pickings, that is first, because usually pickings money allocation ill defined to whom. Second, pickings like that actually will causes goods price is rise that will press the society. Mas'udi (2010) give emphasis that if Value Added Tax be putted into tax object, it must two conditions that must be filled, that is: first, Value Added Tax is not worn on goods related to publics importance. Good that worn is goods according to substantial not too important for human life and only synchronized in importance or even certain taste. Second, pickings result Value Added Tax must accountable morally and hokum that is its use genuinely for publics importance, otherwise so follow author opinion can categorized found deed consume another person treasure by bot true ways.

Renewal of development in taxation system especially in Value Added Tax for effort area based on sharia. For effort practitioner based on sharia, things which complaining during the time is doubled tax imposition on his product transaction. Like in transaction *Murabahah* (sell to buy). For example, when does somebody want to buy vehicle pass banking by pay in instalments (credit), if done in sharia banking with that sales principle, as if happen twice process displace (sell to buy). First from dealer to Islamic Banking, second from Islamic Banking to creditor. Automatic, as according to value added tax principle, all transactions obligatory worn value added tax. Compared with if the creditor do transaction with leasing company, actually side leasing lend amount of money to creditor and purchasing to dealer direct on behalf of creditor. Value added tax be worn once.

2.4.3 Land Tax Analysis And Building In Sharia Perspective

Land tax and building tax that worn on land right result and/or building or equally Land tax and building tax that worn on property or soil utilization and/or building. Land tax and building tax be centre tax but such almost entire acceptance realizations Land tax and building tax extradited to also regency/city. Size of tax is determined by tax object condition not in subject tax. Base tax imposition tax object provision value.

Islamic economy does Land tax and building tax that size the tax is determined based on soil location zone. Land tax and building tax in several things oppose against sharia of Islam. Subject tax that burdened to Moslem on soil and/or building that occupied and used. If equalized with *kharaj*, Indonesia not soil kharajiyah that subjugated with battle, so that Moslem member not obligatory pay soil *kharaj.* On the their side not every person who has vast soils but can economical, for example at region Menteng (Jakarta Centre) very many retired doesn't can to pay Land tax and building tax so that forced flee to region other.

Quit of many matters above oppose against sharia of Islam, still found several similarities *kharaj* with land tax and building, that is: 1) both of them same obligatory subscription (load) that are burdened to owner soil or soil manager on behalf of the soil, 2) it was picked up by government on the policy, 3) similarity from the harvest time aspect, 4) making efficient use both same to al-mashalih al-'ammah financing (general importance), both be routine financing fund (current expenditure) also development expenditure, 5) a duty as citizen towards country (government) outside tithe. If fifth continual the mentioned is applied and has pattern same so Land tax and building tax has equal to *kharaj*.

3. CONCLUSION

Islamic economy figure have difference opinion about pick up of tax as one of [the] fiscal wisdom instrument. Taxation system has invited pros and contra from Islamic scientist, so that a middle course from two this different idea that duty on obligatory treasure tithe, but if come condition that wish for addition need existence (dharurah), so there addition duty other shaped tax. The big job of Government is changes or repair the system, that is new tax system must has voluntary and on the basis of sincerity, there may not be any intimidation/fine/sanction has without considering (*dhalim*), but permanent base on law shar'i strongly.

Tax wisdom implementation in context at compound Indonesia country and plural be alternative relevant if run hotly justice and generalization (wealth distribution basis). Justice is primal pillar in Islamic economy. Justice enforcer has been emphasized by Koran as principal mission prophets that has commanded by Allah SWT. when does Islamic people along with religions people other ally build nation with tax and tithe in an optimal fashion, so economy problems shaped poverty, unemployment, and other as it be finished. So that inferential that optimalisation potential society wealth via tax will be alternative best solution if is done on condition that and certain condition in order to realizes society welfare at world and at hereafter.

REFERENCES

Al-Qur'an

Ali, Nuruddin. (2006). *Zakat Sebagai Instrumen dalam Kebijakan Fiskal.* Jakarta: PT Raja Grafindo Persada.

Bohari. (2002).*Pengantar Hukum Pajak.* Jakarta: RajaGrafindo Persada.

Chapra, Umer. (2000). Islam and The Economic challenge. (Herndon: IIIT, 1995). Diterjemahkan oleh Ikhwan Abidin Basri. *Islam dan Tantangan Ekonomi.* Jakarta: GIP.

Dahlan, Ahmad.(2008). *Islam; Teori Dan Praktik*. Yogyakarta: STAIN Purwokerto Press

Gusfahmi. (2007). *Pajak Menurut Syariah.* Jakarta: PT RajaGrafindo Persada.

http://www.pajakonline.com

http://www.anggaran.depkeu.go.id

Ihsan, Ali. *Membiayai Negara Tanpa Pajak.* 24 April 2010 didownload dari http://www.khilafah-serpong.co.cc/?p=303

Inayah, Gazi. (2003). *Teori Komprehensif Tentang Zakat dan Pajak*. Yogyakarta: Tiara Wacana Yogya.

James, Simon and Christopher Nobes. (2003). *The Economics of Taxation*. Edinburgh: Pearson Educatioan Limited.

Karim, Adiwarman. (2001). *Ekonomi Islam Suatu Kajian Kontemporer.* Jakarta: Gema Insani Press.

Mas'udi, Masdar Farid. (2010). *Pajak Itu Zakat: Uang Allah Untuk Kemaslahatan Rakyat*. Bandung: PT Mizan Pustaka.

_____________. *Korupsi dalam Perspektif Budaya dan Syariat Islam*, 2005 didownload dari http://580443.multiply.com/journal/item/107/Korupsi_dalam_Perspektif_Budaya_dan_Syariat_Islam

Permono, Sjechul Hadi. (2005). *Formula Zakat Menuju Kesejahteraan Umat*. Surabaya: CV Aulia.

Pusat Pengkajian dan Pengembangan Ekonomi Islam (P3EI). (2008). *Ekonomi Islam*. Jakarta: PT RajaGrafindo Persada.

Ridwan, Cholil. Islam Tidak Mengenal Pajak. Kamis, 15 April 2010 didownload dari http://myquran.com/forum/archive/index.php/t-8679.html

Qardawi, Yusuf. (1997). *Hukum Zakat.* Jakarta: Litera AntarNusa.

Sholihin, Ahmad Ifham. (2010). *Buku Pintar Ekonomi Syariah*. Jakarta: PT Gramedia Pustaka Utama.

Soemarso. *Perpajakan Pendekatan Komprehensif.* (2007). Jakarta: Salemba Empat. Undang-Undang Nomor 36 Tahun 2008 tentang Perubahan Keempat atas UU No. 7 Tahun 1983 tentang Pajak Penghasilan

Waluyo. (2006). *Perpajakan Indonesia*. Jakarta: Penerbit Salemba Empat.