
In the Name of Allah, the Most Gracious, the Most Merciful

2018 Edition



How to calculate your Zakah in Australia

Written by:

Ebrahim Iqbal Lambat MBA, CA, DipFinPlanning

Prior edition reviewed by:

Imam Uzair Akbar and Mufti J Akbar, Holland Park Mosque, Brisbane, Australia

Imam Y Patel – Secretary, Jamiat-ul-Ulama, Mpumalanga, South Africa

Sponsored by: Islamic Estate Planning Pty Ltd



Published by: AXIS Solutions Pty Ltd

P.O. Box 3437
South Brisbane BC, QLD 4101
AUSTRALIA
Email: axis.publications@gmail.com

© **Ebrahim Iqbal Lambat**

Fourth Edition - 2018

Important disclaimer

The information contained in this book is general in nature and should not be taken as personal professional advice. You should seek your own independent assessment from a qualified advisor and not rely solely on the general nature of information contained in this publication.

The information has been prepared with all due care and attention. From time to time interpretation or legislative changes may occur.

The publisher, editors and the author of this publication are not responsible for the results of any action taken, or omitted to be taken, by any person as a consequence of anything contained in this publication, or for any error or omission in this publication.

This publication is not a substitute for theological and financial advice. The objective is to provide a guideline for the calculation of zakah. You should seek the advice of an appropriately qualified person.

Allah knows best.

Copyright information

© **Ebrahim Iqbal Lambat**

This publication is copyright. Other than for the purposes of and subject to the conditions prescribed under the Copyright Act 1968, no part of this publication may in any form or by any means (electronic, mechanical, micro-copying, photocopying, recording, or otherwise) be reproduced, stored in a retrieval system or transmitted without prior written permission. Queries should be addressed to the publisher.

Cover Picture:

Rohingya refugees are reflected in rain water along an embankment next to paddy fields after fleeing from Myanmar into Palang Khali, near Cox's Bazar, Bangladesh November 2017. Picture: Reuters. Source: *The Independent*¹.

ISBN: 978-0-6483258-0-2

How to calculate your zakah in Australia
is proudly sponsored by:

Islamic Estate Planning Pty Ltd



Islamic estate planning, deceased estate management, business succession planning, business advisory, trusts and trust planning, tax and tax planning, accounting services.

Contact us for advice on your zakah calculations.

What will happen to my assets and my loved ones when I die?

Islamic Estate Planning: It's more than just a will...

You have a duty, to your family, to plan your estate and ensure that it is distributed in a manner that benefits your beneficiaries and results in no conflict.

An Islamic estate plan is essential to help you plan for the distribution of your assets to your loved ones, in accordance with Islamic law. It will help you plan for:

- **General asset distribution.** How best to distribute your assets? What shares and what assets do beneficiaries inherit? Do all your beneficiaries inherit a share of a particular asset? Can they work together? What is the potential for conflict?
- Distribution of assets that an Australian will cannot distribute, for example, trust assets, jointly owned assets, and superannuation. Who will control and who will inherit these assets?
- **Asset protection.** Do you need to safeguard your assets in case your spouse remarries? Do you have any special need beneficiaries? Are any of them current or potential spendthrifts? Do any need protection against potential/unseen creditor claims? Do any beneficiaries need protection from potential marital claims?
- **Business succession.** How will your business/investment assets be distributed? Who will manage the business/investments? Is there potential for conflict? Is it better to sell?
- **Tax minimisation.** Consider tax advantages of a testamentary trust for minor children. Consider the impact of capital gains taxation (CGT) in making distribution choices. Whilst no CGT is applicable upon your death, your beneficiaries inherit your unrealised gains and losses and CGT will impact them if they choose to sell.

Whether your estate is large or small, the issues that arise are usually the same.

Specifically, an estate plan will provide you with the following:

- A plan for the distribution of your entire estate (assets held in personal names, trusts, companies, overseas, and superannuation funds) in accordance with Islamic laws;
- Understanding and determining what shares survivors will inherit;
- A clear understanding of which assets are to devolve to each beneficiary (who inherits what) and ensuring asset values align with their share under Islamic law;
- A clear understanding of who controls trust and business assets and, under what conditions, and how, the assets will eventually pass onto the intended beneficiaries;
- Planning to ensure there is ample and appropriate provision for beneficiaries;
- Cost effective transition to beneficiaries upon death;
- Minimisation of taxation liabilities;
- Consideration of tax advantages in utilising testamentary trusts for minor children;
- Protection of inheritances against creditor and/or marital claims;
- Protection of the rights of beneficiaries and protection of the estate for beneficiaries with special needs; and
- Building a charity legacy to benefit you, beyond your death.

The outputs of an estate planning exercise are:

- An **estate plan** that covers all assets, and beneficiaries. This is the master plan and a will is a small part of this plan;
- A **business (including, investment) succession plan**, including shareholder agreements (if applicable);
- **Wills** that are compliant with Australian and Islamic laws;
- **Executors with clear instructions** on their role and how they are required to act;
- **Guardians** for minor children or persons with disabilities, with clear instructions on how to act;
- **Binding nominations** to your superannuation fund;
- **Letters of wishes** for the on-going management of non-estate assets such as discretionary trusts and nominee held assets;
- **Re-structured trust deeds**;
- **Power of Attorneys**; and
- Transfer of assets to more appropriate vehicles (if required).

Given the magnitude of the impact of your estate distribution on your family...do you really want to leave it to chance by completing a standard will kit or having a basic will created...and hope that this addresses all your specific assets, circumstances and requirements?

Start your estate plan early in life...

The sooner you start estate planning the better. This enables you to plan your estate and hold assets in a manner that is beneficial to you during your life and to your beneficiaries. It also provides you with ample time to put mechanisms into place to boost the value of your estate.

Who is Islamic Estate Planning Pty Ltd?

Islamic Estate Planning Pty Ltd is an Australian registered and managed company. The directors of this company authored a series of books about Islamic law of inheritance/succession in Australia. These books are used by many practitioners across Australia.

The directors have also developed a standard Islamic will kit which is used widely in Australia.

Whilst based in Brisbane, we operate in all major cities and towns.

Who to contact?

Iqbal Lambat or Farida Lambat for an initial free consultation:

Iqbal - 0410 786 227

Farida - 0417 460 200

Free initial consultation

Contents

Preface.....	8
Where your zakah is most needed.....	10
Summary - Assets subject to zakah.....	12
General Rules on Zakah	14
1. You must have the equivalent of nisaab to qualify to pay zakah	14
2. Personal use assets are exempt from zakah	15
3. You must hold wealth/assets for a lunar year	16
4. Do minor children pay zakah?	17
5. You must own or control the asset	17
6. Your intention determines zakah treatment.....	17
7. Zakah calculation date.....	18
8. Zakah rates.....	18
9. Who do you pay zakah to in Australia?	18
Personal Assets	20
1. Cash	20
2. Salaries & Wages.....	20
3. Crypto Currencies.....	21
4. Gold and Silver	21
5. Jewellery.....	22
6. Example	22
Investments	24
1. Shares listed on the stock exchange	24
2. Options (either call or put options).....	25
3. Managed Funds.....	26
4. Fixed interest securities.....	27
5. Property	27
6. Alternative view on all investments.....	31
Superannuation.....	32
1. Contributions to Superannuation	32
2. Superannuation Fund Payments.....	34
Trusts	37
1. Introduction	37
2. Fixed interest trusts.....	37
3. Discretionary trust.....	37
Business Assets	38
1. Introduction	38

2. Net Current Assets/Working Capital	38
3. Fixed Assets.....	40
4. Comprehensive example - zakah on a business	43
5. Businesses with insignificant working capital.....	44
6. Partnerships/Joint Ventures/Major Investments	44
7. Example - different businesses	45
Deductions	47
Special Feature: Rohingya Muslims in Bangladesh refugee camps in dire need for aid	48
Special Feature: Yemen requires major assistance	49
Special Feature - Syrians (in Syria) in need of aid	50



A Rohingya refugee woman, weeps as she holds her 40-day-old son after he died as their boat capsized before arriving on shore in Shah Porir Dwip, Teknaf, Bangladesh.

Picture: Reuters. Source: *The Independent*²

Preface

This book outlines the various assets that are subject to zakah and, through examples, explains how zakah should be calculated. The book focuses on the mechanics of calculating zakah; it does not address the Islamic laws on zakah.

Whilst the Prophet (Peace and Blessings Upon Him) clearly identified the assets that should be included in a zakah calculation and the zakah rates to be applied, zakah in today's world is complicated by the existence of "new" assets that did not exist at the time of the Prophet (PBUH).

During the era of the Prophet (PBUH), the common assets were gold and silver, livestock, agricultural land, crops, and business assets (largely merchants with stock for resale).

Today, the most common assets are:

- assets and businesses held in discretionary trusts;
- superannuation (retail or industry fund and self-managed);
- cash in various forms, including money market instruments and crypto currencies;
- investment properties and property developments;
- listed and unlisted shares, including managed funds, derivatives, and exchange traded funds (including franked and unfranked dividends);
- listed and unlisted fixed interest based securities;
- businesses where the most valuable asset is the company brand or its goodwill; and
- traditional businesses with stock in trade.

Complex funding mechanisms exist to enable asset owners to gear their businesses and investments.

Some of these "new" assets and funding mechanisms are deemed forbidden (haram) by some ulama and Islamic jurists. My objective, in this book, is to explain how zakah should be calculated and not to make any judgements on whether an asset, or its funding, is acceptable (halaal), or prohibited (haram).

The existence of these "new" assets introduces complexity into the zakah calculation. The complexity is exacerbated by differences of opinion amongst jurists.

My approach, in this book, has been to apply the Islamic principles of calculating zakah to the new asset types. I have consulted on this approach with leading Islamic scholars and jurists globally.

The book contains material on where you can direct your zakah funds. Whilst it is preferable to give your zakah in your country of residence, there is a need for zakah in a number of countries globally. In researching for this part of the book, I was distressed at the plight of Muslims in Bangladesh (Rohingyas); Yemen; Syria; North-Eastern Nigeria and Chad; Iraq; Somalia; Palestine; Mali; and the generally extremely poor in India, Pakistan, Bangladesh, Indonesia, Sudan, and West Africa. The displacement of Muslims, and the conditions they are living in, is a cause, I believe, we should all rise to. I do appreciate that there are many Muslim charities that are focussed in these areas.

I include in this book, "special features", that explain the countries in dire need of aid.

Whilst the global causes need to attract our funding, we must be cognisant of Australian requirements and ensure that the needy in Australia are made comfortable.

Australia has a number of Muslim zakah funds, many of them distributing funds/benefits in Australia and globally. I encourage you to donate to them generously.

I would like to specifically thank the following Imams who contributed to this compilation:

- Imam Yusuf Patel, at the time, secretary of the Jamiat-ul Ulama, Mpumalanga, South Africa for his reviews and mentoring; and
- Imam Uzair Akbar and Mufti J Akbar, of Holland Park Mosque, Brisbane, for their review of an earlier manuscript and their guidance.

As always, I would like to thank my wife Farida and my children Rashaad, Zahed, and Raeesa for their support and review of the various manuscripts. The many debates greatly assisted me in formulating a perspective.

Thank you for reading this book.

Ebrahim Iqbal Lambat
Brisbane
May 2018

About the Author



Ebrahim Iqbal Lambat (Iqbal) is a chartered accountant and holds a master's degree in business administration (MBA), majoring in project management and taxation. He also holds a Diploma in Financial Planning and is studying towards attaining a Graduate Diploma in Financial Planning and the Chartered Tax Advisor designation.

Iqbal is not a theologian, but he has a major interest in Islam. He has, in the last decade, written a number of books about various aspects of Islam.

Iqbal and his family migrated to Australia from South Africa. He has held senior business roles in major corporations in South Africa (including company directorships) and Australia.

Iqbal's passion is estate planning. He authored a number of publications in Australia on the Islamic law of succession within the Australian context. He is a director of Islamic Estate Planning Pty Ltd, a company focussed on providing Islamic estate planning services.

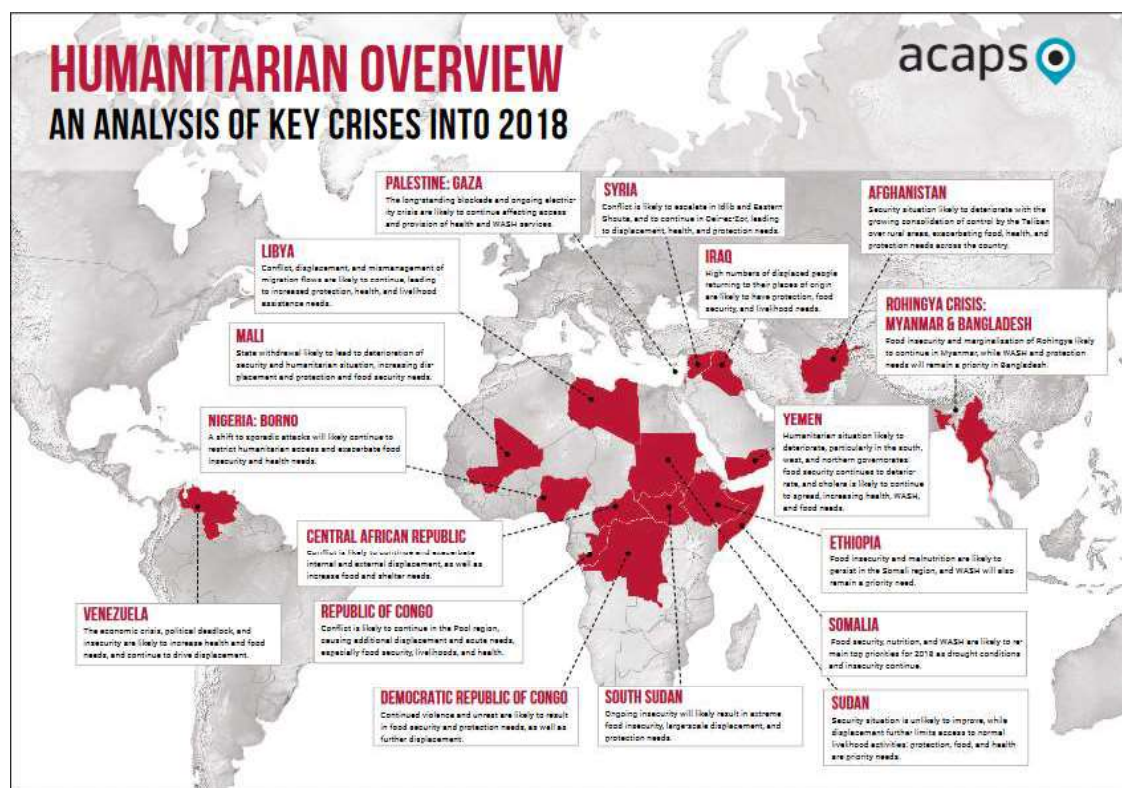
Where your zakah is most needed

1. Introduction

Before explaining how zakah is calculated, I thought it appropriate to explain the scale of the global need.

ACAPS, an independent body based in Geneva, specialises in humanitarian needs analysis. The organisation has identified what it terms "the key humanitarian crises in 2018", in their report titled³: "Humanitarian Overview: An analysis of key crises into 2018".

Of the 17 countries identified in their report (see the map below), 11 are Muslim majority countries and two, Ethiopia and Nigeria, have a large Muslim minority. The impacted area of Nigeria, the north-east, is largely Muslim.



The report identifies the following Muslim majority countries as requiring assistance to manage an unfolding humanitarian crisis: Palestine/Gaza; Syria; Iraq; Afghanistan; Rohingyas (Myanmar and Bangladesh); Yemen; Somalia; Mali; Sudan; and Libya.

The misery and hardships being encountered by Muslims in many countries is heart breaking. In addition to the countries listed as humanitarian crisis areas, Muslims face widespread poverty in many countries:

- **Indonesia**, has 105 million people living just above the poverty line⁴ and are at risk of falling into poverty as their incomes hover marginally above the poverty line⁵. More than 28 million Indonesians still live below the poverty line⁶ - that's more than the population of Australia.
- **Philippines**. Muslims largely live in the south. Mindanao Island and Sulu Sea to its east have large Muslim populations. *The Australian* reports that "the most significant thing about

Mindanao is not its mosques or its brasswork, but the fact that it is the poorest area in a poor country⁷."

- **India.** The Muslim population in India approximates 180m - the second largest Muslim population, after Indonesia. The *Hindustan Times* reports that Muslims "come out pretty much at the bottom of most socio-economic indices⁸." There are estimates that 75% of India's Muslims require assistance [that's 135 million people!]⁹. *The Times of India* reports that, in 2010, 31% of Muslims (66 million people) were living on less than \$11 per day¹⁰.
- **Pakistan.** *The Express Tribune* reports that "four out of 10 Pakistanis are living in acute poverty¹¹." That's approximately 83 million people. The statistics are based on a national survey.
- **Bangladesh.** The Asian Development Bank states that 31.5% of the population lives below the national poverty line in 2010¹². That's approximately 51 million people.
- **Sub-Saharan Africa.** The Muslim population of sub-Saharan Africa, according to Pew research, is 208 million. This excludes north Africa which is largely Arabic speaking¹³. Pew report: "Hunger, disease and poverty continue to extract a painful toll throughout sub-Saharan Africa. Large percentages in the 10 African countries surveyed say there have been times in the past year they have been unable to afford food, clothing and medical care¹⁴. "The Borgen Project reports that 48.5% of the population is living on less than \$1.25 per day, and 69.9% on less than \$2.00 per day (that's the total population, not just Muslims)¹⁵.
- **Egypt,** is the largest Arab speaking country, with a population of approximately 95 million¹⁶. *Egypt Independent* reports that approximately 28% of the population is living below the poverty line¹⁷. That's approximately 26 million people.

An estimate of the total number of Muslims facing poverty is 363 million with many more requiring assistance.



A Somali woman cradles a child suffering from malnutrition¹⁸.

Summary - Assets subject to zakah

The table below provides a summary of assets/income subject to zakah. Each asset/income category is discussed in more detail in this book. Different zakah rates apply.

Asset/income	Include the following in your zakah calculation	Chapter
Cash	<ul style="list-style-type: none"> All cash and bank accounts, including short term or long term deposit, in Australian dollars or multiple currencies Money market instruments Crypto currencies 	Personal Assets
Gold and silver	<ul style="list-style-type: none"> Investments in gold and silver, including bullion or certificates backed by bullion 	Personal Assets
Jewellery	<ul style="list-style-type: none"> All your jewellery that is not regularly worn or considered excessive 	Personal Assets
Shares in companies listed on the Stock Exchange	<ul style="list-style-type: none"> The current market value of shares you intend to resell The net dividend amount from shares that you are holding for long term dividends Face value of fixed interest securities (bonds, debentures, etc) [Refer to rules on managed funds and options.] 	Investments
Property	<ul style="list-style-type: none"> Market value of all property to be sold. The net rental amount from property being held for long term. [Vacant land is subject to special rules.] 	Investments
Debts owing to you	<ul style="list-style-type: none"> Any debts owing to you. Include in your zakah calculation each year until paid or forgiven. 	Not addressed in this book
Superannuation funds	<ul style="list-style-type: none"> Any voluntary and or personal contributions that you make to a superannuation fund. [Where your employer makes contributions on your behalf, these are not subject to zakah except in the years that you actually receive benefits from the superannuation fund.] Any lump sum and pension payments from superannuation funds. 	Superannuation
Trust assets	<ul style="list-style-type: none"> All businesses and investments held in trusts. 	Trusts
Assets in business	<ul style="list-style-type: none"> Net current assets (stock + debtors + cash – creditors). Net profit after taxation but before depreciation and interest 	Business Assets
Businesses where you have shares either as a silent or active partner/joint ventures	<ul style="list-style-type: none"> Your percentage ownership of the net current assets and net profit for the year. 	Business Assets
Life insurance	<ul style="list-style-type: none"> The surrender value of any annuity/endowment policy is subject to zakah. 	Not addressed in this book

Summary - assets subject to zakah

Asset/income	Include the following in your zakah calculation	Chapter
Mining	<ul style="list-style-type: none"> The value of ore extracted. 	Not addressed in this book
Crops	<ul style="list-style-type: none"> The yield of the land if the land is irrigated by natural means (rainfall, rivers, etc.) @ 10%. The yield of the land if the land is irrigated by “artificial” means @ 5%. 	Not addressed in this book
Livestock	<ul style="list-style-type: none"> Livestock, for example, camels, cattle, water buffaloes, goats and sheep (any animal that can be slaughtered for Qurbani) when they: <ul style="list-style-type: none"> graze on the open field for the greater part of the year and are not stall fed; are kept for milk, breeding or fattening. Such animals are referred to as <i>Saaimah</i>. [Saaimah animals calculated on the number and not the value. Stud, thoroughbred and crossbred animals are therefore treated alike for zakah purposes.] Stock of animals at market value where you are a trader. 	Not addressed in this book
Liabilities	<ul style="list-style-type: none"> Deductions for any amounts you owe. The full value of short term debts can be deducted whilst only the current year portion of long term/mortgage debts are permitted. 	Deductions



Yemeni children wait to receive food rations provided by a local charity, in Sanaa, Yemen, Thursday, April, 13, 2017. Picture: AP/Hani Mohammed. Source: AP¹⁹

General Rules on Zakah

1. You must have the equivalent of nisaab to qualify to pay zakah

The Prophet (PBUH) stipulated a minimum amount/threshold under which no zakah is due. Zakah is only due on your net assets (after deducting liabilities) if it is equal to, or in excess of, the stipulated minimum²⁰. This minimum is referred to as nisaab.

The Prophet (PBUH) specified different minimums/thresholds for gold and silver assets, agricultural products, and livestock. The majority of Muslim scholars concur that for non agricultural assets, nisaab is calculated on the gold and silver stipulation.

Nisaab is in excess of your basic needs. The Holy Quran states: "They ask thee how much they are to spend [in charity]; say, 'what is beyond your need.'" (2:219).

Nisaab represents the minimum funding required for emergencies and other required spending.

The Australian dollar equivalent of nisaab is calculated as follows:

NISAAB		Grams	Tolas	Grains	Troy Oz.	A\$/Troy Oz.	Australian Dollar Equivalent
Gold	20 Mithqaals	87.48	7.5	1350	2.8125	1740	\$4,894
Silver	200 Dirhams	612.36	52.5	9450	19.6857	22	\$433

(Based on commodity prices as at 21 April 2018).

The Australian National Imams Council has issued a statement stating that, based on their calculations, the gold based nisaab is \$4,741.30 and the silver based nisaab is \$420.21 for Ramadan 2018. ANIC calculations are based on 17 April 2018 gold and silver prices. The nisaab calculation will change as gold and silver prices change.

Some scholars are of the opinion that the lower silver based value should be used as the nisaab value²¹. In the Australian context, \$433 is very low. For the purposes of calculating whether you qualify to pay zakah in Australia, you should use the gold threshold. If you have net assets lower than \$4,894, you do not pay zakah.

If you are a recipient of social security benefits (age pension, newstart allowance, youth allowance, family tax benefits, concession cards, etc) you are required to pay zakah if you have nisaab.

If you receive social benefits, you are still required to pay zakah if you own nisaab.

Nisaab is calculated per person and not per family. Each person is responsible for paying zakah on their own assets. You pay your own zakah and your spouse (husband/wife), children, and parents pay their own zakah, provided they have nisaab.

[There is a growing view in Australia, and other Western countries, that as gold is no longer tied to the monetary system and is now merely a commodity; it should not be used to value nisaab. In addition, the gold price is very low. As a result, some Muslims are stating that, instead of using gold and/or silver to calculate nisaab, minimum income thresholds to live in Australia for

a year should be used. Estimates of cost of living in Australia for a single person, renting, is \$25,000 for basics. For a family of four, renting, the costs range from \$55,000 to \$65,000²².]

Zakah is payable on your entire wealth, if your wealth exceeds nisaab

If your net assets (wealth) either equate to or are in excess of the nisaab, then zakah is due on the entire wealth - no deduction is permitted for the nisaab.

Example:

Ahmed has qualifying wealth of \$5,000. He would pay zakah on the full \$5,000.

If Ahmed had qualifying wealth of \$4,500; he would not pay any zakah.

Imam Hanifa was of the view that you need to have the equivalent of nisaab at the beginning and end of the year – if it decreases during the year it does not matter²³. However, if you totally lose your wealth, then the zakah year only starts when you regain at least the nisaab equivalent.

The Shafi, Maliki and Hanbali schools are of the opinion that you must have nisaab for the whole year. Shafi scholar Imam Nawawi explains²⁴: “In our view and the views of Imams Malik and Hanbal....the amount of property liable for payment of zakah is tied to the completion of nisaab through the turn of the whole year. If the nisaab decreases in any time of the year, [the counting of] the year discontinues. Later, if the nisaab is completed, the year count is resumed from the time of its completion.”

2. Personal use assets are exempt from zakah

The objective of zakah is to donate to the poor and needy from your wealth. All assets that are intended for your personal use are exempt from the definition of wealth and from zakah²⁵.

Generally, the following assets are excluded from zakah (and your nisaab calculation):

- Your home.
- Your personal clothing, household furniture (including appliances), personal laptops, mobile phones, and tablets.
- Your personal vehicles.

Some scholars are of the view that excessive personal assets are not exempt. For example, each person will only have one car exempt; if you own two cars, and the second car is not used for trade, the second car would not be exempt, according to these scholars.

When calculating your nisaab, you should exclude your exempt assets. Nisaab is the amount in excess of your personal use assets²⁶. If you include them, then your wealth will exceed nisaab and you will pay zakah.

Example:

Abdullah and Maryam own the following assets:

- A home inherited (worth \$300,000)
- A car (\$20K)
- Personal clothing and furniture
- Cash in the bank of \$8,000 jointly owned

Nisaab is calculated as follows if you exclude exempt assets:

	Abdullah	Maryam
Home	Exempt	
Car	Exempt	
Personal stuff	Exempt	
Cash	4,000	4,000
Total wealth	4,000	4,000
Nisaab	4,800	4,800

Both Abdullah and Maryam do not have nisaab and will not pay zakah.

3. You must hold wealth/assets for a lunar year

The Prophet (PBUH) stated that you only pay zakah on assets that you have held/possessed for a full lunar year.

You first become liable to pay zakah one lunar year after you first exceed the nisaab minimum²⁷.

If you acquired any assets during your lunar year from capital you had at the beginning of the lunar year (and you had nisaab at the beginning of the year), you are deemed to hold the additional assets for the full lunar year, even though a full year has not passed since you acquired those additional assets. Al-Qardawi states²⁸: "If acquired assets are the result of already owned capital, such as profit on business assets and the offspring of already owned livestock, they are *zakatable*. This income should be added to the original assets in calculating *zakah*." The great Islamic scholar Ibn Qudamah adds²⁹, "I am aware of no dispute on this. It goes by the year of its principal and is like continuous growth, such is the increase in the value of inventory."

Example:

Hamza and Yasmeen's lunar year ends in May 2018 (Ramadan 1439).

They jointly acquire an investment property in November 2017. They use a portion of the cash they held at the beginning of the lunar year to pay a deposit and they secure a mortgage for the remainder of the purchase price.

Hamza and Yasmeen are deemed to hold the investment property for the full lunar year even though they only acquired it in November 2017 as they used existing capital to secure the purchase (the deposit).

Your assets have increased as a result of capital you owned at the beginning of the year.

A new lunar year commences for any additional assets you gain through inheritance, gifts, and from personal exertion - that is, assets you acquire by not using your already owned capital. For example, you inherit an investment property half way through a lunar year. At the end of the lunar year, the property has only been held for 6 months and not one lunar year and hence, no zakah would be payable on it until a full year passes. Some Hanafi scholars are of the opinion that should this arise, you are still subject to zakah at the end of the current lunar year as tracking different lunar years will significantly complicate the zakah calculation³⁰.

Zakah should not be paid twice in one lunar year on the same asset³¹.

4. Do minor children pay zakah?

In Islam, a person is a child until they attain puberty.

Most contemporary scholars are of the opinion that if a child has nisaab, then the child's guardian needs to pay zakah on the child's behalf. Sheikh Muhammad ibn Al-Mukhtar Ash-Shanqiti, former president of the Islamic Association of Lubbock, Texas, US, comments³²: "In Islamic jurisprudence, zakah is an obligation on money and not on the person. This means that even if the person is a child or insane - and thus is not Islamically accountable - this does not mean that his/her money is not zakatable. However, the legal guardian, has to pay the zakah." This is the view of the Maliki, Shafi and Hanbali schools of thought³³.

The Hanafi position is that a minor does not pay zakah, in the same manner that it is not compulsory for a minor to pray and fast³⁴. There is one crucial exception - a minor is required to pay zakah on agricultural produce³⁵. This exception brings a number of "new" assets that have similar characteristics of agricultural produce (for example dividends on investments, rentals on properties) into the zakah calculation for minors.

This is an issue that you need to decide on as a child's guardian. Sheikh Yusuf Al-Qardawi, author of the book, *Fiqh al-Zakah*, evaluates in detail the two contrasting positions and concludes³⁶: "Zakah is obligatory on the property of children and the insane. It is a right on those assets that is not waived by young age or insanity. It makes no difference whether those assets are in the form of livestock, agricultural produce, fruits, business assets, or money..."

5. You must own or control the asset

To pay zakah on an asset, you must either own it, or control it. Ownership entails unrestricted right to use, or to dispose³⁷.

The control test applies if you have assets in a private trust. The assets in a trust are not owned by you, but if you control them, then you need to pay zakah.

You control an asset if:

- You are a trustee or appointer (principal) of the trust.
- Your relative or associated person or entity has control, or if control is held by someone who you influence.

Ownership and control can be shared and if this applies, then the assets and/or income streams are apportioned.

6. Your intention determines zakah treatment

How an asset is treated for zakah purposes depends on your intention when you acquired the asset.

For example, when you purchase shares, are you buying them to hold them for long term dividend returns? Or did you buy them with the intention of selling them when the price increases, irrespective of the time scale?

The same principle applies to investment property. Is the investment property purchased for long term rental returns, or to sell when the market provides a good profit.

The zakah treatment varies depending upon your intent. This book highlights where this is relevant and informs you on your zakah choices.

7. Zakah calculation date

You should choose a date to calculate your zakah and use the same date each year. If you choose to use the lunar year then choose an Islamic date that you adhere to each year – for example 5th Ramadan.

For businesses, it may be more appropriate to calculate zakah at the end of the financial year, rather than the lunar year. In this case, scholars are in agreement that a higher rate of 2.577% should be paid³⁸.

8. Zakah rates

The Prophet (PBUH) applied different zakah rates to different assets/income streams. Broadly, these rates are as follows:

Rate	Asset/income applied to
2.5%	Cash, gold and silver. Scholars have expanded this to include business assets.
5%	Agricultural produce from land irrigated by “artificial” means. Some scholars extend this to include the gross revenues from a business and gross rentals from investment properties.
10%	Agricultural produce from land irrigated by natural means (rains, rivers, etc). Some scholars extend this to include net profit from a business, net dividends and net rentals.
20%	Ore extracted.

9. Who do you pay zakah to in Australia?

A number of zakah organisations exist in Australia and globally. You should research funds before you pay your zakah to any of them. Factors that you should consider are:

- Which causes, and how does the fund make disbursements.
- Payout ratio, the higher the payout ratio the better. Low payout ratios result in some of your contributions being diverted to pay for administrative costs.
- How long does it take for the fund to disburse zakah money.
- Does the fund have Deductible Gift Recipient (DGR) with the Australian Tax Office with the result that any zakah payment you make to these organisations, is tax deductible for you.

DGR status enables you to donate more as you will receive a tax deduction equivalent to your marginal tax rate, plus medicare levy.

The higher your marginal rate, the higher the tax deduction. For example:

General rules on zakah

Marginal tax rate:	21%	35%	39%	47%
\$1,000 donation	1,000	1,000	1,000	1,000
Tax deduction	210	345	390	470
Net donation cost	790	655	610	530
\$5,000 donation	5,000	5,000	5,000	5,000
Tax deduction	1,050	1,725	1,950	2,350
Net donation cost	3,950	3,275	3,050	2,650

If your marginal (top tax rate, including medicate levy) is 21% and you make a \$1,000 zakah payment your net cost/cash outflow is \$790. If your marginal tax rate is 47%, the same \$1,000 zakah will result in a net cash outflow/cost of \$530.

If your zakah payment is \$5,000 then at a 21% tax rate the cost to you is \$3,950. At a 47% tax rate, the cost to you is \$2,650.

The net effect of the above is that you can factor in your marginal tax rate when you make zakah payments - this will result in a lower cost to you (which is acceptable in Islam) or you can make a higher contribution.

You should speak to your accountant/financial adviser for more information on the impact of DGR status. You should first confirm with the organisation that it has DGR status.

Whilst it is advantageous to seek out zakah organisations that have DGR status, you should not ignore those who do not have such a status as many of these are providing aid in conflict zones.

You could mix your payment. If your zakah due is, for example, \$5,000 then make the full payment to a DGR zakah fund. You can calculate what your tax deduction will be, based on what you expect your top tax rate to be. You could then pay the tax deduction equivalent to a non-DGR fund. Overall, the cost to you is the same, but, depending upon your tax rate, you could contribute 21% to 47% more.



UNAMID/Hamid Abdulsalam

Displaced persons, mostly women and children, seek refuge at a safe zone in Um Baru, north Darfur, Sudan³⁹.

Personal Assets

1. Cash

Your cash holdings (worldwide), at the end of your lunar year, are to be included in your zakah calculation, whether the cash is in the form of bank deposits, treasury bills, cash on hand, or money market investments.



If you have any joint accounts with your spouse, then you need to include your portion of the joint account in your zakah calculation.

Zakah is payable on all cash reserves, even if you are saving to purchase a particular asset. Until the asset is bought, you need to pay zakah on the cash.

All your cash holdings, irrespective of where held, are included in your zakah calculation.

Zakah is payable at 2.5%.

Cash for personal use

Some scholars hold the view that a portion of your cash reserves are required for personal use and are therefore exempt⁴⁰. Cash for personal use is required for necessities which includes the payment of all debts that are due within the next lunar year. Given that such debts are allowed as a deduction to your zakah collection (refer to the section on "Deductions") they should be ignored in calculating funds required for basic sustenance.

It is common practice to include your full closing cash balances (without making a deduction for personal use) in your zakah calculation.

2. Salaries & Wages

Salaries and wages include all types of remuneration: basic pay; bonuses; commissions; loadings; overtime; etc.

Al-Qardawi in his book *Fiqh al-Zakat* states that zakah is payable on salaries and wages when the amounts are earned and not after a full lunar year⁴¹. He proposes a similar treatment to PAYG (tax) deductions on your salary. As soon as you earn your salary, you pay zakah. Under this approach, you would pay zakah each month. This approach has been accepted by a number of scholars. It has also received a lukewarm response and, in some cases, a vehement denunciation from some jurists⁴².



Paying zakah on your salaries and wages will result in a duplication of zakah payable. Salaries and wages will flow into cash balances and other type of zakah assets and be subject to zakah twice.

Sheikh Faysal Mawlawi, deputy chairman of the European Council for Fatwa and Research, summarises the two positions⁴³: "The majority of scholars, including the Maliki, Shafi'i, and Hanafi scholars, believe that no matter how high the incomes people earn from work are, the incomes are not subject to zakah unless the earners save from these incomes an amount that reaches *nisaab* and a lunar year passes while having this amount, or according to the Hanafi scholars, the amount reaches *nisaab* in both the beginning and the end of a lunar year. However, there are some eminent Companions, righteous predecessors, and knowledgeable scholars—such as Ibn `Abbas, Ibn Mas`ud, Mu`awiyah, `Umar ibn `Abdul-`Aziz, Az-Zuhri, Al-Hasan, Makhul, Al-Awza`i—who are of the opinion that if a person earns enough so that after expenses are deducted the *nisaab* is reached, he is to pay zakah on that remaining amount as soon as he gets his income."

Recommended zakah treatment

Instead of including your salaries and wages you should include your cash balances and any other zakah assets you have acquired with your earnings^{44, 45}.

3. Crypto Currencies

Crypto currencies such as bitcoin have significantly increased in popularity in the last few years. Some Muslim scholars and jurists deem them to be forbidden whilst others state that, since it has features of a currency, it is permissible.



Bitcoin is the most popular crypto currency.

If you hold bitcoin to be used as a currency, then you need to pay zakah at 2.5% on the value of the bitcoin - it's the same as holding cash⁴⁶.

If you hold bitcoin as an investment [some would argue that such an investment is speculative and hence forbidden], zakah is payable at the rate of 2.5% on the market value of the bitcoin. There are two reasons for this treatment:

- There is no underlying investment stream thus the capital is subject to zakah - no different to investing in currencies; or
- The entire transaction is speculative and the investor can easily be enticed to sell based on market prices.

4. Gold and Silver

Zakah is payable on any gold and silver in your possession. The value of gold and silver is calculated on its weight multiplied by the ruling gold or silver market price. Australian dollar prices for gold and silver are available on the internet and in newspapers.

Zakah is payable at the rate of 2.5%.

5. Jewellery

Gold and Silver Jewellery:

Imams Shafi, Hanbal and Malik were of the opinion that gold and silver jewellery being used, is not subject to zakah. Zakah is only payable on jewellery that you do not wear/use often, or that you are holding as an investment.

Ali Muhi-Deen Al-Qurrah Daghi, head of the department of Islamic Jurisprudence, Qatar University, states that this is the preferred treatment⁴⁷: “Concerning zakah on women’s jewellery that is worn, it is a controversial issue. The opinion deemed to be the most correct states that zakah is not levied on jewellery worn by women throughout the year, or most of the year, for the sake of adornment, and if the jewellery worn *is not more than usual*. However, zakah is due on the jewellery that is not worn most of the time (i.e. that is kept) and on that which is more than usual.”

As a minimum, zakah is payable on excess jewellery or jewellery that is not used often.

Imam Hanifa was of the opinion that gold is gold and no matter what form it takes, is subject to zakah. Hence under Hanafi law, all jewellery containing gold and/or silver is subject to zakah regardless of whether it is regularly worn or not. [This is based on the principle that gold represented a monetary system.]

The schools concur that zakah should be payable on gold jewellery owned by a male.

The value of jewellery is calculated on the weight of the gold and/or silver portion of the jewellery, at current market prices for gold and jewellery. Valuations can be obtained.

Other Jewellery

There are differences of opinion with regards to non gold or silver jewellery. Classical scholars stated that non gold and silver jewellery was exempt. Contemporary scholars, mindful of the value of diamonds, sapphires, etc state that all excess jewellery, irrespective of whether it is gold or silver based, is subject to zakah.

This is an issue that you need to decide on. Given that diamonds, sapphires, etc did not have value in the Prophet's (PBUH) era, these are "new" assets which should be included in your zakah calculation, if they are not worn regularly, or if they are considered excessive.

Recommended zakah treatment

- Obtain a valuation on all your jewellery that is not worn and include that value in your zakah calculation, irrespective of what the jewellery comprises (gold, diamonds, etc).
- Also include your excess jewellery - that is jewellery that is "more than usual".

6. Example

Hassan and Madina have the following assets:

- Personal home worth \$600,000

- Personal cars worth \$70,000
- Personal clothing, furniture, tools, laptops, mobiles worth \$65,000
- Cash in various bank accounts that are held jointly of \$120,000. At the beginning of the year the cash balance was \$90,000.
- Madina has her own account which contains her dowry and gifts from her parents. Her current balance is \$40,000. At the beginning of the year, her bank balance was \$50,000.
- Madina has a gold necklace that was given to her at her wedding. It is an expensive piece and she hardly wears it. She was also given a diamond studded bracelet that she does not wear. Both are valued at \$15,000.
- Madina also has a platinum/sapphire necklace that she purchased to wear as often as she can. However, she rather likes the necklace and prefers not to wear it. Value is \$5,000.
- Madina has a number of other pieces of jewellery that she wears as often as she can. These pieces are valued at \$8,000.
- Hassan has a gold ring valued at \$2,000.
- Hassan is a petroleum engineer and earns a monthly salary of \$10,000 per month, gross.
- Hassan has an investment in bitcoins that he initially purchased 18 months ago. In the current year he purchased an additional \$20,000. His total bitcoin holding is valued at \$55,000.
- Madina has gold bullion in an online depository account with the physical gold held by the Perth mint valued at \$40,000.

How much zakah is payable by Hassan and Madina?

Both Hassan and Madina have nisaab.

	Hassan	Madina
Personal home	Exempt	
Cars	Exempt	
Personal effects	Exempt	
Cash at bank - jointly owned closing balance	60,000	60,000
Madina bank account - closing balance		40,000
Madina jewellery hardly worn		15,000
Madina necklace being 'kept' (platinum/sapphires)		5,000
Madina regularly worn jewellery		0
Hassan gold ring - all gold for men subject to zakah	2,000	
Hassan salary - not subject to zakah	0	
Madina gold bullion on line deposit		40,000
Hassan bitcoins valuation	55,000	
	117,000	160,000
Zakah at 2.5%	2,925	4,000

NOTES:

- Include closing cash balances.
- The platinum/sapphire necklace is a "new" asset which is subject to zakah.
- Hassan's salary is not subject to zakah. Instead his savings are reflected in his cash balances and other assets that he has purchased.
- The full bitcoin value is subject to zakah as Hassan clearly had the capital to purchase it from assets held at the beginning of the lunar year.

Investments

1. Shares listed on the stock exchange

If you have shares in Australian and/or globally listed companies or other investment instruments such as convertible debt, then you need to include these investments in your zakah calculation.

Shares held for resale and speculative transactions

If you hold shares for resale, then you have to pay zakah on the market value of these shares, in the same way that a trader pays zakah on stock for resale.

The UK based Islamic author and fiqh commentator Adil Salahi explains⁴⁸: “If one is trading in shares, buying and selling according to the fluctuations of the market, then such shares are treated like other commercial commodities. Their market value is calculated on his/her zakah date and he/she pays zakah for that value every year. These shares are no different from the merchandise a businessman has in his/her shop, supermarket or other outlets. The rate of zakah payable is 2.5% of the market value every year.”



You do not have to be an active trader with a large volume of shares. If your intention when you purchased the shares is to sell them when a certain trigger occurs, then you need to include the current market value of the shares in your zakah calculation. Its about your intention. All jurists and scholars are in agreement on this. You have invested for resale rather than to hold the shares for long term dividends.

Dr. Monzer Kahf, author of the book, “The calculation of Zakah” states⁴⁹: “Stocks which are permissible to buy and own may be purchased for either holding them and expecting their dividends or for participating in the management of the company, or for using them as tradable objects waiting for a good opportunity to realise a capital gain and selling. In the latter case (where you are holding to sell) you are called in the Sharia a merchant or trader, regardless of the English jargon of ‘investor,’ and you need to pay *Zakah* on the market value of the shares or the net asset value on the due date of *Zakah*.”

Shares held for resale are subject to zakah.

Daily share prices are available on the internet and in most newspapers.

Shares held for long term dividend returns

Where you hold shares for the long term dividend return, the value of the shares are not included in your zakah calculation, but the dividend received is subject to zakah.

Adil Salahi explains⁵⁰: “A person holding shares in a company for the income they generate does not pay zakah on the value of his shares, but on the profits or dividends he receives. His zakah becomes payable on the day of receipt of such returns, whether they are paid annually or every six months, or shorter or longer periods. He does not wait for a year after receiving his payment. Rather, he pays his zakah straightaway at the rate of 10% of the amount of returns. This ruling is based on analogy with agricultural land irrigated by rain only. Its produce is liable to zakah on harvest day at the rate of 10%.” Most scholars are in agreement with the 10% rate but not all agree that zakah is immediately payable on receipt. Some scholars are of the opinion that zakah is paid one year after receipt.



Your intention must be very clear that you are holding the investments for long term dividend returns. If you have a mixed intention - that is one where you hold the investment for dividend returns until the market provides you with a good capital gain - you are a trader.

Recommended zakah treatment:

Include in your zakah calculation all dividends that you have received in the last year.

The dividend value you include needs to be the gross dividend received - that is the amount you actually received plus franking credits attached to it, if the dividend is either fully or partially franked.

When you receive a dividend the paying company will send you a notice stating the amount you will be paid and the amount of the franking credit. Simply add the franking credit to the dividend received to arrive at the gross dividend or multiply your dividend received by 30/70.

What is franking?

If a company pays or credits you with dividends which have been franked, you may be entitled to a franking tax offset for the tax the company has paid on its income. The franking tax offset will cover or partly cover the tax payable on the dividends.

A franked dividend is a distribution of a company's after-tax profits to its shareholders. Essentially, the shareholders are given a credit for the tax already paid by the company on the profit distributed.

Franking credits remove double taxation as the company issuing the dividend has already partially paid tax on the dividend prior to issue.

2. Options (either call or put options)

Options are *contracts* that grant the right, but not the obligation to buy or sell an underlying asset at a set price on or before a certain date. The right to buy is called a call option and the right to sell is a put option.

Options are often used by some Australian investors.

They can be used for both hedging risk and speculation. Given the high degree of speculation, most Muslim scholars declare options to be haram.

If you have options you do not need to include anything in your zakah calculation until the option contract is exercised and either a share, commodity, or currency is purchased.

For the purposes of this book, the broader concept of derivatives has not been discussed.

3. Managed Funds

A managed fund is an investment vehicle made up of a pool of funds collected from many investors for the purpose of investing in securities such as stocks, bonds, money market instruments and similar assets. Managed funds are operated by professional managers, who invest the fund's capital and attempt to produce capital gains and income for the fund's investors.



Investors seek out managed funds as they give small investors access to professionally managed, diversified portfolios of equities, bonds and other securities. Each shareholder, therefore, participates proportionally in the gain or loss of the fund. Managed funds invest in a wide amount of securities, and performance is usually tracked as the change in the total market cap of the fund, derived by aggregating performance of the underlying investments⁵¹.

Managed funds by nature buy and sell shares to maintain their returns to their investors. This poses a challenge for zakah as the objective of providing returns is mixed with a trading activity.

How you treat this for zakah purposes will vary depending upon the fund that you have invested in. Some funds are very active traders and in this case you are also deemed to be a trader and your entire investment is subject to zakah at 2.5% of current market value.

Recommended zakah treatment:

If you have invested in a managed fund for long term dividend returns, then any income distributed by the managed fund should be included in your zakah calculation at a rate of 10%.

If you have invested for capital gains, then your entire portfolio will be subject to zakah at 2.5%. A number of funds market their very high growth, much of this is achieved through active trading. If you are a member of such a fund, zakah is payable on your portfolio. Market entry prices exist for most mutual funds and these prices can be used to value your portfolio.

Your intention here will determine the zakah treatment. If you invested for a mix of capital growth and dividends, then the entire portfolio will be subject to zakah at 2.5%.

Where your managed fund is a conservative or defensive fund, with a high level of fixed income securities, different zakah rules apply. Refer to section below.

4. Fixed interest securities

A fixed interest security is a security that entitles the holder to regular, pre-determined interest payments, at a fixed interest rate, for a specified period of time.

Fixed interest securities include government bonds, corporate bonds, bank bills, debentures, promissory notes, and unsecured notes. Some are listed and have a current market price.

Due to the nature of the investment (interest based), many Ulama state that these investments are prohibited (haram). Nevertheless, a number of Muslims hold investments in fixed interest securities.

Fixed interest securities are subject to zakah each year you hold the security. The zakah value is the face value of the security at a rate of 2.5%⁵². It does not matter whether you hold the security for interest returns or whether you are a speculator - the nature of the investment is a debt and debt rules apply for zakah.

The face value of a security is the value you will be paid when the security matures.

5. Property

Like shares, property can be purchased to hold for the long term to realise rental income, or it can be bought for speculative purposes to resell as soon as an appropriate gain can be realised.

Property purchased for resale

If you have acquired property for resale, the value of the property must be included in your zakah calculation. It attracts the same treatment as business stock in trade. It does not matter whether it is one or more properties.

Property purchased for resale is included in your zakah calculation, if held for a year.

If you are a property seller, replenishing stock is considered to be part of the original purchase and passes the one year test. For example, if you have 5 houses at the beginning of the year and you sell them and replace them with 6 other houses - it is assumed that you held the houses for a full year.

Example:

Adam is a property dealer. At the beginning of the year he owns 5 properties at a value of \$2.5M. During the course of the year he sells these properties and replenishes his stock by purchasing other properties, some of which he sells and some he still has on hand at the end of the year. His end of year stock is 7 houses at a value of \$3.2M.

Adam is deemed to have held at least \$2.5M of property for a year, even though he has replaced the actual homes with others. He is in the business of selling properties and replenishing stock is considered a continuation of the original purchase.

Adam has two options:

- Include the average of the opening and closing stock in his zakah calculation; or
- Include the closing stock value only (most accepted position).

Zakah would be payable at 2.5%.

You do not have to sell the property immediately. You can rent it and sell at a time when you believe the market will provide you with a good return.

Example:

Raeesa purchased a home in Lakemba in May 2017 for \$1,200,000. Her intent is to monitor the market and sell when she believes she will make the largest profit. Whilst she waits, she rents the property with a two month notice clause. Her lease is still current and she has not yet put the property up for sale.

Clearly, Raeesa's intention is to sell - the fact that she has not sold it yet does not change her intention. The property should be included in Raeesa's zakah calculation. The value to be included is the current market value and the zakah rate is 2.5%.

Property held for long term rental returns

Property held to realise rental is considered an investment and only the rental income is included in your zakah calculation. South African scholar, Mufti Ebrahim Desai explains⁵³: "Zakah is not payable on the actual property if it was not acquired for resale. Zakah is only levied on the income received."

Some scholars hold the view that you only include rental income one year after you have received it. For example, if you receive rental in January 2017, you only pay zakah on that amount in one lunar year's time. Some scholars state that you should pay zakah immediately you receive the rental - that is, you pay zakah every month.

It is recommended that you calculate your zakah annually and use the net rental income received in your zakah year in your calculation.

Example:

Muhammad owns two investment properties.

One is located in Mount Gravatt:

- He has owned it for 5 years.
- He receives \$20,000 a year net of rates and taxes, agents commission, repairs, etc.
- His intent is to hold it as an investment.
- He pays \$30,000 per annum in mortgage interest.

His second is located in Woodridge:

- He has owned it for 2 years.
- He is unhappy with the tenants he has had and monitors the market.
- He receives \$10,000 a year net of rates and taxes, agents commission, repairs, etc.
- He pays \$15,000 per annum in mortgage interest.

Muhammad needs to include in his zakah calculation:

Mount Gravatt property:	
Investment property - net rental	20,000
Woodridge property - net rental	10,000
	<hr/> 30,000
Zakah at 10%	<hr/> 3,000
<p>Muhammad's intention when he purchased the Woodridge property was to hold it for long term rental returns. The fact he has changed his intention and now seeks to sell the property does not make him a property trader.</p> <p>Muhammad could deduct the mortgage interest from his net rental; but that is a decision he will need to make based on his interpretation of Islamic law pertaining to interest.</p>	

Sheikh Yusuf Al-Qaradawi, Dean of the University of Qatar and Head of the European Council for Fatwa, states that zakah is calculated from either the net rent (after payment of insurance, taxes, maintenance and other related expenses) at a rate of 10%, similar to agricultural products that are watered by rain, or on the gross rent (before deductions) at the rate of 5% (based on the rate payable if the land is irrigated by "artificial" means)⁵⁴.

Recommended zakah treatment:

Include the total net rental received over the last year in your zakah calculation. The zakah rate is 10%.

Net rental is calculated after deducting property management fees, rates and taxes, repairs and all other costs associated with the property. Depreciation costs are ignored. You will need to decide whether to deduct any bank/mortgage interest.

Vacant land

If you purchase land for subsequent resale, the land is considered stock in trade and is subject to zakah at market value.

If you purchase a vacant land block to build a property for subsequent sale, the land and improvements are to be included in your zakah calculation as the entire transaction is speculative and you can be enticed to sell at any time. You must hold the property for at least a year; the clock starts ticking from the date you purchase the block rather than the date you start improvements.

If you purchase a vacant land block to build either a personal home or a property for long term rental, the land is not included in your zakah calculation. You must have plans and a strong intent to develop and not to consider speculative offers. Some scholars have the view that until the property is built, you may be enticed into selling the block - hence, in their opinion, the land would be included in your zakah calculation until the development is complete.

Dr Yusuf Al-Qaradawi, in responding to a question on whether land is subject to zakah, commented⁵⁵: "The purchased land can be categorised as one of two types. The first type is purchased for resale after a period for profit. This type of purchase is a trade transaction and the

land in this case is considered a commercial commodity. The land should be appraised annually to determine its value and then zakah is paid at a rate of 2.5% of that value. This is the opinion of the majority of scholars. The zakah is 2.5% of the amount a person receives when the property is sold.

“The second type is a land that is purchased to build on and not for resale. In this case, it is not subject to zakah unless the owner has actually built on the land and rents out the property. Then, he should pay zakah on the revenue derived from the rent.”

The UK based Islamic scholar and author of a number of Islamic publications, Adil Salahi, adds⁵⁶: “The plots of land bought for constructing houses are liable to zakah, because the whole project is an investment one. These plots are bought for investment, and while no construction work is going on, they are treated as a commercial venture. If the owner receives an offer which gives him a tidy profit, he will seriously consider it, and he may very well sell them to buy some other plots where he constructs buildings, or may buy other types of property. As such they are treated as commercial commodities, and they are liable to zakah. However, the value which should be considered in assessing the zakah liability here is the market value on the zakah date, not the purchase price.”

Recommended zakah treatment:

Qualifying vacant land is subject to zakah and is valued at the current market value. The zakah rate is 2.5%.

Example:

Fatimah is the sole trustee of a trust that owns two vacant blocks of land. One property is a 1000m² property in Eight Miles Plain. The trust has owned the property for 15 months. The trust is evaluating whether to build townhouses for rental purposes (not for resale) or sell it to a Chinese buyer who would develop it. The land value is \$1m.

The second property is in Runcorn. The property is 750m². The trust is evaluating whether to build a home for personal use or build a rental property (not for resale). The trust has town council approval for her development.

The beneficiaries of the trust are Fatimah and her children and (yet unborn) grandchildren.

Fatimah would include the following in her zakah calculation (alternatively, the trust can calculate zakah and make a payment on behalf of the trustees/beneficiaries):

Eight Miles Plain:

Mixed intention. Will consider selling.

Land subject to zakat - owned for 12 months	1,000,000
---------------------------------------------	-----------

Runcorn:

Residential or long term property investment.

Not subject to zakat as firm intention and plans

Zakat payable at 2.5%	25,000
-----------------------	--------

Some scholars are of the opinion that until the Runcorn property is actually developed, it remains speculative and should be included in the zakah calculation. The contrary view is

that the trust has a firm intention and is not actively seeking or even contemplating selling.

Example:

Azam, Maryam, Dawood, and Wei purchase a 3000m² property on Millers Road, Underwood. Their intention is to build a number of townhouses and sell them in a hot property market. They purchased the property a year ago with project finance from Westpac. The townhouses are currently being built and will be ready for sale in the next six months.

The entire transaction is speculative and subject to zakah, provided the property is owned for a year. For the one year rule the clock starts ticking from the date of purchase of the land and not when the townhouse development commences.

Each Muslim partner will need to pay zakah on their share - it is irrelevant that there is a non-Muslim partner. Zakah will be payable on the market value of the remaining townhouses until the last townhouse is sold.

Zakah will increase as the value of the property increases during the building of the townhouses and will decrease as the townhouses get sold.

	Year	\$	Partner share	Zakah per partner
Value of initial land	1	2,500,000	625,000	15,625
Land improvements less sales	2	3,200,000	800,000	20,000
Townhouse development (blocks sold)	3	5,000,000	1,250,000	31,250
Few townhouses remaining	4	1,400,000	350,000	8,750
Remaining townhouses	4	All sold	0	0
Total zakah paid per partner over life of project				\$75,625

Undeveloped Land

Undeveloped land should be included in your zakah calculation at its current market value. The logic here is that the land is speculatively held and can be disposed of, if an offer is received.

6. Alternative view on all investments

The alternate view is that all investments and their associated incomes are subject to zakah. Dr. Monzer Kahf, author of the book, “The Calculation of Zakah” states⁵⁷: “Other people, including myself, argue that rental property, being an investment asset, is more similar to the capital of traders or merchants. Livestock are also similar to rental assets because the Arabs used to hold livestock as an investment capital. Therefore, zakah must be calculated on the value of the asset itself plus any amount of the rent left at the end of the Lunar year (after payment of all expenses of the property itself and of family expenses) and the rate would be 2.5%. In other words, at the end of the year, you look at the market value of the property, add other zakahable assets that you have such as money and stocks, etc., and then calculate zakah at 2.5%.”

You need to choose your preferred treatment.

Superannuation

1. Contributions to Superannuation

Any voluntary contributions that you make to a superannuation fund are subject to zakah. Where your employer makes compulsory contributions on your behalf, these are not subject to zakah except in the years that you actually receive benefits from the superannuation fund – that is, when you receive either a pension or a lump sum payment from your super fund.

In Australia, employers are required by law to make superannuation contributions for most employees. These employer contributions are not subject to zakah - as an impacted employee you have no choice in the mandated contributions and you have control over these contributions once they are made to a superannuation fund (with limited exception in a Self Managed Super Fund). You only pay zakah when you receive benefits from the superannuation fund.

Once the contributions are made to a superannuation fund, you have no control over them until you meet a condition of release. Whilst you have freedom to choose your fund (depending upon your employment arrangement) and whilst the fund provides you with the opportunity to choose your investment preferences, this in itself does not signal control.

Where you voluntarily choose to increase your concessional contributions above the government mandated 9.5% through salary sacrifice or through personal contributions, you need to include excess and personal contributions in your zakah calculation. You made a choice to make a higher contribution or to make a personal contribution.

Zakah is payable on your voluntary contributions, over the mandated 9.5%.

You make voluntary contributions when you ask your employer to pay a higher amount of contribution on your behalf. Typically this is achieved through salary and/or bonus sacrifice arrangements.

You make personal contributions when you personally make contributions to your super fund either in addition to your employer contributions or if you are a businessperson. These personal contributions can be tax deductible up to your maximum concessional contribution cap of \$25,000 or they can be non concessional contributions.

Non concessional contributions are contributions that you make to super from your after tax earnings. You do not claim a tax deduction for these. The maximum you can contribute in any year is \$100,000, although, depending on your age and total superannuation balance, you can bring forward three years cap and contribute up to \$300,000 in one year. As you have made a choice to invest in super, the non concessional contributions need to be included in your zakah calculation.

Dr. Muzammil H. Siddiqi, President of the Fiqh Council of North America explains: “The basic rule of Zakah is that it is due on the wealth that one owns and has the freedom to use. A committee of scholars under the leadership of Maulana Mujahidul-Islam Qasmi discussed this issue in great detail. In the light of the discussion of the scholars the following points can be presented:

- The employee's contribution to this fund is zakahable if it is done by his/her own choice. There is no zakah due on these funds if the employers due to the company or government's policies collect them by force. Zakah will be due on these funds when they can be withdrawn.
- The zakah must be paid for the money that one receives and then voluntarily contributes to a retirement fund."

Mufti Ebrahim Desai adds⁵⁸: "Zakah is applicable on all voluntary contributions you have made towards the pension scheme. However, since the money is not in your possession, zakah will not be levied at this moment but only once you get physical possession of it. Once you get possession, zakah will have to be paid for all the previous years as well. For purposes of easier calculation, it is better to pay the zakah annually on the complete sum of your [voluntary] pension [superannuation] contributions. Zakah is not levied on compulsory deductions nor on the amount contributed by your employer. Zakah on these will only come into effect when you get access to these funds."

Recommended zakah treatment:

You have two options in calculating your zakah on voluntary and/or personal contributions:

Option 1 - pay zakah at 2.5% on the accumulated value of your voluntary contributions

You will need to accumulate your total additional concessional contributions and all your non concessional contributions to date in each zakah year – zakah will be payable at 2.5% on all additional cumulative contributions to date.

For concessional contributions, given that they are taxed in the fund, only include 85% of your voluntary/personal contributions. Concessional contributions include salary sacrifice and any personal contributions that you have made and claimed a tax deduction for. Concessional contributions are taxed at 15% in the superannuation fund in the year it is received by the fund.

Non concessional contributions neither attract a tax deduction in your name nor are they taxed in the super fund. As a result, 100% of these contributions need to be added and included in your zakah calculation.

Example:

Hamza made the following contributions to his super fund since he commenced employment:

	Compulsory	Voluntary	NCC
2013 Super contributions	9,500	2,000	
2014 Super contributions	10,000	4,500	
2015 Super contributions	11,000	15,000	
2016 Super contributions	12,000	0	75,000
2017 Super contributions	14,000	5,000	
	56,500	26,500	75,000
Included in zakah calculation			
85% of voluntary concessional contributions		22,525	
100% of non concessional contributions (NCC)			75,000
Zakah payable @2.5%		563	1,875

If you do not have records of all your voluntary contributions, you can source that information from your super fund. You can also source the information from payment summaries as employers are now required to report "reportable superannuation contributions" which is largely salary sacrifice contributions.

Personal contribution information can be obtained from your super fund.

Option 2 - Treat Superannuation as an investment - like a Managed Fund

The greatest advantage of super is that any earnings in the super fund are taxed at 15% (as opposed to your marginal rate if held in your name). These are reinvested by the superannuation fund to provide you with compounded growth. You will receive either a lump sum or a pension tax free once you meet a condition of release and age 60.

An argument can be made that investing in super is similar to investing in a managed fund - and, as a result, only the earnings generated from the investments should be included in your zakah calculation.

You can easily estimate an average earnings percentage based on the type of investments you have invested in, in your super. The earnings amount will be subject to zakah at 10%. Alternatively you can use the average dividend yield of the Australian stock exchange.

Example:

Same information as above example.

	Compulsory	Voluntary	NCC
Total contributions to date	56,500	26,500	75,000
Average Australian market dividend yield		4%	4%
Notional earnings		1,060	3,000
Zakah at 10%		106	300

This method will result in a lower zakah payable.

You need to decide on the preferred option based on your intention.

2. Superannuation Fund Payments

You will gain access to your superannuation interests when you meet a condition of release. This applies whether your funds are in a large industry/retail fund or in a self-managed fund.

Typical conditions for release are retiring after age 60; attaining age 65; permanent disability; death; and a number of other conditions.

You do not need to withdraw any funds when you meet a condition of release. But from a zakah perspective, you gain control and hence the full superannuation balance becomes subject to zakah.

You can withdraw your funds from super either through a:

- lump sum;
- pension; or
- combination of the two

Any amount you receive from your superannuation will be a combination of the following:

- Compulsory employer contributions;
- Voluntary and personal contributions;
- Net earnings compounded; and
- Asset growth.

Meet a condition of release

As soon as you meet a condition of release you have some control over your superannuation balance. If you choose to leave the funds in the accumulation phase (that is, not withdraw a lump sum or not purchase a pension) the preferred approach is to treat the superannuation as an investment and you pay zakah at 10% of earnings. You can apply a notional earnings percentage if you cannot establish the actual earnings.

Lump sum

Any lump sum withdrawn from the super system immediately becomes subject to zakah. The lump sum does not need to be held for one year, as compulsory contributions have been building up for more than one year.

If you have been paying zakah on your voluntary and personal contributions each year, then zakah on them only becomes binding when a year elapses from the last zakah calculation date. To the extent that the lump sum contains an element of voluntary contributions that were last subject to zakah less than one year before receipt of the lump sum, the voluntary/personal contributions can be deducted from the lump sum immediately subject to zakah.

Example:

Aisha recently met a condition of release and elected to withdraw 50% of her superannuation interests as a lump sum. The lump sum received was \$300,000.

Historically, Aisha has made a number of salary sacrifice contributions amounting to \$45,000 to her superannuation fund.

Aisha has been paying zakah on her voluntary contributions on a cumulative basis. Her last zakah payment on the cumulative \$45,000 voluntary contributions was made less than 6 months ago.

Aisha's zakah calculation is as follows (simplistic calculation):

Lump sum received	300,000
Less voluntary contributions - zakah paid 6 months ago	<u>-45,000</u>
Balance subject to zakah	<u>255,000</u>
Zakah at 2.5%	<u>6,375</u>

If Aisha had not paid any zakah on her voluntary contributions, the entire lump sum would be subject to zakah.

How the lump sum is treated after the first zakah payment will depend on how it is invested.

Some scholars are of the opinion, that you need to pay zakah on each year that contributions were made historically (whether compulsory or voluntary) on a cumulative basis. This can be calculated but introduces a high level of complexity in calculating zakah. It will also subject a large portion of the lump sum to zakah - 2.5% compounded since the first contribution was made to super will amount to a significant amount of zakah.

Recommended zakah treatment:

For compulsory contributions zakah should not be paid for the years that you had no choice on the level of contribution and you had no access to the funds until you meet a condition of release (retirement; death; permanent disability; etc). Zakah becomes immediately payable once you receive the lump sum.

The same principle does not apply to voluntary and personal contributions. These contributions were made at your choice and you need to pay zakah on these cumulatively for all the years that they are held in the superannuation fund.

Pension/Retirement Income Stream

Some retirees choose a pension instead of a lump sum payment or a combination of a lump sum and a retirement payment. Upon your death, its most likely that whatever remains in your pension balance will devolve to your beneficiaries.

You can adopt one of the following approaches for the calculation of zakah:

- Pay zakah at 2.5% of your annual pension payment; or
- Ignore the pension and pay zakah on the part of the pension you have saved - that is your cash/bank balance.

If you subscribe to the school of thought that you should pay zakah for each year that the fund held your contributions then you should adopt the first option.

Trusts

1. Introduction

Many small businesses in Australia operate under a trust structure due to the favourable tax regime that permits profits to be distributed to a number of beneficiaries, and taxed in their names.

If you own property or a business through a trust, then you need to ensure that zakah is paid on the qualifying assets/income.

The wealth is subject to zakah and someone must calculate it and pay it.

2. Fixed interest trusts

If you have a fixed interest in the trust (either unit trusts or ordinary non discretionary trusts) – your percentage interest in the trust will be included in your zakah calculation in a similar manner to partnership assets. How to calculate zakah will depend on the type of assets held in the trust.

3. Discretionary trust

In a discretionary trust, the trust deed nominates a number of beneficiaries and the trustee has full discretion to distribute income and/or capital to any of the beneficiaries. In most cases, the person who controls (effectively owns) the trust, is the trustee.

From an Australian legal perspective, the trustees hold the assets on behalf of the beneficiaries. But no beneficiary is absolutely entitled to any amount other than what the trustee has already distributed.

From an Islamic perspective, if you have placed a business in a trust for taxation purposes but with no intention of the beneficiaries obtaining immediate ownership of the property, then the trust is not recognised under Islamic law, and the asset/business is still yours and must be included in your zakah calculation. You control the assets.

Either you need to pay zakah on what is really yours, but legally is not, or you should ensure that the trustee calculates and pays zakah on behalf of the trust. The wealth is subject to zakah – somebody needs to calculate it and pay it.

To avoid potentially compromising your tax advantages, the preferred approach would be for the trust to calculate the zakah due and pay the zakah on behalf of all parties.

Business Assets

1. Introduction

Jurists agree that you pay zakah at 2.5% on your net current (circulating/working) assets. In addition, a number of leading jurists state that net profits from a business should be included in your zakah calculation as a return on your fixed assets (which includes brands and goodwill).

Your business zakah calculation will include:

- Net current assets/working capital; and
- Net profit

2. Net Current Assets/Working Capital

All jurists agree that the current value of net current assets (also referred to as net circulating assets and working capital) are subject to zakah at 2.5%.

The Saudi Arabian Ministry of Islamic Affairs, Endowments, Da‘wah and Guidance states: “When the time of zakah is due, the commercial body, whether an individual or company, should make an inventory and estimate the actual value of goods in hand. The value of these goods together with cash assets, whether used in business or not, and the total of recoverable debts owed to him by others are considered the amount of trade activity on which zakah is due, after subtracting the debts he owes to others from the total value.”

Zakah is payable on circulating assets.

Your net current assets/circulating assets (also referred to as, working capital) comprise:

- Stock
 - Debtors
 - Cash
- Less*
- Creditors (short term)

You need to prepare a balance sheet on the day you elect to calculate your zakah. Many Muslims prefer to calculate and pay their zakah in Ramadan and if this date differs with your normal financial/tax year end, then you will need to prepare a special balance sheet. With the accounting software currently available, this is a relatively simple exercise.

Should you elect to calculate your zakah at the end of your financial/tax year, you should pay your zakah immediately you can afford to do so, and not wait for Ramadan to pay it.

Stock:

Only stock acquired for re-sale is included in the zakah calculation. Stock may include any article or asset. The stock of a clothing retailer is the clothing in his/her store, whilst the stock of a property developer/speculator is the property he/she has on hand (that is not yet sold). No zakah is due on stock not intended for trade.

Scholars agree that zakah is only paid on stock after it has been held for a year. For businesses that turnover stock, scholars view the replacement stock as a continuation of the original purchase. In practice, the stock on hand at the time the owner calculates his/her zakah should be included in the zakah calculation.

To ascertain the correct stock on hand, you may need to conduct a stock count.

A number of scholars are of the view that stock should be valued at its current purchase value. The Saudi Arabian Ministry of Islamic Affairs, Endowments, Da'wah and Guidance states: "Zakah is estimated according to the current market price. According to juristic authorities, estimating the amount of Zakah is based on the wholesale price of commodities. (This view is one of the recommendations of the First Contemporary Zakah Questions Symposium.)⁵⁹."

Debtors:

Debtors for stock sales are included at book value less any write-off for bad debts. A bad debt is only recognised when:

- the debtor clearly demonstrates an inability to pay; or
- when you declare that the debtor no longer has an obligation to pay the debt (different from the commercial definition).

You may elect to include debtors in your zakah calculation in the year the debt is paid. Under Hanafi law, you would have to pay zakah for each year that the debt has been outstanding.

Cash:

All cash in the bank accounts of the business need to be included in your zakah calculation, irrespective of how the cash was generated.

Creditors/Liabilities:

You can deduct from your current assets any amounts that you owe your creditors for the purchase of stock and other items. The First Symposium of Zakah Contemporary Issues stated⁶⁰: "As for the loans which finance the circulating working capital, they are to be deducted from the possessions upon which zakah is due."

Recommended zakah treatment:

You should use your closing working capital balances in your zakah calculation. Given low inflation in Australia, the closing stock balance will most likely represent current purchase (wholesale) price.

Where your cost of goods has increased, you should revalue your stock to current purchase prices.

Example:

Crescent Distributors is a mobile phone distributor owned by a consortium of Muslims. The company sells all major brand mobile phones. With the release of new generation mobile phones, the price of phones per unit is approximately 20% higher than last year.

The company prepares a special balance sheet on the 10th of Ramadan each year. The latest balance sheet shows the following:

	2018	2017
Current Assets:		
Stock	255,000	180,000
Debtors	32,000	24,000
Cash	22,000	15,000
	<u>309,000</u>	<u>219,000</u>
Current Liabilities		
Creditors	<u>70,000</u>	<u>85,000</u>
Net Current Assets	<u>239,000</u>	<u>134,000</u>
The company notes that whilst the value of stock has increased, the number of mobile phones in stock is not higher than last year.		
Using the closing working capital valuation, the zakah due is:		
Closing working capital method:		
Net closing working capital (net current assets)	<u>239,000</u>	
Zakah @2.5%	<u>\$5,975</u>	
An alternative perspective is to use an average of opening and closing working capital balances.		

3. Fixed Assets

There are differences of opinion on how fixed assets should be treated for zakah. A number of eminent jurists state that net revenues (net profit) should be subject zakah but disagree on the rate to be applied. Some jurists state that neither the fixed assets nor their revenues are subject to zakah.

Fixed assets are buildings, plant and machinery, equipment, furniture and fittings, etc. - all items used by a business to generate a profit. The majority of scholars are of the opinion that no zakah is payable on fixed assets, on the basis that they are used to generate income. In response to a question on this issue Dr Yusuf Al-Qardawi, Dean of the University of Qatar and author of the book "Fiqh al-Zakah" states⁶¹: "Zakah is imposed on trade goods as with liquid assets where there are items for sale that are transferred from one hand to another. For example, if the merchandise that is for sale is deposited in containers, then these containers are not subject to zakah. This is because these containers are not for sale. The same rule applies to a building or an office with desks, scales, shelves, etc. All these are not accounted for when inventoried as capital that is subject to zakah."

Fixed assets are exempt. Some scholars state that net profit should be included as it represents the return on capital.

Mufti Desai, a leading South African scholar concurs with the above view based on a fatwa on the topic issued by the leading Pakistani jurist, Mufti Usmani⁶².

Some scholars are of the opinion that net profit, should be subject to zakah, as a return on fixed assets. The net profit is added to working capital to arrive at the total zakah for a

business. The Saudi Arabian Ministry of Islamic Affairs, Endowments, Da'wah and Guidance states:

- Capital goods stand for all properties that are not invested as trading objects. Treated as permanent assets, these goods are not counted for zakah. Rather, zakah is to be paid on their revenues [net profit] if they remain after the lapse of a full year.
- Revenues [net profit] are added to the amount of zakah payable on the owner's cash money and commercial commodities [net working capital] after the lapse of a full year at the rate of 2.5%. This view is adopted by the majority of jurists and agreed upon by the Fatwa and Legal Supervision Authority, the Kuwaiti House of Zakah.

The First Symposium of Zakah Contemporary Issues (Held in Cairo Rabi' Al-Awwal 14, 1409 A.H. / October 25, 1988 A.D.) stated that fixed assets could be "compared to cultivated land from the perspective that both are fixed assets which achieve income as a result of work. Therefore, Zakah is due on the output⁶³."

Sheikh Al-Qardawi concurs with the above recommendation but disagrees on the rate of zakah. He comments⁶⁴: "Income that is earned as a return on capital or on capital and labour together is charged one-tenth of the net income [10%], after the deduction of all expense, debts, and allowance for essential needs [net profit]. This is in analogy to agricultural crops produced without irrigation costs. It applies to returns from factories, buildings, printing facilities, hotels, renting cars, transportation business, and the like. It is noted, however, that capital in this regard does not include trade assets [working capital, which attracts a separate zakah calculation]."

Summary:

- Zakah is not payable on fixed assets themselves;
- Zakah is payable on the net revenues [net profit] generated by the fixed assets, in the same manner that crops are yielded from agricultural land; and
- Zakah is payable at either 10% on net profit or 2.5%.

As indicated above, there is a difference of opinion on what rate is to be applied to net profits - some jurists state that the rate is 2.5%, whilst others such as Al-Qardawi state it is 10%.

Which rate to use?

Ultimately this is your choice. It is recommended that if you include both working capital and net profit in your zakah calculation that you use the rate of 2.5% based on the Saudi guidance.

Double paying of zakah

Including net profit in your zakah calculation will almost certainly result in some duplication/double paying of zakah unless you make adjustments. Typically, net profits of a business are applied as follows:

- A portion is reinvested in the business (in stock, in cash reserves, and in higher fixed assets); and
- A portion is paid to investors as a return.

If the profits are reinvested in circulating/working capital, then including both working capital and net profit will result in a duplication. An adjustment needs to be made, to the extent that it can be determined, that net profits have been invested in working capital.

The portion returned to investors may be subject to zakah in the investor's hands. To avoid paying zakah twice, if zakah is calculated on the net profits of a company, no zakah is payable by the

investors⁶⁵. Investors should remove, from their cash balances, any profit distributions received and saved.

A cash flow statement will greatly assist in understanding your business cash flows and how zakah should be calculated to avoid duplication/double charging.

How to calculate zakah on your business is an issue that you need to decide on. It can get confusing, and it is best to speak to your accountant about how to calculate zakah.

How to calculate net profit

Net profit is calculated as cash net profit (before any depreciation or asset amortisation costs) and before interest, but after taxation.

Example:

Ismail's income statement for the year, from his physical training business, is:

	2018
Sales (net of GST)	760,000
Less expenses:	
Accountancy fee	5,000
Advertising	15,000
Cleaning costs	12,000
Depreciation	35,000
Electricity	5,000
Interest	18,000
Salaries & wages	450,000
Superannuation	42,750
	582,750
PROFIT BEFORE TAXATION	177,250
Taxation	63,675
PROFIT AFTER TAXATION	113,575

Net profit for zakah purposes is calculated as follows:

Profit after taxation	113,575
Add back:	
Depreciation (non cash flow)	35,000
Interest (depends on your perspective of riba)	18,000
NET PROFIT FOR ZAKAH PURPOSES	166,575

Taxation is allowed as a deduction as it represents a cash outflow for the business.

Alternative perspective on fixed assets

A minority of scholars are of the opinion that fixed assets should be subject to zakah. Dr Monzer Kahf a leading Islamic economist and author of the book "The Calculation of Zakah" is of the opinion that fixed assets represent wealth and hence should be included in the zakah calculation. Dr Kahf states⁶⁶: "We think that all fixed assets used in business and industries carry more

similarity to the principal of urud al tijarah (=business inventory) and to the stock of cattle, sheep and camels because all these assets are intended for investment to make growth and profits whether through production, exchange or grazing and the Shariah did not intend to favour one form of business use of wealth over another. Consequently zakah must be paid on the net worth including fixed and variable assets.”

4. Comprehensive example - zakah on a business

The example below demonstrates how zakah should be calculated if both working capital and net profit are included in your zakah calculation.

Example:

Moosa Enterprises owns a business with the following balance sheet:

	2018	2017
Net Current Assets/Working Capital		
Current Assets:		
Stock	245,000	182,000
Debtors	45,000	28,000
Cash	75,000	65,000
	<u>365,000</u>	<u>275,000</u>
Current Liabilities:		
Creditors	<u>52,000</u>	<u>69,000</u>
Net Current Assets	<u>313,000</u>	<u>206,000</u>
Non Current Assets/Fixed Assets		
Property, Plant, and Equipment:		
Warehouse land and buildings	1,450,000	1,400,000
Shelving	245,000	280,000
Other	120,000	130,000
Total Non Current Assets	<u>1,815,000</u>	<u>1,810,000</u>
Net profit for the year	<u>450,000</u>	<u>320,000</u>

Zakah calculation is as follows:

	Value	Zakah due
Net current assets/working capital	313,000	
Zakah at 2.5%		7,825
Net profit after taxation	450,000	
Zakah at 2.5% (some jurists recommend 10%)		11,250
Total zakah payable		<u>19,075</u>

5. Businesses with insignificant working capital

Some businesses have, other than cash and debtors, insignificant working capital. For example, ice cream shops, consultancies, medical practices, Google, etc. Their value is in their brand or their location – for example an ice cream shop at Garden City Shopping Centre will hold significant value due to location and length of lease.

In this situation including net profit is appropriate given that profits are being generated by a high value brand/goodwill on which no zakah is being paid. The net profit is a return on the brand, patents, trademarks, or goodwill.

Some businesses do not have much stock - but they have valuable goodwill/brands.

Based on the principles established in section 3 above, your zakah calculation will comprise:

- Net circulating assets at 2.5%; and
- Net profit at either 2.5% or 10%.

Given the value of goodwill and brands, a zakah rate of 10% on net profit maybe more appropriate. This is especially the case where net current assets are very low.

Once again the issue of double charging of zakah arises as part of the net profits will be reflected in working capital. Adjustment should be made to the extent that the duplication can be ascertained.

6. Partnerships/Joint Ventures/Major Investments

Where you are not the sole shareholder/owner of a business, you have two options:

- let the business calculate the zakah due and pay it on behalf of all shareholders; or
- you calculate your portion of the zakah based on the net current assets in your venture plus your share of net profits.

The first option may only be feasible if you have Muslim partners. It is the preferred option according to the companions of the Prophet (PBUH): Narrated Anas: Abu Bakr wrote to me what Allah's Messenger has made compulsory (regarding zakat) and there was mentioned in it: If a property is equally owned by two partners, they should pay the combined zakat and it will be considered that both of them have paid their zakat equally. (Bukhari, volume two, hadith number 531).

If you elect this option you need to ensure that your partners have calculated and distributed the zakah correctly.

If you elect the second option, then you should calculate the zakah based on your shareholding of the net assets plus your share of net profit. For example, if you have a 15% shareholding in a company, then you should include 15% of the net current assets of the business in your zakah calculation plus 15% of the net profit.

If you cannot get access to a balance sheet then calculate your zakah based on the net profit distributed by the company (dividends, profit share) and add any loans that you have made to the company (less any drawings).

7. Example - different businesses

Hamid and Khatija have the following assets and business interests:

- They own their home in Holland Park which is valued at \$1.2M.
- They have two young children.
- They own four cars
- They jointly own a boat valued at \$30,000 that is hardly used.
- They jointly hold a number of bank accounts with funds totaling \$1.4M (beginning of the year \$1.5M).
- Together with 2 partners from overseas, Hamid, via a discretionary trust, owns two child care centres.
 - The net current assets in the trust at the end of the year were \$36,000. The opening net current asset position was \$30,000.
 - The net profit of the trust was \$150,000; all of this profit had been distributed by the trustees to beneficiaries.
- Khatija owns, in partnership with 2 other Muslims, a stationery store. The balance sheet reflects the following:

	2018	2017
Current Assets:		
Stock	125,000	130,000
Debtors	32,000	28,000
Cash	25,000	15,000
	<u>182,000</u>	<u>173,000</u>
Current Liabilities		
Creditors	62,000	69,000
	<u></u>	<u></u>
Net Current Assets	<u>120,000</u>	<u>104,000</u>

- The stationery business records a net profit of \$180,000.
- Hamid is one of 4 partners in a prestigious and well known business consultancy.
 - The consultancy has no stock, but does have cash holdings of \$180,000.
 - Hamid withdraws cash as he requires.
 - The net profit of the consultancy is \$1,500,000. The opening cash position is \$200,000.

See next page for zakah calculation:

	Khatija		Hamid	
	Assets at 2.5%	Net Profit @ 2.5%	Assets at 2.5%	Net Profit @ 2.5%
Personal home - Exempt	0		0	
Cars - four cars could be considered excessive. Exempt assets typically represent necessities. Two excess cars subject to zakah- assume a value of \$40K per car.	40,000		40,000	
Boat not used - owned jointly	15,000		15,000	
Bank accounts - closing balance	700,000		700,000	
Trust: Child Care Centres (Business with no stock)				
<ul style="list-style-type: none"> 1/3 net current assets Of \$36,000 = \$12,000 1/3 net profit of \$150,000 = \$50,000 [You need to evaluate whether profits already distributed are included in your personal cash balance. You can easily do this by checking with your accountant].			12,000	50,000
Stationary store:				
<ul style="list-style-type: none"> Closing net current assets - Khatija has a 1/3 interest = 120,000 @ 1/3 = \$40,000 1/3 of net profit of \$180,000 = \$60,000 	40,000	60,000		
Consultancy:				
<ul style="list-style-type: none"> 1/4 closing net circulating assets - 180,000 x 1/4 = \$45,000 1/4 of net profit (1,500,000) = \$375,000 			45,000	375,000
TOTAL ASSETS	795,000	60,000	812,000	425,000
Zakah payable	\$19,875	\$1,500	\$20,300	\$10,625

Total zakah payable by Khatija and Hamid is \$52,300. As indicated previously, be careful to avoid double charging.

In the example above, 2.5% has been used for net income. There is a difference of opinion on whether the rate should be 10% or 2.5%.

The above example illustrates that zakah calculations can get complex and its best to analyse your position and based on the principles, apply an interpretation.

Deductions

You are permitted to deduct any amounts that you owe others from your qualifying zakah wealth.

The liabilities must be in existence at the time you calculate zakah, you cannot claim a deduction for planned expenditure. For example, if you plan to purchase a car, you cannot deduct the cost of the car as a liability, unless you have actually bought the car and owe money on the car.

You are only permitted deductions for liabilities that you owe and need to pay in the next year. Student loans, credit card debt, personal loans are all deductible to the extent they are payable within one year.

For mortgages and other long term loans, only that element that is due in one year can be deducted. For example, if you owe \$120,000 on a mortgage and have paid \$14,000 in mortgage repayments in the last year, then only that amount is allowed as a deduction. You cannot claim the entire \$120,000. Mufti Desai comments⁶⁷: “Only the amount that is due for one year will be regarded as a liability.”

Adil Salahi, a fiqh commentator in the monthly Indian magazine *Islamic Voice* in response to a question on this issue, responded (adapted)⁶⁸: “A mortgage loan or a loan taken in the form of hire purchase of any item such as a car or machinery is not counted in the calculation of zakah liability, because of the nature of the repayment agreement. If a person is earning \$100,000 a year, and spending \$50,000 to meet his/her family’s living expenses, including the installments he/she pays on his/her mortgage and hire purchase agreements, he/she cannot claim exemption from zakah because he/she still owes a substantial sum on his/her house or other purchases. This is because the nature of such debts does not require immediate or short-term repayment. Such a person will be saving \$50,000 which is liable to zakah. Only if he/she decides at the end of the year to reduce his/her outstanding loans by an additional repayment, using all this saved sum for the purpose, he/she does not pay zakah for it. It is wrong for anyone to defer the payment of one’s zakah, saying that he/she has some heavy commitments. Zakah is a debt owed to God and it must be paid on time. If one has heavy commitments, his/her zakah liability will be proportionately reduced. But to say that zakah is unaffordable when its rate is so low is to make a false claim. When the reader increases his/her mortgage repayments now, he/she will be saving on the total amount he/she has to repay. This means a direct benefit. He/she cannot make such a personal benefit through the failure to pay zakah.”

Note: Certain Shafi scholars are of the view that no liabilities can be deducted.



Destruction of Palestinian refugee camp - Yarmouk - Damascus, Syria.

Source: *The Independent*

<https://www.independent.co.uk/news/world/middle-east/syria-crisis-the-picture-that-shows-the-true-extent-of-the-devastation-inside-palestinian-refugee-9154455.html>

Special Feature: Rohingya Muslims in Bangladesh refugee camps in dire need for aid



Pictures:

Muslims (Rohingyas) wait for food aid at refugee camps in Bangladesh - source: Médecins Sans Frontières.

"...the sheer scale of the deprivation is staggering and it will take a huge effort to make conditions in this camp bearable." Médecins Sans Frontières about conditions at the Kutupalong camp

Since late August 2017, over 680,000 Rohingya people (latest wave) have fled violence in the Rakhine State in Myanmar. They have gone to neighbouring Bangladesh - a country ill-equipped to cope. Of these, 378,000 are aged under 18¹.

"This is a children's crisis", state Plan International¹.

1. Source: Plan International:
<https://www.plan.org.au/give/appeals/rohingya-refugee-crisis>

"The children living in the Rohingya camps are traumatised, many are orphaned or alone after being separated from their parents in the chaos - and they are afraid," report Plan International.

Plan International add: "Children, especially girls, are struggling in the massive makeshift settlements. They are telling us they are afraid to leave their tents, and they have nowhere to learn and play. They don't have access to clean water or toilet facilities."

Kate White, Emergency Medical Coordinator with Médecins Sans Frontières, in Bangladesh, explains conditions⁶⁹:

"Right now, there are hundreds of thousands of people crammed along a narrow peninsula trying to find what shelter they can. It's essentially a massive rural slum - and one of the worst slums imaginable.

"There are hardly any latrines so people have tried to rig up their own plastic sheeting around four bamboo poles, but there's nowhere for their waste to go except into the stream below. That's the same stream that just 10 metres away that others are using to collect drinking water. This has all the makings of a public health emergency.

"I can only imagine how incredibly terrible it must have been in their home village [in Myanmar/Burma], if this is what they chose. If this is the better option, the other must have been a living hell.

"I have also heard really horrific cases from people experiencing violence along the way. Some cases of violence are so extreme that these people now have complex mental health issues. I'm talking about patients that aren't able to verbalise; they're so traumatised that they can't communicate with the outside world. They've retreated into themselves to cope. And let me be clear, these are young people who have their whole lives ahead of them and shouldn't have to endure this."

Special Feature: Yemen requires major assistance

Headline in the British newspaper, *The Independent* - November 2017

News › World › Middle East

Yemen on brink of 'largest famine the world has seen for many decades with millions of victims', UN warns

Over 20 million people embroiled in humanitarian crisis

Staff and agencies | Thursday 9 November 2017 10:08 GMT | 17 comments

Source: <https://www.independent.co.uk/news/world/middle-east/yemen-famine-threat-humanitarian-disaster-food-vaccines-shortage-un-charities-a8045361.html#gallery>



▲ Displaced children wait at a UNHCR emergency aid distribution point in Yemen's Utmah district. The DEC appeal has raised £22m to tackle the country's hunger crisis. Photograph: Shabia Mantoo/UNHCR/Ocha

The World Bank in April 2018 stated⁷⁰: "After more than three years of escalating conflict, Yemen continues to face an unprecedented humanitarian, social and economic crisis.

"About 75% of the population (22.2 million people) requires humanitarian assistance. An estimated 17.8 million are food insecure - 8.4 million people are severely food insecure and at risk of famine. 16 million lack access to safe water and sanitation, and 16.4 million lack access to adequate healthcare. Cholera, diphtheria and other communicable diseases rates have hit the Yemeni people hard.

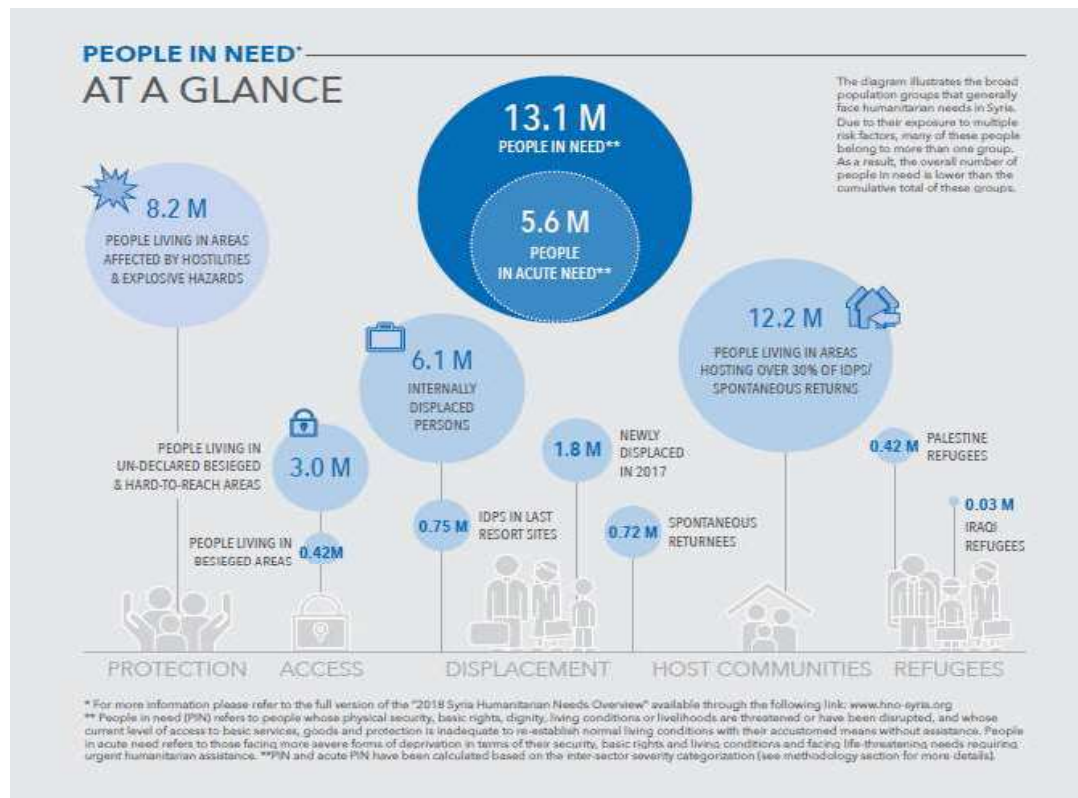
"Nation-wide, about 1.8 million children and 1.1 million pregnant or lactating women are acutely malnourished including 400,000 children under the age of five who are suffering from severe acute malnutrition. Over 3 million people have been forced to flee from their homes.

Yemen's public institutions are struggling with service delivery at even the most basic levels, a situation that has further been complicated by the lack of regular salary payments to many public workers.

"Moreover, the economy is badly hit by the prolonged conflict, depriving millions from their livelihoods and jobs and driving poverty levels to over 80 percent."

Special Feature - Syrians (in Syria) in need of aid

The United Nations Office for the Coordination of Humanitarian Affairs, issued a report on 21 November 2017, identifying 13.1 m people in need for aid within Syria with 5.6m people in acute need. These statistics do not include displaced Syrians living in neighbouring countries.



The full report can be found here: <https://www.unocha.org/>



Homs, Syria



Aleppo, Syria

AXIS

Published by: AXIS Solutions Pty Ltd

PO Box 3437, South Brisbane BC, 4101

Email: axis.publications@gmail.com

“Zakah is obligatory like Prayer. There are some Muslims who do not pay zakah and they are some who give whatever they feel like giving, without observing the rules of zakah. Muslims must learn the rules of zakah, just as they learn the rules of Prayer.” Dr Muzzamil Siddiqi, member of the Fiqh Council of North America.

This book explains how zakah is calculated on the following:

- superannuation (retail or industry fund and self-managed);
- cash in various forms, including money market instruments and crypto currencies;
- listed and unlisted shares, including managed funds, options, and exchange traded funds (including franked and unfranked dividends);
- listed and unlisted fixed interest based securities;
- businesses where the most valuable asset is goodwill;
- traditional businesses with stock in trade;
- assets held in discretionary trusts; and
- investment properties and property developments.



Let us help the millions of Muslims requiring assistance globally.

Picture: Muslim children in Somalia. Source: Medical Daily

ISBN: 978-0-6483258-0-2

- ¹ <https://www.independent.co.uk/news/world/asia/rohingya-refugee-camps-bangladesh-monsoon-cyclone-fears-myanmar-muslims-coxs-bazar-a8325766.html>
- ² <https://www.independent.co.uk/news/world/asia/rohingya-refugee-camps-bangladesh-monsoon-cyclone-fears-myanmar-muslims-coxs-bazar-a8325766.html>
- ³ https://www.acaps.org/sites/acaps/files/products/files/acaps_humanitarian_overview_analysis_of_key_crises_into_2018.pdf
- ⁴ <https://borgenproject.org/why-is-indonesia-poor/>
- ⁵ <http://www.worldbank.org/en/country/indonesia/overview>
- ⁶ <http://www.worldbank.org/en/country/indonesia/overview>
- ⁷ <https://www.theaustralian.com.au/news/world/the-times/poverty-not-islamic-state-has-radicalised-muslim-filipinos/news-story/b2cfc5d77b8db20fc10be1b8d674763e>
- ⁸ <https://www.hindustantimes.com/india-news/untouched-by-economic-growth-destitution-illiteracy-hurt-india-s-muslims/story-Lz5HhyifPkPxZ4pu5gT85N.html>
- ⁹ <http://www.catchnews.com/india-news/75-indian-muslims-are-poor-what-appeasement-are-we-talking-about-1475505316.html>
- ¹⁰ <https://timesofindia.indiatimes.com/india/31-Muslims-live-below-poverty-line-NCAER-survey/articleshow/5734846.cms>
- ¹¹ <https://tribune.com.pk/story/1126706/40-pakistanis-live-poverty/>
- ¹² <https://www.adb.org/countries/bangladesh/poverty>
- ¹³ <http://www.pewresearch.org/fact-tank/2017/01/31/worlds-muslim-population-more-widespread-than-you-might-think/>
- ¹⁴ <http://www.pewglobal.org/2007/07/24/chapter-5-sub-saharan-africa/>
- ¹⁵ <https://borgenproject.org/5-poverty-statistics-on-sub-saharan-africa/>
- ¹⁶ <https://www.reuters.com/article/us-egypt-population/egypt-promotes-birth-control-to-fight-rapid-population-growth-idUSKCN1BA153>
- ¹⁷ <http://www.egyptindependent.com/278-percent-egyptian-population-lives-below-poverty-line-capmas/>
- ¹⁸ <https://www.independent.co.uk/news/world/africa/somalia-famine-food-crisis-at-tipping-point-with-country-heading-towards-famine-in-matter-of-weeks-a7590331.html>
- ¹⁹ <http://www.news.com.au/world/middle-east/writhing-with-hunger-the-poorest-country-in-the-middle-east-on-the-brink-of-a-catastrophic-famine/news-story/6809172e7c2cfc4e64a1bef9f7a53447>
- ²⁰ Sabiq: Fiqh-us-Sunnah – section 3.8
- ²¹ <https://www.islamic-relief.org.uk/about-us/what-we-do/zakat/zakat-faqs/>
- ²² <https://www.homeloanexperts.com.au/mortgage-calculators/living-expenses-calculator/#IcIaCalcForm>
- ²³ <https://hanafilegalrulings.blogspot.com.au/2017/02/calculating-nisab.html>
- ²⁴ Sabiq: Fiqh-us-Sunnah – section 3.8
- ²⁵ Zakah on Jewelry: Scholars Debate – Islamonline – 20 July 2004
- ²⁶ Khaf M, "Zakah" - <http://monzer.kahf.com/papers/english/Zakah.pdf>
- ²⁷ <https://www.islamic-relief.org.uk/about-us/what-we-do/zakat/zakat-faqs/>
- ²⁸ Al-Qardawi Y, "Fiqh Al-Zakah," Scientific Publishing Centre, King Abdulaziz University, page 72
- ²⁹ Al-Qardawi Y, "Fiqh Al-Zakah," Scientific Publishing Centre, King Abdulaziz University, page 72
- ³⁰ Al-Qardawi Y, "Fiqh Al-Zakah," Scientific Publishing Centre, King Abdulaziz University, page 73
- ³¹ Khaf M, "Zakah" - <http://monzer.kahf.com/papers/english/Zakah.pdf>
- ³² Can I Pay the Zakah on My Daughter's Behalf? – Islamonline – 28 December 2003
- ³³ <https://islamqa.info/en/75307>
- ³⁴ <https://islamqinfo/en/75307>
- ³⁵ Al-Qardawi Y, "Fiqh Al-Zakah," Scientific Publishing Centre, King Abdulaziz University, page 39
- ³⁶ Al-Qardawi Y, "Fiqh Al-Zakah," Scientific Publishing Centre, King Abdulaziz University, page 46
- ³⁷ Khaf M, "Zakah" - <http://monzer.kahf.com/papers/english/Zakah.pdf>
- ³⁸ Khaf M, <http://www.quranforall.org/fatawaa/calculatingzakah.htm>
- ³⁹ <https://news.un.org/en/story/2018/02/1003251>
- ⁴⁰ Al-Qardawi Y, "Fiqh Al-Zakah," Scientific Publishing Centre, King Abdulaziz University, page 65
- ⁴¹ https://www.researchgate.net/publication/263544536_Zakat_on_Salary_and_Wages_The_Unsettled_Juristic_Issues
- ⁴² https://www.researchgate.net/publication/263544536_Zakat_on_Salary_and_Wages_The_Unsettled_Juristic_Issues
- ⁴³ Zakah to be paid by professionals – Islamonline – 17 August 2004
- ⁴⁴ <https://www.islamic-relief.org.uk/about-us/what-we-do/zakat/zakat-faqs/>
- ⁴⁵ <https://islamqa.info/en/229995>
- ⁴⁶ <https://www.nzf.org.uk/blog/is-there-a-zakat-levy-on-ones-bitcoin-holdings/>
- ⁴⁷ Zakah on Gold - Islamonline – 10 September 2003
- ⁴⁸ <http://www.islamicvoice.com/december.2001/dialogue.htm#Top#Top>
- ⁴⁹ Zakah on Stocks and Mutual Funds – Islamonline – 26 July 2004
- ⁵⁰ <http://www.islamicvoice.com/december.2001/dialogue.htm#Top#Top>
- ⁵¹ Mutual Fund <http://www.investopedia.com/terms/m/mutualfund.asp#ixzz4iKCIWYLd>
- ⁵² Al-Qardawi Y, "Fiqh Al-Zakah," Scientific Publishing Centre, King Abdulaziz University, page 58
- ⁵³ Abaligh – Mufti Desai – 24 November 2002
- ⁵⁴ Zakah on a Land Purchased for Trade – Islamonline – 7 March 2003
- ⁵⁵ Zakah on a Land Purchased for Trade – Islamonline – 7 March 2003
- ⁵⁶ <http://www.islamicvoice.com/december.2001/dialogue.htm#Top#Top>
- ⁵⁷ Zakah on Rental Property – Islamonline – 10 September 2003
- ⁵⁸ Abaligh – Mufti Desai – 17 April 2004
- ⁵⁹ The Fatwas delivered by the First Symposium of Zakah Contemporary Issues (Held in Cairo Rabi' Al-Awwal 14, 1409 A.H. / October 25, 1988 A.D.)
- ⁶⁰ The Fatwas delivered by the First Symposium of Zakah Contemporary Issues (Held in Cairo Rabi' Al-Awwal 14, 1409 A.H. / October 25, 1988 A.D.)
- ⁶¹ Zakah on Warehouses & Showrooms – Islamonline – 1 September 2003
- ⁶² Mufti Desai – website – Imam Online - <http://www.islam.tc/ask-imam/index.php>
- ⁶³ The Fatwas delivered by the First Symposium of Zakah Contemporary Issues (Held in Cairo Rabi' Al-Awwal 14, 1409 A.H. / October 25, 1988 A.D.)
- ⁶⁴ Al-Qardawi Y, "Fiqh Al-Zakah," Scientific Publishing Centre, King Abdulaziz University, page 264
- ⁶⁵ Fatwas delivered by the First Zakah Conference (held in Kuwait Rajab 29, 1404 A.H. / April 3, 1984 A.D.)
- ⁶⁶ Monzer Kahf – The Calculation of Zakah
- ⁶⁷ Abaligh – Mufti Desai – 24 November 2002
- ⁶⁸ <http://www.islamicvoice.com/december.2001/dialogue.htm#Top#Top>
- ⁶⁹ <http://www.msf.org/en/article/bangladesh-%E2%80%99Cif-better-option-other-must-have-been-living-hell%E2%80%9D>
- ⁷⁰ <http://www.worldbank.org/en/country/yemen/overview>