141551 - He bought a piece of land by instalments in order to trade it; how should he pay zakah on it?

the question

1. I bought a piece of land last Ramadan, and I bought it by instalments from (…) Bank. The price of the land is 211,500 riyals and the payment period is over five years, at a rate of 3525 riyals per month. But ownership of this land is still held by the bank, and it has not been registered in my name yet; that will not happen until after the final instalment has been paid (even though I bought it on the basis of a promise from them that they would transfer ownership immediately, but they were not able to do it because of a decision by the financial institution which did not allow that). So the land will remain under their ownership until all payments have been made, and I cannot dispose of it; if I want to sell it, it must be done through them so that they can take the remainder of the instalments and I will get whatever is left. Up till now I have paid twelve instalments, and there are four years left until the end of the instalments. My question is: do I have to pay zakaah on it? Do I have to pay zakaah for the entire value or only for what I have paid of it? In this situation, is zakaah worked out on the basis of its value at the time of purchase, or what it is worth now, as it is now worth 230,000 riyals? Please note that my intention when buying it was to trade in it, and I do not know whether, after the payment period ends, the intention may change to keeping it and building myself a house on it.

2. My father is retired and he receives a small pension despite the fact that he has many expenses. He often takes money from us – and we give it to him willingly, praise be to Allah – but when giving zakaah, is it permissible for us to give him some of our zakaah without telling him that it is zakaah, because he would never take it in that case?

Detailed answer

Praise be to Allah.

Firstly:

If the contract between you and the bank is for the purchase of this piece of land then this land becomes your property, even if you have not yet paid its price in full, and the rest of the price is a debt that you owe.

But if you cannot dispose of this land and sell it until all instalments have been paid, then in this case you do not have to pay zakah on it, because your ownership of this land is not yet complete, and one of the conditions of zakah being obligatory is that one should have full ownership in which sale of the property in question is completely under one’s control.

It says in Fataawa al-Lajnah ad-Daa’imah (9/449) concerning land which the owner is prevented from disposing of:

If you are not allowed to dispose of it, then you do not have to pay zakah on it until you are able to dispose of it; then after that you must pay zakah on it in the future, when one full hijri year has passed since you became able to dispose of it. End quote.

But if you are able to dispose of this land and sell it, even if that is via the bank without that being detrimental to your interests, then in this case you are obliged to pay zakah on it, i.e., the zakah on trade goods (2.5%).

Secondly:

zakah must be paid on the full value of the land, because the remaining instalments are a debt that you owe to the bank. The more correct of the two scholarly opinions is that debt does not rule out the obligation of paying zakah, as has been discussed previously in the answer to question no. 22426

Thirdly:

What you must do is give zakah on this land based on its market price on the day zakah becomes due, whether this value is equivalent to the sale price or is less or more than that. The value of the land should be worked out at the end of the zakah year, then its zakah must be paid on that basis.

This has been discussed previously in the answer to question no. 26236

Fourthly:

So long as you currently intend to trade in that land, then you must give zakah on it. If your intention changes later on, and you decide to use it for building a house or some other purpose, then you do not have to give zakah on it.

See the answer to question no. 117711 .

Fifthly:

It is not permissible to give zakah to the ascendants or descendants of the one who is giving the zakah, such as the father or mother, or the son or daughter.

This has been discussed previously in the answer to question no. 81122

And Allah knows best.