220314 - He owns half of the company’s capital and takes an extra percentage in return for managing the company; how should he pay zakah?

the question

The manager of a company owns half of its shares, and he takes half of the annual profits in return for his share in the company; he also takes one third of the company’s total profits in return for running the company.

The question is: should this manager pay zakah on his capital in the company, as well as the profits and whatever he gets in return for managing the company? Or should he pay zakah on his capital and the profits only, on the grounds that what he gets for managing it is regarded as a salary that is not subject to zakah?
In terms of numbers, for example, if the manager’s capital is 5 million, and his profit is 6 million, and what he is paid in return for managing the company is 4 million, should he pay zakah on 15 million [5+6+4]? Or should he pay zakah on 11 million only, seeing that the other 4 million is a salary that is not subject to zakah?

Detailed answer

Praise be to Allah.

Firstly:

The share-holding manager who was one of those who invested capital and takes an extra percentage in return for managing the company is in fact no more than a partner; he is not an employee of this company, because:

1. The money he charges in return for managing the company is worked out as a percentage, and is not a set fee. If there is no profit, he does not receive anything in return for managing the

company. Such a person is a partner, not an employee.

2. The fuqaha' have stated that it is permissible to make the share of the partner who is in sole charge of running a 'inaan partnership [in which two people enter into a partnership by both investing a sum of money] greater than his partner's share. In fact some of them regard this as a condition of such a partnership being valid.

Az-Zarkashi said:

When two people form a partnership for the purpose of mudaarabah [profit sharing] – such as two people contributing to the capital and one of the two being in charge of running the business, as when each of them puts in one thousand, and one of the two will run the business – it is essential that it be stipulated that the one who does the work should receive something in addition to the return on his investment, such as stipulating that he receive two thirds, or half plus a quarter. A similar case is the scenario under discussion here. Thus what he receives in addition to the return on his investment is in return for the effort he puts into working on his partner's investment.

End quote from Sharh az-Zarkashi 'ala Mukhtasar al-Khuraqi (4/131).

Thus it becomes clear that what you are receiving of additional profit in terms of a percentage in return for running this company is not subject to the same rulings as a set fee in return for work.

Secondly:

The way to work out zakah in the case of the scenario mentioned in the question is as follows:

1. zakah on his share of the company's capital depends on the property of the company that is subject to zakah (e.g., cash, trade goods, etc). zakah is not based on the amount contributed in order to form the company at the outset. In other words it should be done as follows: The value of goods and materials that were purchased for the purpose of being sold should be worked out after one year has passed, based on the price for which they would be sold. Then the value of any cash held by the company, on site or in bank accounts, should be added to that total, along with any debts that are owed to the company by others which they expect to recover. From this grand total,

one quarted of tenth (2.5%) should be given in zakah.

2. The same should be done with regard to returns (profits) on the capital, because that profit is connected to the capital, so zakah should be paid on it at the same rate and at the same time as the capital.

The manner of paying zakah on company wealth and profits has been discussed in the answer to question no. 72315.

3. With regard to zakah on the money he earned for running the company, there is a difference of scholarly opinion on how to pay zakah in this case. What is most likely to be the case is that zakah must be paid on it when one full year has passed, just as zakah must be paid on money that he earned as the return on his share in the capital, regardless of whether the profit has been divided or not yet.

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said:

The share of the profit for the one who is running the business is a matter concerning which there is a difference of scholarly opinion: should zakah be paid on it or not?

The correct view is that if one year has passed and it has not yet been divided, it is still subject to zakah, because it is profit from capital, and zakah is due on it as it is also due on the capital. Furthermore, this is what appears to be the practice among people from the time of the Messenger (blessings and peace of Allah be upon him) until the present day: when zakah becomes due on wealth, it also becomes due on profits made from that wealth.

End quote from at-Ta‘leeq ‘ala al-Kaafi (3/121).

This has been discussed previously in the answer to question no. 139631.

And Allah knows best.