45623 - Who should pay the zakaah on land that is rented out for cultivation?

the question

A man rented some land to cultivate it. Should the zakaah be paid by the owner of the land or the tenant? If the tenant has to pay it, should the zakaah be paid on the total yield or on what is left after paying the rent?.

Detailed answer

Praise be to Allah.

Firstly:

If the owner of the land cultivates it himself, then he should pay zakaah on whatever it produces. If he gives it or lends it to someone else to cultivate it, then that person should pay zakaah on whatever it produces.

The scholars differed concerning rented land and whether the zakaah should be paid by the owner or the tenant who cultivates it. The majority were of the view that it should be paid by the one who cultivates it; the Hanafis were of the view that it should be paid by the owner.

Ibn Hazm said:

There is no zakaah on dates, wheat or barley unless a man has five wasqs of one type of them. A wasq is sixty saa’s, and a saa’ is four mudds of the Prophet (peace and blessings of Allaah be upon him). A mudd is somewhere between one and a half and one and a quarter ratls. This applies whether he grew it on land belonging to him or land belonging to someone else, whether he took that land by force or by means of a valid deal or an invalid deal, whether the land was taxable land or land on which one-tenth of the produce is to be paid.

This is the view of the majority, and of Maalik, al-Shaafa’i, Ahmad and Abu Sulaymaan.

Abu Haneefah said: He should pay zakaah regardless of the amount, whether it is a little or a lot. If the land is classed as kharaaj land (taxable land) then there is no zakaah on its produce. If the land is rented then the zakaah should be paid by the owner of the land, not the one who cultivates it.

Al-Muhalla, 4/47

The imam refuted the view of the Hanafis and explained that the zakaah is to be paid on the produce and not on the land, as the Hanafis say.

Ibn Qudaamah al-Maqdisi said:

Whoever rents land and cultivates it, the one-tenth should be paid by him and not by the owner of the land. This is the view of Maalik, al-Thawri, Shareek, Ibn al-Mubaarak, al-Shaafa'i and Ibn al-Mundhir.

Abu Haneefah said: (Zakaah) should be paid by the owner of the land, because it is part of the maintenance costs of the land, so it is like a kharaaj or tax.

Our view is that it should be paid on the produce, so it should be paid by the grower of the produce, like zakaah on the value of goods that are prepared for sale, and like the one-tenth on produce that he owns. Their view that it is part of the maintenance costs of the land is not correct, because if that were the case, zakaah would be due on the land even if it were not cultivated, like the kharaaj tax, and it would be obligatory on dhimmis too, like the kharaaj, and it would be based on the value of the land, not on the value of the produce, and it would have to be spent in areas in which booty may be spent, not in areas in which zakaah may be spent.

Al-Mughni, 2/313, 314

This is the view favoured by Ibn 'Uthaymeen in al-Sharh al-Mumti', 6/88

Secondly:

As zakaah is due on the produce, he has to pay the zakaah on the entire harvest, if it reaches the

minimum threshold (nisaab), which is five wasqs. A wasq is sixty saa’s, which is equivalent to approximately 657 kilograms.

The one who is paying the zakaah has no right to deduct the rent of the land even if that is after he sold the produce – whether out of ignorance, by mistake or as the result of a misunderstanding – before paying zakaah.

The correct scholarly view is that no cost that he spent on the land should be deducted from the zakaah.

Ibn Hazm said:

It is not permissible for the one who has produce or dates to deduct what he spent on tilling, harvesting, gathering, threshing, manure, digging etc from the zakaah, whether he took out a loan for that or not, or whether the total costs were greater than the value of the harvest or not. This is a matter concerning which the earlier generations disputed… [Here Ibn Hazm mentioned the dispute in detail, then he said:]

Abu Muhammad said: The Messenger of Allaah (peace and blessings of Allaah be upon him) stated that zakaah must be paid on the total amount of dates, wheat and barley, if it reached the minimum threshold (nisaab), which is five wasqs or more. The zakaah is not waived because of the expenditure of the grower or owner of the date-palms. It is not permissible to cancel out a duty enjoined by Allaah if there is no Qur’aanic text or proven hadeeth to that effect. This is the view of Maalik, al-Shaafa’i, Abu Haneefah and our companions.

Al-Muhalla, 4/66

And Allaah knows best.