128169 - One who uses a trick to get out of paying zakaah is sinning and the obligation of paying zakaah is not waived in his case

the question

Some people use tricks with regard to zakaah. They have land or livestock and so on, and to get out of paying zakaah they sell it or exchange it before one year has passed. Does this action mean that the duty of paying zakaah is waived or not?.

Detailed answer

Praise be to Allah.

Firstly:

Undoubtedly using tricks to get out of shar'i obligations is a haraam action and the fact that the person is trying to trick Allah is something reprehensible and blameworthy according to all wise people. How can the Muslim dare to try to deceive Allah when he knows that Allah can see him and knows what he is hiding?!

Ibn al-Qayyim (may Allah have mercy on him) said, after mentioning that using tricks is haraam: The evidence that we have mentioned and much more indicates that it is haraam to use tricks and issue fatwas on the bass of these tricks with regard to the religion of Allah. The one who studies the hadeeths which speak of the curse will find that most of them refer to the one who regards as permissible that which Allah has forbidden and tries to avoid obligatory duties by means of tricks. For example, the Prophet (blessings and peace of Allah be upon him) said: "May Allaah curse al-muhallil and al-muhallal lahu [The muhallil is the one who marries a woman and divorces her so that she can go back to her first husband, and the muhallal lahu is the first husband.]" and he said: "May Allah curse the Jews. Animal fat was forbidden to them, so they rendered it and sold it and consumed its price." End quote from I'laam al-Muwaqqi'een, 3/150

Al-Qurtubi (may Allah have mercy on him) said (9/137):

The scholars are unanimously agreed that before one full year has passed, a man may dispose of his wealth by selling it or giving it away, if he does not intend to avoid paying zakaah, and they are unanimously agreed that if one year has passed and the zakaah collector has come to collect it, it is not permissible for him to use tricks or reduce the amount he should pay.

Maalik said: If anything is disposed of from his wealth with the intention of avoiding paying zakaah one month or so before the end of the year, then he must pay zakaah.

Then he said: The one who tries to avoid any of the duties he owes to Allah by means of a trick will never prosper and Allaah will never accept any excuse from him. What the fuqaha' permitted of disposing of some of one's wealth close to the end of the year only applies to that which is not intended as a means of avoiding paying zakaah. The one who intends to avoid paying it is sinning and the duty is not waived, and Allah will bring him to account. End quote.

Once this is established, it will be known that the one who has the slightest common sense, decency and religious commitment should not do any of these tricks which may be a cause of loss in this world and in the Hereafter. It may be that the heedless and deceived one is seeking thereby to increase his wealth and make it grow, but that will be a cause of it being doomed and diminished, or having no blessings in it, so that neither he nor his children will benefit from it. Or perhaps his wealth will be a cause of trouble for him and his offspring, so the Shaytaan will send against him his helpers to make him spend it on haraam things, pleasures and evil desires, as is no secret to the one who has seen how people are, especially the children of traders and other wealthy people who do not give what is due to Allah of their wealth and do not dispose of it in the way enjoined by Allah.

End quote from Fataawa Ibn Hajar al-Haytami (may Allah have mercy on him), 5/241

From the words of Imam Malik quoted above, we see that if a person uses tricks to avoid paying zakaah, the duty is not waived from him and that it does not benefit him. He still has to pay zakaah when one year has passed.

Ibn Qudaamah said in al-Mughni (2/285): If he does that in an attempt to avoid paying zakaah, the duty is not waived for him, whether what is exchanged is livestock or anything else that reaches the minimum threshold (nisaab). The same applies if he uses up or destroys part of the minimum threshold with the aim of making it fall below that threshold so that zakaah will be waived; it is not waived and the zakaah should be taken from him at the end of the year, if he sold it or used it up when the time for zakaah to become obligatory was approaching. But if he did that at the beginning of the year, no zakaah is due, because that is not assumed to be a trick to avoid paying. End quote.

Shaykh ‘Abd al-‘Azeez ibn Baaz (may Allah have mercy on him) was asked: Is it permissible for two or three men to put their flocks together for the sake of zakaah?

He replied:

It is not permissible to put together or separate wealth or property that is subject to zakaah so as to avoid paying it or in order to reduce amount paid, because the Prophet (blessings and peace of Allah be upon him) said in the saheeh hadeeth: “Do not put together separate flocks and do not divide a flock so as to avoid zakaah.” Narrated by al-Bukhaari in his Saheeh.

If a man has 40 sheep and he divides them so that no zakaah will be due on them, the duty of paying zakaah is not waived for him, and by doing that he is sinning, because he is trying to use a trick to avoid that which Allah has made obligatory. End quote. Majmoo’ al-Fataawa, 14/59.

And Allah knows best.