75119 - Their parents invested wealth for them but they did not pay zakaah on it. What should they do?

the question

I am a young man, twenty-six years old. My father invested money for us in a mudaarabah (investment) company, and I did not know about it until now. When I saw the mudaarabah contract, one of its clauses said the following:
The mudaarib (investor) must pay the zakaah on his wealth himself.
My question is: what is the amount of zakaah that I have to pay, because this investment was made twenty-four years ago and no zakaah has been paid on it? Must it be paid from the same capital that was invested, or is it permissible to pay it from somewhere else, as I am working and have an income?.

Detailed answer

Praise be to Allah.

Firstly:

You stated that this money was invested in a mudaarabah company, but not all kinds of wealth that are put into company shares are subject to zakaah. Rather the matter is subject to further discussion. We have discussed that in the answer to question no. 69912. If zakaah is due on this wealth, then you must hasten to pay it and we ask Allaah to accept it from you.

Secondly:

Delaying payment of zakaah, whether that is for a valid reason or otherwise, is not waived with the passage of time, because it is a right that Allaah has given to the poor and needy, and the others who are entitled to it.

Al-Nawawi said in al-Majmoo' (5/302):

If many years have passed and he has not paid zakaah on it, he must pay zakaah on all of it. End quote.

It says in al-Mawsoo'ah al-Fiqhiyyah (23/298):

If many years have passed in which the one who was obliged to pay zakaah did not pay it, but the conditions of it being obligatory were met, no part of it is waived, according to scholarly consensus and he must pay zakaah for all the years that have passed when he did not pay zakaah. End quote.

See also question no. 69798.

What you must to is hasten to pay zakaah for all the years that have passed before you procrastinate further.

The ruling does not differ, whether this wealth belongs to your father or it belongs to you and he invested it for you, because zakaah is due in both cases.

Shaykh Ibn 'Uthaymeen was asked about a man who died and owed zakaah: should it be paid and given priority over division of the state?

He replied:

If this man used to pay zakaah during his lifetime, but a full year had passed when he died (for which he did not pay zakaah), then his heirs must pay zakaah, because the Prophet (peace and blessings of Allaah be upon him) said: "Pay off the dues of Allaah, for the dues of Allaah are most deserving of being paid off.

But if he deliberately did not pay zakaah and withheld it out of stinginess, then this is a matter concerning which the scholars differed. In order to be on the safe side – and Allaah knows best – the zakaah should be paid, because it has to do with the rights of those who are entitled to zakaah and is not waived. The rights of those who are entitled to zakaah take precedence over the rights of the heir with regard to this wealth, but the duty of the deceased is not discharged in this case,

because he persisted in not paying it. And Allaah knows best.

Majmoo' Fataawa Ibn 'Uthaymeen, 18/no. 43.

Thirdly:

There is nothing wrong with paying zakaah from wealth other than that on which zakaah is due, such as if you pay it from your salary or otherwise. This has been stated by the scholars.

Ibn Qudaamah said:

Paying zakaah from something other than the nisaab is permissible.

Al-Mughni, 2/287

Some of the scholars narrated that there was consensus on this point. 'Abd al-'Azeez ibn Ahmad al-Bukhaari said: According to consensus, it is permissible to pay the share of the poor from something other than the nisaab.

Kashf al-Asraar, 3/370

And Allaah knows best.