

The Implementation of The Income Tax Concept in Indonesia: The perspective of Islamic Sharia

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Abstract: Tax revenue is Indonesia's primary source of income. Whereas, in Islamic law, it is allowed under compulsive conditions due to state finances deficit. The research method used is juridical normative, and literature's study data collection techniques. Research's results state the difference between tax and zakat regarding the legal basis. Income taxation in Indonesia is based on the constitution in the year 1945. It was formulated through an agreement between the executive and the legislature and manifested in a constitution. Meanwhile, the legal basis for zakat is Allah's word and manifested in the form of the Koran; *Sunnah*; and *Ijma*. Another difference is that the tax rate can change according to government policy, while the zakat rate is fixed. Additionally, the subject, object and basis of tax imposition are following Islamic Sharia.

Keywords: *Islamic law, Zakat, Dharibah, Koran, Sunnah, Ijma*

Introduction

Income tax revenue in Indonesia is still dominant compared to other tax revenues, as shown in Table 1. The realisation of tax revenue in the 2019 State Budget (APBN) was IDR 1,332.1 trillion, 84.4% of the IDR 1,577.6

target. On the other hand, for zakat revenue in 2019, zakat's potential was Rp. 230 trillion, and Rp. 8 trillion (3.5 %) was collected. It is suspected that three obstacles resulted in minimum zakat acceptance in Indonesia. 1) Education and literacy; 2) Human Resources (SDM) BAZNAS, and 3) Regulations.

Table 1. Tax Revenues 2016-2018 (in IDR trillion)

No.	Description	2015	2016	2017	2018
1.	Income tax	602,3	666,2	646,8	750,0
2.	Value-Added Tax	423,7	412,2	480,7	537,3
3.	Property Tax	29,3	19,4	16,8	19,4
4.	Custom Income	144,6	143,5	153,3	159,6
5.	Other Tax Income	5,6	8,1	6,7	6,6

Source: Ministry of Finance (processed)

Based on this description, this study's question is how to implement the concept of income tax

in modern times in Indonesia from Islamic sharia perspective.

Literature Review

The research uses the theory of government leadership or social solidarity which states that the expert on financial laws determines tax

payments based on the government's authority to protect their citizens, efforts to distribute equal welfare and government protection for social solidarity between past and future generations (Gazi Inayah, 2003: 35).

Taxes

Taxes according to Rochmat Soemitro are people's contributions to the state treasury based on the law (which can be enforced) without receiving mutual services (counter-achievement), which can be directly demonstrated and used to pay for general expenses (R. Santoso Brotodihardjo, 1998: 5).

Legal Basis

Legislation Law number 7 of 1983 concerning Income Tax as amended by Law Number 10 of 1994 with several adjustments made in late 2008 is used as the legal basis for collecting income tax (Law No. 36 of 2008; Waluyo, 2008; Atep Adya Brata, 2011; Mardiasmo, 2013; Prianto Budi S., 2017; Siti Resmi, 2019; Darussalam et al., 2020;).

The subject of Income Tax

In reference to Article 2 verse (1), subjects to tax are: 1) an individual; 2) the undivided inheritance as a unit that replaces those who are entitled; 3) an agency, and 4) a permanent establishment. Furthermore, Article 3 (1), those who are not included as a tax subject are a) representative offices of foreign countries; b) officials of diplomatic representatives and consulates or other officials from foreign countries and persons seconded to them; c) international organisations; d) officials representing international organisations. (Law No. 36 of 2008; Waluyo, 2008; Atep Adya Brata, 2011; Mardiasmo, 2013; Prianto Budi S., 2017; Siti Resmi, 2019; Darussalam et al., 2020;).

Income Tax Objects

Following Article 4 verse (1), the objects of tax are incomes. This provision defines income as any additional economic capabilities received or obtained by a taxpayer, whether originated from Indonesia or outside Indonesia, which can be utilised for consumption or to increase the

wealth of the taxpayer concerned, under whichever names and forms (Law No. 36 of 2008; Waluyo, 2008; Atep Adya Brata, 2011; Mardiasmo, 2013; Prianto Budi S., 2017; Siti Resmi, 2019; Darussalam et al., 2020;).

Income Excluded from Income Tax Objects

Article 4 verse (3), those exempted from tax objects are a) grants or donations, b) legacy; c) assets including cash deposits received by the entity as a substitute for shares or as a substitute for capital participation; d) replacements or compensations for works or services received or obtained in the form of nature and/or pleasures from the taxpayer or the government, except for those provided by non-taxpayers, taxpayers who are subject to final tax or taxpayers who use special calculation norms (deemed profit) as referred to in Article 15; e) payments from insurance companies to individuals f) dividends or part of profits received or obtained by a limited liability company as a resident taxpayer; g) contributions received or obtained by pension funds; h) income from capital invested by pension funds; i) shares of profits received or accrued by members from limited partnership companies; j). income received or earned by venture capital companies; k) scholarships that meet certain requirements; l) excess received or obtained by non-profit agencies or institutions; and m) assistance or compensation paid by the Social Security Administering Body to certain taxpayers. (Law No. 36 of 2008; Waluyo, 2008; Atep Adya Brata, 2011; Mardiasmo, 2013; Prianto Budi S., 2017; Siti Resmi, 2019; Darussalam et al., 2020;).

Non-Taxable Income

According to Article 6 verse (3), individuals as domestic taxpayers are given a deduction in the form of Non-Taxable Income, further Article 7 verse (1) Annual Non-Taxable Income shall be given at least: a. Rp15,840,000.00 (fifteen million eight hundred and forty thousand rupiahs) for individual taxpayers; b. Additional

Rp1,320,000.00 (one million three hundred and twenty thousand rupiahs) for married taxpayers; c. Rp. 15,840,000.00 (fifteen million eight hundred and forty thousand rupiahs) addition for a wife whose income is combined with the husband's; and D. Rp. 1,320,000.00 (one million three hundred and twenty thousand rupiahs) for each blood relative family member and half-blood family member in the direct line and adopted children, who are fully dependent, at most 3 (three) people for each family. (Law No. 36 of 2008; Waluyo, 2008; Atep Adya Brata, 2011; Mardiasmo, 2013; Prianto Budi S., 2017; Siti Resmi, 2019; Darussalam et al., 2020;). The PTKP began in 2016 to change based on PER-16 / PJ / 2016 Article 10 as follows:

- a) Rp. 54,000,000.00 (fifty-four million rupiah) for an Individual Taxpayer;
- b) An addition of Rp. 4,500,000.00 (four million five hundred thousand rupiahs) for Married Taxpayers;
- c) Rp. 4,500,000.00 (four million five hundred thousand rupiahs) for each blood relative family member and family member of

the same line as direct line and adopted children, who are fully dependent, at most 3 (three) people for each family.

Taxable Income

Article 16 verse (1), taxable income as the basis for the application of rates for domestic taxpayers in a tax year is calculated by deducting from the income as referred to in Article 4 verse (1) with a reduction by Article 6 verse (1) and verse (2); Article 7 verse (1), and Article 9 verse (1) letter c, letter d, letter e, and letter g. Thus the amount of the tax owed = Tax rate x Taxable income (Law No. 36 of 2008; Waluyo, 2008; Atep Adya Brata, 2011; Mardiasmo, 2013; Prianto Budi S., 2017; Siti Resmi, 2019; Darussalam et al., 2020;).

Income Tax Rates

According to Article 17 verse (1), the tax rate applied on taxable income for Individual resident taxpayers is as follows in table 2.

Table 2. A layer of Taxable Income Taxable Rates

A layer of Taxable Income Taxable Rates	Tax Rate
Up to IDR 50,000,000.00	5%
Above IDR 250,000,000.00 up to IDR 500,000,000.00	15%
Above IDR 50,000,000.00 up to IDR 250,000,000.00	25%
Above IDR 500,000,000.00	30%

Domestic corporate taxpayers and permanent establishments are 28% (twenty-eight per cent). (Law No. 36 of 2008; Waluyo, 2008; Atep Adya Brata, 2011; Mardiasmo, 2013). According to Perpu/Government Regulation Acts 1 of 2020, the government has lowered the corporate income tax rate from 25 per cent to 22 per cent for the 2020 and 2021 tax years, and to 20 per cent starting from the 2022 tax year.

Zakat

In terms of language, the word zakat is rooted in the word (masdar) of *zaka*, which means

blessing, growing, being clean, and good. When something is *zaka*, it means it grows and develops. If a person is *zaka*, it means that one is good. Zakat in terms of the fiqh term means "a certain amount of property which is obliged by Allah to be submitted to the rightful people" in addition to "issuing a certain amount itself". The amount issued from the wealth is called zakat because what is issued "adds a lot, makes more meaningful, and protects the wealth from being destroyed," Nawawi quotes Wahidi's opinion (Yusuf Qardawi, 2002: 32).

Basic Law of Zakat

They talk about zakat in jurisprudence books under their view that zakat is the second worship in Islam. Therefore, they discuss it in the subject of "Ibadat" after "Salat" following the habits of the Quran and Sunnah (Yusuf Qardawi, 2002: 4).

Compulsory Zakat

Islamic scholars agree that zakat is only obliged to an adult Muslim who is sane, free, and has a certain amount of wealth under certain conditions (Yusuf Qardawi, 2002: 96). The scholars also agree that zakat is not compulsory for non-Muslims because zakat is the essential member of the structure of Islam, and therefore an infidel cannot be asked to complete it, nor is it a debt that he must pay after converting to Islam (Yusuf Qardawi, 2002: 96).

Objects of Zakat

The Quran does not emphasise the compulsory wealth of zakat and the conditions that must be met or explain how much it should be donated as zakat (Yusuf Qardawi, 122: 199). There are several types of wealth mentioned and reminded by the Quran to pay zakat as the right of Allah: 1) gold and silver; 2) crops and fruits; 3) business; 4) mines obtained from the Earth; (Yusuf Qardawi, 2002: 122). The properties of zakat that are compulsory for zakat are: 1) full property; 2) growing; 3) quite the same; 4) more

than everyday needs; 5) debt-free; 6) passed a year. (Yusuf Qardawi, 2002: 125). Conditions of livestock zakat, Islam does not require zakat on the quantity of livestock of each type, but requires it when it has met certain conditions: 1) until the nisab ranges from 5 to 30 or even 50 livestock.

Non-Compulsory Property Zakat

Several properties are not compulsory for zakat, namely: 1) wealth that does not have a specific owner; 2) waqf land and the like; 3) illicit property; 4) zakat on loans; 5) remuneration and savings of officers (Yusuf Qardawi, 2002: 130). It means that the property that is compulsory for zakat must meet the requirements of compulsory zakat; if it does not meet the compulsory zakat for the property, it is not compulsory for zakat.

Nisab Zakat and Zakat of Asset

Islam does not oblige zakat on any amount of wealth that grows even if it is minimal but gives its provision with a certain amount that jurisprudence is called nisab (Yusuf Qardawi, 2002: 149). Some hadiths issue from the obligation of zakat on wealth under five camels and forty goats and those under two hundred dirhams of silver money and under-five quintals (wasaq) of grain, fruits, and agricultural products.

Table 3. Application of Each Zakat Object

Descriptions	Amount of Zakat
1. Camel breeding less than five camel calves	None
2. Goat breeding under 40 kids	None
3. Silver is less than 200 dirhams	None
4. Camels under 25 camel calves	Goats
5. The value of the compulsory amount of zakat for every five camels	A goat
6. Zakat on camels amounting to 25 to 120 livestock	Female camel calves
7. Zakat on sheep amounting to 40 to 300 livestock	Every 100, one of the goat
8. Silver money	1/40 th

Zakat obtained from property that must be zakat is smooth, not the result of choice or flawed defects

Source: Yusuf Qardawi, 2002: 184

Rate of Zakat

Examples of camel zakat following the consensus of scholars and authentic hadiths sourced from Rasulullah s.a.w. and his

companions, the camel nisab and a large amount of zakat from the number 5 to 120 can be identified in Table 4.

Table 4. Nisab and Compulsory Zakat

Camel Nisab	Nisab Camel Many Zakat That Must Be Given
From - to	
5 - 9	One goat
10 - 14	Two goats
15 - 19	Three goats
20 - 24	Four goats
25 - 35	A female camel (aged one-year-old)
36 - 45	A female camel (aged two years old)
46 - 60	A female camel (aged three years old)
61 - 75	A female camel (aged four years old)
76 - 90	Two female camels (aged two years old over)
91 - 120	Two female camels (aged over three years old)

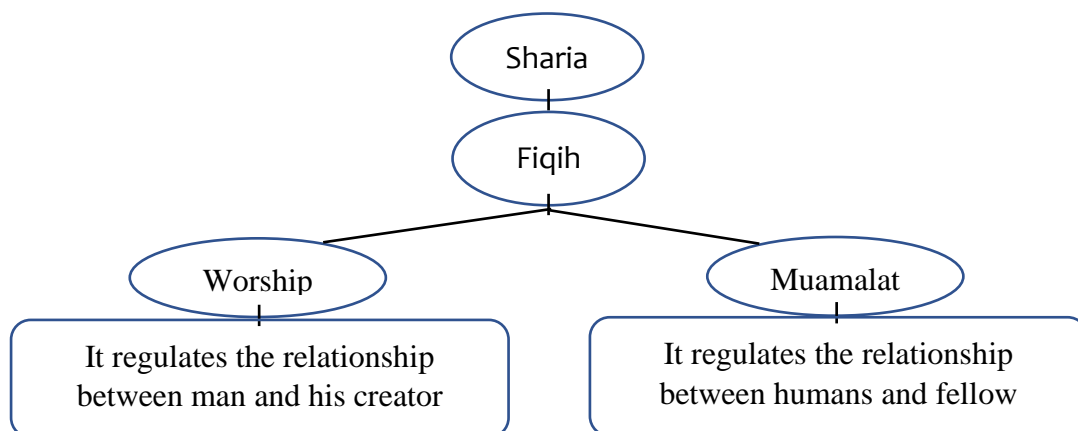
Source: Yusuf Qardawi, 2002:176

Islamic Sharia

Sharia is an Arabic word that means the path is taken or the line that must be traversed. Based on Figure 1, zakat includes worship activities to maintain a two-way relationship, which is vertical with Allah SWT to increase faith and piety and horizontally with fellow human beings as fellow social beings. According to

Shaykh Mahmud Syalthut, in terminology, Sharia is defined as the rules and laws that have been outlined by Allah SWT, or have outlined its principles and charged to Muslims to comply with them; therefore Sharia is taken by Muslims as a link between them and Allah and between them with other humans (Adiwarman A. Karim, 2014: 7).

Figure 1. Relationship between Sharia and Fiqh



Source: Adiwarman A. Karim, 2014:10

Objects and Research Methods

The object of research is the income tax. This topic has been selected because income tax is the most considerable central tax revenue. The research method used was a normative juridical approach by analysing relevant secondary data. This research was descriptive-analytical, which described the phenomenon of the problem at the time of the research. The data procession included data collection, organisation, classification, analysis, and interpretation. The research was carried out from August 2020 to October 2020.

Discussion

Income Tax Legal Basis

Tax law must provide the legal guarantees necessary to assert strict justice, both for the state and its citizens. Everything must be stipulated in the law regarding taxes in a state of law (R. Santoso Brotodihardjo, 1998). The legal basis for the making of Income Tax Law Number 36 the Year 2008 which has undergone several changes in the 1945 Constitution Article 23 A: Taxes and other levies that are compelling for state purposes are regulated by law (UUD 1945 Amendment 3, 2001; Prianto Budi S., 2017). Tax laws are issued by regulators, namely the government, both in the form of laws, government regulations, regulations of the Minister of finance, and the Director-General of taxes (Prianto Budi S., 2017).

The collection in Islamic Sharia is known as zakat, the source of the law is Allah SWT who was revealed to the Prophet Muhammad SAW as the Messenger as codified in the Quran, Hadith and Ijma (Oni Sahroni et al., 2018). There is a fundamental difference between the basis of tax law and zakat. Zakat is Allah SWT's words, and taxes result from human formulation, based on the wisdom that can change from time to time (M. Ali Hasan, 2000: 33). Sources of law and thought about zakat are generally said to be sourced from the Qur'an and

Sunnah, while taxes are obligations based on the rulings of Ulil Amri rulers or governments (Akhyar Rusli, 2005: 110).

Income Tax Subject

Article 2 verse (1) states that the subject to tax is: 1) an individual; 2) the undivided inheritance as a unit replaces those who have entitled; 3) agency; and 4) a permanent establishment. (Law No. 36 of 2008; Waluyo, 2008; Mardiasmo, 2013;). There is no requirement to pay taxes for any particular religion, but all religions have the same obligation as long as they meet the tax subject requirements.

The obligation to pay zakat (compulsory zakat) is limited to Muslims. Islam obliges the rich to give a part of their wealth to the less fortunate (A. Muhyidin Khotib, 2019: 1). The similarity of the subject of Income Tax with zakat is the subject that must pay taxes, and those who pay zakat are individuals and bodies. The subject of compulsory zakat is called Muzaki. Article 3 item 3: Muzaki is a person or body owned by Muslims obliged to pay zakat (Zakat Law; Akhyar Rusli, 2005; Qodariah Barkah et al., 2020). Zakat is only compulsory for Muslims (Yusuf Qrdawi, 2002). Zakat should be issued after someone meets the requirements even if he/she has paid taxes. On the other hand, taxes can be collected when needed, even if zakat has been paid (M. Ali Hasan, 2000: 38).

Income Tax Objects

The imposition of income tax is not imposed on property owned by the taxpayer but is imposed on the taxpayer's income. Article 4 verse (1) states that the object of the tax is income, income is any additional economic capability received or obtained by a Taxpayer, whether originating from Indonesia or outside Indonesia, which can be used for consumption or to increase the wealth of the taxpayer concerned, under the name of and in any form

(Law No. 36 of 2008; Waluyo, 2008; Mardiasmo, 2013; Prianto Budi S., 2017).

The object of income tax is income, as well as the object of zakat, are assets that produce, thus the object of zakat is also income because assets that do not produce are not obliged to pay zakat. There are nine types of zakat apart from zakat fitrah, namely: 1) livestock; 2) gold and silver; 3) trade wealth; 4) agriculture; 5) honey and animal production; 6) mining and marine products; 7) factory investment and others; 8) search and profession; 9) stocks and bonds (Yusuf Qardawi, 2002). Furthermore, Didin Hafidhuddin stated that the sources of zakat are: 1) profession; 2) company; 3) securities; 4) currency trading; 5) livestock; 6) honey and animal products; 7) property investment; 8) takaful insurance; 9) business of orchids, swallow nests, ornamental fish, and similar modern sectors, 10) modern household sector (Akhyar Rusli, 2005: 61).

According to Yusuf Qardawi and Didin Hafidhuddin, the zakat object is opposed by Abdul Rahman al-Jazairi that the only objects of zakat that are allowed are: livestock, gold and silver, trade, mining and rikaz and agriculture. There is no zakat beyond these five. (Akhyar Rusli, 2005: 61).

Tax Object Non Taxable Income

Income received by taxpayers is not always subject to income tax, even though this income causes the taxpayer's economic capacity to increase. Following Article 4 verse (3), several are exempted from tax objects, including a) assistance or donations, b) legacy; c) assets, including cash deposits received by the entity as a substitute for shares or as a substitute for equity participation.

Likewise, in the object of zakat, not all assets are charged to pay zakat. Several assets are not required for zakat, namely: 1) assets that do not have a specific owner; 2) waqf land and the like; 3) haram property; 4) zakat on loans; 5) employee benefits and savings (Yusuf Qardawi, 2002: 130). It means that assets that are obliged to zakat must meet the compulsory

requirements of zakat, if they do not fulfil compulsory zakat for these assets, they are not obliged to do zakat.

Non-Taxable Income

Not all income received by an individual taxpayer is subject to income tax, but there is a minimum limit subject to income tax. Following Article 6 verse (3) an individual as a resident Taxpayer is given a reduction in the form of Non-Taxable Income applicable to an individual taxpayer. For corporate taxpayers, the imposition of income tax is imposed on profits following Article 4 verse (1) number 3, which states that the income included as tax object is operating profit.

Non-taxable income in zakat is called miqdar zakat, which includes the nisab, which is the minimum amount of wealth obliged to pay for zakat. The meaning of nisab in this context is a measure or the lowest limit that has been set by shari '(religion) to serve as a guideline for determining the obligation to pay zakat for those who have it if it reaches that amount (Qodariah Barkah et al., 2020; A. Muhyiddin Khotib, 2019). There are differences of opinion among the scholars regarding the nisab of cows zakat.

According to the number of nisab, it is 30 cows, al-Tabari '(d.923 AD) stated 50 cows, Ibn Musayyib (d. 715 AD), al-Laith (w.791 AD), and Abu Qilabah (d. 104 H) that the ratio of cows is the same as five camels (A. Muhyiddin Khotib, 2019). In Indonesia, cattle are very diverse; for example, local cattle with imported cattle, local cattle cost around Rp. 15,000,000.00 and the total nisab is 30 cows, while imported limousine cows have a smaller nisab ratio, which can be ½ of local cattle. This difference of opinion shows that miqdar zakat is ijthad in nature and is possible to change according to the situations and conditions of his time (A. Muhyiddin Khotib, 2019).

Taxable Income

Determination of taxable income is grouped into 1) individual and corporate taxpayers with a certain gross turnover; 2) individual taxpayers

use calculation norms; 3) individual taxpayers keep books; 4) domestic corporate taxpayers

keep books of account; 5) permanent establishment taxpayer (Siti Resmi, 2019).

Table 5. Taxable Income Formula

	Category	Formula
1	Individual and corporate taxpayers with a certain turnover	<ul style="list-style-type: none"> Income tax payable = Rate x Taxable Income = 1% x Monthly Turnover
2	Individual taxpayers use the calculation norms	<ul style="list-style-type: none"> Taxable Income = Net income - Non taxable income = (Turnover x% Net income calculation norm) - Non taxable income Income tax payable = Rate x Taxable income = Rate x (Turnover x% Net income calculation norm) - Non taxable income <p><i>For those who are Muslims to pay zakat:</i></p> <ul style="list-style-type: none"> Taxable income = Net income - Zakat - Non taxable income = (Gross turnover x % Net income calculation norm) - Zakat - Non taxable income Income tax payable = Rate x Taxable income = Rate x (Turnover x % Net income calculation norm) - Zakat - Non taxable income
3	Personal Individual taxpayers keep books of	<ul style="list-style-type: none"> Taxable income = Net income - Non taxable income = (Turnover - Deductible expenses) - Non taxable income Income tax payable = Rate x Taxable income = Rate x (Turnover - Deductible expenses) - Non taxable income <p><i>For those who are Muslims to pay zakat:</i></p> <ul style="list-style-type: none"> Taxable income = net income - Zakat - Non Taxable income = (Turnover - Deductible expenses) - Zakat - Non taxable income Income tax payable = Rate x Taxable income = Rate x (Turnover - Deductible expense) - Zakat - Tax loss carry forward
4	Domestic corporate taxpayers keep books of	<ul style="list-style-type: none"> Taxable income = Net income = (Turnover - Deductible expenses) Income tax payable = Rate x Taxable income = Rate x (Turnover - Deductible expenses) Taxable income = Net income - Tax loss carry forward = (Turnover - Deductible expenses) - Tax loss carry forward Income tax payable = Rate x Taxable income = Rate x (Turnover - Deductible expenses)-Tax loss carry forward
5	Permanent establishment taxpayer:	<ul style="list-style-type: none"> Taxable income = Net income = (Turnover - Deductible expenses) Income tax payable = Rate x Taxable income = Rate x (Turnover - Deductible expenses)

According to Djamal, the basis for zakat's imposition is the rate times the net equity, which is $2.5\% \times \text{net equity}$ (Iqbal M. Ambara, 2009). According to Djamal, assets that must be obliged to zakat according to the income tax law are from net income, while according to shari'ah, it is net equity (Iqbal M. Ambara, 2009).

Income Tax Rates

The imposition of income tax for both individual taxpayers and corporate taxpayers uses certain rates that have been determined in the income tax law, which at any time can change according to economic conditions and government policies. Law no. 36 of 2008 concerning income tax for personal income tax rates has not changed rates. Meanwhile, the corporate tax rate has undergone several changes, which was initially 28%, then changed to 25%, and now for the 2020 and 2021 fiscal years, the applicable rate is 22%, then 20% starting from the 2022 tax year.

The regulations regarding zakat rates are stated in nominal terms such as the rates for paying zakat on animals, for example, 40 to 120 zakat on one goat; There is also a tariff which is expressed in per cent, such as to pay zakat on gold and silver is 2.5%; while zakat on crop yields is 10% (for plants that do not use irrigation) and 5% (for plants that use irrigation) (Yusuf Qardawi, 2002).

Conclusions and suggestions

Based on an analysis of the implementation of the income tax concept in Indonesia, as seen from a different Islamic Sharia perspective, the legal basis for income tax is the 1945 Constitution which humans made through an agreement between the executive and the legislature which was manifested in the form of a law. Meanwhile, the legal basis for zakat is the word of Allah SWT, which is manifested in the form of the Koran; Sunnah and Ijma. Tax rates can change at any time according to government

policy. Meanwhile, regarding the subject, object and basis of tax imposition are following Islamic Sharia.

Hopefully, this suggestion is considered by the government in making decisions in formulating government policies. Furthermore, researchers interested in this topic should carry out further research to sharpen the analysis and other more detailed and focused variables.

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