

Zakat on General Provident Fund: Misconception or Avoidance

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Abstract

There are various saving schemes both in public and private sector that helps the community to save money for their future. General Provident Fund is such a scheme where a certain percentage is deducted from the government servant from his salary on monthly basis, then is kept by the government and at the time of the retirement it is given to the employee with all installments paid by the employee throughout his service with some additional amount earned by the government. From where this additional amount comes, is a question that is related to the investment of such a huge fund but one of the important aspects is that since the fund is given back to the employee so should he pay zakat on it on yearly basis during the length of his service, is a question that needs careful consideration. The present paper is an attempt to address the issue of zakat on GPF by the employee during the life time of his service. In order to check the level of awareness among the government employees both; serving and retired, a sample of 40 was selected randomly from Peshawar city. The opinion of the ulema was also taken through a questionnaire by snow ball sampling about the payment of zakat on the fund. The opinion of the researchers was also considered through interview method. However, the sampling procedure was again snow ball sampling considering the time constraint. A high level of unawareness is found among the employees. Some ulema gave verdict to pay zakat once after retirement and some suggested paying on year to year basis after reaching to Nisaab. The researchers stressed the importance of understanding the matter seriously and to pay zakat by considering it savings. On the basis of the findings of the study and the literature quoted, it is therefore suggested that the status quo of the fund should be properly defined in the light of Shariah rules so as to honor zakat obligation properly.

Key Words: GP fund, investment, zakat, verdicts, Shariah rules

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Introduction

Zakat is one of the obligations of Islam. Essentially it is the responsibility of the state to collect it from the rich & pay it to the poor strata of the society. The purpose of zakat is to purify the wealth of the rich by giving a certain amount to the needy and poor people of the society. People often mix zakat with charity and tax on the ground that charity is also for needy and poor people and tax is also a compulsory contribution so if they are already paying taxes and giving charity so there is no need to pay zakat. This matter is very simple to understand. Zakat is a compulsory payment like a tax but it is not a tax because the rate of the tax is subject to variation from time to time. The tax imposition rests on the discretionary powers of the government and the incidence of the tax usually falls on the poor rather than on rich that violates the purpose for which zakat is actually devised. In case of charity and zakat the difference is that charity is up to the will of the person and it is not compulsory. The rate of charity is not predetermined and fixed and there is no restriction to whom charity is given, Muslim or non-Muslim. So, one who reaches to Nisaab¹ must have to pay zakat. There are different kinds of wealth or assets on which zakat is payable. Islam has given the detailed description of these assets for example gold, silver, animals, money, production etc. With the passage of time new and new forms of assets are being framed and new forms of assets are created. Financial world is fast changing. For example, bonds, shares, debentures, corporate profits, savings certificates etc. Although money is changing its faces but there exists certain rules which help the people to understand the Nisaab of new things to fulfill the obligation of zakat. No doubt that there may exist some intricacies but if the rules of zakat are carefully studied, the problem can be easily solved. It has been observed

that people don't pay zakat usually because of three reasons; they do not want to pay, they avoid its full payment and there is negligence for one reason or the other. For the former there is no solution unless convinced by Dahwah or Tableegh. For the later two the reason is either they have no knowledge or they do not want to get the knowledge mainly because the payment bothers them and they want to find a way out to justify that they are not up to the Nisaab and they do not fall under the category for having that obligation. The other side of the picture is, the complex western economic world that is usually beyond the comprehension of most of the religious scholars from whom the general public gets Fatwa. Economically literate population is estimated very low and it is roughly 1% to 2% on average. So there is a dire need and it is the duty of the Muslim economists to explain the financial assets and new forms of monetary transactions so that it would be easy for the religious scholars to give their verdicts under Shariah. Further, is it the level of piety or psyche of the people to pay or avoid the obligation, is a question that is very much evident from the present case study.

Islamic financial industry is gaining importance and growing at a rapid rate. During 2008, in India the rate of returns on income of the banks were less than 25% because of high rate of interest whereas the rate of return for non-interest based income was more than 40%. Now the interest based banks in India also want to enter in interest free banking (Halige, 28th Oct. 2009).

General Provident Fund (GPF) is a pension fund. A certain percentage from the salary of government employee's is deducted every month. This amount is invested by the government in different schemes; with banks, in mutual funds etc., then at the time of retirement actual deducted amount with additional amount is given back to the employee.

The subject matter is that since this amount is saved, invested and given back to the employee so the payment of zakat on such monetary asset is an obligation. But the payment procedure involves some problems. Since zakat is always paid after one year on the asset after reaching it to Nisaab so one has to get information regarding its time of payment and method of payment. According to Maulana Mudoodi (undated) the person is not exempted from zakat even after his death. Zakat would be paid out of his assets even though he has not left any will for the payment of zakat.

Objectives of the Study

The study is focusing on the following objectives:

- i). To find out the level of awareness and knowledge of the serving and retired employees about the payment of zakat on GPF.
- ii). To review the opinion of the religious scholars about GP fund status related to the obligation of zakat.
- iii). To check the authority and discretion of the employee to use General Provident Fund (GPF) amount during his service.
- iv). To make an analysis of the issue in the light of Shariah rules and to recommend a solution that would be more close to care and piety.

Hypotheses

- The level of unawareness about zakat on GPF is very high in the study area.
- The Shariah rules for zakat on such pension funds are easy to understand and implement.

Methodology

The information consists of both primary and secondary data.

Sampling and Analytical Technique

The methodology of the paper is developed by taking a sample area of Peshawar, the capital city of Khyber Pakhtunkhwa. There are two sets of primary data; one of the government servants and second of the ulema (mostly Muftis) and researchers (doing research in different fields of national and international importance). A sample size of 40 is taken both of retired and serving people. Questionnaire method has been used to collect information from the employees. The samples are drawn randomly. However personal observations are also recorded. The sampling for the selection of the ulema and researchers is snowball sampling considering the time constraint. An interview has been taken from the religious scholars from various institutions located in the capital city to know about their opinion and verdicts (in case they are muftis). For proof, written verdicts have been collected for the authenticity of the research. Secondary data consists of government rules about GPF and Shariah rules about different aspects of zakat. Rules of zakat are thus applied on both the collected information.

Results and Discussion

The following information has been collected from the government servants; both in service and retired people to check the level of awareness about zakat obligation on their pension fund.

The total number of serving respondents was twenty (20). Out of the total, 55% are not going to pay zakat on their GPF where as 45% show their willingness to pay zakat. Out of these 45%, not a single one is agreed to pay zakat on yearly basis but 100% response is in favor of

paying at once at the time of retirement. Out of 55% respondents (who are not going to pay) about 63% were unaware about the payment of zakat where as 27% have not enough resources to pay.

The total number of retired people was also twenty (20). Out of the total, 80% have not given Zakat. Only 20% have paid it. Those who have not paid all (100%) are unaware about the obligation where as rest of those who have paid, they all (100%) have paid once at the time of retirement. There is not a single person (0%) who has paid on year to year basis.

Following are the information collected from the Ulema who studied Fiqha from renowned institutions:

According to Raees and Naaib Raees of Daarul Ifta, Jaamiaah Usmania² that since GPF remains under the control and authority of the government and the servant has no control of it so there is no zakat on it during the service. Zakat is due when it comes under the authority of the servant.

According to Mufti Ghulam-ur-Rehman And Mufti Najam ur Rehman³ that “Government deducts a certain amount from the servants’ salary and then at the time of retirement it gives some profit (interest) on it and the total amount is then given to that person. If that deduction is made with the willingness of that person then it is better to avoid it because of interest in it. But if the deduction is not made with his willingness and also he is not happy at the deduction then in that case even if he accepts that amount with the additional amount, it is permissible for the person. They further said that zakat is due after one year after taking GPF and there would be no zakat for the past period.

While discussing the answer in detail Mufti Siraj Muhammad⁴ said “ Zakat is payable when it reaches to Nisaab, if the person already

has the Nisaab so GPF amount and all rest of his money should be added together and then zakat should be paid. Since GPF is not under the discretion of the person till his retirement so zakat would be payable till it comes under the control of the person”.

According to Mufti Abdul Khaliq⁵ “There is no zakat on GPF till it becomes the property of the person because it is deducted by the government and remains under its control till his retirement”.

Mufti Shabir Ahmad Alazhari⁶ discussed the case of zakat that it is a reward from the government. As long as it is with the govt. there is no zakat but after receiving the fund if one year is passed then there would be zakat on it (in case it reaches to Nisaab). But in case the person has given authority to his insurance company to take installments from that account for insurance payment then in that case that company is like a wakeel and the authority of a wakeel is considered as the authority of the person himself so in that case zakat for every year is due to pay”.

Rehmani (1983) discussed “.... according to Imam Abu Hanifa one has to pay zakat after receiving the amount and after the time of one year. But according to his two disciples; Imam Abu Yousaf and Imam Muhammad have differences with his opinion. They are of the view that one has to pay zakat on all even before the amount is taken over by the person. According to this principle there would be full payment of zakat on the whole amount for all years of service (although the Fatwa is according to Imam Abu Hanifa but care and taqwa demands the opinion of the other two imams)”. Ibrahim (1960) explained that Imam Yousaf in the period of Haroon-ur Rasheed served as Qazi-ulqaza in 182 Hijree. Imam Muhammad was also appointed Qazi after Imam Yousaf in the period of Haroon –ur-Rasheed. He was also the teacher of renowned scholars and imams of his time including Imam Shafi.

Jamil-ur-Rehman (undated) said that the government has tried to give its investment the form of Bai Mudarabah in which one partner participates with money and other with his business services. The profit and loss is then shared between the two parties. So the mufti is of the opinion that deduction for GPF at will of the employee is a kind of Bai Mudarabah and compulsory deduction is like a forced Bai Mudarabah. Every year there is an increase in the profit so zakat is due for all years.

Dr. Naheed Ali⁷ admitted that she has not paid zakat on her pension fund as she never thought about it but usually give money over and above of the due zakat with the intension of non-paid zakat on any of her asset. She mentioned that one should give zakat before retirement because there is no guarantee of life but so far she has not worked out whether on year to year basis or once for the whole amount.

Dr. Hafiz Sanaullah⁸ mentioned that at the time of retirement zakat would be deducted from the employee's total GP Fund unless he gives declaration.

Syed Mohammad Abbas⁹ expressed his knowledge and experience that since GPF is not in his possession but it is serious matter and one should not ignore it and should not postpone it. He mentioned that the Fatwas of Ulema are derived from the time of slavery and foreign occupation. About the legitimacy of Group Insurance he mentioned that there is a need of research on this issue as well.

Mufti Muhammad Iltimas Khan¹⁰ and Professor Dr. Ziaullah¹¹ shared their ideas that zakat would not be paid until and unless the total amount comes under the jurisdiction of the person and there would be no zakat for the past years.

Professor Dr. Dost Muhammad¹² has explained the method of payment that it should be paid on year to year basis. In case the person is

not in a position to give every year then he should pay it after receiving the amount but the calculation criteria would be same i.e. year to year basis. All past years would be counted.

Professor Dr. Bushra Hamid¹³ accepted that there is zakat on GPF because it is savings but zakat should be paid on principal amount not on the additional amount that government gives over and above of the actual deductions because it is interest.

Dr. Nasreen Ghufra¹⁴ explained that GPF is savings so there is zakat on it and it should be paid on year to year basis counting all years of one's service. She mentioned that people usually have no idea about the payment of zakat on pension funds. She suggested that one should take it serious and there must be advocacy to make the general public aware of its method of payment.

Analysis of the Results

Now there are two basic aspects to discuss; one Unawareness about zakat and second, payment but not according to the required rules of zakat. The case of "unawareness" needs some critical questions to reply. For example, are they not educated enough to understand that they have lot of savings in the form of GPF and zakat is due. Have they got verdicts in their favor to say no to zakat, or simply they don't bother to know about these things because these savings are for their rainy times. There is no doubt that the time of retirement is really a hard time to face when one becomes old and when sources of income are cut short and when the loyalty of the friends and children is under threat but does it allow him to take a decision against the Divine Will that one has to obey Allah in right time and in right direction. So in these circumstances the level of piety works that helps to take a firm decision. But when people are young and energetic, and when they have the power to make policies and to rule

while sitting in government offices then what stops them to think about a simple thing which is revealed by Allah and on which there are announced harsh punishments. In the present case study all respondents were educated and the level of education was above graduation. The personal observations also show that they have not received any verdict from the religious scholars for the non-payment of zakat. So there is no justification for them to avoid its payment. However while addressing the issue of payment at the time of retirement for once throughout the life time of service requires to get information and to consult the Ulema about the proper time and mode of payment.

The statements of the religious scholars mentioned that:

- The person has no control and discretion on the fund amount and it is only available to the person after his retirement. Zakat is due when one year is passed after taking that amount from the government.
- Further, Provident Fund is now a days Bai Mudarabah and since every year there is an increase in the profit so zakat is due for all years.
- Some ulema mentioned that care and taqwa demands the payment for the past years as well.
- They added that the insurance company takes insurance installment from GPF so that company is like a Wakeel of that person and the authority of a wakeel is the authority of the person himself, so in that case Zakat is due to pay every year.

The opinion of the researchers highlighted the facts that:

- People have very little knowledge about the proper method of its payment on GPF.

- Fatwas are derived from the time of foreign occupation of the Indian subcontinent.
- According to government rule there is one time deduction of zakat provided it is forbidden by giving the declaration.
- They stressed the importance of the problem and its proper solution. However, most of them are of the opinion that GPF is savings and given back to the employee with additional amount (interest) so there should be zakat on year to year basis.
- Now the above statements are to be checked in the light of Shariah rules. Since GPF is saved and invested by the Government either in the form of Bai Mudarabah as mentioned by the ulema or utilize to finance different interest bearing schemes¹⁵ so according to Imam Abu Hanifa, Imam Yousaf and Imam Muhammad it falls under the first category as mentioned below i.e. Dane-e- Qawi (because the fund is invested) and zakat is due for all past years after reaching to Nisaab.

Although some Muftis are quoting Imam Abu Hanifa for paying zakat one time after getting the amount but the problem is that in the times of the Imam no such fund was there it means that this verdict has been derived from certain rules. So according to Imam Abu Hanifa there are three types of such things called “Dane”:

- i). Dan-e- Qawi: is an amount in return of tradable goods. When this amount is received zakat is to be paid for the past years as well.
- ii). Dan-e- Mutawasat: This is due in return of non-tradable goods. There would be no zakat for the past years.

- iii). Dan-e-Zaheef: It is the amount which is not the reward of anything for example property of inheritance, property of will etc. There is no zakat for it.

In the light of these categories since GPF falls under the first category so there is zakat on year to year basis. Further, ulema are giving it the form of Bai Mudarabah whereas as Ghazali (undated) quoted “The prophet (PBUH) has not permitted the Bai of a thing that is not under the discretion and authority of the Rab ul Maal”. Here the opinion of the ulema is self contradictory by saying that it is not under the discretion of the employee so there is no zakat for past years and it is a Bai Mudarbah deal between the government and the employee admitting that Rab ul Maal who is contributing with money has full authority.

Another important point is raised by the people and the ulema that the subscriber has no authority to use that fund so there would be no zakat payment on the account till retirement. Now we have to see the extent up to which the person can take any money from the fund. It is clearly mentioned in the rules¹⁶ that he can withdraw up to 80% from his account both refundable and non-refundable. The servant /subscriber need not to pay back if his age is up to forty five years. So people use to take this money for different needs. Further if the person has to pay insurance installments he can nominate the insurance company as his Wakeel to draw the money from his GPF account. It shows that the employee has the discretion to use the fund during service. There is no doubt that the Fund amount is kept with the government up to a certain period of time. Let us suppose this “Time” is an excuse for the non-payment of zakat then why there is zakat on Fixed Deposits.

Further, suppose it is like an amount given to somebody else for a pre specified time then the Shariah rules should be checked for such money which one can't take back up to a certain period.

Rules as quoted by Mudoodi (undated) that "Any loan given if can be taken back easily come under zakat and according to ulema¹⁷ zakat is on yearly basis for every year. Some ulema¹⁸ are of the opinion that zakat would be paid after receiving the whole amount but all past years would be counted- if in case the receipt of the loan is doubtful then there would be one- time payment of zakat after receiving the loan". Further, "if there is a disputed property then zakat would be paid by the one with whom it is possessed and later on zakat would be the obligation of one who would win the case".

Rules as quoted by Alhadad (1999) that "Deposits in banks and provident funds both are like as a loan given to somebody so zakat is to be paid for both on year to year basis. Zakat should be paid on year to year on provident fund but the payment time would be considered when he receives the total amount.

Since the Govt. can't confiscate the GPF account of any employee on any of his offence even so the return of the GPF amount is confirmed. It means one has to pay zakat on year to year basis after reaching to Nisaab. Again let's suppose it is a controversial case by saying that it is with the Government whereas Government says it is the property of the employee so according to Shariah rule the one whom possess it currently has to pay zakat every year. It means the govt. has the possession in this case so it has to pay zakat on behalf of all its employees.

Section 3 of Government of Khyber Pakhtonkhwa Finance Department, Khyber Pakhtonkhwa, General Provident Funds Rules, 2008

describes that “zakat will not be deducted from the amount of non-refundable advances/final payments of those subscribers, who submits declaration on the prescribe form for the exemption from zakat deduction with the claim”. Though the rule exists but the general public has very little knowledge, prior to their retirement about the deduction of zakat. This is very much evident from the primary data above, collected from the government employees. The personal observations during the survey show that they have no knowledge of the Shariah rules about GPF zakat and the method of payments.

Main Findings and Suggestions

The study results show that there is a high level of unawareness among the respondents who got retired but did not pay Zakat. Further it is personally observed that even those who are willing to pay, they are not much aware about the detailed rules of Zakat. So they use to avoid the calculation on yearly basis. Similarly among the serving respondents, a large number of respondents are unaware about the payment. They are avoiding it. However those who are willing to pay in future they have no intension to calculate on yearly basis but to pay once on the total amount they would get at the time of retirement. The opinion of the religious scholars highlighted the status of GP Fund that since the employee has no control and discretion on the fund amount and it is only available after his retirement so zakat is due when one year is passed after taking that amount from the government. They also mentioned that it is like Bai Mudarabah in which one person participates with money and the other with his services and since every year there is an increase in the profit so zakat is due for all years. However some ulema mentioned that care and taqwa demands the payment for the past years as well. Further the discretion of the employee is evident from the insurance installments out

of the GPF account, so zakat is due to pay every year. The opinion of the researchers highlighted the facts that employees' have very little knowledge about the proper method of zakat payment on GPF. Most of them are of the opinion that GPF is savings and given back to the employee with additional amount (interest) so there should be zakat on year to year basis.

In the light of Islamic literature anything if invested and bears returns falls under *Dane-e- Qawi* so zakat is due for all past years after reaching to *Nisaab*. Further, any loan that is given to somebody and its return is sure so one has to pay zakat on year to year basis. GP fund is a pension fund which is saved, invested and given back to the employee. Since the govt. can't confiscate the fund account of any employee so its payment is confirmed. If GPF status is like *Bai Mudarabah* so the rules of *Bai Mudarbah* also oblige the person to pay zakat on year to year basis.

On the whole the hypotheses of the study are accepted that the level of unawareness about zakat on GPF is high in the study area whereas the Shariah rules for zakat on pension funds are easy to understand and implement.

The above discussion reveals that there is no difficulty in understanding Shariah rules about the matter but the fact is that the status of GP fund is not clearly defined as to whether it is an investable money which is kept by the government, *Bai Mudarbah* in which partners participate in investment or a money which is given to someone else (the govt.) to keep up to a certain period like a loan. Since either of the category is not properly mentioned so rest of the rules of each category are clearly violated. The govt. and the employee give it one form and then the other according to their dynamic vested interests. The

government should clearly declare it as an investment fund which bears returns. The government should make it sure that the fund amount is invested in Halal businesses. Zakat on year to year basis should be paid and excuses that might work under the foreign occupation and under non-Muslim govt. should be avoided. Ulema should not consider only one aspect of the fund but analyze the full status quo of the fund from its deduction to its investment and the conditions related to its return in the light of Shariah principles. In individual capacity the employee should give zakat on year to year basis after reaching to Nisaab because leaving everything to government is not the solution, one would be accountable before Allah not just according to the knowledge but to the “level of knowledge” with which one is blessed.

Conclusion

Although the economic world is difficult to understand by a large segment of the society but the Shariah rules are simple to understand and easy to adopt. It is the duty of every Muslim to give time to his financial matters to check them under Shariah rules so that to save him from forbidden transactions and to pay the compulsory obligations. We would be accountable not just according to the knowledge but the level of knowledge given by God. We should not follow the verdicts blindly but should make a sincere effort to get the required information about our day to day as well as future financial dealings so that not only we would be prosperous in this world but in the hereafter too.

End Notes

¹ Nisaab is the limit of different kinds of wealth up to which Zakat is payable.

Less than that limit there is no Zakat.

² Interview conducted from Both Raees and Naaib Raees at Darul Ifta, Jaamia Usmania, Peshawar, 28th March, 2009.

³ Both Muftis studied at Darul Uloom Haqaniya, Akora Khattak and are teaching at Jamia Usmania, Peshawar, 2nd February 2009.

⁴ He studied at Darul Uloom Deov Band and teaching at Speen Jumaat, Peshawar, 28th Feb. 2009.

⁵ He studied at Jaamia Imdad-ul- Uloom Peshawar. He is teaching at the same institute, 18th Feb. 2009.

⁶ He studied at Jaamia-tul- Azhar (Egypt) and teaching at Markaz Darul-Uloom Islamia, Rahat Abad Peshawar, 2nd Feb. 2009.

⁷ Dr. Naheed Ali is Professor at the Department of Zoology, UOP. She was a member of National Commission on Status of Women and was Chairperson of the department.

⁸ Presently he is the Treasurer, UOP. He also served as Director, Planning and Development Department, UOP.

⁹ He is Principal, Quaid-e-Azam College of Commerce, UOP. and member Shariha Supervisory Committee, Bank of Khyber since 2005.

¹⁰ He is Lecturer at Islamiyat Dept. University of Peshawar. He did specialization in Islamic Jurisprudence from Jamia Binori Town, Karachi.

¹¹ He has done PhD from Al-Azhar University, Cairo (Egypt) and teaching at Shaykh Zayed Islamic Centre, University of Peshawar.

¹² Director, Shaykh Zayed Islamic Centre, University of Peshawar. He is a member of the Shariah Board, Bank of Khyber.

¹³ Professor Dr. Bushra Hamid is teaching Business Management and Finance at the Institute Of Management Studies, University of Peshawar.

¹⁴ Dr. Nasreen Ghufraan is Associate Professor at the Department of International Relations, University of Peshawar.

¹⁵ See General Provident Investment Fund Balance Sheet, Government of NWFP (2009)

¹⁶ See sections 12 and 13 of Government of NWFP, General Provident Fund Rules, 2008.

¹⁷ Hazrat Umer (RZ), Jabbir Bin Abdullah, Hasan Basri etc.

¹⁸ Hazrat Ali (RZ), Hunfia etc.

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