

Benefit in Kind: Should It Be Exempted from Zakat?

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Abstract

In general, emoluments, allowances and all forms of income related to employment are considered as employment income zakat in Malaysia. However, based on the practice of zakat institutions in Malaysia, not all that is received in relation to employment is liable for mandatory zakat, including all forms of benefit in kind (BIK). On the other hand, in terms of taxation practice, all benefits in kind received by an employee are taxable by Inland Revenue Board of Malaysia (LHDN), except for benefits listed in Paragraph 9. BIK refers to benefits given to employees, which cannot be convertible into money, such as motorcar and household furnishings, apparatus and appliances. It is worth noting that the discussion on the imposition of zakat on benefits in kind has not been given enough thought and justifiably raises questions. Therefore, in this study, three central questions have been raised with regards to BIK and zakat in Malaysia. Should BIK be considered under the category of “whatever received related to employment”? Why BIK should be subjected to employment income zakat? How BIK can be charged under the context of employment zakat? Based on the content analysis method, this paper presented a brief review to answer these questions. In general, this study is of the opinion that BIK is zakatable and LHDN’s income tax assessment method could be adopted for employment income zakat accounting.

Keywords: employment zakat, tax, accounting, emoluments, benefit in kind

Introduction

Hawl (a period of one lunar year) is one of the issues in *fiqh* regarding employment income *zakat* that is still being discussed at national

level or even international forums (Abdullah, 2014). The condition of not fulfilling the *hawl* has been one of the factors why the Islamic

Religious Council and Malay Customs of Perak (MAIPk) not to make employment income *zakat* as mandatory¹.

The condition of fulfilling the *hawl* would be considered adequate if the mandatory property is re-categorised according to the suggestions given by Abubakar (2009). He suggested that properties that are liable for mandatory *zakat* can be divided into two categories. The first category refers to assets such as gold, silver or commercial property. The second category refers to income or products such as income from agriculture, buried treasure (*rikaz*), services or manufacturing. The first category refers to property that is liable for mandatory *zakat* when it has reached the minimum amount liable (*nisab*) and fulfilled the period of one lunar year (*hawl*). The second category refers to income that is liable for mandatory *zakat* when it has reached *nisab* only, without having to fulfil *hawl*. However, the Islamic Religion and Kelantan Customs Council (MAIK) had issued a *fatwa* contrary to what was mentioned earlier. This is evident when the *fatwa* had made income *zakat* mandatory without mentioning *hawl*. The Council of Religious Scholars of MAIK, had in a meeting on 12 September 1999, issued a *fatwa*, which read as follow:

“Income property obtained through efforts in the form of emoluments, allowances, rewards, compensations or transfer income or income obtained through professional, expert or skilled work is liable for mandatory zakat when nisab according to the mineral zakat nisab (gold or silver) or currency is fulfilled, without the condition of hawl. The zakat rate is 1/40 after deducting the most moderate daruriyyat expenditure.”

In Malaysia, employment income generally includes monthly emoluments, arrears in emoluments, and numerous allowances such as car, food and meeting allowances as well as bonuses or something that could be considered as an income related to employment (JAWHAR, 2008). However, there are slight differences in the items found in the list of

¹ This was unanimously decided during the 113th Perak State Shariah Committee Meeting held on Thursday, 22 March 1990/23 Syaaban 1410 that *al-mal al-mustafad* was liable for mandatory *zakat* when *nisab* and *hawl* are fulfilled, which is a condition that was *ittifaq* (agreed) by the *Jumhurul Ulama*'.

employment income according to each state in Malaysia. There are states that claimed employment income items in general to be the basic emolument, bonus and allowance. Pahang, for example, has detailed these items to be emoluments, bonuses, overtime claims, gratuity, compensation, pensions, gifts, awards and incentives as well as employees' share option scheme (ESOS).

Inland Revenue Board of Malaysia (LHDN) defines benefit in kind (BIK) as benefits that are not convertible into money, even though they have monetary value (LHDN, 2013). According to LHDN (2013) the phrase not convertible into money refers to “the benefit that is provided to the employee that cannot be sold, assigned or exchanged for cash either because of the employment contract or due to the nature of the benefit itself”. The BIK received by an employee could be in the form of assets such as motorcar, household furnishings, apparatus and appliances as well as other assets for entertainment or recreation. All benefits in kind received by an employee are taxable by LHDN except for benefits listed in Paragraph 9 in LHDN (2013), for instance dental; child-care; food and drink provided for free; medicine (traditional and modern) and maternity which qualifies for the exemption; and benefits used by the employee solely for performing employment duty.²

Thus in this study, three central questions have been raised with regards to benefits in kind and *zakat* in Malaysia. Should benefit in kind (BIK) be considered under the category of “whatever received related to employment”? Why BIK should be subjected to employment income *zakat*? How BIK can be charged under the context of employment *zakat*? This study attempts to answer these three questions.

Methods

This study applied content analysis method, which is based on secondary data. This study adopted exploratory approach given the argument of *zakat* on benefit in kind (BIK) in Malaysia has not yet been discussed in depth.

Findings and Discussions

The discussion of findings was divided into three sections. The first section briefly

² Refers to paragraph 9, LHDN (2013) for list of benefits that are exempt from tax.

reviewed previous studies concerning employment *zakat* as a basis for this study. The second section briefly explains about BIK and the arguments as to why BIK should be subjected to mandatory *zakat*. While the final section suggests an alternative method for employment *zakat* accounting applied on BIK by referring to LHDN's income tax assessment method as a basis.

Studies on Employment Zakat

Al-Qardawi is a contemporary religious scholar who is most vocal on the topic of mandatory employment *zakat*. Moreover, it has been said that he was the first to introduce employment *zakat* (Majid 2003). However, al-Qaradwi (1999) had stated that his religious teachers, namely Abdul Rahman Hasan, Muhammad Abu Zahrah and Abd Wahab Khallaf had previously mentioned about employment *zakat*. This idea was actually mooted by previous religious scholars such as Ibn Hazm in *al-Muhalla*, Ibn Qudamah in *al-Mughni* and Kahlani in *Subul al-Salam* (Majid, 2003).

In the context of Malaysian perspective, Dail (1978) was the earliest to discuss employment *zakat*. At that time there was no clear-cut decision from state authorities on whether employment *zakat* was mandatory. Thus, there was no initiative to explain employment *zakat* in an appropriate manner to the public. Only in 1992, the National Muzakarah Fatwa Council Committee passed a law on employment *zakat*. The 31st National Muzakarah Fatwa Council Committee for Malaysian Islamic Religious Affairs that sat on 9th December 1992 stated that Muslims could contribute *zakat* from employment income and the LHDN should give a *zakat* rebate on the amount paid.

The Special National Muzakarah Fatwa Council Committee for Malaysian Islamic Religious Affairs that sat on 22nd June 1997 then decided that employment income *zakat* was mandatory for individuals who were eligible to contribute *zakat*. The 56th National Muzakarah Fatwa Council Committee for Malaysian Islamic Religious Affairs that sat on 7th May 2003 then stated clearly that the basis for assessing employment *zakat* 1992 was based on a rate of 2.5% of the yearly gross income. As a result, the *fatwa* that made employment *zakat* mandatory had also been applied at the state level. For example, the

Sarawak State Fatwa Council Committee members on 23rd November 1996 had unanimously decided that emolument, arrears in emoluments, various allowances and other incomes related to employment after deducting necessities, payments for work done, debts and all payments that become actual payments when reaching the *nisab* is liable for mandatory *zakat*.

The Islamic Religion and Kelantan Malay Customs Council (MAIK) through the Religious Scholars council that sat on 16th March 1999 had also decided that employment income, be it a government employee, corporate body, company or commercial institution, would be liable to mandatory *zakat*. Employment income comprises basic salary as well as others that are only considered as permanent affixes and not variable affixes. *Zakat* is liable on net income after deducting emergency expenditure (*dharuriyat*), which refers to moderate necessities for the self and the immediate dependent family according to the *shariah*.

The Johor State Fatwa Committee Meeting that was held on 17th April 2000 decided that *zakat* was mandatory on employment income based on net income after deducting actual necessities for the current year. The actual necessities for the current year of subsistence for the individual self was RM8,000.00, wife was RM3,000.00 and children were RM1,000.00 each; meanwhile other dependents, health, medical and education expenditure were assessed on their actual rate and which was deemed appropriate.

The *fatwa* decisions by State Islamic Religion Council's in Malaysia were influenced by al-Qardawi. For instance, the *fatwa* from Melaka dated 22 May 2000 did mention about al-Qardawi, although at the beginning it had adduced arguments based on religious references (*nas*) according to the *al-mal al-mustafad* concept. Eventually the *fatwa* returned to the *maslahah* concept, as mentioned by Sheikh Muhammad Abu Zuhrah who questions the contribution fairness of *zakat* by officers and professionals who receive huge incomes compared to peasants who make a marginal income.

The study on employment *zakat* in Malaysia is based on two approaches. The first is the quantitative approach, which focused on the

awareness and compliance of the contributor of employment *zakat*. The second is the qualitative approach, which concentrated on the question of *fiqh* such as religious obligations, *nisab* and *hawl* associated with employment *zakat*. Some studies that using the quantitative approach observed on the awareness to pay. According to Wahid et al. (2007), the payment of emolument *zakat* was highly influenced by demographic factors as well as the payment mechanism such as payment through monthly salary deductions.

Mohd Nor et al. (2003) found that the awareness to pay for employment *zakat* among professionals in Universiti Kebangsaan Malaysia was influenced by faith (*iman*) and religious knowledge. A study carried out among the staff in Universiti Utara Malaysia (UUM) by Sanusi et al. (2005) also found that these factors played a leading role in creating awareness to pay *zakat*. The study by Bakar and Rashid (2010), which involved academicians from Universiti Islam Antarabangsa Malaysia (UIAM) also revealed similar findings. Whereas, the latest study by Azman et al. (2015) found that knowledge and facilities were among the factors that influenced the younger generation in the Klang Valley to pay employment *zakat*.

Idris (2002) carried out an in-depth study on factors that determined the payment of employment income in the state of Kedah. He mentioned the need for strict enforcement in order to increase the commitment of *zakat* contributors to pay employment *zakat*. A study by Bidin (2008) analysed the factors that determined compliant behaviour related to paying income *zakat* in Malaysia. He revealed several internal and external factors of individuals that influenced the intention to pay employment *zakat*. Among these factors were knowledge, the effectiveness on the person itself and the perception regarding the legislation on employment *zakat*. Muhammad et al. (2015), found that, for income and monthly allowance the level of compliance to pay employment *zakat* was more than 80 percent. Whereas more than 70 percent did not pay *zakat* for income related to executive programs, examining papers, research activities, expert services, arrears in salary and overtime payments.

A study based on the qualitative approach regarding religious obligation, *nisab*, *hawl* and the rate of employment *zakat*, was conducted by Dail (1978). He argued in detail regarding the basics of religious obligations related to employment *zakat*, the issue of *hawl* and the permitted cost of living. Majid (2003) debated the same issues in his book entitled 'Zakat Management'. Whereas Tarimin (1995) carried out an in-depth research on all these issues in a paper entitled 'Employment Zakat: A New Evaluation in Malaysia'. The study also reviewed arguments related to religious obligations regarding employment *zakat* that has been categorised as *al-mal al-mustafad* based on the al-Quran, Hadis, practices of the Prophet's SAAWS Companions and the application of *qiyas*.

The issue of *hawl* and the employment *zakat* rate is still being discussed in Malaysia. Mahmud and Haneef (2008) carried out a critical evaluation of these two issues from a *fiqh* perspective. Abdullah et al. (2014) had carried out a similar study entitled 'Zakat on Salary and Wages: The Unsettled Juristic Issues'. On the other hand, Hamat (2015) questioned the basis for setting the rate for employment income *zakat* at 2.5 percent and not 5 percent or even 10 percent. This is because the rate for *zakat* based on income at 5 percent, 10 percent or even 20 percent is meant for agricultural and *rikaz* income and not at 2.5 percent.

Why BIK should be subjected to mandatory *zakat*? An argument based on the employment income perspectives

Employment income, as defined by the National Fatwa Council Committee, does not elaborate on the meaning of income that is mandatory for *zakat*. The National Muzakarah Fatwa Council Committee on the 9th December 1992, the Special National Muzakarah Fatwa Council Committee on the 22nd June 1997 and the National Muzakarah Fatwa Council Committee on 7th May 2003 had only mentioned that employment *zakat* was mandatory with a rate of 2.5 percent based on the yearly gross income.

Nevertheless, the *fatwa* at the state level had clarified the meaning of employment income. For example, the Sarawak State Fatwa on the 23rd November 1996 had mentioned that

employment income includes emoluments, arrears in emoluments, a variety of allowances and other income related to employment. The religious scholars from the Islamic Religion and Kelantan Malay Customs Council (MAIK) on the 16th March 1999 had mentioned that employment income includes basic emoluments as well as others that are considered permanent affixes.

In the Zakat Assessment Manual, Department of Wakaf, Zakat and Hajj, published by the Department of Awqaf, Zakat and Hajj (JAWHAR) in 2008 had stated as follows:

“Employment income comprises monthly emoluments, arrears in emoluments, various allowances such as motorcar, food and meeting allowances as well as bonuses or something that could be considered as an income related to employment.”

The meaning of *zakat* was also explained in the website of *zakat* institutes of the various states in Malaysia. For example, Zakat Pulau Pinang stated that the meaning of employment income was similar to that mentioned in the manual published by JAWHAR. The Federal Territories Zakat Collection Centre defined employment *zakat* as that similar to other incomes such as dividends, rents, royalty payments, interest, honorariums and business profits. However, if the other incomes are dropped, then employment would mean emoluments, wages, bonuses, allowances, compensation, pension and other forms of earnings while living, retired or deceased and any type of income based on work. The Pahang Zakat Centre defined employment as all forms of income obtained by an individual from his employer because of the efforts or work done for the employer either while in service, after service or after being deceased (derived pension), emoluments, bonuses, overtime claims, gratuity, compensation, pension, gifts, awards and incentives as well as employee share option scheme (ESOS).

Generally, there is a consensus that employment income includes whatever that is received in the course of the employment. For instance, ‘*others that are considered permanent affixes only*’ (Religious Scholar from the Islamic Religion and Kelantan Malay Customs Council), ‘*other income related to employment*’ (Sarawak State Fatwa), ‘*all income received from the employer due to the employee’s efforts or work done for the employer*’ (Pahang Zakat

Centre), ‘*income related to employment*’ (Zakat Pulau Pinang), and ‘*other forms of acquisition while alive, after pensioning or after being deceased and any income based on work done*’ (Federal Territory Zakat Collection Centre). All the above definitions can be summarised as something that could be considered as income related to employment (JAWHAR 2008). In other words, whatever that is received and is related to employment is classified as income from employment.

Hence, based on this statement, BIK is part of employment income. This is because BIK is provided by the employer to the employee and is explicitly mentioned in the employment contract. The employer usually provides BIK, among others, in the form of assets such as motorcar as well as other benefits including gardener and household servant. However, BIK is provided as a benefit to be enjoyed by the employee and cannot be exchanged for money. The question is why should BIK be liable for *zakat* although the employee only enjoys the benefit and it is not in monetary form.

The question above was analysed using the three principles applied by al-Qardawi³ (1999) in his book ‘*Fiqh az-Zakat*’ when debating issues on *zakat*. Firstly, the principles adhere to generally accepted propositions in the form of evidence or proof if there are no specific propositions (general texts). He summarised this as follows:

³ Al-Qardawi (1999) proposed four principles. However, the principle of acceptance of true *ijma*’ is not been applied in analyzing MBB because it is not relevant in such case. According to him, “The agreement of all scholars of this umma, especially in the early generations, on certain issues is an obvious indication that they have based their agreement on strong *shariah* evidence, be it a text, general benefit, or a material fact”. Even though there is a consensus in certain problems among scholars, however differences of opinion are still exist. This is due to the fact that in early generations, there were many scholars who were dispersed in several countries so that it was very difficult to know their stance on certain issues”. By citing the opinion of Imam Ahmad, he argues “*Whoever claims that ijma’ on any matter ever existed is a liar, for how could he know? People may have differed without him knowing. Instead one may say, ‘To my knowledge there are no disagreements on such issue an issue’ or ‘No different opinions have been reported to me’*”.

“Qur’anic verses and the Messenger’s sayings should be received and taken as general, except when their scope narrowed by another text that is correct, authentic and clear in its meaning. In this case, the restrictions comes first”.

In reference to propositions in a general form, the al-Qur’an only mentioned ‘a part of the property’ (al-Taubah, 9: 103) or ‘properties’ (al-Dharyat, 51: 19). In a specific form, the al-Qur’an mentioned ‘property such as gold and silver’ (al-Taubah, 9: 34), ‘agriculture income’ (An’am, 6: 141) ‘income from business ventures and sale of raw minerals’ (al-Baqarah, 2: 267)”. According to Majid (2003), although the al-Qur’an had mentioned that certain property is liable for *zakat* (al-Taubah, 9: 34; An’am, 6: 141; and al-Baqarah, 2: 267) but there were no statements that restricted the general meaning found in verses 19 of Surah al-Dharyat and 103 of Surah al-Taubah. According to him, these verses only mentioned several types of property that were liable for mandatory *zakat* but it does not mean other properties are not liable for mandatory *zakat*.

The employment income would be used, among other purposes, to obtain foodstuff, clothing, accommodation and transportation. However, if it is not used to obtain all these benefits, then the employment income could be saved or invested or both. Therefore, on the generality of the statement above, it is not appropriate for the employee to receive employment income in the form of benefits that is exempted from *zakat* since employees who receive income in the form of cash pay mandatory *zakat*.

The second principle is related to the accurate and correct use of *qiyas*. Al-Qardawi (1999) mentioned that an accurate *qiyas* has a similar religious law because of the same reason (*illah*) and this is one element that has been bestowed by Allah SWT to the minds and instincts of humans. In other words, *qiyas* turns a problem that has no religious reference to a religious decree that is clearly mentioned in the al-Qur’an and Hadith because both share the same reasoning (*illah*). This is because, when there is a clear reason (*illah*) that equates the basic religious decree case with a subsidiary case, when there are no contradictions, then the *qiyas* could be performed because it is a religious reference according to the *shariah* that has no defects. On the topic of *zakat*, al-Qardawi (1999) stated that *zakat* not solely a

religious obligation as it involves the relationship amongst humans besides the relationship with Allah SWT. Al-Qardawi (1999) summarised these elements as follows:

“...it is not purely worship, for, in addition to being an act of worship, it is defined right of the poor, an established tax, and an ingredient of the social and economic systems of the society. The reasons for enacting zakat are, in general, known and clear. Why should we not then use analogy in zakat?”

The application of *qiyas* is greatly influenced by current situations and local factors. Moreover, deciding on the characteristics that are accepted as a reason (*illah*) for applying *qiyas* is greatly influenced by contemporary and local concepts. Hence, one characteristic that is presumed by a society to be relevant to a religious decree might be presumed otherwise by another society. This situation also applies to the question on *zakat* (Majid 2000).

Zakat is mandatory on a Muslim when he is categorised as being rich. Imam Bukhari reported that the Prophet SAAWS when commissioning Muadh b. Jabal to Yemen, he advised him as follows:

“You are going to a nation from the people of the scripture, so let the first thing to which you will invite them, be the tauhid of Allah. If they learn that, tell them that Allah has enjoined on them, five prayers to be offered in one day and one night. And if they pray, tell them that Allah has enjoined on them zakat of their properties and it is to be taken from the rich among them and given to the poor. And if they agree to that, then take from them zakat but avoid the best property of the people.” (al-Bukhari, No. 469).

One’s wealth could consist of, first, in the form of assets comprising land, buildings, factories or financial assets such as shares or other financial instruments. All these wealth are measured in terms of money, which also indicate whether one is rich or poor. The employer also provides BIK to an employee as benefits, which could be valued in the form of money. This shows that both the assets and benefits share the same reason (*illah*), which must be valued in monetary form. Hence, if the employment income received in monetary form is liable for *zakat*, then it would be unreasonable if BIK, which is valued in monetary form, is not liable for *zakat*.

Third, the aspect of *al-Maqasid* (objective) and *al-Masalih* (vested interest) should also be

considered. Hence, when debating on considering these objectives and vested interests, al-Qardawi (1999) quoted the views of Syatibi, which outlined an important benchmark:

“With regard to worship, the principle is that people accept and obey without seeking explanation or reasons. As for transactions and interrelations, the principle is to look for meanings and realisation.”

The religious scholars of *fiqh* defined *maqasid al-Shariah* as a vision demanded by *Shariah* when legalising a decree related to human benefits. In other words, *maqasid al-Shariah* refers to the intentions or meaning demanded by *Shariah* through al-Quran and al-Sunnah sources. In reference to *zakat*, *maqasid al-shariah* or the main objective of *zakat* is to cleanse or purify the wealth and morals of Muslims. Allah S.W.T exhorted, meaning:

“Take zakat out of their property (amwal), and clean and cleanse them thereby and pray for them; surely your prayer is a relief (peace) to them. And Allah is All-Hearing, All-Knowing” (at-Tawbah, 9: 103).

This is because the property owned by a Muslim comprises the rights of others too, such as the *zakat* meant for the poor (*zakat asnaf*), which has a right on the owned property. As long as *zakat* has not been paid for the property, it is deemed to comprise the rights of other people and it is forbidden to be used. By paying *zakat*, the property is free from the rights of others. This is the reason why efforts to streamline *zakat* jurisprudence should be in line with the intention to ‘cleanse’ property of other’s rights. Thus, al-Qardawi (1999) stated as follows:

“If we were to reclassify issues of fiqh according to contemporary standards, we would classify zakat as part of the socio-financial systems and not under the heading of pure worship. Similarly when we talk about law, we talk about zakat as part of the financial law of the state.”

Generally, *maslahah* or public welfare/ benefit refers to characteristics that could inspire goodness or eschew humans from misfortune.⁴

⁴ Among the arguments used by the 106th National Fatwa Council Committee for Malaysian Islamic Religious Affairs Muzakarah that convened from 21 - 22 October 2014 had discussed the study on Goods and Services Tax (GST), which according to the findings, the Muzakarah were of the view that when

Hence, it is still bound to sources of religious doctrine such as the al-Qur’an and Hadis. Al-Qardawi emphasised that although concerning public welfare, he still followed the *Sunnah* of Prophet SAAWS in matters pertaining to *zakat*. Whereas, in terms of rates and *nisab*, he mentioned that:

“I disagree with those who claim that the minimum exemption and rates of zakat are subject to change according to changing circumstances in time and place, on the grounds that such changes conform to the objectives and common benefits of zakat. I believe such changes alter the features of zakat and reduce it to a mere civil tax, like other taxes imposed by governments.”

Nevertheless, if the *maqasid al-shariah* or the main objective of *zakat*, which is to cleanse or purify the wealth is considered, then BIK should also be liable for mandatory *zakat* in order to cleanse and purify the BIK. Besides that, the BIK comprises the rights of the poor (*asnaf*) that needs to be fulfilled, besides taking into consideration the public welfare factor.

Thus, considering the three principles adopted by al-Qardawi in determining if an asset or property is liable for mandatory *zakat*, BIK would rightly be liable for mandatory *zakat*. This is because income received in the form of cash would be in part or in its entirety, used to obtain benefits in the form of foodstuff, clothing, accommodation, education, health and so forth. In other words, if the employer affords all these basic needs, then whatever income in monetary form received by an employee would not be spent but rather saved or invested. However, if only the cash is liable for mandatory *zakat*, then it would be unfair to the other employees who receive all their income in the form of cash and are liable for mandatory *zakat*.

Applying Employment Zakat Accounting on BIK based on LHDN’s Income Tax Assessment Method

the government collected tax from the public it caused liability, whereby the people’s property had diminished. Hence, if tax is not collected, public welfare would be serviced by the government. Therefore, based on the *Fiqhiyyah* method, a specific liability is overcome in order to avoid a general liability; thus, allowing the government to collect taxes in order to overcome general liability.

The Inland Revenue Board of Malaysia (LHDN) through its General Circular No. 3 /2013 dated 15 March 2013 had explained BIK in detail. This circular was published with the intention of combining the General Circular No. 2/2004 dated 8 November 2004 with the First Supplementary dated 20 Mei 2005, the Second Supplementary dated 17 January 2006, the Third Supplementary dated 17 April 2009, the Fourth Supplementary dated 19 April 2010 and the Income Tax Circular 1997/2 dated 25 August 1997.

This indicates the dynamic development of BIK itself. The BIK is liable for taxes based on the provisions found in the Income Tax Act 1967 (ACP 1967). The paragraphs related to BIK are as follows:

- a) Paragraph 13(1)(b): it is provided that BIK is part of gross income from the source of employment of an employee,
- b) Subsection 32(1): to determine the amount of BIK that would be considered as gross income from employment of an employee, and
- c) Income Tax (Exemption) Order 2009.

Paragraph 13(1)(b) ACP 1967 provides that the gross income of an employee from a source of employment includes any amount that is equivalent to the value of the BIK provided to the employee by the employer for the personal pleasure of the said employee.

BIK is a privilege that cannot be exchanged for money; meaning that when the BIK is given to an employee, it cannot be sold, its rights transferred or exchanged for money. The LHDN uses two methods to determine the value of BIK that is provided by the employer for its employees. The first method referred as formula method, while the other one is also known as fixed value method. The formula method is calculated as follows:

$$\text{BIK Value for a Year} = \frac{\text{Cost of asset allocated as benefit}}{\text{Average life span of the asset}}$$

For example, an employee is given an asset in the form of a refrigerator, which costs RM2000 and has an average life span of 10 years. Based on the formula above the yearly value of the BIK in the form of a refrigerator would be RM2000/10 years. Hence, the amount of RM200 could be considered as part of the gross income of the employee and the amount must be calculated as the yearly employment income.

Under the fixed value method, LHDN uses a 'Value Schedule' as shown by Table 1. This schedule could be used as an alternative for assessing the value of BIK provided by the employer. For instance, the calculation for motorcar and petrol based on value schedule are as follows:

Table 1: The value set on motorcar and other related benefits

Cost of Motorcar (New) (RM)	Yearly Benefit Set for Motorcar (RM)	Yearly Benefit Set for Petrol (RM)
Until 50,000	1,200	600
50,001-75,000	2,400	900
75,001-100,000	3,600	1,200
100,001-150,000	5,000	1,500
150,001-200,000	7,000	1,800
200,001-250,000	9,000	2,100
250,001-350,000	15,000	2,400
350,001-500,000	21,250	2,700
500,001 and above	25,000	3,000

Source: LHDN (2013)

Referring to Table 1, if the cost of the motorcar is between RM100,000 and RM150,000, the value of the benefit for a year is RM5,000 and

the value of the benefit for petrol is RM1,500. The value of BIK based on this method could be deducted if the BIK i) Was prepared for a

period of less than a year or/and ii) Is shared with other employees.

The elements of BIK such as motorcar, petrol, driver and household furnishings, apparatus and appliances for instance, could be referred in detail in the General Prescriptions No.3/2013 dated 15th March 2013. No matter which method is being used to assess the value of the benefit, the basis for assessing the benefit (either when using a formula or a fixed assessment method) must be constantly used during the duration of allocating the benefit. These methods could be used as examples for employment income *zakat* accounting when assessing BIK.

Conclusion

In Malaysia, the discussion on the imposition of *zakat* on benefit in kind (BIK) has not been given enough thought and justifiably raises question. According to Muhammad et al. (2015), he is yet to come across literature that discusses mandatory *zakat* on BIK even though BIK is part of employment income in Malaysia. Therefore, continuous discussion is crucial based on two reasons. First, to ensure property from the rich is distributed to the poor among them (al-Bukhari, No. 478). Second, the *maqasid al-shariah* or the main objective of *zakat*, which is to purify and cleanse the riches and morality of Muslims, is realised.

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