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Regulations on Supporting the Business Zakat Implementation in Indonesia

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Abstract— **Zakat as the third pillar in Islam plays an important role in reducing poverty. Zakat is obliged in order to distribute wealth from the rich to the poor. As a result, prosperity will be generated for every citizen in a country. Many types of zakat are introduced in Islam e.g, zakat fitrah and zakat maal for the individual. Unfortunately, business zakat is still a debate among Moslem scholars. In Indonesia, business zakat is not clearly stated in the zakat act No. 23, year 2011. Until recently, business zakat is voluntarily paid by corporates. The absence of business zakat regulation in Indonesia needs to be addressed. This paper focuses on the need to establish regulations in order to apply business zakat in Indonesia. Some regulatory bodies are discussed as they play important roles in applying business zakat program i.e.: Government of Indonesia and House of representative, Indonesian Accounting Institute (IAI), Indonesia Stock Exchange (IDX), and Indonesia Ulame Council (MUI). In addition, empirical data from corporates that are indexed by ISSI or JII in Indonesia Stock Exchange are collected to provide the potency of business zakat.**

Keywords: business zakat, regulation, regulatory bodies, ISSI/JII, potency of business zakat

I. INTRODUCTION

As a religious obligation, zakat is perceived by every moslem. In addition, zakat is not merely limited to the domain of religious study, but has been broadened to social and economic issues. Zakat program may perform better wealth distribution from the rich to the poor. Moreover, it might be easier to apply zakat program in Indonesia because of the enormous population of moslem in this country. Zakat needs to be integrated in the local culture, believes and religious of indonesian. As a result, poverty can easily be reduced by applying this program.

It was seen from an empirical research that potency of zakat in Indonesia reached around 217 trillion rupiahs in 2006. Furthermore, of the total amount, potency of zakat from manufacture sector and from state owned enterprised sector reached IDR22.1 billion and IDR2.4 million respectively. The research implies that business zakat might be a potential instrument to eradicate poverty in Indonesia. Some zakat regulations have been established. However, the regulations has not covered all issues related to business zakat. In order to apply business zakat program in Indonesia some regulatory bodies need to take action.

This paper discusses the policies to address problem of business zakat implementation in Indonesia. Another target of the research is to calculate the potency of business zakat of companies listed at the ISSI/JII index.

II. LITERATURE REVIEW

A. Review on Fiqh of zakat

The holy Quran refers assets subject to zakat are rather general. It is stated in Surah At Taubah (9:103) and surah Al Baqarah (2:267). Furthermore, in the terminology of Quran and Sunnah, zakat is defined as part of wealth that must be spent in the will of Allah [1]. Yet, the view of asset subject to zakat has developed and some Moslem scholars have agreed to also oblige companies to pay zakat. A research stated that business zakat is obligatory and must obey the basic rule to exclude fixed asset from assets subject to zakat [2].

According to Yusuf Al-Qardhawi assets subject to zakat should be a growing type or should have the potential for growth [3]. Various opinions have been formulated to define what zakat-able asset actually is. Group of ulames, excellently brought to light by al Qardhawi and other contemporary jurists agree to include wages, salaries, professional incomes, shares and obligations as zakat-able assets. Considering Professor Abu Zahra, Abdur Rahman Hasan, and Khallaf, Qardawi said that shares and bonds are like trading goods; therefore they are subject to zakat [4]. Considering opinions by the contemporary scholars above, it can be concluded that corporates are subject to zakat.

Furthermore, whether or not firms are subject to zakat was actually discussed in the first muktamar in Kuwait held on the 30th of April, 1984. Scholars in the Muktamar agreed to decide corporates as subject to zakat [5]. Like a person, company is an artificial personality and has its own life, existence, duties, liabilities and obligations. Companies also have right to enter a contract, to own its own properties, to delegate authority to agents, to sue or being sued in its own name [6]. Furthermore, concept of separate patrimony (as stated in the website of http://www.simarddesrochers.ca/newsletter/the-separate-patrimony-of-a-legal-person/739) may also be considered, where shareholders, members or managers of a corporation are not personally liable for the corporation's obligation. In addition, based on the premise above, firms might be obliged

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to pay zakat even without permission from the shareholders [7].

B. Application of business zakat across countries

Several countries in the world have made business zakat compulsory i.e Saudi Arabia, Pakistan and Sudan. Moreover, in some other countries, only Islamic bank sectors implement business zakat. In most countries, zakat law is somewhat general in nature and leaves the specific regulation to be formulated by designated organization [8]. On the other hand, some countries have voluntarily practised business zakat i.e: Bahrain, United Arab Emirates, and Malaysia. It was found that the implementation of business zakat in Islamic Bank entities varied [2].

Concerning on the accounting standard, The Malaysian Accounting Standard Board (MASB) issued the Technical Release *i-1"Accounting for Zakat on Business"* which was applicable since July 2006 [9]. Hence, the implementation of business zakat in Malaysia leaves to each state. As a result, the regulation regarding to business zakat displays great diversity [8].

Meanwhile, Saudi has integrated regulation of zakat and tax by establishing Department of Zakat and Income Tax (DZIT). It is stated in the standard that every company which was classified as profit enterprise must apply the AS-013 [8].

Similar to Saudi, the government of Sudan made zakat compulsory by issuing the Zakat act no. 2001 (article. 16-1). Furthermore, Kuwaiti established law no. 46 (2006) that integrated zakat and law together [8].

Bahrain is the country that fully supports the implementation of business zakat. The accounting standard setter for Islamic Financial Institution was established in this country and established the Accounting and Auditing Organization for Islamic Financial Institution (AAOIFI). The Financial Accounting Standard (FAS No. 9) of the AAOIFI clearly explained the issue of recognition, measurement, presentation, and disclosure in regard to business zakat. Unfortunately, like IAI in Indonesia, the AAOIFI in Bahrain focuses on zakat of IFI only. In contrast, IFI is not the only industry that is subject to zakat. Every business sector might be determined as subject to zakat. Moreover, if the companies trade both sharia stocks and sharia obligations (sukuk), obliging such companies to pay zakat is somewhat relevant.

III. METHODOLOGY

This research is conducted by using literature survey as the main methodological approach. Fiqh literatures and exist policies with regard to zakat are explored. Furthermore, practices of business zakat in some countries are also discussed. Potency of business zakat is focused on companies that listed in the ISSI/JII index.

In order to calculate zakat potency of the ISSI/JII companies, the list of companies released by the National Sharia Board (DSN) was gathered from the IDX website. The financial report of those companies were then downloaded to get the number of net profit. In addition, the net profit was calculated by 2,5% to estimate zakat potency of the ISSI/JII companies.

IV. RESULT AND DISCUSSION

A. Review on business zakat's regulation in Indonesia

Considering the enormous population of Moslem in Indonesia, it is a plausible action to implement business zakat. Furthermore, some policies need to be established in order to support the implementation of business zakat in this country. Some steps have been taken by the MUI. The third congress of MUI in Padang Panjang agreed to religiously oblige firms to pay zakat.

Three regulatory bodies play important roles in order to implement business zakat in Indonesia i.e.: Government of Indonesia through the establishment of the law of business zakat, The Indonesian Accounting Institute (*Ikatan Akuntan Indonesia*, IAI) through the establishment of accounting standard in regards with business zakat, Indonesia capital market sector through the Capital Market Supervisory Agency (BAPEPAM) and the Indonesia Stock Exchange (IDX) through the establishment of regulation in stock market in regards to business zakat.

B. Concept of Integrated Regulation on business Zakat: an Alternative

According to Beik, there are two types of zakat implementation: *wajib shar'i* and *wajib siyasi. Wajib shar'i* is a religious obligation while *wajib siyasi* is legally obliged. In the later type of zakat implementation, the zakat act exists and punishment may be applied to those who neglect the obligation [10]. Among the four models of zakat regulations offered by Beik, Indonesia has applied the partial model or Model Type II. In order to implement business zakat in Indonesia, the integrated regulation concept needs to involve the regulatory bodies as stated before. Government of Indonesia may mandate companies to pay zakat by inserting a new article in the zakat act No. 23 year 2011 that obliges companies to pay zakat. However, punishment on this matter is probably not necessarily. Following Beik's view, Indonesia may stay in the model type II of zakat implementation, the partial model. In addition, business zakat might religiously be obliged by Fatwa from Moslem scholars.

Furthermore, tax regulation also needs to be taken into consideration. By integrating regulation of zakat and tax, business zakat payment might be tax deductible. As a consequence, companies have paid zakat might deduct its profit by zakat payment before calculating its tax liabilities.

Meanwhile, there are companies that trade sharia stocks in the IDX that were indexed as Jakarta Islamic Index (JII) and Indonesian Sharia Stock Index (ISSI). The IDX website also provides fatwas and regulations related to syariah capital market that have been launched by the National Sharia Board (DSN) of Indonesia Ulame Council (MUI). Such companies need to fulfil two conditions: business criteria and financial criteria. The business criteria are served based on the lawful (halal) of the business, both halal on the substance (product) and on the process. Meanwhile, the financial criteria oblige company to have not more than 45% ratio of total debt to total

assets and the ratio of non-halal income to total income is limited to 10 % only [11]. Considering the syariah effects traded in the capital market and the condition need to be fulfilled, adding philanthropy issue in the fatwa is a plausible action.

C. Estimation Of Zakat Potential by using the ISSI/JII companies

From December 2016 to May 2017, there were 335 companies and 30 companies listed at the ISSI and at the JII index respectively. However, only the ISSI companies are included in this research because the companies listed in the JII index are likely already listed in the ISSI index. Of the total 355 ISSI companies, 64 corporates are excluded either because the data were unavailable or loss occured.

By including the ISSI/JII companies as subject to zakat, the zakat potential was estimated using this formula: 2,5% x net profit. The sum of net profit was calculated at IDR983 trillion which was then multiplied by 2,5%. Finally, the potential business zakat of companies listed at the ISSI index in mid of May 2017 was calculated at IDR24 trillion. The amount of zakat potential of corporations listed at the ISSI index shows Indonesia might address the poverty problem using business zakat program.

D. Sharia accounting standard in Indonesia regarding business zakat: a critical view.

Business zakat regulation can also be viewed from the reporting issue. Reporting of business zakat in Indonesia exists in the PSAK No. 101 that has been issued by Indonesia Accountant Association (IAI). The PSAK No. 101 states that presentation of sharia entities financial report consists of 5 elements. Two of the reports are (1) statement of sources and uses of funds in the zakat and charity fund (2) statement of sources and uses of funds in the *qard* fund. The two reports reflect the entities' role as a philanthropic organization.

Unfortunately, until 2014, it was seen only 8 of ten Islamic Banks in Indonesia presented the philantrophy reports. Incompliance with the standard was likely to happen because the absence of fatwa by Moslem scholars to oblige entities to pay zakat [12]. Another possible reason is because of some gaps in the standard. The first point is seen in the statement of Conceptual Framework for the preparation and presentation of Islamic financial institutions. The last sentence of paragraph eight stated: "Conventional entities having sharia transactions do not necessary to prepare a complete set of sharia financial report but only to report sharia transactions as stated in the sharia accounting standard for conventional financial report" [13].

The statement above clearly implies that if the ISSI/JII companies are not classified as sharia entities, they do not need to present report of Statements of Sources and Uses of Zakat Funds and Qard Hasan Fund.

The next question is how a company can be classified as sharia entity? Paragraph one, the objective of the PSAK No. 1 stated that the standard is applied for sharia entities only. Furthermore, it is stated in paragraph three that sharia entities are defined as "entities having sharia transactions as its operational activities that are stated in its articles of association" [13]. Such statement reflects that a company can only be classified as sharia entity if it is stated in its articles of association. Whether or not the company trade stocks is not taken into consideration. As a consequence, the JII/ISSI companies neglect the PSAK No. 101.

The critical question is on the definition of sharia entity. It is a plausible move to evaluate the definition by broadening the criteria of sharia entity. The definition should not only look at the articles of association but also look at the type of transactions held by company.

Furthermore, critical evaluation can also be discussed on the conceptual framework of the PSAK No. 101. As stated previously that the JII/ISSI companies are companies having transactions on sharia stocks. Yet, the definition of sharia transaction is not clearly stated. On the other hand, the framework stated that sharia transactions should be conducted based on the principle of: brotherhood (*ukhuwah*), justice (*'adalah*), prosperity (*maslahah*), balance (*tawazun*), and universality (*syumuliyah*).

Furthermore, paragraph 24 of the framework stated that the balance (*tawazun*) principle essentially discusses the balance in some aspects: material and spiritual aspect, private and public aspect, financial and real aspect, business and social aspect. The last aspect implies that in doing sharia transactions, companies do not concern on business profit only but also consider philanthropy issue. In addition, the objective of the companies is not only concerning to the shareholders but also to the communities prosperity as well.

Considering the statement in paragraph 24 above, such companies have to apply the *tawazun* principle. In addition, oblige companies that trade sharia securities in the capital market to pay zakat is somewhat feasible. By implementing business zakat program, the ISSI/JII companies may share its profit to the needy. Different with tax, as stated in the Quran (At Taubah: 60) the beneficiaries of zakat fund are divided into 8 categories. As a consequence, benefits of zakat payment may be directly received by the recipient.

V. CONCLUSION

To summarize, in order to create a comprehensive regulation model concerning business zakat, some plausible actions might be taken into consideration:

1. Fatwa from moslem scholars with regard to business zakat has to be launched.
2. The zakat act No. 23, 2011 needs to be abrogated by inserting a new article that obliges companies to pay zakat. However, punishment on this matter is probably not necessarily. Following Beik's view, Indonesia may stay in the model type II of zakat implementation, the partial model. In addition, business zakat might religiously be obliged by Fatwa from Moslem scholars. In contrast, the legal aspect might stay silence in regard to punishment for those who neglect the obligation.
3. It is important to integrate business zakat regulation and tax regulation. The tax and zakat regulations must complete each other. By issuing an integrated regulation, the companies' net profit can be deducted by zakat

payment. This type of regulation results in decreasing amount of tax payment of the companies.

4. The PSAK No. 101 needs to be discussed further, especially in defining "sharia entity". Considering companies that trade sharia stocks in the capital market, namely the ISSI/JII companies, the IAI should broaden the definition. Sharia entity should not be identified from the articles of association only but also from the activities in the stock exchange. Once a company listed at the ISSI/JII index, they should have been classified as sharia entity that is liable to present sets of financial statement as stated in the PSAK No. 101. Furthermore, if the fatwa of business zakat classification has been launched by the MUI, once an entity is classified as sharia entity, they must obey the religious obligation to fulfill zakat payment.
5. In addition, the sharia accounting standard also needs to specifically discuss the issue of recognition, measurement, presentation and disclosure of business zakat. By issuing such standard, companies willing to pay business zakat might be easier to fulfill their obligation. Thus, it would not mislead the financial report users.

Through a complete set of regulations that support each other, the implementation of business zakat would be a real action in Indonesia. As a result, number of poverty might decrease because zakat beneficiaries are specific and be directly received by the needy.

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