

# Dissecting Indonesian tax policies

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## DISSECTING THE INDONESIAN TAX POLICIES THROUGH UBAID'S CONCEPTS ON TAX COLLECTION

**Abstract:** This article examined if the implementation of tax policies in Indonesia adopts the Islamic concepts or not. In doing so, the article refers to Ubaid's concepts on tax collection as advocated in the Islamic community. The main concern of the article was at exploring realities and practices during the implementation of tax policies to the Indonesian citizens, which in turns affecting the Muslim societies as well. This inquiry was explored using qualitative method, in which the socio-economics approach was used as the basis of analysis. The data was collected using interviews of reputable figures in the field of Islamic economics and tax policies. The research findings disclosed that the Indonesian tax policies have partially adopted the Ubaid's concepts on tax collection. In term of legal sources, the Indonesian tax policies have fully referred to the Indonesian tax law, and few of them have similarities with Ubaid's concepts of the tax collection.

**Keywords:** *Tax Collection, Ubaid's Concepts, Indonesian Tax Policies, Islamic Economics*

### INTRODUCTION

This article investigates if the Indonesian tax policies have to some extents based on policies stipulated by some Muslim scholars. It is important to note that Indonesia is the most populated Muslim country in the world, and thus investigating if the Indonesian government considers basing its tax policies to the Muslims' taxation system.

Some Islamic concepts of taxation have been implemented in the majority of Muslim communities, one of which is the Ubaid al-Qasim's concept. As the al-Qasim's concept has been widely used in the implementation of the taxation, it is timely to do research to explore if the Indonesian tax policies has been based on al-Qasim's concept.

Abu 'Ubaid al-Qasim bin Salam was a prominent Islamic scholar around the ninth century (the third century of the lunar year) who established the revitalization in the economic system based on the *Al-Quran* and *Hadith*. He formed the basic reform in financial and institutional policies, he was also able to provide a critical analysis and practical solutions in developing Islamic economic development, mainly which was related to public finance, so it can be implemented in the field of contemporary economic system (Bin Salam, 1988). In addition, Abu 'Ubaid wrote many popular books, one of them was quite phenomenal, known as *al-Amwal* discussing public finance (Bin Salam, 1988). This book then becomes the primary reference in this research.

In addition, Abu ‘Ubaid elaborated terms and conditions applied when collecting taxes. They were mostly dealing with discernible tax subjects and objects, effective mechanism, flexibility of time given to tax payers, including positive attitudes of tax collectors as well as appropriate tariffs property to levy a tax on. Abu ‘Ubaid said that this practice has been implemented by what Ali Bin Abi Thalib (the fourth caliph) had done; collecting goods and calculated the values of the goods had made things a lot easier to the tax payers (Bin Salam, 1988).

Regarding the concept of Abu ‘Ubaid, tax collectors assured only those from the rich or from higher income people bore the main obligation in their tax payment. Meanwhile lower income people and the poor were not obliged to pay the tax (Bin Salam, 1988). Taxes were not paid based on the standard of sources but based on the income or savings they accumulated, and counted on the annual basis. Moreover, Abu ‘Ubaid’s concept did not suggest the government to forcefully collect the tax. Back in the era of Abu ‘Ubaid, Islam treated Muslims and non-Muslims equally. The tax paid proportionally to suit the benefit to the tax payers.

In addition, Abu ‘Ubaid classified public tax receivers into three categories; *kaharj*, *jizyah*, dan *‘ushr* (the main focus of this study). The ultimate goal of the concept offered by Abu ‘Ubaid was to counteract from discrimination and intimidation that might occur in the society. Similar purpose should be considered by the Indonesian government, where there is a big gap between high and low income families. The comparison of tax collection concept of Abu ‘Ubaid and Indonesian taxation system can be viewed in the following table:

**Table 1. The comparison between Abu ‘Ubaid’s Concept and the Indonesian Taxation System**

	<b>Taxation System in Indonesia</b>	<b>Abu Ubaid al-Qasim’s Concept</b>
Definition	Tax is collected based on the Indonesian Law. The finance or tax form individual and organisation/institution are directed into the State Treasury. Tax can be forceful. Tax can be paid periodically	Taxes were collected based on what is instructed in the <i>Al-Qur’an</i> , <i>Hadith</i> , <i>Ijma’</i> and <i>Qiyas</i> . (the agreement of Islamic Scholars) Tax was based on the legal pronouncement of Islamic jurisprudence experts ( <i>Fuqaha</i> )

	or at once Tax is spent for the state expenditure	to justify additional tax, in addition to alms ( <i>zakat</i> )
Sources of Law	Man-made legal system	The concept was referred to <i>Al-Qur'an</i> , <i>Hadith</i> , <i>Ijma'</i> and <i>Qiyas</i> .
The elements of Tax	Taxes deal with income, certain incidents/events, and other based on certain circumstances. Time limits is each month and each year. Tax subjects can be individuals and organization/ companies with tax liability.	Tax objects were properties Tax objects were properties Tax subjects were liability people who had higher income than their daily necessities, importers, (' <i>ushr</i> Subjects), either Muslims and non-Muslims There were terms and conditions on the tax payment obligatory tax payment was only once in a year.
Function of Tax	Function as the state finance (budgetary), Function as an obligation or a regulation (regulated).	Function as Allocation, distribution and effective stabilization of fund
Basic standards in Tax collection	Equity and justice Law certainty Punctuality Economy or efficiency	Justice and generosity Trustworthy and beliefs Harmony Economy and welfare
Characteristics of Tax	Tax is Permanent. Tax is addressed to whole citizens without religion discrimination Tax applies for poor people particularly property tax The amount of tax is not fixed and is not terminated	Tax is temporary and Tax is collected accordingly based on religion. To separate tax collection between Muslim and non-Muslims in order to avoid double tax payment for Muslim as they had already paid the compulsory charity giving ( <i>zakat</i> ) Tax was collected to suit the required amount and can be terminated when the condition of the country was stabilized.
Type of Taxes	Income Tax (PPH) Property Tax (PBB) Value-Added Tax Customs and excises And other taxes	Alms ( <i>Zakat</i> ) which was only for Muslim- <i>kharaj</i> , <i>jizyah</i> , ' <i>ushr</i> , <i>ghanimah</i> (possession obtained during a war), and <i>nawaib</i> (during emergency

		circumstances such as in a war)
Terms and condition of collection	Tax collection has to be fair, Tax regulation is based on the Indonesian Law, Tax collection is not disruptive to economy, Tax collection should be efficient and simple	The belongings are prerequisite and the only source. Fairness in tax collection. Tax was allocated to fund the people basic necessities not for self-indulgence.
Criteria of Tax collection	There are no certain criteria set up by tax officials at taxation office. Worldly intellectual oriented without considering moral values of taxmen	Taxmen had certain criteria such as local based officers, religious, honest, knowledgeable in Islamic jurisprudence ( <i>Fiqh</i> ), smart, democratic, high self-esteem, and dare to defend the truth, orientation on life after death, professional, and gentle but firm, truthful, fair, kind and noble
The strength of the system	Indonesia taxation system uses <i>self-assessment system</i> , the success of this system largely depends on people awareness towards Indonesian taxation laws and professionalism of taxmen	Abu 'Ubaid used <i>capacity to pay concept</i> which means it observed on tax liability through field survey performed by taxmen. It also considered situation and condition of tax payers.
The weakness of the system	Loss of community trust on the government performance. Tax avoidance by people which affect to tax income	Tax payment was collected within one-year period and even payment extension was acceptable for certain circumstances such as when the tax holder was in difficult situation and not able to pay the tax.

This article discussed the concept of tax collection based on Abu 'Ubaid's perspective and classified it into several categories; first, Abu 'Ubaid's suggestion about tax payment in addition to alms (*zakat*), second is the conditions of tax tariffs regarding Abu 'Ubaid's and the third is the criteria required by tax payers as well as the supervision towards them.

### Research Method

This is a qualitative research using socio-economics approach (Fleetwood, Steve 2009; Hassan & Masudul, 2019; Al-Quradaghi, 2019) The primary data was obtained from interviewing

the prominent resources, selected from academia and professional who have outstanding understanding in the field of Islamic economics related to tax policies (Bin Salam 1988; Muhammad, 2016; Yulianti & Timorita, 2010). To support the primary data, we also reviewed literature regarding Abu 'Ubaid al-Qasim bin Salam's opinion on tax implementation in the Islamic communities (Bin Salam 1988). The secondary data were generated from books, journal, researched reports relating to tax policies.

## RESEARCH FINDING

### Abu 'Ubaid's Perspective about Additional Tax Collection besides Zakat

The state income (*mawarid ad-daulah*) at the era of the Prophet Muhammad PbuH (610-632M) and the *khulafaurrasyidin* (632-650M) was classified into three major categories; *ghanimah*, *fa'i*, and *shadaqah* or *zakat*. *Fa'i* was divided into three types namely *kharaj*, *'usyr* and *jizyah*. Besides primary income there were also secondary sources earned from non-fixed income such as *ghulul*, *kaffarat*, *luqathah*, *waqaf*, ransom, *khums/rikaz*, loan, *amwal fadhla*, *nawa'ib*, grant, and other sources (Bin Salam 1988). By implementing the above concept, the country may get surplus similar to what occurred during the golden era of Islam; the era of Caliph Umar bin Khattab (634-644 M), Caliph Umar bin Abdul Aziz (717-720 M), Caliph Harun Al-Rasyid (786-803 M) and some other Caliphs in the golden age of Islam (Yusuf, 1979; P3EI, 2008; Khoeroni, 2015). However, the responsibility of a country keeps increasing resulting in imposing tax liability today. (Chapra, 2008)

Abu 'Ubaid is known as one of the Muslim scholars who revitalizes the economic system based on the Holy Quran and the Hadith of the Prophet Muhammad (pbuh), in the form of reforming the very bases of financial policies and institutions the beginning of the third century (Cengiz, 2013). Abu 'Ubaid classified the study of taxation in terms of public finance in Islam. Abu 'Ubaid quoted in his book *al-Amwal*; "public finance means a variety of assets managed by the state". Next, he also classified public assets into two categories namely *maal mutaqawwam* (financial assets) and *maal ghayr mutaqawwam* (non-financial assets). For non-Muslims, liquors and pigs were considered *maal mutaqawwam*, but for Muslims both of them were grouped as *maal ghayr mutaqawwam*, because both of these items were forbidden for Muslims. Consequently, in corresponding to public finance the state only received *maal mutaqawwam* (Chaudhry, 2016).

Abu 'Ubaid stated that some evidences which allowed tax collections were: first *of all*, it was an order of Allah SWT. Which means; "...and gives wealth in spite of love for it" in QS. *al-Baqarah* verse 177, this verse commands Muslims to contribute their wealth besides alms. Second, it was the order of Allah SWT to give some of your wealth after harvest, in the *Quran*, QS. *al-An'am* verse 141 meaning "...and give its due (zakat) on the day of its harvest". The third is the *Hadith* of Rasulullah SAW which means, "... Indeed, there is a duty on wealth aside from Zakat" (*Hadith* narrated by Tirmidzi from Fathimah binti Qais ra.).

#### **Rules of Tax Tariffs according to Abu 'Ubaid**

When discussing the tariff's percentage of tax collection, Abu 'Ubaid touched on the importance of balancing between financial power from tax subjects, in modern finance is called "capacity to pay" and the entitlement of the tax receivers (Karim, 2004; Khoirunnisa & Ghazali, 2018). Later, he used contractual tax tariffs; the flexibility of tax tariffs in which it did not increase but could be reduced accordingly in the case of inability of paying the tax. Furthermore Abu 'Ubaid also exposed that if there was a proposal of free from debt and being witnessed by Muslims, the commercial commodity of Muslim subjects was equal to the amount of debt to be eliminated from custom and excise. On the one hand, the taxmen did not overwhelm the tax holders when collecting *kharaj*, *jizyah*, alms, on the other hand, the tax holders were also required to do their financial responsibility properly (Bin Salam, 1988; Hidayat, 2019).

In several tax cases, Abu 'Ubaid did not refer to fixed tariff determined by Caliph Umar, yet he tried to view the relevance of tax tariffs with the situational and conditional cases took place back at that time. The tariffs were quite flexible as it was correlated to many variables at the tax subjects and objects (Karim, 2004).

Obviously, Abu 'Ubaid was cautious in determining tax tariffs before doing tax collection from tax holders. From his point of view Abu 'Ubaid, set up fair tariffs to prevent from discrimination, this gradually raised the awareness of people to perform their responsibility in tax liability. This action is also considered to resolve tax evasion problem takes place today (Alstadsæter, Besley, Jensen & Persson, 2019; Bowles, 2019).

#### **The Criteria of Taxmen and the Supervision on Them**

Professional tax management will end up improving people's prosperity. In his book of *al-Amwal* by Abu 'Ubaid cited the term of *tawliyatul/wilayah* to address the above issue on management. This word originates from syllables *waw*, *lam*, and *ya* (Huda & Muti, 2011).

In the purpose of realising the regions concept (*wilayah*) as stated above, it therefore requires tax officers who are devoted in religion, honest, knowledgeable in Islamic jurisprudence (*Fiqh*), smart, open mind, and high self-dignity, divine-oriented, professional, gentle, fair and unprejudiced, firm to bad people, not judgemental, not intimidating, and well-behaved (Huda & Ahmad, 2011).

The state leader should enquire the taxmen about the fairness in deciding tax tariffs in order to minimise discrimination. Thus, they ensure that they have made right decisions which means the amount of tax people pay is lower than tax liability (Milanez, 2017; Habu, 2017). This was also a part of the way the leader did to control public wealth and assure the income reliability. It is narrated that when Caliph Umar wanted to set *jizyah*, he used to ask the people dwelling around *Sawad* about their job, and number of family members under their support (Bin Ahmad & Jaribah, 2006).

It is noticeable that the control from the state back in that era was very rigorous. Both sides of assessment were applied; the rulers observed the people and people did the reverse. Supervision is a part of huge responsibility of the government, intended to maintain the credibility of the government taxmen as well as to realise professional performance and prevent from misconducts.

#### **The Relevancy of Tax Collection Concept Based Abu ‘Ubaid’s Perspective to Indonesia Taxation System**

As a modern country, Indonesia has been changing regarding state policies and practices in corresponding to the changes in the field of socio-economy resulted from industrial revolution as well as science and technology advancement. As a consequence, the demand of fund is enormous in order to afford the state expenditure for the purpose of nation welfare (Gough, 2017). Based on the report of *Anggaran Pendapatan Belanja Negara-APBN* (the State Budget) year 2017, revealed that Indonesian tax revenues came from five main posts (Sa’adah, 2018; Emmiryzan, 2016, Sudarma, I Made & Darmayasa, 2018), as displayed from the following table. It informs the comparison of tax income realisation on APBN between 2016 and 2017 (Kemenkeu, 2017).

**Table2. Realisation of Tax Revenue State Budget (APBN) between 2016 and 2017**

Description	APBN 2016	APBN 2017
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<b>Tax Revenue</b>	<b>1.285,0</b>	<b>1.498,87</b>
Tax Income	666,2	561,3
Added-Value Tax	412,2	401,5
Property Tax	19,4	17,3
Customs and excise	143,5	157,2
Others	8,1	8,7
International Trade Tax	35,5	34,5

The above table clearly shows that there is an increase around 16,5% from 2016 to 2017. Yet, in contrast with the sources of tax objects which decrease by 18.7 % in 2017, likewise the added-value tax went down about 2.7 %, followed by property tax declined at 12 %. Conversely, tax objects on custom and excise grew up by 8.9 %, which was similar to other sources which also rose by 8 %. The shrinkage of tax revenue in 2017 was also followed by international trade tax, which reduced by 2% compared to the one in 2016. While the upsurge of tax collection in 2017 only appeared in two areas; custom and excise as well as other tax sources. State expenditure of Indonesia has been highly supported by tax revenue (Tulus, Femei & Kurniawan, 2018, Amri & Aimon, 2019). It is reflected from financial sources of state budget comes tax ratio which contributed higher.

State expenditure is intended to support the efficacy of state performance and operational activities either at the level of central or regional government. To minimise the budget deficit, Indonesia has been proposing international loans to tackle the debts which ends up paying higher interest (capitalistic approach), (Bin Armia, 2019), then the state budget is addressed for subsidiaries and infrastructures.

Abu 'Ubaid's concept can be a reference in restructuring the mechanism in tax collection in Indonesia as to improve the public welfare. The following explains the relevancy of Abu 'Ubaid's concept to Indonesian current taxation system.

### **Relevancy of the *Jizyah* Concept to Income Tax**

Income Tax is collected for wealth (*al-maal*) tax object only for those whose income above non-taxable income, but it needs revision (Gusfahmi, 2007). Regarding the tax objects, the income must distinguish Muslims and non-Muslims with tax liability. The most likely mechanism is by labelling certain codes on Taxpayer Identification Number (NPWP), for

example 82.727.519.5-101.000.1. The last number ('1') at NPWP is referred as Muslims' code and '2' for instance is as a reference for non-Muslims.

According to translation book *al-Mishbah*, in corresponding to *jizyah*, beneficiaries are concerned with upholding the trust and distributing it appropriately for the purpose of public welfare (Shihab, 2004). In the writer point of view, the book also elaborates *jizyah* collection mechanism which is similar to income tax. Every tax liability person on income tax is required to willingly declare his/her tax return each year, and pay their tax punctually on condition their income reaches taxable limit.

Furthermore, Abu 'Uбайд claimed that the prophet had accepted *jizyah* from people of Yaman, they were Arabians and also believers. In the *al-Amwal* stated that

Rasulullah wrote a letter and sent it to people of Yaman, "whosoever believes in Yahudi (Jewish) and Nasrani (Christian), they are not forced to leave their religion, but they are obliged to pay *jizyah*. For men and women who have reached maturity are also compulsory for them to pay one dinar or alternative payment with their cloth with comparable price. Whosoever has done so to y messengers, they have gained blessing of Allah and Rasulullah. Whosoever have been reluctant to and avoided the payment, thus they are the nemies of Allah and prophet/Rasulullah as well as all the believers (Bin Salam, 1988, p. 34-35). It is apparent that in *jizyah* collection there was a limit and certain condition such as; it was not allowed to collect tax from under people and no fixed tariffs that burdened the tax payers (Rantelangi & Majid, 2017). According to Abu 'Uбайд, if one of them had not been able to pay one dinar, and all surrounding people admit their inability to do so because of not having any possession, so the state leader could have written off the tax payment and granted them assistant from state treasury (Baitul Mal) (Majid, 2014, p. 107; Rokhman, 2014). Other condition of a taxman is to be gentle to tax payers. It was Urwah bin ibnuz –Zubair said that Iyadh bin Ghanam saw a group of people tortured other people when *jizyah* collection and told his companion; "verily, I heard Rasulullah spoke, "indeed Allah will give painful torment in the day of judgement to those who torture others in the world" (Majid, 20017, p.108).

Additionally, another thing to be concerned with income tax is about the collection which is not under the certain business firm or organisation but individual, because in Islam there is no compulsory to pay tax by business firms. If the firm is owned by many individuals it means the tax should be shared by all of them. Then additional tax is burden on each person on their own

name. In Islam there is no such a thing. Muslims do not pay double tax under the same source of income.

The prophet said; “there is no compulsory for Muslims to pay *jizyah*”. Abu ‘Ubaid uttered that the explanation to the *hadith* started when a non-Muslims was obliged to pay *jizyah*, he then converted into Islam at the end of the year thus the obligatory of paying *jizyah* was then terminated, which once was obliged to him (Majid, 2014, p.113). In this case, the *hadith* strengthened the point that taxation system in Islam is not overwhelming for the people (Kurniawan, 2018). It applied fairness system to suit the circumstances of the era accordingly.

### **Relevancy of Added-Value Tax**

The added-value tax (PPN) collection has been widely known in Indonesia since 1980ies as its convenience for collection. Unlike income tax which is collected at a certain period of time which may sometimes cause margin in terms of the amount of tax payment. While PPN is collected cash when the product is sold and the amount is clear. In a glance, PPN seems to be easier but in fact it affects negatively to the price and number of sales. For example, a product costs Rp.10.000,- with PPN of 10%, so the buyer will pay Rp.11.000,-. Some of buyers may not be able to afford the price and decides not to buy, which means the number of sales will be reducing (Karim, 2015).

The above elaboration illustrates that PPN put on people because of consuming particular products or using certain services. This case was not found in the concept of Abu ‘Ubaid about taxation, it means there is no evidence or proof in the *al-Qur’an*, *hadith*, *ijma’*, and *qiyas* in regards with the order of collecting tax from goods and services. In contrast to consuming forbidden goods, there are more proofs that support the fact but not in the case of taxing consuming halal goods and services stated in *al-Amwal* book. The current tariffs of PPN in Indonesia are around 10% for all taxable items of goods and services. Beside, PPN will burden people more in the areas of economy leading to instability of staple commodities products and services (Gusfahmi, 2007).

Similarly, *ushr* is considered the same as PPN in trade, but it is strictly different in terms of the system and the target of collection. The tariffs of *Ushr* (custom and excise) is around 10% for each product imported from other countries. Therefore, PPN is forbidden either in the concept of Abu ‘Ubaid or economic system in Islam (Kuran, 2018).

Criticizing the implementation of PPN, Ahmadsyah argued that:

The current tax system adopted by the Indonesian government is somewhat not fair. For example, the same tariff-based tax system for PPN (Value-Added Tax) indicates unfairness. Therefore, it is hoped that the government have to take into consideration the equality values among tax payers in all categories. As a result, the roles of tax will provide not only economic values but also the fairness ones (Ahmadsyah, 2020, p. 7).

Consequently, if PPN is included in tax objects there will be two conditions apply; *first*, PPN is not collected for public main necessities products. Products which are taxed only which not substantial and not essential for people. The products which are intended only for certain group of people. *Second*, PPN collection has to be morally accountable and accepted by law otherwise it would be considered as misuse other people belongings and it is not morally and by law acceptable. In writer's understanding, PPN collection is allowed only of it is applied to the rich particularly when they buy luxurious products or dine out in expensive restaurants.

#### **The Relevancy of *Kharaj* Concept to Property Tax**

The property tax is a type of tax collected for land and property owed used by people, which is similar to *kharaj* (tax for land) (McCluskey & Franzsen, 2017); *Kharaj* was collected for occupied land (*kharajiyah*), it was a lifetime obligatory to non-believers. When the occupied land sold to a Muslim, the obligatory of paying the tax was still applied because the state of the land was still under *kharajiyah*. In the case of defeated land and the dwellers converted into Islam such as Iraq, Syam, Egypt, Libya, Aljazair, Marocco, Albania, Bosnia, and other countries in Central Asia, it applied *kharaj* concept (*the land tax*). Each citizen either Muslims or non-Muslims, who used the land was obliged to pay *kharaj* to the state. The value of the *kharaj* taken by the state was counted based on what the land had and its productivity as well as its surrounding condition (Franzsen, 2017).

Viewed from the tariffs side, the property tax collection is around 0,5% from the tax objects while *kharaj* through *masahah*, (*kharaj* collection system did not oblige the leaned to be used as a farming land, so it depended on the size of the lands as well), system was about one *Dirham* added with 26,112 kg wheat, and also by *muqasamah* (*kharaj* collected from the product from the cultivation and productivity of land), system about  $\frac{2}{5}$  if the water system was from natural irrigation. Meanwhile the tax was around  $\frac{1}{5,5}$  if it spent more money for water system. Considering that Indonesia is an agricultural country, it is very potential to manage the tax

optimally if both *masahah* and *muqasamah* are implemented. However, Indonesia is not a *kharajiyah* land, so it is only allowed to collect the zakat or '*ushr*'.

Abu 'Ubaid did not approve more tax on property and land, which was decided based on the land location. In this case, whoever was able to afford the tax, they could control the land in one particular area, while those who were not able to pay the tax had to move out of the land. Abu 'Ubaid pointed out that in Islamic economic system, they acknowledged *kharaj* as tax for land productivity. This was completely different from property and land tax (PBB) which uses only one variable and ignores other variables. The value of *kharaj* tariffs was calculated based on three variables; the fertility of the soil, types of plants grew (including the estimation of the quantity and the sale commodity of the plants), and the last was the distance of the land from irrigation system. So, one land could have different *kharaj* tariffs from another one (Karim, 2015).

In Indonesia, *kharaj* is not quite popular, the country applies land and property tax (PBB) instead. But, *kharaj* and PBB have substantial difference. In *kharaj*, tax was collected by looking at land fertility factor and type of plants produced as well as irrigation system. Meanwhile, in PBB, these elements are not considered. Each building and land is taxed annually (Karim, 2015).

#### **Relevancy of '*Ushr* Concept to Customs and Excises**

Customs and excises collection is nearly the same as '*ushr*' in Islamic taxation. '*ushr*' is tax collection on imported products or domestic products. In regards with this matter, Abu 'Ubaid implemented taxation system run by Umar bin Khattab who applied trade taxes for Muslims originated from other non-Muslim countries (foreign traders), (Ismail, 2015) at Muslims need to pay '*ushr*' tax as well if they bring products from non-Muslim countries. In every 40 dirhams, they had to pay for one dirham (Bin Salam, 1988).

One of the benefits from '*ushr*' collection (customs and excises) at that era was there were no double taxes. The government collected '*ushr*' taxes only once in a year, there was prohibition of paying double tax on '*ushr*' before the end of the year. The prohibition also applied on foreign traders and brought new products as well as products that did not reach *ushr* tax liability. The principle of '*ushr*' to remove double tax existed in convention system of taxation, where traders paid '*ushr*' tax twice for the same products in the same year. This overloaded people with the tax and impeded them in trading activity expansion, the price increase which ended up in burdening customers with over priced products (Al-Haritsi, 2006).

The collection customs and excises in Indonesia is not only a country income but as the controller for import flow both on consumers' products and domestic industrial needs products. Therefore, this collection is not merely to support country income but also as the facilitator. Meanwhile, excises collection function as a controller to limit the amount people consuming on particular products (UU No.39, 2007). According to Abu'Ubaid customs and excises collection was essential in public policy. It was as an important source of state income. Therefore, Abu 'Ubaid discussed this topic in one particular chapter in his book *al-amwal*.

It is acknowledged that Abu 'Ubaid had invented a theory of international trading far before this theory was proposed by western economists. The philosophy of Abu 'Ubaid on export and import was divided into three areas; unavailability of zero tariffs in international trade, lower excises on staple food, and certain limit for customs and excises tax liability. It will be discussed in more detail in the following;

*Firstly* is a stipulation in international trade. In his book *Al Amwal*, Abu 'Ubaid elaborated that in the era of his leadership, Umar bin Khattab instructed his taxmen to collect excises of imported products only from *harbi* non-believers (Jewish and Christian) around 10%, *ahli dzimmah* traders (non-believers who had made peace treaty with Muslims) by 5 %, while from Muslims they were asked to pay zakat of *'ushur* (2.5%). Abu 'Ubaid quoted that Ziyad bin Hudhair (a taxman) told Umar "we did not use to collect *'ushr* from Muslims and *dzimmi* non-believers", Umar asked "so whom that you took the *'ushr* from?" Ziyad replied "the traders from *harbi* non-believers, like what they did, they took *'ushr* from us when we were trading into their country". It is clear that the collection of *'ushr* did not result in *double tax* as there was a special term and condition that those who had paid *kharaj* and zakat was written off their *'ushr tax*. The *Fiqh* scholars had made a consensus (*ijma'*) to allow *'ushr* collection from Jewish and Christian (*harbi non-believers*) either when they entered the country while trading or exited the country bringing some sales products (Ghozali, 2013; Ridlo, 2013, & Prastyaningsih, 2018).

Currently, conventional economists set up that there is no *tariff barrier* allowed in a country. In another word, entry tariff is zero per cent. But, in Islamic concept free entry for international trade did not exist although Muslim traders still needed to pay duty fee as elaborated above. Thus, there was not in practice that products from other countries could simply freely enter another country without fee (duty). Free trade may bring negative effect if the government is not wise and smart in managing and controlling it. Abu 'Ubaid proposed the same

argument as Abu Yusuf concerning regular control and supervision to foreign traders in order to prevent intervention and market monopoly in the country. If it happens there will be a threat for local traders which may result in economy instability.

*Secondly*, customs and excises on staple food products. Some of Iraq Islamic scholar argued excises was taxed more on long lasting possessions such as gold, silver, properties, and other similar products. Meanwhile, when *ahlidzimmah* entered the Muslim countries bringing fruits and other similar short-lasting products, they were not required to pay customs and excises (Bin Salam, 1988). However, during his leadership era, Umar ibn Khattab had decided lower tariff collection for excises on food. Furthermore, it was readjusted by Umar bin Abdul Aziz during his leadership era to suit with the condition of is people at that time.

Customs and excises collection on staple food which was intended for daily basis was only taxed about 5 % (much cheaper). It had purpose to assuage the traders in trading their products and to keep the goods prices stable.

*Finally*, tariffs limit in customs and excises collection. Customs and excises tax do not apply for all products. There are certain limitations in which it is below the tax liability it will not be taxed. One Islamic scholar of Iraq, Sufyan wrote off the tax payment on customs and excises of *ahli dzimmah* when the tax value was below 100 Dirham. Abu 'Ubaid stated that 100 dirhams was the lowest standard in customs and excises collection on imported possessions of *ahli dzimmah* and *harbi non-believers*. Later on, if *ahli dzimmah* claimed "I have an obligatory to pay tax" or he said, "...these possessions are not mine" it means he vowed in front of the taxmen to strengthen his argument then the utterances were accepted. Regarding this, the taxman was no right to collect the tax form the possessions he brought (Bin Salam, 1988). Apparently, there is a very clear explanation on '*ushr*' tax limit collection so it could prevent form misinterpretation and scepticism either from taxmen or tax payers.

The implementation of taxation policy in Indonesia where the people are more heterogenic and plural can be a relevant alternative if it runs appropriately based on justness and through as the basic principles (wealth-based principle). Thus, Wahid insisted that:

The Indonesian government must re-consider to the current tax regulation implemented in Indonesia, regarding to a double-burden tax in particular. It is known that Muslims is a majority in the country, in which they are obliged towards the two types of payments, viz. tax and zakat. Thus, not only is tax but also zakat is a duty for the Muslims of the country. The Indonesian

government should issue reasonable regulations and policies towards the tax system in the country (Wahid, 2020, p.10).

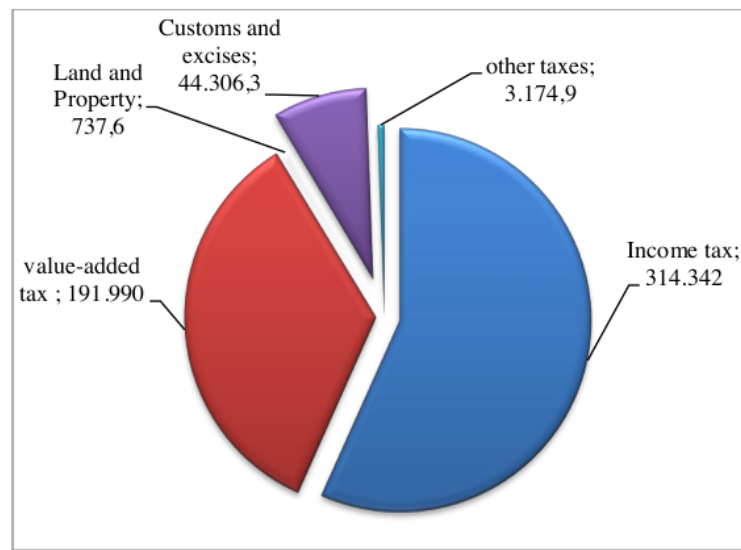
Abu 'Ubaid emphasised on the justness which was the most important pillar in Islamic economy (Ahmad, 2014; Chusna, 2019). According to Abu 'Ubaid, the wealth distribution will be fair and equitable if it is undertaken based on *the* principles of good fiscal justice and perfect as possible (Khairunnisa, 2018). When all Muslims unite and work in harmony with other people across different faiths to build the nation through taxation management and zakat optimally, it can be assured that any economic related social problems such as poverty, unemployment, and many other problems can be eradicated. As a consequence, the optimisation of wealth potentials through taxation seems to be a better alternative resolution if it is run properly and will achieve the welfare of people here in the world and the hereafter.

#### **Relevancy of State Income in the Era of Abu 'Ubaid to Other taxes in Indonesia**

When Abu 'Ubaid was as a *qadi* (judge) during the ruling era of Caliph Harun Al-Rashid, public finance policy had been implemented comprehensively. The state income was increasing steadily and reached *surplus*, in addition to tax revenue as explained above, there were few other sources in the forms of compulsory tax and voluntary collection such as zakat, tributes, fine, *amwal fadhila*, *nawaib*, *waqaf* (endowment by Muslim) and *sadaqah* (voluntary offering) (Echchabi, 2018).

Meanwhile in Indonesia, there are many other collections, which is collected in on post of 'other tax revenue' such as from stamps, sales tax on luxury goods, <sup>4</sup> Acquisition Duty of Right on Land and Building, local taxes and retributions (tax on vehicles, tax on hotels, billboards, entertainment, and other)-( [www.pajak.go.id/content/belajar-pajak](http://www.pajak.go.id/content/belajar-pajak),2018). The realisation of other tax revenue by terms 1 2017, reached Rp3.174.90 billion. But the revenue decreased by 20.5 per cent compared to previous year. Tax revenue from land and property was considerably lower, just as displayed in the following:





Source retrieved from [www.kemenkeu.go.id](http://www.kemenkeu.go.id)

**Figure 1. The Realisation of tax revenue in 2017  
(in billion rupiah)**

The government assessed that tax decrease on land and property post was caused by instability of economy (Kemenkeu, 2017). Yet, when it is compared with other tax collection post which lasted during the era of Abu 'Ubaid strongly emphasised on purpose of collection; which was to eliminate the impoverishment in the society. The taxes were also addressed to higher income society. The tariff of the tax was proportional, payment system was convenient, and taxmen were reliable and trustworthy. Therefore, people who held tax liability did not reluctant in paying taxes, and they did not manipulate in tax payment. Responding this fact, Khalidin stated that:

The tax system is an Islamic-based economic instrument, which is more flexible than zakat. However, either tax or zakat is the most essential tool towards economic growth and stability. Thus, zakat is a rigid instrument which means that both its sources and distribution objects are definite, to which are ruled in the Holy Quran and the Hadith. Nobody is allowed to interpret to other ones, let alone to contradict with such the both holy sources of Islam. Nevertheless, tax is more flexible where its existence depends upon the circumstances as well as places as long as they are still under the *Maqashid Shariah* (Khalidin, 2020, p. 20).

Considering the proportional tax tariffs based on Abu 'Ubaid, taxation policy in Indonesia applied progressive tax. (Progressive tax is tax collection tariff with increasing percentage correlated with the amount tax payers' income, and the percentage of the increase is around 10%

for the first 1000, 12% for the second thousand, 14% for the third thousand etc). It is only run-in income tax and vehicles tax. Income tax is an instrument used to overcome the distribution gap between higher income and lower income people. Meanwhile, tax on vehicles is directed to reduce traffic in cities. It authorises local government to set progressive tax to vehicle owners. (<http://www.pajak.go.id/content/pajak>, 2018). Both proportional tax and progressive tax systems have similarities in terms of goals; both aim at restoring the stability and recovering the disparity. However, both differ from tax objects and subjects. Progressive tax collected from all level of people, and some time lower income people pay progressive tax. Nevertheless, the tax then is spent on state expenditure in which the facilities are also used by the rich. It is highly different from tax collection in the concept of Abu 'Ubaid in which tariffs were decided based on type of taxes, objects, and subjects as well as distribution which was systematic and reached the right targets.

## CONCLUSION

The concept of tax collection based on Abu 'Ubaid perspective which distinguished tax subjects based on religion (Muslims and non-Muslims) by considering uniformity, justness, and honesty when estimating and deciding the tariffs for tax collection. Furthermore, regulation and taxation law were consistent on the target of collection which was to reach the prosperity of the people and was not against the Islamic law. There are relevancies between the Indonesia taxation current systems, focusing on types of tax revenue to tax collection conceptualized by Abu 'Ubaid with tax revenue posts in Indonesia. Those relevancies consist of; *firstly* is relevancy of *jizyah* to income tax. Income tax can be collected because its object is wealth (*al-maal*), people who have more income above non-taxable (PTKP) for their tax liability

*Secondly* is value-added tax Collection System was not found in Abu 'Ubaid theory, it means, there was no evidence either in the al-Qur'an, hadith, *ijma'*, or *qiyas* which instructed to collect tax on goods and services consumed by people. *Thirdly* is that in the perspective of Abu 'Ubaid, the *kharaj* tariff was determined by three variables; characteristics of land fertility, types of plants on the land, and the distance of the land with irrigation system. Therefore, the *kharaj* tariff was fair and could not be permanent. It is different from land and property tax which uses only one variable; the size of land. But it is important to remember that *kharja*, land and property tax (PBB) are largely different particularly in terms of the mechanism of tax collection and the standard of law used. Observed from the *kharaj* context, it is not applicable in Indonesia,

because the land of the country is not typically *kharajiyah*, according to the Abu 'Ubaid's Tax concepts. But there is a relevancy of PBB to tax objects and tax tariff requirement.

Lastly is that in the concept of Abu 'Ubaid, the government is allowed to collect customs and excises ("ushr) once a year and it was prohibited to collect double tax in one year. It was also not allowed to collect 'ushr tax from people whose products were under tax liability. The basic principle of 'ushr terminated double tax system exists in conventional taxation system. Thus, the concept of tax collection based on Abu 'Ubaid's perspective can be the foundation of revitalizing and improving Indonesia taxation system in order to realize public welfare.

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