



**Strengthening Zakat Rules in Indonesia: A Legal Study
of the Law on Government of Aceh**

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Abstract: Aceh is a province with special authority under the Law Number 11 of 2006 on the Government of Aceh (*Undang-Undang Pemerintahan Aceh/UUPA*). The special authority is mentioned, among other regulations, in Article 180, which makes zakat the source of original income of the Aceh Region and the district or city. This study is a normative juridical research, that is, a study that analyses the regulations of laws that set law as a system of norms. The data collection technique used in this research is a literature studies of laws and regulations. This study concludes that zakat management in Aceh is regulated based on the UUPA of 2006. Baitul Mal Aceh and Baitul Mal districts or cities manage the institutions that regulate it. In addition, this legal regulation also explains that the amount of zakat paid is a deductible expense from the taxpayer's income tax liability. However, the existence of zakat, as stipulated in a number of UUPA articles, has not been implemented as expected. The absence of government regulations governing the implementation of taxes as a deductible factor for the amount of income tax payable is one of the reasons for not implementing Article 192. This government regulation is an essential factor towards strengthening the law on the Government of Aceh as part of the Helsinki Memorandum of Understanding mandate. The principle of *lex specialis derogate lex generalis* must be used as a legal argument in order to encourage the implementation of these regulations. Since Aceh is a region with special autonomy, the application of its law must also be handled specifically.

Keywords: Law, regulation of zakat, strengthening, Aceh government

|| Submitted: July 01, 2022 || Accepted: March 29, 2023 || Published: March 31, 2023

Abstrak: Aceh merupakan provinsi yang diberikan kewenangan khusus berdasarkan Undang-Undang Nomor 11 Tahun 2006 tentang Pemerintah Aceh (UUPA). Kewenangan khusus tersebut antara lain terdapat pada Pasal 180 yang menjadikan zakat sebagai sumber Pendapatan Asli Daerah Aceh dan kabupaten/kota. Kajian ini merupakan kajian yuridis normatif, yaitu penelitian yang melakukan analisis terhadap peraturan perundang-undangan meletakkan hukum sebagai sistem norma. Teknik pengumpulan data adalah kajian literatur terhadap aturan perundang-undangan. Penelitian ini menyimpulkan bahwa pengaturan zakat di Aceh diatur berdasarkan UUPA 2006. Lembaga yang mengaturnya dikelola oleh badan khusus yaitu Baitul Mal Aceh dan Baitul Mal kabupaten/kota. Selain itu, aturan hukum ini juga menjelaskan bahwa zakat yang dibayar menjadi faktor pengurang terhadap jumlah pajak penghasilan terutang dari wajib pajak. Meski demikian, keberadaan zakat sebagaimana yang ada dalam beberapa pasal UUPA tersebut, belum mampu dijalankan sesuai harapan. Penyebab tidak terlaksananya Pasal 192 antara lain karena terkendala belum adanya regulasi peraturan pemerintah yang mengatur pelaksanaan pajak sebagai faktor pengurang terhadap jumlah pajak penghasilan terutang. Peraturan pemerintah tersebut menjadi faktor penting dalam terwujudnya penguatan Undang-Undang Pemerintah Aceh sebagai bagian dari amanat Memorandum of Understanding Helsinki. Untuk mendorong aturan tersebut dapat terwujud maka penerapan asas *lex specialis derogate lex generalis* sebagai argumen hukum, yaitu Aceh sebagai daerah yang memiliki otonomi khusus, karena itu penerapan hukumnya juga harus diperlakukan secara khusus.

Kata Kunci: Undang-Undang, pengaturan zakat, penguatan, pemerintahan Aceh

Introduction

Aceh is one of the provinces granted special authority as regulated in Law Number 11 of 2006 concerning the Government of Aceh (hereinafter referred to as UUPA). One of these specificities is regulated in Article 125 paragraph (1) which mentions the Islamic Shari'ah that is practiced in Aceh, namely *aqidah*, *syar'iyah*, and *akhlak* (morals). In addition, paragraph (2) states that the Islamic Shari'ah referred to in paragraph (1) includes the areas of worship, *ahwāl al-syakhshīyah*, *mu'āmalah*, *jināyah*, *qaḍa'*, *tarbīyah*, *da'wah*, and *syi'ār*, as well as the defense of Islam. Furthermore, paragraph (3) mentions that the provisions referred to in paragraph (1) regarding the implementation of Islamic Shari'ah are further regulated in the Aceh Qanun.¹

¹Law Number 44 of 1999 on the Privileges of the Province of the Special Region of Aceh and Act Number 11 of 2006 on the Government of Aceh. Arskal Salim, *Challenging the*

One of the implementations of Islamic civil law relates to the management of zakat, which is under the authority of the local government. Zakat can be counted as a local source of income (*Pendapatan Asli Daerah/PAD*) and used to reduce income tax (*Pajak Penghasilan/PPH*). PPh is a tax imposed on an individual or legal entity based on income within one tax year. The PPh is a tax on a person's salary, wages, honoraria, allowances, and other forms of income from a business, job, or position, as well as services and other activities that the taxpayer received and paid monthly.²

Article 180 of the UUPA regulates zakat by stating that it is a source of original revenue for the Aceh region and its districts or cities. Zakat is a property obligation for Muslims that serves as a form of gratitude for the blessings bestowed by God, a means of drawing closer to Allah SWT, and a means of purifying himself and his wealth. Furthermore, Article 33 Paragraph (1) of the Constitution of 1945 states that the economy is based on the principle of kinship and is structured as a joint venture. In addition, in Article 33 Paragraph (4) it is stated that the national economy shall be organised based on economic democracy upholding the principles of togetherness, efficiency of justice, sustainability, environmental awareness, independence, and maintaining a balance between progress and national economic unity.³ This is in line with the purpose of zakat in Islamic law, which is to clean up the wealth and assist the underprivileged.

Zakat assets will be blessed, grow, and improve, as well as holy and beneficial. In addition to its spiritual value, zakat has socioeconomic dimensions.⁴ In an Islamic state, zakat is also an important component of fiscal policy. This element represents a Muslim community that cares for one another and assists the poor and vulnerable.⁵ Meanwhile, by considering zakat as a

Secular State: The Islamization of law Modern Indonesia, (Honolulu: University of Hawai'i Press, 2008). Abidin Nurdin, et.al., "The Implementation of Meunasah-based Sharia in Aceh: A Social Capital and Islamic Law Perspective," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 5, No. 2 (2021).

²Law of the Republic of Indonesia Number 36 of 2008 on the Fourth Amendment to Law Number 7 of 1983 on Income Tax. Mahdi Syahbandir, et.al., "State and Islamic Law: A Study of Legal Policy on Zakat as a Tax Deduction in Aceh," *Ahkam: Jurnal Ilmu Syariah* 22, No. 1 (2021).

³Faisal, "Prinsip-Prinsip Perjanjian Muamalat Dalam Hukum Perbankan Syariah Di Indonesia," *Reusam: Jurnal Ilmu Hukum* 3, No. 1 (2015), p. 1-19.

⁴Kumara Adji Kusuma & Muhamad Nafik Hadi Ryandono, "Zakah Index: Islamic Economics' Welfare Measurement," *Indonesian Journal of Islam and Muslim Societies* 6, No. 2 (2016). Nur Fitry Latief and Nur Shadiq Sandimula, "How Accountable is Zakat Management in Indonesia? An Evidence from Baznas of North Sulawesi," *Share: Jurnal Ekonomi dan Keuangan Islam* 11, No. 1 (2022), p. 42-60.

⁵Abdo Yousef Qaid Saada and Alya Mubarak Al-Foorib, "Zakat and Tax: A Comparative Study in Malaysia," *International Journal of Innovation, Creativity and Change*

system for wealth distribution from the rich to the needy, zakat can be one of the most effective systems for eradicating poverty.⁶

In general, the distribution of zakat is divided into two categories: first, zakat assets, also known as zakat *māl* (wealth), which refers to zakat issued on assets owned by an individual or institution in accordance with *syara'* law. The second type of zakat is zakat *nafs*, also known as zakat *al-fitr*, which is issued following the end of the Ramadhan fasting period.⁷ Az-Zarqani elucidated that zakat is comprised of pillars and conditions. The pillars of zakat are sincerity and the one-year age requirement for stored assets. Certain individuals are obligated to pay zakat and face legal penalties for failing to do so, regardless of their obligations in this world, as well as the chance to purify their wealth and earn rewards in the hereafter.⁸ When zakat is connected to taxes, it can be considered the foundation of the Muslim tax system. The fact that zakat is one of the most important religious obligations strengthens this argument.⁹

Zakat and taxes are two obligations that each Acehnese citizen owes to their country (local government), which must be implemented. The simultaneous occurrence of these two requirements, namely tax payment and zakat, creates challenges for every Muslim taxpayer. On one hand, Muslims are obliged to pay zakat which is a Shari'ah order and is one of the pillars of Islam that is directly recommended by Allah SWT through the Qur'an and al-Hadith. In addition, zakat is a requirement of the UUPA and Qanun Aceh Number 10 of 2018 concerning the Baitul Mal. On the other hand, as a good citizen, the taxpayer must carry out the obligation to pay taxes as a form of obligation for a citizen towards his country.

The legal foundation for income tax is Law Number 7 of 1983, and the law has been modified consecutively, beginning with Law Number 7 of 1991, followed by Law Number 10 of 1994, Law Number 17 of 2000, and finally Law Number 36 of 2008. Article 180 Paragraph (1) of the UUPA states that zakat is used as a source of local and district or city revenue, whose management is carried out by Baitul Mal Aceh. In addition, Article 192 UUPA states that "Zakat paid is a deduction factor from the taxpayer's income tax liability." The

10, No. 2 (2020). Nurcahaya, "Urgensi Zakat dan Dampaknya Terhadap Pemerataan Pendapatan masyarakat," *Jurnal Tazkiya* 5, No. 1 (2016).

⁶ Nazamul Hoque, et. al., "Poverty Alleviation by Zakah in A Transitional Economy: A Small Business Entrepreneurial Framework," *Journal of Global Entrepreneurship Research* 5, No. 7 (2015).

⁷ Fuadi, *Zakat Dalam Sistem Hukum Pemerintahan Aceh*, Yogyakarta: Deepublish, 2016, p. 28.

⁸ Hamdani dan Jumadiyah, *Diktat Hukum Ekonomi Islam*, Lhokseumawe: Unimal Press, 2015, p. 57.

⁹ Ermekbayeva B. Zh, et. al., "The Role of Zakat In The Regulation of Social Equality," *Khabarshysy: Economy Series* 126, No. 4 (2018).

law regulates various kinds of specificities that are absent from other provinces, one of which is regarding zakat. The province of Aceh has received the legality of zakat as a deduction for income tax, as stipulated in Article 192 of the UUPA.

Due to their special autonomy, the inhabitants of Aceh have paid zakat through the Baitul Mal, which means they have contributed 2.5% of their income to province or district or city Regional Original Revenue (PAD). However, because there is an exception to this special autonomy, Acehnese citizens who have made zakat payments should have the right to a 2.5% reduction in their income tax compared to the national standard. Hence, the people of Aceh cannot currently receive assistance or convenience through the application of special autonomy in the sphere of zakat. These days, the 2.5% income zakat paid by *muzakkī* (zakat payers) has not been able to lower income tax, so the people of Aceh must face a double tax burden: 15% income tax and 2.5% zakat.¹⁰ Considering that zakat can be deducted from income tax, it will have a significant impact on the economy.¹¹ The purpose of both zakat and taxes, however, is the same; to assist people or protect the common interest. Despite the fact that zakat is a religious obligation, it cannot be substituted by taxes; yet, zakat can be used as justification for substituting taxes.¹²

Considering the resulting issues, this is a significant burden on the taxpaying population. In spite of the fact that, according to the applicable laws, zakat can lower PPh, in practice, taxpayers are still subject to a 15% income tax plus 2.5% zakat, which when added together equals 17.5%. Therefore, this study aims to determine the challenges and efforts involved in administering zakat as an income tax reduction, which has not yet been implemented despite being regulated by the UUPA.

This research was conducted in a normative-juridical manner, which includes the evaluation and comparison of legal regulations. In a normative juridical study, the law is viewed as a system of norms.¹³ The intended system of norms is regarding principles, norms of laws and regulations, judicial decisions, agreements, and doctrines. The legal resources utilized in the study for library research are statutory regulations. Moreover, journals and expert opinions are provided in order to facilitate systematic writing about them. This

¹⁰ Armiadi Musa, "Kontribusi Pemerintah dalam Pengelolaan Zakat di Aceh (Kontestasi Penerapan Asas *Lex Specialis* dan *Lex Generalis*)," *Media Syariah: Wahana Kajian Hukum Islam dan Pranata Sosial* 16, No. 2 (2014), p. 247-370.

¹¹ Hary Djatmiko "Re-Formulation Zakat System As Tax Reduction In Indonesia" *Indonesian Journal of Islamic And Muslim Societies*, Vol. 9, No. 1 (2019).

¹² Aripin Marpaung, "Zakat Regulation as a Reduction of Income Tax in Indonesia", *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences* 3, No. 3 (2020).

¹³ Munir Fuady, *Metode Riset Hukum: Pendekatan Teori dan Konsep* (Jakarta: Rajawali Press, 2018), p. 129.

is done so that solutions can be found for both general and particular problems. These data refer to the primary data sources, particularly the UUPA and government rules concerning the regulation of zakat and qanun in regard to the Baitul Mal as a zakat management institution. As a result, the application of zakat as a deduction from income tax (PPh) can be implemented.

The Urgency of Zakat Management in Government Regulations

Taxes and *zakat* are inextricably linked and must be governed by state institutions because these two elements can be merged into a single organisation that promotes distributive justice and economic growth in the community. From the New Order through the Reform era, zakat management in Indonesia has been subject to legal regulation to ensure its efficient operation.¹⁴ Under national legal rules, however, zakat and tax regulations cannot be mixed because they are based on distinct legal foundations.

Aceh is a region with considerable autonomy and authority in the implementation Islamic law, and among these authorities is the regulation of zakat in the Baitul Mal Institution. The rule of law that regulates it is the UUPA, which mandates that the implementation of Islamic Sharia in Aceh, which includes faith, Sharia (law), and morals, be specifically regulated through the Aceh Qanun. Nevertheless, the management of zakat requires transparency so that it is known to the public, as its primary purpose is to alleviate poverty. The conflict and tsunami, as well as the unequal distribution of income among the citizens of Aceh, have contributed to the emergence of poverty in the region. Additionally, the existence of government policies that have been unfavourable to the lower middle class (the poor) has had an impact on this. Baitul Mal is an institution authorised to collect and distribute zakat from wealthy people to the less fortunate.

As a special autonomous region, Aceh has the authority to implement Islamic Sharia. This authority is stated in Law Number 44 of 1999 concerning the Privileges of the Province of the Special Region of Aceh and Law Number 11 of 2006 regarding the Government of Aceh. Through this law, considerable autonomy was given to the Aceh government at the provincial and district/city levels.

It is of the utmost importance to administer zakat through the authorised official entity. Among other things, it is to guarantee certainty and discipline towards zakat payers (*muzakkī*); to prevent *mustahīq* (zakat recipients) from feeling inferior when receiving zakat directly from *muzakkī*; to achieve

¹⁴Farid Masdar Mas'udi, *Agama dan Keadilan: Risalah Zakat (Pajak) dalam Islam*, Jakarta: P3M, 1993. Asep Saepudin Jahar, "Bureaucratizing Sharia in Modern Indonesia: the Case of *Zakat*, *Waqf* and Family Law," *Studia Islamika* 26, No. 2 (2019), p. 207-245.

efficiency and effectiveness, as well as the right target in the use of zakat assets according to the priority scale existing in one place; to present Islamic symbols in the spirit of administering an Islamic government; to increase the effectiveness and efficiency of services in the management of zakat; and to increase the advantages of zakat to materialize social welfare and poverty alleviation.¹⁵

There are several viewpoints in relation to the primary issue in the management of zakat, namely the absence of specific procedures when zakat becomes the Regional Original Revenue (PAD Aceh and Regency/City). This provision has generated debate, hence it is necessary to address the following:¹⁶ first, the management of zakat is not based on laws or regional regulations (*qanun*), but rather on sharia provisions (Al-Qur'an and Al-Hadith); second, zakat cannot be utilized to finance government or development projects, but rather has been directed to the eight *ashnaf mustahiq*; third, the distribution of zakat does not require the approval of the regional original revenue budget (*Anggaran Pendapatan Belanja Daerah/APBD*) but must be distributed promptly after the collection of zakat; fourth, the amount of zakat distributed must be equal to the amount received and is not tied to the platform specified in the APBD; fifth, the issuance of zakat in the APBD is categorized as direct spending, which is relatively large sum, so a number of prerequisites, including auctions, the selection of partners, and other applicable administrative requirements, must be met in advance.

The government ensures that the administration of zakat is in accordance with Islamic values. The objective of the state-run zakat administration is to establish a unified system. The management of zakat is formulated in Article 1 of Law Number 23 of 2011, concerning the management of zakat, namely, the activities of planning, organizing, implementing, and supervising the collection, distribution, and utilisation of zakat.¹⁷

Baitul Mal's revenue is based on the results of collecting zakat and infaq in Aceh in 2021, specifically in 22 districts/cities totaling 9,970 Muzakki for a total of 84.43 billion, with details of zakat acquisition of 59.17 billion and infaq

¹⁵ Zulhamdi, "Urgensi Lembaga Amil Zakat dan Perkembangannya di Aceh," *Al-Muamalat: Jurnal Hukum Ekonomi Syariah* 1, No. 2 (2016).

¹⁶ Armiadi Musa, "Zakat sebagai Pendapatan Asli Daerah dalam Undang-Undang Pemerintahan Aceh," *Kanun Jurnal Ilmu Hukum* 18, No. 3 (2016), p. 403-415.

¹⁷ Ristyana Tri Hastuti and Ahmad Redi, "Pelaksanaan Penyaluran Zakat Oleh Baitul Mal Aceh Sebagai Pendapatan Asli Daerah Dalam Undang-Undang Nomor 11 Tahun 2006 Tentang Pemerintahan Aceh," *Jurnal Hukum Adigama* 1, No. 1 (2018), p. 1189-1211.

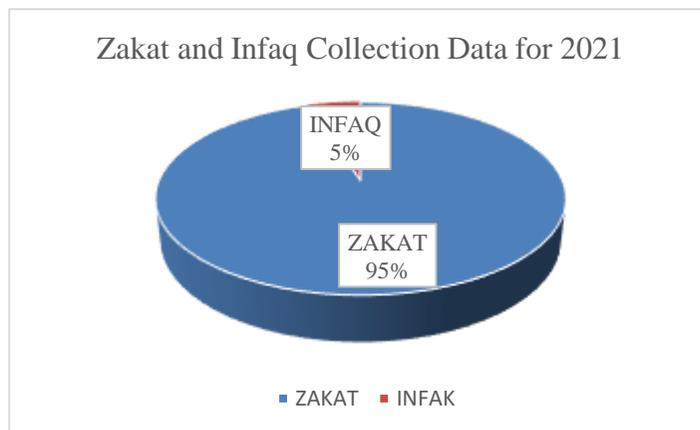
acquisition of 27.26 billion.¹⁸ The data can be presented in table form as follows:

Table 1: Results of Zakat and Infaq receipts in Aceh

No	Collection of Zakat and Infaq 2021 in Aceh		
	Region Name	Zakat	Infaq
1	Sabang	2,72 M	2,21 M
2	Banda Aceh	13,67 M	2,21 M
3	Aceh Besar	10,69 M	3,50 M
4	Aceh Jaya	3,99 M	2,01 M
5	Aceh Barat	10,34 M	1,89 M
6	Bener Meriah	6,19 M	0,49 M
7	Nagan Raya	5,82 M	1,55 M
8	Aceh Tengah	13,01 M	2,48 M
9	Simeulue	4,55 M	0,65 M
10	Aceh Barat Daya	2,60 M	1,14 M
11	Aceh Selatan	6,96 M	-
12	Aceh Singkil	1,12 M	2,12 M
13	Subulussalam	2,75 M	1,76 M
14	Aceh Tenggara	3,56 M	0,69 M
15	Gayo Luwes	4,50 M	2,00 M
16	Aceh Tamiang	8,69 M	2,42 M
17	Langsa	2,84 M	2,44 M
18	Aceh Timur	4,50 M	1,30 M
19	Aceh Utara	14,83 M	4,31 M
20	Lhokseumawe	5,36 M	1,50 M
21	Bireuen	4,54 M	6,55 M
22	Pidie Jaya	1,70 M	1,30 M
TOTAL		59,17 M	27,26 M

The above data indicates that zakat and infaq receipts in Aceh are relatively high. Even while infaq is still fairly low (only 5%) and zakat is 95%, the results will be maximised if these funds are used to promote the economic growth of Muslims, particularly those who are eligible to receive them.

¹⁸Data based on the Aceh Province Baitul Mal, *Annual Report Baitul Mal Aceh Tahun 2021*, Banda Aceh, 2021.

Diagram 1: Comparison of Zakat and Infaq Receipts

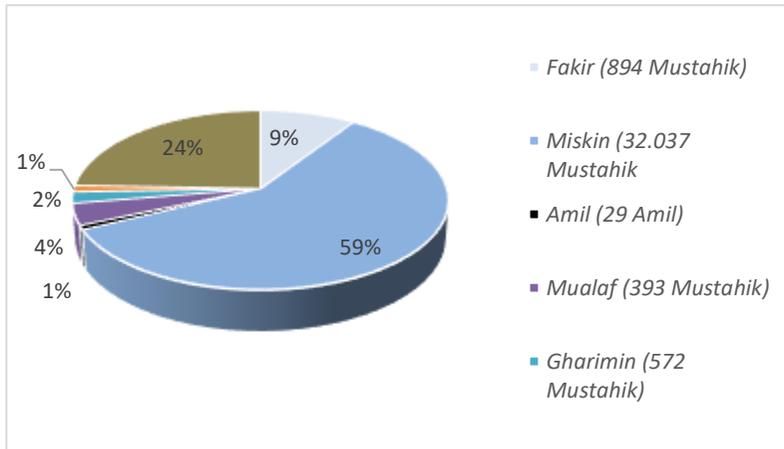
The distribution of zakat and *infaq* that has been carried out by Baitul Mal to 40,107 *mustahiq* with a predetermined *ashnaf*, namely: consisting of 894 *mustahiq indigent*, 32,037 *mustahiq poor*, 29 *'āmil*, 393 *mustahiq mu'allaf*, 572 *mustahiq gharimīn*, 171 *mustahiq fisabilillāh*, and 6,011 *mustahiq ibnu sabīl*.¹⁹

Table 2: Groups of Zakat Recipients

No.	Asnaf Type	Distribution
1	<i>Fuqara'</i> (894) recipients	Rp 8.581.000.000
2	<i>Al-Masakin</i> (32.037) recipients	Rp 54.029.854.846
3	<i>'Āmil</i> (29) recipients	Rp 709.630.350
4	<i>Mu'āllaf</i> (393) recipients	Rp 3.589.910.200
5	<i>Gharimin</i> (572) recipients	Rp 1.888.000.000
6	<i>Fisabilillāh</i> (171) recipients	Rp 1.073.965.000
7	<i>Ibnu Sabīl</i> (6.011) recipients	Rp 22.569.827.287
TOTAL		Rp 92.442.187.683

The percentage of zakat recipients is distributed among five categories - the poor (*Al-Fuqara'*), the needy (*Al-Masakin*), the *'āmil* (zakat administrator), *mu'āllaf* and *gharimīn* (the debt-ridden).

¹⁹ Data based on the Aceh Province Baitul Mal, *Annual Report Baitul Mal Aceh Tahun 2021*, Banda Aceh, 2021.

Diagram 2: Percentage of Zakat Recipients

The distribution of zakat is determined by its *ashnaf* (types of zakat recipients), in accordance with Islamic law. If the realisation of zakat receipts exceeds the plan outlined in the APBD each year, then based on regional financial management regulations, the excess cannot be disbursed but becomes additional funds for the following fiscal year.

From a different perspective, the domain of finance in Islam is not limited to the imposition of zakat obligations; if the community's demands (*ashnaf*) cannot be accommodated by existing zakat assets, the government has the authority to collect taxes or impose additional taxes from the community in order to meet the needs of the weak.²⁰ According to a study conducted by Voronova, Islamic nations can impose additional taxes in addition to zakat because the amount of zakat is insufficient to fund expenses.²¹ This also relates to issues concerning the collecting of zakat and taxes.

Thus, numerous Islamic countries, including Jordan, Pakistan, and Malaysia, implement zakat and tax regulations. This indicates that zakat given by citizens may be taken into account when calculating tax deductions.²² The

²⁰ Tax Justice Poverty, "Taxation In Islam". https://www.taxjustice-and-poverty.org/fileadmin/dateien/taxjustice_and_poverty/ethics_and_religion/islam/islam_tax.Pdf. (Accessed, August 10, 2021). Faisal, "Sejarah Pengelolaan Zakat Di Dunia Muslim Dan Indonesia (Pendekatan Teori Investigasi-Sejarah Charles Peirce dan Defisit Kebenaran Lieven Boeve)," *Jurnal Analisis* 1, No. 2 (2011).

²¹ Ekaterina Yurievna Voronova, "Islamic Accounting Model: Development of Social, Ethical and Spiritual Aspects," *Accounting Analisis Auditing*, No. 4 (2017).

²² Mahdi Syahbandir, et.al., "State and Islamic Law: A study of Legal Policy on Zakat as a Tax Deduction in Aceh," *Ahkam: Jurnal Ilmu Syariah* 22, No. 1 (2021). Amirudin Kuba,

zakat regulation in Aceh, as stipulated in the UUPA, calls for this kind of system.

Strengthening the Law on Governing Aceh

Islamic Sharia is a well-balanced and integrated philosophy of life. It was established to lead people to happiness in this world and the hereafter through the enforcement of various commands that have been codified in the Al-Qur'an and Hadith.²³ The embodiment of Islamic law in national law includes the existence of zakat management regulated in Article 192 UUPA, where zakat is local revenue that can be utilized to reduce taxes.

Zakat is a source of income that has significant potential. If this is managed properly and optimally, zakat is beneficial for alleviating poverty and empowering the economy of the people. Therefore, the management of zakat (planning, implementing, and organizing its collection, distribution, and utilization) requires serious and consistent attention by the government of Aceh.

The implementation of zakat arrangements as Regional Original Income (PAD) is a new era of zakat management that requires special treatment while not ignoring Sharia principles. PAD has its own structures and goals, which are regulated by laws and other regulations. The experience of zakat as PAD only applies in Aceh Province, and its contribution has been felt by the people who are entitled to it. Article 4(2) of Law Number 18 of 2001 on special autonomy for the province of the Special Region of Aceh as the Province of Nanggroe Aceh Darussalam and Law Number 11 of 2006 reiterated the classification of zakat as PAD in Aceh Province.²⁴ Afterwards, in Aceh Qanun Number 10 of 2018 concerning to Baitul Mal, it is stipulated that all zakat revenues administered by Baitul Mal Aceh are Aceh PAD sources that must be placed into the Aceh Regional General Treasury.

Aceh is a special legal community unit with particular authority to regulate and administer its government and the community's interests in line with the system and principles of the 1945 Constitution of the Unitary State of the Republic of Indonesia (*Negara Kesatuan Republik Indonesia/NKRI*), which is led by the governor.²⁵ In addition, a regulation states that the source of Aceh's PAD and the district's or city's PAD consists of regional taxes, regional levies, proceeds from the management of regional assets that are separate from Aceh,

"Model-Model Pengeleloaan Zakat di Dunia Muslim" *El- Qist: Journal of Islamic Economics and Business* 12, No. 1 (2014).

²³ Faisal, *Perbankan Syariah Di Indonesia*, (Banda Aceh: Pena, 2006).

²⁴ Mursyid Djawas, "Implementasi Pengelolaan Zakat di Aceh," *Mazahib: Jurnal Pemikiran Hukum Islam* 15, No. 1 (2016).

²⁵ See Article 1 point (2) on the Government of Aceh.

district, or city, and the proceeds of Aceh, district, or city equity participation, zakat, and other Aceh, district, or city original income..²⁶

Based on this arrangement, zakat is a source of local revenue. The Law on Governing Aceh also states that both the Baitul Mal of Aceh and the Baitul Mal of the district or city are responsible for managing zakat, waqf, and religious assets.²⁷ Considering these provisions, zakat administration in Aceh is not subject to the national zakat management law.

The management of zakat, which may reduce tax payments (in this case, income tax), is regulated through the UUPA, which applies nation-wide and specifies zakat as a deduction for the amount of income tax payable (tax credit). This tax deduction arrangement is explained in the clarification of Article 14 paragraph (3) of Law number 38 of 1999, which states that the deduction of zakat from profit or remaining taxable income is intended to prevent taxpayers from bearing a double burden, namely the obligation to pay both zakat and taxes. This provision continues to be governed by the most recent provisions, which stipulate that zakat paid by *muzakkī* to National Amil Zakat Agency (*Badan Amil Zakat Nasional/BAZNAS*) or Amil Zakat Institution (*Lembaga Amil Zakat/LAZ*) is deducted from taxable income.²⁸

Efforts to strengthen national zakat management through BAZNAS have officially transformed from decentralization under Law Number 23 of 2011 on zakat management to centralization under the UUPA. There is a need for harmonization between laws and regulations with Aceh regional government regulations so that the provision of zakat as a tax deduction can work properly, which does not rule out the implementation of regulations established by the Aceh government.

The Aceh government has regulated several provisions through the Law on Governing Aceh, namely: first, zakat is a source of Aceh's PAD and district/city PAD.²⁹ Other sources of PAD include regional taxes, regional levies, proceeds from the management of regional assets, equity participation, and others; secondly, zakat, waqf, and religious assets are managed by Baitul Mal Aceh and Regency/City Baitul Mal. The management will be regulated through qanuns;³⁰ third, The amount of zakat paid is deducted from the amount of personal income tax (PPh) owed by the taxpayer.³¹

²⁶ See Article 180 point (1) on the Government of Aceh.

²⁷ See Article 191 point (1) Law Number 11 of 2006 on the Government of Aceh.

²⁸ See Article 22 Law Number 23 of 2011 on Management of Zakat.

²⁹ See Article 180 point (1) letter d UU Law Number 11 of 2006 on the Government of Aceh.

³⁰ See Article 191 Law Number 11 of 2006 on the Government of Aceh.

³¹ See Article 192 Law Number 11 of 2006 on the Government of Aceh.

Currently, the obstacles faced are related to the authority of the government of Aceh in implementing these provisions, and therefore, it is necessary to strengthen the provisions stipulated in the UUPA pertaining to the management of zakat. If this provision is implemented and granted, there will be no impediment for Baitul Mal Aceh in allocating zakat to be utilised and distributed to eight *ashnaf* in accordance with *Syar'i* regulations.

However, if there is inconsistency in the provisions contained in the UUPA with the Law on Zakat Management and the Law on Income Tax, a solution to unify the zakat management regulations in Aceh must be established. For instance, the organisation or agency with the jurisdiction to enact the applicable laws and regulations can modify particular or all articles that are out of harmony.

In addition, there are additional hurdles to the introduction of zakat management as an income tax deduction (PPH). For instance, legislation and regulations regarding the management of zakat and income tax are not synchronised with the UUPA. The application of zakat as a tax deduction in Aceh is affected by this asynchrony. Another consequence is that for every Acehnese who pays taxes, there will be two forms of payment to the local treasury: income tax and zakat. such payments will burden the people of Aceh, particularly those who work as State Civil Apparatus personnel (*Aparatur Sipil Negara/ASN*).³² The legal consequences faced by ASN in Aceh are characterised by legal uncertainty: on the one hand, paying taxes; on the other, issuing zakat, resulting in two payments to the local treasury, namely zakat and taxes. That imposes a double tax from each salary received; hence the current zakat implementation regulation in the UUPA must be enhanced by government regulation.

The implementation of zakat as a deduction from taxable income has a direct impact on government tax revenue. The large number of people who pay zakat (*muzakkī*) will result in a considerable deduction from taxable income, hence decreasing taxable income and the state's income tax revenue. In addition, the government is attempting to maximise revenue collections from the tax sector, and this is what causes the government to hesitate in regulating zakat out of concern that the revenue target from the tax sector will be disrupted, consequently prolonging the national economic recovery further.

The application of Islamic Sharia in Aceh has an impact on regional financial management, and zakat is a component of the PAD administered by Baitul Mal. The Baitul Mal is vital that the Government of Aceh enacted Aceh

³²Mahdi Syahbandir, et.al., "State Authority for Management of Zakat, Infaq, and Sadaqah as Locally-Generated Revenue: A Case Study at Baitul Mal in Aceh," *al-Ihkam: Jurnal dan Pranata Sosial* 17, No. 2 (2022).

Qanun Number 7 of 2004 on the Management of Zakat in All Regions. The problem is that regional financial management still refers to conventional financial accounting, notably Permendagri Number 13 of 2006 concerning Regional Financial Management Guidelines. The 2.5% income zakat paid by *muzakkī* has not been possible to lower income tax till now. Thus, Muslims in Indonesia must pay a double tax: 15% income tax and 2.5% zakat. As required in Article 192 of the UUPA, Aceh has acquired the legality of zakat as a deduction from income tax.

In Article 105 paragraph (1) of Law Number 10 of 2018 regarding Baitul Mal, it is stated that "zakat paid to Baitul Mal Aceh (BMA) or Baitul Mal Regency (*Baitul Mal Kabupaten/Kota BMK*) authorities is a deduction factor for the amount of income tax from the taxpayer." In paragraph (3), however, it is indicated that the stipulation of zakat as a deduction component for income tax is regulated in a governor's rules after acquiring government approval based on the outcomes of discussions and consultations. Thus, it is clear that Article 105 has not been implemented as the regulation regarding zakat that can lower income tax has not yet been approved by the central government, despite the fact that it has been drafted by the government.

The implementation of Article 192 of the UUPA, which forms the basis for allowing zakat to be utilized as a tax deduction in Aceh, is entirely dependent on the central government. If the central government approves it, the regulation will operate as intended. However, the reason for the rejection from the Ministry of Finance/Director General of Taxes is that income tax is separately regulated in Law No. 7 of 1983 concerning income tax, which was last amended by Law Number 36 of 2008, which applies nationally and binds everyone without exception, as stated above. Based on this, it is necessary to revise the Law on General Provisions and Tax Procedures (Tax Law), which is currently being discussed by the Aceh Government, DPRA, and members of the Aceh DPR and DPD in Jakarta in order to oversee it together so that the specificity of Aceh, namely zakat as a tax deduction, can be implemented in Aceh.

Lex specialis derogate lex generalis is a legal principle stating that special regulations take precedence over general regulations, or that if a provision has not been regulated in a special regulation, the requirements stipulated in general regulations will apply.³³ Due to the non-implementation of these regulations, the Muslim community in Aceh is subject to a double responsibility or obligation.

³³Armiadi Musa, *Kontribusi Pemerintah dalam Pengelolaan Zakat di Aceh...*, p. 247-370.

Autonomous regions are granted the authority to administer (*regelen*) and delegate (*besturen*) regional government or household affairs. Regulatory authority lies with regional governments (local governments and DPRD) as holders of legislative functions in the regions. This is in accordance with Article 1 point (5) of Law Number 32 of 2004 regarding regional government, which states that regional autonomy has the right, authority, and obligation of an autonomous region to regulate and manage its government affairs and the interests of the local community in conformity with regulations and laws.³⁴ Apparently, if the RPP (government regulation plan) is approved, it will be very beneficial for the regional economy, as it will eradicate poverty. Consequently, taxpayers will pay zakat in the district in which they reside.

In addition, Muslims continue to view the tax system in Indonesia as unfair. Muslim communities must make double payments due to the lack of integration between the tax and zakat systems. However, it differs from Indonesia in that there are distinctive regulations regarding zakat and taxes in Malaysia to minimize the expense of double payments for the community, so if Malaysians have paid zakat in the amount of the tax payment, they are no longer subject to tax.³⁵

In the case of tax compliance, however, even though regulations regarding tax deductions for people paying zakat in Aceh have not been effective, people still follow national tax regulations as they should, according to one study, which mentioned that the public can be driven by government and law enforcement officials' threats of sanction.³⁶ Meanwhile, the driving force for public compliance in zakat payment is due to its religiosity factor.³⁷

The people of Aceh, in particular, have no choice but to comply with the existing regulatory imbalances, as the government should have been more proactive in considering the value of justice in this case and immediately integrated the tax and zakat systems in order to alleviate the burden of double payments between zakat and taxes. Consequently, the economics of the community is not hampered. Moreover, according to a study, if zakat and taxes are synergized and administered professionally, the benefits include extending the *muzakki* base and the number of taxpayers, as well as reducing the load on

³⁴ Law Number 23 of 2014 concerning Regional Government was amended by the Second Amendment to Law Number 23 of 2014 concerning Regional Government.

³⁵ Zuberi Iddy, et.al., "Emerging The Equity And Fairness of Zakat Over Taxation," *Scientific Research: Open Journal of Accounting* 11, No. 2 (2022).

³⁶ Nolan Sharkey & Nurul Hidayat "Islamic Legal Reasoning for The Justification of Tax Evasion: The Case of Indonesia" *Journal of Asian Finance, Economics and Business* 8, No. 8 (2021).

³⁷ Tamimah, "Compliance Determinant of Paying Zakat Mal," *Al-Falah: Journal of Islamic Economics* 5, No. 2 (2020).

the state budget for poverty alleviation programmes. Therefore, strong coordination between the zakat authority and the tax authority is widely recognised, resulting in an increase in both income tax and zakat.³⁸

Regarding policies related to double payments between taxes and zakat, the government must first encourage citizens to acquire a tax identification number. This tax number is required to process zakat tax deduction claims. Second, tax regulations must be modified to allow zakat to be deducted from taxes. Thirdly, the government must aggressively publicise zakat tax incentives. Fourth, it is the responsibility of all stakeholders, including the clergy and the government, to educate people about the zakat obligation.³⁹

Consequently, the process for managing zakat as outlined in Aceh's legislative provisions and statutes can be implemented provided these four components are carried out properly and consistently. Zakat, in particular, is tax-deductible.

Conclusion

The urgency of zakat as an income tax deduction is the hope of Muslims throughout Indonesia, especially in Aceh, but it has not yet been implemented, therefore *muzakki* has not been successful in lowering income tax. Muslims in Indonesia are therefore subject to a double taxation of 15% income tax and 2.5% zakat. Even though the UUPA regulates this matter, in practise it is not optimal because the UUPA has not yet been synchronised with the Income Tax Law. The application of the *lex specialis derogate lex generalis* principle needs to be applied in the UUPA to implement zakat as a deduction from income tax, which means that the UUPA, as a speciality of Aceh, is given special treatment that is different from other regions and must be maximised so that government regulation is required to facilitate the implementation of the UUPA's rules. The implementation of zakat as a tax reduction still requires synchronisation with the income tax law. Baitul Mal Aceh must consult and coordinate with the Government of Aceh, the Regional Office of the Director General of Taxes for Aceh, and the Jakarta Director General of Taxes in order to effectuate the provision of zakat as an income tax deduction in Aceh. The use of the *lex specialis derogate lex generalis* principle can be used as a legal argument (legal standing) to govern zakat as a tax deduction in Aceh, a special autonomous region with considerable authority.

³⁸ Mustofa and Khoirul Fata, "Zakat and Tax: From the Synergy to Optimization" *Al-Ulum: Jurnal Studi Islam* 15, No. 1 (2015).

³⁹ Hary Djatmiko, "Re-formulation Zakat System as Tax Reduction In Indonesia" *Indonesian Journal of Islamic and Muslim Societies* 9, No. 1 (2019).

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