

FIQH  
OF TRANSACTIONS  
& DEALINGS

TAREEQAH MUHAMMADIYAH



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## **Why we must earn a lawful and honest living**

To earn wealth in a manner which is compliance with Sharia is Fard for all Muslims. Hazrat Abdullah bin Masood (radiAllahu hu'ta'alaah anhu) has reported that the Messenger of Allah (sallallahu alay hi sallam) said: "Earning a lawful living is obligatory after the other obligatory acts (like Salah, fasting etc)". The one who abides by the commands of Allah whilst earning a living will be immensely rewarded just as one is rewarded when performing any other act of worship.

However, the Sharia has specifically condemned unlawful (Haram) earnings and has instructed Muslims to earn their wealth through lawful means. The Sharia has emphasised and outlined the avenues in which Haram wealth will be earned so that Muslim may stay clear of these and be highly vigilant to avoid these prohibited ways.

To adhere to the Law of Allah (subhanu wa'ta'alaah) is the purpose of life hence earning wealth in a Halal manner should be of the utmost importance within a Muslim's life. If a person sincerely seeks Halal earnings then he most certainly will acquire a means of earning it in a Halal way. It is possible to find Halal employment in practically every place to fulfil one's needs. It is only the greed to become wealthy and accumulate a lofty bank balance that drives people to earn wealth through Haram and sinful means. Such people have this fanciful perception in their minds that they are driven by necessity, but in reality no such situation exists.

Hazrat Abdullah bin Masood (radiAllahu hu'ta'alaah anhu) has narrated that the Messenger of Allah (sallallahu'alay hi sallam) said: "The Angel Jibra'eel has inspired my heart that no soul shall ever die until it has finished its sustenance. Behold! Fear Allah (subhanu wa'ta'alaah) and adopt a most excellent manner of acquiring your livelihood. Let not a delay in the arrival of your livelihood spur you to earn it by disobeying Allah (subhanu wa'ta'alaah) because what Allah (subhanu wa'ta'alaah) has with Him (by way of rewards and blessings) can only be attained by obeying Him."<sup>1</sup>

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<sup>1</sup> Mishkaat, quoting from Sharhus Sunnah and Bayhaqi

## To adopt honesty in dealings and to acquire knowledge of the trade

To adopt honesty in business dealings is more strictly enforced by Islam than by any other religion. This is because Islam is a religion which regulates and directs life in all its aspects. It is not to be regarded, like the modern man's religion or as a personal, private affair, which has nothing to do with his economic and political life. This is the reason why truthfulness and honesty in dealings is much emphasized by the Messenger of Allah (sallallahu'alay hi sallam).

The Holy Qur'an has stressed the importance of fairness in business;

"And, O my people, give full measure and weight justly, and defraud not men of their things, and act not corruptly in the land making mischief. What remains with God is better for you, if you are believers"<sup>2</sup>.

Also a harsh emphasis on this by the beloved Messenger (sallallahu'alay hi sallam) whilst reprimanding a dishonest tradesman "Whosoever deceives us is not one of us".<sup>3</sup>

According to Imam Ghazali, a Muslim who is in the trade profession or is to set up his/her own business should first acquire an understanding of the rules of business transactions accordance to the Islamic Law. Without such understanding one will go astray and fall into serious ignorance making his earning unlawful. No people in the world have ever attached so much importance to lawful trading as did the early Muslims, nor has any other nation demonstrated such a fear of unlawful trading as they did. That is why al-Ghazali said stress on a clear understanding of the rules and laws governing business transactions as a necessary prerequisite to adopting trade or business as a profession.

There is much harm derived from earning unlawful earnings to name a few:

- The business incurs the anger of Allah (subhanu wa'ta'ala)
- The person will be living under the influence of the Shaytaan constantly and thus will become rebellious to the commands of Allah (subhanu wa'ta'ala)
- All Ibaadah (Worship) of the person will not be accepted
- Dua's will be rejected
- Charity and Zakat will go unrewarded
- The unlawful earning will effect the blessings within the family tires
- One will bare the wrath of Allah (subhanu wa'ta'ala) punishment in Jahannam

Above are a mere few harms mentioned if one earns a dishonest living, hence, the reason of much significant emphasis in honest dealings and above all to acquire the knowledge of trade which one ventures in.

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<sup>2</sup> Chapter 11 V 85-86

<sup>3</sup> Sahih Ibn Hibban

## **1. Definition of Trade (Bay') under Islamic Law.**

Trade in Islam is generally defined as an exchange of a commodity<sup>4</sup> for a commodity with the agreed consent of the transacting parties<sup>5</sup>. For example if Zaid agreed to purchase a Laptop from Hassan and Hassan agreed to sell the Laptop then this will be known as a transaction (sale).

### **The Present day transaction**

There are various different types of transactions in Islamic law, one of the most common transaction which we do in on a daily basis is Bay – Ta-aatee. This type of transaction is commonly referred to as 'the present day transaction'.

An example of a present day transaction is a person goes into a shop or supermarket, picks up an item off the shelf, examines it and is satisfied with it. He then takes the item to the cashier and pays the price for it, the transaction is now complete.

## **2. What is required within a Transaction according to Islamic Law**

### **Rules required making a valid sale**

There are general rules which need to be met in order to have a binding or valid transaction.

#### **Pre-requisites for persons to make a sale**

- Both parties must be sane
- Both parties must be adults
- If a child does any dealings then he/she must recognise the value of the money, must understand the transaction undertaken and the child must have the consent of his/her guardian.<sup>6</sup>

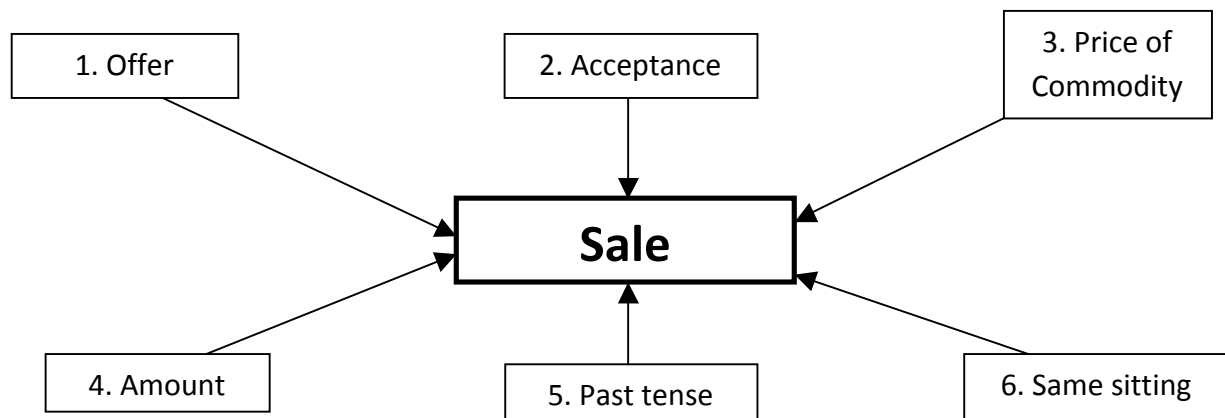
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<sup>4</sup> Commodity is a useful thing or can be defined as a product

<sup>5</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of sales: conditions of sale)

<sup>6</sup> Mukhtasar A-Quduri, Kitabul Bayu

## General Rules



From the above there are some further explanations needed to define the rules.

### 1-2. Offer and Acceptance:

A Transaction is not binding or valid with an offer (or acceptance) alone. To have a valid transaction both offer and acceptance is needed and if a party makes an offer the other party has a choice to accept or reject the offer. However, if the parties accept then the offer is binding, and as the offer is accepted now neither of the parties has the choice of withdrawal.<sup>7</sup>

### 3. Price of commodity must be defined:

For the validity of a transaction the amount must be mentioned for example “I brought a car from you for “X” amount of pounds”. Also the description of the currency must be defined but if it is not defined then the currency most commonly used by people in the city will be taken.

### 4. Amount of commodity must be defined:

The amount of goods/product must be established the most effective way of doing this is if one point out the goods as pointing out the goods requires no further defining for the validity of the transaction. Because pointing out something is the most accurate form of defining something.

### 5. The offer and acceptance is to be affected in the past tense.

The words used for the offer and acceptance are to be in the past tense, for example Hassan says “I sold the Laptop to you” and Zaid says “I have brought the Laptop from you”<sup>8</sup>. If both or any party keeps silent throughout the transaction then the sale is invalid as acknowledgment of the offer acceptance must be made.

### 6. The acceptance must be at the same sitting as the offer.

If one of the parties who are placing the offer moves away from the gathering/place/conversation before the acceptance is agreed by the other party then the offer of sale is deemed to be invalid and void.<sup>9</sup>

<sup>7</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of sales: conditions of sale)

<sup>8</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of sales: conditions of sale)

<sup>9</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of sales: conditions of sale)



## Questions and Answers

**Q1:** Once a transaction has been completed, does the buyer have any further options?

**A:** Yes the buyer will have a choice if a defect becomes apparent in the commodity (goods) which were brought. The buyer now has a choice to return the goods or to keep them<sup>10</sup>. Also the buyer has a right to return or take the commodity if he had purchased it without seeing it.

**Q2:** Can a Credit sale be valid in a transaction?

**A:** A transaction is valid with an immediate payment and a deferred payment (credit) only if the period of payment has been defined and all terms are known at the time of sale<sup>11</sup>.

**Q3:** What should the buyer do if he has received more than what he has paid?

**A:** The extra amount must be returned to the seller<sup>12</sup>. However, if the extra amount was given with the consent of the seller then the extra amount can be kept.

**Q4:** What should the buyer do if he has received less amounts of goods than what he has paid?

**A:** The buyer can either cancel the sale or pay the proportionate amount only<sup>13</sup>.

**Q5:** A man sold a house and did not mention anything else. What else is included in the term "House"?

**A:** When a house is sold it includes the courtyard (gardens), the building<sup>14</sup>, the keys and locks, even if they were not specifically mentioned.

**Q6:** A man sold some land which had crops but he did not specifically mention the crops, what is the ruling?

**A:** The crops are not included in the sale of the land unless it was specified.

**Q7:** Are auctions transactions allowed?

**A:** Yes auction buying and selling is allowed as the Messenger of Allah (sallallahu alayhi wa'salam) used the method of auction<sup>15</sup>.

**Q8:** Is it Wajib upon the seller in an auction to sell to the last offered price?

**A:** The Seller in an auction has a choice to accept the last offered price or not to accept he can not be forced to accept anything.

**Q9:** Are on-line sales valid for example ebay?

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<sup>10</sup> Please see topic of Khiyarul Ayb (right of defect) for further information on page 11.

<sup>11</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of sales: conditions of sale)

<sup>12</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of sales: conditions of sale)

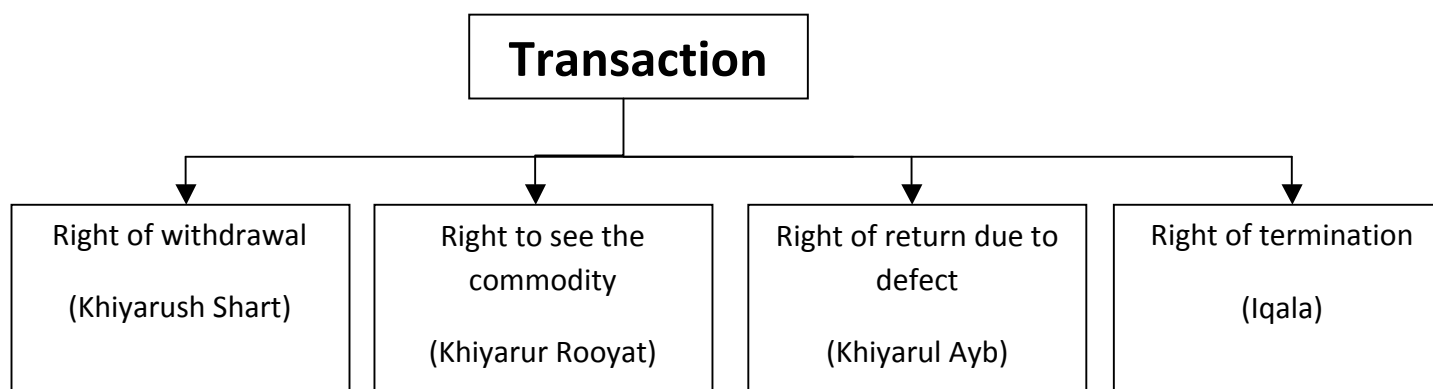
<sup>13</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of sales: conditions of sale)

<sup>14</sup> This will include the structural requirements for example walls, roof, doors, windows etc

<sup>15</sup> Fath al-Barri 4/354

**A:** Yes Online sales (and auctions) are valid only when the product being sold and the transaction has been reasonably defined. One should note that for a transaction to be valid it is not a condition that the commodity must be seen but on the other hand, there must be a reasonable description along with a true reflection of the commodity being sold.

### **3. Options given to the parties within a business transaction**



#### **Right of withdrawal / Taking on appro (Khiyarush Shart)**

According to the principles of the Hanafi school of Fiqh a transaction can be placed with an option/condition of withdrawal. For example, Zaid accepts an offer to buy a car from Hassan and Zaid specifies an option that he has a duration of 3 days to return the car if he wishes. If Hassan accepts this option/condition then this becomes a valid condition with the sale.

So it is permissible to attach an option of withdrawal with a transaction as it is related in a tradition of Ibn ‘Umar R.A “The parties to sale have an option as long as they have not parted, except in sale with an option”<sup>16</sup>

#### **Questions and Answers**

**Q1:** Can an option or condition be placed by both parties?

**A:** Yes, an option is valid for both the buyer and seller<sup>17</sup>.

**Q2:** Is there a time limit placed for the duration of the option?

**A:** Yes the time limit for the option of withdrawal must be specified and both parties must agree to this duration<sup>18</sup>.

<sup>16</sup> Ibn Rushd, Bidayat al-mujtahid wa nihayat al –mujtasid, Chapter of Khiyar

<sup>17</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of option stipulated in the contract)

<sup>18</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of option stipulated in the contract)

**Q3:** Hassan and Zaid conduct a sale, Hassan is selling a car with an option of withdrawal and Zaid agrees. However, Zaid damages the car beyond repair within the duration of the right of withdrawal. What is the ruling?

**A:** The right of ownership of the car is still with Hassan (seller) as the duration of the option is still valid, thus Zaid (buyer) took Hassan (seller's) property. So in this case Zaid (buyer) would have to replace the car if this can not be done then Zaid must pay the price of the car to Hassan

**Q4:** What would be the ruling with the above scenario (Q3) if the option of withdrawal was made by the buyer (Zaid)?

**A:** The buyer (Zaid) would still have to pay the agreed price to the seller (Hassan)<sup>19</sup>.

**Q5:** What would the ruling be with the above scenario (Q3) if the car was damaged and could be repaired?

**A:** The buyer (Zaid) would have to pay the seller the agreed price.

**Q6:** Is it necessary to withdraw or confirm the sale in the presence of the other party?

**A:** Once the option of withdrawal duration is over the sale becomes binding and this can be done without the presence of the other party. However, when the party with the right of withdrawal would like to withdraw from the sale then this must be done in the presence of the counterpart<sup>20</sup>. For example if the buyer would like to withdraw then the buyer must do this in the presence of the seller. In present day transactions legal sales/contract withdrawal documentations must be signed if required.

**Q7:** If the party with the right of withdrawal died before confirming the sale and before the period of the option elapsed, will his next of kin inherit the right?

**A:** The right of withdrawal is terminated and cannot be passed to the next of kin as a result the sale is regarded as complete<sup>21</sup>.

### **Right to see the commodity (Khiyarur Rooyat)**

This is the right to return the commodity after seeing it, however, this condition can only apply when the good was brought without seeing the commodity at the time of transaction/purchase. If the person has seen the commodity at the time of purchase then they will not have the right to return the good under the rule of Khiyarur Rooyat.

### **Questions and Answers**

**Q1:** A person brought goods he did not see e.g. he did a telephone transaction. Is the sale valid?

**A:** Yes, the sale is valid, however, the person has the right to accept or return the goods when he eventually sees the goods. He may also cancel before seeing the goods<sup>22</sup>.

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<sup>19</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of option stipulated in the contract)

<sup>20</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of option stipulated in the contract)

<sup>21</sup> Mukhtasar A-Quduri, Kitabul Bayu

<sup>22</sup> Mukhtasar A-Quduri, Kitabul Bayu

**Q2:** Is there a time limit for this right?

**A:** No, the right remains when the buyer indicates that he is pleased with the goods.

**Q3:** Do consumable goods for example milk also have this right?

**A:** Yes consumable goods have this right but the right is also judged by taste for example if milk was brought it must be tasted if it is sour or off then the milk can be returned.

**Q4:** Does a blind person have this right?

**A:** Yes, the Khiyarur Rooyat is accomplished by feeling, touching, smelling etc the commodity.

**Q5:** What if a person sold an item without seeing it will the seller have this right?

**A:** No the seller will not maintain the right of Rooyat and as a result will have no choice to cancel the sale.

### **Right of return due to defect (Khiyarul Ayb)**

If a buyer purchases an item and then discovers a fault with the item (which occurred with the seller) he will have a choice to returning or keeping the item, this is called Khiyarul Ayb. However, if the seller informs the buyer at the time of purchase that he is not responsible for any defects, then the buyer should thoroughly inspect the goods before buying them as the buyer will lose the right of return due to defect (Khiyarul Ayb).<sup>23</sup>

### **Questions and Answers**

**Q1:** What is classified as a defect?

**A:** A defect is anything which will devalue the item.

**Q2:** Can the buyer keep the defected item and deduct the price?

**A:** The buyer can not deduct the price due to defect; either the buyer keeps it or returns it<sup>24</sup>. However, the buyer can bind into a new sale with a lower price for the commodity with the seller.

**Q3:** If a fault was noticed which took place with the seller and also there was a fault which took place in the possession of the buyer, what will happen?

**A:** In this situation the buyer will deduct the value of the defect which took place in the possession of the seller as the buyer can not return the goods due to the defects imposed by him (buyer). However, if the seller agrees to take the item back and reimburse the buyer whilst knowing about the defect which the buyer has done then this is also allowed.

**Note:** *To be deceitful and to hide faults in goods of sale is **Haram** (Strictly Forbidden) Please see chapter of impermissible transaction.*

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<sup>23</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of option to decline a sale due to defect)

<sup>24</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of option to decline a sale due to defect)

## **Termination of a transaction (Iqala)**

A termination of a business transaction is called Iqala, this right is given to both the seller and the buyer.

### **Questions and Answers**

**Q1.** When is a transaction terminated?

**A:** When both the buyer and the seller agree to mutually cancel the sale

**Q2.** Can the seller claim any charges for cancelling the transaction?

**A:** If the sale is cancelled the seller can not claim any handling charges or usage charges and will have to refund the full value of the goods. It is not permitted for the seller to refund less to the buyer<sup>25</sup>.

**Q3:** Can the buyer say to the seller “so and so will pay you”?

**A:** The buyer can not introduce a 3<sup>rd</sup> party into the sale and must arrange to pay for the goods themselves. However, if there was a 3<sup>rd</sup> party introduced the seller would have to negotiate a new deal with the 3<sup>rd</sup> person directly.

## **4. Types of Transactions within Islamic Law**

Within Islamic law there are 4 categories of transactions;

1. A Valid (Sahih) transaction, this is a transaction which is recognised as a correct and valid transaction according to Sharia. The rules for a Sahih transaction have been mentioned in the above chapter.
2. An Invalid (Batil) transaction, this is a transaction which the Sharia does not recognise and in no circumstance can a Batil transaction be binding.
3. An Incorrect (Fasid) transaction, this is a transaction which is recognised by Sharia but due to the incorrect methods used to attain the transaction it becomes invalid.
4. A suspended (Mawquf) transaction is a transaction as such that when someone sells someone else's property the transaction is suspended until the owner validates or voids the transaction.
- 5.

## **5. Disallowed (Haram) Transactions and Trade**

### **Invalid (Batil) Transactions**

**Q1:** What is a Batil/invalid sale?

**A:** An invalid sale according to Sharia is if one or both of the commodities of sale are Haram items, or it is such an item which can not have ownership<sup>26</sup>.

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<sup>25</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter: Iqalah)



**Q2.** What are Haram items to sell according to the Sharia?

**A:** According to Sharia the following are Haram to trade.

1. Alcohol (Khamr)
2. Drugs or any other intoxications
3. Carrion<sup>27</sup> (Mayta) except fish and locust, however there are differences of opinion on this matter please see Q4 below for more details.
4. Swine (Khinzir) or any part of it.
5. Idols (asnam) or religious symbols other than Islamic symbols
6. Gold for males
7. Blood
8. Any fruit or vegetation which has not grown yet
9. An animal which was slaughtered and Bismillah deliberately omitted
10. Human hair
11. Pig hair
12. Selling something which is not in your ownership yet unless by the means of Bay-us-Salam<sup>28</sup>
13. Anything Haram to use by oneself is Haram to give to another<sup>29</sup>
14. Musical instruments
15. Pornographic material
16. Commodities which promote sin
17. Items used for gambling and transactions involving gambling

The wealth earned from the above merchandise is Haram even if the Haram item is mixed with a Halaal (permissible) item the transaction is invalid. For example, if a case of beer is sold with a case of soft drink in the same transaction then this transaction is invalid.

**Q4:** Can a restaurant owner sell Pork or Haram meat (meat not slaughtered the Islamic way)?

**A:** According to Sharia for a sale to be valid the items must hold value otherwise the sale is invalid (Batil)<sup>30</sup> hence the selling of Pork is impermissible as it hold no value in the sight of Sharia. However,

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<sup>26</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter: Invalid Transactions)

<sup>27</sup> Dead animals.

<sup>28</sup> Bay-us-Salam is a type of transaction which payment is given in advance. Further description of this can be found in the Bay-us-Salam chapter.

<sup>29</sup> Ibn Nujaym, al-Ashbah:Majalla

<sup>30</sup> Al-Bahr al-Ra'iq 5/280

there is a difference of opinion on the matter of selling meat which has not been slaughtered the Islamic way.

**Opinion 1:** This is a majority opinion of the scholars of the past and around the globe especially the scholars of the Middle East and the Indian subcontinent. They class selling un-slaughtered meat to be Haram, this is because it holds no value in the sight of Sharia. Also, there are a number of Hadith forbidding the sale of such items for example Sahi al Bukhari, no 2121 “Verily, Allah and His Messenger (sallallahu alayhi wa’salam) have prohibited the sale of alcohol, dead animals, swine and idols”.

**Opinion 2:** This is not a majority opinion and the scholars who have this opinion are mainly from Europe and the West. Their opinion is that one can sell un-slaughtered meat to a non-Muslim if there are predominantly large amounts of non-Muslim that purchase the meat but one can not sell the meat to Muslims. However, the one who is selling this must at all time have that conviction that this meat is Haram and forbidden for Muslims to eat<sup>31</sup> (one must detest the meat as it is Haram and in any way should not think that un-slaughtered meat is ok to consume).

**Q5:** As a jeweller/gold merchant what is Haram for me to sell?

**A:** The general rule of trading items is that ‘Anything Haram to use by oneself is Haram to give to another’<sup>32</sup>. Therefore to apply this to your circumstance as a gold merchant it is Haram to sell male jewellery (other than a silver ring) and any non-Islamic religious symbols.

**Q6:** Can a restaurant allow customers to bring their own wine and provide glasses to serve the wine in.

**A:** This is not allowed for any restaurant to do, as the Messenger (sallallahu alayhi wa’salam) explained that amongst those who are cursed by Allah (meaning distance from His Mercy and under His Anger) are those who accept it and those who server it (Tirmidhi and ibn Majah).

**Q7:** What is the ruling regarding selling women’s clothes which may be used to indulge in Haram acts?

**A:** The answer to this question is divided into 3 categories.

- If the clothes being sold can only be used in a Halal way and not a Haram way then it is totally permissible to sell these types of clothes. E.g. Jilbaabs, loose garments which abide by the rules of Sharia.
- If the cloths being sold are likely to be used in Haram ways due to the nature of the clothes then selling these types of clothes is Haram. E.g. Mini Skirts, perverse garments which are only designed for revealing the body.
- If the clothes sold may have some uncertainty whether it can be used in permissible ways or Haram ways as the clothes may be used in both ways then there is no sin in selling these cloths. E.g. Jeans, t-shirts etc.

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<sup>31</sup> Fatwa given by scholars from Darul Ifta Kanzul-Imam establishment.

<sup>32</sup> Ibn Nujaym, al-Ashbah:Majalla

Also, there are some kinds of clothes which are usually known that however much a woman flaunts herself she will never wear them for anyone but her husband and she can not go out wearing them in front of non-mehram<sup>33</sup> men. These types of clothes are permissible to sell for example women's under garments etc.

## **Incorrect (Fasid) Transactions**

**Q1:** What is a Fasid transaction?

**A:** A Fasid transaction is such a transaction which the items sold are lawful (Halal) but the conditions or preconditions surrounding the sale are incorrect or not recognised by Sharia<sup>34</sup>. For example if Zaid sold Hassan a mobile phone with the condition that when Hassan sells the phone in the future Zaid has first priority in buying the phone. If you analyse this type of sale it is clear that to sell a mobile phone is lawful but the condition attached to the sale is incorrect in the sights of Sharia hence the transaction is deemed incorrect (Fasid).

**Q2:** Does setting preconditions make the sale incorrect (Fasid)?

**A:** To set conditions that are recognised by Sharia for example right to withdraw (Khiyarush Shart<sup>35</sup>) is permissible. However, to set conditions that are not necessitated by the sale or will perfect the sale or such conditions that will only benefit one party of the sale, conditions which will deprive any parties right or any condition which the Sharia condemns are disallowed. An example of such a condition may be; the buyer must give a gift to the seller or the seller will hand the goods to the buyer at the end of the month (after the sale has taken place). These types of conditions will make the sale as incorrect (Fasid)<sup>36</sup>.

**Q3:** Zaid brought a car from Hassan on credit and agreed to pay it over two payments. The date agreed for payments where 1<sup>st</sup> payment will be on the 1<sup>st</sup> day of summer and the 2<sup>nd</sup> on 1<sup>st</sup> day of winter. Is this an incorrect (Fasid) sale?

**A:** Yes, this sale is classed as being incorrect (Fasid) as the exact dates of payment are not known.

**Q4:** If there has been an incorrect (Fasid) sale, what should the parties do?

**A:** It is Wajib upon both parties to cancel this sale even if the sale has taken place and the buyer is in possession of the goods. They have sinned and the sin must be removed by cancelling the sale<sup>37</sup> and repenting to Allah (SWT).

**Q5:** What if the buyer sold the item on to another party will the new sale take effect?

**A:** Yes the new sale will take effect and both original parties must repent for the incorrect (Fasid) sale they did and if the buyer made a profit with the new sale then this profit is not lawful and must be given to charity<sup>38</sup>.

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<sup>33</sup> The term Mehram is used to describe relations who are directly related to you and that marriage is forbidden with this person due to the relationship for example, brother, farther, son etc.

<sup>34</sup> Mukhtasar A-Quduri, Kitabul Bayu

<sup>35</sup> See chapter of 'options given to parties within a transaction' in this booklet

<sup>36</sup> Mukhtasar A-Quduri, Kitabul Bayu

<sup>37</sup> Mukhtasar A-Quduri, Kitabul Bayu

## **Makru<sup>39</sup> Transaction**

The following acts will render a transaction to be Makru

1. To spoil the chances for others by raising the bid without an intension to buy. For example, if in an auction, for someone to bid a very high price without intending to purchase the goods.
2. If a transaction is about to be agreed by 2 parties and then a 3<sup>rd</sup> party enters and goes to the seller and offers a better price then for the seller to except the 2<sup>nd</sup> offer will render the transaction as Makru
3. To withhold items when there is a need for them i.e. during a drought, so that the seller can over charge customers due to its necessity.
4. To trade from the Azan of Jumu'ah until the end of the Jumu'ah salah<sup>40</sup>

## **6. Other Business Transactions**

### **To Sell at cost price or with profit**

To sell at cost price is called 'Towliyah' and this is valid in Sharia. However, when a person is selling at cost price he should not say what price he purchased the item for, rather he should say what the item cost him. This is because there may be additional costs added to the purchased price for instance, cleaning and sorting costs, painting/spraying costs, transport, labour and handling, storage etc.<sup>41</sup>

An example of cost price selling may be; Zaid is selling a car which he purchased for £3,000 but he spends an additional £1,000 repairing the car and £100 cleaning it, so in total the car stands him at £4,100. If Zaid was to sell this at cost price he would sell this for £4,100 not £3,000 as additional money was spent on the vehicle.

**Note:** *For a person to sell something and claim to the buyer that 'it is cost price' but in reality the seller is making a profit, this is deemed Haram as honesty is a key ingredient in Islamic values. It is narrated by Hazrat Abu Sa'eed Khudri (radiAllahu-hutala-anho) that the Messenger (sallallahu alayhi wa'salam) said; "The truthful and trustworthy businessman will be amongst the Prophets (Alay – hissalam), the Siddiqeen and the martyrs on the Day of Qiyaamah."*<sup>42</sup>

To sell a commodity for a profit is called 'Murabaha' and this is totally permissible within Sharia. Most of the Islamic banks and financial institutions have there financing operations based on Murabaha.

To sell at a profit (Murabaha) is a particular sale which a seller agrees with his purchaser to provide him a specific commodity with a certain profit added to his cost. The basic ingredient of a sale with a profit (Murabaha) is that the seller discloses the actual cost price of the commodity (including the

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<sup>38</sup> Mukhtasar A-Quduri, Kitabul Bayu

<sup>39</sup> Disliked or undesirable

<sup>40</sup> Mukhtasar A-Quduri, Kitabul Bayu

<sup>41</sup> Mukhtasar A-Quduri, Kitabul Bayu (Chapter: Murabahah and Towliyah)

<sup>42</sup> Tirmidhi

costs occurred in acquiring the commodity), and then adds some profit upon it. The profit may be in lump sum or in percentage for example, cost price + 30% profit or cost price + £1,000 profit. The payment of Murabaha may be on the spot, and may be on a subsequent date agreed upon by the parties<sup>43</sup>.

### **Paying in Advance (Bay –Us-Salam)**

A transaction which involves payment in advance is termed 'Bay-Us-Salam' within the terminology of Sharia.

### **Questions and Answers**

**Q1:** Are transactions involving advance payments allowed in Sharia?

**A:** Yes this type of sale is valid only if 'Size', 'Amount', 'Quality' of the item and 'date of Delivery' is known. If any of these factors are not known then this type of sale is not valid<sup>44</sup>.

**Q2:** What type of commodities can be sold within Bay-Us-Salam?

**A:** Any commodity in which the 'Size', 'Amount' and 'Quality' is known if there is any inconsistency in any of these 3 factors then the commodity can not be sold under advance payment (Bay-Us-Salam)<sup>45</sup>.

**Q3:** Is Bay-Us-Salam valid for Gems and Pearls?

**A:** No, Advance payment is not valid for Gems and Pearls.

**Q4:** Are there any further conditions attached to Bay-Us-Salam?

**A:** Yes, there are several conditions which need to be met in order for advance payment to take place<sup>46</sup>;

- A clear description and specification of the commodity must be given
- The quality must be clearly given e.g. grade 1 or grade 2
- The quantity of the commodity must be known e.g. 100kg, 1 ton, 30 meters etc
- The Date/Time of delivery must be clear
- Place of delivery must be clear
- The Price of the commodity must be clear and known along with the payment method e.g. Cash, barter etc.
- The buyer should pay the seller at the time of when the contract took place
- The entire sale and deal should be documented and each party should have a copy

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<sup>43</sup> Mukhtasar A-Quduri, Kitabul Bayu (Chapter: Murabahah and Towliyah)

<sup>44</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter: Advance Payment)

<sup>45</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter: Advance Payment)

<sup>46</sup> Anwar-ul- Hadith Page 290.



- The buyer can not sell the commodity on until the transfer of ownership has taken place, similarly the seller can not invest the capital in any other deal until the buyer has received the goods.

**Q5:** Are 'Buy now and Pay later' transactions allowed in Islam? For example, to buy a PC by leaving a 10% deposit and they pay nothing up until 12 months later. Also then you have a chose to pay the full amount in a lump sum or in instalments which includes an element of interest (Riba).

**A:** To make payment later for a purchase made on the spot is permissible whether paid in a lump sum or in instalment even rescheduling the payment dates on the basis of mutual agreement is also allowed. However, the payments must total equal to the original amount to avoid Riba. For example, if Zaid purchased a PC for £1000 he can pay the amount after 12 months as a lump sum of £1000 or he can choose to pay in instalments for instance £500 over 2 instalments. If Zaid would to enter a contract in which he would have to pay more than £1000 (which is the original price of the PC) then this would be regarded as Riba and this contract would then be deemed Haram.

**Q6:** What if there was an administration fee attached to paying off the PC in a lump sum after 12 months, would this be Harram?

**A:** Yes this administration fee would be deemed as Riba as fees of any kind is usually associated with providing a service and within this circumstance there seems to be no service provided in order to justify the administration fee (because no real service has been given to the buyer as a result of the 12<sup>th</sup> month ending) and any form of non-charitable penalty or payment addition is deemed Riba<sup>47</sup>.

**Q7:** Can one buy property which has not been developed yet?

**A:** This depends on the terms of the sale. However, typically, nowadays there are properties such as apartments which people invest in before they are actually built. The apartments are offered for sale when they are in the design or planning stage which as a result would be a lot cheaper to purchase once they are built. To purchase the property at this stage before it is built is allowed considering that the condition of Bay-us-Salam are met (Size, Amount, Quality and date of completion are known prior to sale along with the remaining conditions mentioned above). However, one must be vigilant that there is no interest entailed within the sale.

### **Currency Exchange (Bay –Us-Sarf)**

Bay-Us-Sarf is the transaction where both the commodity and the payments are in gold or silver. The sale of silver for silver and gold for gold is not valid except in equal quantities or cash as the Messenger of Allah (Salala-hu-alayhi wasalim) has said "Do not sell gold for gold except like for like and do not devour some of it with the rest, do not sell silver for silver except like for like and do not devour some of it with the rest and do not sell a thing absent for one that is present"<sup>48</sup>.

### **Questions and Answers**

**Q1:** Can a transaction involving gold or silver be done on a credit basis?

**A:** No, the transaction involving gold or silver must be done on a cash basis

<sup>47</sup> [http://qa.sunnipath.com/issue\\_view.asp?HD=1&ID=6694&CATE=43](http://qa.sunnipath.com/issue_view.asp?HD=1&ID=6694&CATE=43)

<sup>48</sup> Sahih Muslim chapter of Riba/Hadith: 3845

**Q2:** What is the rule regarding exchanging gold?

**A:** When exchanging gold the quantity must be the same but the quality can be different. E.g. 34ct gold ring must be exchanged with another piece of gold may it be a necklace but it also has to be 34ct in weight.

**Q3:** Does the above rule only apply to gold?

**A:** No this also applied to silver for silver transactions.

**Q4:** Can gold be traded with silver and vice-versa?

**A:** Yes this is valid but the weight need not be the same for example, 50g of gold can be exchange with 75g of silver. However, there is a condition that both the gold and silver must be exchanged at the same time.

**Q5:** Can one exchange a debt owed to him for another debt? For example Zaid has a debt with Hassan for £1000; also Hassan has a debt with Ahmed for £1000. Can Hassan ask Zaid to pay Ahmed his debt of £1000?

**A:** Yes a transfer of debt is called Hawalah and it is permissible under the condition that there is mutual consent of;

- The Primary debtor who is transferring the debt
- The creditor
- The person to whom responsibility of the debt is transferred

**Q6:** Is it permissible to buy and sell currency in the foreign exchange market with the intension to make a profit by using economical forecasting and mathematical models?

**A:** To exchange currencies of the same country with adding excess (profit) is Haram, for example, to exchange £1 with £1.50. However, to exchange a currency with a different currency with added excess is Halal, for example, exchanging £1 with \$4. But, it would be necessary that one party takes possession of his currency at the time of the transaction<sup>49</sup>.

**Q7:** Is one allowed to have a foreign currency exchange business?

**A:** Yes it is permissible to have a foreign currency business as long as there is no excess added for exchanging the same type of currency<sup>50</sup>.

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<sup>49</sup> [http://qa.sunnipath.com/issue\\_view.asp?HD=1&ID=3720&CATE=43](http://qa.sunnipath.com/issue_view.asp?HD=1&ID=3720&CATE=43)

<sup>50</sup> [http://qa.sunnipath.com/issue\\_view.asp?HD=1&ID=3720&CATE=43](http://qa.sunnipath.com/issue_view.asp?HD=1&ID=3720&CATE=43)

## **7. What is the method to get rid of Haram or unlawfully earned money?**

As unlawfully earned money is not your rightful possession, the default would be to return the money to its rightful owners. However, if this is not possible then it can be given to charity on their behalf and as an essence the money is returned back to them (owners) but in a form of charity given on their behalf. When giving this money to charity one must have the intension of giving it to get rid of the unlawful money from his possession whilst repenting to Allah (SWT) for his disobedience. To intend to seek reward for giving of this money is a sin in itself so one should be clear that there is no reward for him in giving of unlawfully earned money to charity. One can give this money to charity or people deserving of Zakat for example the poor and needy.

## **8. Interest based policies and transactions**

### **Riba (Interest/Usury)**

**Q1:** What is the meaning of Riba?

**A:** The literal meaning of the word Riba is 'a general increase'. The Sharia meaning of Riba is the extra wealth which is earned without any benefit for gain. For example, if Zaid borrowed £1000 from Hassan and Hassan asked for £1100 back then the extra £100 will be classed as Riba as Zaid has not received any benefit from Hassan for the extra £100.

**Q2:** Why is Riba Haram?

**A:** There are numerous verses from the Holy Quran in which Allah (Subhana wa'ata'ala) has ordered us not to indulge in interest, for example;

"Those who take Riba will not stand but as stands the one whom the demon has driven crazy by his touch. That is because they have said "Trading is but like Riba". And Allah has permitted trading, and prohibited riba. So, whoever receives an advice from his Lord and stops, he is allowed what has passed, and his matter is up to Allah. And the one who revert back, those are the people of Fire. There they remain forever."<sup>51</sup>

Also, there are a number of Hadith which condemn the dealing with interest;

The Messenger of Allah (sallallahu alayhi wa'salam) cursed the one who accepts riba, the one who pays it, the one who writes it and the person who gives witness to it and said "They are all alike".<sup>52</sup>

**Q3:** Can a Muslim in Daarul Harb (non-Muslim country) trade in sale which consists of Riba with a non-Muslim?

**A:** No, this is not allowed.

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<sup>51</sup> Quran:2:275 for further references please see Quran: 2 verses 276 to 281

<sup>52</sup> Muslim (1598) from the Hadeeth of Jaabir (may Allaah be pleased with him). Also see Sahih Al-Bukhari, Volume 7, Book 63, Hadith 259 and in Volume 7, Book 72, Hadith 845 and in Volume 3, Book 34, Hadith 299 & 440

## Credit Card Transactions

**Q1:** Is it permissible to use credit cards in Islam?

**A:** The use of credit cards by a purchaser \buyer is allowed in Shariah, no matter whether the card is issued by a banking institution or some other company e.g. Store card etc. However, there are a few points which one needs to bare in mind.

- The best way of using credit cards is to open an account wherefrom all the amounts owing on the credit card are debited automatically from you savings account each month to avoid the possibility of late payment which may in most cases, carry the risk of attaining interest.
- If the system of direct debit is not arranged, one must always be careful that he pays the bills within the fixed time without fail, so that interest may not be imposed upon him.
- The annual fee paid by a card-holder to the card-issuing company is not interest, rather it is a fee charged for certain services offered by the company for the benefit of the holder. That is why it is charged regardless of the amount actually spent by the holder.<sup>53</sup>

If one can be certain that they posses the means to pay off the balance for the credit card without attaining any interest then it is permissible to use a credit card. However, if one is not cautious and attains interest for late payment etc, then they have committed an unlawful act. It would be suggested to be highly vigilant in this matter and if one suspects that they may not be able to pay off the payments and may possibly attain interest then they should not use a credit card.

**Q2:** Is it permissible for a store to use a 'Payment by credit card' method (to accept credit card payments).

**A:** There is an amount charged by the card-issuing company to the shopkeeper, scholars have argued that this charge is classified as interest however many modern day scholars hold a different opinion. They say that the company has to do a lot of work for the benefit of the seller. Therefore, the commission charged by it is similar to the commission of a broker which is undoubtedly permissible<sup>54</sup>.

**Q3:** Is paying late fee on a credit card transaction allowed?

**A:** This depends on the type of credit card you are using, and its terms and conditions. But, the general case would be that such "late fees" are riba, and it would be sinful to delay payment if one falls into such a problem (of paying interest).

**Q4:** What is the ruling on accepting cash back bonuses from credit cards or bonus miles? For example, a particular credit card company gives 1% cash back for all purchases through it. One must wait till it reaches the level of £200 or more, or within a certain period of time etc?

**A:** If one uses the credit cards for purchasing and the bill is paid on time (and one has the ability and means to actually do so) without requiring to pay any interest, then it would be permissible to use them, as outlined by the contemporary scholars, such as Shaykh Taqi Usmani and major Arab scholars.

If the cash back bonuses from the usage of credit cards is a reward from the credit card companies in order to attract customers, then this is legally considered a gift (hadiya).

If there are no other impermissible elements, such as gambling, then it would be permissible to accept such rewards and benefits. The same ruling is on bonus miles and points offered by the companies.

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<sup>53</sup> [http://qa.sunnipath.com/issue\\_view.asp?HD=1&ID=377&CATE=43](http://qa.sunnipath.com/issue_view.asp?HD=1&ID=377&CATE=43)

<sup>54</sup> [http://qa.sunnipath.com/issue\\_view.asp?HD=1&ID=377&CATE=43](http://qa.sunnipath.com/issue_view.asp?HD=1&ID=377&CATE=43)

## Bank Accounts

**Q1:** Is it allowed to have an account with a bank?

**A:** Yes one is allowed to have a bank account under the condition that there is no interest being accumulated in it.

**Q2:** Banks use the money we have in our accounts in haram investments can we still have a bank account?

**A:** Bank accounts are used in 2 ways;

1. For money to be put in the account so that it may grow and the person may accumulate more money. For example, banks pay interest upon the money invested into these types of accounts. This form of banking is Haram.
2. For money to be put into the bank for security reasons as many people avoid keeping large amounts of cash at their homes or businesses due to the fear of theft etc. They therefore keep the money in a savings or current account of some sort. These accounts also incur riba but the Scholars have given the ruling that these accounts may be utilised under the condition that the interest is blocked or given away.

Banks may well use the money in the accounts on unlawful investments and companies and as there is no alternative form of banking i.e. bank account which is Sharia compliant one has no alternative but to use these accounts. Hence, the International Islamic Fiqh Academy consisting of top major scholars of the world collectively issued a resolution that, any returns on money which is in a bank account (since they are loans) is a form of the unlawful and prohibited Riba.<sup>55</sup>

However, recently HSBC Amanah offers a bank account which is sharia complaint and they assure that the money in the accounts will be kept separate from conventional funds and will not be used to generate interest or be used for unlawful investments.

As the option for a Sharia compliant account is now available one should use this form of banking as it removes the elements of unlawfulness and doubt.

**Q3:** I used to have a savings account and I closed it as I was receiving interest on it. I want to re-open a savings account. What would be the better option?

**A:** The default is that it is haram for a Muslim to have any kind of dealings with interest. However, the fuqaha<sup>56</sup> of our age allowed putting money in accounts that accrue interest only if there is no reasonable availability of accounts that do not accrue interest. As such, one should either find an account that does not accrue interest, or request not to receive interest as majority of banks now facilitate this by disabling the interest for the account. If neither is found to be possible, then one should give away the interest<sup>57</sup>.

According to the Hanafi fuqaha, it is best to give away the money to those eligible for charity, as explained in the previous chapters<sup>58</sup>.

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<sup>55</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=2742&CATE=5](http://spa.qibla.com/issue_view.asp?HD=1&ID=2742&CATE=5)

<sup>56</sup> Scholars of Islamic Jurisprudence

<sup>57</sup> [http://qa.sunnipath.com/issue\\_view.asp?HD=1&ID=342&CATE=43](http://qa.sunnipath.com/issue_view.asp?HD=1&ID=342&CATE=43)

<sup>58</sup> Please see section on Batil Transactions



**Q4:** But most of the banks are Jewish owned, and if we don't accept the interest, they get to keep the money and use it against us. So is it permissible for me to take that interest money and give it to an Islamic Charity or use it for any Islamic purpose?

**A:** Many banks agree to take back interest they have posted to ones account and can block it from being posted in future. However, the best and easiest way to deal with the issue is to not accept the money in the first place, rather than to wrongly acquire money and then find ways of disposing of it. We should explain to them, that regardless of the amount, as a matter of religious principle we do not accept a single penny of interest. When everyone does this, it also sends a clear message; it is surprising how many employees are quite impressed with such principles because not many people turn down free money. As for banks using money against us, speculated harm does not permit us to disobey Allah's firm command to not partake in riba (interest).

**Q5:** What if the interest within the account is bare minimal e.g. half a pence, which will no harm the banks as they earn billions of pounds each year?

**A:** Bank interest is unlawful and sinful even if it is a very small amount that does not harm the one paying interest, as the reason for Riba being haram is because it is paying an excess amount on a loan taken, regardless of whether one is harmed or not.

## Loans

**Q1:** Are Muslims allowed to take loans?

**A:** Yes, it is totally permissible to take a loan but one must make sure that the loan does not involve any interest.

**Q2:** Give an example of a loan which involves interest.

**A:** To take a loan with the condition that when the loan is repaid an additional amount has to be paid with the original amount, then this extra amount is classified as Riba (interest). For example, Zahid asks Hassan to loan £2000. Hassan loans Zahid £2000 under the condition that when Zahid pays it back he must pay £2500 back. The additional £500 is classified as interest and this loan would be Haram.

**Q3:** When should one take a loan?

**A:** Loan is a refuge in which people can turn to in times of economic and financial necessity. But a man should only take a loan as a last resort, when he is under the most extreme economic and social pressure, or when his life or honour is in danger.

Also the one who has lent the loan should give time and respite to the one who has borrowed the money. Allah says in the Qur'an, 'Who is there who will lend Allah a friendly loan which he will double many times over.'<sup>59</sup>

Also 'And if he is in difficulty then he should be given deferment to make it easy for him, and if you let him off, that is to your benefit.'<sup>60</sup>

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<sup>59</sup> Quran 2:245

<sup>60</sup> Quran 2:280

The Prophet (sallallahu alay hi sallam) said, if anyone would like to be saved from the agonies of the day of Qiyamah, he should give respite to a debtor (the one who has borrowed the money) who is in difficulty or remove the burden (of the debt) from him completely<sup>61</sup>.

**Q4:** How should a loan be taken?

**A:** It has been emphasized both in the Qur'an and Hadith that loans and credit transactions should be set down in writing. However it is not a sin if one does not do this because the emphasis has been put down for the purpose of both parties being at ease. The longest verse (2:282) of the Qur'an was revealed concerning this.

**Q5:** What if one takes a loan without the intention of re-paying?

**A:** When taking out a loan, one must have a firm and resolute intention of paying it back, and it will be a grave sin to intend not to repay the loan. Grave warnings have been promised in the Qur'an and Sunna for the one who fails to repay a loan without a genuine and valid excuse.

Allah Most High says: "Allah does command you to render back your trusts to those to whom they are due..."<sup>62</sup>

Sayyiduna Abu Hurayra (radiAllahu taala anhu) narrates that the Messenger of Allah (sallallahu alay hi sallam) said: "Whosoever takes the wealth of people (as loan) with the intention of repaying it, Allah will repay it on his behalf. And whosoever takes it with the intention of not repaying it, Allah will destroy it."<sup>63</sup>

Moreover, if one takes out a loan without the intention of repaying it, then one will be considered to have consumed unlawful (haram) wealth.

## **Insurance**

All forms of commercial insurances common in modern trade are unlawful and against the principles of Shari'ah<sup>64</sup>. The reason for this is that they have either an element of interest or gambling, both of which have been strictly forbidden by Allah (Subhana wa'ata'ala).

Quran regarding interest;

"And if ye do not, then be warned of war (against you) from Allah and His messenger. And if ye repent, then ye have your principal (without interest). Wrong not, and ye shall not be wronged."  
[Qur'an, 2.275-279]

Quran regarding gambling;

"O ye who believe! Wine and chancing and idols and divining arrows are only an infamy of Satan's handiwork. Leave it aside in order that ye may succeed." [Qur'an, 5.90]

## **Underlining Rule Regarding Insurance**

The general concept of insurance is chancing<sup>65</sup> in the sense that the premiums are paid for certain, where as the return is uncertain. You may lose all the premiums you paid or may receive in return

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<sup>61</sup> Sahih Muslim, vol 2, p18

<sup>62</sup> Quran 4:58

<sup>63</sup> Sahih al-Bukhari, no: 2257

<sup>64</sup> [http://qa.sunnipath.com/issue\\_view.asp?HD=1&ID=2999&CATE=44](http://qa.sunnipath.com/issue_view.asp?HD=1&ID=2999&CATE=44)

<sup>65</sup> 'Relying on or inviting the risks of chance' – Merriam-Webster's Unlimited Dictionary

more than what you paid. This is known as chancing/gambling. There is also interest, as money is being exchanged for

money and one party pays less and the other receives more in return. As a result there is 2 breaches of Allah (Subhana wa'ata'ala) staunch prohibited commands firstly gambling and secondly interest.

This is the reason why the great contemporary scholars from all over the world<sup>66</sup> have declared all types of common insurances unlawful (haram), unless when one is compelled to take it by the Government<sup>67</sup>.

## Vehicle insurance

However, it should be noted that since third party vehicle insurance is a compulsory legal requirement for every car-owner in the UK, one can take this kind of insurance, as it is not possible for one to avoid it.

**Q1:** What type of vehicle insurance should one take?

**A:** If one is obliged by law to have an insurance cover for their vehicle, then it would be permissible for one to have insurance up to the minimum level required by UK law. The minimum requirement is third party insurance which is compulsory by law. It would be permissible to take up 3<sup>rd</sup> party insurance, for it is impossible for one to avoid it. It is impermissible (in normal cases) to take up fully comprehensive insurance.<sup>68</sup>

**Q2:** What if the fully comprehensive insurance is cheaper than the third party insurance?

**A:** If full comprehensive insurance is cheaper than the third party insurance and it can fulfil the requirement of law and after that one does not need to enter into a third party insurance then it will be permissible to have full comprehensive insurance to meet the requirement of law.

However, one must bear 2 points in mind

**a)** On the grounds that the fully comprehensive insurance is cheaper, one can not hold both fully comprehensive and third party insurance policy simultaneously. For example if someone is a car tradesman and they have a Traders insurance policy which covers any vehicle they drive under a 3<sup>rd</sup> party cover. Now for this person to take a separate cover for a vehicle will be impermissible as the Traders insurance policy covers the requirement of law.

**b)** If one has fully comprehensive insurance to meet legal requirements and they have been given compensation for the vehicle, one can only receive the amount they have paid towards the premiums the remainder must be given to charity<sup>69</sup>.

**Q2:** If one is in a fully comprehensive policy what should he do?

**A:** Under normal circumstances one should avoid taking a fully comprehensive cover but if one has taken it or one had to take it due to necessity i.e. work commitments. Then he must fulfil the

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<sup>66</sup> The Islamic Fiqh Academy (Jeddah), and which consists of top recognized scholars from around the globe researched the issue in considerable depth. They concluded that all types of prevalent insurance is Haram.

<sup>67</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=372&CATE=43](http://spa.qibla.com/issue_view.asp?HD=1&ID=372&CATE=43)

<sup>68</sup> [http://qa.sunnipath.com/issue\\_view.asp?HD=1&ID=2999&CATE=44](http://qa.sunnipath.com/issue_view.asp?HD=1&ID=2999&CATE=44)

<sup>69</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=372&CATE=43](http://spa.qibla.com/issue_view.asp?HD=1&ID=372&CATE=43)

condition that he must only take the total premium paid to the insurance company by him up to the time of the accident. The rest of the compensation offered by the insurance company must be given in charity (as is the general case with unlawfully acquired wealth). So for example, if Zaid has paid his premiums for 2 years which is £1000 and he had an accident and he received £2000 for his claim then he can only take £1000 and must give the remainder £1000 to charity.<sup>70</sup>

**Q3:** Can I put my self as an additional named driver and my father the named driver for my insurance on my vehicle as this will result to cheaper premiums?

**A:** If you state that your father will be the main driver of the car and that you will merely be the second driver, but in actual fact you will be the main driver and not your father this is called 'Fronting', and this will not be allowed Islamically, for it constitutes lying, deceiving and giving false information. It is also illegal within the law of the UK, hence one will be breaking the law of the country.

## Cover Plans

**Q1:** Is one allowed to have AA, RAC breakdown or road side assistant cover?

**A:** To become a member of AA or RAC or any other company for the breakdown of the vehicle is permissible and is not similar to insurance. When one becomes a member, one pays for the service which the company offers him, which is to be at his assistance at any time. The money which is being paid is for the service (Assistance 24/7), this is the reason why the Company does not pay for any damages to the car. If you are short of Fuel they will bring the fuel for you, but you will have to pay for it. If one does not use their service during the course of the year, then the payment still remains, as one is paying for the service of them being there for you at any time.

**Note:** The above principle refers to all cover plans which act as a service provider.

## Life Insurance

**Q1:** Is life Insurance allowed

**A:** Life Insurance is not permitted in Islam.

**Q2:** What should one do if a deceased has left Life Insurance money in there inheritance?

**A:** The money which is received through a life insurance policy that the deceased held will have to be dispose by the inheritor's of this money by giving it to charity. Only the amount paid as premiums to the insurance company can be taken back, hence any extra amount will be considered Haram.<sup>71</sup>

**Q3:** What is the ruling if in ones work contact the employers take a percentage of the salary towards a life insurance policy and there is no way to opt out of it?

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<sup>70</sup> [http://qa.sunnipath.com/issue\\_view.asp?HD=1&ID=2999&CATE=44](http://qa.sunnipath.com/issue_view.asp?HD=1&ID=2999&CATE=44)

<sup>71</sup> [http://qa.sunnipath.com/issue\\_view.asp?HD=1&ID=3717&CATE=48](http://qa.sunnipath.com/issue_view.asp?HD=1&ID=3717&CATE=48)

**A:** Money received from such a life insurance is lawful and the inheritors can benefit from it, since the deceased did not enter into it voluntarily, so it will be treated like a gift when it is received<sup>72</sup>

**Q4:** What should one do if they have a life insurance?

**A:** One should try to terminate the life insurance policy as soon as possible, for it is unlawful. It will not be permitted to have the policy even with the intention of using the money for some good cause. It will be permitted for them to take the premiums paid, and anything extra should be given away to the poor without the intention of reward.

**Q5:** Is it permissible to have medical insurance?

**A:** If an insurance policy is allowed or not is dependent on the terms and insurance policy scheme. However, leaving aside mutual insurance schemes, all the typical insurance policies available with the traditional insurance companies run on a commercial basis have an element of interest or chancing or both, hence, it is not allowed. Therefore, all forms of insurance including medical insurance will be unlawful.

## **9. Rules when buying property**

### **Mortgages**

**Q1:** What if the seller is sold at cost price but he is dishonest and the buyer is made aware of his dishonesty, what can the buyer do?

**A:** The buyer may reduce the excess from the price.

**Q2:** Are mortgages allowed?

**A:** Any interest based mortgages or transactions are forbidden in Islam. The majority of the scholars from around the globe including Shaykh al-Bouti, Shaykh Wahba Zuhayli and Shaykh Taqi Usmani (may Allah preserve them all) have declared interest based mortgages to be Haram, except in dire circumstances.

**Q3:** What types of mortgages are allowed?

**A:** Mortgages which are not based on interest are permissible, typically the Islamic banks and financial institutes provide mortgages based on 2 Islamic sales terms 'Murabaha' and 'ijara'. Shaykh Mufti Taqi Usmani along with two other scholars, Shaykh Nizam al-Yaqubi (Bahrain) and Dr. al-Ghari (Saudi Arabia) have approved of the HSBC house financing schemes known as the Amanah House Financing. There are other banks which are beginning to cater for the Muslim population regarding mortgages such as Islamic Bank of Brittan.

**Q4:** How are Murabaha and Ijraha used in a financial node?

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<sup>72</sup> Mufti Nizamuddin has added in his Fatawa that the original capital amount will be distributed among the heirs according to the Islamic rules of inheritance [*mirath*], and the remaining amount will be received by whosoever has been designated as the beneficiary in the original contract. [*Muntakhabat nizam al-fatawa* vol. 1, page. 213]. Also see [http://qa.sunnipath.com/issue\\_view.asp?HD=1&ID=3717&CATE=48](http://qa.sunnipath.com/issue_view.asp?HD=1&ID=3717&CATE=48)

**A:** In a nutshell Murabaha is when the bank or financial institution purchases the house and then sells it to the client at a higher price on deferred payment.

Ijarah is when the bank and the client both jointly purchase the house, and the client pays rent to the bank for its share and also payments in instalments are made towards the purchase of the house. Finally, the client pays the entire price of the bank's share, and the rent paid over this period would be the bank's profit.<sup>73</sup>

**Q5:** What should I do if I have an Interest based mortgage?

**A:** If you have the means and you are financially able to pay off the mortgage, then you must do that as soon as possible. Interest transactions are forbidden, and the quicker one removes oneself from the sin of Riba, the better. At the same time one must realise that they have committed sin, be in the state of repentance to Allah S.W.T and intend not to commit this sin again.

### **House and building Insurance**

**Q1:** House insurance for break-ins, and damage: Is it allowed?

**A:** No, this type of house insurance or goods insurance is Haram and should be avoided. All types of commonly offered insurances are unlawful, for they have an element of either Riba, chancing or both.

**Q2:** What if by the law of the county I have to have house or building insurance?

**A:** Scholars have mentioned that such insurance which is inevitable (such renting a house, or workers in a high risk industry) due to one's circumstances and reasonably unavoidable, it would be considered in a similar manner to the legal requirement of car insurance. Hence, it would be an unavoidable cost of operation.

## **10. Hiring and renting**

**Q1:** Is hiring and renting allowed?

**A:** For hiring or renting to be valid the following should be known by both parties;

1. The item to be rented
2. The price of the rental for example per hour, per day, per month etc
3. The time limit rented for e.g. 1 month, 5 hours etc
4. The form of payment
5. The condition of the rented item<sup>74</sup>
6. The lease should be fully documented and a copy given to both parties

**Q2:** Is leasing a car or renting a house/property allowed?

**A:** Yes, leasing or renting of a property<sup>75</sup> or a vehicle is permitted if:

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<sup>73</sup> For more details, please refer to Mufti Taqi Usmani's book 'An Introduction to Islamic Finance'

<sup>74</sup> Mukhtasar A-Quduri, Kitabul Ijarah

<sup>75</sup> Mukhtasar A-Quduri, Kitabul Ijarah

- (a) All the rules and conditions required by the shariah are met
- (b) There is nothing stipulated in the lease contract that goes against the shariah e.g. interest.

Some of the basic rules and conditions for leasing are (which are additional to the above mentioned in Q1):

1. The leased property remains in the ownership of the seller, and only its usage is transferred to the person it is being leased to. (This implies that anything that is consumable - like food or money - cannot be leased)
2. Since the leased property remains in the ownership of the lessor, he is responsible for all the liabilities emerging from the ownership e.g. paying the property tax on a house leased out unless specified in the leasing contract.
3. All the liabilities related to the use of the property shall be the responsibility of the lessee e.g. Gas and electricity bills in a leased house or fuel for a leased vehicle.
4. The lessee is liable for misuse and negligence.
5. The lessee can use the item for only the purpose it was stipulated for.
6. There should be nothing in the contract that includes interest, such as late-payment fees etc.

Thus, it is clear that the Islamic understanding of leasing differs from conventional forms of leasing. One should be vigilant that all his/her actions are in compliance with what the shari`ah has laid down before proceeding to do anything<sup>76</sup>.

## **11. Shares and Bonds investment**

**Q1:** I would like to invest in the stock market is this permissible?

**A:** There is a difference of opinion in the ruling over investing into the stock market.

**Opinion 1:** Some scholars (very few) have the opinion that it is Haram to invest in shares as shares do not represent an ownership of the company's assets, rather the share certificate is a document that signifies lending of some amount of cash to a particular company. The extra money which one receives (from the loaned money) will be considered interest which as a result will become Haram.

**Opinion 2:** The majority of scholars<sup>77</sup> however hold the opinion that investments in shares of company's are Halal under certain conditions as the share certificate does indicate ownership of the company's assets. The reason for this is that when a company becomes bankrupt or liquidated the shareholders will not receive their investment back in cash rather they will receive it back in the form of the company's assets. So when one purchases a share of a company they are not leading money rather they have an ownership in the company itself.

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<sup>76</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=12326&CATE=43](http://spa.qibla.com/issue_view.asp?HD=1&ID=12326&CATE=43) Also see Introduction to Islamic Finance by Mufti Taqi Usmani

<sup>77</sup> Scholars such as Shaykh Ali al-Khafif, Dr. Wahba al-Zuhaili, Shaykh Taqi Usmani

The following conditions need to be adhered to for the share investment to be Halal:

1. The main business of the company must be Halal. For example, to invest in Banks, insurance companies or companies which sell alcohol will not be permissible as the main business is Haram. However, to buy shares of a company which deals in textile, communications etc will be permissible.
2. Many companies which have a halal stream of business still have\may have dealings with interest one way or another. If this is the case then one should;
  - One should object to the interest dealings, preferably in the annual AGM. By doing so your responsibility will be deemed fulfilled.
  - When the dividend (extra eared from investment) is received one must give the amount earned as interest to charity (without intention of reward)
3. The company whose shares one intends to purchase must have some illiquid assets in its possession. They must not all be in liquid form (i.e. cash, cheques, bonds, etc...).

If all of the company's assets are in liquid form, then the share cannot be sold or purchased except at face value.

The reason for this is that the share in this case represents money only, and money cannot be traded in except at par (stated or face value).

If the above conditions are complied, then it will be permissible to trade in shares from the stock market.<sup>78</sup>

**Q2:** Can one work as a stock broker within the stock market?

**A:** If one is selling shares for a company which is halal to by shares from (see answer to question 1 in this section) then it is permissible to do so otherwise if will not be impermissible.

**Q3:** Are Premium Bonds halal?

**A:** Bonds work slightly different compared with shares. If one has a premium bond this does not represent the ownership in the company rather it is representing a giving of a loan to the issuer of the bonds. As a result, the excess\extra amount received on these bonds will be classed as interest, thus making it haram to purchase the bonds.

**Q4:** Are prize bonds halal?

**A:** Prize bonds are not permissible according to Sharia. The reason for this is that the investment\money of each individual investor will have interest added to it according to the ratio of investment. All the interest of each investor is placed into a joint pool and who ever wins the prize will be awarded the interest. So as a result of this it is haram to buy prize bonds.

**Q5:** What if you do not win the prize within a prize bond investment?

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<sup>78</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=375&CATE=43](http://spa.qibla.com/issue_view.asp?HD=1&ID=375&CATE=43)



**A:** The one who invests in a prize bond and does not win is still purchasing a haram investment as scholars mention that it resembles chancing in that the interest accumulated on the original investment is uncertain. One may receive this interest and more (in the case of winning a prize) or not receive any interest altogether.

**Q6:** But in prize bonds your investment still stay the same one can not lose the amount paid for the bond.

**A:** Regardless of the fact that the Prize bond will always retain its investment it is still haram to purchase as details described in answers to question 4 and 5.

## **12. Taxes**

**Q1:** Is it permissible to lie to avoid paying taxes?

**A:** It is not allowed to cheat and deceive the government in regards to taxes even if you live under a Western government.

The Prophet Muhammad (sallallahu alay hi sallam) said,

“The one who cheats is not of us.”<sup>79</sup>

He also said (sallallahu alay hi sallam),

“The one who does not fulfil trusts has no faith, and the one who does not fulfil commitments has no religion.”<sup>80</sup>

However, one can take all legal means to minimize one's taxes.

**Q2:** I am self employed am I allowed to use an accountant and not question his transactions and professionalism in terms of avoiding tax for my benefit?

**A:** Lying and deceiving are both unlawful and sinful in Islam, hence it will not be permitted to lie and deceive even to avoid unjust taxes. However, it is allowed to take all lawful means or ways to reduce or even avoid taxes. Therefore, what one should do is to make ones position clear to there accountant and explain to him that you do not want him to lie, cheat and deceive when he manages your accounts. If you think the accountant can be trusted, then there is nothing wrong in you using his services, as your responsibility would be fulfilled by you making your position clear. However, if you suspect that he cannot be trusted then one should use another accountant who can be trusted.

**Q3:** Is one allowed to under quote there income in order to pay less taxes? For example I am a self employed public transport provider as a result I have to declare to the tax office how much I earn on a yearly basis. Can I under quote my earnings to receive less tax bills and other benefits?

**A:** No this is not allowed as it has been mentioned before that it is not permitted to cheat or deceive.

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<sup>79</sup> Muslim, Tirmidhi, Abu Dawud, and others

<sup>80</sup> Ahmad, with a sound chain of narrators

### **13. Business Partnerships**

**Q1:** Can a Muslim join partnership with a non-Muslim in business? Also, what are the guidelines for this?

**A:** It is totally permitted to be in partnership with a non-Muslim, the guidelines of this partnership is that the non-Muslim partnership is generally dealt with as the same as a Muslim partnership.

**Q2:** If one opens a restaurant with a non-Muslim and serves alcohol but the profits are divided as such that the profits from the alcohol is for the non-Muslim and the profits from the food is for the Muslim. Is this Permitted in Islam?

**A:** This is not permitted as Partners share all property and earnings from the partnership. Hence, it will be unlawful for the property or earnings from the business to be Haram<sup>81</sup>.

**Q3:** What if the restaurant does not sell alcohol but it allows its customers to bring their own alcohol and drink it on the premises?

**A:** This is also not permitted<sup>82</sup>.

**Q4:** I would like to invest in a business with my friend but he will take an interest based loan out to finance the business. As I am not taking the loan out myself and all I am doing is investing a share of the business, is this Halal to do?

**A:** If you were to invest in a business project with your friend and he takes out an interest-based loan, it will be as though you have taken out the loan, as an agent given him the permission to take out the loan. Hence, the sin of being involved in Riba will apply to you as much as it will apply to him.

The Messenger of Allah (sallallahu alayhi wa'salam) cursed the one who accepts riba, the one who pays it, the one who writes it and the person who gives witness to it and said "They are all alike"<sup>83</sup>

#### **Unlimited partnership**

**Q1:** I and a friend would like to become business partners and we are thinking of forming an unlimited partnership. Could you advise if this is recognised in Islam and if so, could you explain what it involves.

**A:** An unlimited partnership is legitimate and recognised in sharia according to the Hanfi madhab<sup>84</sup> this is referred to as *Sharikat al-Mufawadah*. First we must define what an unlimited partnership is, this type of partnership is when 2 parties become partners and they agree that they are both equal in wealth, transactions and their debt. So as a result this partnership extends on both parties entire assets including their personal assets. For example, a business liability could force the parties to use personal assets to retire the debt.

Conditions for unlimited partnership<sup>85</sup>:

1. Both parties must provide an equal amount of capital

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<sup>81</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=350&CATE=43](http://spa.qibla.com/issue_view.asp?HD=1&ID=350&CATE=43)

<sup>82</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=350&CATE=43](http://spa.qibla.com/issue_view.asp?HD=1&ID=350&CATE=43)

<sup>83</sup> Muslim (1598) from the Hadeeth of Jaabir (may Allaah be pleased with him). Also see Sahih Al-Bukhari, Volume 7, Book 63, Hadith 259 and in Volume 7, Book 72, Hadith 845, in Volume 3, Book 34, Hadith 299 & 440

<sup>84</sup> Other Madhabs have a difference of opinion on this type of partnership (also the other types). If you follow another madhab please consult a scholar of that madhab.

<sup>85</sup> Mukhtasar A-Quduri, Kitabush Sharikah

2. Both have the power of authority
3. Both must be mature and of the same religion
4. The partnership is equal in all ventures i.e. same in status and wealth
5. Both have the right to make transactions and business decisions however; they will not be partners in personal items for personal use.
6. If one party received money through inheritance or as a gift then the partnership is no longer valid since both parties capital needs to be equal. If however, he/she receives goods or land as inheritance then the partnership is still valid.
7. This type of partnership is not established on land or goods only with currency.

### Limited Partnership

**Q1:** Please explain Limited Partnerships according to sharia.

**A:** A limited partnership is referred to as *Shirkatul-’Inaan* and this is allowed within Islam. A limited partnership is when a partnership is formed on the basis of agency but not on standing surety. This means that both parties are representatives of each other (agents) but they cannot stand guarantee for each other. Also, the parties are liable only to the extent of their investment so their personal assets will not be at risk under any business liability.

Conditions of limited partnership<sup>86</sup>

1. The capital contribution does not have to be equal between both parties
2. The profits do not have to be equally shared
3. One only contributes a portion of his/her wealth not the entire wealth
4. The partnership is valid if more than 1 currency is used for example if one partner used pounds and the other used dollars
5. One or both partners can be involved in the actual trading
6. If any partner’s wealth is destroyed then the partnership is no longer valid as the lack of wealth or property from one or both partners renders the partnership void.
7. Both partners can employ staff and deal with cash and credit.
8. If either party buys anything for the business then the price of that is demanded from him not the other party, hence no standing surety between either party.
9. This type of partnership is not established on land or goods only with currency

**Q2:** In a Limited partnership can one party claim a fixed price of profit? E.g. one says that I want £2000 of the profit each month.

**A:** This will not be valid as it is possible that the total profit of the month may be less than the stipulated amount. The parties must stipulate an agreed share of the profits in percentages for example, Zaid gets 60% and Hassan gets 40% of the profits each month.

**Q3:** What if in a limited partnership one of the parties brought something and the capital of the other perishes before the purchase, what is the ruling between them?

**A:** The purchase is between them as per their agreement, and the one who brought the goods will

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<sup>86</sup> Mukhtasar A-Quduri, Kitabush Sharikah

seek claim from the partner his share of the price. The reason for this is that the partnership is still valid between both parties so anything purchased whilst the partnership is valid will be treated under the rules of the partnership (*Shirkatul –Inaan*).

### **Tradesman partnership**

**Q1:** My friend and I are builders in trade and we do building and decorating work in joint partnership. What are the rules for this type of partnership?

**A:** This type of partnership is called *Shirkatus Sinaa'ee* (Partnership in manufacturing/Trade) within Islamic terminology. In this partnership 2 tradesmen are partner its is not necessary for both parties to be in the same profession for example, one is a bricklayer and the other a plasterer or one can be a decorator and the other a plumber.

Conditions for Partnership in manufacturing<sup>87</sup>

1. Any party can take a job and the work will be binding upon both parties.
2. The profits are shared in equal amounts such as 50% each
3. The profits are shared even if one part didn't do any work for that job. For example, if A and B are partners in tailoring and A manufactures a suite for a client the profit must still be equally divided between A and B even though B did not do any work.

### **Partnership in liabilities**

**Q1:** My brother and I have begun to trade on the internet via ebay. However, there has been no investment of capital from either of us as everything we sell is on credit (interest free) and we pay off the credit once the item is sold. Is this valid in Islam?

**A:** Yes this is permissible and it is referred to as *Shirkatul Wujooh* (Partnership in liabilities), this type of partnership commences when there are no goods or capital investment. Goods or capital are taken on credit.

Conditions for Partnership with liabilities<sup>88</sup>

1. The partners are representatives of each other
2. The partners to agree before the partnership commences the ratio of the profit to be shared for example, A will get 40% and B will get 60%
3. It is not allowed to take more than the agreed amount of profit

### **Miscellaneous**

**Q1:** Can one business partner give Zakat for the other?

**A:** He/she may not unless they have the others permission<sup>89</sup>.

**Q2:** How is the earning shared once a partnership becomes void.

**A:** The earnings will be shared according to the capital contribution ratio. For example A contributed 30% B contributed 70% then b will get 70% of the earnings whilst A will get 30%

**Q3:** Can I form a partnership with a non-Muslim and open an off-licence selling alcohol? The non-Muslim will be selling the alcohol and I will be selling the food.

**A:** A partnership can not be formed in selling anything Haram e.g. wine, pornography, music etc .

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<sup>87</sup> Mukhtasar A-Quduri, Kitabush Sharikah

<sup>88</sup> Mukhtasar A-Quduri, Kitabush Sharikah

<sup>89</sup> Mukhtasar A-Quduri, Kitabush Sharikah

## Silent Partnership

**Q1:** I would like to form a partnership with a friend in which I am a silent partner. I have other commitments which do not allow me to do any actual work for this venture, is this allowed in Islam? If so please explain what Islam considers a Silent partner to be.

**A:** A silent partnership is valid and allowed according to Sharia, first let's define what a silent partner is.

A Silent partnership is referred to as *Mudarabah* within Sharia terminology. This is a form of partnership in which one partner provides all the capital or merchandise without providing or contributing labour whilst on the other hand the other partner is the one who provides labour but does not contribute any capital or merchandise. This is known as a Profit Sharing Partnership.

For example, Zaid gave some money to Hassan in order to conduct some business. Zaid and Hassan agreed that Hassan will conduct some business with Zaid's money and the profits earned from the transaction will be shared between them both. This form of partnership is a silent partnership as Zaid is the silent partner providing the capital and Hassan is the partner which is providing the labour. So, this form of partnership is permissible in Islam however, there are several conditions which need to be fulfilled in order for this type of partnership to be valid.

### Conditions for Silent Partnership<sup>90</sup>

In order to illustrate the conditions with clarity we will refer to A as the silent partner (the capital contributor) and B as the partner who is providing the labour.

1. Partner A must mention the amount of capital or merchandise he/she wishes to give to B and also hand over the capital/merchandise to B in order for B to conduct the business. If A does not hand B the capital/merchandise then the partnership is void.
2. Both A and B must stipulate the amount of share of the profits each will gain, this must be done in percentages. For example A will get 60% and B will get 40%.
3. When the capital/merchandise is given to B this is given as a trust (amaanah)<sup>91</sup>.
4. Partner B is a representative of partner A during all transactions.
5. If the partnership becomes void for some reason then B will not share the profits but will be paid a wage for his/her labour.
6. If B does any transaction which is contrary to A wishes and the business experiences loss due to that transaction then partner B will have to bear the cost of the loss from that transaction.
7. If the business suffers any loss due to misconduct from partner B then B will have to bear the loss.
8. If all the profits earned are given to partner A then this partnership is no longer valid as it's a condition that both partners must share the profits.
9. If there becomes any dispute on the profit sharing ratio once the ratio was fixed then the partnership is nullified.
10. Partner B can use the capital to gain credit, sell for cash, hiring and for travelling.

<sup>90</sup> Mukhtasar A-Quduri, Kitabush Sharikah

<sup>91</sup> If one gives you something to keep as a Trust (amaanah) it becomes Wajib upon you to safeguard that item. If you show any shortcoming in safeguarding it and it gets lost, stolen or damaged you will have to compensate for it. However, if you displayed no shortcomings in safeguarding the item and it got stolen or for example it got burnt when the building caught fire etc the party who gave you the item can not demand any compensation from you.

11. Partner B can bring another partner for labour if he has partners A permission.
12. Partner A has the authority to restrict B with regards to where, with whom and which goods etc partner B should do or not do any trade with.
13. If there is a loss or there has been no profits earned from the business then partner A will bare the loss and partner B will receive no payment.
14. If B is trading outside his/her locality then the travel costs must be paid by A.
15. If one of the partners dies then the partnership is terminated.

**Q2:** Can the Silent partner fix a time for the termination of the contract? For example the partnership to only last 6 months etc.

**A:** Yes this is permissible, the partner providing labour can not exceed the stipulated end time as when the fixed end time is reached the partnership is automatically terminated. If the labour partner conducts any transactions after the end period knowing that the partnership is now ended, he/she will bare the costs of them transactions not the silent partner

**Q3:** Once the Silent partnership is terminated and if there are capital or merchandise remaining from the business what is to be done with it?

**A:** Both parties hold the right to terminate the contract when ever they wish subject to the fact that they have not specified within the contact a period for no termination. For example, in present day businesses it takes some time for a business to bear fruit and if either party decide to pull out in the first initial stage for instance after 6 months, it is very unlikely that a business would have made a profit. As a result this would be disastrous to either party; the capital investor will suffer a loss as well as the partner providing labour as he/she will receive no payment for the 6 months of labour. So under these circumstances it is highly advisable for both parties to specify a period in which no party can terminate unless under extreme circumstances.

However, if the partnership is terminated and there is capital profit earned this must be shared amongst both parties according to the agreed ratio. On the other hand, if there is no capital but goods or merchandise then the capital investor should give the opportunity to the other partner to sell and liquidate the merchandise so an actual profit can be determined and shared accordingly.

## **14. Employment**

### **Banks and Financial Institutes**

**Q1:** Is one allowed to work in bank or any financial institutions for example insurance brokers?

**A:** The underlining principle for working in any financial institution is that if the job role consists of being directly involved with interest and interest based transactions then this form of work is Haram and as a result the wages and earnings from such a job will be Haram.

As in a Hadith, the Messenger of Allah (sallallahu alay hi sallam) invoked curse on the receiver of interest, the payer of interest, the scribe and the two witnesses, and he said: They are the same (i.e. in sin).<sup>92</sup>

Some examples of Job roles within a financial institute which are impermissible;

1. Bank Manager
2. Cashier
3. Mortgage adviser (interest based mortgages)

Thus, any role which is directly involved in advising, writing, assisting or recording interest or interest based transactions is totally Haram.

**Q2:** What types of roles are permissible within financial institutes?

**A:** There are a number of roles which one can have as long as they do not consist of directly being involved with interest. For example;

1. Call attendant or answering calls, this is permissible so one may give general information or discuss general account queries etc, as long as one is not advising customers on any interest based transactions.
2. Computer/software developer or support, this is permissible to provide a support service or an application development service so long as though one is not designing programs or applications which are extensively used for interest based transactions
3. To work as a security guard
4. To work as a cook or caterer
5. To work as a cleaner<sup>93</sup>

The above positions are roles which do not entail interest dealings hence, them being permitted; however, it is better to avoid roles within financial institutions altogether.

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<sup>92</sup> Muslim (1598) from the Hadeeth of Jaabir (may Allaah be pleased with him). Also see Sahih Al-Bukhari, Volume 7, Book 63, Hadith 259 and in Volume 7, Book 72, Hadith 845, in Volume 3, Book 34, Hadith 299 & 440

<sup>93</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=2076&CATE=43](http://spa.qibla.com/issue_view.asp?HD=1&ID=2076&CATE=43)

## Transportation

**Q1:** Is one allowed to work as a Taxi cab driver even though sometimes passengers are intoxicated and may be planning to indulge in haram activities e.g. night clubs, bars etc?

**A:** An underlying principle of Sharia is that if the service has a halal/lawful primary use then to work as a service provider is permissible. In the case of all public transport services for instance, taxi cab drivers, bus drivers, train drivers and Aeroplane pilots, they provide a general service for a means of transport. If the customer chooses to use this service to commit a haram act this will not be deemed to be the responsibility of the service driver but it will be the responsibility of the customer as the service driver is providing a general transport service. However, there are some aspects of this which are detested and require a high level of vigilance for example when semi-naked women or customers who are intoxicated may be using this service then the driver must be very vigilant in lowering the gaze and abiding by the law of Sharia. If one knows that one will not be able to avoid falling into the haram repeatedly then it is recommended for him to not work in that profession<sup>94</sup>.

**Q2:** If a woman is an alone passenger in a Taxi cab whilst the driver is a male is this considered to be Khalwa<sup>95</sup>?

**A:** The Khalwa is for a man and a woman who are non-mehram<sup>96</sup> to be together alone in a place where the unlawful could happen. As for being alone in other places for instance, where people pass by regularly, this is not khalwa. In regards to riding in a taxi this is not regarded as khalwa in itself as generally taxis go through frequent routes and there is nothing stopping passers-by looking inside the taxi. However, there is an exception to this, if the taxi has something stopping people/public looking into the taxi e.g. tinted windows, curtains etc, this would be regarded as khalwa<sup>97</sup>.

**Q3:** Can I work as a Taxi driver without having a Taxi licence?

**A:** No, this is not permissible for several reasons<sup>98</sup>:

- a) This involves lying to the authorities
- b) Deception
- c) Violating the law of the country
- d) Presenting oneself to possible arrest and disgrace

**Q4:** I drive a private hire cab and sometimes I pick up passengers when they flag me or when they have not booked a cab the correct way by ringing the taxi base. Is this allowed?

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<sup>94</sup>[http://spa.qibla.com/issue\\_view.asp?HD=1&ID=2452&CATE=43](http://spa.qibla.com/issue_view.asp?HD=1&ID=2452&CATE=43)

<sup>95</sup> Khalwa is a term used for 'impermissible seclusion'.

<sup>96</sup> Non-Mehram women who are unlawful to marry and they are Mother, parental and maternal grandmothers, daughter, granddaughter, sister, nieces, paternal and maternal aunt, mother-in-law, daughter of his wife (step daughter), wife of his father, wife of his grandfathers, wife of his son, wife of his grandsons, foster mother (who breastfed him) and his foster sister.

<sup>97</sup> [http://spa.qibla.com/issue\\_view.asp?HD=3&ID=3499&CATE=470](http://spa.qibla.com/issue_view.asp?HD=3&ID=3499&CATE=470)

<sup>98</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=2452&CATE=43](http://spa.qibla.com/issue_view.asp?HD=1&ID=2452&CATE=43)



**A:** One must always follow the rules of the licensing authority regarding what is allowed and what is not allowed to do in all form of transport employment which requires a specific badge or license. Failing to follow the rules laid down by the licensing authority (i.e. local borough councils) will result in breaking or violating the laws laid down within the licensing (employment) contract. Hence, it will also be Islamically unlawful as the terms and conditions of the licence\contract have been broken.

### **Checkout**

**Q1:** Is one allowed to work in a store as a cashier which sells some Haram products like Alcohol, lottery etc

**A:** You can work as a cashier even if there is unlawful product being sold as long as you do not assist customers in acquiring them for example being a shop owner which sells Haram product. However, one must dislike these items in there heart<sup>99</sup>.

**Q2:** Can one sell condoms in there store?

**A:** It is permissible to sell condoms and other Islamically legal contraceptives even if that buyer may not be married. The reason for this is that the general underlying principle is that if the service or product you are providing has a permissible primary\fundamental use then it is permissible to sell it. One is not sinful if the buyer chooses to use it in an impermissible way as this is out of the seller's control. However, if the seller has reason to think that the buyer may misuse it then it is praiseworthy for the seller to avoid selling it<sup>100</sup>.

### **Security Guard**

**Q1:** Is it permissible to work as a security guard for a bar or a night club?

**A:** It is not permissible to work as a security guard\bouncer for a bar or a club or places alike as one will be directly involved in the process of committing sin and aiding of others on committing sin.

**Q2:** Can one work as a security guard for a bank or insurance companies?

**A:** To work as security guard for companies such as insurance or banking is permissible as the job of security one is doing is permitted and one is not the means or providing the means of sin. However, it is superior and religiously precautious for one to avoid work with such companies (even though the work and the earnings from it are halal).

### **Medical Positions**

**Q1:** As a doctor or medical practitioner can a male treat a female patient and vice-versa?

**A:** The Western law for a medical practitioner practising in a Western country is that they have to follow the Anti – Discrimination Act which means, no practitioner can turn down any patient who walks through the door. So in this case if one has a patient of the opposite gender he/she should first find an exemption from examining the patient under the Anti-Discrimination Act and try to adopt a gender base filtering policy. If however, this is not possible for example if it causes harm or problems (due to the breach of the Anti-Discrimination Act etc) then it is permissible to examine the

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<sup>99</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=14519&CATE=239](http://spa.qibla.com/issue_view.asp?HD=1&ID=14519&CATE=239)

<sup>100</sup> [http://qa.sunnipath.com/issue\\_view.asp?HD=1&ID=14938&CATE=239](http://qa.sunnipath.com/issue_view.asp?HD=1&ID=14938&CATE=239)

opposite gender due to necessity but one MUST follow the below guidelines (these guidelines are obligatory on every male doctor who treats a female patient, regardless of situation);

1. If it is possible to treat or diagnose the patient with just listening to them then it is not permissible for one to look or touch the patient.
2. If it is possible to treat the patient by looking at them then it is not permissible to touch the patient.
3. The practitioner can only look or touch the patient on the area needed to treat or diagnose the illness.
4. Ones looking and touching must be free from any desires whatsoever.
5. One must ensure that they are not in Khalwa with the patient for example the male doctor must not be alone with a female patient he should either have the door open or have a nurse or secretary present in the room at all times.

All the above guidelines apply for both a Muslim male and female practitioner. One should adopt a high level of sincerity especially in the medical line of work. The male or the female practitioner has a communal obligation to strive to cure people and their intention should only be for seeking the pleasure of Allah (Subhana wa'ata'ala) <sup>101</sup>.

### **Pension Schemes**

In a typical pension scheme the employer contributes a certain percentage towards the pension fund and in many cases the employee also contributes to the fund. In most circumstances, the money that one gives and the money that the employer gives is Halal and the rest is riba which is Haram.

For example, if a person contributes £100 every month for 20 years towards his/her pension fund, the employers also contribute £25 into this fund for 20 years. The total contribution of funds is £30,000 but when he/she values his/her fund it is found that the total is £40,000 then only £30,000 will be lawful and the remaining £10,000 is classed as riba and should be given away to charity.

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<sup>101</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=3597&CATE=233](http://spa.qibla.com/issue_view.asp?HD=1&ID=3597&CATE=233)

## **15. Rules for Employers and Employees**

**Q1:** I have opened a warehouse company and I plan to employ staff to help me run the logistics of the business. Are there any guidelines which Islam provides regarding hiring staff?

**A:** According to sharia there are several rules that one must know and take into consideration when employing staff<sup>102</sup>.

- a) The employer and employee must fully understand and be in agreement on the type of work to be done by the employee.
- b) Both must be in agreement on the hours which the employee should work
- c) Both must be in agreement on the amount the employee is paid

**Note:** if there is any ambiguity or confusion on the above three conditions then this employment contract will be invalid.

- d) The employer should not over work or under pay the employee as this is a form of oppression.
- e) The employer should be kind towards the employee

General rules of conduct for employees;

- a) The employee should be punctual he/she should arrive and leave at the times agreed within the contract.
- b) The employee should not waist any time within the contractual working hours as this will be unjust to the employer.
- c) The employee should not use company equipment for example telephones, stationary etc for private use unless they have the employer's permission to do so.

### **Wages**

**Q1:** What is the importance of paying wages to your employee on time?

**A:** Within Islam there is a great emphasis on paying employees fairly and promptly when they have completed there work. It is reported by Abdullah Ibn Umar (radiAllah hu'ta'alaa anhu) that the Messenger (sallallahu alay hi sallam) said "Pay the labourer his wages before his sweat dries"<sup>103</sup>. So it is clear form this Hadith that one should not delay in the payment of there employees.

**Q2:** Can you elaborate on any general rules for payment to employees?

**A:** There are a number of conditions that one should bare in mind regarding payment to an employee<sup>104</sup>.

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<sup>102</sup> Mukhtasar A-Quduri, Kitabul Ijarah

<sup>103</sup> Ibn Majah Hadith 2443

<sup>104</sup> Mukhtasar A-Quduri, Kitabul Bayu (chapter of Ijarah)

- a) The employee should be paid after the work is completed. However, if it is mutually agreed by the employee and employer then payment can be made in advance.

**Note:** In contractual employment which is the norm in the current employment industry it is permissible to pay salaries on a weekly and monthly basis.

- b) Payment can be made with anything that is permissible to trade with but this is on the condition that both the employee and employer agree with the form of payment.
- c) Employees within the catering or food business will be paid once the food is prepared. If the food has become spoilt, burnt etc due the negligence of the employee then the employer can refuse payment. However, if the food became spoilt or burnt etc due to any other reason which was out of the control of the employee/cook then the employee must be paid.

## Miscellaneous

**Q1:** Can one work for the government of a non-Muslim country?

**A:** It is permissible to work for a non-Muslim government for example as a civil servant etc. However, if there one has been given an activity to do which is Haram in the sights of Sharia then this must be avoided.

**Q2:** Is one allowed to own or work for a jeweller?

**A:** Yes, one is allowed to own a jewellery store and work in one; however, the general rule of trading items is that 'Anything Haram to use by oneself is Haram to give to another'. Therefore, it will be Haram for the jewellery store to sell male jewellery (other than a silver ring) and any non-Islamic religious symbols. If the store does not sell the items as mentioned then it is permissible<sup>105</sup>.

**Q3:** As a Web Designer, can I build websites for customers who sell audio devices and multimedia?

**A:** It is a general principle in the Hanafi madhab that it is permissible to sell something that can be used in a Halal/lawful manner for its primary use. However, if the item is used unlawfully then this is the responsibility of the one who uses it in this manner and not the responsibility of the seller.

**Q4:** Is one allowed to work in a library where un-Islamic literature is sold for example books on Darwin's theory and various books on idol worshipping etc?

**A:** Working in a library is allowed, because one's work itself is permissible, and one is not considered assisting others when they themselves chose to do the wrong in such matters as this type of literature can be used in a permissible way for example studying multiple faiths for dawa<sup>106</sup> purposes.

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<sup>105</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=4802&CATE=43](http://spa.qibla.com/issue_view.asp?HD=1&ID=4802&CATE=43)

<sup>106</sup> Calling people towards Islam

## **16. Wills (Wasiyyah) and Inheritance**

### **Incorrect Wills**

Due to the lack of compulsory knowledge of Islamic law many people fall victim to making wills which are incorrect and do not hold any value in the sight of Shariah. Some of the common misconceptions and errors people make are;

1. The person making the Will allocates shares of his estate according to his own discretion and not according to the laws of Shariah.
2. Certain children are excluded from the estate due to various reasons.
3. The person making the Will states that after his death all his estate must go to his wife and after her death go to the children.
4. The person making the Will excludes all his daughters from the estate

It is of utmost importance that one should make a final Will especially for Muslims living in the west i.e. UK, Europe, US etc, as failing to do so the estate will be distributed according to the law of the land which will not be in conflict with the laws of Sharia.

### **Punishment for incorrect Wills**

One must be very vigilant when it comes to drafting his final Will as the punishment is very harsh if one is ignorant in this matter. One example is of a Hadith in which the Messenger of Allah (sallallahu alay hi sallam) said: "A man or lady may obey Allah (subhanu wa'ta'ala) for 60 years. However, when death approaches them, they make incorrect Wills. Thus the fire becomes necessary for them."<sup>107</sup>

### **What should one do if the deceased left an incorrect Will**

If the deceased left a Will which contradicts or which contravenes the laws of Shariah it will be then Fard (compulsory) on the heirs (the people who received a share) of the estate to correct the Will by allocating the correct amount of shares to the eligible parties in accordance to the Sharia law.

They must decline their legal shares and give preference to their Islamic shares. For example, if a father made a Will which allocates all his estates\inheritance to his sons only and excluded his daughters then this is an incorrect Will. The sons in this situation must decline their legal shares and allocate the Islamic shares to all the children both sons and daughters according to the shares stipulated within the Sharia law.

### **How much share can one allocate to whom they desire from their estate**

This is a very important law to know and understand when it comes to drafting your final Will. The flexibility of Islam provides an option to a person in which they can stipulate a maximum of one third

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<sup>107</sup> Abu Da'ud- Kitabul Wasaya Hadith No: 2861

of his estate to a charity or persons who are not his heirs (for example, those who are not family) and who are his heirs.<sup>108</sup>

However, if this stipulated share is allocated to a heir for example his son then this is subject to the approval of the remaining heirs.

### **The easy guide to righting a Will?**

Following the below steps is an easy guide on righting your will according to the laws of Sharia:

1. Nominate an executor, this is the person who will ensure that your estate is divided according to what is specified in your Will. This person must be of good health, trustworthy and a good Muslim. Try to nominate 3 people for this role and at least 1 should be a non relative.
2. Contact some estate and Will lawyers, get details on how you can divide your estate Islamically without breaking the law of the land. One should mention to his lawyer who the executors are for your Will.
3. Contact your local scholar and ask him for details on how your estate should be divided according to Sharia. Advise the scholar that the executor of your Will will contact him after your death to consult on this matter along with burial and funeral arrangements.
4. Now start to draft your Will some of the major points one should mention is below, try to be specific as possible.
  - Name the executors of your Will
  - The funeral and burial – mention how you would like to be buried according to Islamic law etc. here you also mention any specific requirements you would like at your funeral and burial.
  - Guardianship of your children if they are minors.
  - Pay off all debts first including any Tax owed to state etc
  - State that this Will covers all of your Estate.
  - Funeral and burial expenses to be covered
  - Mention the division of any business assets or for the executor to contact a lawyer and scholar to divide according to Sharia law.
  - Mention any donation\payment to be made to charity or to a person who is non heir and any religious obligations e.g. unpaid zakat, missed fast etc (Maximum of 1/3).

**Note:** The above are guidelines of the major points a Will should contain however, you can mention and elaborate as much as you like.

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<sup>108</sup> Mukhtasar Al-Quduri, Kitabul Wasaya

5. Find 2 witnesses and sign the Will with the witness present. This will ensure that the contents of the Will is agreed with your sound consent as well as ensuring the Will is not tampered with after your death. One should note that the witnesses can not be a family member or any kind of relative.
6. Keep a copy of the Will for your record in a safe place and give a copy to the executors of the Will.

### **In what order should the Estate be managed**

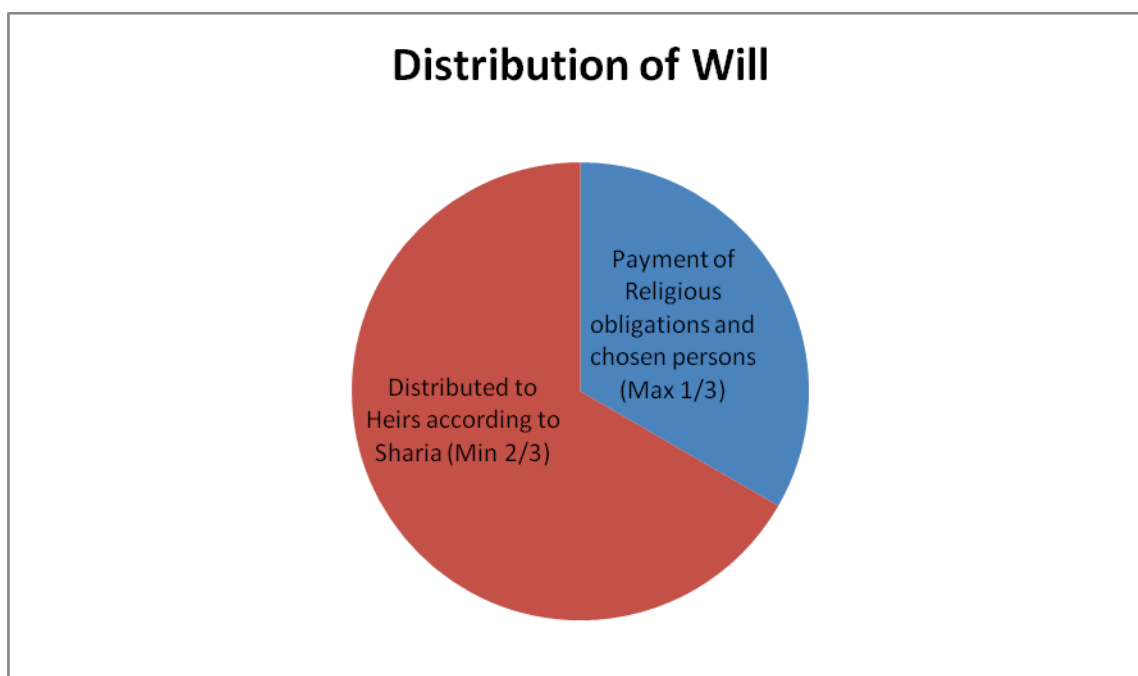
The estate and inheritance should be strictly managed in the below order.

1. Payment of burial expenses – This includes cost of kafn, grave and all expenses directly related to the burial but excludes feeding of guest who attend the funeral
2. Payments of debts– A Muslim should document and keep a record of creditors, amaanat (items entrusted to him for safe-keeping), unfulfilled religious obligations such as missed prayers, fasts etc. Finally, a record of debtors and debts one owes.
3. Payments of religious obligations and persons\charity whom have been chosen a share by the deceased persons own desire, up to the maximum of one third of the remaining estate.

**Note:** The paying of any religious obligations and payment to the self chosen persons\charity must be given from the same share which is a maximum of one third. Please see chart below.

4. Shares distributed to legal heirs according to the Shariah.

### **Distribution of Will Chart**



**Note:** The chart resembles the estate after burial expenses and payments of debts have been extracted.

As you can see the chart is divided into 2 parts, only a maximum of 1/3 can be allotted to payments of religious obligations and persons\charity chosen by the deceased. And the remaining 2/3 will be distributed to the heirs according to Sharia. However, if the deceased has no payments of religious obligations or person\charity chosen by him in his Will then the complete entire estate will be distributed to the heirs according to Sharia.

### **Difference between a Will and a Gift**

It is important to distinguish between something given as a gift and something given through a Will. Many people fail to recognise the difference between the two and as a result commit grave errors.

When one gives something in his lifetime (when he is alive) to someone this is considered a gift on the other hand, someone giving something after their death is considered a Will. For example, Zaid gives his car to Hassan whilst he is alive this will be a gift but if Zaid says to Hassan my car is your property when I die then this is a Will.

### **Who are the heirs according to Sharia Law?**

You **MUST** always consult a scholar or Mufti when calculating the shares each heir is entitled to as there are many factors involved for the shares to be correctly calculated according to the circumstances.

The following people are immediately entitled for a share of the estate (immediate heirs)<sup>109</sup>;

1. The Husband
2. The Wife (wives)
3. Son
4. Daughter
5. Farther
6. Mother
7. Grandchildren (Son's SON or Son's DAUGHTER only)

If the deceased has none or only some of the above then secondary heirs are<sup>110</sup>;

1. Grandparents (Paternal and Maternal)

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<sup>109</sup> Quran 4:11

<sup>110</sup> Quran 4:12



2. The Brothers and\or Sisters
3. The Uncles and\or Aunts
4. The Nephews and\or Nieces

**Note:** secondary heirs become beneficiaries under various conditions and it is a **MUST** that a scholar is consulted to calculate who and what percentage the heirs should get.

## **17. Zakat**

Zakat is an essential and fundamental act of worship within Islam. Zakat is one of the 5 major pillars of the Islamic faith, as the importance of Salah and fasting is significantly emphasised as an identity of the Islamic faith further more, Zakat has also been given the same status and importance.

There is no doubt that one who neglects the pillar of Zakat will indeed face the wrath of Allah (Subhana wa'ata'ala) and on the other hand, the one who embraces the act of Zakat will indeed be rewarded immensely.

“But those among them who are well-grounded in knowledge, and the believers, believe in what has been sent down to you (Muhammad sallallahu alay hi sallam) and what was sent down before you; and those who perform As-Salat (Iqamat-as-Salat ), and give zakat and believe in Allah and in the Last Day, it is they to whom We shall give a great reward.”<sup>111</sup>

As illustrated in the above verse from the Quran, Allah (Subhana wa'ata'ala) emphasizes the importance of Zakat alongside with the importance of Salah.

In order to understand the purpose of Zakat one must understand what Zakat means, Zakat has 2 literal meanings.

1. Purity – As Allah (Subhana wa'ata'ala) states “Take from their wealth so that you might purify and sanctify them”<sup>112</sup>
2. To increase or grow.

As the meaning of the term Zakat indicates purity and growth the entire concept of giving Zakat is to purify the heart, to increase the wealth and blessings of ones wealth. Zakat is a way to purify ones wealth just as fasting purifies ones body and soul.

A clear warning to those who neglect to pay Zakat, Narrated Abu Huraira: The Prophet (sallallahu alay hi sallam) said:

“Whoever is made wealthy by Allah and does not pay the zakat of his wealth, then on the Day of Resurrection his wealth will be made like a bald-headed poisonous male snake with two black spots

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<sup>111</sup> Quran: Chapter 4, verse 162

<sup>112</sup> Quran: Chapter 9, verse 103

over the eyes. The snake will encircle his neck and bite his cheeks and say, 'I am your wealth, I am your treasure.' " Then the Prophet recited the holy verses:– 'Let not those who withhold . . .' (to the end of the verse). (3.180). <sup>113</sup>

### Questions and Answers

**Q1:** Upon who is it obligatory to pay Zakat?

**A:** The payment of Zakat is obligatory upon;

- Muslim adult who is sane
- When the person possesses the Nisab (minimum amount you have to possess for Zakat to become fard)
- When he has possessed the Nisab (minimum amount you have to possess for Zakat to become fard) for a complete lunar year

**Q2:** Upon whom is it not obligatory to pay Zakat?

**A:** The payment of Zakat is not obligatory upon;

- A Child (minor)
- A person who is insane
- One who does not possess the Nisab
- One who has not had the Nisab for more than a lunar year
- One whose debts are more than his savings subject to conditions<sup>114</sup>

**Q3:** What is the minimum amount of wealth (Nisab) one can have before payment of Zakat becomes Fard?

**A:** The Nisab is the minimum amount of wealth you have to possess in order to pay Zakat, and this is calculated in 2 ways, either by the amount of gold you possess or by the amount of silver you possess.

The calculation of Nisab by gold is 7.5 Tolas or 87.48 grams which converted into cash is approx £3100 (this is an estimate of conversion into cash for the value of gold on January 2012).

The calculation of Nisab by silver is 52.5 Tolas or 612.36 grams which converted to cash is approx £360 (this is an estimate of conversion into cash for the value of silver on January 2012).

Since the time Prophet (sallallahu alay hi sallam) the value of silver has drastically fallen compared to the value of gold which has increased considerably so there is a large difference between the current figures of Nisab for gold and silver. The majority of scholars have concluded that the principle of Anfa li-Fuqara (What is more beneficial to the poor and needy) is applied in this situation whereby what is more beneficial to the recipients of Zakat is taken into consideration. As a result, the Nisab of

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<sup>113</sup> Sahih Bukhari: Book: 24 (Chapter of Zakat), Hadith: 486

<sup>114</sup> See question number 5 below for further details

gold is applied as the standard Nisab. Therefore, if the excess wealth is equal or more than 87.48 grams of gold (£3100) then you are liable to pay Zakat.

**Note:** The reason why it is preferred to use the Nisab of gold is because this will allow more poor people to benefit in receiving Zakat compared to having the Nisab by silver. As the silver Nisab is low (approx £360) this may deprive many poor people from receiving Zakat as they (the poor) will have to give Zakat themselves if they have £360 or more excess wealth. Also, having the Nisab set by gold will allow more money to be given in Zakat as the threshold of the gold Nisab is much higher than the silver.

**Q4:** You mentioned that the Nisab (minimum amount you have to possess for Zakat to become fard) must be possessed for a lunar year or more. Is there a start date in the year for when the lunar year begins in the Zakat calculation?

**A:** The Zakat year begins when for the first time you possess the Nisab amount and if on the same date the following Islamic year you still possess the Nisab or more then you must pay Zakat on all the wealth you possess at that time at the rate of 2.5%.

This is best illustrated with an example:

23<sup>rd</sup> Ramadan 1423 (3<sup>rd</sup> September 2009) - Zaid received a gift of £2000. Balance = £2000 (the Zakat year has now started as Zaid possesses a net zakatable amount)

28<sup>th</sup> Ramadan 1423 (8<sup>th</sup> September 2009) - Zaid spent £500. Balance = £1500

#### **New Islamic Year**

1<sup>st</sup> Muharram 1424 (1<sup>st</sup> January 2010) - Zaid spent £1000. Balance = £500

5<sup>th</sup> Safar 1424 (3<sup>rd</sup> February 2010) - Zaid earned £1200. Balance = £1700

1<sup>st</sup> Ramadan 1424 (23<sup>rd</sup> August 2010) - Zaid spent £100. Balance = £1600

23<sup>rd</sup> Ramadan 1424 (20<sup>th</sup> September 2010) - Zakat Evaluation Date. Balance = £1600

As Zaid's balance at the end of the Zakat year is over the Nisab, Zaid will have to give Zakat for £1600 at the rate of 2.5%.

**Note:** One should take a note of the date when their Zakat year begins. In the example Zaid's balance increased and decreased throughout the Zakat year this makes no difference as the principle is that on the end of the Zakat year if the balance is equal or more than the Nisab Zakat must be given. Please consult your local scholar for further clarification if not understood.

**Q5:** Who can Zakat be paid to?

**A:** There are 7 categories of people who Zakat can be paid to<sup>115</sup>;

1. The poor person (Faqir), is someone who has a very few things.
2. The destitute person (Maskin), a person who has nothing at all.

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<sup>115</sup> Quran: Chapter 9, verse 60 also see Mukhtasar Al-Quduri, Kitabul Zakat

3. The one who administers Zakat (amil), this is a person who the Imam\leader pays when he carries out work such as administration, collection and due disposal of Zakat. He will be paid according to the amount of work he has done.
4. A slave (Mukhatab<sup>116</sup>) who is to be assisted in securing their release from slavery.
5. The one in debt, someone who is overwhelmed with debt.
6. In the way of Allah (Subhana wa'ata'ala) if someone is prevented by poverty to strive and struggle in the way of Allah (Subhana wa'ata'ala)
7. A person who has wealth in his own land but he himself is currently in another place in which he has nothing.

The above are the people who are entitled for Zakat, one can pay all of them or he may limit to only one category.

**Q6:** Who can Zakat not be paid to?

**A:** Zakat can not be paid to the below categories of people<sup>117</sup>;

1. A person who owns Nisab (one who has the minimum amount of wealth that Zakat becomes fard upon him)
2. A non-Muslim
3. A Masjid can not be built with the Zakat money
4. A deceased person can not be covered with garments which have been brought by Zakat money.
5. A slave can not be brought to be set free
6. Can not be paid to a wealthy person (a person who pays Zakat himself)
7. His maternal father, grandfather however high
8. His maternal mother grandmother however high
9. His Maternal son\daughter and grandson\granddaughter however low
10. His wife
11. The wife can not pay her Husband
12. Can not pay it to his own slave
13. Can not pay Zakat to the Banu Hashim and they are;
  - The Family of Hazrat Ali (R.A)

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<sup>116</sup> This is a specific type of slave who has a contract with his owner in which he can purchase his freedom.

<sup>117</sup> Mukhtasar Al-Quduri, Kitabul Zakat

- The Family of Hazrat Abbas (R.A)
- The family of Imam Ja'far (R.A)
- The family of Hazrat Aqil (R.A)
- The family of Harith ibn 'Abd al-Muttalib (R.A)
- None their freed slaves

**Q7:** I have a mortgage which is a debt, do I still have to pay Zakat?

**A:** In general the principle is that if one has any debts\loans they can deduct the debt from their assets when calculating Zakat and if the balance (after subtracting the debts) is equal or more than the Nisab, Zakat must be paid if not then Zakat is not obligatory to pay.

However, there is a difference of opinion on if and what debts can be deducted from your assets when calculating Zakat.

1. An immediate debt and a deferred debt both can be deducted from the assets
2. Only an immediate debt will be deducted from total Zakatable assets not deferred debts
3. If there is determination in paying off the loan completely may it be immediate or deferred then it can be deducted otherwise it will be included in the total Zakatable assets

In the light of above, the strongest opinion according to the Hanfi Madhab is that if you are unable to pay your debt (or mortgage) off all at once then you may deduct only the amount which is immediate. As typically large loans and mortgages are paid in instalments over a long term period it is the preferred opinion in the Hanfi Madhab to avoid deducting the whole sum which is payable by you and instead deduct the immediate instalment which is currently due from the total Zakatable assets.<sup>118</sup>

**Q8:** As a husband do I have to pay Zakat for my wife?

**A:** No, it is not obligatory for the husband to pay Zakat on behalf of the wife. However, the husband can offer to pay and if the wife accepts then this is valid.

**Q9:** Is Zakat only paid in Ramadan?

**A:** No, Zakat is paid when your Zakatable year ends and the Zakat can be paid at anytime. However, paying Zakat in the month of Ramadan offers more reward as any good deeds done in Ramadan are multiplied.

**Q10:** How long can I delay paying my Zakat for last year?

**A:** It is not sinful to delay payment of Zakat slightly (i.e. less than a year), and it isn't disliked to do so when there is a need for example, when one is waiting one's pay check or other funds.

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<sup>118</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=369&CATE=43](http://spa.qibla.com/issue_view.asp?HD=1&ID=369&CATE=43)

**Q11:** Is Zakat only paid in cash?

**A:** No, one can pay in cash, jewellery or other items of value.

**Q12:** If one neglected to pay Zakat on £5000 for several years, what should one do?

**A:** One must calculate the amount of Zakat that was due each year and pay it immediately. For example, if one owned £5000 from Ramadan 1420 to Ramadan 1423 without paying Zakat on the amount, one would pay Zakat as shown below:

On Ramadan 1421, one owed  $0.025 * £5000 = £125$  in Zakat.

On Ramadan 1422, one owed Zakat on the original amount minus the unpaid Zakat from the previous year i.e.  $£5000 - £125 = £4875$ . The amount of Zakat due was therefore  $0.025 * £4875 = £121.875$ .

On Ramadan 1423, one owed Zakat on the original amount minus unpaid Zakat from previous years i.e.  $£5000 - £125 - £121.875 = £4753.125$ . The amount of Zakat due was therefore  $0.025 * £4753.125 = £118.828125$

The total amount due from previous years is therefore  $£125 + £121.875 + £118.828125 = £365.71$  (rounded up for caution).

**Q13:** I have inherited some money do I pay Zakat on it?

**A:** Yes, one must pay Zakat on inherited money, but only after one has owned it for a lunar year. However, if the deceased from whom one who has inherited the money from did not pay Zakat on this money during his lifetime, then one would also have to calculate the amount of Zakat that the deceased owed when he died and then pay that amount to eligible Zakat recipients.

**Q14:** Is Sadkatul –Fitr classed as Zakat?

**A:** No, Sadkatul-Fitr is entirely separate from Zakat. Fitra is Wajib (necessary) on every person he must pay on behalf of himself and his minor children that he supports i.e. he must pay for each of them. The amount of Fitra one must pay is recorded in many Hadith that half a sa` (a measurement used in those days, equivalent to approximately 3.2 kg) of wheat or a sa` of barley or dates to be given. The cash equivalent of this is the amount that we give in Fitra e.g. £ 5 for each person.

**Q15:** Can Zakat be given to Family and relatives?

**A:** Yes Zakat can be given to family and relative, however there are certain condition to which relative can receive it.

- There are 2 relationships which prevent giving Zakat (Zakat is not allowed to be given to);
  1. Relationship bonded by birth = Parents, grandparent, great grandparents and upwards. Children, grandchildren and great grandchildren and downwards.
  2. Relationship bonded by marriage
- The relative must be a worthy and eligible recipient of Zakat.

So in light of the above Zakat can be given to brothers, sisters, uncle, aunts, cousins etc, subject to them being eligible to receiving Zakat.

**Note:** Actually, it is better to give one's Zakat to relatives and family, for it brings hearts together and binds family ties

**Q16:** Do you have to tell the Zakat recipient that the money is Zakat money?

**A:** No, you do not have to tell the recipient that the money is Zakat, however, if you give the money to a charity or organisation to distribute the money on your behalf then you must tell them it is Zakat money.

**Q17:** Can Zakat be given to the Mosque?

**A:** No Zakat must be given to the poor and needy because of the strict Quranic limitations<sup>119</sup>. However, if the Mosque is taking Zakat to give to the poor and needy for the propose of distributing Zakat then you are allowed to give but one must mention that the money is Zakat money.

**Q18:** Do I have to pay Zakat on the Stocks and Shares I have?

**A:** Yes, you must pay Zakat on the Stocks and Shares you have<sup>120</sup>.

**Q17:** Do I have to pay Zakat on the stock I hold for my business?

**A:** The payment of Zakat in obligatory (fard) on the below items:

1. Gold and silver
2. Cash (money)
3. Rental Income (rent received from leasing out properties)
4. Business, Merchandise and stock (i.e. items for resale)
5. Shares
6. Agricultural products
7. Animals and livestock

From the above Merchandise and stock signifies that Zakat is also obligatory on business wealth and stock. The Islamic scholars have categorically specified the obligation of paying Zakat on merchandise. Hazrat Samura ibn Jundub (radiAllahu hu'ta'alaa anhu) narrates that the Messenger of Allah (sallallahu alay hi sallam) used to command us to pay Zakat of those items that were for sale<sup>121</sup>.

**Q18:** Is there Zakat on property or land?

**A:** There is no Zakat on one's personal property even on property that are for commercial purposes, such as renting and leasing. However, there is Zakat on money made from such activity for example,

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<sup>119</sup> Quran 2:3, 9:60, 17:26-29 and many more.

<sup>120</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=4512&CATE=5](http://spa.qibla.com/issue_view.asp?HD=1&ID=4512&CATE=5)

<sup>121</sup> Sunan Abu Dawud, no. 1557

Zakat must be given from the money made from renting or leasing etc not on the value of the property itself.<sup>122</sup>

**Q19:** Do I Pay Zakat if I have more than 1 home?

**A:** Zakat is not due on property unless it is specifically with the express intent of trade (i.e. to buy and resell for a profit) even if one has more than one home. However, Zakat would be due on any earning (e.g. in the future, if you charge rent) from the house and from the proceeds of the sale of the house (if ever sold)<sup>123</sup>.

**Q20:** I live and work in Dubai. My home in England is rented out and I receive rent from it on a monthly basis. My understanding is that Zakat is due on the rent that I receive not on the value of the property itself. Is this correct?

**A:** Yes, Zakat is due on your rent (accounted with the rest of your Zakatable wealth), not on the value of the property itself.

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<sup>122</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=1514&CATE=5](http://spa.qibla.com/issue_view.asp?HD=1&ID=1514&CATE=5)

<sup>123</sup> [http://spa.qibla.com/issue\\_view.asp?HD=1&ID=15505&CATE=239](http://spa.qibla.com/issue_view.asp?HD=1&ID=15505&CATE=239)



## 17.1 Zakat Calculation Charts

**Chart 1: Calculation of Assets**

Items	Value Beginning of the Zakat Year	Value End of the Zakat year	Lesser of the Two Amounts
Cash in Bank			
Cash in Hand			
Gold Jewellery			
Silver Jewellery			
Investment Shares and Bonds			
Business stock and cash in hand\bank			
NET revenue earned on Rental Income e.g. houses, shops, cars etc.			
Other items of value			
			<b>Total =</b>
			<b>£</b>

**Chart 2: Calculation of Zakat to be paid**

<b>Deductible Amounts =</b> Loans, instalments due and other	<b>£</b>
<b>Total Amount Liable for Zakat =</b> <i>(this is the figure from the total of the 'Lesser of the two amounts' column from chart 1 minus the 'deductible amounts')</i>	<b>£</b>
<b>Total Zakat to be paid =</b> <i>(This is the 'Total amount liable for Zakat' x 0.025)</i>	<b>£</b>