

Chapter 11

The Ethics of Tax Evasion: An Islamic Perspective

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Introduction

Tax structures, tax systems, and tax policies are among the most important factors affecting economic and social affairs of any society. At the same time, the public's reaction to them, specifically the public attitudes regarding tax evasion and tax avoidance, can substantially influence these systems and policies to the point of either facilitating and promoting or undermining and defeating their original purposes and intentions. In all societies, while tax avoidance is permitted, evasion of taxes is illegal. Tax evasion, however, is probably a practice as old as taxation itself (Adams, 1993). The relevant point, nonetheless, is when if ever, different people evade taxation and view their behavior to be ethically justified. A correlated question is determination of the degree that culture or ideology influences attitudes toward tax evasion.

Review of the Literature

The modern economics, accounting, and law literatures have investigated the issue of tax evasion from efficiency, public finance, technical, and legal points of view. The coverage of morality or ethical aspects of tax evasion, however, have been primarily overlooked until fairly recently. One of the modern attempts to study tax evasion from ethical, mainly Catholic, perspective is the work by Crowe (1944) that covers 500 years of philosophical and theological debate on the subject. A number of more recent articles have studied the tax evasion issue from a variety of perspectives. Many of these studies have appeared in pages of *The Journal of Accounting*,

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Ethics & Public Policy. A collection of articles on the subject has also appeared in an edited book (McGee, 1998g).

Cohn (1998), Tamari (1998), McGee (1998e), and McGee and Cohn (2008) have examined the issue of tax evasion from a Jewish perspective. Schansberg (1998) and McGee (1994) explore Biblical views on tax evasion while Gronbacher (1998) presents a Catholic and classical liberal views. A Mormon point of view is discussed by Smith and Kimball (1998) and McGee and Smith (2006). An Islamic view on the ethics of tax evasion is provided by Murtuza and Ghazanfar (1998) as well as McGee (1997, 1998h), and a Baha'i interpretation on the subject is given by DeMerville (1998). Other researches covering various Christian as well as secular views on ethics and morality of tax evasion include McGee (1998b, 1998g, 1999a). Moral and philosophical discussions of the issue and justifiability of taxation and tax evasion are, *inter alia*, presented in Block (1993), Leiker (1998), McGee (1994, 1998a, 1998f, 1999a, 2004, 2006a), Pennock (1998), Torgler (2003), and Nickerson, et al. (2008).

A monumental survey of 200,000 individuals in 81 countries has been conducted by Inglehart et al. (2004), covering a host of issues including tax evasion. Utilizing this data, as well as additional surveys, numerous empirical studies have been carried out by scholars in the field among various ideologies, cultures, communities, and groups.

The list includes Argentina (McGee and Rossi 2006), Armenia (McGee 1999b, McGee and Maranjyan 2006b), Bosnia and Herzegovina (McGee, Basic, and Tyler 2006), Bulgaria (Smatrakalev 1998), China (McGee and An 2006; McGee and Guo 2006), Germany (McGee, Nickerson, and Fees 2005), Greece (Ballas and Tsoukas 1998), Guatemala (McGee and Lingle 2005), Hong Kong (McGee & Butt, 2006; McGee and Ho 2006), Iran (McGee and Nazemi 2009), Macau (McGee, Noronha, and Tyler 2006), Poland (McGee and Bernal 2006), Romania (McGee 2006b), Russia (Vaguine 1998; Preobragenskaya and McGee 2004), Slovakia (McGee and Tusan 2006), Thailand (McGee 2006c), Ukraine (Nasadyuk and McGee 2006), the UK (McGee and Sevic 2008), and Vietnam (McGee 2006e).

Comparative studies of attitudes toward tax evasion encompass studies of Egypt, Iran, and Jordan (McGee and Bose 2008), Asian countries (McGee 2007), Australia, New Zealand, the USA (McGee and Bose 2007), Southern China and Macau (McGee and Noronha 2007), the USA with six Latin American countries (McGee and Gelman 2009), the USA and Hong Kong (McGee, Ho, and Li, 2006), a comparative demographic study of 33 countries (McGee and Tyler 2007), ten transitional countries (McGee 2008), and the states of Utah and New Jersey (McGee and Smith 2006).

Studies concentrating on specific groups include philosophy teachers (McGee 2006d), accounting and tax practitioners (Armstrong and Robinson 1998; Oliva 1998, McGee and Maranjyan 2006a), Mexican immigrants (Morales 1998), Swedish CEO's (McGee 1998c; Nylén, 1998), international business academics (McGee 2005), and participants in hypothetical case studies and questioners (Reckers, Sanders and Roark, 1994; Englebrecht, Folami, Lee, and Masselli 1998).

Most of the aforementioned studies indicate that, under certain circumstances, tax evasion is considered as an ethical behavior at both philosophical and practical levels by a majority of people covered by the surveys. Several arguments have also

been provided to discuss the results and present justifications for those positions on tax evasion from different perspectives.

McGee (2006a), following the classification and criterion proposed by Crowe (1944), divided these arguments into three categories.

Accordingly, he states that examination of the work of scholars throughout the centuries reveals that views on tax evasion may be classified into three groups. Those who consider tax evasion never to be ethical; those who believe tax evasion could be ethical under certain circumstance; and those who view tax evasion as always ethical. McGee refers to these three groups as “Absolutists,” “Rationalists,” and “Anarchists,” respectively.

The “Absolutist” view asserts that tax evasion is always, or nearly always unethical. The underlying rationale for this belief is a three-prong duty, duty to State, duty to fellow members of the society, and duty to God. The “Rationalist,” “Social Contract Theorist,” or “Relativist” view holds that, depending on the circumstances, tax evasion may be sometimes ethical and other times unethical. “Anarchists,” on the other hand, reject the existence of any “Social Contract” and hold that citizens never have any duty to pay taxes to the state since there is no explicit agreement between the citizens and the states to do so.

They view states as thieves and illegitimate entities that have no moral authority to take anything from anyone. Each group, obviously, discusses the issue in detail and provides logic, reasoning, and theoretical justification for its position. Particulars of the philosophical propositions, issues surrounding the question, and arguments, along with results of specific studies, may be found, among other places, in the previously cited works of Cohn, Crowe, Ballas and Tsoukas, Block, De Merville, Gronbacher, Leiker, McGee, Smatrakalev, Smith and Kimball, Tamari, and Vaguine.

According to these discussions and experiments, the rationalist view appears to be the most widely held position among people studied. The basic conclusion of most experimental works and surveys may be stated in one sentence: “Most people find tax evasion to be ethical in some situations, although some arguments to justify tax evasion are stronger than others.” (McGee, Basic and Tyler, 2007). It also appears that in each society or culture, several factors shape the public opinion on taxation. Whether these factors are real or perceived is irrelevant, and their heavy influence on people’s attitude toward tax evasion is rather clear.

Among the identified factors, perceived fairness of the prevailing tax system, legitimacy of the government collecting taxes, availability and quality of public goods provided to the society, and level of governmental corruption appear to exert the most influence on people’s attitude regarding tax evasion.

Methodology

The current study is an attempt to present and explain an Islamic view on tax evasion and address some of the ethical questions surrounding this issue from that perspective. Prior to examination of ethical considerations of tax evasion and as a

point of entry, one might pose and probe some questions. For instance, are taxes in general ethical? Is there any moral obligation to pay any kind of taxes? Is there any kind of tax that might be morally justified? Is there a time and situation in which tax evasion may be ethical or justified? If yes, are there boundaries to this behavior? If tax payments somehow depend on legitimacy of the government in question or fairness of the tax system or the government's level of corruption, then how might one define, determine, and measure the legitimacy, corruption, and fairness?

What makes a government legitimate or illegitimate? What makes a system fair or unfair? How are these attributes measured? What should a citizen expect in return for tax payments? How may the adequacy of return on taxes be defined and evaluated? These and numerous similar questions should be addressed before one could carry out an adequate and meaningful discussion of the issues surrounding tax evasion. Since the present work is informative rather than evaluative in nature, and since these concerns are sufficiently addressed in the previously noted literature, particularly the numerous works of Robert McGee and the citations contained therein, and in consideration of time and space, the aforesaid questions are minimally addressed here and the full arguments are avoided.

Discussion and evaluation of any emotionally charged issue, such as religion or belief system is always a delicate and sensitive balancing act. This is true even when the issue under question is only a peripheral one in relation to the totality of the ideology. Islam is no exception to this rule. Islam as a doctrine has developed over the years and has been interpreted in a variety of ways. As such, it inevitably contains ambiguity and contradictions.

Through time, several Islamic Schools of Thoughts have emerged. The two basic branches are Sunnis and Shiites. The Sunnis are divided into four major Schools, namely Maleki, Shafei, Hanafi, and Hanbali. Shiites contain two major groups, Jaafari and Ismaeili. The evolution of Islamic Thoughts over the years along with inherent vagueness and flexibility of some Islamic principles, have produced a vast body of literature on a variety of issues that embodies many contradictions and varied interpretations.

Assorted Muslim writers and jurists with diverse ideological tendencies and in consideration of their specific time, place, and circumstances, have taken different positions, offered distinct explanations, or put forth various arguments. Each author or jurist draws on a portion of available sources to support his position. These writings are often influenced by biases and sectarianism and frequently contain unsubstantiated assertions and conclusions.

The claims and explanations reflect a given author's response to a specific time and place and often contain views or wishes of the writers rather than being rooted in the original Islamic Law. Therefore, while it is necessary to be aware of what Muslim writers have to offer on any given issue, one should not be oblivious to their inherent shortcomings. Exclusive reliance on these sources most likely will lead inquirers to a conclusion that is the intension of the source-authors and may have little or nothing to do with the letter or the spirit of Islamic Thought itself.

Shariah or Islamic Law is what theoretically governs all Muslim societies. There are two main sources for this Law, the Muslim holy book (Qur'an) and reported

traditions and actual practices of Muhammad (Sunnah). Although there is a high degree of consensus among Muslim jurists on basic Principles and Fundamentals of Shariah, there are several differences in details and on secondary issues. This stems from the fact that sometimes the Qur'anic verses are interpreted differently and that at times the details and validity of Muhammad's reported behavior are disputed.

Moreover, there are issues facing contemporary Muslims that were not applicable in the early years of Islam and therefore do not have any direct references in the original sources. Consequently, in settling some issues, various jurists, depending on their particular bent, have arrived at different conclusions and established different rules. The current study, deliberately avoids extensive utilization of interpretations and secondary sources. It also refrains from engaging in a deep probe of each point based on all existing viewpoints. This is done since detailed comparative discussion is neither fruitful here nor within the scope of this study.

To be mindful of potential traps, to consider different sensitivities, and to evade unnecessary trajectories, the main reliance is on facts and sources that are uncontroversial and universally accepted by Muslims. All assertions and inferences are based on the explicit letter of the Law as stated in the Qur'an and undisputed reported actions and traditions of Muhammad. Interpretations or conjectures by the author are completely avoided and whenever any kind of interpretation is adopted, it is by a third party and only from reliable and unanimously accepted sources and interpretations.

Other secondary sources are occasionally and marginally used and only as a point of reference. All references to the Qur'an are cited by chapter and verse and adopted through a comparison of four different English translations matched against the Arabic text. Whenever more than one verse in the Qur'an addresses a given point, except in some instances, only a few such verses are presented to support an assertion. The final product, nonetheless, should provide all readers with a substantial comprehension of the Islamic view on tax evasion.

The Framework

Studying any aspect of Islam is not fruitful unless the subject is approached within a proper holistic framework. The topic should be evaluated based on its place within the Islamic doctrine as a whole and its connection to other facets of Islamic Thought. The discussion of tax evasion in Islam will not be complete and proper comprehension will not be attained without reasonable knowledge of several categories within the Islamic Doctrine.

The most fundamental and pertinent of these concepts are an understanding of the Hereafter, the purpose of life, Justice, the role of the individual in Muslim society, ownership and property rights, consumption patterns, the concentration of wealth, the role of the state, and the function of taxes. The essence of an Islamic position on these categories is presented below. More details on the Islamic perspective on these categories may be found, among other sources, in Abdul Rauf (1979), Abdel Rahman (1977), Ahmad, K. (1980), Ahmad, M. (1995), Ahmad, Z. (1991),

Al Hassani and Mirakhor (1989), Azhar (2009), Chapra (1992, 1996), Choudhury (1980, 2010), de Zayas (1960), El Ashker and Wilson (2006), Harrigan and El-Said (2009), Haq (1995), Iqbal and Lewis (2009), Izadi (1974), Khaf (1978), Khan (1983), Khan, M.F. (2009), Kuran (1983 and 2010), Mannan (1989 and 2008), Niazi (1977), Nomani and Rahnama (1994), Qardawi (1997), Rahman (1986, 1990, and 1995), Shaik (1980), Singer (2008), Yusuf (1996), and Zaman (1981).

God and the Law

Based on Islamic beliefs, the Qur'an and Sunnah make up the Islamic Law (Shariah), which governs the public and private lives of Muslims everywhere and at all times. Shariah is Commands of the All Knowing God and encompasses all that is good and needed for a faithful to be blessed and delivered, both in this world and in the Hereafter.

The Qur'an itself states that "And with Him are the keys of the unseen. None but Him knows them. And He knows whatever is in the land and the sea. Not a leaf falls but He knows, not a grain amid the darkness of the earth, nor anything wet or dry but it is recorded in the clear Book." (6:59) or "Do you not know that Allah knows whatever is there in the heavens and earth. Indeed that is in a Record. Indeed, that is easy for Allah." (22:70).

Muslims must uphold that the Qur'an is the direct word of God as revealed to Muhammad and accept it in its totality and follow it in its entirety. "And if you are in doubt about that which we sent down (Qur'an) to our slave (Muhammad), then produce a chapter like that." (2:23) or "O you who believe, believe in Allah and His messenger and the Book which He has sent down to His messenger and the Scripture which He sent down before. And whoever disbelieves in Allah, and His angels, and His Scriptures, and His messengers, and the Last Day, then indeed he has strayed far away." (4:136), or "And thus We have sent it (the Qur'an) down to be a judgment of authority." (13:37).

In all their deeds, Muslims must constantly be conscious of the Omnipresent All Knowing All Powerful God who sees and hears everything and keeps track of all deeds of all people for use in the Day of Reckoning.

"When the heaven is cleft asunder. And when the stars have fallen and scattered. And when the seas are burst forth. And when graves are overturned." A person shall know what he has sent forward and what he has left behind. "O man what has made you careless regarding your Lord, the most generous? Who created you, fashioned you perfectly, and gave you due proportion. In whatever form He willed, He put you together. Nay, but you deny the Judgment. And indeed there are above you guardians. Honorable recorders. Who know all you do." (82:1-12)" or "Do they not think that they will be resurrected? On a Great Day. The Day when mankind shall stand before the Lord of the worlds. Nay, indeed, the record of the wicked is in sijjeen. And what do you know what sijjeen is. A written record."

(83:4–9) and “Nay, indeed, the record of righteous is in illiyun. And what do you know what illiyun is? A written record to which bear witness those nearest to Allah.” (83:18–21). The same concepts have been enumerated and stressed many more times in the Qur’an, which indicates its vital role and crucial importance in a proper understanding of the Islamic perspective.

A sample includes “Do you not know that Allah has power over all things.” (2:106), or “Indeed Allah is all Seer of all you do.” (2:110) or “And He is Allah in the heavens and in the earth. He knows your secrets and what you reveal.” (6:3), as well as “And Allah encompasses all that they do” (8:47). Also “And he is the all hearer, the all knower.” (2:137), and “And to Allah belongs the east and the west. So wherever you turn there is Allah’s face. Indeed Allah is all encompassing all knowing.” (2:115), or “Indeed Allah knows the unseen of heavens and earth. And Allah is the all seer of all you do.” (49:18). Additionally, “Indeed Allah is all powerful, all mighty.” (58:21), and “And indeed, We have given you from Us a reminder. Whoever turns away from it, he verily will bear a burden in the Day of Resurrection.” (20:99–100), or “Then do you believe in part of the Scripture and disbelieve in other parts? Then what is the recompense of those who do so among you, except disgrace in the worldly lives and severest punishment in the Day of Resurrection. And Allah is not unaware of what you do.” (2:85).

Hereafter

According to Islam, all people resurrect to stand before God and answer for their deeds in this world. All that emphasis on the fact that God knows and keeps track of everything is to remind everyone of the Day of Judgment and its consequences. One cannot doubt or deny this and be a Muslim or expect salvation. “Woe to deniers on that Day. Those who deny the Day of Judgment. And no one denies it except every sinful transgressor. When our verses are recited to him, he says tales of ancient people. Nay, but that which they have earned is rust upon their hearts. Nay, surely on that day, they will be debarred from mercy of their Lord. Then, surely they shall burn in Hellfire. Then, it will be said this is what you used to deny. (83:10–17).” The Hereafter is eternal while this world is a transitory stage in the life of an individual. People pass through this world to reach the eternal salvation.

Accordingly, Muslims must dedicate their lives to this task. To accomplish that, however, they must follow the rules and codes of conduct as prescribed by God in the Qur’an and Sunnah. People must live well in this world and seek material well-being. They, however, must also take advantage of the opportunity on earth to prepare for Hereafter. “And seek to attain by means of what God has given you the abode of the Hereafter, but neglect not your share in this world, and do good to others as God has done good to you, and seek not corruption on earth. Surely God loves not the corruptors.” (28:77).

Justice and Equality

Muslim jurists almost unanimously believe that seeking social and economic justice and establishment of a Just and Righteous Society on earth is the main goal of Islam. The Qur'an declares, "We verily sent Our messengers with clear signs, and sent with them the Scripture and the Balance so that mankind may stand by justice." (57:25). Being just, based on the Qur'an, is one of the fundamental attributes of an individual Muslim as well as an Islamic society. Therefore, Islam orders the believers to always be just and follow the path of justice in all they do.

That includes dealing in the affairs of daily lives and activities as well as establishing social norms and standards that should prevail in an Islamic society. "O you who believe, be steadfast witnesses for Allah in justice, and let not hatred of some people make you not to deal justly. Be just: that is nearer to piety. And fear Allah. Verily, Allah is informed of what you do." (5:8) or "Give full measure and full weight, in justice. We burden not any soul beyond its capacity. And when you speak, do justice, even if it be against a kinsman." (6:152). Similarly, "Woe to the defrauders. Those who, when they have to receive from people by measure, demand full measure. And when they have to give to others by measure, give less than due." (83:1-3) or "Verily Allah commands you to justice and kindness." (16:90).

All human beings are created from the same origin and thus are equal before God and the Law. The Qur'an asserts that Muslims are "brothers-in-faith" (9:11) and declares "Verily, the most honored of you before God is the most righteous of you." (49:13). This equality before the God and the Law, however, does not imply social or economic equality as well. Islam acknowledges that some people are above others in income, wealth, and position. "And it is He who made you His vice-regents of the earth, and raised some of you above others in ranks, that He may try you in what He had given you." (6:165) or "Truly your Lord enlarges the provision for whom He wills and strains (it for whom He wills). Verily, He is ever knower, all seer of His slaves." (17:30). However, the principles of justice and unity dictates that Muslims to be mindful of each other and provide for their brothers in need. In fact, the Qur'an states that the poor have a right and a share in the wealth of more affluent Muslims.

Concentration of Wealth

Under Islam, when all individuals receive what is due them, economic justice is achieved. Under a Just system, there is no guarantee of equity or equality of the outcome. Concentration of wealth in few hands and hoarding of idle wealth, however, is not viewed favorably by Islam. God dislikes concentration of wealth and any wealth amassed through illegal or immoral activities. The Qur'an states "Those who hoard up gold and silver and do not spend it in the way of Allah, unto them give tidings of a painful punishment. On the day when it will be heated in the fire of Hell, and their foreheads and their flanks and their backs will be branded with it. Here is

what you hoarded for yourselves, now taste of what you used to hoard.” (9:34–35). Or “Woe to every slanderer, defamer, who amasses wealth and counts; thinking that his wealth would make him last forever. Nay, he will surely be thrown into the crushing place.” (104:1–4).

Given the Islamic position on concentration of wealth and its subscription to social and economic justice, it is not surprising that Islam prescribes mechanisms that mandates transfer of wealth from upper income to lower income Muslims in the community.

Property Rights and Ownership

Unquestionably, Islamic property rights are not absolute. Ownership of everything belongs to God and he is the ultimate owner of all there is. Allah is the only real, actual, and final owner of everything in the universe. The Qur’an declares, “Whatever is in the heavens and the earth belongs to Allah.” (2:284), or “to Him alone belongs everything in the heaven and the earth and everything in between. To Him alone belongs whatever is below the soil.” (20:6). God, however, provides the resources as gifts for use by human beings “He is who created for you all that is on earth.” (2:29) and “Allah has subjected to you, as from Him, all that is in heavens and on earth.” (14:13). Also, “And to Allah belongs whatever is in the heavens and whatever is on earth. And indeed We instructed you and those who were given the Book before you to fear Allah.” (4:131).

The Qur’an commands believers to “bestow upon them, of the wealth of Allah which he has bestowed upon you.” (24:33). Humans are selected and appointed by God as trustee over His gifts. “Believe in Allah and His Messenger, and spend of that whereof He has made you trustees.” (57:7). The Qur’an leaves no doubt that people are merely entrusted with wealth for their livelihood in this world. They are allowed to hold property and enjoy the benefits so long as they understand that they are holding the property in trust and follow God’s Rules. “It is We who placed you with authority on earth, and provided you therein with means for your life.” (7:10). “It is Allah who has subjected the sea to you, that ships may sail through it by His command, that you may seek of His bounty, and that you may be grateful.” (14:12). It follows, then, that the distribution of wealth and the outcome of economic activities and policies, including taxes, must be “Just” and in accordance with the will of the “Ultimate Owner.” God’s Will is manifested in the principles laid down by Him in the Qur’an. Thus, following the Qur’an is the only way to satisfy Him and achieve eternal salvation.

Consumption Pattern

Muslims’ consumption pattern, except for some specific items, is not limited or constrained. “Eat and drink of that which God has provided and act not corruptly, making mischief in the world.” (2:60). Or “Say: who has forbidden the gifts of Allah

which He has provided for His servants, and the good things of His providing?” (7:32). Also, “O you believers, eat of the good things that We have provided for you, and be grateful to Allah if it is Him you worship.” (2:172). Despite this freedom, however, “moderate” and “lawful” consumption and spending as well as avoiding extravagance are repeatedly recommended by Islam.

The Qur’an says, “O mankind, eat of what is lawful and good on earth and follow not the footsteps of the devil.” (2:168). Or “O you who believe, forbid not the good things which Allah has made lawful for you and do not transgress. For Allah does not love transgressors. And eat of the lawful and good things that Allah has given you. And fear Allah in whom you believe.” (5:87–88). In general, Islam prohibits “extravagance” (Israf) and spending ones money on impermissible items (Tabzir). According to the Qur’an, “Squanderers are indeed brothers of the devil.” (17:27), and “Allah does not love people who waste what they have.” (6:141).

The prohibition of “extravagance” and “wasting of one’s wealth” is repeated at least in 13 Qur’anic verses while moderation has always been prescribed. “Don’t make your hand shackled to your neck, nor stretch it forth to the utmost of its stretching for you will be sitting rebuked, destitute.” (17:29). Many other places in the Qur’an, including 6:142, 7:31, 7:160, 16:114, 20:81, 23:51, 34:15, and 67:15 repeat the same theme. Accordingly, Muslim writers, almost invariably, assert that Islam advocates a modest life and an average standard of living.

Individual and Society

Muslim society as well as individual Muslims should have some attributes, characteristics, and behavioral code of conduct. The Islamic code of conduct is elaborated in some detail in the Qur’an and Sunnah and all Muslims unanimously agree upon it. Muslims must subscribe to this code of conduct and follow it to create a virtuous society and lead a righteous life. This is the path of Islam in this world and the only way to achieve eternal salvation in the Hereafter.

In general, Muslims must be honest and upright and Muslim communities must be free from fraud, deception, greed, lying, cheating, and all other activities considered by Islam to be unjust or immoral. Muslims, naturally, must strive to cleanse themselves from undesirable characteristics and be as close to the ideal model as possible. To facilitate this journey, two Islamic principles of Promotion of Good Deeds and Prevention of Bad Deeds are prescribed. It is incumbent upon each and every Muslim to promote good behavior and prevent the bad ones. Each Muslim has a duty to himself/herself and his/her fellow Muslims to behave in an ethical and exemplary manner and vigilantly safeguard the society against any violation of good behavior.

Muslims are ordered to be charitable and spend part of their wealth to help their fellow Muslims in need. Three charitable categories mentioned in the Qur’an are “Sadaghaat,” “Ihsaan,” and “Infaagh.” These acts amount to helping the needy, the impoverished, and the destitute. Performing them pleases Allah and is rewarded

by Him. The emphasis on these acts is so strong that they resemble an obligatory duty of Muslims and constitute a right for the receivers. Qur'an declares "And in their wealth the beggar and the outcast had due share." (5:19) or "And in whose wealth there is a right acknowledged for the beggar and the destitute." (70:24–25) and "By no means shall you attain to righteousness until you spend in the way of Allah out of that which you cherish most and whatsoever you spend, Allah is aware of it." (3:92).

Many more verses in the Qur'an encourage Muslims to perform these charitable acts. A partial list includes 2:3–5, 2:195, 2:177, 2:245,, 2:254, 2:261, 2:265, 2:271–272, 2:274, 3:133–134, 4:36, 8:60, 9:111, 9:120, 11:3, 11:52, 16:90, 16:97, 17:23–6, 28:77, 30:38–39, 35:29, 57:7, 57:18, 63:10, 64:17, 76:8–11, and 92:5. Therefore, unquestionably these charitable acts constitute as part of a Muslim's duty to society and are intended to alleviate poverty and promote justice and harmony.

The State and the Ruler(s)

According to Islamic doctrine, the primary objective and task of an Islamic state is to implement and strictly follow the Shariah. For it is strict following of this Law and the Islamic code of conduct that provides and maintains an environment that enables flourishing of virtuous attributes, honorable, and prosperous lives during the transitory life on earth and guarantees eternal salvation in the Hereafter. This is the only true path of salvation in both worlds. Therefore, the role and function of an Islamic state is nothing but strict following of this course.

All programs and policies of a true Islamic state must be rooted in and be in accordance with the Shariah Laws. Qur'an states that "Say: Obey Allah and obey the messenger, but if you turn away he is only responsible for the duty placed on him and you for that which is placed on you. And if you obey him you will be rightly guided." (24:54). Also, "And fear the fire which is prepared for the disbelievers. And obey Allah and the messenger that you may obtain mercy." (3:131–132).

This command has been repeated so frequently that it leaves no doubt that teachings of the Qur'an and Muhammad must be continuously and unconditionally obeyed by all Muslims. The state ruled by Muhammad's successors, then, must follow the same path to be a worthy Islamic state. If it does, it will be a state that is ruled by "Those who, if We give them authority in the land, establish prayer and pay Zakaat and enjoin what is right and forbid what is wrong. And with Allah rests the outcome of all matters." (22:41).

The Qur'an refers to such a legitimate government or ruler as *Ulul-Amr*. Following the *Ulul-Amr* is mandatory and constitutes as a part of a Muslim's duty. "O you who believe, obey Allah, and obey the messenger and *Ulul-Amr* (those who are vested with authority), and if you have a dispute amongst yourselves concerning any matter, refer it to Allah and the messenger if you truly believe in Allah and the Last Day. That is better and more suitable in the end." (4:59).

Also, “And when there comes to them some matter or news concerning safety or fear, they spread it. And only if they had referred it to the messenger and to the Ulul-Amr, the competent investigators would have understood it directly from them. If it had not been for the grace of Allah upon you and His mercy all of you but a few would have followed Satan (4:83)”. Thus, it follows that such a righteous Islamic state must be continuously and unconditionally supported and obeyed by all Muslims since it is representative of Allah on earth and successor to Muhammad.

This obedience, just like the one to Muhammad, must be unremitting, unmitigated, and unconditional. That is, Muslim’s are obligated to heed the rules and mandates of their legitimate rulers or governments. Naturally, the necessary and sufficient condition is that the state must be a legitimate Islamic state. A state can have this legitimacy if and only if it follows the Shariah Laws. When this legitimacy is established, any violation of the rules is forbidden and illegal and therefore punishable in this world as well as the Hereafter.

Islamic Taxes

It is extremely difficult to present a concise, coherent, and uniform understanding of the Islamic tax system. In addition to many conceptual vaguenesses and generalities in Islamic economic doctrine, several other factors contribute to this phenomenon. The list of these factors include subjective interpretations by different authors, the writers’ ideological tendencies, large and frequently conflicting accounts of events, and outright mistakes in translation of sources. The outline, intent, and spirit of the original Islamic tax laws, nonetheless, are rather clear.

The Islamic tax system contains both “general” and “selective” or “classified” taxes, and it considers both the nature of the property and the owner’s conditions in the calculations. Different categories of wealth and real properties are treated and taxed differently. In some cases, even items within the same class of property are treated dissimilarly, e.g., treatment and taxation of real properties and personal properties, tangible and intangible assets, farm and residential lands.

Despite all these, a generally accepted mechanics and intent of Islamic taxes may be stated as idle or uncirculated, accumulated, and hoarded wealth plus certain categories of annual income are subject to taxation. The taxes are levied against the taxable base after deduction of an exemption level (Nisaab), as well as an allowance equal to a “reasonable amount for one’s annual expenditure that is commensurate with the taxpayer’s status in life.” In addition to the financing the regular functions of the Islamic state, the main objectives of Islamic tax system are alleviation of poverty, improving income distribution, and creation and maintenance of a just society.

Islamic jurisprudence recognizes individuals as the taxpaying units. As such, households, corporations, and other entities are not taxed. They are merely conduits that all income and taxable items pass through them to individual owners and are taxed at that level. The first Islamic tax was Khums, which was imposed after the

Battle of Badr in the second year of Hijra (Muhammad's migration from Mecca to Medina on 622 AD). Zakaat-ul-Fitr was also made mandatory in the same year. Kharaaj was imposed on the 7th year, Zakaat, which was voluntary at first, was declared mandatory on the 8th year and Jizya was established in 7th or 8th year after Hijra (Sadr 1989, p. 123 and 143, Ijtihadi 1985, p. 187, Zaman 1981, p. 44).

The Islamic taxes are mainly levied against and calculated based on actual taxable items. That is, these taxes are in-kind taxes. The payment, however, may be either in-kind or in equivalent value. Some of the taxable items are specified in the Qur'an or by Muhammad himself, while others have been added in later years by analogy and extension. In all cases, taxes are collected by the state and are kept in the Public Treasury (Bayt-ul-Maal). The money, then, is spent on certain categories specified in Shariah. The manner of disbursing some of the collected taxes is specific and on pre-prescribed items while spending of other parts is more flexible with less restriction.

Most of the Islamic taxes mentioned in the Qur'an come under the category of Zakaat. The term refers to a generic compulsory tax and literally means to cleanse, to purify or to grow. Zakaat is one of the pillars of the Islamic faith and an extremely important aspect of Islamic Code of Conduct. It is called a duty from God (Farizatan min Allah) and a form of worship that cleanses and purifies the soul and heart and the wealth of the Zakaat payer.

Zakaat has been mentioned in the Qur'an 60 times. Twenty-seven of those are right after Salaat or daily prayer, which itself is referred to as "the Pillar of the Religion." It is among the duties of the righteous Muslims and is a necessary condition of being a Muslim. "Establish regular prayer and pay Zakaat." (2:110), or "Indeed, those who believe and do the righteous deed, and establish regular prayer and pay Zakaat, their reward is with their Lord and there shall be no fear upon them, nor shall they grieve." (2:277), and "He it is Who produces gardens trellised and untrellised, and the date palms, and crops of divers flavor, and the olive and the pomegranate, like and unlike. Eat of their fruits when they bear fruits, and pay its due on the day of its harvest and waste not by excess. Indeed, He does not love those who are extravagant." (6:141).

Or "So establish worship, pay Zakaat, and hold fast to Allah." (22:78) and "And they were not commanded except to worship Allah, being sincere and true to Him in faith, and to establish prayer and to pay Zakaat, and that is the true religion." (98:5). The same command may be found in numerous other verses such as: 2:43, 2:83, 2:177, 4:30, 4:58, 4:77, 4:162, 5:12, 5:13, 5:58, 7:156, 9:5, 9:11, 9:18, 9:71, 9:103, 19:31, 19:55, 21:73, 23:4, 24:37, 24:56, 30:39, 31:4, 33:33, 41:7, 58:13, 73:20. The emphasis leaves no doubt about the importance of Zakaat in a Muslim society and Muslim's lives. The Qur'an, it should be noted, sometimes uses the term "Sadaqah" (alms), in place of Zakaat. The consensus among Muslim jurists, though, is that whenever the payment is compulsory, it is Zakaat while Sadaqah refers to voluntary payments or charity.

Zakaat is payable by all free Muslims who are in possession of the taxable items and have the ability to utilize and make decisions about the properties (de Zayas 2003, Khoie 1982, Khomeini 1980, Montazeri 1986; Rahman, 1986). For payment

of Zakaat to be valid, the Zakaat payer must have the intention of paying Zakaat, pay it for prescribed categories, and unconditionally transfer the ownership to the recipient.

While the majority of jurists believe that the Zakaat payer must not receive any direct benefit from the payment, some argue that even an indirect benefit from Zakaat is not permitted (Zaman 1981). A general categorization along with a brief description of Islamic taxes is presented below. A more detailed description of Islamic taxes may be found in several places, including Abu Yusuf al Qadi (1979), Abu Zahra (1965), Awan (1980), Chapra (1992), de Zayas (1969, 2003), Ijtihadi (1985), Jalili (2006), Mannan (2008), Qardawi (1969), Rahman, F. (1986), Rahman, M. (2003), Sadr (1989), Shaik (1980), and Zaman (1981).

1. Zakaat of land or Ushr, which is a flat percentage tax on some agricultural products. Views vary on the taxability of various crops, but most agree that crops, such as wheat, barley, rice, and most fruits, are taxable. The rates for Ushr are specified in Sunnah as 5% of the agricultural produce on artificially irrigated lands and 10% on produce of the lands benefiting from rain or natural spring only (Khomeini 1980; Rahman 1986; Shad 1986).
2. Zakaat on livestock, which applies to cattle, camels, and sheep older than 1 year. By analogy, this tax is extended to animals, such as goats, water buffaloes, and alike. Horses and riding animals, holdings of fish, poultry, and wild games are exempt from taxation unless they constitute the owners' trade or when they are sold. In general, animals kept for personal consumption are not subject to taxes unless they are sold. Some believe in taxability of animals kept for any business purpose while others do not. Each category of animal has a certain threshold amount called "Nisaab" that is exempt from taxation. Zakaat is applicable based on the number of holdings beyond Nisaab in each category. The rate structure is expressed in quantity and type of animals. Taxes are calculated and are due in kind, but they may also be paid in equivalent monetary value.
3. In addition to items taxed under Zakaat of livestock and Zakaat of land, three other categories are taxed under what may be referred to as general Zakaat. Although opinions vary on specifics, generally jurists agree that gold, silver, and "other assets" above prescribed thresholds (Nisaabs) are subject to Zakaat at the rate of 2.5%. Zakaat is due whenever the taxable item remains in the taxpayer's possession for 1 year. The gold and silver categories are straightforward. There is no unanimous agreement, however, on what constitutes the appropriate tax base for "other assets." Although many candidates, such as "wealth," "income," "idle wealth," "hoarded wealth," "merchandise," "articles of trade," "all types of wealth," "capital of various types," etc., have been proposed, a well-defined and universally acceptable tax base and list of taxable items is still elusive.

Debates on the taxable items and treatment of other concepts, such as valuation of Nisaab, amount of Nisaab, Zakaat on capital and inventory, effects of inflation, handling of depreciation, etc., continues without a generally acceptable resolution in sight. A partial list of topics and authors engaged in the debate may be found in Siddiqi (1981).

4. Khums, literally meaning one-fifth, in its original form was applied at the rate of 20% to spoils of war. The origin of this tax is a verse in the Qur'an stating "And know that whatever you take as spoils of war, verily one fifth of it is for Allah, and for the messenger, and for close kinsman, and orphans, and the needy, and the wayfarer. If you believe in Allah and that what We sent down to our slave." (8:41). Later, the tradition extended this tax to treasure-troves, mines, and all materials extracted from sea or earth. Currently, the Sunni jurisprudence maintains that Khums is only applicable to the excavated articles from land, sea, mines, buried treasures, and spoils of war at the rate of 20% (Abu Ubayd 1968; Ahmad, M 1995; Qardawi 1997; Shaik 1980). In this sense, Khums is partly a "windfall tax" and partly a tax on selected natural resources.

The Shiite school of thought, while agreeing with this assessment, extends Khums to larger categories of income and hoarded wealth. Formally, based on Shiite interpretation, Khums is applicable to seven items, including business profits and proceed of mines at the rate of 20%. It is an in-kind tax but may be paid either in kind or equivalent value. The equivalent value must be the fair market value of the taxable item. Unlike Zakaat, which is applicable until the holding falls below the appropriate Nisaab, Khums is a one-time tax. Thus, when Khums on an item is paid, that item will be forever exempt from Khums (Khoie 1982; Khomeini 1980; Montazeri 1986; Rizvi 1992; Sadr, 1989).

5. Zakaat-ul-Fitr, or "Sadaghat-ul-Fitr," or "Soul Zakaat" is a poll tax due once a year at the end of fasting month of Ramadan. All sane and free adult Muslims, who are not poor by Islamic standards, must pay this tax. Additionally, each person must pay this tax on behalf of those dependents that are not qualified to pay the tax themselves. Even if the dependents do not live with the taxpayer or they are not Muslim, this tax must still be paid by the person on whom they depend (Khoie 1982; Khomeini 1980; Montazeri 1986; Sadr 1989).

The amount of this tax is either in kind, about 3 kg (6.6 lb) of the main local staple, such as wheat, rice, barley, etc., or its equivalent monetary value. There is no specific mention of this tax in Qur'an, but it has been expressly prescribed by Muhammad. The Qur'anic reference is said to be "And render to the kinsman his due as to the needy and wayfarer. If you believe in Allah and that what We sent down to Our slave." (17:26).

6. Kharaaj is another form of land tax applicable to lands conquered by Muslims or entered into treaty with Muslims without war. The tax has some precedent, albeit not clearly defined and established, from Muhammad's time. The term itself originates from the Persian word "Kharaag." The structure and operation of this tax is essentially patterned after the Persian land tax. Formalization and extension of Kharaaj and some other taxes along with appropriate structural changes came during the reign of Umar, the second Caliph. The coverage, amount, or rate for Kharaaj is not uniform or pre-prescribed and varies from land to land and place to place based on several criteria. Kharaaj has been collected sometimes as a fixed amount and sometimes as a percentage of the harvest. It has also been collected based on factors, such as acreage, the crop or type of agricultural produce, fertility of land, methods of irrigation, the location and proximity of the

land to the market and roads, “tax-bearing ability” of the land, and several other factors. Some authors assert that the maximum rate has been set at 50% (Mannan 2008). Others claim that in practice Kharaaj has been set at a level that makes the tax equal to the rent on that land (Ijtihadi 1985; Sadr 1989). No Nisaab is mentioned and no deduction of expenses is allowed for Kharaaj purposes.

7. Jizya or “Poll Tax” is a tax levied on non-Muslims living under Islamic jurisdiction. The reference to this tax in the Qur’an is said to be: “Fight those who do not believe in Allah and the Last Day, and do not forbid what God and His messenger have forbidden, and those, being among the people who were given the Scripture but do not acknowledge the religion of truth, until they pay tribute (Jizya) with submission and utterly subdued.” (9:29).

Women, children not yet at puberty, slaves, poor, unemployed, blind, sick, insane, beggars, priests, and the monks of monasteries are exempt from Jizya (Abu Ubayd 1968; Dennett, 1975; Qardawi 1997; Zaman 1981). Non-Muslims living in “Treaty Towns” are also free from Jizya payments and instead pay taxes as assessed by their own officials. Rates or amounts of Jizya are not mentioned in Qur’an or specified by Muhammad. Traditionally, different amounts have been suggested and used.

8. Kaffaraat, or expiation money, are not technically taxes. They are fines and penalties for some of the wrongdoings and transgressions committed by Muslims. They, however, constitute part of any Islamic state’s revenue and as such are stated here. Examples of finable offenses include breaking one’s fast without a proper cause, breaking one’s oath, transgressions during the month of Haj, etc. The Qur’an states: “Allah will not punish you for that which is unintentional in your oaths, but He will take you to task for the oaths which you have sworn in earnest. So its expiation is the feeding of ten needy individuals with the average of that which you feed your own folks or clothing of them, or freeing of a slave.” (5:89). The amount of these fines vary in each case and depends on the particulars of each situation. These penalties may be paid in cash or in-kind.
9. Other taxes may also be levied by an Islamic government on a need basis. All variants of Islamic jurisprudence allow levying of additional taxation by an Islamic government (Chapra 1992). In fact, throughout Islamic history, additional taxes with no reference in Shariah have been imposed on Muslims by their governments. Taxes, such as “transaction taxes,” “sales taxes,” and several other taxes along with fees like “Minters’ Charge,” “the Book Charge,” “the Army Charge,” “Tariffs,” and “Custom Duties,” have been reported in several Islamic regions and territories (Zaman 1981).

Uses and Purposes of Tax Revenue

For some of the taxes, the Islamic Shariah clearly mandates the categories on which the tax revenues must be spent. In other cases, there are no specifications. Expenditure of Ushr, Zakaat of animals, and general Zakaat are specifically devoted by the

Qur'an to be on eight items. "Zakaat expenditures are only for poor, and the needy, and those who collect them, and those whose hearts are to be reconciled, and to free the slaves, and the debtors, and for the cause of Allah, and for the wayfarers, a duty imposed by Allah. And Allah is All Knower, All Wise." (9:60). The relative share of each category and the percentage devoted to each group is not indicated in the Qur'an. Neither are the exact definitions of some of these categories and what may be covered by these funds.

Of the spending categories mentioned in the Qur'an, one category is devoted to the payment of slaves' ransom to buy their freedom. Another category is earmarked for the administrative cost of collection and distribution of Zakaat. Two categories are rather ambiguous "cause of Allah" and "those whose hearts to be reconciled." The ambiguity, however, allows some flexibility on spending these amounts.

Generally, they have been interpreted as spending on activities that in some form and manner benefit Islam and Muslims. Four other categories, notwithstanding the details of the debates surrounding them and based on the spirit of the Qur'anic verses along with the consensus of Muslim jurists, are aimed at alleviation of poverty and need. These are the poor, the needy, the wayfarer, and the debtor.

The need and poverty may be temporary as in the case of a wayfarer in need, or an unemployed person, or a debtor, or it may be permanent as in the case of a disabled individual, or someone who is unable to work. Details and procedures, however, are not provided in the Qur'an and the issues are resolved by Sunnah or through consensus of the jurists. In general, however, the general agreement is that the *raison d'être* for Zakaat is to alleviate poverty and move the Islamic community toward achieving the Just Islamic society. Therefore, the collected funds must be spent in such a way to accomplish these goals.

These expenditures could be on anything that a worthy Muslim state or ruler sees fit, including spending to reduce the income and wealth gap among members of the society, welfare projects, ensuring minimum standard of living, healthcare, education, scientific and cultural matters, maintenance of religious institutions and missionaries, public goods, war and defense efforts, propaganda, social projects, security, support of the warriors in the cause of Allah, and other similar activities. Distribution and utilization of Khums, based on Sunni Muslims, is identical to those of Zakaat. According to the Shiites, however, the treatment is different.

For Shiites, Khums should be divided into two parts. One half is earmarked for the direct descendants of Muhammad and must be disbursed to them. The other half must be surrendered to the religious leaders or the Islamic state for proper disposal. The usage of this portion appears to be similar to those of Zakaat. Under certain circumstances, the taxpayer may directly spend a portion of Khums on allowable uses (Khomei, 1982; Khomeini, 1980; Montazeri, 1986; Rizvi, 1992).

The origin of this distribution comes from the allocation of booty, which was the first item subject to Khums. According to the original verse, one fifth of the booty belonged to Muhammad, his family, orphans, needy, and wayfarers. The remaining four-fifth went to the conquering army. In another verse, however, the Qur'an indicates that: "They ask you about the spoils of war. Say: all spoils of war belong to Allah and the Messenger. So, fear Allah and set things right between you, and obey

Allah and His Messenger, if you are believers.” (8:1). This verse, then, could be interpreted as that the spoils of war belong to the Islamic state. Since mines and natural resources are also subject to Khums, then permissibility of taxing these items by the Islamic state may be inferred.

Recipients of Khums or Zakaat must be Muslim (except those categories that are specifically permitted), poor, do not openly commit sins, and do not spend the funds on sinful activities. The receipts should not be more than the recipient’s annual expenditure. The recipients may not be a dependent of the taxpayer and should not themselves be subject to payments of Zakaat or Khums unless they are eligible to receive from these funds under different categories, such as Zakaat collectors or wayfarers. Zakaat-ul-Fitr is spent on the same items as Zakaat and the conditions of the recipients are also the same (Khoei, 1982; Khomeini, 1980; Montazeri, 1986; Rahman, 1986; Rizvi, 1992). The uses of Jizya, Kharaaj, Kaffaraat, and other taxes, for the most part, are not specified. Thus, they may go to the general fund and along with other revenues be utilized at the discretion of the Islamic state. The uses, however, must not contradict or violate Islamic Principles, Codes, and Laws.

Hence, it is clear that Islamic taxes are designed to support the functioning of an Islamic state, which must establish Shariah Law and function within its framework. This Islamic state, accordingly, is required to strive to establish justice and create a just society. Among the major steps to accomplish these tasks are alleviation of poverty, promotion of the welfare of Muslim community, prevention of bad behavior, promoting good deeds, and eliminating extreme concentration of wealth in a few hands. Thus, collection of taxes and spending the funds to accomplish its goals constitute a primary function of an Islamic state and it is incumbent upon all Muslims to contribute to this process and assist the state in this path.

Ethics of Tax Evasion

The first step in addressing the ethics of tax evasion is to answer a fundamental question. Is taxation, in general, legitimate? If the answer is negative, then taxation amounts to theft. In that case, tax evasion is simply an act of defending one’s property against theft, and defending one’s property against thieves not only does not constitute an unethical act but it may even be considered a duty. In this situation, the discussion boils down to discuss the proper role of the state and means and methods of its financing. If, on the other hand, the answer is affirmative and the legitimacy of taxation in general is acknowledged, then the discussion may proceed to explore and specify the limitations, conditions, and parameters of taxation.

Following the “Social Contract” tradition of Hobbes, Locke, and Rousseau, most social philosophers assert that as the general rule some form of taxation is necessary for proper functioning of the state and the society. The assertion stems from the idea that when a person lives in a community, he/she enters into some sort of a Social Contract with other members of that society and thus must share the burden of running that community. One major way of assuming this responsibility is the payment of taxation.

This position, however, needs to resolve several other issues. For instance, is the responsibility to pay taxes absolute? Are there cases under which tax evasion becomes ethical? Should taxes be paid to corrupt or evil states? What determines the level of corruption or evil? How corrupt or evil should a state be for tax evasion to become ethical? What determines the legitimacy of a state? Who and what determines that legitimacy? Are there limits to the taxes or tax rates? What is a fair tax system? What determines the fairness of taxes? How should each taxpayer's fair share of taxation be determined? Is tax evasion ethical when tax rates are too high? What determines that the tax rate is high? Is tax evasion ethical if one disagrees with the government policies? Is evading discriminatory redistributive or capricious taxes ethical?

Do factors such as Human Rights abuse, nepotism, lack of political or economic freedom, level and quality of public goods, inadequate income distribution, etc., change one's position on the ethics of tax evasion? What is the appropriate threshold before tax evasion becomes ethical? The answers to these and numerous similar questions, while an integral part of a proper discussion on the ethics of tax evasion, are deeply rooted in ideology and accordingly are subject to intense ongoing debates. A sample of these discussions may be found in Gronbacher (1998), Pennock (1998), Schansberg (1998), and many works of McGee (e.g., 2004, 1999a, 1998a, 1998d, 1998f, 1998g, and 1994) and thus will not be reproduced here since they fall outside of the scope of this work.

The tax evasion issue, from an Islamic perspective, may be considered under two different scenarios. First, the state is a pure Islamic state and its ruler(s) can be considered as *Ulul-Amr*. Second, when the state is either not a pure Islamic state (Mixed) or it is Secular or non-Islamic. These two possibilities are examined in the remaining pages.

The Case of a Purely Islamic State

As noted previously, Islam teaches: That Allah is an Omnipresent All-Seer, All-Hearer, and All-Knower of all things. He keeps a record of everything that people do and will Judge and hold them accountable in the Day of Reckoning. That God is the owner of all things in heaven and earth and people are mere trustees of whatever material things is in their possession. That humans are placed temporarily on this earth and will live in eternity in the Hereafter. That Islam strives for justice in this world and does not approve of concentration of wealth and conspicuous consumption. That the Qur'an is infallible since it is the direct words of the all Powerful and all Wise Allah. That the Qur'an and the traditions of Muhammad and his righteous successors must be obeyed by Muslims totally and unquestionably. That Muslims and the Islamic state must seek to establish Justice by following the Shariah. That Muslims and the Islamic state must be in a relentless struggle against evil by promoting good behavior and prevent bad deeds. And that Muslims are duty bound to look after, support, and take care of each other.

Given all abovementioned undisputable basics and the general Islamic frame of mind, then, if a government qualifies as a true Islamic state, its ruler or rulers must be considered as the *Ulul-Amr* or representative of Allah on earth. Accordingly, unconditional allegiance to this state and total obedience of its demands becomes mandatory for all Muslims. Consequently, it is amply clear that tax evasion in such a state is not only immoral and unethical, but a great sin. The Qur'an repeatedly orders Muslims to pay *Zakaat*, and reminds them that the wealth does not belong to the *Zakaat* payers and is really the recipients' Rights as ordained by Allah. Muslims are frequently warned not to abandon this duty or expect the most severe punishments in this world as well as the Hereafter.

Evading *Zakaat*, or any other tax levied by a true Islamic state, is blatant disobedience of Allah's Command, an act that puts the tax evaders in the direct path of war against Allah and His messenger. The Islamic taxes prescribed by the Qur'an or an Islamic state are compulsory and not voluntary. All Islamic taxes must be paid without any hesitation, reservation, or question. The necessary and sufficient condition, categorically, is that the state must be an Islamic one as determined by that state's subscription and adherence to the Shariah Law.

The authorities of such a state, if needed, may collect any and all taxes by force and punish the tax evader. For any form of evading any kind of taxes in an Islamic state undermines the functioning of the state and the Islamic society. It retards the Islamic state's drive to develop the society into a just, compassionate, and harmonious society. It constitutes stealing from the community of Muslims and amounts to failure to fulfill one's duties to Allah, the Muslim society, and fellow Muslims. It is committing injustice against the society and depriving others from their rightful shares. These are some of the reasons why paying Islamic taxes is one of the pillars of Islam and a precondition for being a true Muslim. It should also be noted that evaders of Islamic taxes have no possibility of escaping punishment since this transgression cannot be concealed from God and tax evaders will be taken into task and punished by God.

Some writers and researchers assert that under some circumstances or regarding certain type of taxes, tax evasion by Muslims may not be unethical. Among categories mentioned are indirect taxes, income tax, gift tax, property tax, sales tax, excise tax, value added tax, tariffs, custom duties, taxes, and policies that raise prices unjustly or artificially, taxes and policies that redistribute wealth, preferential taxes and policies, targeted taxes and policies, and progressive taxes (e.g., Ahmad, M. 1995; McGee, 1997 and 1998h; Murtuza and Ghazanfar 1998; and Yusuf 1996).

Although a critical analysis of these writings is beyond the scope of the present work, a brief exploration of these assertions may be useful to shed light on the issue itself and as such worthy to carry out. To start, one has to decide which of the two aforementioned cases are meant by these authors, the case of a true Islamic state or the case of a non-Muslim state or not-purely Islamic state? The latter scenario is discussed later in these pages. The propositions under the former case, however, are explored and examined first.

Under Islam, there is no specific prohibition of amount or form of taxes over and above the taxes mentioned in Qur'an. Taxes may be direct or indirect and on income

or wealth. They may be excise, sales, property, value added, gift, or any other tax. Ushr, Khums, and Zakaat on “proceeds of business activities,” for instance, are essentially taxes on income. The taxpayer must pay taxes on these proceeds and gains after subtraction of a prescribed amount (Nisaab) and deduction of “reasonable business and individual expenses.” The system of taxation can also be progressive, proportional, or regressive. Moreover, avoiding taxes on the grounds, such as objecting to the state’s policies, redistributive effect of taxes and policies, spending the funds on expenditures that are beyond limits, spending tax revenues on categories that are not for the public’s general welfare, the wastefulness of government expenditures, does not provide adequate defense basis.

This is so because one has to ask, who determines what is “beyond the legitimate function of the state?” Who defines “general welfare of society?” Who decides the “sufficiency of government expenditure?” Human beings or God? Muslims have no choice but to attest that it is God and His Commands as revealed to Muhammad and reflected in the Qur’an and Muhammad’s tradition (Sunnah) that answers these questions. A true Islamic state, by definition, follows the Shariah Law. Therefore, provided that the state adheres to Shariah Law, Muslim cannot consider it to be engaged in any wasteful or unnecessary policy. None of the activities, laws, programs, and regulations of a true Islamic state contradicts Shariah. They are either directly commanded by it or are in accordance with it and are aimed to establish and promote God’s Commands. As such, all these activities must be considered as necessary, legitimate, unobjectionable, desirable, and for the general welfare of the society.

From an Islamic perspective, transfers of wealth among different groups, as well as targeted and discriminatory policies are not forbidden and may not be used as a basis to justify tax evasion. One should remember that Islamic taxes, including Zakaat, are not applicable to all income and wealth. Some categories of wealth and some individuals are exempt from some taxes. Further, the applicable rates, minimum thresholds, and allowable deductions are not uniform. Moreover, in addition to heavy emphasis on paying the “poor due” and calling it the “right of the poor” in the possessions of wealthy members of the society, the Qur’an specifically devotes few categories of Zakaat funds to be used on poor, needy, destitute, and orphans.

Buying back the slaves’ freedom, supporting wayfarers in need, paying-off the debtors’ debts, and financing the administrators of Zakaat funds are other expenditures permitted by Shariah. These payments are clearly redistributive in nature and are aimed at reducing poverty, eliminating needs, and helping the impoverished. Specific percentages of distributing the inheritance among the heirs mentioned in the Qur’an is another example of discriminatory and redistributive policy regarding wealth in an Islamic community. The declaration that discriminatory, targeted taxes and redistributive policies might cause animosity among people ignores the fact that the Qur’an asserts that these Commands are God’s Will. He is the One who orders dispensing of the wealth, which is His in the first place, according to what He sees fit.

The claim that all fluctuations in prices are the work of Allah and thus any governmental policy or law that raise prices “unjustifiably,” “unnecessarily,” or “artificially” is opposed by Islam and illegitimate, has no validity in Islamic Doctrine.

Firstly, it is not clear what is meant by “unnecessary” or “unjustified” rise in prices. This assertion can only make some sense if the doctrine of “Just Prices” is explicitly accepted. Furthermore, there is no directive in the original Islamic sources that substantiate this assertion.

The statement that Muslims do not have the moral obligation to comply with “harmful” policies is not acceptable either. Included in these policies, presumably, are tariffs, quotas, and other protectionist policies, as well as targeted taxes, distribution policies, work-safety and environmental regulations, as well as similar legislation and regulations. The problem, again, is who is going to determine what is harmful and what is beneficial to the society? What constitutes a necessary and just price? What is real and what is artificial? Once more, if a true Islamic state enacts these policies, they become legally and morally binding for all Muslims.

Accordingly, one might reiterate, that Islamic taxes, those that are specified by Shariah as well as those imposed by a true Islamic state are not voluntary, but mandatory under the Islamic state. Regardless of the reason, logic, or motive, evading Islamic taxes is illegal and never ethical or moral. This assertion stems from the fact that Islamic taxes and policies are ordained and ordered by Allah and is the manifestation of His Will. God knows everything and knows what is best for all. The pivotal condition, of course, is that the state must be a legitimate and true Islamic state and nothing else. The legitimacy, obviously, is solely derived from the state’s strict adherence to the letter and spirit of Shariah Law without any violation of or contradiction to it.

Under these conditions, and only these conditions, all taxes imposed and policies enacted by the state, regardless of their shape, form, amount, procedure, purpose, etc., are considered legitimate and beneficial. Therefore, paying these taxes or adhering to these policies is obligatory for all Muslims. Evading or circumventing them is immoral, unethical, and illegal which makes it an offense punishable by God and the state in this world and on Judgment Day.

The Case of Secular Non-Islamic and Mixed States

The question of the ethics of tax evasion for Muslims becomes more problematic when a state is either secular or non-Islamic or mixed (i.e., an Islamic state that does not strictly follow Shariah Law). In these cases, the aforementioned arguments for Muslims’ unconditional allegiance and obedience to the state will no longer apply. Consequently, all debates and arguments regarding various aspects of taxes and tax evasion advanced by numerous philosophers and social thinkers throughout the ages are invigorated and pertinent. The piercing questions must still be answered and the burning issues must be addressed.

Before proceeding with the discussion, however, one point should be cleared and underlined. That is, irrespective of where and under what circumstances a Muslim lives, all Islamic taxes specifically mentioned by the Qur’an must still be paid. The mixed, non-Islamic, or secular characters, or even corrupt or outright evil nature,

of the state in this case is irrelevant since the Islamic taxes are not collected by any state other than the purely Islamic state. Under these circumstances, the Islamic taxes must either be surrendered to the appropriate religious authorities, who are separate and independent from the governing authorities, or may be dispensed by the taxpayer himself/herself in a specific manner and on specified categories sanctioned by Shariah Law. No evasion of these taxes is permitted under any circumstances and for any reason. Tax evaders in these cases are dealt with for their transgression by Allah and in accordance with His Will and Judgment. Therefore, the following discussion refer to taxes not specifically ordered by Shariah and are levied by a state other than a true Islamic one.

To be a Muslim, an individual must follow a certain Code of Conduct regardless of the place of domicile and the kind of government running the society. Conceptually, in their dealings with the society, Muslims should not lie, must behave ethically, must not be deceitful, must honor their contracts, must fulfill their promises, and must be exemplary in all they do. In short, Muslims should lead an honorable and commendable life and should not engage in activities that may disgrace themselves or Islam. Muhammad is reported to have said “the hypocrite has three characteristics: he tells lies, breaks his promise and breaches the trust.” (Reported by Al-Bukhari and Muslim).

Also, “the one who cheats is not of us” (Muslim, Tirmidhi, and Abu Dawud) and “the one who does not fulfill trusts has no faith, and the one who does not fulfill commitments has no religion.” (Reported in Ahmad, M. 1995). Hence, one might argue that, based on Islam, lying, cheating, and deceiving to evade paying taxes is an unethical act in itself, as is the act of evading taxes.

Furthermore, tax revenues may finance activities that are beneficial and vital for the proper functioning of the society. In that case, evading taxes may amount to free riding and could qualify as stealing from the public. Consequently, the obligation and necessity of paying some taxes may be asserted. Additionally, an argument may be advanced that individuals, including Muslims, by virtue of living in a society, enter into a contract with that society and as such must honor that contract and observe the social norms and social codes of conduct. This notion, in abstraction, will render tax evasion as an immoral and unethical act under all circumstance and independent of time and place.

The problem, nevertheless, is that concepts such as social contract, stealing from the public, obligation to the society, legitimacy of taxation, validity of different types of taxes and systems of taxation, and universal unacceptability of lying or deceit may be challenged from a variety of perspectives. Moreover, many questions and concerns, such as those stated at the beginning of the segment on the ethics of tax evasion, further complicate the mix and the debate.

Questions like how to deal with corrupt or evil states, what determines and measures the level of corruption or evilness of a state, the policies financed by taxes, fairness of taxes, and so on. As noted above, full discussion and evaluation of all arguments and questions surrounding the ethics of taxes and tax evasion is well outside of the scope of this work and accordingly will not be pursued. Details of these issues and debates may be found in the works already cited, specially the

many works of Robert McGee on the subject. Considering the spirit as well as some letter of the Islamic Law, however, one can deduce an Islamic position on the ethics of tax evasion under non-Islamic or mixed Islamic states.

Islam orders Muslims to always promote good deeds and prevent bad deeds. Some of the good and bad deeds are specified, e.g., murder, stealing, and cheating as bad and feeding the hungry, honoring one's contracts, and defending communities as good. By analogy and deduction, other unspecified acts may also be categorized as good or bad deeds. Generally, one might infer that an act is deemed as a good deed and should be promoted if it is not in flagrant contradiction to Shariah, does not contradict any of the established Islamic codes and concepts, and is beneficial to humanity and communities. On the other hand, if an action is harmful to others or contradicts the Islamic Laws, it is considered as a bad deed and must be prevented.

Conceptually, for individual Muslims or the community of Muslim jurists, the distinction between good and bad in accordance with Shariah is not an insurmountable act. Then, it follows that, if a state is engaged in good deeds, it may be regarded as a state that must be supported, and therefore a social contract between that state and Muslims living in that society is in effect. In such cases, one can argue that, payment of taxes to the state, regardless of the type and method of taxation, is really promotion of good deeds and evading them constitutes an unethical act. If, on the other hand, the state is committing bad deeds, Muslims have a duty to oppose and disobey the laws governing those bad deeds by all means available to them.

Tax evasion is one such method and, under these circumstances, not only is ethical but rather a moral obligation for all Muslims. Financing a bad deed is not acceptable and, to the extent possible, payment of taxes in any form, shape, or amount, should be avoided. Tax evasion in these cases amounts to prevention of bad deeds and obligatory for all Muslims. Thus, depending on the circumstances, and interpretation of Muslim jurists, tax evasion may at times be ethical while at other times unethical.

Concretely, however, classifying acts into good or bad is complex and ambiguous. Things are not always straightforward and definite. To begin with, "good" and "bad" are subjective and largely function of one's background and ideological persuasion. Moreover, these concepts themselves are not universal and rigid. An act that is viewed as noble under one set of conditions may be assessed as appalling under a different scenario. Even the Shariah Law permits temporary suspension of good acts as well as engaging in acts that are normally banned by Islam. For instance, lying or deceit to save a life is allowed. So is stealing or eating forbidden foods if one is hungry and truly does not have another alternative.

The daily prayer, fasting, or other religious duties may be suspended or altered under dire circumstances or threats to health and life. Falsification of information and concealment of one's true feelings are tolerated under extraordinary situations and whenever a threat to health and lives of people exist. Revolting against an evil or oppressive regime is not only acceptable but in some cases is mandatory.

A revolution, naturally, may entail death and destruction. Nevertheless, for practical purposes, the classifications must be made. The categorization of an act as

good or bad or modification of behavior or suspension of the Islamic rules, however, must not be arbitrary and resulting solely from one's interpretation and short-term narrowly defined self-interest. Rather, it must be based on the broad societal long-term interests and considerations. When a bad act is committed or a good act is suspended, the actions must be truly necessary and unavoidable. Therefore, to arrive at a decision in these instances, a Muslim's decision and evaluation of various acts must be informed by and be based on permission granted or precedent established by trusted religious leaders and credible jurists. Once more, then, it is apparent that tax evasion, depending on circumstances, could be ethical or unethical.

The assertion, however, begs the question. Theoretically, Muslims' duties regarding tax payments and tax evasion under non-Islamic or mixed states are clear. The vicious circular argument is present nonetheless. Except for a few instances, classifying states into corrupt or evil is not an easy task. Neither is categorizing deeds into good and bad. Currently, there is no state, and probably there has never been, a state that meets the criteria of a truly Islamic state.

All contemporary states are either secular, non-Islamic, or mixed states. This fact suggests that at best all states in all societies are engaged in a mixture of activities that entail good and bad. Some of these activities might contradict Shariah and are thus objectionable to Muslims while other activities may be good deeds. Since tax revenues are mixed and expenses are disbursed from the general funds, Muslims, as well as all others who might find those acts objectionable, face a challenging situation. That is, how can a Muslim promote the state's good deeds while preventing its bad ones?

If there are practical ways to object to bad deeds and withhold taxes proportionate to the extent that they finance bad deeds, the solution is rather clear. This option, however, is not available in the existing world. Thus, the circle is completed and one is faced again with the same set of questions on ethics of tax evasion as one started with. It becomes incumbent on each person to resolve his or her dilemma. Legal and moral precedents, as well as one's conscience and principles along with trusted opinions may serve as guideposts.

Concluding Remarks

With a perfect unanimity, Muslim jurists and theologians believe that the only purpose of Islam is to guide humanity and reveal the path of virtuous and righteous living. Following this path, in turn, will establish justice on earth and prepare humans for eternal salvation in the Hereafter. It follows that Muslims should believe that the functions and intentions of all Islamic Laws, including Islamic taxes, are to enable the societies to accomplish those goals. An Islamic state collects and disburses taxes to finance its functions and to facilitate the establishment of a blissful Islamic society. Since such a state follows Shariah Law, it must enjoy the full and unconditional support and allegiance of all Muslims at all times. Disobeying any of its laws, including tax evasion, is disobeying Allah and His representative, the *Ulul-Amar*.

This act undermines the Islamic state and obstructs accomplishing the Islamic ideals. Therefore, it is an act of war against Allah, His messenger, and His representative. Consequently, tax evasion for Muslims in this case, not only is illegal, immoral, and unethical, but also constitutes a mortal sin, an offense worthy of the most severe punishments. Ordinarily, one might argue that people, whenever they can, may disobey the mandates of evil or corrupt states and try to undermine it.

Faced with an undesirable state, people may change their situations by revolting against the government, voting the officials out of office, or leaving the country. This situation, however, is not applicable to an Islamic state and these options are not available to Muslims. This is so because a true Islamic state follows Shariah Law and, from a Muslim perspective, cannot be evil or corrupt. For Muslims living in non-Islamic, secular, or mixed societies, it may be asserted that they have some obligations to pay taxes when the government's actions and policies are viewed as virtuous and noble as measured by the Islamic standards, and are not in direct opposition or violation of Shariah. If, however, the state does not measure up against these standards or it is an evil or corrupt state, Muslims may resort to acts of disobedience and undermining of the government.

One such act would be to refuse financing the functioning of that state or bad deeds through tax evasion. In this case, tax evasion will be moral and ethical, and may even be a duty and an obligation incumbent upon all Muslims. That is, to the extent that it is practically feasible, Muslims should evade taxes and refuse to finance immoral acts. The benchmark for this assessment, obviously, must be the Islamic Laws as specified in the Qur'an and Sunnah. The decision must not be rooted in narrow self-indulgence at the expense of the community's long-term interests. A Muslim's decision should be made based on legal and religious precedent established by trustworthy religious leaders and reliable jurists.

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