

Islamic Estate Planning (IEP) in Malaysia: The Opportunities for Islamic Banks



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Abstract Islamic Estate Planning (IEP) is an important task that Muslims need to participate to make sure individuals that will be left behind are taken care of. Despite increasing literature on the importance of this planning in Malaysia, there is a lack of study for the role of Islamic banks in this area. This study examines the IEP products that are available in Malaysian Islamic banking industry. It is observed that there are a lot of opportunities for the Islamic banks to offer IEP related products and services. Consequently, this study suggests further improvements for the Islamic banks in enhancing their offering of IEP products and services.

Keywords Islamic banks · Islamic Estate Planning · Malaysia · Products and services

1 Introduction

Islamic estate planning (IEP), a subset of Islamic wealth management (IWM) is essential in the life of a Muslim. It is a planning done to avoid assets from being frozen and to ensure it is transferred to intended party, i.e., the loved ones, eligible heirs or to be given for charitable purposes. IWM consists of four (4) components that are wealth creation, wealth enhancement, wealth protection and wealth distribution as depicted in Fig. 1. IEP, being the last part of the IWM is often neglected by Muslim, particularly in Malaysia (Bouteraa 2019; Abdul Rahman and Hassan 2020).

Shariah recognizes wealth as a fundamental element for one's life for a good and balanced life. As a servant of Allah that has been entrusted to manage wealth in this world, one must pay attention to wealth cycle starting from wealth creation until the final act of wealth distribution, since these will eventually relate to either reward or punishment in the hereafter. Specifically, IEP which is part of the IWM cycle is aligned with Maqasid Shariah that supports the basic needs of Muslims to build wealth, to protect the poor and to provide for one's family members. In

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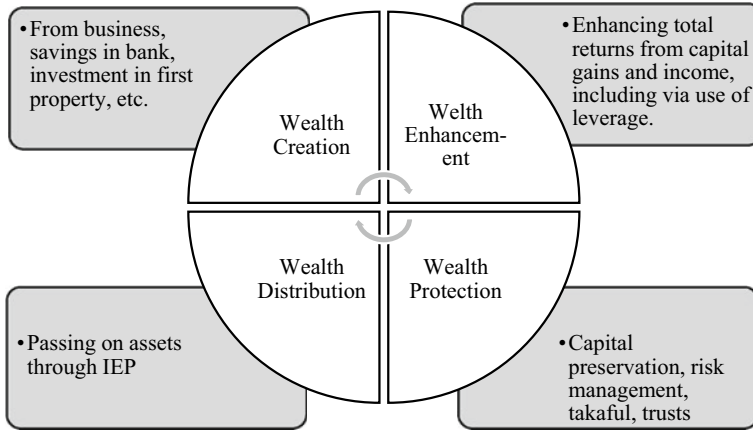


Fig. 1 Administration and the distribution of a Muslim deceased’s estates. *Source* Authors own

Islam, the wealth holder can enjoy rightfully acquired and accumulated wealth while simultaneously manage the wealth as a trust from the Creator to improve the lives of many others (Ariff et al. 2017). Through IEP, one can planned to distribute his wealth to dependents, non-dependents, special needs and the society at large (Rashid et al. 2013).

In Malaysia, the history of official administration of IEP started back in the year 1921 after the establishment of the Department of Public Trustee and Official Administrator. It is now known as Amanah Raya Berhad (ARB) after its corporatization in 1995. Amanah Raya Berhad is Malaysia’s premier trustee company wholly owned by the Government.

However, Muslim in Malaysia did not actively participate in IEP. This is because this is a matter that will be executed after one has passed away. They let faraid system to distribute their estates according to the proportion to the eligible heir(s). Being said that faraid is not the only tools that can distribute estate in IEP.

The major concern in this study is participation of Islamic banks in IEP particularly in Malaysia since these institutions play an important role in the economy. The role of Islamic banks in offering IEP products have not been comprehensively discussed. Most of the research on IEP focuses on the role of hibah, hibah trust, wasiat, the role of ARB and the issues and challenges occurred.

The statistics of the frozen assets shows the increasing number of these assets comprising homes, land and cash. Table 1 provides the details of the frozen assets from 2004 to 2020 (Shafie et al. 2016; Metro 2020; Utusan 2021).

Muslims are losing out on potential benefits or utilities that they could derive from such assets. For entrepreneurs, both land and capital are considered factors of production (inputs), which are among the vital ingredients needed in the process of producing goods and services (outputs), and ultimately generate economic profits for the business.

Table 1 Frozen assets in Malaysia (2004–2020)

| Year | Value (RM billion) |
|-----------|--------------------|
| 2004 | 15 |
| 2006 | 38 |
| 2007–2009 | 40 |
| 2010 | 41 |
| 2011 | 42 |
| 2012 | 52 |
| 2013–2015 | 60 |
| 2020 | 70 |
| 2021 | 90 |

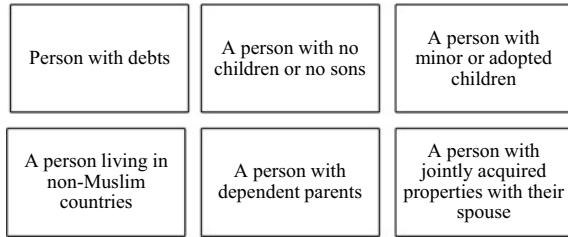
As for non-business people, to have quick and easy access to assets is a blessing as they can utilise and exploit them (whether in the form of real assets or financial assets) to fulfil their daily needs. Like idle wakaf land, unclaimed and frozen assets are counterproductive to their original function, either as factors of production or even for consumption purposes. Not only that, but nonfunctional of these assets is also a form of obvious wastage of resources (*tabzir*), which is condemned by Islam.

Considering the importance of IEP and the increasing number of frozen assets, this research explores the opportunities and potentials for Islamic banks in offering IEP products. Having the capacity to widely reach the community particularly in the urban city, Islamic banks can play the role to promote IEP especially among Muslims.

2 The Concept of IEP

IEP is best defined as planning by a Muslim during his life to distribute and dispose of his wealth upon his death (Lahsana 2016). Therefore, it can be understood that estate planning is an effort made by the individual to distribute his estate to dedicated person or purpose while being a good health status. Otherwise, this would affect the life of their loved ones if there is no appropriate arrangement done during his life. In other words, he provides a better environment for the personal and financial affairs of their family member and vice versa.

Fig. 2 Potential prospects of IEP products. *Source* Authors' own



It is always misunderstood that IEP is a planning by someone who has estate(s) or wealth. The potential prospects are actually wider than that. They can be segregated into a few groups (Fig. 2):

The importance of IEP to each category of people mentioned above is explained below:

- 1) Person with debts: the legal heirs should know that estate distribution of their loved ones can only be made after all the debts are settled according to wasiat and faraid system.
- 2) A person with no children or no sons: if a person desires to include their relatives, or close friends or even the poor and the needy to receive his estates, a proper estate planning should be in place.
- 3) A person with minor or adopted children: to safeguard the welfare of family members who left behind especially his young children, a person may appoint someone as trustee. For an adopted child, a bequest must explicitly be made since the child is not included under faraid system.
- 4) A person living in non-Muslim countries: individual living in those countries must prepare specific documentation of bequest for the arrangement of his estate distribution.
- 5) A person with dependent parents: estate planning would ensure the welfare of parents who are financially reliant on him after his death.
- 6) A person with jointly acquired properties with their spouse: the legal heirs or his children might not know which estates are jointly acquired properties. By planning proper estate planning, future disputes can be avoided.

3 Research Methodology

This research adopts library study method to achieve the research objectives. The library research is conducted on the available literatures on IEP. The references are made to the articles in journals, books, websites and other reading materials.

4 Discussion and Findings

4.1 *The Players in IEP Industry in Malaysia*

At this moment, the industry players are divided into two. The first type of players is a licensed trustee company that provide all-inclusive services of IEP. On the other side, there are some of the institutions that are not licensed trustee but provide IEP consultation services while engaging with respective external trustee to work out the mandatory trust practices (Abdul Rahman and Hassan 2020).

In Malaysia, the first institution that were established to support the industry is Amanah Raya Berhad (ARB). With 90 years of experience, ARB has been the pioneer in the industry while being Malaysia's premier trustee company wholly owned by the government of Malaysia.

Association of Trust Companies, Malaysia (ATCM) is the institution responsible for facilitating the interests of Trust Companies. All trustee companies need to register as a member of ATCM. However, it is important to note that not all IEP institutions need to be registered under Trust Companies Act 1949 and becoming a trustee company. Abdul Rahman and Hassan (2020) As of now, there are nine (9) institutions that are registered with Association of Trust Companies, Malaysia (ATCM) while offering IEP products as in Table 2 as below:

The above-mentioned institutions are recognized as the main industry players in Malaysian IEP. On top of that, there are other entities who are promoting IEP products and services as an agent on behalf of the main players. There are various services that are offered by these institutions ranging from wasiat writing, wasiat custody to guardianship of assets.

4.2 *IEP Products Offered by Islamic Banks*

As listed by Abdul Rahman and Hassan (2020), there are two categories of IEP players. Some of them provide all-inclusive services of IEP because they are a trustee by operation. On the other side, there are some of the institutions only provide consultation services. In other words, Islamic banks are also included under the second category.

It is interesting to note that some of Islamic banks offered IEP products by being an agent to another third party or registered trustee. RHB Islamic Bank is the agent of Al-Salihin Trustee to offer wills; whilst BIMB and Hong Leong Islamic Bank are the IEP agent for Amanah Raya Berhad. Maybank Islamic, on the other hand, established their respective Trustee Companies which are the subsidiaries of the parent or group companies. The following table is the list of Islamic banks that are offering IEP products (Table 3).

Table 2 Registered Trustees and IEP products

| | CIMB Islamic Trustee Berhad | Affin Hwang Capital Trustee Berhad | PB Trustee Berhad | RHB Trustees Berhad | Maybank Trustees Berhad | Amanah Raya Berhad | As-Salthin Trustee Berhad | Pacific Trustees Berhad | Rockwills Trustee Berhad |
|---------------------------|-----------------------------|------------------------------------|-------------------|---------------------|-------------------------|--------------------|---------------------------|-------------------------|--------------------------|
| IEP | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | |
| Wasiat (Will) | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | |
| Wasiat Custody | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | |
| Administration of Estates | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Private Trust | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Hibah | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | |
| Jointly Acquired Asset | | | ✓ | | ✓ | | ✓ | ✓ | |
| Guardianship of Assets | | | ✓ | | ✓ | | ✓ | ✓ | |

Source: Authors own with reference to atcm.com.my website

Table 3 Islamic Banks and IEP products

| Islamic banks | Agent for | Products | Mode |
|--------------------------------|---------------------------|---------------|--------------|
| RHB Islamic Bank Berhad | As-Salihin Trustee Berhad | Wills | OTC |
| | RHB Trustees Berhad | Private Trust | OTC |
| Bank Islam Malaysia Berhad | Amanah Raya Berhad (ARB) | Wills | OTC |
| | | Hibah | OTC |
| Hong Leong Islamic Bank Berhad | Amanah Raya Berhad (ARB) | Wills | OTC & Online |
| Maybank Islamic Bank | Maybank Trustees Berhad | Wills | OTC |
| | | Hibah | OTC |
| | | Private Trust | OTC |
| CIMB Islamic Bank Berhad | - | Wills | OTC & Online |
| Ambank Islamic Berhad | - | Wills | OTC |

Source Authors own (based on individual Islamic Banks' Product Disclosure Sheets and Websites)

5 Recommendation and Conclusion

In conclusion, Islamic banks have not taken the initiatives to offer more IEP products to the public. The major instruments that are offered by Islamic banks are hibah, wasiat/wills and trust. The immediate action that Islamic banks can do to alleviate the IEP products offerings is by incorporating IEP as one of the banks products and services. Since IEP relates to protection of wealth and people which is aligned to the maqasid Shariah which is also the ultimate objectives of the Islamic banks. Islamic banks have to incorporate IEP related services as part of their strategies and at the same time to resolve issues of administrative bureaucracy, the conversations with the related government bodies need to be initiated to ensure asymmetric information between all the related institutions.

Moreover, Islamic banks' digital operations need to be fortified rather than focusing to over-the-counter (OTC) services and the interesting product offerings package need to be developed for IEP customers. Not only these can attract the customers to IEP products, but also ensure expedite and seamless process for IEP customers.

There might be some unspoken challenges that Islamic Banks faced that need to be highlighted and solved so these two big industry can help each other to grow. Therefore, there is a potential and business opportunities for Islamic banks to grab in the near future.

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