



AENSI Journals

Australian Journal of Basic and Applied Sciences

Journal home page: www.ajbasweb.com



The most important ways to estimate the taxable income Tax: A comparative research in Islamic and Malaysian laws.

¹Dr. Tarek S.A. El garoshi and ²Prof. Dr. Abdul Samat Musa

¹Legal Adviser at the Ministry of the Libyan security.

²Professor Dr Abdul Samat Musa, is currently the Director of the World Fatwa Management and Research Institute, and the Former Dean of the Faculty of (Shariah) and Law at the Islamic Science University of Malaysia.

ARTICLE INFO

Article history:

Received 10 October 2013

Received in revised form 21 November 2013

Accepted 22 November 2013

Available online 20 December 2013

Keywords:

The most important ways, Estimation of taxable income, Islamic law, Malaysian law.

ABSTRACT

The research aims to find out the most important ways to estimate the taxable income in Islamic Shariah and Malaysian law. Estimate of income first task of tax administration; as it should compare between two interests namely: the public interest in which tax payment should be adequate to contribute to the expenses of the State, and between the private interests of tax payers to pay the least amount of money on their income. The study has shown that there are similar interconnected points between the Islamic law and the Malaysian law, as Islamic Shariah has recognized certain tax principle such as self-assessment taxation, and administrative assessment, and Malaysian law has applied such principle and developed it in line with the times, as well as to give the optional power to tax administration in the estimate of income. Also Islamic Shariah differed from Malaysian law that applied the principle of tax money as handheld and not required, contrary to the general rule in the laws relating to debt.

© 2013 AENSI Publisher All rights reserved.

To Cite This Article: Dr. Tarek S.A. El garoshi and Prof. Dr. Abdul Samat Musa, The most important ways to estimate the taxable income Tax: A comparative research in Islamic and Malaysian laws. *Aust. J. Basic & Appl. Sci.*, 7(13): 249-256, 2013

Income taxes provide important economical and political growth to countries these days. Success of the tax system depends on how effective is the income tax legislation, how efficiently is it managed and how fair is the judiciary. One of the most important mechanisms for the management of successful tax income is to determine the income fairly and accurately. Therefore estimation of income the primary phase of the task. This process of estimation is and will continue to be an issue of legal debate worth further research. Islam has been keen on showing kindness and flexibility to the tax payers both Muslims and non-Muslims, So so that they don't get abused. It has narrated that the Prophet PBUH: delegated Abdullah ibn Arqam on the collection of dhimmis tribute. When he passed in front of the prophet PBUH he called him and said: " whoever does injustice to a confederate, or cause him effort beyond his means or takes dues from him without his consent (the prophet PBUH) will defend him on the day of judgement . Malaysian law is also keen on ways and procedures that lead to knowing the real income of the person. However the law granted the tax administration discretion on determining the real income of a person which may overcome the taxpayer's declaration of income. Therefore this research came as a comparison between the Islamic and Malaysian legislation to determine the best methods for tax estimation, legitimacy and applications and harmonisation between Islamic and Malaysian laws.

Research Problem:

The research reflects on the broad discretion given by law to the tax administration: the tax administration is authorized by law to achieve its objectives, the most important of which is public interest in due process it may cause grievance to the rights of the taxpayers. The grievance is usually an overestimation by the tax department that makes the tax payer have a significant burden. This leads to the loss of confidence between the tax payer and the tax department. The tax payer therefore violates the law to avoid over taxation leading to conflict. On the other hand the proper estimation of taxable income based on convenience and explanation of income statement achieves fair tax estimation for both the tax payer and the tax administration. This is performed by comparing the income assessment system in Malaysia and the extent of its compatibility with Islamic law.

Research Questions:

1. What are the most important methods to assess taxable income in accordance to Islamic law and the Malaysian law.

Corresponding Author: Dr. Tarek S.A. El garoshi, Legal Adviser at the Ministry of the Libyan security.
E-mail: tgroushi@yahoo.com

2. To what extent are the similarities and differences between Islamic and Malaysian laws in the estimation of Malaysian income funds?
3. How to assess a fair income tax and provide recommendations to improve the estimation of income.

Research objectives:

1. To comprehend the most important ways to assess income in accordance with the legitimate basis in Islamic law, and the legal basis in the Malaysian law.
2. To indicate the extent of harmony, similarities and differences between Islamic law and Malaysian law in the estimation of taxable income funds.
3. To reach a fair tax and come up with recommendations to improve the estimation of income.

The importance of research:

The importance of this research stems from scholarly and practical aspects. Scholarly it is the first research of its kind to compare between Malaysian law and Islamic law from this perspective. From a practical aspect assessing the income is the primary difficult task. The more fair is the tax assessment the less is the ensuing dispute and vice versa.

Perhaps the most important ways of tax assessment are: self-declaration and tax administrative estimation, They are as follows:

1. Self-declaration (Assessment) of income:

The method of self declaration of taxable income is a just means that leads to the satisfaction of just taxation. It leads to the actual income of the tax payer. Self-declaration of taxable income is stated in the Islamic and Malaysian laws as follows:

1.1- Self-declaration (Assessment) of taxable income in Islamic law:

The Islamic legislator acknowledged self declaration of taxable income as a means of knowing the actual income. On the other hand this stimulates a sense of faith and conjecture on the part of the tax payer and feeling of participation in the public interest. This is also known as social responsibility and solidarity.

The legitimacy of tax declaration is recognised in the Holy Qur'an: }O you who believe! Stand firmly for justice, as witnesses to God, even if against yourselves..{. According to the meaning of the verse decrees that believers are to abide by righteousness and justice in witness even against themselves.

And the legitimacy of the tax declaration is also stated in Sunnah: Muslim narrated from Jarir ibn Abdullah the prophet PBUH said: some Arab people to the Prophet PBUH said: The the tax collectors do us injustice. The prophet PBUH said : instructed the tax collectors to do justice to their tax payers. Gareer said from that day on no tax payer was not satisfied from me .

Bashir bin Al_khasasih, said: "We said, O Messenger of Allah PBUH : The tax collectors do us injustice. Can we hide from our money as much as they do us injustice? He said: No " .

Abu Hurayrah and Abu Asid, may Allah be pleased with them, the Messenger of Allah PBUH said: "people are obliged if the tax collector visits them to welcome him and show him all their monies. They are not to hide anything from him. If he does them justice then be it if he does them injustice he only harms himself" .

Caliph of believers Omar bin Abdul Aziz wrote to his employee Zureiq Ibn Hayyan to take taxes one tenth of the declared funds of traders, this does not mean that the Islamic legislator cannot conduct investigation and control and precision over monies collected. This is easily done through the Islamic administration, but it was not necessary for the sincerity of financiers at that time. At the dawn of Islam the tax collectors were content with what the tax payers declared and trusted it, without any investigations and without making an Oath. However during the late Umayyad era management became dependent on the administrative estimation of tax.

Mawardi said: During the era of the Caliph of the faithful Abdul Malik bin Marwan prevented Hajjaj bin Yusuf al-Thaqafi Wali of Iraq to over tax the funds of dhimmis. He wrote to Hajjaj: "don't be more caring for what taxes collected more than monies left with the people [...advise them on how to invest their remaining funds] and leave them enough monies to allow them to profit" .

Caliph Omar bin Khattab developed a bases for which collect taxation based on the prices of fruits and other income sources. These are not to be increased, If tax payers are still not able to pay he decreased the tax and did not overwork the tax payers. This is what Abu Yusuf advised the faithful Harun al-Rashid, when he counselled Him: The Principle of tax payers ability is confirmed in Islamic law, when the caliph Omar ibn al-Khattab asked Othman bin Hanif, and Hudhaifah the amount of tax collected and if they have overburdened the land Uthman ibn Hanif replied: we did not over burden the land and if you want to have more we can collect it. But the caliph Omar ibn al-Khattab was convinced.

In summary, the income tax is based on the ability to pay or lack of it .This is found this in the verse: }There is no blame on the weak, nor on the sick, nor on those who have nothing to give, provided they are true to God and His Messenger }, and therefore caliph Omar ibn al-Khattab exempted the old blind Jewish man from

paying jizya tax, due to his inability to afford the tax. He also exempted people with similar conditions. This demonstrates that the ability of the tax payer to pay is considered when collecting tax and that inability to pay justifies giving the tax payer from government funds as approved by Shariah.

1. 2 - Method of Self- declaration (Assessment) of Income Tax in the Malaysian Law:

Tax return is defined as a written acknowledgment of tax, law imposes on the taxpayer, to indicate all sources of income under the documents, so that the Tax Department could conduct examination and assessment of the tax on its basis. It is worth mentioning that in order to produce the legal recognition of its impact must have been issued by the free sound will, does not tinged defective fraud and coercion, and be within the legal period for submission.

Article 77 ITA, ruled on tax declaration and self-assessment of income, that all income should be subject to the provisions of the base year of income assessment, which was initiated as the essential year for the assessment of income (Y / A) with the beginning of every fiscal year approved by the legislature, and so was considered self-assessment and went into effect as of that year. The basic year of the income tax assessment changes by the law depending on the sensitivity of the financial situation, and as required by the State's fiscal policy. Under article 77.1 ITA for the regulation of tax revenue that Return form are generally issued to taxpayers in early March each year. The return forms must be duly completed and returned to the inland Revenue Board within 30 days or such further period given by the Director-General [section 77(1)] is as follows;

" Every company must furnish a return in the prescribed Form within six months from the date following the close of the accounting period, which constitutes the basis period for the year of assessment [section 77(1A)].

" If there is a change in the accounting period and the accounts are not closed on any date in a year,

(a) The company must submit a return for that year; and

(b) the year of assessment in which the accounts are closed within six months from the date following the close of the accounting period [section 77(1B)] [Act A1069].

As for individual must for each year of assessment furnish to the Director General a return the prescribed from not later than April in the year following that year of assessment [section 77(1) of the ITA].

It is worth mentioning that the Director - General may exempt a person from the requirement to submit a file of returns by notice of Article 77, 2 ITA as circumstances require.

For newcomers to Malaysia: Article 77, 3 ITA ruled that: Individuals who arrive in Malaysia and are not chargeable to tax for a Y/A but are so chargeable for the following Y/A must inform the Director General within 2 months of arriving in Malaysia to the effect that he is so chargeable.

Here we should caution that during the two months, not two months after the arrival of as some financiers believe. Regarding the detail required in the returns; the revenues must include the following details: Returns must declare: the chargeable income, the tax payable, other particulars as required section 77A(3) of the ITA.

It is worth mentioning that when the revenue income is submitted, assessment is deemed accomplishing the same day of revenue delivery, as required by Article 90.1 ITA. Considering that a receipt of the notification is submitted to the person per the day that the Director - General is supposed conducting the assessment, which is the date of submission of the returns in accordance with Article 90.2 (b) ITA. The legal consequences of this are very serious with regard to the entry into force deadline to appeal by the person harmed of the assessment, even if in the case of self-assessment, because of serious results that may lead to a barricaded administration's illegal tax decision. Also raises disputes corporate income whether taxable or not, relating to the application of Article 77 of the above, it is similar to the system of income of individuals, usually to be conducted through the issuance of return forms to taxpayers in early March of each year, as well as that revenues documents must be updated, and then returned to the National Board of revenue within 30 days, or any other period of such determined by the Director - General in accordance with Article 77.1.

Malaysian law also authorized to submit returns on forms of electronic media or by electronic transmission, as determined by the Director-General in accordance with Article 152 (A). ITA. But the important question is that: What is the ruling of failure of submission of returns during the legal period? as it is permissible for the Director General to conduct an assessment, according to the best evaluation in accordance with Article 90.3 ITA. (A) previous article applied to the income of individuals. More importantly, that the action of the Director General by conducting. This assessment does not relieve the person of the responsibility for the failure to provide returns of revenue as requirement of Article 3 90.

The legislator did not ignore failure to facilitate the taxpayer by the proceeds forms, for non - receipt, so decided to in Article 77.2 ITA : " where the taxpayer has not received the proceeds forms within 3 months of a given year, he must within 14 days of the month of April to inform the Director-General that he is subject to tax.

" Among the disputes and judicial precedents, to clarify this issue, what happened In Public Prosecutor v Oh Teng Kin (f), HS Ong J (as he was then) was of the view that where the notice to file a return of income was received by a child, it was still a good notice, and the fact that it was received by a child was only a mitigating

factor in passing sentence. Conversely where a taxpayer completes the return form and sends it through the post in the envelope provided with the form, such posting may be considered sufficient compliance with a notice issued by the Director General, This rule is subject to the provisions of Article 147 ITA, which states in its provisions for the Director - General, he may by written notice, to ask any person to send any returns via registered mail.

And accordingly was ruled in the judicial case: Public Prosecutor v Tee Teong Tong.

2 - Assessment of Income Tax by Tax Administration:

The main way to determine a base of income tax, is through concrete evidence in this matter which is the recognition provided by the taxpayer, however the taxpayer sometimes does not present his tax return, as required by law, or that his tax return was not accepted by the Administration to the existence of errors in the documents, or without invoking documents that supports recognition; Here are entitled to the tax administration to conduct direct estimation for a base of income. While this estimation of great importance to the outcome of the tax on the one hand, and to the achievement of justice tax on the other hand, the estimated tax base of income must be no less than the truth considerably less with the proceeds of the tax, and the consequent damage to the public interest and should not be more than the truth, then cause injustice the shoulders of taxpayers, gives them increase burden, and deviate from the principle of equality before income tax, so this cause problems to arise between the tax administration and taxpayer, therefore all these matters will be discussed as follows:

2-1 Administrative Tax Assessment in Islamic Law:

Islamic legislator Authorized tax administration to conduct administrative direct manner in assessment to clear income, when the taxpayer refrain to pay or manipulated the right amount of income, even though the Islamic tax administration is authorized to perform this method, but this does not prevent from cooperation with taxpayer in assessment. As it does not contradict with the provisions of Islamic law, and did not stipulated in the provisions of narrated text, for example, what had done by Amr ibn al-Aas when authorized estimating land tax, and assessment to leaders of people and seniors in rural areas, as had been followed during the reign of the Byzantine Empire, those were discussing the nature of the land, the quality and kind of crop . Also Amr ibn al-Aas used al-Muqawqis experience in choosing the best way, to collect taxes and undertake reforms such as digging canals and building bridges . As the Caliph Abdul Malik bin Marwan imposition of cash tax and using Dinar as currency and conducted estimation based on the distance of the land whether far or near .

The Islamic law envisaged that it was not originally in the imposition of the tax is the collection, but the organization of the contribution of Muslim community as whole to bear the burden of public interest, taking into account the ability of the taxpayer on expenses, and the survival of the source of income; therefore Islamic law took into account the deduction of costs generated for this income, as well as taking tax escalation in tax rate, and equality in distribution of the tax burden generally among taxpayers pursuant to the verse God does not burden any soul beyond its capacity, as Allah (SWT) estimated these amplitude saying they ask you about what they should give: say, "The surplus." Thus God explains the revelations to you, so that you may think., and is intended with increment here the surplus .

And confirms matter of capacity the commandment by the Caliph Omar ibn al-Khattab to Abu Abeida, saying : " And impose tax on them according to their capacity " . Also in his book Ibn Khaldun addressed the hyperbole in the tax rates of all kinds of direct and others, because of the sophistication and opulence of civilization and the increase in financial expenses, and stated that intervention in economic activities aimed at including increased tax revenue will reap the opposite result completely, which is loss of the resource base to revenues of taxes on traders or producers . The best way followed by the Islamic legislator in assessment of administrative tax was the random method of estimation (Khers) which is intended to guess the tax base on the basis of clues and evidence that can help to estimate the tax base, such as measure the amount of fruit, and the extent of maturity, this comes after the growth of crops and fruit ripening . In this regard al-Qaradawi sees the importance of two-sided at the same time, the first for Muslim house of money, and the second to ensure the rights of the taxpayer, that the latter can act in his fortune informed by the tax, on the other hand ensures the right of financial house of money. And this matter raises an important question with legislative nature, and that is, what is the basis of legitimacy of (Khers) in tax legislatios?

2-2 Legitimacy Basis of (Khers):

Muslim jurists extracted the basic rules of (Khers) in the Sunnah that the majority of scholars and imams, including the Caliph Omar ibn al-Khattab agreed upon, and the doctrines of the three schools: Maliki, Shafi'i, and Hanbali . However, the Hanafi saw the illegality of (Khers) ; because it is speculation and guess based on intuition, while the right is not taken by guess, and this was the opinion of ahl al-Rai, and several scholars saw its legitimacy, while al-Shabi considered it as fad (Bidaa), and on this issue several scholars who see the legitimacy of (Khers) based on the following: the narration of mother of believers Aisha (God bless her) : " The Messenger of Allah (peace be upon him) sends Abdullah bin Rawahah to the Jews, to estimate fruit while

mature, before it is eaten, said : Then tell the Jews, to keep it or they pay for it according to that estimation . said it is ordered to conduct (Khers) to count fruits before they are eaten and distributed " and in another narration mentions al-Shawkani that Abdullah bin Rawahah while despatched by the Prophet (peace be upon him) to conduct (al- Khers) on fruit in Khyber, was applying such (Khers)on the Jews and then say if you like it is yours and if you like is for me, and they accepted saying that is the heavens and the earth ruling, and Abdullah bin Obaid bin Omair saying : The Messenger of Allah (peace be upon him) ordered to conduct (Khers) on palm when ripening fruit .

And narrated by Saeed bin Musayyib from Attab bin Usaid, (may Allah be pleased with them), that the Prophet (peace be upon him) used to send to people some messengers to conduct (Khers) on their vines and fruits . However, the majority of scholars restricted (Khers) to the vineyard and palm trees only; because the fruit consumed moist, therefore should give them space. However, the previous texts of the sayings of the Prophet (peace be upon him) did not include definitive text in prohibiting the analogy to such cases, which concludes with permissible (Khers) in other than palm and vineyard, and nothing wrong with that, as long as it was identical analogy. The jurists ruled the need to leave the amount of fruits exempted from (Khers) to ease to the people of the implant, and application of the words of the Prophet (peace be upon him): eased in (Khers) as the implant included al-Adiah, al-Wattayah and al-Akalah (al-Adiah : the gift, and al-Wattayah : falling fruits, and al-Akalah : what eaten by owners). And saying also : take and let the third, if did not let the third, then let the quarter . For this imam al-Shafei decides the need to leave the third of fruit Zakat or a quarter, for charity by the planting owner and fruit given to his family and the poor and needy. The majority of scholars ruled that the person in charge should be of the people of justice and piety, and they prohibited fruits savings; because it deprived the poor unlike eating from it.

Based on the foregoing, (Khers) may be conducted on fruits as a measure procedures for assessment of tax, and the Sunnah is enough alone to practice (Khers), which is consistent with the philosophy of estimating the tax itself, may also be seeking the expertise of the taxpayer on the basis of good faith and conscience has, on the one hand, On the other hand the taxpayer has the right to complain of the damage he has suffered due to the application of (Khers) .

In any case, Caliph Omar bin Khattab has set gradual scale for assessment depending on the type of crop and the land area similar to what is now called progressive tax, as is consistent with the production capacity of. Accordingly the land of al-Sham (Syria) was assessed, and the estimation came different from the land of Iraq. As well did the Caliph Ali ibn Abi Talib when estimated amounts of tax on land in some areas of the Euphrates as somewhat similar to what was practiced by al-Farouk. Finally the (Khers) is considered means to estimate the money subject to tax, but being kind of anticipation for the unseen, must be through right people and justice experts.

2-3 Administrative Assessment of Tax in the Malaysian Law:

As mentioned earlier that if the tax administration accepted what stated in the acknowledgment made by the taxpayer, will conduct the assessment of the tax based upon, and this assessment will be final and is not subject to appeal, if the administration not satisfied, or in case of failure of the taxpayer for filing at the right time, shall be for administration, to assess income as deemed fit. The most important way is to use exterior clues, but it contains a percentage of error, as have the tax administration to resort to estimate earnings of taxpayer on the basis of analogy, consider the level of prices in previous years, compared with subsequent years; so that tax administration resort to estimate taxpayer's income using supposition and assumption, based on administrative decisions and executive regulations. Despite the advantage of such way of tax estimation as mentioned above, in terms of the speed, ease in the tax procedure, and to save time, effort and money, but it included some flaws as follows:

- 1 - Ignore the personal circumstances of the taxpayer.
- 2 - Distancing itself from truth and justice ; to have it based on inaccurate estimate, especially since the law may give tax administration wide discretion .
- 3- Do not keep pace with economic developments and changes that occurred to a particular activity.

As well tax administration might agrees with the taxpayer himself on the amount of gross profit, and the fact that this agreement is not considered binding contract between them, because the income tax imposed by law, and its estimation is decided by administrative decision of the tax administration, the basic principle is that the agreement in the civil law is obliged to agree between parties, and prevents them from returning, However, the private tax law differs, the source is always the tax law and not the agreement, unless it concerns reconciliation in dispute .

In any case, if made available to the administration of other bases to build its estimate decision, all the words considered just a convergence of views on this matter, and may not be rejected by the parties, and above this may be that agreement origin of the dispute; therefore it is the right for both to upheld, and the beneficiary bears the burden of proof of its existence. Therefore, the issuance of the tax decision is confirmation of the tax

debt and the right of the state to designate on taxpayer, is an executive decision to the will of the legislature, and must be within the principle of legality, and the taxpayer is committed by it, being the right of the state

The administration may estimate profits with the help of experts in tax. However, the administration must clarify the foundations that its decision was built upon in the estimation of the tax base, because the taxpayer has the right to know the method taken by the tax administration in this regard.

Article 90 ruled that for the Director-General to accept the returns and conduct assessment according to Article 1,90 (A) in return is allowed to the Director-General also to reject the returns as he deems better and conduct assessment based on figures other than what stated in the documents according to the provision of Article 1,90 (B).

The Director-General may discover any other considerable discrepancy, and then he may use such a discrepancy in the estimation of gross income for all the years of assessment, and so, when the discovery of a single contradiction, the group of accounts cannot be relied upon, which is called by Malaysians scholars: Rosette Principle to assess income. Hence begins dissatisfaction and less trust between management and the taxpayer; then comes to a tax dispute. Pursuant to this issue, see a case in UHG judicial precedent against the Director General of tax administration, The taxpayer, of course, is not relieved from responsibility or default whether intentionally or the other to provide revenue in accordance with Article 90.2 .

For errors affecting the correctness of assessment notice, it contained in Article 143,1 ITA, provides the foundations upon which may be considered assessment or notice, void or capable of being revoked, therefore to avoid the emergence of any disputes about tax should have been mentioned as follows:

First - the lack of essential information in the form of tax.

Second - the error in the assessment.

Third - omission in the assessment.

Fourth - error in the name of the taxpayer.

Fifth - error in the description of any taxable income.

Sixth - error in the amount of income or taxes imposed on it.

With respect to the applicability of these items; the item (I) to (III) can be applied, as long as the assessment or notice is in terms of the tenor and the person and the result is in accordance to the Income Tax Act ITA in cases of evaluation, as well as the administration under evaluation where assumed with goodwill and common understanding to expect that the assessment or notice properly. As for the elements of (IV) to (VI), the evaluation of which may not be regarded as true, if it was applied to the income of the person concerned, whose assessment rendered in accordance with Article 143.4 . It should be noted that the tax director may conduct additional assessment after the tax is estimated to income, if it was discovered that the taxpayer has to hide important documents, or committed tax evasion in accordance with Articles 91, 114 and ITA.

It should be noted that not to confuse between self assessment by the taxpayer, and administrative assessment, for the legal implications on both of them.

Generally, the screening process conducted by the tax administration, has three expected tracks, namely: either to accept the acknowledgment of the assessment as final, with condition to inform the taxpayer with the acceptance of his income according to the acknowledgment, or either accept it, but adjusted according to the documents, or a refusal to the tax acknowledge after it became clear that varies with the taxpayer's financial situation, and then often it is not without the occurrence of disputes on this recognition .

RESULTS AND DISCUSSION

The research reflects on the broad discretion given by law to the tax administration: the tax administration is authorized by law to achieve its objectives, the most important of which is public interest in due process it may cause grievance to the rights of the taxpayers. The grievance is usually an overestimation by the tax department that makes the tax payer have a significant burden. This leads to the loss of confidence between the tax payer and the tax department. The tax payer therefore violates the law to avoid over taxation leading to conflict. On the other hand the proper estimation of taxable income based on convenience and explanation of income statement achieves fair tax estimation for both the tax payer and the tax administration. This is performed by comparing the income assessment system in Malaysia and the extent of its compatibility with Islamic law.

The study has shown a number of results, as follows:

1- The Islamic Shariah has preceded all laws, not only in time, but in encouraging financiers to acknowledge their money, and taking into account their circumstances.

2- There are similar interconnected points between the Islamic law and the Malaysian law, as Islamic Shariah has recognized certain tax principle such as self-assessment taxation, and administrative assessment, and Malaysian law has applied such principle and developed it in line with the times, as well as to give the optional power to tax administration in the estimate of income.

- 3- Found that the self-assessment of the most important right of the taxpayer, in order to save time, effort and money, and that administrative assessment is the most important financial right of tax administration as supplement to take its rights .
- 4- Islami Shariah differed from Malaysian law that did not put the deadline for approval, but tied with of the harvest season and the fruit ripening.
- 5- There is a similarity in the nature of the amount subject to income tax in the Islamic law and Malaysian law, it is considered as debt on the taxpayer since the completion of the acknowledgement or the administrative assessment, which is a distinctive debt, as it is the duty of performance despite the conflict, and not concession with another debt .
- 6- Islamic Shariah differed from Malaysian law that applied the principle of tax money as handheld and not required, contrary to the general rule in the laws relating to debt.

REFERENCES

Fong, J.C., 2008. Constitutional federalism in Malaysia. Sweet & Maxwell Asia. Malaysia. P 97,98. Also See Federal Constitution. AS AT15TH JANUARY2007.Compiled by; Legal Research Board. ILBS. International Law Book Services. P84.

Albhiqi, Abu Bakr Ahmed bin Hussein. Alsunan Alkubra . tribute book. Muslims do not take dhimmis money Press: Encyclopaedia Council Ottoman Empire. Hyderabad. 9, p 205. have limited in his Sunan, and horses in Sunan Abu Dawood, No. 2626. Beirut: The Modern Library.

Holy Quran. Nisa. Verse 135.

Alqortabi, Abu Abdullah Muhammad. 1991. Algama Leahkamm Al koran. Egypt. Cairo. P100.

Alnisabure, Muslim bin Ahadjaj. Sahih Muslim. investigator Mohamed Fouad Abdel Baki. Beirut Arab Heritage House. C 3. P 25. This talk said it was based on Abu Obeid, the son of peace. In his book money .1989. Achieve Mohamed Emara. Sunrise House. P 556 .

El- Shawkaani. Neil Alaotann . Ottoman Edition. C 4. P 156.

True Narrated by Muslim Abu Obeid said. money . Ibid. P 558.

Abu Yusuf. Ibid. P 163.& Al- Sarkhasi, Mohammed bin Ahmed Shams Aimah . Mabsoot . C 2. I: 2. Beirut: Darr knowledge. P 20.

Saqr, Attia.1989. Tax in the consolidated balance of Sharia. Cairo. P 116. Also Abu Obeid. Funds. P 481.

Al- Mawardi, Abu Hassan.1973. Al-Ahkam al-Sultaniyyah Fi al-Wilayat al-Diniyyah, ed 3, al-Halabi Press P 191.

Muhammad Hamidullah Mohammad.1941. Group of documents in the prophetic era political and caliphate . Commission Press authoring and translation. P 93.

Abu Yusuf. 1976. Alkaraj. Beirut: Darr knowledge P 164. And see Muhammad Hamidullah Mohammad. Ibid. P 100.

Holy Quran. At-taubah. Verse.91.

Abu Yusuf. Ibid. P 151.

To clarify the meaning of income in the Malaysian law See, LAWS OF MALAYSIA ACT 53 INCOME TAX ACT 1967 [REPRINT - 2002]. Paragraph 1.Article 4. Incorporating latest amendments - Act A1151/2002.

Simon James and Clinton Alley ?Tax Compliance ? Self. Assessment and Tax. Administration in New Zealand . Journal of Finance and Management in public Services .2004. p28,29.& LYDIA SHALANI THIAGARAJAH. 2006. THE GOVERNING POLICIES AND LEGAL PROVISIONS OF THE CORPORATE TAX, STRUCTURE IN MALAYSIA: THE FOREIGN DIRECT INVESTMENT PERSPECTIV. INTERNATIONAL ISLAMIC UNIVERSITY, MALAYSIA. The degree of Doctor of Philosophy In Law. P52.

Section 77. Return of income and notice of chargeability.

For that asked about the year of assessment in which the estimation of income occurred, Goh Chen Chua replied that: Assessment of income from property income this year, which basic financial year, which is the base period from January 1 to December 31. .2003. How to solve your income tax problems. Malaysia. p.27. For more details see Choong Kwai Fatt. 2010. Malaysian Taxaion . ibid. p 551; 558. & Income Tax Rates for Malaysia. Inland Revenue Board of Malaysia 30 April 2010. <http://www.money4invest.com/pay-income-tax-malaysia-2010-online-via-e-filing/18.9.2012>. contact LHDNM at 03-62012929 / 03-62092614 / 03-20955372 / 03-20962607 / 03-20956406 or e-mail toruslanothman@hasil.gov.my. Mr:Rohizd Hasil.

Deemed notice of assessment A return submitted is deemed to be a notice of assessment [section 90(2)(a) of the ITA]. for more details see Choong Kwai Fatt. 2010. Malaysian Taxaion. ibid .p p. 551; 558.

(1975) 3 MTJ 61.& See Murray -Aynsley CJ's decision in Comptroller of Income Tax v Cheong Poh Seng (1952) MLJ 81. & See Arjunan Subramaniam. 2004. Malaysian taxation system self assessment. Malaysian. p.743.

[1964] MLJ 288.

Badawi, Abdullatif. 1972. al-Nizam al-Mali al- Alaslmi Muqaran. Almgless Alala Alaslmi. . p. 49

- al-Maqrizi, Taqiuddin Ahmed bin Ali. 1968. al-Khutut al-Mawaiz Wa al-Itibar Bizikr al-Khutut Wa al-Athar, vol. 1, Cairo, Matbaat al-Adab p. 292
- Abu Yusuf, al-Kharaj, *ibid.* p. 49
- Surat al-Baqarah, Verse 286.
- Surat al-Baqarah, Verse 219.
- Muhammad, Hamiullah Mohamed. 1941. *ibid.* p 266.
- ibid.* p. 325.
- al-Qaradawi, Yusuf. *Fiqh al-Zakat*, *ibid.* p. 381
- Ibnu Qudamah, al-Maqdisi. al- Mughni. 1997, edited by Abdullah al-Turki, Abdul Fattah al-Helu, vol. 4 ed. 3, al-Riyadh: Dar Alam al-Kutub, p. 14
- Ibnu Hazm, al-Muhalla, Op. Cit. Narrated by Aishah (May Allah Bless Her) vol. 5 p. 265, (Authenticated), also see Abu Obaid. Money. *ibid.* p. 651
- al-Shaukani. Nail al-Autar, Op. Cit., vol. 4 p. 161, al-Haithami. *Majma al-Zawaid.* *ibid.* vol.4, p. 123. (Authenticated Narrators).
- abu Obaid, al-Amual, *ibid.* p. 652
- al-Nawawi, Muhi Addin, al-Majmu Sharh al-Muhathab, Saudi Arabia, Jeddah, Maktabat al-Irshad, vol. 2, p. 451
- Ibnu Qudamah, al-Mughni, *ibid.* vol.3, p. 17
- See: al-Qaradawi, Yusuf. 1981. *Fiqh al-Zaka.* Cairo: Press the letter. p 385.
- al-Nawawi, Abdul Khaliq, 1973, al-Nizam al-Mali Fi al-Islam, ed. 2, Beirut, al-Maktabah al-Asriyah, p.67,
- See: Abu Daud, Sunan Abu Daud, Bab al-Khers, Kitab al-Zakat vol. 1, *ibid.* p. 372, and al-Baihagi, al-Sunan, *ibid.* vol.4, p. 124, he said it is Mursal
- al-Nawawi, Abdul Khaliq. 1973. *The financial system in Islam.* Beirut: The Modern Library. 2nd edition. p. 68
- al-Mawardi, Abul Hasan, *ibid.* p. 168
- ibid.* p. 141
- For more details, see: al-Hanbali, Abu Rajab, 1943, al-Istikhraj Li Ahkam al-Kharaj, Cairo, al-Matbaa al-Islamiyah, p. 64
- Mrs;Shimo Raman. Assistant Executive Director Of Income Tax Authority Department. Jalan Duta. Koala lampur. Malaysia. And Mr. Mohammad Zahiruddin. Assistant Executive Director Audit Income Tax Authority Department. Jalan Duta. Kuala lumpur. Malaysia. Tel;0362091000 . Fax; 31387
- Ibid.*
- Section 90. Assessments generally.
- Asked Goh Chen Chuan about How Are Income Taxes Determined By The Inland Revenue Authorities?
- In the case of a business, income taxes are usually determined from information contained in accounting records. The amount of income tax is computed by applying appropriate tax rates to taxable income. Taxable income is not necessarily the same as accounting profit even though both are derived from the accounting records. *Ibid.* p37.
- See Arjunan Subramania. 2004. *Ibid.* p.743.
- [1974] 2 MLJ 33.