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Zakat – A Digital Aset

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Abstract
Global financial systems adopt various phases of change in the monetary system. There exists a digital currency at present that uses a cryptographic system that is not exposed to any limitation or control by any state authority. Emergence of the first cryptocurrency, Bitcoin, in 2009 posed an alternative to physical currency issued by the government of a country. Bitcoin began to gain global attention in 2010 and still remains so today in the cryptocurrency market. Following the success and emergence of Bitcoin, there are currently more than 10,000 cryptocurrencies in the world market. Cryptocurrencies are also referred to as digital assets as well as broader terms such as security tokens and other innovations developed by using cryptosystems. Technological advancements affect asset ownership when measuring wealth. The movement of digital asset prices in the world market allows its owners to gain profit and wealth through every transaction. The classification of digital assets into digital currencies and tokens according to their collateral produces different categories of zakat. This qualitative study employed the content analysis method to collect data from various sources related to digital assets and those obligated to pay zakat. Findings show that digital assets that use gold, silver or currencies as collateral are categorized as savings and are subject to currency zakat. Digital assets that are solely based on technology without any collateral are categorized as business goods because the main purpose of its ownership is to trade and obtain a return of profit. Therefore, it is subject to a type of zakat called *urudh al-tijarah* (business zakat). This study is expected to be used as a reference for parties involved in Syariah-compliant digital currency transactions.
Keywords: Crypto Money, Bitcoin, Security Token, Digital Currency, Maqasid Shariah

Introduction
Human wealth changes in form according to technological advancements. The world's financial system has undergone several changes from the barter system to the fiat money system used today. Technological developments have led to the use of digital currency that employs cryptographic methods to confirm a transaction. The first digital currency to use this method was Bitcoin, created by Satoshi Nakamoto using block chain technology that replaced

traditional financial systems. Bitcoin's success has led to more than 10,000 types of digital assets recorded until May 2023. The instability of world market prices allows digital asset owners to gain profit and wealth from the transactions made. Therefore, digital assets are categorized as one form of wealth that grows and is liable for zakat payment when it achieves perfect ownership, sufficient *nisab*[1] and sufficient *haul*[2].

Developments in Digital Assets

Bitcoin is based on the *peer-to-peer* transaction concept without the involvement of third parties, including banks or any state authority. As a result of Bitcoin's success as a mode of payment, there are now various types of digital currencies that have various improved features and functions compared to the original Bitcoin concept.

Digital currencies, other than Bitcoin, are called alternative cryptocurrencies or altcoins (Afilipoaie & Shortis, 2015; Litwack, 2015). Each of the altcoins is built on a technology called blockchain and developed based on Bitcoin's design and operating principles (Huang et al., 2018). Among the altcoins that dominate the digital currency market are Ethereum (ETH) and Ripple (XRP). Altcoins were created after Bitcoin developed from the open-source Bitcoin system, which is a publicly accessible system like Dogecoin and Litecoin. Open-source systems refer to systems that are licensed to users under certain minimum terms. Users have the right to use, copy, access, modify or distribute the system, either in original or modified form, without paying any royalty or fees (Muizzudin, n.d). Then, there are also altcoins built on their own blockchains, such as Ethereum and Ripple (Houben & Snyers, 2018).

Unlike Bitcoin, which is used as a mode of payment, most of the altcoins are created with features and functions that are more inclined to speculative investments (Huang et al., 2018). Altcoin makes Bitcoin a measure of the value of each unit of altcoin, in addition to being collateral to the value of each user's national currency (Hayes, 2015).

Altcoins were developed with various technical and practical features as an improvement to the existing functions and features of Bitcoin (Hayes, 2015). Bitcoin uses the 'Proof of Work' protocol for verifying every transaction that is made and a transaction takes a minimum of 10 minutes before it is verified by the Bitcoin community. However, some of the altcoins only need a few seconds for a single transaction to be confirmed (Ammous, 2016).

Legislation Related to Digital Assets in Malaysia

According to the Federal Government Gazette under the Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) P.U.(A) 12/2019, digital assets are divided into two categories, namely digital currencies and digital tokens.

According to P.U.(A) 12/2019, digital currency refers to a representation of digital value recorded in a distributed digital ledger, either with cryptographic security or otherwise, that functions as a medium of exchange and can be exchanged for any currency by crediting or

[1] *Nisab* is the minimum amount that a Muslim must have before being obliged to zakat. The *Nisab* was set by Prophet Muhammad SAW at a rate equivalent to: 87.48 grams of gold and 612.36 grams of silver.

[2] *Haul* is defined as the completion period for a zakat asset. The length of time for haul is one Hijrah year. Once these conditions are met the payment of zakat becomes an obligation for a Muslim.

debiting any account. A digital token refers to a digital representation that is recorded on a distributed digital ledger, either with cryptographic security or otherwise.

A digital currency will be considered a security when it meets three conditions. First, when traded in a location or facility where offers to sell, buy or exchange digital currency are commonly made or received. Second, when a person expects a return in any form from the trade, exchange or redemption of the digital currency or an increase in the value of the digital currency. Third, when the digital currency is not issued or guaranteed by any government body or central bank as determined by the Securities Commission (SC, 2019b).

A digital token represents a person's right or interest in any arrangement made for the purpose of, or having the effect of, providing convenience for the digital token's owner. Tokens represent various types of quantifiable and transferable goods, such as digital and physical assets, shares, votes, loyalty and membership bonuses and other utilities (Blockchain, n.d.). A digital token is considered a security when the following six conditions are met, i.e., when the investor or buyer of the digital token receives the digital token in exchange for a consideration. Second, returns or contributions from investors, and accumulated income or returns. Third, estimated income or returns that are generated from the acquisition, holding, management or disposal of any property or asset or business activity. Fourth, investors or owners of digital assets expect a return in any form from the trading, exchange or redemption of digital tokens or increase in the value of digital tokens. Fifth, the digital asset holder does not have day-to-day control over the management of the property, asset or business arrangement and sixth, the digital token is not issued or guaranteed by any government body or central bank as determined by the Securities Commission (SC, 2019b).

Digital currencies and tokens that have been designated as securities are enforceable under securities laws that apply to existing financial instruments. Digital currencies and digital tokens that have been classified as securities that are offered or traded on or through a market are not shares in, or debentures of, a corporate or an unincorporated body. Both are not a unit in a unit trust scheme or investment scheme (SC, 2019b).

The rapid development in technology cannot be disrupted by any entity. Although one view states that cryptocurrencies will only last for a few years after the creation of the first cryptocurrency (Bitcoin), the current reality clearly contradicts this view. Therefore, Malaysia has adopted the approach of enacting guidelines and laws related to digital assets that include digital currency and digital tokens. There are several levels of changes in the guidelines issued by the Securities Commission of Malaysia, which is the authority responsible for supervising and issuing guidelines pertaining to digital currencies. The guidelines are consistent with what has been outlined by other entities in Malaysia, such as Bank Negara Malaysia (BNM, 2018; SC, 2019a; SC, 2020a).

On 19 January 2018, the Securities Commission of Malaysia (SC) and Bank Negara Malaysia (BNM) issued a statement that any activity involving an initial coin offering scheme or Initial Coin Offering (ICO) that are carried out without valid permission is an offence. The offering of digital tokens in exchange for digital currency or any form of payment and ancillary activities may result in regulatory requirements being implemented under securities law that are subject to laws administered by the SC and BNM. Therefore, all regulated activities, such as fund acquisition, fund management and capital market product transactions without valid permission and approval from the SC cannot be carried out by any individual or company (BNM, 2018).

On 6 December 2018, the SC and BNM issued a series of statements stating that the SC will regulate the issuance of digital assets through initial coin offerings (ICOs) and the trading of digital assets on digital asset exchanges in Malaysia. ICO issuers and digital asset exchanges involved in the publication or sale of digital assets must comply with BNM laws and regulations related to payment and currency transactions. In addition, ICO issuers and digital asset exchanges are subject to the Anti-Money Laundering and Anti-Terrorism Financing Policy for Digital Currencies. However, BNM issued a reminder that digital assets cannot be validly certified in Malaysia and the public is advised to be careful in assessing the associated risks when dealing in digital assets (BNM, 2018).

In March 2019, the SC issued a consultation paper related to the framework for fundraising through a digital token offering to obtain feedback from any party (SC, 2019a). Based on the responses received, there was overwhelming support from the industry for the SC's proposal to leverage the expertise of platform operators to review applications for the issuance of digital tokens for fundraising. Then on 15 January 2020, the SC issued the Digital Asset Guidelines, which outlined the framework for fundraising through digital token offerings in Malaysia. The guidelines set out the requirement for all digital token offerings to be executed through a platform operator registered with the SC. This offer was called the Initial Exchange Offering (IEO).

Every company that wishes to issue digital tokens through initial fundraising must do so through an exchange whose eligibility has been assessed by the SC and it cannot be sold by the company itself. The platform operator will assess the issuer's business, qualifications and suitability of the issuer's board of directors as well as understand the characteristics of the digital tokens to be issued. Prospective issuers must also meet governance and capital requirements to be eligible to raise funds through digital token offerings. Publishers are required to demonstrate that the proposed project or business provides innovative solutions or the best digital value proposition for Malaysia. These guidelines were enforced in the second half of 2020 to allow potential issuers, platform operators and investors to familiarize themselves with the guidelines (SC, 2020a). Four Digital Asset Trading Platforms (Digital Asset Exchange - DAX) were registered with the Malaysian Securities Commission (SC) as of May 2023, namely Luno Malaysia Sdn. Bhd., MX Global Sdn. Bhd., SINEGY DAX Sdn. Bhd. and Tokenize Technology (M) Sdn. Bhd.

Although IEO guidelines have been issued under SC supervision to replace ICOs, digital assets are still not legally certified (legal tender) in Malaysia (SC, 2020a). Nevertheless, the guidelines prepared by the Malaysian government are an initiative to protect investors from fraudulent schemes that promise a multitude of profits.

Digital Assets from A Syariah Perspective

Digital assets are regarded as a form of property according to Shariah based on a decision by the Perlis State Fatwa Committee (2019), the Securities Commission's Shariah Advisory Council (SC, 2020b) and the (Selangor State Fatwa Committee, 2021).

The Perlis State Fatwa Committee had issued a Bitcoin fatwa in 2019 concerning the Syariah ruling (*mubah*) for using Bitcoin. The Selangor State Fatwa Committee had also issued a law requiring transactions to be carried out using digital currency either as a medium of payment, money transfer (remittance) or savings asset provided that the following parameters are met:

a) Transactions involving digital currency must carried out through a licensed digital currency exchange platform that is approved and regulated only by the authority;
b) Users must have sufficient knowledge about
   i. Type, primary characteristic and risks associated with digital currency;
   ii. Adequate technical matters related to how to obtain digital currencies and where it can be kept to guarantee safety;
   iii. Regulations established by licensed digital currency platforms that have been approved and are regulated by authorities; and
   iv. Laws and regulations related to digital currency.

c) Similar to other currencies, digital currency should not be used as payment for goods, services or non-Shariah-compliant activities, such as the purchase of drugs, prostitution, gambling or the financing of terrorist activities and money laundering.

The Securities Commission's Shariah Advisory Council (MPS) had discussed the Syariah ruling (*ahkam*) regarding digital assets according to the categories in digital currency and digital tokens based on the classification of digital assets in the Federal Government Gazette under the Capital Markets and Services (Prescription of Securities) (Digital Currencies and Digital Tokens) Order 2019.

MPS views digital currency in the following two scopes

a) Digital currency solely based on technology without any digital currency collateral is categorized as *`urudh* (goods) and not as a currency according to the Syariah perspective. The digital currency is not categorized as *ribawi* goods; hence, it is not subject to the *bai` al-sarf* (currency exchange) principle in trading.

b) Digital currency with *ribawi* goods as collateral
   i. Digital currency that is uses gold, silver and currencies as collateral

Thus, if a digital currency uses *ribawi* goods such as include gold, silver and currency as collateral, then it is categorized as a currency, according to the Syariah perspective. Therefore, digital currency trading is subject to the *bai` al-sarf* principle.

   ii. Digital currency that uses *ribawi* goods other than gold, silver and currency as collateral.

Thus, if the digital currency uses *ribawi* goods other than gold, silver and currency as collateral, then it is categorized as *amwal ribawiyyah* (*ribawi* goods). Therefore, digital currency trading is subject to the terms of exchange for *ribawi* goods.

In order to determine the Shariah status of digital tokens, the following points must be observed

a) Proceeds from digital token issuance by digital token issuers must be used for Shariah-compliant purposes;
b) Rights and benefits accruing from digital tokens must be Shariah compliant; and

c) For the use of proceeds under item (a) as well as the rights and benefits under item (b), which contain a mix of Shariah-compliant and non-Shariah-compliant elements, existing MPS decisions related to sukuk issuance proceeds and benchmarked business activities under the Shariah screening methodology for securities listed on Bursa Malaysia are applicable. Hence, if a digital token uses *ribaw*i goods as collateral, then the trading of digital tokens is subject to the terms of exchange for *ribawi* goods. This decision does not apply to Digital Assets that are outside the SC's jurisdiction.

MPS has also decided that investment and trading of Digital Assets that meet the above conditions and are traded through the Digital Asset Exchange (DAX) registered with the SC, is allowed.

Digital Zakat Assets
Digital assets are recognized as a property and thus, subject to zakat. Zakat is obligatory based on general Syariah principles (*dalil*) pertaining to obligatory payments of zakat on property.

Allah SWT exhorted, meaning

خُذْ مِنْ أَمْوَٰلِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِم بِهَا

Meaning: "*Take, [O Muḥammad], from their wealth a charity by which you purify them and cause them increase, and invoke [Allāh's blessings] upon them. Indeed, your invocations are reassurance for them. And Allāh is Hearing and Knowing"*
Surah al-Taubah: 103

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوٓا۟ أَنفِقُوا۟ مِن طَيِّبَٰتِ مَا كَسَبْتُمْ وَمِمَّآ أَخْرَجْنَا لَكُم مِّنَ ٱلْأَرْضِ ۖ وَلَا تَيَمَّمُوا۟ ٱلْخَبِيثَ مِنْهُ تُنفِقُونَ وَلَسْتُم
بِـَٔاخِذِيهِ إِلَّآ أَن تُغْمِضُوا۟ فِيهِ ۚ وَٱعْلَمُوٓا۟ أَنَّ ٱللَّهَ غَنِىٌّ حَمِيدٌ

Meaning: "*O you who have believed, spend from the good things which you have earned and from that which We have produced for you from the earth. And do not aim toward the defective therefrom, spending [from that] while you would not take it [yourself] except with closed eyes. And know that Allāh is Free of need and Praiseworthy"*.

Surah al-Baqarah: 267

Digital assets that rely on *ribawi* goods (gold, silver and currency) as collateral are categorized as currency and will be subject to zakat fund savings, just like traditional currency. When the conditions of perfect ownership, sufficient *nisab* and sufficient *haul* have been met, then a zakat rate of 2.5% will be charged from the total amount of digital assets owned in this category at the end of the *haul*.

Digital assets that rely solely on technology are categorized as *urudh al-tijarah* (business items) and the ownership of this type of digital assets will be subject to zakat *urudh al-tijarah* (business items).

A study by Luno shows that 76% of its users bought digital assets for investment purposes, while 15% bought them for trading purposes (BNM, 2022). Results of this study are consistent with the categorizion of cryptocurrencies and digital assets as investment assets or securities mentioned in the Federal Government Gazette by the Ministry of Finance in 2019, as well as the public's view that the majority of digital assets are in the speculative asset class[3]. Conversely, only 2% of respondents had used digital assets as a payment method. This is also consistent with the general view that digital assets are generally inappropriate as a mode of payment due to their significant price volatility (BNM, 2022).

The النَّادِرُ لَا حُكْمَ لَهُ fiqh method (things that rarely occur are not subject to Syariah rulings or *ahkam*) (Al-Ghaffar, n.d.), which means that there is no Syariah ruling (*ahkam*) for things that rarely occur, compared to things that usually occur, moreover, the Syariah ruling (*ahkam*) for things that rarely occur is similar to the original Syariah ruling (al-'Ajluni, 2010)

Hence, pertaining to the issue of cryptocurrencies and digital assets solely based on technology, results indicated that the main purpose of ownership was for investment or trading purposes. Implications of the Syariah ruling (*ahkam*) on the cryptocurrency and digital assets category is based on the ruling for business goods (*urudh al-tijarah*), and zakat is obligatory when the conditions have been met. Since the ownership percentage of cryptocurrency and digital assets is too small[4] to be used for remittance purposes, hence, the Syariah ruling (*ahkam*) that applies to cryptocurrency and digital assets solely based on technology is similar to the Syariah ruling (*ahkam*) usually used, i.e., for investment or trading (*urudh al-tijarah*) purposes. Moreover, the use of remittance itself is mixed with the purpose of obtaining potential profits (or perhaps losses) when the remittance medium has a very volatile value (except for stable coins).

Cryptocurrencies and digital assets that are based solely on technology with no collateral are considered as business goods because:

a. Cryptocurrencies and digital assets are designated as investment assets or securities[5] in the Federal Government Gazette by the Ministry of Finance in 2019.
b. Cryptocurrencies and digital assets are a new form of financial asset. Both are traded on the digital asset exchange (Digital Asset Exchange – DAX) and this causes their value to fluctuate based on factors that affect supply and demand, just like stocks.

c. A person who owns cryptocurrencies and digital assets has the potential to profit or risk losses from the ownership and trading activities of cryptocurrencies and digital assets.

d. Although the actual use of cryptocurrencies and digital assets in the community is limited, both their presence in the global market is becoming ever popular, and the listing of

[3] The Malaysian Securities Commission's Shariah Advisory Council (MPS SC) stated that an element of speculation exists in any form of business. Taking advantage of the price difference is also not something forbidden. The ban is only on the element of fraud and manipulation of market prices, not on the element of speculation itself. Thus, MPS SC decided that speculative activities are allowed because the basis of such speculative activities differ from gambling. (Nor Fahimah Mohd Razif, Noor Sakinah Samsulkamal and Ridzwan Ahmad. Takyif Fiqhi against the Concept of Speculation. ISLĀMIYYĀT 43(2) 2021: 81 – 92; Decisions by the Shariah Advisory Council of the Securities Commission, Second Edition. p. 121-124. Accessed from https: //www.sc.com.my/api/documentms/download.ashx?id=b26a16f1-241d-4831-a433-ed2a62d4cadd).

[4] Research findings by LUNO show that 91% of users own cryptocurrencies for investment and trading purposes. Only 2% of respondents used digital assets as a payment method

[5] Federal Government Gazette- Capital Markets and Services (Prescription of Securities) (Digital Currencies and Digital Tokens) Order 2019; Dr Mohamed Fairooz Abdul Khir. Digital Currency: From a Shariah Perspective. Nadwah of Shariah Advisers in Islamic Capital Market 2023. 6 March 2023. SC Conference Hall.

cryptocurrencies and digital assets on exchanges is exponentially increasing (Magnusson & Stenberg, 2022).

e. Volatility of the cryptocurrency and digital asset prices allows its owners to profit from price fluctuations in the market.

f. The main purpose and goal of buying and owning cryptocurrencies and digital assets is to trade for earning profits. This purpose and intent are relevant regardless of whether people are buying cryptocurrencies and digital assets to trade or simply profit from price increases over a period of time.[6] Therefore, it is fitting that cryptocurrencies and digital assets solely based on technology are obligated to pay business goods zakat.

After meeting the perfect ownership, sufficient *nisab* and sufficient *haul* conditions, hence, a zakat rate of 2.5% will be charged out of the total amount of digital assets owned in this category at the end of the *haul*, taking into account cost deductions for the whole year and the addition of profit in digital asset transactions as per the calculation of normal business zakat.

Conclusion

Digital assets are a new form of wealth, developing in tandem with technological advancements, which is gradually moving the traditional systems into virtual systems. Since digital assets characteristically have a value (*al-mutaqawwim*), this makes it a property and hence, subject to zakat according to the general *dalil* regarding the obligation to pay zakat. The classification of digital assets into digital currencies and digital tokens according to their collateral subjects them to different categories of zakat. Digital assets with gold, silver and currency as collaterals, are categorized as savings and subject to currency zakat. Digital assets solely based on technology without collateral are categorized as business goods because the main purpose of their ownership is to trade and obtain a return on profit. Therefore, digital assets are subject to *urudh al-tijarah* (business goods) zakat. Ownership of digital assets that meet perfect ownership, sufficient *nisab* and sufficient *haul* conditions, are liable for zakat by following the prescribed zakat categorization.

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[6] Findings by LUNO indicate that. 91% are for the purpose of investment and trade.

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