

## **Micro Credit from Zakah Fund in Baitul Mal Aceh : An Analysis from Law**

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### **ABSTRACT**

The purpose of this article is to analyze the theoretical distribution of zakah funds to zakah recipients in form of micro credit. The micro-credit zakah

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distribution is the act of distributing zakah to the asnaf in the form of capital financing. The micro-credit zakah is given to asnaf who want to start a new business or to expand their business. It is questionable, is there any provision of law that allows zakah to be distributed in the form of micro credit in Baitul Mal Aceh? Based on the findings in the analysis show that the Provision of Indonesian Law No. 38 Year 1999 regarding Zakah Management is not used in Aceh. This is because Aceh government has its own autonomous power. Despite that, there is a Law No. 44 Year 1999, which is the enforcement of law to give a Special Privileges of Aceh Province. Aceh is given the privilege to implement Islamic law in the life of its Muslim people, including issues of zakah distribution.

**Keywords** : Micro-credit, zakah funds, zakah distribution, Baitul Mal Aceh, Laws

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### 1. Introduction

Any matter to be executed in country should be through an obligation of law. Similarly in Aceh. There are some Bill that must be adhered to by Baitul Mal Aceh (BMA) in relation to the collection and distribution of productive zakah.

However, the provisions of “*Undang-Undang Indonesia No. 38 Tahun 1999*” ( Law in Indonesia No 38 Year 1999) on Zakah Management is not used in Aceh because Aceh has its own autonomous power. This is because there is in “*Undang-Undang No.44Tahun1999*” (Law No. 44 Year 1999), the “*PenyelenggaraanKeistimewaan ProvinsiDaerahIstimewa Aceh*”(Implementation of Special Feature of Aceh Province Law) has been enforced. Aceh was given the privilege of implementing Islamic law in the life of its Muslim people. This provision is further strengthened by “*PeraturanDaerah (PERDA) No.5Tahun 2000*” (Regional Regulation No. 5 Year 2000)which empowers Aceh to establish its own Baitul Mal.

Based on the result from the aanalysis, this article will discuss two things. Firstly, law of zakah in BMA. Secondly, the provisions of the law on the distribution of zakah in BMA.

### ***1.1 Definition of terms:***

Baitul Mal Aceh	BMA
<i>Undang-Undang Indonesia No. 38 Tahun 1999</i>	Law in Indonesia No 38 Year 1999
<i>Undang-Undang No.44Tahun1999</i>	Law No. 44 Year 1999
<i>PenyelenggaraanKeistimewaan ProvinsiDaerahIstimewa Aceh</i>	Implementation of Special Feature ofAceh ProvinceLaw
<i>PeraturanDaerah (PERDA) No.5Tahun 2000</i>	Regional Regulation No. 5 Year 2000
<i>BadanAmilZakahDaerah (BAZDA)</i>	Regional Amil Zakah Agency
<i>Keputusan Gabenor ProvinsiNanggroe AcehDarussalamNo.18Tahun2003</i>	Governor's Decree of Nanggroe Aceh Darussalam Province No.18 Year 2003
<i>PendapatanAsliDaerah (PAD)</i>	Regional Income Resources
<i>BadanAmilZakah,Infaq dan Sedekah (BAZIS)</i>	Amil Zakah, Infaq and Charity Agency
<i>Qanun AcehNo.7 Tahun 2004</i>	Law of Aceh No. 7 Year 2004
<i>Undang-undang No.11Tahun2006</i>	Law No. 11 Year 2006
<i>QanunAceh No.10 Tahun 2007</i>	Law of Aceh No.10 Year 2007
<i>Keputusan MenteriAgama No.373Tahun2003</i>	Decree of the Minister of Religious Affairs No. 373 Year 2003
<i>Peraturan GabenorNo. 92 Tahun 2008</i>	Governor's Regulation No. 92 Year 2008
<i>Qanun BaitulMalAcehNo 10/2008</i>	Law of Baitul Mal Aceh No. 10/2008
<i>Surat MenteriNo.38/1999</i>	Ministerial Letter No.38 / 1999

*Surat Gabenor No.18/2003*

Governor's Decree No. 18/2003

*SuratEdaran Dewan Syariah  
BaitulMal Aceh*

Syariah Council of Baitul Mal Aceh  
Circular Letter

## **2. Literature Review**

### **2.1. Zakah Law In Baitul Mal Aceh**

Law No. 44 Year 1999 existing a difference in the administration of the law on zakah in Aceh compared to other regions in Indonesia. The function of the “*BadanAmilZakahDaerah (BAZDA)*” (Regional Amil Zakah Agency) in Aceh differs from the BAZDA function in Law in Indonesia No 38 Year 1999 at the national level. BAZDA in Aceh is established in every provincial level which is under the administration of Baitul Mal, which is the Regional Zakah Management Board.

Baitul Mal also serves as a zakah institution that manages at regional level in Aceh. Clause 14 (1) and (2) of Law No. 44 Year 1999, states that the administration of Baitul Mal at the district level is governed under the authority of the Regional Government:

"The Regional Government can establish and organize the Baitul Mal organization. The establishment of the Baitul Mal organization is established by Governor Decree."

In detail, Baitul Mal was established through the “*Keputusan Gabenor ProvinsiNanggroe AcehDarussalamNo.18Tahun2003*” (Governor's Decree of Nanggroe Aceh Darussalam Province No.18 Year 2003) on July 16, 2003. The provisions in this Governor's Decree include the establishment of the organization and the working arrangements of Baitul Mal agencies throughout Aceh whether provincial, district or city levels.

In addition, the “*BadanAmilZakah,Infaq dan Sedekah (BAZIS)*” (Amil Zakah, Infaq and Charity Agency) were also appointed through the Governor's Decree above. BAZIS is responsible for making zakah as one of the sources of

“*Pendapatan Asli Daerah (PAD)*” (Regional Income Resources) with the strength of 98.87 percent of Acehese Muslims (Aceh Dalam Angka, 2006). This zakah fund is important for financial assistance to the poor and other zakah recipients.

Baitul Mal Aceh started to operate on January 13, 2004. This was in line with the drafting of “*Qanun Aceh No. 7 Tahun 2004*” (Law of Aceh No. 7 Year 2004) on Zakah Management. The law states that the authority governing religious property from zakah, infaq, charity, waqaf, wills, inheritance, grants and others is Baitul Mal. “*Undang-undang No. 11 Tahun 2006*” (Law No. 11 Year 2006) gave wider powers to BMA. In addition to managing zakah, Baitul Mal is also responsible for managing wakaf and other religious property. Actually, Law No. 11 Year 2006 reinforced the previous law.

The drafting and enforcement of “*Qanun Aceh No. 10 Tahun 2007*” (Law of Aceh No. 10 Year 2007) has abolished Law of Aceh No. 7 Year 2004. This law has added provisions on the management of zakah at state / province, district / city level, settlement and village. This shows that Baitul Mal's jurisdiction is wider than the Regional Amil Zakah Agency. This provision is contained in Clause 27 of the “*Keputusan Menteri Agama No. 373 Tahun 2003*” (Decree of the Minister of Religious Affairs No. 373 Year 2003). Law of Aceh No. 7 Year 2004 is limited to zakah, infaq, charity, grants, wills, heirs and kaffarah only. While Law of Aceh No. 10 Year 2007 has established Baitul Mal as the amil in charge of administering zakah, wakaf and religion properties in a wide scope, which also serves as the head of the regulator.

In addition, the organizational structure, hierarchical relationship and work mechanism of Baitul Mal is described in “*Peraturan Gubernur No. 92 Tahun 2008*” (Governor's Regulation No. 92 Year 2008). According to the regulation, Baitul Mal's organizational structure in the District / City and “*Unit-unit Pengumpul Zakah (UPZ)*” (Zakah Collecting Units), which is the Baitul Mal branch, has no hierarchical relationship with Baitul Mal Province. Baitul Mal Province only acts as the planner and advisor of Baitul Mal Regency / City. Therefore, Baitul Mal in the regency / municipality is an autonomous institution

that can manage their own zakah funds in their respective areas.

Therefore, it is not surprising in “*Qanun BaitulMalAcehNo 10/2008*” (Law of Baitul Mal Aceh No. 10/2008) to allocate zakah to be distributed in different ways to increase productivity and develop zakah funds such as granting venture capital to the poor. This can help poor people to improve their standard of living in a better direction.

In conclusion, BMA not only manages the revenue of zakah resources but manages the revenue of waqf properties, grants, vows, trusts, inheritance, wealth and fidyah. In fact, ZIS was used by LKMS Aceh as a *bay' al - qir ad* loan to asnaf to start a business. This allocation is given to newly started asnaf including those who have failed in business. Clearly, BAZIS has distributed a number of productive zakahs from 1993 to 2003 even before the official establishment of Baitul Mal Aceh in 2004.

### **3. Methodology**

This qualitative study used document analysis methods to analyze the theoretical distribution of zakah funds to zakah recipients in form of micro credit. The micro-credit zakah distribution is the act of distributing zakah to the asnaf in the form of capital financing. The method of document analysis is also used to analyze any provision of law that allows zakah to be distributed in the form of micro credit in Baitul Mal Aceh. The documents analyzed are Law AcehNo.7/2004, Law of AcehNo.10/2007, Law in IndonesiaNo.38/1999, Surat MenteriNo.38/1999, Surat Gabenor No.18/2003 and SuratEdaran Dewan Syariah BaitulMal Aceh. The data obtained is analyzed through thematic content analysis.

### **4. Results and Discussion**

#### ***4.1 Provisions of the Law on Distribution of Zakah in Baitul Mal Aceh***

BMA administers the zakah business in accordance with the prescribed laws. There are six laws regarding the distribution of zakah. In general the law covers four things. In summary, the issue regarding the law on productive

zakah distributions can be seen in Table 1.

**Table 1:** Summary of Zakah Productive Distributions Laws

Matters	Law Aceh No.	Law of Aceh	Law in Indon	“Surat Menteri No.	“Surat Gubernur or	“Surat Edaran Dewan
Authority of zakah distributions	Clause 9 (3) Clause 10 (3)	Clause 29 (3)		Clause 14	Clause 129 Clause 31 Clause 32	01/DS/V/2006
Type of distributions	Clause 9 (3)					01/DS/V/2006
Productive distributions		Clause 29 (1) Clause 29 (3)	Clause 16 (2) Clause 17	Clause 28 Clause 29		01/DS/V/2006
Requirement of <i>mustahiq</i>		Clause 29 (1) Clause 29 (2)				01/DS/V/2006

**Source:** Law Aceh No. 7/2004, Law of Aceh No. 10/2007, Law in Indonesia No. 38/1999, Surat Menteri No. 38/1999, Surat Gubernur No. 18/2003 and Surat Edaran Dewan Syariah BaitulMal Aceh

Table 1 shows qanun and laws relating to productive zakah. Generally the qanun focus and the productive zakah law can be divided into four parts. First, the authority of zakah distributions. Second, the type of distribution. Third, productive distribution. Fourth, eligible mustahiq requirements to receive productive assistance.

The jurisdiction of zakah distributions is mentioned in Clause 9 (3) and Clause 10 (2) Qanun No.7 of 2004. In addition, Clause 29 (3) Qanun No. 10/2007, Clause 14 Ministerial's Letter No. 38 of 1999 and Clause 29, Clause 31 and Clause 32 of the Governor's Decree No. 18 Year 2003 also mentioned the jurisdiction of Baitul Mal in the distribution of zakah.

The matter of the percentage of distribution made by Baitul Mal Aceh is mentioned in Clause 9 (1) and Clause 9 (2) Law of Aceh No.7 of 2004 and "*SuratEdaran Dewan Syariah BaitulMal Aceh 01 / DS / V / 2006 (No.3, No.4 and No.5)*" (Syariah Council Circular Letter 01 / DS / V / 2006 (No.3, No.4 and No.5). The matters relating to the productive distribution are mentioned in Clause 29 (1) and Clause 29 (3) Law of Aceh No. 10 Year 2007. Also mentioning the productive distribution is Clause 28 and Clause 29 of the Minister's Letter No. 38 of 1999. In addition, matters relating to the requirements of qualifying mustahiq are referred to in Clause 29 (1) and Clause 29 (2) Law of Aceh No. 10 Year 2007 and Syariah Council Circular Letter 01 / DS / V / 2006 No.2.

#### **4.2 Authority of Zakah Distributions**

The provisions of the law on the authority to distribute zakah are referred to in Clause 9 (3), Clauses 10 (1) and (2) in Law of Aceh No. 7 Year 2004. However, this law has been abolished by Law of Aceh Aceh No. 10 Year 2007. In addition, it is mentioned in Clause 14 of the Ministerial's Letter No. 38 Year 1999 and Clause 29.31 and 32 of the Governor's Decree No.18 Year 2003.

Based on the law of distributing zakah above, BMA can not arbitrarily distribute zakah funds. This is because there are laws that already set the



jurisdiction of Baitul Mal.

#### ***4.3 Type of Distribution Type – Percentage***

Type of distribution is focused on Syariah Council of Baitul Mal Aceh Circular Letter No.01/DS/V/2006:

##### ***4.3.1. Percentage of Distribution***

In the division of zakah, the Syariah Council states that zakah should be given to all the asnaf if everything exists at that time. But the amount is not necessarily equal. The amount depends on the amount of each asnaf and their needs. The Shari'ah Council also establishes the categories that should be considered as poor. Asnaf fakir is given zakah in the form of subsistence while the poor asnaf is given in the form of capital.

##### ***4.3.2.Resolution of Distribution Percentage to Province***

The Syariah Council sets each asnaf to accept a certain percentage of zakah. Asnaf fakir receive 15%, poor 30%, amil 10%, mualaf 2.5%, riqab 0%, gharimin 10%, fi sabilillah 12.5% while Ibnu Sabil 20%.

##### ***4.3.3.Resolution of Distribution Percentage to District / City and Village / Districts***

Divisions for kabupaten / kota and kampung / kelurahan, the Shariah Board stipulates that the amount in percentage should be in accordance with the needs of the local community and the local community. This means that if a village receives a large amount of quotas while it should be a little *mustahiq*, then the zakah should not be allotted in total revenue. It should even be handed over to Baitul Mal town to be distributed to other more desirable villages.

#### ***4.4 Productive Distribution***

The matter of productive distribution is mentioned in Law No. 38 of 1999. In addition, the Ministerial Letter No. 38 Year 1999 has provided a clause on productive distribution of zakah. In addition, Law of Aceh No. 10 Year 2007 also called it.

Focus Law No. 38 Year 1999 is about managing zakah in Indonesia. This Article is dealt with in Clauses 16 (1), (2) and (3) and Clause 17. Clause 16 mentions how the proceeds of zakah collection should be distributed so that the

requirements of mustahiq are met. The distribution must be in accordance with the minister's decision but not defective from the Shariah. Clause 17 states that funds are not from zakah revenue such as alms, grants, infaq, wakaf, catharsis and other funds administered by Baitul Mal channeled for economic development. The goal is for the benefit and economic development of society. In addition to the provisions of Law No. 38/1999, the Decree of the Minister of Religion and the Decree of the Director General of Bimas Islam and Haji also mentioned the management of zakah. It is contained in Clauses 28 and 29.

Clause 28 and Clause 29 The Decree of the Minister of Religious Affairs focuses on the primary distribution of zakah for the eight asnaf referred to in Surah Al-Taubah verse 60. The zakah fund that is to be used for working capital shall meet certain conditions first. These conditions are the first, data collection mustahiq. Second, prioritize the weak economy. Third, prioritize mustahiq in the local area. Fourth, all mustahiq have got their respective rights. Fifth, zakah funds still have balance. Sixth, through eligibility, monitoring, evaluation and reporting.

In short, the distribution of zakah in the form of working capital must meet certain conditions. The distribution of non-zakah funds does not need to be bound by the above terms. However, both are for the benefit and economic development of society.

In addition, there is a provision in Law of Aceh No. 10 Year 2007 on the distribution of zakah in the form of capital assistance. Such provisions are found in Clause 29 (3). Clause 29 (3) mentions the distribution method to be implemented by Baitul Mal established by the Head of Baitul Mal itself. The head of Baitul Mal may fix the method of allocating zakah funds. The distribution can be made in the form of self-sufficiency and productive form. Distribution in productive forms is the entrepreneurial activities that can be profitable. Among them are businesses, livestock, crafts and agriculture. Such activities can be carried out if poor people have capital. The capital is from zakah funds. Therefore, the productive distribution here is a distribution in the form of working capital. However, this activity is up to the head of Baitul Mal

to implement it.

#### ***4.5 Requirements of mustahiqand so on***

The requirements of mustahiq and zakah related matters are allocated in the first, Law of Aceh No. 10 Year 2007. Second, Syariah Council of Baitul Mal Aceh Circular Letter.

##### ***4.5.1. Law of Aceh No. 10 Year 2007***

Law of Aceh No. 10/2007 is related to the distribution of zakah in the form of capital from zakah funds. Such provisions are found in Clause 29.

###### ***4.5.1.1. Legal basis***

Clause 29 (1) mentions that Islamic law should be the main reference in determining the way distribution of zakah in the form of subsistence and productive forms.

###### ***4.5.1.2. Requirements of Mustahiq***

Clause 29 (2) states that a mustahiq entitled to receive productive zakah must meet certain conditions set by the government. Among them are the appropriate field of enterprise, supervised by special officers and make reports of the company's progress.

###### ***4.5.1.3 Syariah Council of Baitul Mal Aceh Circular Letter***

Syariah Council of Baitul Mal Aceh Circular Letter No.01 / DS / V / 2006 focuses on two matters. First, the guidelines for assigning criteria to asnaf. Second, the guidance on the distribution of zakah to asnaf.

Based on the Syariah Council of Baitul Mal Aceh Circular Letter, a summary can be made. Firstly, any zakah-related interpretation made by the Syariah Hall is based on the Quran and al-Hadith. Interpretations based on the Quran and al-Hadith are manifested in rules and regulations.

Secondly, the Syariah Council categorizes four groups that do not need to receive zakah. They are the infidels, the rich, the Ahlul Bait and the people responsible for muzakki. Thirdly, any new item that has not been set for zakah will be decided by a Syariah Council meeting member.

Based on the above provisions of the law, BMA has implemented a productive distribution of zakah to three sectors. These sectors are cattle and

goat farming, vegetable cultivation and small businesses in the market. The capital given is between Rp500 thousand and Rp5 million per person. Asnaf's requirement to receive this capital must be first, a person who has the passion to work. Second, experienced in the field to be involved. Third, able to repay the capital given within a year. Fourth, it must follow activities and programs to increase information and raise awareness of the areas involved.

Repayments are repayable in monthly installments and the beneficiary may apply for additional capital loan if the previous loan is successfully disbursed. However, for those who fail in the capital venture due to misfortune or unintentionally, they will be assisted with the aid of non-refundable zakah.

In short, the distribution of zakah in the form of working capital must meet certain conditions. The distribution of non-zakah funds is not necessarily tied to the above terms. But both are for the benefit and economic development of society.

## 5. Conclusion

As a conclusion, the Distribution of zakah in form of capital assistance implemented by Baitul Mal Aceh is in line with Qanun Aceh. This method is implemented in accordance with the provisions of the prescribed laws pertaining to the distribution of zakah in the form of productive. Productive zakah distribution through microfinance is still within the permissible range of Islamic law. So it is not surprising why Aceh is more precisely in terms of the distribution of zakah.

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