

161871 - He is owed money by someone who is going through difficulty, and he has been given some charity money to distribute. Is it permissible for him to take what he is owed from it?

the question

I am owed money by someone who is in great difficulty. Sometimes I am given charitable money by someone to spend however I wish. Can I take some of this charity and deduct whatever I take from this debt, or do I have to tell the debtor that I am deducting something from the debt he owes with this charity money that comes to me? Or do I not have the right to take anything from this money at all?

Detailed answer

It is permissible to give zakaah and charity (sadaqah) to someone else and appoint him to give it to the poor and deserving. It says in al-Insaaf (3/197): It is permissible to appoint someone else to give zakaah, and this is correct, but it is stipulated that he should be trustworthy – as was stated by Imam Ahmad – and that he should be a Muslim, according to the correct view. End quote.

But for the person to distribute his zakaah or charity himself is better. It says in al-Majmoo' (6/138): He may appoint someone else to distribute the zakaah that he is supposed to distribute himself... It is permissible to appoint someone else to do that, even though it is an act of worship, because it is akin to paying off debts, and because there may be a need to appoint someone else to do it because the wealth is not where one is, and so on. ... However distributing it oneself is undisputedly preferable, because then one may be confident of how it is distributed, unlike when one appoints someone else to do it. End quote.

Based on that, if someone has appointed you to give the zakaah or charity to the poor or others who are entitled to it, then what you must do is give it to them, and it is not permissible for you to take it and count it as part of the debts that people owe to you, because the purpose behind giving zakaah to the poor is making sure that it reaches them and they take possession of it. Shaykh Ibn 'Uthaymeen said in his Tafseer (3/358): Charity does not count as such until it reaches the poor, because Allah, may He be exalted, says (interpretation of the meaning):

“and
give it to the poor” [al-Baqarah
2:271]. Two issues arise
from this:

1.The responsibility
of delivering the charity is that of the giver

2.If he intends to
give his wealth in charity, then he decides not to give it, he has the right to change his mind, because it has not yet reached the poor person. End quote.

Al-Mirdaawi said in al-Insaaf (3/234): In order for zakaah to be valid, it is stipulated that the recipient should be able to take possession of it, so it is not permissible to give lunch or dinner to the poor (as zakaah). End quote.

The scholars stated that if someone is owed a debt by a poor person, it is not permissible for him to waive the debt and regard that as zakaah, because zakaah must involve giving and taking possession of something. Shaykh 'Abd al-'Azeez ibn Baaz (may Allah have mercy on him) was asked: If you are owed a debt by someone who is sick or is poor and in difficulty, can you waive his debt as part of zakaah? He replied: That is not permissible, because

what one must do is give more time to one who is in difficulty until Allah makes it easy for him to pay off his debts, and also because zakaah requires actually giving something, as Allah, may He be glorified, says (interpretation of the meaning): “And perform As-Salat (Iqamat-as-Salat), and give Zakat” [al-Baqarah 2:43].

Waving a debt for one who is in difficulty does not come under the heading of giving; rather it is letting him off. Moreover, the aim behind that is protecting one’s wealth and not helping the poor.

But it is permissible to give him zakaah because of his poverty and need, or because he is in debt, and if he gives it some of it back to you to pay off the debt that he owes, there is nothing wrong with that, so long as that was not on the basis of some prior agreement or condition between you, and he only did that of his own volition.

May Allah help us all to understand the religion and adhere steadfastly to it.

End quote from Fataawa ash-Shaykh Ibn Baaz (14/280)

If he is the one who is giving zakaah, it is not permissible for him to waive the debt as part of zakaah to the debtor [?]; so how about if the lender is not the one who is giving the zakaah in the first place, rather he has been appointed and entrusted with that by those who are giving it? It is even less likely to be permissible in his case; rather he is doing this out of pure self-interest.

It is well-known that if the debtor is in difficulty, then the lender must give him more time until Allah makes things easier for him. Allah, may He be

exalted, says (interpretation of the meaning): “And if the debtor is in a hard time (has no money), then grant him time till it is easy for him to repay, but if you remit it by way of charity, that is better for you if you did but know” [al-Baqarah 2:280]. Shaykh ‘Abd ar-Rahmaan as-Sa’di (may Allah have mercy on him) said: That is, if the one who owes the debt is in difficulty and is not able to pay it off, the lender must give him more time until things get easier, and if he acquires enough to pay it off by any permissible means, then he must pay off what he owes. If the lender does him a favour, by waiving the entire debt or part of it, that is better for him.

End quote from Tafseer as-Sa’di (p. 959)

To

sum up: it is not permissible for you to take any of this charity at all, regardless of whether you tell the poor person or not, and regardless of whether he gives you permission or not. Rather you do not have the right to give him any of this money in order for him to return it to you. Rather he takes possession of it because he is poor and needy, then (later) you may ask him for what he owes to you, if he is not in difficulty.

And Allah knows best.