

286700 - His company did a contract with him to do some work in return for a percentage of the profit, in addition to his original work for which he receives a salary

the question

I was working in a real estate investment company, in the purchasing department, in charge of purchasing for a fixed salary. Then we developed our work and we made the purchasing department of the company into a separate company that sells building materials to the mother company and other customers. The owner of the company agreed with me that, in addition to my previously-agreed salary, I would have a share of 10% of the annual profits in return for managing [the new company]. I recently learned that combining a regular salary and a percentage is not permissible. Please note that my salary is in return for work I do in the new company, namely selling, or taking care of invoices and accounts, and the like. If I stop doing these tasks, then I have to appoint someone to take care of them. My share in the profits is in return for managing and developing of the entire company and its employees. Is this regarded as mudaarabah (partnership whereby one supplies capital and another provides labour) or not? Is it permissible to work with two different contracts for the same company? Please note that this is my fourth year in this job.

Detailed answer

Firstly:

On our website we have previously explained the ruling on an employee combining a percentage and a fixed salary, and that some scholars were of the view that it is permissible, even though it is more prudent for his payment to be a fixed salary only. However, if his contract is like that, then we hope that there is nothing wrong with it and that he does not have to change it, especially when this type of contract is widely known nowadays.

For more information, please see the answer to question no. [134658](#).

Secondly:

If the percentage that is given to you is for work that is separate from the work for which you receive a salary, then this is not combining a percentage and a fixed salary, concerning which there is a difference of scholarly opinion. Rather this is two different contracts, one of them for a fixed salary, and the other for a percentage. There is nothing wrong with that, so long as the company agrees. The Hanbalis and some of the salaf (early generations) were of the view that it is permissible for payment to be a percentage of the profits, because that is akin to musaaqah (when trees are given to someone to tend and irrigate in return for a share of the harvest) and muzaara'ah (where one person supplies land and another cultivates it).

Ibn Qudaamah (may Allah have mercy on him) said: If a man gives his mount to another man to use it and earn money with it, on the basis that whatever earnings Allah blesses him with will be shared equally between them, or will be divided into one third and two thirds, or however they stipulate, that is valid. This was stated in the reports of al-Athram, Muhammad ibn Abi Harb and Ahmad ibn Sa'eed. Something similar to that was narrated from al-Awzaa'i.

In our view, it is an item that could grow when invested, so the contract is valid on the basis of some of its growth (earnings), such as dirhams and dinars (money), or trees in the case of musaaqah, or land in the case of muzaara'ah.

If he gives his cloth to a tailor to turn it into shirts and sell them, and he will have half of the profit in return for his work, that is permissible. This was stated in the report of Harb.

If he gives yarn to a man to weave it into cloth, in return for one third or one quarter of its value, that is permissible, as was stated.

Maalik, Abu Haneefah and ash-Shaafa'i did not regard any of that as permissible, because it is recompense that is unknown, and the work itself is unknown.

We have mentioned above the reasons why it is permissible.

If, along with the percentage, he also charges a known number of dirhams, that is not permissible. That was stated by Ahmad, but it was also narrated from him that it is permissible.

The correct view is the first one. Abu Bakr said: This is an old view, and what is narrated other than that is the view to be followed.

Al-Athram said: I heard Abu 'Abdillah say: There is nothing wrong with it if you give yarn to a weaver to weave cloth for you in return for one third or one quarter of it. He was asked about a man who gives yarn to a weaver to weave it into cloth, in return for one third of the cloth plus one or two dirhams. He said: I would not like that, because this is something that we have never heard of. As for one third, without adding anything to it, in our view that is permissible, because of the hadith of Jaabir, according to which the Prophet (blessings and peace of Allah be upon him) gave the land of Khaybar to the Jews, for them to cultivate it in return for half of the yield. It was said to Abu 'Abdillah: What if the weaver does not accept it unless he takes one third of the product and one dirham? He said: Then give him one third plus two tenths of one third, or half of one tenth, and the like [in other words, increase the percentage, but do not give him a set fee].

Al-Athram narrated from Ibn Sireen, an-Nakha'i, az-Zuhri, Ayyoob and Ya'la ibn Hakeem that they regarded that as permissible. End quote from al-Mughni (5/9).

See also: Sharh Muntaha al-Iraadaat (2/228) and al-Insaaf (5/454).

It says in Fataawa al-Lajnah ad-Daa'imah (13/131): It is permissible for the broker to charge a certain percentage of the price for which the item is finally sold, in return for his services, and he may take that from either the seller or the buyer, according to the agreement, without being underpaid or charging too much. End quote.

Based on that, there is nothing wrong with your agreement with the company regarding this percentage, in addition to your original work.

And Allah knows best.