

39508 - Appointing an agent to make a purchase, and the agent benefitting from the product bought

the question

Can I be hired by a man to buy a car for him from another country in return for a set amount of money, knowing that the country from which the car will be bought imposes a tax on the purchaser if he is going to use the car in that country, but if he is going to take it to his own country, he can ask for the tax to be refunded after paying it, and the agent wants to take the amount paid in tax for himself without asking the permission of the one who appointed him?.

Detailed answer

This transaction may take two forms:

1 - If the man buys this car for you in return for a wage which will be given to him for doing this job. So he is your agent acting on your behalf in making this purchase. In that case it is not permissible for him to take anything but the wage that you have agreed upon. Any reduction in the price of the car, or taxes that are refunded, or gifts given to the agent because of this transaction, should all be given to you (the one who appointed him) unless you willingly let him have anything of that, because any rights connected to this contract belong to the one who appoints the agent.

Ibn Qudaamah said: Ahmad said, according to one of the reports narrated from him: If a man is given a garment to sell, and he does that, and the purchaser gives him a handkerchief, then the handkerchief belongs to the (original) owner of the garment. He said that because the reason why the handkerchief was given was the sale, and the handkerchief was in addition to the price paid, so anything extra that is given when the transaction is made is connected to it.

End quote, from al-Mughni, 5/82.

2 – If the man buys the car, then sells it to you. In this case he may increase the price and add the tax to it, whether he gets it back or not. But it is not permissible for you to buy it from him until he has taken possession of the car in a real sense, because the Prophet (peace and blessings of Allaah be upon him) said to Hakeem ibn Hizaam: “If you buy something, then do not sell it until you have taken possession of it.” Narrated by Ahmad, 15399; al-Nasaa’i, 4613; classed as saheeh by al-Albaani in Saheeh al-Jaami’, 342.

Al-Daaraqutni and Abu Dawood (3499) narrated from Zayd ibn Thaabit that the Prophet (peace and blessings of Allaah be upon him) forbade selling products that had been bought until the merchants had put them with their own luggage.” This hadeeth was classed as hasan by al-Albaani in Saheeh Abi Dawood.

In al-Saheehayn it is narrated from Ibn ‘Abbaas that the Prophet (peace and blessings of Allaah be upon him) said: “Whoever buys food, let him not sell it until he obtains it.” Al-Bukhaari, 2132; Muslim, 1525. Muslim added: Ibn ‘Abbaas said: I think all other products are the same, i.e., there is no difference between food and other things in this regard.

And Allaah knows best.