

A Series of Answers by Eminent Scholar Ata Bin Khalil Abu al-Rashtah, the Ameer of Hizb ut Tahrir to the Followers of his Facebook Page (Fiqhi)

Answer to Question

The Consequences of Deducting Part of the Employee's Salary by the Employer and Adding a Part to it

To: Mohammad Abdul Basir

(Translated)

Question:

Assalamu Alaikum Sheikh, may Allah (swt) protect you and grant the victory through your hands... Ameen.

In many Western countries we have a scheme called the Pension scheme. This is when the employee contributes a certain amount of his wage and gives it to the company he works for. The company also put in a certain amount of money, which is separate from his wages, depending on the amount the employee puts in. When the employee reaches a certain age to retire from the company, the company will give the employee a pension to which he contributed and they put in money as well.

Some companies invest the contribution given by the employee into other investments like buying shares in companies that trade in alcohol and interest and some companies do (not?) invest the money at all.

Could you please tell us whether this type of Pension scheme is permitted in Islam, as many of us in my location have been signed up by our companies because it has been made mandatory by the government?

I hope my question is clear.

Jazakumullahu Khair

Wa Alaikum Assalam wa Rahmatullahi Wa Barakatuhu

Abdul Basir

Answer:

1- The employer may agree with the employee to provide him with health care or to give him a pension after a certain age for a part of the employee's wage, which is deducted during a certain period, in addition to another part paid by the employer... This action from the employer towards his employees **as long as it is attached to the contract between the employer and employees as a condition of the contract**, this is because the original contract is an Ijara contract and this is known, and the commitment by the employer to provide health care and a pension to the employee is a condition attached to the contract of employment, and the conditions in the contracts are not prevented unless there is text of their prohibition, such as permitting of a Haram or prohibiting a Halal. They do not need a text that allows them to be permissible, but requires the absence of a prohibiting text. Narrated by Ibn Katheer bin Abdullah bin Amr bin Auf Al-Muzani from his father from his

grandfather that the Messenger of Allah (saw) said: «وَالْمُسْلِمُونَ عَلَى شُرُوطِهِمْ إِلَّا شَرْطًا حَرَّمَ حَلَالًا أَوْ أَحَلَّ حَرَامًا» **“Muslims must fulfill their conditions, except a condition that prohibits a Halal or permits a Haram.”** [Tirmidhi].

(Revision *Islamic Personality Volume Three (Shakhsiya)*, the chapter of Wad' (situation)-Shart (condition))

This is on the one hand, on the other hand, what is given to the employee is a part of his wage deducted from him and a part is added to it by the employer, and the employer can give his employee of his money as much as he wants.

2- If the contract of health care or pension is a stand-alone contract, like if an institution is established and announces to the public that whoever wants to receive health care if he is sick or wanted to get a pension after a certain age, then they must pay a specified monthly amount... This is not permissible because it is a specific contract ... This contract is invalid.

3- As for the institution's investing the money in Haram ... if this based on your consent, that is, if you agree that they invest what you pay with the interest, then it will go ahead, but if you do not agree then it will not go ahead, then you are not allowed to agree that it is invested with interest. But if the investment is without your consent, i.e. it is not your choice, but they are doing it without your consent under the compulsory state law, then you are not sinful.

In summary, if you are employed under a compulsory state law, and the employer deducts part of your salary and adds part to it, and invests this money without taking your opinion in that or without your consent, but it is under the compulsory state law, and after a certain age he gives you a pension or health care. .. You are permitted to take the pension and health care because all this in exchange for the employer's deduction of part of your salary, and because it is compulsory.

This is what I outweigh and Allah is Most Knowledgeable and Most Wise

Your Brother,

Ata Bin Khalil Abu Al-Rashtah

4 Rabii' Al-Akhir 1440 AH

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Link to the Ameer's Answer on his Facebook page:

<https://web.facebook.com/AmeerhtAtabinKhalil/photos/a.122855544578192/962166920647046/?type=3&theater>

Link to the Ameer's Answer on his Google Plus page:

<https://plus.google.com/u/0/b/100431756357007517653/100431756357007517653/posts/KuQQZehBoY2>