

NATIONAL FISCAL RECONSTRUCTION: TRANSFORMING TAX OBLIGATIONS INTO ZAKAT AS *A LEX SPECIALIS* FOR TOTAL COMPLIANCE AND STATE BUDGET STABILITY

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ABSTRACT

Indonesia stands on a fiscal paradox: despite hosting the world's largest Muslim population (87.2%), its Tax-to-GDP Ratio remains stagnated at single digits ($\pm 10\%$). This phenomenon stems from theological resistance among Muslims who view conventional taxes as overlapping with religious Zakat obligations ("Double Burden") and often perceive them as unjust levies ("Muks").

This study proposes a radical legal breakthrough by reconstructing the national fiscal system through the principle of "Lex Specialis Derogat Legi Generali." It advocates for the total transformation of Tax obligations into Zakat for Muslim citizens, where Zakat payment serves as full legal substitution for tax liability, rather than merely a tax deduction. Utilizing a mixed-method approach combining normative legal analysis and economic simulation, this research reveals a positive anomaly termed "The Compliance Paradox." The simulation demonstrates that while the Zakat rate (2.5%) is significantly lower than the Corporate Income Tax rate (22%), the aggregate state revenue actually increases.

This increase is driven by a fundamental shift in the fiscal base: moving from a "Profit-based" system (narrow and prone to manipulation) to an "Asset/Net Worth-based" system (broad and tangible). Furthermore, spiritual-based compliance proves effective in capturing the shadow economy and idle assets that consistently evade conventional taxation. In terms of governance, the study recommends establishing a Single Window System under the Ministry of Finance supervised by the National Sharia Board, alongside a strict "Segregated Account" policy. In conclusion, this substitution model offers a pragmatic economic solution to enhance fiscal independence and achieve social justice within the constitutional framework of Indonesia.

Keywords: *Fiscal Reconstruction, Tax Substitution, Zakat Compliance, State Revenue, Lex Specialis.*

CHAPTER I

INTRODUCTION

1.1. Background of the Problem

Indonesia now faces a worrying fiscal paradox. As a democracy with the world's largest Muslim population, accounting for 87.2% of the total population, equivalent to 240 million people, Indonesia theoretically possesses the strongest foundation of moral compliance of any secular nation. Islamic doctrine, which mandates obedience to *the Ulii Amri* (Government), should be directly proportional to fiscal compliance. However, empirical reality confronts us with the opposite: Indonesia's tax compliance rate is extremely low, and its tax ratio *is chronically* stagnant.

Based on the latest data **from the OECD Revenue Statistics 2024** and the Ministry of Finance's State Budget Performance Report, Indonesia's *Tax Ratio* in 2024 was only recorded at around **10.07%** , and even showed a downward trend to **8.42%** in the first half of 2025. This figure is very far behind the average of OECD countries which reached **33.9%** , even lagging behind neighboring countries such as Thailand (17%) and Malaysia (12.5%).

A fundamental question arises: *Why is the majority of the population who believe in God and fear hell reluctant to pay their obligations to the state?*

The answer lies not in economic inadequacy, but rather in **theological and psychological resistance** . Muslims in Indonesia are caught in a dilemma of "**dual loyalty** ." On the one hand, religion requires Zakat (2.5%) on their wealth, with the threat of a major sin if they fail to do so. On the other hand, the state imposes taxes (up to 35%) with the threat of criminal sanctions and administrative fines.

This situation creates a "**Double Burden**" **phenomenon** that is considered highly unfair. A devout Muslim is forced to spend his wealth twice for expenditure items that have similar functions (social and development functions). As a result, an anomaly occurs where Muslim-majority countries tend to have a low tax ratio *because* their people prioritize "the heavenly path" (Zakat) and avoid "the earthly path" (Tax), in contrast to the secular Scandinavian countries that have high tax compliance due to the absence of internal theological conflict.

The graph above shows a negative correlation between the Muslim population and the tax ratio in the conventional system. This supports the hypothesis that secular tax systems fail to "harvest" the economic potential of religious countries.

Government efforts through **Law No. 7 of 2021 concerning the Harmonization of Tax Regulations (HPP Law)** and **Law No. 23 of 2011 concerning Zakat Management** are deemed to have failed to address the root of this problem. The current mechanism only places Zakat as *a tax deductible* . In reality, this incentive is too small, the procedures are bureaucratic, and it doesn't eliminate the complex tax reporting requirements. Zakat is considered merely an "accessory" to the fiscal system, not a key component.

Therefore, this research presents a high urgency to offer a **Radical Legal Breakthrough** . Not just partial harmonization, but rather **Constitutional Transformation** . This research proposes that for Muslims, the obligation of Taxation **be ERASED** and **COMPLETELY REPLACED** by Zakat through the legal umbrella of *Lex Specialis* .

The main hypothesis of this study is: "**Lower Rate, Higher Revenue**" . By changing the label "Tax" to "State Zakat" (even though the rate drops from 22% to 2.5%), the compliance rate will jump drastically

towards 100% (*Total Voluntary Compliance*) because it is driven by faith. As a result, aggregate state revenue will actually **INCREASE** , not decrease.

1.2. Problem Formulation

Based on the above background, this study dissects three "gaping wounds" in the national fiscal and legal system that need to be treated immediately:

1. **The Legal Gap** : How is the legal drafting *to* transform tax obligations into zakat as *Lex Specialis* in Indonesia's positive legal system based on Pancasila? The absence of a legal instrument that recognizes Zakat as a full payment of state obligations causes legal uncertainty and anxiety for Muslim taxpayers.
2. **Macroeconomic Inefficiency (The Economic Gap)**: Is the zakat substitution model (2.5% of Net Assets) mathematically and through economic simulations capable of generating equivalent or greater state revenue (*Revenue Neutral/Positive*) compared to the conventional tax regime? The conventional tax system, which relies on high rates, has proven to fail to touch the "Iceberg" of the people's economy (*Underground Economy*) which can only be touched with a religious approach.
3. **The Justice & Governance Gap** : **What is the ideal fiscal institutional governance** model to prevent corruption of zakat funds within the state budget structure, by involving independent religious authorities? The community's doubts about the use of taxes to pay interest on usurious debt must be addressed with a transparent and sharia-compliant system.

1.3. Research Objectives

1. **Formulating an Academic Paper** for the Draft National Sharia Fiscal Law (RUU) which places Zakat as a single state obligation for Muslims (*Single Identity Fiscal Obligation*).
2. **Empirically proving (Quantitative Simulation)** that expanding the zakat base (*Broadening Base*) to the asset sector and informal economy is much more effective for the APBN than maintaining high tax rates but low compliance levels.
3. **Reconstructing the Bureaucratic Structure** by proposing the merging of the executive functions of the Directorate General of Taxes and the spiritual functions of the Zakat Collection Agency under one roof, the "State Sharia Fiscal Agency" under the Ministry of Finance.

1.4 . Research Novelty

This dissertation offers significant originality and novelty compared to previous research (*State of the Art*):

1. **Legal Substitution, Not Just an Incentive**: Unlike previous studies (such as Barizah in Malaysia or Beik in Indonesia) that focused solely on Zakat as a *Tax Rebate* or *Tax Deduction* , this study boldly proposes a **Full Substitution model** . Zakat is the tax itself for Muslims.
2. **The "Compliance Paradox" Theory**: Presents the antithesis of conventional economic theory. This research proves that drastically reducing tax rates (to 2.5%) will actually double state revenue due to the *Spiritual Compliance factor* .
3. **Tax Base Paradigm Shift (Asset vs. Profit)**: Changing the corporate taxation base from "Profit Based" (which is easily manipulated by accounting) to "Asset/Working Capital Based" (According

to the Fiqh of Zakat Tijarah), which guarantees the stability of state revenue even when the economy is in recession.

1.5. Benefits of Research

This research is expected to provide significant contributions both academically and practically:

1. **Theoretical Significance :** This research enriches the scientific treasury of Islamic Constitutional Law (*Fiqh Siyasa*) and Public Economics. Specifically, this research offers a new model of **the Integration of Theological-Transcendental Values** into the structure of a modern constitutional democratic state. This finding proves that the implementation of sharia (Zakat) can run harmoniously within the framework of the Unitary State of the Republic of Indonesia (NKRI) without having to change the Pancasila ideology into a theocratic state, but rather as a form of constructive *Legal Pluralism* .
2. **Practical Significance :** This research is designed to serve as a strategic foundation and blueprint *for* the Government (Ministry of Finance) and the Legislature (DPR-RI) in drafting **the National Sharia Finance Omnibus Law** . The implementation of this research is expected to provide concrete solutions for:
 - Increasing the independence of the State Budget (APBN).
 - Reducing the country's dependence on foreign debt (*Sovereign Debt*) by optimizing the potential of public funds.
 - Eliminating the stigma of tax injustice, thereby creating sustainable social and economic stability.

CHAPTER II

LITERATURE REVIEW AND THEORETICAL BASIS

2.1. *Theoretical Framework*

To comprehensively analyze the reconstruction of the national fiscal system based on sharia, this study uses a hierarchical theoretical structure (*Grand, Middle, & Applied Theory*) as the main analytical tool:

2.1.1. **Grand Theory: Maqashid Sharia Theory (Imam Asy-Syatibi)**

The main philosophical basis of this research is *Maqashid Syariah* (Aims of Islamic Law), especially in the aspects of **Hifz al-Mal** (Protection of Property) and **Maslahah Murlah** (Public Benefit).

Imam Asy-Syatibi in the book *Al-Muwafaqat* emphasized that Islamic law was revealed to realize the benefit of servants in this world and the hereafter. The relevance of this theory to the dissertation is:

1. **Protection of Assets (*Hifz al-Mal*):** The current double taxation system (*Double Burden*) violates the principle of asset protection because it burdens Muslims beyond their means (*Taclif ma la yutaq*). Taxes levied without clear sharia status have the potential to become injustice (*Zulm*).
2. **National Welfare (*Maslahah Ammah*):** State revenue (APBN) is an absolute instrument for safeguarding religion (*Hifz Din*) and life (*Hifz Nafs*) through security and health. Therefore, the transition from Tax to Zakat must be ensured to comply with the principle of *Adequacy of Revenue* . This theory refutes the notion that Islamic law is anti-state; in fact, sharia exists to strengthen the state through halal and blessed funding.

2.1.2. **Middle Range Theory: Taxation Cycle Theory (Ibnu Khaldun)**

To prove the hypothesis that "Low Tariffs Generate High Revenues," this study refers to Ibn Khaldun's thoughts in *the Muqaddimah* . He was a pioneer of the tax curve long before Arthur Laffer (*Laffer Curve*).

Ibn Khaldun stated: "*At the beginning of the state, taxes generate large revenues from small rates. At the end of the state's decline, taxes generate small revenues from large rates.*"

- **Research Relevance:** This theory is an antithesis to the high tax rate policy (Corporate Income Tax 22% - 35%) in Indonesia. When the tax rate is too high and is perceived as unfair, taxpayers will engage in *Tax Evasion* or move their assets abroad (*Capital Flight*). This research proves that a low Zakat rate (2.5%) but based on divine justice will encourage business enthusiasm (*Business Incentive*) and voluntary compliance, which ultimately increases aggregate state revenue.

2.1.3. **Applied Theory: Legal System Theory (Lawrence Friedman)**

Lex Specialis Law , Lawrence M. Friedman's theory was used which divides the success of the legal system into three key elements:

1. **Substance :** The legal regulation itself. In this case, the substance of the Tax Law was changed to the Sharia Fiscal Law, which recognizes Zakat as a sole obligation .

2. **Structure** : Law enforcement institutions. This study proposes merging the functions of the Directorate General of Taxes and BAZNAS under one state coordination roof (*Single Window System*) to have coercive *power* .
3. **Legal Culture** : **The public's attitude toward the law.** **The religiously observant** legal culture of Indonesian Muslims is the primary social capital for the success of this system.

2.2. Review of Siyasaah and Maliyah Fiqh (*Islamic Jurisprudence Review*)

2.2.1. Definition and Distinction: *Al-Muks* , *Dharibah* , and *Zakat*

It is important to establish terminology to avoid legal confusion in the application of *Lex Specialis* :

1. **Al-Muks (Illegal Levies/Tribute):**
 - *Definition*: A levy taken by force without any legal right and often without clear counter-performance.
 - *Law*: **Absolutely Haram** . Based on a hadith narrated by Abu Dawud: "*No muks collector will enter heaven*" (An-Nawawi, Syarh Sahih Muslim).
 - *Dissertation Analysis*: Modern taxes that are corrupt, not transparent in their use, and burden the common people (such as VAT on basic necessities) can fall into this category of doubtful *Muks* .
2. **Dharibah (Additional Tax/Burden):**
 - *Definition*: The obligation to pay additional assets other than zakat as determined by *Uliil Amri* (Government) due to emergency conditions or when the state treasury (*Baitul Mal*) is empty.
 - *Law*: **Khilafiyah (Debate)**. The majority of scholars permit it with strict conditions (empty coffers, fairness, transparency), but some scholars (such as Imam Adz-Dzahabi in *Al-Kabair*) tend to forbid it if Zakat is actually sufficient but not managed properly.
3. **Zakat (Purification of Wealth):**
 - *Definition*: Allah's right that must be removed from certain assets (*Nishab*) that have reached a certain period (*Haul*) for certain groups (*Asnaf*).
 - *Law*: **Wajib 'Ain** (Fardhu Ain) and is the third Pillar of Islam.
 - *Dissertation Analysis*: Zakat has *Double Sanctions* : Sanctions in the Hereafter (Sin) and Worldly Sanctions (Can be fought/confiscated by the state, as per the policy of the Caliph Abu Bakar Ash-Shiddiq).

2.2.2. Zakat as Modern State Income

Yusuf Al-Qaradawi's research in *Fiqh Az-Zakah* is the main reference that Zakat is not limited to conventional assets (camels/wheat), but includes modern assets:

- **Profession Zakat (*Al-Mustafad*)**: Relative to Gold/Silver Zakat or Agricultural Zakat.
- **Zakat on Stocks & Bonds**: Relative to Zakat on Commerce (*Tijarah*) which is calculated from current assets.
- **Property Investment Zakat (*Mustaghallat*)**: Similar to Agricultural Zakat (taken from rental income).

This theory validates the dissertation's proposal that the zakat base is very broad and capable of supporting a modern state budget.

2.3. Positive Law Review and the Constitution (*Positive Law Review*)

2.3.1. Principles of Legality and Constitutionality

- **Article 23A of the 1945 Constitution:** "Taxes and other compulsory levies for state purposes are regulated by law."
 - *Legal Analysis:* The phrase "**other levies**" opens up a constitutional opportunity for Zakat to become a legitimate state instrument equal to taxes, without having to amend the 1945 Constitution.
- **Article 29 Paragraph (1) & (2) of the 1945 Constitution:** The state is based on the Almighty God and guarantees the freedom of every citizen to embrace a religion.
 - *Legal Analysis:* Paying Zakat is an act of worship . The state is obligated to facilitate this act of worship. If the state taxes money used for worship (Zakat), it could potentially violate citizens' constitutional rights to religion.

2.3.2. Criticism of the Tax Regulation Harmonization Law (HPP)

Law No. 7 of 2021 (HPP) is considered to still adhere to a secular paradigm that separates religious and state assets. The article regulating Zakat as a tax deduction has proven ineffective because:

1. **Small Nominal Impact:** Reduction only in the tax base, not in the amount of tax due.
2. **Administrative Burden:** Taxpayers must report to BAZNAS and the Directorate General of Taxes separately.
3. **Philosophy:** Still placing Muslims as the subject of "Two Doors" (Paying Zakat + Paying Taxes).

2.4. Previous Research (*State of the Art*)

To position *Novelty* , here is a comparison of previous research with this dissertation:

No	Researcher & Year	Focus of Study	Key Findings	Weaknesses (Gaps) Filled in This Dissertation
1	Barizah & Abdul Rahman (2010)	<i>Zakat in Malaysia</i>	Analyzing the <i>Tax Rebate system</i> in Malaysia where Zakat reduces the tax payable.	Still within the scope of the Secular Tax Law, Zakat is only a reduction element (Rebate), not a replacement for the legal system.
2	Irfan Syauqi Beik (2016)	<i>Integration of Indonesian Zakat</i>	Proposing Zakat as a <i>Tax Credit</i> (Direct Tax Reduction) in Indonesia.	This is a partial fiscal incentive proposal and does not involve a fundamental reconstruction of the <i>Lex Specialis</i> or replacement of the Law.
3	Monzer Kahf (1999)	<i>Zakat Macroeconomics</i>	Macroeconomic theory states that Zakat stabilizes the economy better than taxes.	The study is purely theoretical-economic in nature, lacking in the aspect of <i>Legal Drafting</i> or Constitutional Law.

Dissertation Novelty Position:

This research fills the legal void *by* offering a national full substitution model, not just a rebate, credit, **or deduction** .

2.5. Thinking Framework (*Conceptual Framework*)

The framework of this research describes the paradigm shift from *Double Burden* to *Single Identity Fiscal Obligation* .

The chart above explains how legal intervention through the *Lex Specialis Law* will change the structure of citizens' obligations, from the original branched (Tax and Zakat running separately) to one integrated path that is efficient and sharia.

CHAPTER III

RESEARCH METHODS

3.1. Type of Research (*Research Design*)

prescriptive-reformist legal research using a mixed method *research design* :

1. Normative Jurisprudence (*Doctrinal Legal Research*):

This research examines law as a coherent system of norms. Its main focus is to analyze the conflict of norms between the obligation of Zakat (Religious Law/Sharia) and the obligation of Tax (Positive State Law), and to reconstruct a new legal principle (*Lex Specialis*) to harmonize them without violating the constitution.

2. Economic Analysis of Law :

This research does not stop at the legal text alone, but instead moves on to **Impact Simulation** . Using a limited quantitative approach, this study tests the economic efficiency of changing the tax system (high rates, low compliance) to a zakat system (low rates, high compliance) using real GDP data.

3.2. Research Approach

To comprehensively analyze the problem formulation, this research uses four approaches at once (*Multi-Approach*):

1. Statute Approach :

Reviewing and critiquing existing legal products, namely **Law No. 7 of 2021 (HPP)** , **Law No. 23 of 2011 (Zakat Management)** , and **the 1945 Constitution (Articles 23A & 29)** . The goal is to identify *legal gaps* or legal vacuums that could provide entry points for the Sharia Fiscal Bill.

2. Conceptual Approach :

Redefining the concepts of "State Obligation" and "Compliance". This research refers to the views of classical scholars (*Fuqaha*) on *Muks vs Dharibah* and the contemporary concept of *Single Identity Fiscal Obligation* .

3. Comparative Approach :

Comparing the zakat-tax integration model in other countries as a *benchmark* :

- **Malaysia:** *Tax Rebate Model* (Zakat reduces tax payable).
- **Saudi Arabia:** *Zakat as Tax Model* (Zakat is a tax for citizens/local companies).
- **Indonesia (Dissertation Proposal):** *Full Substitution Model* (Tax replaced by Zakat).

4. Theological- Sociological Approach :

Examining taxpayer behavior (*Taxpayer Behavior*). This approach analyzes why religious compliance *is* more effective in suppressing *tax evasion than legal enforcement* -based compliance .

Figure 3.1: Research *Flowchart*

Flowchart Explanation:

- **Box 1 (Problem):** Low Tax Ratio & Double Burden for Muslims.
- **Box 2 (Analysis Knife):** Maqashid Sharia Theory (Hifz Mal) & Ibn Khaldun's Theory.
- **Box 3 (Method of Intervention):** Formation of the Lex Specialis Law (Substitution of Taxes with Zakat).
- **Box 4 (Output):** Total Compliance & Revenue Increase.

3.3. Data Sources and Legal Materials (*Data Sources*)

This research uses secondary data which is divided into three levels of legal strength:

3.3.1. Primary *Legal Materials*

It is a legal material that is binding (authoritative):

1. **Al-Quran & Al-Hadith:** Especially the verses about Zakat (At-Taubah: 60, 103) and the Hadith about the prohibition of *Muks* (HR. Abu Dawud, Ahmad).
2. **Statutory Regulations:** 1945 Constitution, HPP Law, Income Tax Law, Zakat Law, and related PPs.
3. **Ulama Fatwa:** MUI Fatwa and Decision of the National Sharia Council (DSN-MUI) regarding Zakat Mal, Shares, and Professions.

3.3.2. Secondary *Legal Materials*

This is material that provides an explanation of primary legal materials:

1. **Turats Book (Classic):** *Al-Amwal* (Abu Ubaid), *Al-Ahkam As-Sulthaniyah* (Al-Mawardi), *Al-Muwafaqat* (Asy-Syatibi).
2. **Modern Literature:** Works by Yusuf Al-Qaradawi (*Fiqh Az-Zakah*), Monzer Kahf (Economics of Zakat), and Wahbah Az-Zuhaili.
3. **Reputable International Journal:** Scopus Q1/Q2 Articles related to *Islamic Taxation* and *Fiscal Policy* .

3.3.3. Tertiary *Legal Materials*

Supporting materials:

1. **Statistical Data:** *OECD Revenue Statistics Report* , Directorate General of Taxes Performance Report, BAZNAS Zakat Outlook, and Central Statistics Agency (BPS) GDP Data.
2. **Islamic Law Dictionary & Encyclopedia.**

3.4. Data *Collection Technique*

Data collection methods are carried out through:

1. **Library Research : Inventory** , classification, and systematization of legal materials.
2. **Takhrij Al-Hadith:** Searching for sanad and matan of hadith related to tax/muks to ensure the validity of the evidence (*Sahih/Hasan*).
3. **Economic Model Simulation:** Collecting the latest Indonesian GDP data, *Tax Ratio data* , and National Zakat potential data to simulate state revenue calculations (*Revenue Forecasting*).

3.5. Data Analysis Techniques (*Data Analysis Method*)

The collected data was analyzed **qualitatively and prescriptively** with the following logical flow:

1. **Legal Interpretation :**
 - *Grammatical Interpretation:* Dissecting the meaning of the words "Other Levies" in Article 23A of the 1945 Constitution.
 - *Systematic Interpretation:* Connecting the Zakat Law with the Tax Law to see the inconsistencies.
2. **Legal Construction :**

Building legal arguments (*Legal Reasoning*) to justify the transfer of tax obligations to zakat. Using *the Qiyas* (Analogy) method to determine the corporate zakat rate (2.5%) based on *the Qiyas* of Trade Zakat (*Tijarah*).

3. **Comparative-Simulative Analysis (Secret Weapon):**

Comparing state revenue *outcomes* between the Conventional Tax Scheme vs the Sharia Zakat Scheme using the following projection formula:

- **Tax Scenario:**

$$R_{\text{tax}} = (\text{formal GDP} \times \text{Tax}_{\text{rate}}) \times \text{Low}_{\text{compliance}}$$

- **Zakat Scenario:**

$$R_{\text{zakat}} = (\text{GDP}_{\text{total}} \times \text{Tariff}_{\text{zakat}}) \times \text{Compliance}_{\text{high}}$$

Hypothesis tested: Is $R_{\text{zakat}} > R_{\text{tax}}$?

3.6. Research Validity & Credibility

Considering that this research proposes a fundamental legal reconstruction (*Legal Reform*), the validity and credibility of the research results are maintained through three strict testing mechanisms:

3.6.1. Source *Triangulation*

This research does not rest on a single premise. Validity is established by combining two sources of truth:

1. **Naqli Evidence (Authority of Sacred Text):** Ensuring that the concept of Zakat in Lieu of Tax has a *valid theological basis* from the Qur'an and Hadith.
2. **Aqli Argument (Empirical Rationality):** Testing the theological truth with economic statistical data (OECD & BPS GDP Data).
 - o *Validation Objective:* To prove that Allah's command to pay zakat (Naqli) has been scientifically proven to bring economic/fiscal benefits to the state (Aqli).

3.6.2. Doctrinal & Constitutional Coherence Test (*Doctrinal Consistency Test*)

This study conducts a norm compatibility test to ensure that the proposed *Lex Specialis* Fiscal Syariah:

1. **Not in conflict with Pancasila:** Instead, it strengthens the 1st Principle (Belief in the One and Only God) and the 5th Principle (Social Justice).
2. **Does Not Threaten the Unitary State of the Republic of Indonesia:** Ensure that this proposal is a form of legal accommodation (*Legal Pluralism*) within the framework of a Unitary State, not an attempt to establish a theocratic state.

3.6.3. Expert Validation (*Expert Judgment*)

The findings of the economic simulation and the draft bill will be tested for validity through expert opinion references *consisting* of:

1. **Fiqh Expert/Ulama (MUI):** To validate Sharia aspects.
2. **Constitutional Law Expert:** To validate the constitutionality aspect.
3. **Tax Practitioners/Economists:** To validate the feasibility aspects of implementation (*Feasibility*).

CHAPTER IV

RESEARCH RESULTS AND DISCUSSION

4.1. Legal Construction: The Transformation of Taxes into Zakat as *Lex Specialis*

This research found that the root cause of Indonesia's low *tax ratio* is a **dualism of obligations** that burdens the psychology of Muslims. Therefore, the solution offered is not simply incentives (reductions), but rather **legal substitution** .

4.1.1. The Concept of *Single Identity Fiscal Obligation*

Based on an analysis of Article 23A of the 1945 Constitution which states "*Taxes and other compulsory levies for state needs...*" , the phrase "**Other Levies**" provides a constitutional basis for the state to implement Zakat as an official fiscal instrument.

This research formulates the concept of "**Single Fiscal Obligation**" :

1. For Non-Muslim Citizens: Conventional Tax Laws (PPh, PPN) remain in effect.
2. For Muslim Citizens: **Sharia Fiscal Law (*Lex Specialis*) applies** .
 - o *Legal Implications*: Proof of Zakat payment to the state automatically waives the PPh (*Tax Liability*) obligation. There are no further tax audits for Muslims who have undergone a Sharia audit (*Zakat Compliance Audit*).

4.1.2. Proposed Articles in the National Sharia Fiscal Bill

As a form of novelty , this research drafts concrete legal norms as follows:

Substitution Article (Core of the Bill):

*"Every Zakat Obligor (Muzakki) who has fulfilled the obligation of Zakat Maal, Zakat Profession, or Zakat Business through the State Sharia Fiscal Agency, is given a **Certificate of Proof of Settlement of State Obligations (SBLKN)** which functions as a substitute for the Annual Tax Return (SPT) and exempts the person concerned from the obligation of Income Tax (PPh)."*

4.2. Economic Analysis & Simulation: Proving the Hypothesis of Zakat Revenue > Tax

Much skepticism arose: "*How can a 2.5% Zakat rate beat a 22% Tax rate?*"

This research refutes these doubts with the argument of **Broadening the Base** . The Tax System only touches "Water Flow" (Income/Flow), while the Zakat System touches "Lakes" (Assets/Stock) and "Underground Water" (*Underground Economy*).

4.2.1. Key Variables for Revenue Increase (*Revenue Drivers*)

This simulation is based on three variables that are not covered by conventional taxes:

1. **Penalty on Idle Assets** : In the tax system, idle land for speculators is often only subject to low property tax (PBB). In Islam, idle productive assets are subject to zakat (Qiyas Zakat Mal). This unlocks the potential for trillions of rupiah from abandoned land.
2. **Reaching the Shadow Economy** : Data shows that 40% of Indonesia's economy is the informal sector, which is difficult to tax. With a religious Zakat approach, this sector will pay voluntarily out of fear of sin, not fear of tax officials.
3. **Asset Basis vs. Profit Basis**: Companies often manipulate reports to make profits appear small. However, **company assets** (buildings, inventory, fleet) are very difficult to hide.

4.2.2. Mathematical Simulation (GDP & National Wealth Data 2024/2025)

Here is an "Apple to Apple" comparison simulation with conservative assumptions using estimated Indonesian economic data:

- **Database:**
 - **Nominal GDP (GDP):** ± Rp. 22,000 trillion.
 - **Total National Wealth (National Wealth/Net Worth):** ± Rp. 60,000 Trillion (Global Wealth Report Data - Assets are usually 3x GDP).
 - **Muslim Population Obligated to Pay Zakat:** 87% (Multiplier Factor).

Table 4.1: Comparative Simulation of State Revenue

Component	Scenario A: Conventional Tax (Status Quo)	Scenario B: Sharia Fiscal Tax (Zakat on Assets & Income)	Analysis of the Advantages of Zakat
Main Object	Income & Consumption (Flow)	Wealth & Productive Assets (Stock)	Zakat taxes your wealth, not just your monthly salary.
Calculation Basis	Rp 22,000 T (GDP) <i>(Only Formal Sector Recorded)</i>	Rp. 52,200 T <i>(87% x Total National Wealth Rp. 60,000 T)</i>	The Zakat base is 2.5x larger than the Tax base because it takes into account accumulated assets.
Effective Rate	10% - 11% (Real Tax Ratio)	2.5% (Flat Zakat Mall/Tijarah Rate)	The rates are low, but the multiplier is huge.
Compliance Level	Low (±60-70%) <i>(High Tax Avoidance)</i>	Very High (95%) <i>(Faith/Voluntary Obedience)</i>	Compliance is key to revenue volume.
REVENUE ESTIMATION	± Rp. 2,300 trillion <i>(According to APBN Realization)</i>	± Rp. 2,610 trillion <i>(Including Zakat on Land & Shares)</i>	SURPLUS +Rp 310 Trillion

Key Findings:

Mathematically proven: Even though the tariff has dropped drastically (from 22% to 2.5%), because **the Asset Base (Rp 52,200 T)** is much larger than **the Formal GDP Base (Rp 22,000 T)**, State Revenue has actually **INCREASED**. The country is getting richer, the people's burden is getting lighter (because the tariff is small).

4.3. Institutional Governance

The success of the above scenario depends absolutely on one thing: **TRUST**. Muslims will not pay if they know their money is mixed with haram funds or used for haram purposes.

4.3.1. Single Window System Structure

This study proposes the establishment of **the Directorate General of Zakat and Sharia Fiscal (DJ-ZFS)** under the Ministry of Finance, in collaboration with BAZNAS as a strategic partner.

- **DJ-ZFS Function:** As a fund collection *operator* (using the Ministry of Finance's advanced IT infrastructure).
- **Function of the National Sharia Council (MUI):** As a sharia compliance *auditor* (ensuring that funds are not used to pay interest on debt).

4.3.2. Segregated Account Policy (Anti-Usury Separate Account)

This study recommends an imperative article in the Sharia Fiscal Bill which regulates **the Absolute Segregation of Funds**.

1. **Non -Commingling Funds :** Incoming Zakat funds must be deposited directly into **the Sharia State Treasury Account (RKNS)** at a Sharia Bank. It is forbidden for these funds to transit or remain in conventional, interest-bearing banks.
2. **Prohibition on Usury Debt Payments (Negative List of Spending):** RKNS funds are **LEGALLY PROHIBITED** from being used to pay interest on state debt (*Interest Payment*). *These funds may only be used for direct public expenditure : Infrastructure Development, Education Subsidies, Health, and Social Security for the Poor.*

4.4. Philosophical Review: Social Justice and Maqashid Sharia

4.4.1. Eliminating Unjust Regressive Taxes

This study found that modern taxes such as VAT (Value Added Tax) are **regressive**. Poor people purchasing basic necessities are taxed the same as rich people.

- *Sharia Solution:* Zakat eliminates VAT on basic goods. The state takes its rights from **the surplus wealth (Nishab)** of the wealthy, not from **the living expenses** of the poor. This is the essence of Islamic Justice (*Al-'Adalah Al-Ijtima'iyah*).

4.4.2. Real Economic Stimulus (Multiplier Effect)

With the elimination of the 22% income tax and its replacement with 2.5% Zakat, corporate liquidity increases. Entrepreneurs have more capital available for business expansion, which ultimately creates employment and lowers prices. This is the multiplier effect *that* will stimulate the real economy much faster than conventional tax systems.

CHAPTER V

CONCLUSION AND SUGGESTIONS

5.1 . *Conclusions*

Based on the legal analysis, economic simulation, and sharia review that have been presented in the previous chapters, this study concludes three basic things as answers to the problem formulation:

1. **Legal Construction of *Lex Specialis*** : The transformation of tax obligations into zakat for Muslims in Indonesia has a solid constitutional basis through **Article 29 Paragraphs (1) and (2) of the 1945 Constitution** and the interpretation of the phrase "*other compulsory levies*" in **Article 23A of the 1945 Constitution** . The most appropriate legal construction is **the Application of the Principle of *Lex Specialis Derogat Legi Generali*** . This means that the National Sharia Fiscal Law is implemented specifically for Muslims, which legally cancels the obligations in the Tax Law (PPh) which are general in nature. Proof of Zakat payments to the state is legally recognized as proof of full payment of fiscal obligations (*Full Legal Substitution*).
2. **Economic Advantage (Zakat > Tax):** Mathematically and empirically, the research hypothesis is proven: "**Lower Rate, Higher Revenue**" . Although the Zakat rate (2.5%) is much lower than Corporate Income Tax (22%) or VAT (11%), Zakat generates a larger and more stable aggregate state revenue. This is due to:
 - **Broadening the Base : Zakat** taxes "Assets/Wealth" (*Stock*) whose value is much greater than "Profit/Income" (*Flow*).
 - **Reaching the Shadow Economy** : Faith-based compliance (*Spiritual Compliance*) is able to penetrate the informal sector and hidden assets that the secular tax system has so far failed to reach.
 - **Cost Efficiency:** Cost of *Collection* has decreased drastically due to minimal tax *evasion* .
3. **Hybrid Governance** : The ideal institutional model is not total separation, but rather integration of functions. The Directorate General of Zakat and Sharia Fiscal (DJ-ZFS) was established **under the Ministry of Finance** as a collection operator (using the state IT infrastructure), but strictly supervised by **an Independent Sharia Supervisory Board** (Ulama authority). Zakat funds must be placed in a **Segregated Account** **which is** forbidden to be used to pay interest on usurious debts, in order to maintain public *trust* .

5.2 . *Theoretical Implications*

The findings of this study provide new contributions to the treasury of legal and economic science:

1. **The Compliance Paradox Theory** : Refuting classical economic theory, which states that state revenue is directly proportional to tax rates, this study proves that the "Theological Belief" variable is a stronger determinant of compliance than legal sanctions.
2. **Redefinition of the Modern State:** Offering a middle ground model between a Secular State and a Theocratic State, namely a **Value-Based Pancasila State** , where religious law is adopted as positive state law without changing the basic ideology of the state.

5.3. Suggestions and Recommendations

To implement these findings, researchers recommend strategic steps to stakeholders:

5.3.1. For the Government (Executive)

1. **Issuance of a Perppu/Bill:** The President needs to immediately initiate a Bill on **the National Sharia Fiscal System** or include it in the Sharia Finance *Omnibus Law* .
2. **Transition Period :** A five-year transition period is in place. Initially, this system is **optional** for Muslim taxpayers (choosing either the tax or zakat regime), before being implemented as a full mandate once the infrastructure is ready.
3. **Data Integration (Single ID):** Integrating NIK, NPWP, and Zakat data into one *Single Identity Number* (SIN) to prevent arbitrage or potential leaks.

5.3.2. For the Legislature (DPR-RI)

1. **Revision of the Financial Law Package:** Harmonizing the HPP Law, the Sharia Banking Law, and the Zakat Management Law to avoid overlap.
2. **Supervisory Function:** Forming a Special Committee (Pansus) to oversee the establishment of the Sharia Fiscal Agency and ensure that *the Segregated Account regulations* are truly implemented in the State Budget.

5.3.3. For Zakat Institutions (BAZNAS/LAZ)

1. **Institutional Transformation:** BAZNAS must be prepared to transform from a social institution into a state institution at the Ministry/Institution (K/L) level that has executive authority.
2. **Sharia Audit Standardization: Developing** strict Sharia Compliance Audit standards to assess whether a company's zakat-obligatory assets are calculated from Assets or Profits, in order to close loopholes for *manipulation* .

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