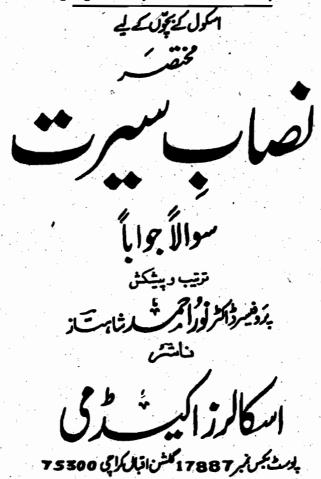
Concluding remarks

In Islam, accumulation of wealth is allowed and in some circumstances mandatory. However, wealth should not be abused and must be managed and be planned properly, as Allah has laid down very clearly injunctions on how wealth should be acquired and spent. Above all, wealth is a form of trial by Allah to His servants; whether they follow His injunctions regarding wealth acquisition and disposal and as such the owners are going to be fully accountable on the day of hereafter.



الولاية المناصة الموى من الولاية العامه 🏠 ولايت خاصدولايت عامدك تبعث وى موتى ع

444

"What is wrong with men who give their sons gifts and then keep them and if the son dies, they say, 'My property is in my possession and I did not give it to anyone.' But if they themselves are dying, they say, 'It belongs to my son, I gave it to him.' Whosoever gives a gives, and does not hand it over to one to whom it was given, the gifts is invalid, and if he dies it belongs to the heirs in general."

Narrated from Abdullah Ibn Umar; Abdullah Ibn Abbas

"The Prophet (Pbuh) said: It is not lawful for a man to make a donation or give a gift and then take it back, except a father regarding what he gives his child. One who gives a gives and then takes it back is like a dog which eats and vomits when it is full, then returns to its vomit."

ADVANTAGES OF HIBAH

The hibah property will not be part of the original owner because the contract concluded that the transfer of the property to the beneficiaries is legal. The person who gives his property as hibah will be protected against any legal action from creditors on the particular wealth.

In Malaysia, there are few corporate and professional bodies that provide the consultaion on how to manage our financial planning, one of them is Darul Hibah Consultant Sdn. Bhd. The person who dealing with hibah will not facing with any difficulties in completing hibah transaction. It won't take long time compared to documentation completing faraid matters.

Hibah can eliminate the problem of quarreling among he beneficiaries in claiming the ownership of the property. The owner of property has full rights to transfer any amount of his wealth to anybody; his legal heirs or not. Hibah has no limitation as Faraid and wasiyah. Faraid is 1 strictly distributed to legal heirs only and wasiyah cannot be distributed to any family member in legal heirs, and at maximum of 1/3 only.

🖈 من استعجل الشئي قبل اوانه عوقب مجرمانه 🖈

involved in Hibah transactions ended with unforeseen and unexpected situation.

A similar transaction was ruqba (from raqaba, he waited), by which a man gives a house to another on condition that if the Donor died first, the house became the property of the Donee, and if the Donee died first, the house reverted to the Donor, as if each waited for the death of the other. Bukhari does not speak of ruqba which, according to the best opinion, is not allowed in Islam. With regard to 'umra, it is agreed that when it is expressly stated that the property shall pass to the heirs of the assignee or when no condition is laid down, it shall be a gift in all respects and shall not revert to the assignor; but when an express condition is laid down that on the death of the assignee it shall revert to the Donor or his heirs, there are two opinions; firstly, that the transaction shall take effect in accordance with the condition laid down, as if it were a loan; and secondly, that it shall be looked upon as a gift, the condition being dealt with as illegal and unenforceable.

Another example of Hibah is where a couple gives away all their wealth and property to the adopted son as Hibah without any conditions. The adopted son has no any legal heirs and met with an accident which cause to his death. Every single penny owned by the late adopted son will be inherited by nobody except Baitul Mal. The parent who has Hibah all their wealth to the late adopted son has nothing in hand. Hibah Ruqba is one of the tools that should be implemented to protect and to hedge from any circumstances may arise in the future. Hibah is one of the best alternatives in our financial planning and should be ended with good way. However based on the illustration given above is related to one of Hadith where Malik related that Umar Ibn al-Khattab said,

🖈 جس نے قبل از وقت کسی فی کے حصول کی کوشش کی اسے اس سے محروی کی سزادی جائے گی 🖈

Hibah Harta, is a private contractual arrangement between three parties; whereby a person (the Donor) allocates his property, during his lifetime, to his loved ones (the Donees). In doing so, the property allocated thus will be held in trust and managed by Bumiputra-Commerce Trustee Berhad, which known as trustee. This product has been approved by the Majlis Fatwa Wilayah Persekutuan.²⁰ Bumiputera Commerce Trustee Berhad

Upon the Donor's demise, the Trustee will then transfer the gifted property to the Donee. As Hibah Harta is a private contract done during the lifetime of both the Donor and the Donee, the property will not form part of the Donor's estate, and not subjected to the Probate and Administration Act and Will Act 1959 and Faraid. Hence, this makes the transfer of the Donor's assets smoother and trouble-free.

There are two types of Hibah Harta introduced by Bumiputera-Commerce Trustee Berhad; Hibah Umra and Hibah Ruqba. Hibah Umra is known as Hibah without conditions where the properties will be transferred to donee after death of Donor. Whereas, Hibah Ruqba is a Hibah with condition where the properties will be transferred depending on who will be died first. Should the Donor dies the properties will be transferred to the Donee. If the donee dies first, the property won't be transferred to the legal heirs but will be transferred to the Donor.

Hibah Ruqba or Hibah with condition is very important and crucial in today's Muamalat or transactions. There were few cases which

²⁰Hj Othman Yaacob, Amalan dan Realiti Pengurusan Harta Orang Islam Di Malaysia, Darul Hibah Consultant Sdn Bhd

categories such tabarru' or sadaqah is for all and truly for one's provision in the hereafter. Waqf endowment saves the soul from the worries, fear and covetousness surrounding money; and it makes it used to generous spending.

Waqf also can be considered and treated as a way of securing inheritance to the legal heirs. While the benefits from a Waqf can be pious and good, the actual establishment of the can have been everything but pious. In Muslim societies, regulations on inheritance have represented a problem for rich families; properties have been considered as belongings only to its owner but not to his descendants. When owner dies, the property would then be transferred to the ruler. But with Waqf, rich families have established Waqf and had children put up as trustees. The salary or allowances will be be given out at normally practices about 10% of revenues. Through the Waqf, the descendants have been secured a part of the fortune or wealth.

HIBAH

The transfer of existing properties made voluntarily and without any consideration by the Donor to the Donee and accepted by or on behalf of the Donor during their life time.

"....and gives his wealth in spite of love for it, to the kinsfolk, to the orphan and to Al-Masakin (the poor), and to the wayfarer and to those who ask." Verse 177, Surah al-Baqarah

There will be some issues that arise from applications of Hibah in our life. Therefore, the provisions for the implications of Hibah transactions must be provided. In Malaysia, Bumiputera-Commerce Trustee Berhad has introduced new product named Hibah Harta to facilitate the needs of the whole Islamic community.¹⁹

¹⁸ See Al-Quran

¹⁹ Bumiputera-Commerce Trustee Berhad

The Waqf founder should be legally fit and able to meet the purpose of Waqf. The purpose of the Waqf must be in ultimate analysis be an act of charity. Hence the Waqf on the rich alone is not permissible because it is not charity.

The revenues from the Waqf finance mosques, and another religious institution. Hence, the Waqf is considered as a part of the mosque or the institution.

According to Ibn Qudama, Waqf means bequest the property and dedicating the fruit. As quoted from the Prophet's (s.a.w.) words in His advice to Omar Ibn Khattab, when the latter consulted him about a land lot of his:

'Bequest its stock and dedicated its progeny.'

ADVANTAGES OF WAQF

There are some points that should be highlighted on why we should include Waqf is one of our financial planning.

Normally when property holders indulge in gathering, developing, managing, protecting and diversifying the source of their wealth, their life, thinking and ambitions become slave to its demand; hence they become trapped in the process of protecting it. For this reason; they are more in need than others of being reminded to pay attention and aspire to the hereafter and to seek its merits. Especially through their money, complying with the Quran; we should endeavor towards the hereafter.

But seek the abode of the hereafter in that which Allah has given thee'18

Surah Al-Qasas: 77

It can be considered as the 'Estate Planning' for the hereafter. Faraid is the rulr, Wasiyah is the bonus, Hibah is the exception; but all for preparing for the legal heirs provisions in this world. Waqf and all in its

﴿ عام كَ تَحْسِيص نيت كِساتهو ديانة مقبول موتى بن كرقضاه ﴿

There are differences between Wasiyah and nominee according to Islamic laws. Nominee is act as trustee only. According to section 167. Insurance act 1996 acts 553, he is entrusted to claim the policy money from the insurance for payment of claims. Thereafter he has to distribute the money to the rightful heirs or beneficiaries in accordance with Islamic Laws or with consent from them.

WAQAF

Waqf in Arabic language literally means hold, confinement or prohibition. The word of Waqf is used in Islam in the meaning of holding certain property and preserving it for the confined benefit of certain philanthropy and prohibiting any use or disposition of it outside that specific objective. Waqf is a religious endowment, a property giving revenues, as regulated by Islamic law. The position of Waqf is the same category of sadaqah or tabarru'.

Waqf legal definition includes two conditions. The first condition is to dedicate one's property rights to any public service and prevention of its re-ownership by others; and the second condition is the perpetuity of this dedication.

The property must be in real or which has some meaning of perpetuity. The property should be given on the permanent basis. Some jurists approve temporary Waqf only in the case of family Waqf. The example of family Waqf is the condition that the fruits and revenues of their Waqf are first given to their own children and descendants and only the surplus, if any, should be given to the poor. If a person sets up a Waqf for his children, he must treat males and females equally, because he has included all of them in that, which implies that they all have equal share. Just as if he were to give something to them, it should be shared equally among them, so too if he sets up a Waqf for them, they should have equal hares.

🖈 الاجو والصمان لايجتمعان 🌣 اجرت اورخانت ايك بي شي من جع نبيل بوسكتيل 🌣

The recommendation of Wasiyah has prescribed by Allah SWT in Qur'an and whoever do Wasiyah will be rewarded.

"O you believe! When death approaches any of you, and you make a bequest (then take) the testimony of two just men of our own folk or two others from outside, while you are traveling through the land and death befalls on you" 16

(Al-Maidah: 106)

Although many scholars believe this verse has been abrogated by the more specific verses enjoining inheritance, still enjoins Wasiyah to non-inheriting relations or according to at-Tabari for persons without heirs and for the ummah in general.

Ibn Abbas relates the Hadith of Prophet s.a.w;

"Prophet (s.a.w) says giving 1/3 of your property by wasiyah is abundance".

Another Hadith related by Saad which was written by Imam Shafie;

'The Prophet (s.a.w) forbids to wasiyah more that 1/3 of property '17

The person who gives Wasiyah has the opportunities to arrange the program for alms or sadaqah and distribution of the 2/3 to the legal heirs. In Malaysia, anyone is allowed to make their own Wasiyah but must be comply with the rules and conditions of Quran and Hadith, and also Will Act 1949.

In the existing practices in financial services in Malaysia, there are huge room for financial planners and government itself to improve and to practice Wasiyah. In current practice used by mostly financial institution is to nominate their customers wealth; in government agencies like Employee Provident Fund (EPF).

¹⁶ See Al-Quran

¹⁷ Azman Ismail, Islamic Estate Planning, Darul Hibah Consultant

RECOMMENDATION

There are several type of financial products introduced by financial institution and professional bodies to facilitate our needs in managing and improving our financial planning, such Islamic Unit Trust, Family and General Takaful, Islamic Bonds etc. However, we have chosen the alternative products in our paper especially in wealth distribution that have been provided and recognized in worldwide of their powerfulness and effectiveness in its application towards our life, in this world and in hereafter. The 3 major instruments that included in our analysis are Wasiyah, Waqf and Hibah.

WASIYAH

Wasiyah is a legal documentation which outlines on how you wish your assets to be distributed upon demise Wasiyah or will is one of many acceptable modes of wealth acquisition and disposal in Islam. Wasiyah is similar to gift, though with certain differences. It is executed after demise of the benefactor and takes the form of gift of wealth, useful items [like mosques, estates etc] or even that of debt etc. The total of Wasiyah given cannot be exceeded than 1/3 of total assets. The eligible or legal heirs are not entitled for Wasiyah¹⁵.

Wasiyah should be in writing. It must be signed by the Testator (will maker) and witnessed by at least two persons. In Islam, Wasiyah does not necessarily bi in writing but it must be witnessed by two persons. It should comply with the requirement of Al-Quran and Hadith of Prophet (S.A.W).

Actual receipts of willed items is a precondition for legal validity of Wasiyah, like gifts, according to Imam Malik, but others like Imam Shafie opined that, verbal acceptance alone, may suffice.

¹⁴ ibid

¹⁵Hi Othman Yaacob, Darul Hibah Consultant Sdn Bhd

Analyzing and evaluating the data can be started when we have enough information. The objective of this step is to establish where you are now in comparison to the financial goals that were established in step one. This is the step that you determine the strengths and weaknesses of the present financial position.

4. Develop a plan for achieving goal

Normally there will more than one way for a financial objective can be achieved and multiple alternatives should be explored and considered. The plan should be specific in nature, detailing who is to do what, when and what resources. In order to increase the commitment to the plan the report describing the plan should be in writing.

5. Implement the plan

A financial plan is useful only if it is put into action. The success of a financial plan very much depends on someone's commitment to implementing the plan. For example implementation of plan is by writing or updating a will' restructure current asset allocation; reduce debts and mortgages and etc.

6. Monitor the plan

The financial planning process is dynamic and requires constant monitoring and reviewing. The plan should be reviewed at least once a year or more frequently if changing circumstances warrant it. The review process should involve tracking the progress and performance of plan implementation.¹⁴

commit great crimes and sins, oppressors, tyrants, mischief-maker, corrupted)."12

(Surah A-Qasas, verse 77)

Financial Planning Process

Financial Planning is a scientific methodology to manage wealth with a holistic viewpoint. It involves developing coordinating and implementing a comprehensive range of strategies to address the wealth management challenges. Financial Planning is a process that encompasses the following six steps:¹³

1. Establish financial goal

Goal setting is critical to create a successful wealth management plan. The whole financial planning process starts with establishing and prioritizing realistic financial goals and objectives. Appropriate time frame and risk tolerance level must be clearly spelt out as well. It is important that the goals must be quantifiable so that their attainment can be measured

2. Gather relevant data

After identifying your financial objectives, you need to gather as much as possible the relevant information. This information must be accurate, up-to-date and relevant to the financial objectives. The more complex your situation and the more varied the number of your goals the more challenging the information gathering risk. This step requires significant amount of time and patience.

3. Analyze the data

¹² See Al-Quran

¹³Yap Ming Hui, Ensuring Fitness of Wealth Management, BizWeek, 16 August 2003

preserve the accumulated wealth is unrecoverable. The pillar of wealth preservation consists of wealth management, liability containment planning, and business shareholding planning and business succession planning and debt management.

As Muslim we must realized that wealth is belong to us but it is Allah right to give to anybody that He wants. However we are asked to work hard if we want to succeed in acquire the wealth. Islam view wealth as trial and man are responsible as trustee:

'And know you that your properties and your children are but a trial and that it is Allah with whom lies your highest reward'11

(Al-Anfal 8:28)

Wealth distribution

Wealth distribution seeks to make proper planning so that your accumulated wealth can be managed and distributed according to your wishes with minimum hassles. It is important in the discipline of wealth management because of its inevitability and its specter. Death is something that the most of us tend to ignore. This area of wealth management is definitely a broader scope than what a will is capable of addressing.

In addressing the issue of wealth Muslim must not forgotten that the true owner of wealth is Allah and man is only a trustee. Allah mention it in Surah Al-Qasas verse 77

"But seek, with that (wealth) which Allah has bestowed on you, the home of the Hereafter, and forget not your portion of lawful enjoyment in this world; and do good as Allah has been good to you and seek not mischief I the land. Verily Allah likes not the Mufsidun (those who

¹¹ See Al-Quran

- Operations containing elements of gharar (uncertainty) such as the conventional insurance business.
 - There are companies with activities comprising both permissible and non-permissible elements. Syariah Council has applied several additional criteria for these companies:
- Core activities of the company must be activities which are not against the Syariah as outlined above and haram element must be very small compared with the core activities.
- 2. the public perception or image of the company must be good
- 3. core activities of the company have importance and maslahah (benefit in general) to the Muslim Ummah (nation) and the country and the haram element is very small and involves matters such as umum balwa (common plight) uruf (custom) and the rights of the non-muslim community which are accepted by Islam.

There are several channels of investment that Muslim can participate in order to gain some profit if any such as Wadiah Saving Account, Mudharabah Current account, Mudharabah Investment Account, I abung Haji, Unit Trust, Takaful (with saving elements) Islamic Bond via unit Trust Islamic Equity (stock Market) Property and etc.

Wealth Preservation

Wealth preservation component aims to protect the accumulated wealth against every conceivable financial risks and threats. For an individual who has accumulated a reasonable size of wealth, a bad investment can cause some major discomfort but still poor investment performance is not debilitating. As far as wealth is concerned, inadequate effort to

¹⁰ Syariah Advisory Council, Securities Commission of Malaysia

ACCUMULATION OF WEALTH IN ISLAM

Wealth accumulation pillar of wealth management seeks to achieve reasonable capital growth with the primary objective of preserving accumulated wealth. This is the area that balances the risk of losing capital and the risk of losing purchasing power at the same time. Wealth accumulation involves asset allocation strategies, investment policy statement drafting, financial freedom planning and children's tertiary education planning.

In Islam, before an individual decide on investment he/she has to check the status of the investment whether the fund approved or not by the Syariah Board. Basically, the Syariah way of investing is that it must no be any of the following:

 Operations must not be based on riba' (interest) such as activities of financial institutions like commercial and merchant bank and finance companies which not comply with the Islamic principle. In Surah Al-Baqarah (275-281) Allah has prohibit riba:

"...But Allah hath permitted trade and forbidden usury (riba)...."

(Surah Al-Bagarah, verse 275-281)

- Operation involving with gambling. This is where one gets something at the expense of the other and the person get suffer of losing asset and dignity.
- Activities involving the manufacture and/or sale of haram (forbidden) products such as liquor, pork, and meat not slaughtered according to Islamic rites; any other activities against the Islamic teaching such as pornography

⁹ See Al-Quran

insurance concept which is grounded in Islamic Muamalat, observing the rules and regulations of Syariah. In fact, this concept has been practiced for over 1400 years.⁷

In principle, the Takaful system is based on mutual co-operation, responsibility, assurance, protection and assistance between groups of participants. These fundamentals are based on the sayings of Prophet Muhammad S.A.W. which relate to the takaful;

1) Basis of Co-operation

'Help one another in al-Birr and in al-Taqwa (virtue, righteousness and piety): but do not help one another in sin and transgression.'

(Surah Al-Maidah, Verse 2)

'Allah will always help His servant for as long as he helps others.'

(Narrated by Imam Ahmad bin Hanbal and Imam Abu Daud)

2) Basis of Responsibility

'The place of relationships and feelings of people with faith, between each other, is just like the body; when one of its parts is afflicted with pain, then the rest of the body will be affected.'

(Narrated by Imam al-Bukhari and Imam Muslim)

3) Basis of Mutual Protection

'By my life, which is in Allah's power, nobody will enter Paradise if he does not protect his neighbor who is in distress.'

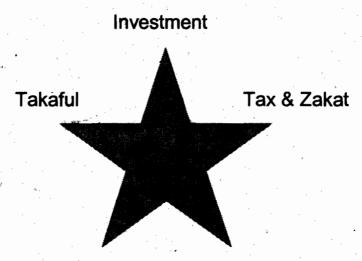
(Narrated by Imam Ahmad bin Hanbal)

Thus through the concept Muslim can plan ahead for any unwanted events which might involve illness, permanent disability or diseases.⁸

⁷ Takaful Nasional Sdn Bhd, at http://www.takafulnasional.com.my ⁸ ibid

the wealth according to the Islamic Syariah. These are the components of financial planning that need to be address in achieving financial goal.

Islamic Financial Planning



Faraid, Wasiat & Hibah

Infaq & Sadaqah

PROTECTION IN ISLAM

Wealth protection is the wealth management pillar that identifies and manages various sources of current and future income. This area of financial planning involves cash flow planning, tax planning, family security planning, disability income planning and critical illness income planning. In Islam the concept of protection is slightly different with the conventional in performing the concept of mutual cooperation or Takaful under the umbrella of Tabarru' (Donation). Takaful is an

'For Allah is He Who Gives (all) sustenance......

(Al-Dhariyat 51:58)

The concept of Allah's bounty is considered very important in Islam as a good Muslim is required to have a proper balanced between the fulfillment of his spiritual and worldly obligations⁵.

The Prophet stated;

'A Muslim should prepare himself for the next world as if he is going to die tomorrow, but at the same time work hard to improve all his worldly comforts as if he is going to live forever., 6

(Narrated by Al-Dailami)

Islam covers the extremes of zuhd (abstinence) and bulk (avarice). A Muslim should not forego wealth. Neither should he be avaricious in the pursuit of wealth. Zuhd is not amounting to rejection of pleasure but rather leading a pious life by his ability to life moderate and within his mean. This is why Islam encourages reasonableness and moderation.

As a Muslim we are not discourage from acquiring wealth but we must know how to earn and spend it in accordance with the Islamic principles. Wealth should not be abused or misused as Allah SWT has laid down very clear injunctions on how wealth is to be acquired and spent. All above, wealth is a form of trial by Allah SWT towards His servants whether they follow His injunctions regarding wealth acquisition and disposal and as such the owners are to be fully accountable on the Day of Judgment for what they do with their wealth. In Islamic financial planning, an individual must understand the discipline of how to protect, to accumulate, to preserve and to distribute

⁴ See Al-Quran

⁵Nik Mohamed Affandi Bin Nik Yusoff, Islam & Wealth, The Balanced Approach to Wealth Creation, Accumulation and Distribution

⁶ ibid

'He it is who created for you all that is on earth. Then He rose over (Istawa) towards the heaven and made them seven heavens and He is the All-Knower of everything.'

(Surah Al-Bagarah, verse 29)

The duty of man as God's khalifah is to make use of all the blessings of God on earth to his own benefit. For this, man is given freedom, that is, freedom of choice and action (also within limits). It is because of man's special faculties and his freedom that he becomes the best of God's creatures.

Financial Planning is basically a discipline of wealth management that applies to the unique needs and concerns of respective individual. As a Muslim even though a person does not possesses any form of wealth, he still has to commit with financial planning process because either he would leaves debt or children to the trusted one.

In the following discussion, we would like to focus on the comprehensive aspects of financial planning whereby an individual should has a balanced approached in order to achieved the golden goal. Financial Planning quantifies and manages individual's success in four financial pillars; wealth protection, wealth accumulation, wealth preservation and wealth distribution. Each of these different components is meant to play a different role in addressing unique issues and the objective must in line with the Islamic Syariah principle.

In Islam, we are confined with the concept of Allah's bounty or sustenance. This concept means that Allah is the sole giver of "bounty" to every living creature on this world. Allah blesses His bounty on those who earn and spend it in compliance with His covenants. He does not bestow His blessing or mercy on those who earn it illegitimately and spend it irresponsibly. Allah affirms:

economic activities. Muslims are encourage planning for their life and put efforts to achieve the goal setting then ask help from Allah. The final stage is tawakal for what the result and takes it as the destiny bestows by Allah.

The prophet Muhammad used to supplicate Allah:

'My Lord, help me and do not give help against me, grant me a victory, and do not grant victory over me, plan on my behalf and do not plan against me, guide me and made my right guidance easy for me, grant me victory over those who act wrongfully towards me....'²

(Narrated by Abu Daud.)

In Islam, financial planning is not just merely a process of acquisition and accumulating wealth but it has a broad definition which relates to the concept of vicegerent (kalifa).

According to the Holy Qur'an, God created man as his vicegerent (or ambassador) on earth. Allah says in A-Quran:

Behold, thy Lord said to the angels: "I will create a vicegerent on earth." They said:" Wilt Thou place therein one who will make mischief therein and shed blood? - Whilst we do celebrate Thy praises and glorify Thy holy (name)?" He said: "I know what ye know not."

(Surah Al-Baqarah, Verse 30)

From the above verse, and others like it, we understand that as the khalifah or vicegerent of God on earth, man is gifted with certain powers, which other creatures of God do not possess. For example, he possesses (within limits of course) intellectual faculties. We also read that God created all things on earth for man.

²Nik Mohamed Affandi Bin Nik Yusoff, Islam & Wealth, The Balanced Approach to Wealth Creation, Accumulation and Distribution

³ See Al-Quran

ISLAMIC FINANCIAL PLANNING

©Prof. Dr. Mohd. Ma'sum Billah1

Introduction

Islamic Financial Planning is a new concept being developed nowadays and it has a relationship with the definition of Islamic Financial Marketing which defined by Ibnu Abu Yusuf & Ibnu Taimiyyah and Ibnu Khaldun. They defined it as the creation, developing and delivery of unique customer satisfying competitive products and services at a profit to organization and customer in the lights of Islamic values and principles. In contrast, conventionally it is defined as the process whereby an individual's personal and financial goals are achieved through the development and implementation of a comprehensive financial plan.

Islam is a comprehensive, integrative and holistic religion that governs all aspects of life, major and minor, personal and social, spiritual and materialistic and relates this worldly life to the Hereafter. This means that we need to practice Islam while we perform our business and

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