

PERMISSIBLE WAYS OF INVESTMENT IN PAKISTAN

Q: 23- "We have come to know that the Pakistani Banks have abolished interest from their transactions and they are now working on the profit and loss sharing basis. What is the correct position in this respect? Can we deposit our money in the PLS (Profit and Loss Sharing) account and avail of the profit accruing therefrom for our personal benefit without any fear of being involved in interest? If the answer is in negative, are there any other financial institutions where we can invest our savings without being involved in riba and who run their business on the Islamic principles and restrict themselves to those transactions only which are lawful in Shariah? (Jawald Sharafat, Karachi)

A: it is true that it was announced by the government of Pakistan about five years ago that the interest has been abolished from the banking transactions which, in future, will be carried out on the basis of profit and loss sharing. But, unfortunately, the methods adopted to substitute for the interest transactions were not in conformity with the Shariah, rather they were essentially nothing but a different form of interest. No substantial change was brought out, neither in the whole system nor in the nature of transactions. When one looks into the details of these dealings, one cannot avoid the conclusion that it is change in nomenclature only.

The result is that no actual change has yet taken place in the banking system as a whole, and the profit given by the banks to their depositors is another form of interest. Hence, it is not permissible in Shariah to deposit money in a PLS account or in a fixed deposit account of the general commercial banks. If someone wants to open an account in a bank, he should deposit his money in a current account on which no profit (interest) is paid.

As for other financial institutions, most of them are being run on the basis of interest, and the same rule applies to them also.

However, during the last decade, some financial institutions have been established on interest-free basis, and they are actually working, by and large, on the basis of Islamic financial modes. I would refer to three of them here:

1. National Investment Trust (NIT) in Pakistan has been established to provide investment facilities on Islamic principles. Since last two years the majority of its investments has become free of interest. Their investments are mostly restricted to the purchase of the Shares of different companies, and to the Murabahah and leasing transactions.

I have gone through their model agreements of Murabahah and leasing, and found therein nothing in conflict with the injunctions of Shariah.

However, the NIT keeps its surplus money in the PLS account of the normal banks run on the basis of interest. Thus, a very small proportion of their income consists of the interest accruing on their PLS accounts. This proportion is not lawful according to Shariah.

Similarly, a very small amount of their income comes out of the profit accruing on the participation term certificates (PTCs) purchased by them. The transaction of these certificates is also objectionable according to Shariah. Although they have now stopped the purchase of PTCs, yet the PTCs held by them in the past are still alive and they form a small proportion of their annual income.

Despite these shortcomings, most of their transactions are lawful according to Shariah, and they have provided a facility to the people who want their income to be free from any element of interest. In their membership form they have mentioned all the heads of their income and it has been left to the member to mention in the form that he does not wish to receive the income of some particular Heads.

Therefore, if a person states in the form that he does not want to receive the income of PLS accounts and of PTCs, he can do so, in which case his dividend will not consist of the income of these two heads, and the dividend received by him can be treated as halaal.

2. There are certain Mudarabas floated by different Mudaraba companies? registered under the Mudaraba Ordinance. According to the Ordinance, no Mudaraba can be floated unless it has obtained a certificate from the Religious Board to confirm that the proposed business of the Mudaraba is not in conflict with the Injunctions of Islam. This Religious Board, of which I am a member, examines various aspects of the proposed business and brings amendments where necessary, and certifies after satisfying itself with its conformity with Shariah. As a member of this board, I had an opportunity to examine the main Schemes and the model agreements of most of Mudarabas floated in the market, except for two Mudarabas, namely, Grindlays Mudaraba and BRR Mudaraba. So far as these two Mudarabas are concerned, I cannot opine about them objectively. But the rest of the Mudarabas I can say that their business, if run in accordance with their prospectus and the model agreements approved by the Board, is in conformity with the precepts of Shariah, and one can buy these Mudaraba shares and enjoy the dividend distributed against them as halaal.

3. The third financial institution which is based on an interest free system is 'Faisal Islamic Bank'. The Pakistani branches of this bank have restricted themselves to the Islamic modes of finance like Murabahah, leasing and Musharakah only. I have gone through their model agreements and found them, by and large, in conformity with Shariah. One can also avail of the profits distributed by this bank to its PLS and investment accounts.'

Before parting with this question, I emphasize that what has been said above is based on my personal knowledge about the current state of affairs in these institutions. But two points should always be kept in mind: Firstly, a person like myself can only examine the main scheme of a business and the broad principles underlying it. No outsider can scrutinize each and every transaction going on in actual practice. Therefore, the aforesaid comment on the business of these institutions is based on the basic principles adopted by them in their scheme and their model agreements. If they contravene any of these principles in their actual practice, the ruling may be different. But so far as they claim to abide by these principles, a person can proceed on the presumption that they are following the correct principles unless otherwise proved.

Secondly each of these institutions always remain subject to changes, alterations and modifications. What is mentioned above is based on their current position. If some substantial change takes place in their procedure, the Shariah ruling about them may also change. It is necessary, therefore, that their current position be ascertained each year by consulting a Shariah expert acquainted with such problems.

Contemporary fatawaa