

219679 - Rulings on disposing of haraam wealth after repentance

the question

I have read many fatwas on the topic of disposing of haraam wealth after repentance, but it is not clear to me what the correct view is concerning this issue. Sometimes it is to be done by giving it in charity, sometimes by returning it to its owner, and sometimes there is a concession allowing one to make use of it. Is there a difference between one type of haraam wealth and another, and what is the correct view concerning this?

Summary of answer

To sum up the above:

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With regard to haraam things that Islam regards as being of no value, it is not permissible to gain any benefit from them at all; rather they must be disposed of by being destroyed.

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With regard to wealth that was taken from its owner with no justification and without his permission or consent, it must be returned to him, or to his heirs if he has died, and one's responsibility cannot be absolved otherwise. If it is not possible to reach him, then it may be given in charity on his behalf.

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With regard to the person who acquired haraam wealth but was unaware of the prohibition on this transaction, or he was following a scholar who issued a fatwa to that effect, he does not have to get rid of this wealth after coming to know of the prohibition and repenting from that; rather he may make use of it.

With regard to the one who acquired haraam wealth despite knowing of the prohibition, and he took it with the permission and consent of the owner, then he repented from that, he does not have to return it. However the scholars differed as to whether he is obliged to give it in charity or whether he may keep it and make use of it, as is the view favoured by Shaykh al-Islam Ibn Taymiyah.

What we advise is the following:

If this person who has repented is rich and is able to dispose of this wealth and is content to do so, then let him give it in charity to the poor, as is the view of the majority of scholars, and this is more likely to absolve his responsibility and is the more prudent approach.

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If he is reluctant to do that, or that may prevent him from repenting and form an obstacle to his doing so, or if he is poor and needs the money, then he may make use of it, as is the view favoured by Shaykh al-Islam Ibn Taymiyah.

And Allah knows best.

Detailed answer

Praise be to Allah.

Haraam wealth may take various forms. It may be haraam in and of itself or because of the manner in which it was acquired. That which is haraam because of the manner in which it was acquired may have been taken with or without the consent of the owner, and the one who acquired it may have been aware of the prohibition, or he may have been ignorant of it, or he may have thought, on the basis of ijtihaad, that it was permissible (and then realised that it is not). Each situation has its own ruling.

Firstly:

Whoever acquires wealth that is haraam in and of itself, or something that Islam forbids people to buy and sell, keep or use in any way whatsoever, should not return it to its owner, and he should not keep it. Rather he must destroy it, and it is not permissible for him to make use of it by selling it, buying it, giving it away, keeping it or otherwise.

What is meant by wealth that is haraam in and of itself is any item that is prohibited in and of itself, such as alcohol, idols, pigs, and so on.

Secondly:

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Whoever takes the property of another person in an unlawful manner, without the owner's consent or permission, such as stolen wealth, wealth that was seized by force, anything obtained fraudulently from the public wealth, anything taken by means of deceit and cheating, interest (riba, usury) that a person was forced and compelled to pay, bribes that a person is compelled to pay in order to get what is rightfully his, and the like – all such wealth must be returned to its owner, and the responsibility of the one who took it unlawfully cannot be discharged otherwise.

If he has spent it or otherwise disposed of it, it remains a debt that he owes until he is able to repay it to its owner.

Ibn al-Qayyim said:

If the seized item was taken without the consent of its owner, and was not in exchange for something else, then he must return it to him. If it is not possible to return it to him, then it may be given to a third person to whom the one from whom it was taken owes money. If that is not possible, it must be repaid to his heirs. If that is not possible, then it may be given in charity on his behalf.

In that case, if the one to whom it rightfully belongs agrees to accept the reward for charity on the Day of Resurrection, then it will be his. But if he refuses, and insists on taking from the good deeds of the one who took it unlawfully, he will be recompensed in full commensurate with his wealth that was taken, and the reward for the charity will go to the one who gave it in charity, as is proven from the Sahaabah (may Allah be pleased with them).

End quote from Zaad al-Ma'aad (5/690)

For a detailed discussion on this type of haraam wealth, please see the answers to questions no. 83099 and 169633.

Thirdly:

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Whoever acquires haraam wealth by means of a haraam transaction because he is ignorant of the prohibition on this transaction, or he believes it to be permissible on the basis of a fatwa from a scholar whom he trusts, then in this case he is not required to do anything, on condition that he give up this haraam transaction when he learns of the prohibition on it, because Allah, may He be exalted, says (interpretation of the meaning):

“So whosoever receives an admonition from his Lord and stops taking Riba (usury) may keep his past gains”

[al-Baqarah 2:275].

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said:

As for that concerning which there is no doubt in our view, it is that whatever he acquired on the basis of ijtihaad or ignorance, in this case he may keep his past gains, without a doubt, as is indicated by the Qur’an and Sunnah and rational thinking.

End quote from Tafseer Aayaat Ashkalat ‘ala Katheer min al-‘Ulama’ (2/592)

And he said:

With regard to whatever wealth a man has acquired through transactions concerning which the ummah differs, thinking that it was permissible for him to do that on the basis of ijtihaad or because he was following the view of a scholar, or he was following some people of knowledge, or because he was given a fatwa to that effect by a scholar, and the like -

... with regard to this wealth that they acquired and seized, they do not have to repay it. Even if it becomes clear to them after that that they were mistaken in that regard, and that the one who gave them that fatwa was mistaken...

With regard to a Muslim who based his actions on ijtihaad and who believes that what he did of

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buying and selling, rentals and other transactions concerning which some of the scholars gave fatwas, was permissible, if he received some money as a result of that, then it became clear to him later on that the correct view is that it is haraam, that does not make haraam what he had already received of money on the basis of ijtihaad that allowed him to do so.

End quote from Majmoo' al-Fataawa (29/443)

And he said:

Whoever does something, not knowing that it is forbidden, then he finds out that it is forbidden, is not to be punished. If he engages in a riba-based transaction, believing it to be permissible, and he acquires wealth thereby, then an admonition comes to him from his Lord, he may keep his past gains.

End quote from Tafseer Aayaat Ashkalat 'ala Katheer min al-'Ulama' (2/578)

In Fataawa al-Lajnah ad-Daa'imah li'l-Ifta it says:

With regard to the period during which you worked in the bank, we hope that Allah will forgive you for the sin thereof. With regard to what you accumulated of money and received in return for working in the bank in the past, there is no sin on you with regard to it, if you were unaware of the ruling on that.

End quote from Fataawa al-Lajnah ad-Daa'imah (15/46)

Shaykh al-'Uthaymeen (may Allah have mercy on him) said:

If he did not know that this is haraam, then he may keep what he received and he does not have to pay back anything; or if he followed a fatwa from a scholar saying that it is not haraam, then he does not have to repay anything. Allah, may He be exalted, says (interpretation of the meaning):

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“So whosoever receives an admonition from his Lord and stops taking Riba (usury) may keep his past gains”

[al-Baqarah 2:275].

End quote from al-Liqa' ash-Shahri (67/19)

Fourthly:

Whoever acquires haraam wealth despite knowing that it is haraam, and takes it with the permission and consent of its owner, such as that which is taken on the basis of an invalid contract, wages for haraam jobs, profits on trade in haraam things, fees for haraam services such as bearing false witness or writing down riba (usury), or money that is taken as a bribe so that the one who pays it may obtain something that he is not rightfully entitled to, or money acquired by means of gambling, lotteries, soothsaying and the like, etc

All of this comes under the heading of wealth that is haraam because of the manner in which it was acquired. It does not have to be paid back to its owner, according to the more correct of the two scholarly opinions.

Ibn al-Qayyim (may Allah have mercy on him) said:

With regard to what was received of payment, if the payer gave it willingly, and he already got the haraam thing that he paid the money for – such as one who paid money for alcohol or pork, or for unlawful sex or immoral actions – then the money does not have to be returned to the payer, because he paid it willingly and received the haraam thing in return. It is not permissible for him to both take back the money and keep the thing he paid for, because that comes under the heading of helping him in sin and transgression, and making things easy for sinners.

What more does the one who commits the immoral actions want, if he knows that he will get what

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he wants and his money will be returned to him? Islam is far above allowing such a thing, and it is not appropriate to suggest it.

End quote from Zaad al-Ma'aad (5/691)

According to most of the scholars, he must get rid of this money by giving it in charity to the poor and needy, spending it on the common good, and the like. If he disposes of it in any way, it still remains a debt that he has to pay, and when he is able to do so, he must give it in charity.

Shaykh al-Islam Ibn Taymiyah said:

Whoever takes money for a particular item that is haraam, or for a particular service that he did – such as wages for carrying alcohol, or payment to a cross-maker or to a prostitute, and the like – let him or her give it in charity, and repent from that haraam deed, and the giving of that money in charity will be in expiation for what he or she did.

This payment is not permissible for him or her to benefit from personally, because it is an evil earning. At the same time, it is not to be given back to the one who paid it, because he has already got something in return for this money. And he or she should give it in charity, as was stated by the scholars, such as the statement by Imam Ahmad concerning the one who carries alcohol, and as was stated by the companions of Maalik and others.

End quote from Majmoo' al-Fataawa (22/142)

It says in al-Ikhtiyaar li Ta'leel al-Mukhtaar (3/61):

Evil earnings: the way to dispose thereof is by giving them in charity. End quote.

It says in Fataawa al-Lajnah ad-Daa'imah (14/32):

If the individual knew at the time of earning it that this income was haraam, it does not become

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halaal for him by means of repentance; rather he must get rid of it by spending it on charitable causes. End quote.

Shaykh Ibn 'Uthaymeen said:

But if he was aware (that it was haraam), he must dispose of the riba by giving it in charity, so as to get rid of it, or by building mosques, repairing roads, and the like.

End quote from al-Liqa' ash-Shahri (67/19)

Ibn al-Qayyim (may Allah have mercy on him) favoured the view that if he is poor, then he may take from this money as much as he needs. He (may Allah have mercy on him) said:

The way to get rid of it and repent completely is by giving it in charity. But if he needs it, he may take as much as he needs, and give the rest in charity. This is the ruling on all earnings that are regarded as evil because of the manner in which they are earned, whether it was in return for a physical item or some service.

End quote from Zaad al-Ma'aad (5/691)

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) was inclined towards a different view, which is that he may make use of it and he is not obliged to give it in charity, so long as he has repented. He said:

But if he was aware of the prohibition, then the matter requires further discussion. It may be said: if we make the rule that he may keep past gains, that could be applicable to the one who earned money by selling alcohol knowing that it was haraam, and therefore we could say that he may keep his past gains.

Similarly, if anyone earns haraam money and repents, then it becomes permissible for him if the money was paid willingly, and that is also applicable to money earned by prostitutes and

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soothsayers.

This is not alien to the principles of sharia, because the guidelines of sharia differentiate between the one who repents and the one who does not repent, as in the verses in which Allah, may He be exalted, says (interpretation of the meaning):

“So whosoever receives an admonition from his Lord and stops taking Riba (usury) may keep his past gains”

[al-Baqarah 2:275]

“Say to those who have disbelieved, if they cease (from disbelief) their past will be forgiven”

[al-Anfaal 8:38].

This is further supported by the fact that this wealth is not to be destroyed, and there is no difference of opinion among the scholars concerning that. Rather it must either be given in charity, or given back to the fornicator or drinker from whom it was taken, even if he is persisting in his sin, or it is to be kept by the one who received it and has now repented.

No one would suggest that it be given back to the fornicator or drinker except one who does not understand what he is saying – although there are some fuqaha’ who say that – because it would lead to further mischief.

As for giving it in charity, this is a more appropriate option.

But it may be said that this person who has repented is more entitled to it than anyone else, and if he is poor, then he is undoubtedly more entitled to it than any other poor person. This is a fatwa that I have given more than once: if the one who has repented is poor, he may take as much as he needs of it, for he is more entitled to it than anyone else, and it will help him in his repentance. But if he were obliged or required to give it away, that would cause him a great deal of harm, and he

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may decide not to repent as a result. Whoever reflects on the general guidelines of Islam will realise that people should be encouraged to repent by all possible means.

Moreover, there is no mischief that will result if he keeps it, for he has already received the money and it is no longer the property of the one who paid it. It is not haraam to own the money itself; rather it may be haraam if it is a means of committing sin. But this person has already been forgiven by virtue of his repentance, so it is undoubtedly permissible for him to keep it if he is poor, but his keeping it even if he is well off may also be justifiable, because it is making repentance easier for the one who has acquired such wealth.

Allah, may He be glorified, says (interpretation of the meaning):

“So whosoever receives an admonition from his Lord and stops taking Riba (usury) may keep his past gains; his case is for Allah (to judge)”

[al-Baqarah 2:275].

It does not say “whoever becomes Muslim”, or “whoever already knows that it is haraam”. Rather Allah says: “So whosoever receives an admonition from his Lord and stops”, and admonition is more applicable in the case of one who already knows of the prohibition than in the case of one who is not aware of it. Allah, may He be exalted, says (interpretation of the meaning):

“Allah admonishes you, that you may never repeat such (conduct), if you are (true) Believers.”

[an-Noor 24:17].

End quote from Tafseer Aayaat Ashkalat ‘ala Katheer min al-‘Ulama’ (2/593-596)

In Musannaf Ibn Abi Shaybah (7/285) it says:

‘Abdullah ibn Numayr told us, from ar-Rabee’ ibn Sa’d, who said: A man asked Abu Ja’far about a

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man who said: A friend of mine acquired some haraam wealth and it got mixed with everything that he and his family own. Then he realised the mistake he made, so he started doing Hajj and staying near the Ka'bah. What do you think he should do?

He said: I think he should fear Allah and not do it again.

Shaykh 'Abd ar-Rahmaan as-Sa'di said:

Allah, may He be exalted, did not enjoin returning what has already been acquired by means of riba after repenting; rather He enjoined rejecting riba that has not yet been acquired. That is because it was taken with the consent of its owner, so it is not like wealth that was seized by force.

Moreover, this approach is making it easy and encouraging people to repent, unlike the view that makes the acceptability of repentance conditional upon returning what one had acquired in the past, no matter how great the amount or how difficult it may be to do that.

End quote from al-Fataawa as-Sa'diyyah (p. 303)