

Admitted to appear in the High and Constitutional Courts

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Our Reference:

Your Reference:

M.S. Omar/um**28 July 2015****TO THE INSTITUTION CONCERNED**

Dear Sir

**RE: GUIDANCE NOTE ON THE TRANSFERRING ZAKAH TO AN AGENT OF AN
ELIGIBLE RECIPIENT**

1. There are various Islamic non-profit Organizations and Institutions that, by the Grace of Allah, sincerely serve the poor and needy in diverse forms of religious, educational, economic, and social empowerment and upliftment.
2. The beneficiaries are by and large poor and needy eligible recipients of zakah.
3. The question arises: how can zakah funds be legitimately used to promote the objects of the relevant institution, for the ultimate benefit of the beneficiaries?
4. It is an established Shariah principle, that the zakah obligation is only properly discharged by way of the unconditional, absolute, transfer of the zakah from the competent zakah payer to the poor and needy eligible Muslim recipient. This is known as tamleek.
5. It is also a settled principle that the eligible poor and needy recipient may acquire possession and ownership of the zakah either directly, or, through his or her duly appointed agent, on his or her behalf. Possession by such duly appointed agent is deemed to be treated as a valid transfer of ownership of the zakah to the eligible recipient. In other words, the zakah obligation is discharged once the agent of the eligible recipient takes possession of the zakah on his or her behalf, because, at that point of possession (qabd), ownership of the zakah so possessed by the agent, passes to the eligible recipient, as principal. (see Radd al Muhtaar, chapter on zakah, dealing with the requirement of intention.)



6. An associated Shariah rule arising from the relationship of principal and agent, is that the eligible recipient in his or her capacity as principal may grant his or her agent a wide unfettered discretion and broad mandate to use the zakah for the purposes and objects of the relevant non-profit organization, including a waqf.
7. Against this background, the eligible recipient may grant the head of the relevant institution, the following mandate to collect and disburse zakah on his or her behalf :

AUTHORITY

"I the undersigned,

do hereby appoint the board of trustees or any person/s delegated by it to collect zakah on my behalf, in cash or kind, with absolute power and authority to use and disburse the zakah, (so collected on my behalf), for all purposes that my agent deems appropriate in his or her sole and absolute discretion, including the payment of operational expenses, or otherwise with power and authority to transfer the zakah into the ownership of the institution. I hereby grant this mandate in order to promote the objects of the institution."

ELIGIBLE RECIPIENT

DATE:

(If minor, the guardian must sign on minor's behalf)

Yours faithfully

M. S. OMAR

Specialist Shariah & Corporate Attorney