

### Trade Tax Through The Electronic System (PMSE) In The Sharia Maqasid Perspective According To Jasser Auda

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**Abstract:** *This study aims to analyze Trade Tax Through Electronic Systems based on the perspective of Maqashid Syariah according to Jasser Auda. This research is a library research (library research) through a statutory approach (statute approach) which takes an approach through the perspective of Jasser Auda's maqasid syariah on tax purposes that emphasize the benefit of the people to create social values such as helping fellow people. The type of research data is normative juridical using data collection methods in the form of literature studies by collecting documents and data to be processed using analytical methods. In this study, there are 6 system features, namely cognitive nature, interrelatedness, wholeness, openness, multi-dimensionality and meaningfulness so that it gives rise to the perspective that the principle of tax collection must contain the principles of justice and the benefit of the people in order to bring prosperity and economic prosperity to all people with the principle of openness but on the basis of openness to the world and philosophy. In accordance with the aim of maqasid asy-shari'ah that all forms of effort are to bring goodness and avoid harm (harm).*

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#### Introduction

Independence, freedom (English) or hurriyāh (Arabic) is an important part of humans in building a life that has sovereignty from all sectors of life and is an important part of the basic concepts of prosperity as well as justice based on Pancasila and the 1945 Constitution which reflect the essence of cultural values. (Saputra, 2007). The importance of sovereignty in independence is to provide aspirations in improving the quality of life that is peaceful and blessed by Allah SWT. As Driyarkara explained in a quote from Jazim Hamidi that independent subjects must have the right to control themselves and not violate human nature. (Hamidi, 2010).

Development efforts cannot be separated from economic development through various sectors and institutions. According to Fahmi, people's

economic sovereignty is fundamental sovereignty (Radhi, 2008). It also provides insights in the realm of taxation institutions and governance, in which taxes are an important source of income in Indonesia. The large number of residents makes the government need a lot of funds to provide services that meet the various needs of the population itself. Due to a characteristic of developed countries, they must try as much as possible to increase taxes or sources of funding from community contributions. Because basically to make a developed country does not only involve one resident but involves the entire community and government to build and advance a country. The benefits of the tax that has been collected will not be directly enjoyed by the taxpayer, because the tax is used for the benefit of the general public, not self-interest. According to Prof. Dr. PJA Adriani in Mohammad Zain, Taxes are community contributions to the state that are owed by those who are obliged to pay them according to general regulations (laws) with no remuneration that can be shown immediately and the use is to finance general needs related to the state's duties to organize government (Bramasto, 2020).

Taxation is the main source of state revenue. Without taxes, most of the state's activities are difficult to carry out, this is due to the many needs that have not been met. Tax uses cover everything from personnel costs to financing development projects. Construction of public facilities such as roads, bridges, schools, hospitals, police stations, etc. is funded through the use of tax revenue funds (Kusnanto, 2019). Subjects in taxation are divided into 2, namely domestic tax subjects and foreign tax subjects. The division of this subject, one of the systems that includes it, namely Trade Tax Through Electronic Systems (PMSE) (Law of the Republic of Indonesia Number 2 of 2020, Reading "Tax Treatment in Trading Activities Through the Electronic System (PMSE), 2020).

PMSE is a buying and selling activity whose transactions are carried out through electronic devices and procedures that function to analyze, store, display, announce, prepare, collect, process, send, and disseminate electronic information. (Government Regulation (PP) Number 80 of 2019 Concerning Trading Through Electronic Systems, 2019a). This definition is in line with the elaboration that has been explained in Government Regulation Number 80 of 2019 which was issued as an implementation of Law Number 7 of 2014 concerning Trade. This has the aim of continuing to improve the protection and supervision of PMSE and its perpetrators on the basis of good trust, with full care, responsibility, firmness and fairness.

PMSE is done because of the times. Information technology is now increasingly complex and cannot be separated from the life of human civilization. For example by utilizing and supporting the improvement of taxpayer relations. Government Regulation Number 80 of 2019 in Article 4 paragraph (1) describes that parties that can implement PMSE include business actors, consumers, individuals, and state administration agencies. Parties carrying out PMSE activities can include business actors from within the country and from abroad (Government Regulation (PP) Number 80 of 2019 Concerning Trading Through Electronic Systems, 2019), Related to Islamic taxation law, there are two views. The first view agrees with the acceptability

of taxation, while the second view is that taxation is something that is forbidden because of acts of tyranny. The majority of scholars of the Hambali school, such as Ibn Taimiyah, allow the collection of taxes, which they call al kalf as sulthaniyah. According to the views of the majority of scholars of the Hambali Madzhab, taxes collected from people who are financially capable, the assets issued are considered jihad. The midpoint of these two views is that the asset obligation is zakat, but if conditions cannot be conditioned or there is a shortage to meet the needs of the state (darurāh), then there is an additional tax (dharibāh) to suffice and cover the deficiency. (Mas'udi, 2010). The argument for helping others to create social justice and promoting the benefit of the people is found in Qs. Al-Baqarah (2): 177.

لَيْسَ الْبِرَّ أَنْ تُوَلُّوا وُجُوهَكُمْ قِبَلَ الْمَشْرِقِ وَالْمَغْرِبِ وَلَكِنَّ الْبِرَّ مَنْ ءَامَنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ  
وَالْمَلَائِكَةِ وَالْكِتَابِ وَالنَّبِيِّينَ وَءَاتَى الْمَالَ عَلَى حُبِّهِ ذَوِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينِ وَابْنَ السَّبِيلِ  
وَالسَّائِلِينَ وَفِي الرِّقَابِ وَأَقَامَ الصَّلَاةَ وَءَاتَى الزَّكَاةَ وَالْمُؤْفُونَ بِعَهْدِهِمْ إِذَا عَاهَدُوا وَالصَّابِرِينَ  
فِي الْبَأْسَاءِ وَالضَّرَّاءِ وَحِينَ الْبَأْسِ ۗ أُولَٰئِكَ الَّذِينَ صَدَقُوا ۗ وَأُولَٰئِكَ هُمُ الْمُتَّقُونَ

*"Virtue is not turning your face toward the east and west, but virtue is (virtue) people who believe in Allah, the Last Day, angels, books, and prophets and give the property they love to relatives, children orphans, the poor, people on the way (travelers), beggars, and to free slaves, those who pray and pay zakat, people who keep their promises when they promise, and people who are patient in poverty, suffering and in times of war. They are the pious people"* (Alwasim, 2013).

In taxes collected from Trade Through Electronic Systems (PMSE) which emphasizes the benefit of the people to create social values such as helping fellow people. Paying taxes is a mandate and a mandatory duty for the people of the country. By providing good authorization, there will be several advantages. Therefore, it is necessary to strengthen and raise awareness of the willingness of each taxpayer to fulfill their tax obligations, as well as the need for a system or rules regarding allocations that are right on target. *Thus, the author would like to further of taxes collected from Trade Through Electronic Systems (PMSE) in the perspective of maqashid sharia Jasser with uses a systems philosophy as an approach to Islamic law by building several features including cognitive nature, wholeness, openness, interrelated hierarchy, multi-dimensionality and purposefulness.*

### Research methods

The research method used is normative research method. Normative legal research is doctrinal legal research, also known as library research or document study (Waluyo, 2008). The type of research used by the author is library research, namely library research that is collected with data from various documents in libraries and other places (Wasito, 1992). namely by studying and collecting materials from books, as well as textual documentation, theses, scientific studies, journals that have something to do with the trade tax through electronic systems. If the data has been collected,

the next step is to present the data by drawing it in the form of a description. This research takes an approach with maqāṣid sharia.

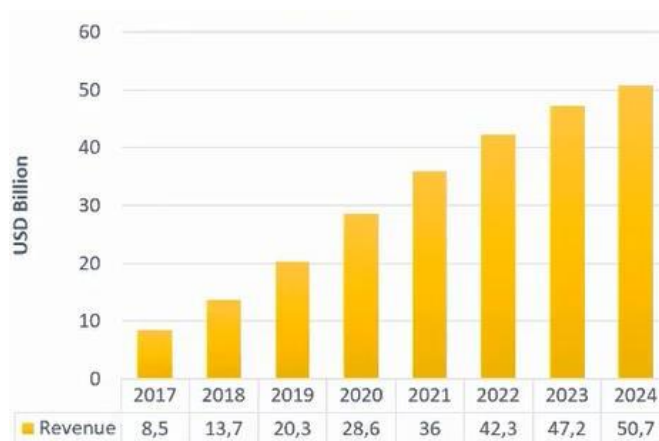
## Discussion and Results

### The Era of Digitalization in Taxation

The total population of Indonesia in the census shows an increase every five years. For the total population of Indonesia, the latest data recorded is based on the results of the Inter-Census Population Survey (SUPAS).there is a population of 273 million people(Kemendagri, 2022)experienced an increase in population from 2020 which was 269.6 million people(Databox, 2020). Apart from being classified as a relatively large population, Indonesia's population is also classified as consumptive or likes to shop, Indonesia is recorded as the most internet user, and conducts many buying and selling transactions of goods online.on line. The use of the internet to conduct business and facilitate business transactions is a simple concept of e-commerce as the optimal method for introducing and running a business (Y. Choi, 2018). PIn December 2018, it was recorded that 86% of Indonesian internet users were shopping on linevia any internet device. This figure is obtained from data compiled by the Global Web Index compiled by We Are Social and Hootsuite.

Research conducted by statista.com also presents E-commerce market revenue in Indonesia in 2017, and provides estimates until 2024. E-commerce revenue in Indonesia in 2020 is USD 28.6 Billion in revenue and is expected to grow from year to year to USD 50.7 billion by 2024, and this is considered very significant.

**Graph 1.1 Indonesia: Retail e-Commerce Revenue Forecast 2017-2024**



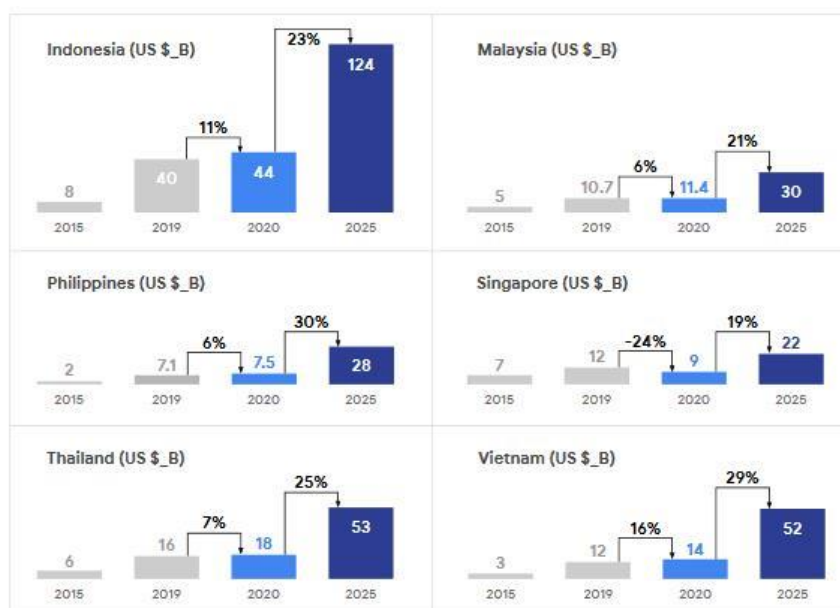
Source: Statista, Global No.1 Business Data Platform, accessed on statista.com (8 June 2020)(S. Indonesia, 2021).

This research data is even stronger with research also from The e-Conomy SEA 2020 report byGoogle, Temasek Bain & Company stating that “The Internet economy remains resilient at US \$100B GMV, even in the face

of a global slowdown. As consumers and SMEs come online, the 2025 number stands strong at over US \$300B, indicating growth despite a challenging environment”(Company, 2020). Digital economic growth continues to increase from year to year even in the face of a global slowdown due to a pandemic.

Graph 1.2

## Indonesian Internet Economy



Source: Google e-Conomy SEA Bean and Company, accessed on bean.com (10 November 2020)

Increasing APBN revenues, supported by taxes, therefore the Indonesian state has an obligation to convert these taxes into good facilities for state administration and national development. This is a form of implementing the state's goals contained in the preamble of the 1945 Constitution, namely "to protect the entire Indonesian nation, promote public welfare and educate the nation's life and participate in carrying out order based on freedom, eternal peace and social justice"(1945 Constitution, 1945). Welfare tax remains a top priority, so that every taxpayer can obtain mutual benefits from the tax given to the state.

### Electronic Commerce Tax

Tax collection is carried out in accordance with the guidelines of the director general of taxes with the amount of VAT that must be collected by collectors at PMSE Value Added Tax of 10% multiplied by the tax base, this tax collection is collected at the time of payment by the buyer. Meanwhile, deposits are made electronically to the State treasury account through a perception bank/pos or other perception institution in Indonesia by using the Directorate General of Taxes billing code contained in the application available on the tax.go.id page, and after depositing the taxpayer reports quarterly for the longest 3 tax periods reported at the end of the following

month after the quarter ends. This report is also reported electronically on the application page of the Directorate General of Taxes (pajak.go.id).

Table 1.1

### Mechanism of Collection, Deposit and Reporting

VOTING	DEPOSIT	REPORTING
Collection is carried out at the time of payment, then proof of collection is in accordance with the guidelines of the Director General of Taxes	Done electronically, using IDR, USD or other currencies that have been determined by the Director General of Taxes	Quarterly electronic reporting: 1. At least contains: (a) the number of Goods Buyers and/or Service Recipients; (b) the amount of payment; (c) the amount of VAT collected; and (d) the amount of VAT paid, for each tax period. 2. Transaction details report

Source: maintained by Researcher, Deva Nabilah (January 10, 2022)

### Jasser Auda Biography and His Thoughts

Jasser Auda is known as a contemporary Muslim intellectual, who was born in 1966 in Cairo, Egypt. During his youth, Jasser Auda used his time as well as possible to explore religious knowledge through halaqahs held at the Al-Azhar Mosque in Cairo. The period of study as an undergraduate student was taken in 1998 at the Faculty of Engineering at Cairo University, then in 2001 he completed his education in Islamic Studies at the Islamic American University, then continued to obtain a Master's degree at the same university in 2004. Obtained a Ph.D degree in analysis system and design obtained in 1996 at the University of Waterloo, Canada, in 2008 completed a doctoral program in technology and Islamic thought from the University of Wales, England.

Jasser as a member of the associate professors in Qatar and actively focusing on studying public policy, Jasser also holds many positions as a founder and member of international Muslim academic and scientific forums such as the International Advanced System Research Institute (IIAS) in Canada, the Association of Muslim Social Scientists (AMSS) in England, the Global Study Center. Civilization (GCSC) and several other forums. His work in studying Islamic Studies is considered very brilliant, Jasser has founded the Maqashid Research Center based in London, England.

One of Jasser's ideas as a form of criticism of the concept of understanding classical Islamic law is regarding maqāsid sharia. classical sharia maqāsid is understood as a form of protection and guarding, classical sharia maqāsid is classified into three levels, ad-daruriyat, al-hajiyat and at-tahsiniyat. Coverage in addaruriyat includes hifz ad-din, hifz an-nafs, hifz al-

mal, hifz al-aql, hifz an-nasl, and hifz al-'ird. the six care and protection in addaruriyat are primary human needs that must be fulfilled. The need for hajiyyat is a secondary need that does not reach the daruriyat level, while tahsiniyat is a tertiary need that is not related to the need for daruriyat, there is a need for tahsiniyat as a complement and support.

According to Jasser, the classic maqāshid sharia concept is trapped in the benefit of the individual in the form of care and protection, while social issues and the development of the times demand adaptable Islamic law, the text has not changed over time but the context requires that the goals of the sharia can be realized. Jasser's critique of classical Maqashid aside from its narrow scope which only includes individual benefit, does not detail the scope of maqāshid, also regarding classical maqāshid not emphasizing basic principles including justice, human rights, humanity etc. Besides that, classical maqāshid is still confined to the thinking of classical fiqh scholars, maqāshid should be studied and re-interpreted through the main texts (the Koran and Hadith) to answer questions according to the context of the times and current human development.

According to Jasser, the solution in dealing with conflicting propositions (ta'arud al-adillah) is to make maqāshid sharia the middle way to understand text and context. Sharia must be able to play a role in realizing benefit by expanding the dimension of maqashid which in classical understanding is limited to individuals and is extended to benefit the people. The concept of maqāshid sharia promoted by Jasser Auda, he offers a concept that upholds human values and provides solutions for people's lives to be in harmony and balance by using maqāshid sharia (Wijaya, 1970) Jasser divides maqāshid sharia into three levels, namely general maqashid (al-'amah), special maqashid (al-Khas), and partial maqashid (al-juz'iy). The general benefit in question includes all objectives contained in every Shari'a case which includes hifz ad-din, hifz al-mal, hifz an-nafs, hifz an-nasl, hifz al-aql. Whereas the maqashid or objectives contained in the case branches in the discussion of shari'a are included in maqashid al-khas, such as the protection of women and children, Prohibition of transactions that are detrimental to either party. Partial maqashid (Juz'iy) aims to reveal the legal reasons or illat of the sound of certain legal texts, such as the purpose of prohibiting drinking khamr or intoxicants, uncovering the purpose of having witnesses in a contract and so on.

Jasser uses systems philosophy as an approach to Islamic law by building several features including cognitive nature, wholeness, openness, interrelated hierarchy, multi-dimensionality and purposefulness. Cognitive nature emphasizes knowledge in the paradigm of the Islamic legal system, distinguishes the origin text and the understanding of the text that has been carried out by previous faqihs. The position of sharia, fiqh and fatwa must be clear to avoid misunderstandings in understanding Islamic sharia. Jasser criticizes the legal source of ijma' which is considered as the final agreement of the previous scholars on an issue that has the same position as the main text (the Koran and Sunnah).

Wholeness, understanding Islamic law not only as a cause and effect but seen from the overall picture (Gumanti, 2018), dynamic, universal

dimension. The paradigm of thinking holistically needs to be used as a framework for thinking in ushul fiqh so that it can respond to renewal of Islamic law. Openness, Islamic law as a living system must be open to changing times, these changes require renewal of methodology in exploring Islamic law. Changing cognitive culture is the key to openness to worldview, one's understanding is not stagnant in the dimensions of the past which results in stagnation. Auda criticizes the traditional fiqh framework that is less sensitive to the times and tends to be monolithic.

Interrelated, the hierarchy in a system is related to one another, the sub below is a manifestation of the existence of the sub above it and vice versa. The role of Islamic law with the socio-cultural community has a close relationship, the views of a faqih are influenced by the social, cultural, educational, political and economic environment of the society that surrounds him. The legal form resulting from the ijtehad of a faqih aims to create benefit which is the ultimate goal of maqāsid sharia. According to Jasser, using maqashid will bring together mujtahids who carry out ijtehad with different approaches, theories and methods.

Multi-dimensionality, Islamic law as a system has various interrelated dimensions. The methodology in understanding traditional fiqh is fixated on binary opposition thinking, the dichotomy between the division of qath'i and ḍzanni propositions which according to Auda can reduce the methodology of Islamic law. The methodological step that can be carried out on conflicting arguments (ta'arud al-adillah) is to seek maqāsid (goals of Islamic law).

Purposefulness, goals in system theory are classified into two, namely goals (al-hadaf) and purposes (al-ghayah). If the goals in a system are achieved either in the same or different ways, or goals are achieved in different contexts, then the system achieves the purpose (al-ghayah). Meanwhile, the achievement of goals (al-hadaf) by a system is only when it is in a fixed situation and runs according to rules that are considered standard. The position of maqāsid al-shari'ah as the purpose (alghayah) that underlies the Islamic legal system. The step in instituting Islamic law must return to the texts of the Qur'an and Hadith to find out the maqāsid contained. The maqāsid manifestation is the creation of the benefit of society as a reality which is the object of Islamic law determination.

### **Trade Tax through the Electronic System (PMSE) in the Perspective of Maqāsid Syariah According to Jasser Auda**

Maqashid sharia in the rationality of Islamic law is the goal (ghayah) of syrianism. The existence of a law must give birth to the dominant benefit among the alternative benefits that surround it. Trade taxes through an electronic system if properly managed and distributed can be an alternative to achieving public benefit. The concept of protection and care as a dharuriyyah benefit must be developed in emphasizing universal values such as justice, welfare, upholding human rights and other good values.

Philosophically, efforts to collect taxes when viewed from the perspective of Maqāsid sharia will be able to realize social welfare. Islamic teachings uphold human values regardless of religious background, race, ethnicity. Taxpayers as worshipers can synergize to achieve the widest possible benefit, in



accordance with the context of safeguarding assets in the treasures of traditional fiqh which has the meaning of guarding and protecting that is developed not only protecting assets from things that are prohibited by Islamic teachings. But it can be expanded by looking after the orphan's property, and so on. Jasser developed guarding property as an implementation of faith that can make major changes to general welfare to support solving the problems of poverty and social inequality as a reflection of religion and social faith. With PMSE collection, the government and the community can prioritize universal values such as justice, welfare, upholding human rights and human values regardless of religion, race, culture, politics and other backgrounds to work together to eradicate poverty which has become an endless problem. .

The features developed in the approach method in Islamic law as the development of systems theory by Jasser Auda can be seen from the cognitive nature, wholeness, interrelatedness, multi-dimensionality and purposefulness. By adopting these 5 theories, Jasser Auda said that the Islamic legal system is an open system. With the principle of openness so that it can be done through:

1. Mechanism of openness by changing cognitive culture. Because of the mental framework and awareness of the reality with which a person interacts with the outside world. If you succeed in changing cognitive culture, it means changing perspectives with broad thoughts.
2. Openness to philosophical thought. From the beginning, Islamic jurists had opened themselves to philosophy, especially Greek philosophy. Al-Gazali has developed several important concepts borrowed from Greek philosophy, and turned them into the main terms used in Islamic law, such as the attribute predicate becomes al-hukm, the middle term becomes al-illah, the premise becomes al-muqaddimah, the conclusion becomes al-far' and possible becomes al-mubah. In Islamic law, the qiyas method is used as a form of development of the syllogistic deduction model in Aristotle's philosophy. The qiyas method is used as a reasoning system in Islamic law. According to Auda, the reasoning used in traditional fiqh like that in modern terms is called deontic logic. Or what is commonly known in fiqh as "mala yatimmu al-wajib illa bihi fahuwa obligatory". This reasoning is stuck in binary classification, insensitive to contemporary developments and monolithic in responding to a problem. Therefore, the current Islamic legal system must be open to the results of philosophical thought.

On the hierarchical features in Jasser Auda's thought, he tries to divide the Maqasid hierarchy into 3 categories, namely: First; Maqasid al-'Ammah (General Maqasid) is Maqasid which covers all maslahah contained in universal tasyri' behavior such as justice, equality, tolerance, ease, including the Dharuriyyat aspect in Classical Maqasid. Second; Maqasid Khassah (Specific Maqasid), namely Maqasid which is related to maslahah which exists in certain issues, for example, it is not permissible to harm women within the scope of the family, and it is not permissible to cheat in

trade in any way. Third; Maqasid Juz'iyah (Partial Maqasid) is the most important Maqasid in a legal event. Maslahah is also called wisdom or secret. An example of this Maqasid is the need for aspects of honesty and strong memory in testimony. The three maqasid asy-shari'ah categories must be viewed holistically, not separate and hierarchical in nature as in classical maqasid theory. The unity of this maqasid must be seen in a wider spectrum or dimension. This is the entry point for renewal in responding to the problems of the contemporary context (Faisol, 2017)

If it is correlated with the three categories of maqasid asy-shari'ah, the principle of tax collection must contain the principles of justice and the benefit of the people in order to bring prosperity and economic prosperity to all people with the principle of openness but on the basis of openness to word wide and philosophical. In accordance with the aim of maqasid asy-shari'ah that all forms of effort are to bring good and avoid harm (kemudratan), then when it is realized in tax collection it must be carried out without any party feeling disadvantaged or burdened.

### **Conclusion**

Indonesia's population continues to grow and interest in shopping online continues to increase, making digital economic growth continue to increase from year to year, even in the face of a global slowdown due to a pandemic, so it is considered significant when collecting trade taxes using an electronic system. Tax collection is carried out in accordance with the guidelines of the director general of taxes with the amount of VAT that must be collected by collectors at PMSE Value Added Tax of 10% multiplied by the tax base, this tax collection is collected at the time of payment by the buyer. Jasser Auda is known as a contemporary Muslim intellectual with a perspective on the development of systems theory which can be seen from the cognitive nature, wholeness, interrelatedness, multi-dimensionality and purposefulness. By adopting these 5 theories Jasser Auda said that the Islamic legal system is an open system and there are 3 hierarchical features; Maqasid al-'Ammah, Maqasid Khassah and Maqasid Juz'iyah. If it is correlated with the 3 hierarchical features of Jasser Auda's thought, the principle of tax collection must contain the principles of justice and the benefit of the people in order to bring prosperity and economic prosperity to all people with the principle of openness but on the basis of openness to word wide and philosophical. In accordance with the aim of maqasid asy-shari'ah that all forms of effort are to bring good and avoid harm (kemudratan), then when it is realized in tax collection it must be carried out without any party feeling disadvantaged or burdened.

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