

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

**Series of Questions Addressed to Scholar Sheikh Ata Bin Khalil Abu Al-Rashtah,
Ameer of Hizb ut Tahrir through his Facebook “Fiqhi” Page**

Answer to Question:

The Sale of Gold

(Translated)

Question:

Assalaamu Alaikum Wa Rahmatullahi Wa Barakaatuhu, as you are aware my honourable brother an ‘Ajal’ (delay) is not valid with the sale of gold because it is hand to hand – this for that- as has been mentioned in the Hadeeth... Does this apply to jewelry?

The reality that this question applies to is the following:

The gold that is sold as jewelry is from the 18-carat calibre and not the 24-carat calibre...

The 24-carat calibre is pure gold reaching 99.9% which makes it hard to mould. As for the 18-carat then this represents 75% gold whilst the remainder is made up of metals such as copper and iron which makes it susceptible to being moulded and shaped. Actually, it is possible to colour the gold according to the metal that has been added. Then at the time of the sale of this jewelry the jeweler adds the cost of the moulding on top of the price of the gold based upon its weight.

Would the jewelry in this case then be considered like any other commodity which has gold in it in which it is valid to buy by incurring a debt or through delay or postponement (of the payment)? Or does the ruling of gold still apply upon it due to the gold being predominant at an amount of three quarters or 75%?

Another issue arises when the jeweler sells the jewelry like a bracelet for instance and it has a small piece like a clasp for example which is not made of gold and could be from platinum, zircon or something similar. It is weighed with jewelry and counted in the weight whilst being mixed with the price of the gold i.e. it is sold as if it is gold. So is this valid in the case where this is a very small piece? Or is it obligatory to separate its cost? Or consider it as the wage of the jeweler? Or what is your view?

Barakallahu Bikum Wa Jazakumullahu Kul Al-Khair, and please forgive us for taking your time...

Wa Alaikum Salaam Wa Rahmatullahi Wa Barakaatuhu.

Answer:

Before answering the question I would like draw attention to that the Ahkaam (rulings) of exchange (sarf) for the Riba categories do not pay consideration to the quality of one type or the poor quality of another... The Riba types are those which have come in the Hadeeth collected by An-Nasaa’i from ‘Ubaadah Bin As-Saamit that the Messenger of Allah (saw) said:

«الذَّهَبُ بِالذَّهَبِ نَبْرَهُ وَعَيْنُهُ وَرِثًا بِوِزْنٍ، وَالْفِضَّةُ بِالْفِضَّةِ نَبْرَهُ وَعَيْنُهُ وَرِثًا بِوِزْنٍ، وَالْمِلْحُ بِالْمِلْحِ، وَالتَّمْرُ بِالتَّمْرِ، وَالتَّبْرُ بِالتَّبْرِ، وَالشَّعِيرُ بِالشَّعِيرِ، سِوَاءٍ بِسِوَاءٍ مِثْلًا بِمِثْلٍ، فَمَنْ زَادَ أَوْ أَزَادَ فَقَدْ أَرَبَى.»

“Gold for gold, ore and coins alike, weight for weight, and silver for silver, ore and coins alike, weight for weight, and salt for salt, dates for dates, wheat for wheat, barley for barley, equally and similarly; so he who was to increase or take an increase, he would fall into usury (Riba).”

Therefore if a Riba based type from amongst these types was sold it would be obligatory to be like for like whatever the quality. As such it is not permissible to exchange a Ratl (measure of

weight) of good dates for two Ratls of bad dates and it is not permissible to exchange a Saa'a (measure) of pure good wheat for two Saa'as of bad impure wheat whilst the same applies to barley and salt. The same therefore applies to gold where it is impermissible to exchange a bullion of pure gold for a bullion and a half of impure gold, rather it must be like for like i.e. by equal measure.

These specific Ahkaam (rulings) for exchange differ from the Ahkaam (rulings) of other dealings with gold in other subject areas. So for example in respect to the Zakaah the pure unadulterated gold and the pure unadulterated silver is what is considered. As such the bullion (or nugget) of 24 carat gold differs from the Zakaah of the bullion of 18 carat gold of the same weight. Rather the pure gold is evaluated when calculating the Nisaab. The Nisaab of the 24 carat gold is 85 grams whilst the Nisaab of the 18 carat gold would be more than that because it is mixed with other non-gold materials in respect to the quarter. This means that the 18 carat gold contains pure gold that is equal to three-quarters of the 24 carat gold. Therefore the Nisaab of the 18 carat gold is one and third times the Nisaab of the pure gold i.e. 113.33 grams. As such the one who owns 85 grams of pure 24 carat gold possess the Nisaab and if the year passes upon it he pays his Zakaah of 2.5% from its weight. However the one who own 85 grams of 18 carat gold does not possess the Nisaab until what he owns reaches 113.33 grams. Then if a year passes upon that he will pay his Zakaah of 2.5% from its weight. It is therefore clear here that the consideration in respect to Zakaah relates to the pure gold.

As for exchange then its Ahkaam (rulings) are specific to it... So whatever the Ribaa (interest based) type is in terms of being pure or impure, good or bad quality, unadulterated or adulterated and mixed with other than it... it is obligatory to be like for like as long as the trade of the Ribaa based type or category is of the same kind. However this is upon the condition that the pure and impure are mixed with each other i.e. not separated from each other whilst the majority in the mix is gold and as such is given the naming and designation of gold.

The Daleel (evidence) for that is what Abu Sa'eed related when he said:

جَاءَ بِلَالٌ بِتَمْرٍ بَرِّيٍّ، فَقَالَ لَهُ رَسُولُ اللَّهِ ﷺ: «مِنْ أَيْنَ هَذَا؟» فَقَالَ بِلَالٌ: «تَمْرٌ كَانَ عِنْدَنَا رَدِيءًا، فَبِعْتُ مِنْهُ صَاعَيْنِ بِصَاعٍ لِمَطْعَمِ النَّبِيِّ ﷺ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «أَوْهَ عَيْنِ الرَّبَا، لَا تَفْعَلْ، وَلَكِنْ إِذَا أَرَدْتَ أَنْ تَشْتَرِيَ التَّمْرَ فَبِعْهُ بِبَيْعِ آخَرَ، ثُمَّ اشْتَرِ بِهِ»

Bilal approached with some good dates and so the Messenger of Allah (saw) said to him: **“Where did you get these?”** So Bilal said: “I had some bad dates and I sold two Saa's of them for one Saa' so that the Prophet (saw) could eat from them”. So the Messenger of Allah (saw) then said: **“It is the essence of Ribaa (interest), do not do that but rather if you had wanted to buy dates then sell them in another sale and then buy (again) with that (i.e. what you receive from the sale).”** (Extracted by Muslim).

Abu Sa'eed and Abu Hurairah (May Allah be pleased with them both) also narrated:

وروى أيضاً أبو سعيد وأبو هريرة رضي الله عنهما: أَنَّ رَسُولَ اللَّهِ ﷺ اسْتَعْمَلَ رَجُلًا عَلَى خَيْبَرَ، فَجَاءَهُ بِتَمْرٍ جَنِيْبٍ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «أَكُلْ تَمْرَ خَيْبَرَ هَكَذَا؟»، قَالَ: لَا وَاللَّهِ يَا رَسُولَ اللَّهِ إِنَّا لَنَأْخُذُ الصَّاعَ مِنْ هَذَا بِالصَّاعَيْنِ، وَالصَّاعَيْنِ بِالثَّلَاثَةِ، فَقَالَ رَسُولُ اللَّهِ ﷺ: «لَا تَفْعَلْ، بَعْ الْجَمْعَ بِالذَّرَاهِمِ، ثُمَّ ابْنِعْ بِالذَّرَاهِمِ جَنِيْبًا» متفق عليه

That the Messenger of Allah (saw) employed a man over Khaibar and so he came to him with fine quality dates (Janeeb) and so the Messenger of Allah (saw) said to him: **“Are all of the dates of Khaibar like this?”** He said: “No by Allah O Messenger of Allah, indeed we take a Saa'a of this for two Saa'as and two Saa'as (of it) for three Saa'as. So the Messenger (saw) then said: **“Don't do that, sell the inferior dates for Dirhams and then purchase the good quality with the Dirhams.”** (Agreed upon).

This applies to all of the Ribaa based types. The following was mentioned in *The Economic System of Islam* (page 254 English edition, page 264 Arabic edition):

“Also, if a person bought from another a genuine Dinar for two fake Dinars, this would not be allowed. However, if he bought a genuine Dinar for silver Dirhams, then bought with the Dirhams two fake Dinars, this would be allowed whether he bought them from the same person or from another. This is so because Muslim reported on the authority of Abu Sa'id who said:

Bilal came to the Messenger of Allah (saw) with some Barni (fine quality) dates, so the Messenger of Allah (saw) enquired: “Where did this come from?” Bilal replied: “These are dates of inferior quality we had for some time, and I exchanged two Sa’as of inferior quality for one Sa’a of fine quality as food for the Messenger of Allah (saw)”. Upon this the Messenger of Allah (saw) said: “Woe! this is real Riba so do not do that. If you wish to buy dates (of superior quality) you could sell the dates (of inferior quality) in a separate bargain and then buy the (superior quality dates)”. Also, Abu Sa’eed and Abu Hurairah reported: That the Messenger of Allah appointed a man as a tax collector over Khaibar, so he came back to him with some fine quality dates called Janeeb. Upon this the Messenger of Allah (saw) said: “Are all the dates of Khaybar like this?” He said: “No, by Allah, O Messenger of Allah! We buy one Sa’a of these fine quality dates for two Sa’as of inferior dates and also two Sa’as of it for three Sa’as”. Upon this the Messenger of Allah (saw) said: “Do not do this; rather sell the inferior quality of dates you have for Dirhams and then buy the Janeeb dates with the use of Dirhams” (Agreed upon).” End of quote.

It is therefore clear from all of this that the Ribaa based types or categories in the subject area of Sarf (exchange) is like for like whatever its quality as long as what it is named with is that which has come in the Hadeeth. This is the same whether it is gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates or salt for salt.

Based upon that the answer to your question is as follows:

1 – The jewelry that is manufactured from silver or gold, whatever its calibre, must be like for like at the name of exchanging it for its own type. So for example exchanging Rashadi gold for a bracelet or for... etc... whether the calibre is 24 or 18 carat, must be undertaken according to like for like whilst any increase is not valid whether this is for workmanship or profit; it is impermissible. The solution in circumstances like these, if for example the seller and buyer do not wish to do like for like, is for the piece of gold to be sold for currency and then purchase with currency the bracelet or necklace or any other item.

2 – When buying a gold bracelet which includes a clasp (i.e. a part) that is not gold and is not mixed with it but rather it is possible to separate it from it, then in this case it is separated and the gold is weighed alone and is sold alone with its kind in accordance to like for like. This is whilst that (extra) piece is sold by itself in accordance to the price that is agreed upon (between the seller and buyer). This applies in the case when the gold bracelet is being bought with gold.

If however it is desired to buy a gold bracelet which has an extra part attached that is not gold and it is wanted to buy that with currency, then you can agree with the seller any price that you mutually consent to. Then if he weighs it together (i.e. the gold with the non-gold attached part) for a price that he agrees with you then there is no problem in that. This is because the sale and trade here is of two different types where you wish to purchase a gold bracelet with paper currency. In this case he weighs the whole bracelet with what is mixed within it and then sells it to you at a price that you both have agreed upon and this is as long as you are buying the bracelet with a currency which is not gold.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

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The link to the answer from the Ameer’s Facebook page:

<https://www.facebook.com/Ata.abualrashtah/posts/478897328945016:0>