



Malaadhu Thar'wah ملاذ الثروة

Our Islamic Estate Planning services (Malaadhu Thar'wah - Wealth Haven) provides you with the guidance, tools and resources you need to preserve your wealth, family & legacy in accordance with Islamic guidelines.

Islamic Concept of Wealth and Its Ownership

In Islam, wealth is considered a resource that facilitates the well-being of Muslims in this life and in the afterlife. Unforeseen events do happen and such events can bring chaos and crises that negatively impacts our most efficacious attempts at arranging our affairs and putting in place a successful intergenerational business enterprise, lineage, family wealth and legacy.

Wealth is one part of sustenance given by Allah to all mankind.

Islam permits people to accumulate wealth as Allah said in Holy Qur'an, Surah Al Isra", verse 12 and Surah Al-Furqan, verse 47

which mean: ".....while the Sign of the Day We have made to enlighten you; that ye may seek bounty from your Lord.... (17:12)"

"And He it is Who makes the Night as a Robe for you, and Sleep as Repose, and makes the Day (as it were) a Resurrection. (25:47)"

At the same time, the acquired wealth must be spent on the right way as stated by Allah in Surah Al-Baqarah, verse 261 and 274 which mean: "The parable of those who spend their substance in the way of Allah is that of a grain of corn: it groweth seven ears, and each ear Hath a hundred grains.

Allah giveth manifold increase to whom He pleaseth: And Allah careth for all and He knoweth all things. (2:261)"

"Those who (in charity) spend of their goods by night and by day, in secret and in public, have their reward with their Lord: on them shall be no fear, nor shall they grieve. (2:274)"

However, Allah prohibits Muslim in matters that harm themselves such as to waste or to use wealth excessively based on Surah Al-Isra", verse 26 and Surah Al-Furqan, verse 67 which mean: "And render to the kindred their due rights, as (also) to those in want, and to the wayfarer: But squander not (your wealth) in the manner of a spendthrift. (17:26)"

"Those who, when they spend, are not extravagant and not niggardly, but hold a just (balance) between those (extremes) (25:67)"

Based on the understanding of these Allah"s words, it can be concluded that Muslims need to seek livelihood in this world.

Such a fortune can be in the forms of wealth or material possessions such as income (salary and commission), vehicles and residence.

Nevertheless, the wealth must be acquired in a lawful way and not contrary to the Islamic law (Shar"ah). At the same token, Islam encourages Muslims to spend and donate their wealth in the path of Islam.

However, Muslims cannot claim for the ownership of wealth. Ownership of wealth lies with Allah (the God), the Almighty.

There are several reasons for individuals of Islamic faith to undertake estate planning process. These are :

1. It is a divine Injunction
2. It facilitates and institutionalizes wealth and asset preservation across generations
3. It is a means to ensure continual provision for loved ones
4. It is a means to stifle the possibilities of a rift amongst the family members
5. Islamic Estate planning allows for Philanthropic dispositions
6. It facilitates the ability to gift an asset to an individual who is not contemplated within the Faraid provisions.

The need for Islamic Estate Planning

Tools for Islamic Estate Planning

● HIBAH/ GIFT GIVING

Hibah is a gift giving done voluntarily to one or several subject matters to recipient(s) by owners of wealth during their lifetime without any consideration or return. The basic of implementing hibah giving is based on Allah saying in Surah An-Nisa", verse 4 which means: "And give the women (on marriage) their dower as a free gift; but if they, of their own good pleasure, remit any part of it to you, Take it and enjoy it with right good cheer. (4:4)"

There are three vital elements to ensure the validity of hibah giving, they are contracting parties, contract (aqd) and subject matters. The two contracting parties are donors (owners of wealth) and recipient(s).

Donors must have the intention to give his/her wealth, capable of transferring the wealth and able to do the transaction (clear mind and wise in managing the wealth (rusyd)). Donors must be the absolute owners of the wealth.

● WASIYYAH – Islamic Bequest

Wasiyyah is a contract that is made during lifetime of testators to distribute their estate to beneficiaries which is effective only after their death.

Based on the consensus among Muslim scholars, wasiyyah has four main pillars namely

Testator;
Beneficiary(ies);
Subject matter(s); and
Contract (offer and acceptance).

The conditions for testator are that the testator must be mukallaf (adult and sane/sensible), independent, the owner of subject matters and the bequest must be done voluntarily.

While for beneficiaries, they must be known, (except for charity wasiyyah), alive after the death of testator, capable to own and manage the estate, and bequest is only for non-legal heirs.

For subject matter(s), it could be movable, immovable property or usufruct which is valuable in Islam, could be transferred after the death of testator and exist in the ownership of testator if the subject matters are specified or exist after the death of testator for unspecified subject matters.

Offer and acceptance could be manifested (sarih) or symbolized (kinayah). Wasiyyah could be verbally such as, "I bequeath to you my property to" and written by the testator or through any expert firms which provide written wasiyyah services. However testator is preferred to prepare wasiyyah through firms who have relevant expertise to ensure that wasiyyah can be enforced after the death of testator.

● WAQF

Waqf (Arabic for endowment) is a model of Islamic philanthropy that is instituted to endure in perpetuity i.e., It is a structure that is set up to stand the test of time. It involves donating a fixed asset that can produce a financial return or provide a benefit as long the asset(s) is in existence to certain beneficiaries.

By this, a Muslim can either donate a monetary value (Cash) of his wealth to Charity for purposes that are in line with the Islamic faith or dedicate a fixed asset such as Land, buildings, or Vehicles for Charitable uses.

Waqf is of two types: Waqf Khairi (waqf for a charitable purpose) and Waqf Dhurri or Ahli (waqf for the family).

- Charitable trusts are a type of waqf khairi.

- Family trust, children's education trust, minors' trust, dynasty trusts are a form of waqf dhurri.

Waqf can serve as a tool for a business succession plan.

Tools for Islamic Estate Planning

● FARAIID DISTRIBUTION

Faraid can be defined as Islamic inheritance distribution method to legal heirs after the death of a Muslim based on the Islamic law. Faraid distribution stresses two main aspects, namely who are the legal heirs and the portion that will be inherited.

Prior to inheritance estate being distributed to legal heirs or beneficiaries through faraid system, legal heirs are responsible to sort the estate into some components. The first component is that legal heirs are responsible to isolate the estate that have been gifted (hibah), trusted (amanah) or endowed (waqf).

These types of estate do not belong to the deceased and must be separated from the total estate that needs to be distributed. Then, the balance from the estate should be spent for funeral and mortuary expenses (purchases of shrouds, payment for bath, digging of graves and corpses)

The estate is also subjected to debt which is divided into two categories. The first category is debt to Allah which includes zakah (obligatory charity), nazar (vows), fidyah and hajj (pilgrimage to Mecca).

While, the second category is debt to mankind which includes loan from financial institutions and debt to friends. After that, the estate is distributed according to Islamic wasiyyah which is subjected to 1/3 from the estate balance to non-legal heirs if the deceased has prepared will and claims for matrimonial property (harta sepencarian). Then, the remaining balance of the estate will be distributed to the right legal heirs according to faraid.

● Purification of wealth – Islamic Philanthropy

The five essential pillars of Islam, as laid out in the Qur'an and the traditions of the Prophet (hadith), are: declaration of belief in one God and Mohammed as his prophet, daily prayer, fasting during the month of Ramadan, the pilgrimage to Mecca, and the sharing of wealth with the less fortunate.

There are two kinds of Islamic philanthropy instruments which are obligatory and voluntary

- **OBLIGATORY:** This includes Philanthropic acts and deeds that Muslims are Obligated by Law to observe, that is Zakat/Fitrana.
- **VOLUNTARY:** This includes acts and deeds that are recommended that Muslims should observe. Failure to observe them does not carry any consequences but observance of these acts is highly rewarded. This includes Sadaqah, Waqf (Trust), Infaq, Takaful, Wasiyah (Will).

● Family Offices

Families (Patriarch and Matriarch) with significant assets and investment holdings (High Net worth Families) at some point in the family's lifecycle would require a structure that helps to administer its assets, dispersed financial holdings and provide ease in management of the family's affair whether personal, financial or for succession purposes. Hence the setup of a family office.

Reasons for Establishing Family Offices

- A. Confidentiality & Discretion
- B. Trust
- C. Independence
- D. Time Saving
- E. Cost Saving
- F. Accountability
- G. Dedicated Personnel
- H. Flexibility
- I. Control
- J. Tailored Service Based on Full and Historical Knowledge

At Fiduciary Services limited, we assist our Muslim clients to plan their estate during their lifetime and upon death under Shariah Law and its principles. Our Islamic Estate planning team will address your concern, situation and peculiarities to enable you implement your desired outcomes.

As a fiduciary business, we are part of a global professional body, comprising lawyers, accountants, financial advisors and other practitioners that help families plan for their futures. As specialists in inheritance and succession planning, we draft wills and trusts, administer estates, act as trustees and advise families on how best to structure their assets and wealth to ensure its protection and to preserve their assets for future generations

How can we help?

• Our Services & Experience Covers:

- Preparing Wasiyyah (Muslim Will)
- Creation and management of Waqf
- Setting up family offices for management of your affairs
- Transferring of immovable and moveable properties
- Safekeeping of Wasiyyah
- Family Wealth Advisory
- Family Business & Governance Advisory
- Advising Muslim clients on Wasiyyah and the concept of Faraid
- Advising Muslim clients for the distribution of property through Hibah
- Representing and advising Muslim clients on application to the High Court for the Grant of probate or Grant of Letters of Administration.
- Representing and advising Muslim clients on the administration of the immovable property concerning inheritance.

• Some examples of what we advise on are:

- Providing for heirs, beneficiaries and dependents following their Patriarch or Matriarch's death.
- Ensuring elderly or vulnerable relatives are cared for and supported
- Helping families with interests spread across the world to be compliant with the laws and tax rules of different countries
- Ensuring that a family's business will pass safely from one generation to another
- Helping clients to support charitable causes in an effective way
- Fostering intergenerational and sustainable wealth for wealthy individuals and families.

For each service we provide, our Shariah Advisory Board has been appointed to ensure that all our services are conducted in accordance with the principles of Shariah. The Board regularly reviews and monitors the transactions and documentations.

If you need further clarifications on this, please reach out to us via contact@fiduciaryservicesltd.com

Sharī'ah Advisory Board



Dr Nafiu Ahmad Al-Jawhari

Dr Nafiu is an alumnus of Al-Hikmah University, Ilorin, Kwara State where he obtained a Bachelor of Arts Degree in Islamic Studies, finishing with a first-class. He holds a Master of Arts in Islamic Studies from the renowned University of Ilorin, Ilorin, Kwara State and Ph.D. Distinction Honours in Islamic Studies from Kwara State University, Malete in 2019.

A Diploma in Shari'ah and Common Law holder from Bayero University, Kano in 2008, Dr Nafiu is a member of the Union of African Muslim Scholars, Bamako; Nigeria Association of Teachers of Arabic/ Islamic Studies Teachers; and National Association of Professionals in Islamic Estate Distribution.



Aishat Abdul-Qadir Zubair

Aishah is an astute researcher and skilled professional with special interest in teaching and facilitating the application of Islamic Banking and finance, shariah audit, Miraath and Waqf Management, Islamic cooperative and management, General Law Practice, Fiqh Muamalat, Usul ul Fiqh etc.

She has worked as a Shariah Auditor with Jaiz Bank Plc. (the first Islamic Bank in Nigeria) where she was able to deplore her skill to establish key control measure in ensuring the bank products are in compliant with the shariah provisions

Sharī'ah Advisory Board



Anjorin, Abdul – Ghaniy Oriyomi
LL.B, B.L., LL.M, ACIS, ACIT, AIFP, CDRS, CISM, GNIM

As an Islamic Scholar, Anjorin has amassed several certificates, awards and honors including Certificate of Expertise and Authority on Quran Recitation and Memorization in Hafs Rendition from the Institute of Quran Memorization and Arabic Language, Ilorin, Nigeria. Thaanawiyah Certificate of Merit from the Institute of Quran Memorization and Islamic Propagation, Lagos, Nigeria.

Certificate in Advanced Arabic Studies from the Institute of Islamic Re-awakening, Lagos where he finished with a Distinction. Certificate in I'daadiyyah from the Institute of Religious Knowledge and Guidance, Lagos where he also finished with Distinction as well as Certificate in Ibtidaaiyyah from the Tuba Institute of Arabic and Islamic Studies, Lagos where he also finished with a Distinction.



Sheikh Yusuf Adamu Toro

Sheikh Yusuf Adamu Toro, who is proficient in English, Arabic, Hausa and Kanuri graduated from University of Maiduguri in 2011 with a Bachelor of Science in Microbiology. He obtained a Bachelor of Arts degree in Sharia Law from Islamic University of Madina in 2015. Recently in 2019, Yusuf obtained a Master's degree in Islamic Finance Practice from the International Centre for Education in Islamic Finance (INCEIF). Sheikh Yusuf Adamu Toro is both confident and hardworking with proven time-management and collaborative skills.

With a solid theoretical understanding of Islamic sciences, and some practical experience in the industry, Yusuf is a certified Shari'ah Auditor and Advisor (CSAA) from the prestigious Auditing and Accounting Organization of Islamic Financial Institutions (AAOIFI). He has vast experience having served in various roles as an Instructor at International Center for Islamic Culture and Education, Quran Teacher at Ar-Rahman Int'l School, Arabic Teacher at El-Kanemi Adult Education Centre, Hajj and Umrah Coordinator at Skynet Travel Agency to name but a few.



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Services:

Hibah (Gifts)

Wasiyyah
(Wills)

Family
Wealth &
Governance
Advisory

Waqf
(Endowment
/ Trusts)


Estate
Distribution

Family
Business
Advisory

Assets
Diversification
& Protection

Family
Offices

Halal
Investment
Portfolios



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