

THE ADMINISTRATION OF UNCLAIMED MONEYS IN MALAYSIA

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Abstract: *Unclaimed moneys refer to unclaimed moneys in court and moneys in companies and firms. Unclaimed moneys in Malaysia are governed by the Unclaimed Moneys Act 1965 (Act 370). The management of unclaimed moneys is wholly under the duty and responsibility of the Accountant General who is appointed by the Finance Minister as Registrar of Unclaimed Moneys. The purpose of this paper is to examine the governing law relating to the administration of the unclaimed moneys in Malaysia and the issues relating to it. The analysis is based on a qualitative and descriptive cross-sectional analysis of the governing statutes, reported cases, and data gathered from the respective administrative authorities. The research found that the unclaimed moneys for deceased in Federal Consolidated Fund is still not administered, but the moneys are not left frozen as the Minister may invest the moneys subjected to the Trustee Act 1949. However, for the unclaimed moneys in Tabung Haji, the moneys governed by Tabung Haji Act 1995 and held by the Lembaga Tabung Haji.*

Keywords: *Unclaimed Moneys, Unclaimed Moneys Act 1965 (Act 370), Registrar of Unclaimed Moneys, Federal Consolidated Fund, Malaysia.*

Introduction

Unclaimed moneys refer to unclaimed moneys in court and moneys in companies and firms. Unclaimed moneys in Malaysia are governed by the Unclaimed Moneys Act 1965 (Act 370). This Act governs the payment of unclaimed moneys into the Federal Consolidated Fund, and is also applicable in Sabah and Sarawak. Unclaimed moneys do not refer to money to the credit of an account that has not been operated in whatever manner by the owner for a period of not less than seven years only, but it can be money which are legally payable to the owner and have remained unpaid for a period of not less than one year after they have become payable, money to the credit of a trade account which has remained dormant for a period of not less than two years or unclaimed moneys in court which is no claim application action suit or other proceeding for or in respect of such money has been or is made or instituted for a period of 15 years after the last payment out of court of any part of such money or after such payment into court (Unclaimed Moneys Act 1965). In pursuant thereto, this paper aims to analyse the governing law relating to the administration of the unclaimed moneys in Malaysia and the issues relating to it.

Research Methodology

The study employs qualitative methods of research in term of content and doctrinal analysis. The content analysis entails reviewing relevant literature on all the primary and secondary materials on the issues of the administration of the unclaimed moneys in Malaysia. Meanwhile, doctrinal analysis involves examining materials such as statutory provisions, treaties, and other legal and non-legal literature.

The Governing Law of the Unclaimed Moneys in Malaysia

Based on the Unclaimed Moneys Act 1965 (Act 370), there are two types of unclaimed moneys namely, moneys in court and moneys in companies and firms.

Unclaimed moneys in court are governed by Section 5 of the Unclaimed Moneys Act 1965. The unclaimed moneys in court refer to any money that has been or is paid into any court under any written law or rule of court or by virtue of any rule of practice or procedure as prescribed in Section 5(1) of Unclaimed Moneys Act 1965. In such cases, if there is no claim application action suit or other proceeding for or in respect of such money has been or is made or instituted for a period of 15 years after the last payment out of court of any part of such money or after such payment into court, the proper officer of such court having the control or custody of money paid into court shall, as soon as practicable after the termination of such period of 15 years, pay such money into the Consolidated Revenue Account. However, in any case where the documents filed in the court disclose the existence at any time of a person who would have been entitled to make or institute a claim application action suit or proceeding as previously mentioned but for want of age or other legal disability or who would have become so entitled on the happening of some event, the period of 15 years shall not in any event be deemed to have commenced to run until the day on which such person became of age or such other disability was determined or such event happened or until the day on which such person died, whichever day was the earlier (Unclaimed Moneys Act 1965).

Meanwhile, the other type of unclaimed moneys refers to the moneys in companies and firms. Based on section 8 of the Unclaimed Moneys Act 1965, the unclaimed moneys in companies and firms means:

“unclaimed moneys” means—

- (a) all sums of money which are legally payable to the owner and have remained unpaid for a period of not less than one year after they have become payable;*
- (b) all sums of money to the credit of an account that has not been operated in whatever manner by the owner for a period of not less than seven years; and*
- (c) all sums of money to the credit of a trade account which has remained dormant for a period of not less than two years.*

The management of unclaimed moneys is wholly under the duty and responsibility of the Accountant General who is appointed by the Finance Minister as Registrar of Unclaimed Moneys. Appointment of Registrar of Unclaimed Moneys is made pursuant to Section 9(1) and Section 9(2) of the Unclaimed Moneys Act 1965. The Registrar shall credit all unclaimed moneys which have been lodged with him to the Consolidated Trust Account while moneys in court will be paid into the Consolidated Revenue Account. It must be noted that any unclaimed moneys credited to the Consolidated Trust Account shall, on the lapse of 15 years from the date the moneys were credited to the Consolidated Trust Account, be transferred to the Consolidated Revenue Account (Unclaimed Moneys Act 1965).

The Consolidated Trust Account is an account which kept all moneys received subject to a trust while the Consolidated Revenue Account is an account which kept all moneys other than moneys in the Consolidated Trust Account and Consolidated Loan Account. These two accounts are the separate accounts that shall be maintained by the financial authority in respect of the Federal Consolidated Fund (herein refers to YDPA Fund) (Financial Procedure Act 1957).

All the companies, firms, and boards established to manage funds relating to retirement benefits, registered and cooperative societies, corporations, public authorities and trade unions are required by this Unclaimed Moneys Act 1965 to keep and maintain unclaimed moneys records. The said entities must eventually submit such reports to the Registrar not later than the 31st March of each year. Failure to comply with the enforcement provisions can result in a fine not exceeding RM20,000 and for a subsequent offence, a fine of up to RM1,000 for each day the offence persists. This regulation was already underlined under section 10 of the Unclaimed Moneys Act 1965.

It must be noted that when the money has been deemed as unclaimed moneys and placed under the Registrar of Unclaimed Moneys, the owner can make an application to refund the money and there is no expiry date to claim the refund as stated in Section 10(6) of Unclaimed Moneys Act 1965. The owners of unclaimed moneys are entitled to be refunded without free from interest, meaning that there is no addition or deduction from the original amount, in accordance with Section 11(3) of Unclaimed Moneys Act 1965.

In the event of the owner’s death, his personal representative as provided under Section 8 of the Act (where the section defines “owner” to include a personal representative namely an executor or administrator of such owner’s estate), can step into the owner’s shoes to recover the moneys from the Registrar on behalf of the deceased’s estate by filing an application. The personal representative (the “applicant” in this present context) must provide sufficient proof of identification to prove his locus standi and to validate the claim (Akmal Hidayah, Noor Azlina, Azhani, 2018).

The Issues Relating to the Unclaimed Moneys in Malaysia

Firstly, for the issue relating to the ownership of the unclaimed moneys, the management of unclaimed moneys is wholly under the duty and responsibility of the Registrar of Unclaimed Moneys who is appointed under Section 9 of the Unclaimed Moneys Act 1965.

Interestingly, the rule that remaining money from the inactive account for more than seven years that must be delivered to Registrar of Unclaimed Moneys is not applicable to the unclaimed moneys in Tabung Haji. This is because, Tabung Haji Act 1995 (Act 535) provided that the Lembaga of Tabung Haji has been declared under Section 8 of the Unclaimed Moneys Act 1965, not to be a company to which Part II of that Act applies, that all unclaimed moneys held by the Lembaga shall be entered in a register kept by the Chief Executive Officer of the Lembaga Tabung Haji. Therefore, notwithstanding any law to the contrary, all unclaimed moneys in Tabung Haji shall be held under the Fund of the Lembaga Tabung Haji until those moneys are paid to the appropriate depositors at any time subsequent thereto (Tabung Haji Act 1995). This rule is in line with the fatwa Muzakarah of the Fatwa Committee of the National Council for Islamic Affairs which decided that Tabung Haji cannot submit money from inactive accounts from their depositors to the Registrar of Unclaimed Moneys. This fatwa is based on that there has been an agreement between the depositors with the Tabung Haji who placed Tabung Haji as trustee for carrying out depositors' deposit transactions. Depositors' rights on the savings still remain and are not cut off despite the accounts had been inactive for seven years (Muzakarah Jawatankuasa Fatwa, 2015). Therefore, it is understood that the unclaimed moneys in Tabung Haji revert to Lembaga Tabung Haji and not to the Registrar of Unclaimed Moneys.

Nevertheless, in regard to Islamic principle, the Muzakarah of the Fatwa Committee of the National Council for Islamic Affairs 99th held on 4-6th May 2012 decided that the unclaimed moneys and properties of Muslims must revert to Baitulmāl as one of the sources and locate under the category of non-seasonal property (ghayr dawriyyah). However, as far as this principle contradicts the law stipulated by the Federal Constitution, the Muzakarah agreed to propose that the Islamic financial institutions use a different mechanism, i.e., by inserting aqad tabarru' in the terms of agreement in order the unclaimed moneys and property of Muslims can be transferred to Baitulmāl so that the property can be utilized for the benefits of Muslims. This also has been supported by a fatwa from Selangor, whereby pursuant to Section 47 of the Administration of the Religion of Islam (State of Selangor) Enactment 2003 [En. 1/2003], the Fatwa Committee for the State of Selangor, on the direction of His Royal Highness the Sultan prepared the fatwa as set out in the Schedule and is published pursuant to Subsection 48(6) of the Enactment, has decided on the rule pertaining to transfer the unclaimed moneys of Muslims to Baitulmāl (Muzakarah Jawatankuasa Fatwa, 2015).

In this respect, the fatwa executing body must play its roles and take an initiative to uphold this fatwa so that this fatwa can be executed and implemented at the Federal level. Administratively, for State level, the fatwa must be issued by the State Islamic Religious Council (SIRC) as fatwa from Muzakarah of the Fatwa Committee of the National Council for Islamic Affairs does not bind the States until it is adopted. In this relation, it was also suggested that the Unclaimed Moneys Act 1965 should be amended so that Baitulmāl can also be listed as the recipient for the unclaimed moneys for Muslims (Siti Mashitoh, 2008; Md Yazid, 2017).

Secondly, on the issue of categories of the unclaimed moneys, all the unclaimed moneys will be transferred to the Registrar of the Unclaimed Moneys and put in the Federal Consolidated

Account. However, the owner or the beneficiary owner may still claim all these moneys by making an application for a refund. The previous research also submitted that the unclaimed moneys are mixed between the moneys of the owner who is still alive and who is already dead. Therefore, for the unclaimed money of the deceased, until the moneys are not claimed and administered by the beneficiaries, they remain not administered in the Federal Consolidated Fund (Rahmawati, 2019).

For the unclaimed moneys in Tabung Haji, Section 23 of Tabung Haji Act 1995 provided that all unclaimed moneys in Tabung Haji shall be held under the Fund of the Lembaga Tabung Haji until those moneys are paid to the appropriate depositors at any time subsequent thereto. It can be understood that the Fund of the Lembaga Tabung Haji comprised of the moneys of the deceased and living depositors. Therefore, as long as the moneys of the deceased are not claimed and administered by the beneficiaries, their unclaimed moneys in the Fund of the Lembaga Tabung Haji remain not administered.

Thirdly, for the utilization of the unclaimed moneys, the Unclaimed Moneys Act 1965 provided that the unclaimed moneys in firm and company held by the Registrar will revert to the Consolidated Trust Account and then transferred to the Consolidated Revenue Account after 15 years. Meanwhile, for the unclaimed moneys in court, the moneys automatically will revert to the Consolidated Revenue Account. Once the moneys credited to Consolidated Revenue Account, the beneficiary owner of the moneys can still claim the moneys at any time as there is no limitation of period imposed. Nevertheless, it is pertinent to note that, the unclaimed moneys which are credited into the Consolidated Fund may be kept with such bank or banks as the financial authority shall, from time to time, direct and all such moneys paid into a bank shall be deemed to be public moneys, the property of the Federation or of a State, as the case may be, lent by the Federation or the State to the bank. In addition, Section 8(3) of the Financial Procedure Act 1957 has clearly provided that the moneys standing to the credit of the Federation with any bank, or otherwise held by the Federation, may be invested by the Minister;

- (i) on deposit in any bank;
- (ii) in any of the investments authorized by the Trustee Act 1949 [Act 208], for the investment of trust funds;
- (iii) in any joint fund maintained by the Crown Agents for such investment; or
- (iv) as otherwise authorized by federal law or by resolution of the Dewan Rakyat, and the investments together with any interest received therefrom shall form part of the Federal Consolidated Fund.

Although the moneys are invested by the Government, the Government still holds responsibilities to pay the moneys to the claimant of unclaimed moneys as Section 14A of Financial Procedure Act 1957 provides that where any law provides for the payment of any refund, rebate or drawback in respect of any money paid into the Consolidated Fund under the authority of any law, and accounted in the Consolidated Revenue Account, the amount of the refund, rebate or drawback shall be charged on the Consolidated Fund. Apart from that, Section 13(1) of the Unclaimed Moneys Act 1965 also provided that whereby if any claimant makes any demand against the Registrar for any unclaimed moneys credited to the Consolidated Trust Account, the Registrar upon being satisfied that the claimant is the owner of the money shall authorize payment thereof to be made to him out of the Consolidated Trust Account or, if the money had been transferred to the Consolidated Revenue Account, the Minister shall direct payment of a like amount to be made to him, and such amount shall be charged upon the

Consolidated Fund and be payable out of the Consolidated Revenue Account (Unclaimed Moneys Act, 1965).

Therefore, despite the unclaimed moneys of the deceased held by the Registrar is categorised as an unclaimed estate, but the moneys are not left freeze, despite of, the Minister may invest the moneys subjected to the Trustee Act 1949.

With regards to the unclaimed moneys in Tabung Haji, Section 20 of the Tabung Haji Act 1995 provided that the assets of the Fund shall be invested wholly or partly within Malaysia or outside Malaysia and in such manner as the Lembaga may think fit. However, there is no provision stated that the investment done by the Lembaga Tabung Haji is subjected to the Trustee Act 1949. Nevertheless, Section 24 of the Tabung Haji Act 1995 has provided on the Government's guarantee of payment. It is stated that if any expenditure of the Lembaga in relation to withdrawals by depositors cannot be met out of the Fund or the Reserve Fund it shall be charged on and payable out of the Consolidated Fund. Apart from that, any payment out of the Consolidated Fund shall as soon as practicable be repaid by the Lembaga to the Consolidated Fund and until it is repaid it shall be a debt to the Government and a first charge on the assets of the Fund and the Reserve Fund. Therefore, although the unclaimed moneys in Tabung Haji is the unclaimed estates, the estate is not left frozen as the estates can be invested by Lembaga Tabung Haji.

Fourthly, in the context of the separation of the fund, the unclaimed moneys that are put under the custody of the Registrar of the Unclaimed Moneys are not separated from the moneys of deceased and living owner. However, based on the conducted interview, the research finds that there is no necessity to have a separate fund between the moneys of living owner and the dead. The Unclaimed Moneys Act 1965 provides that all unclaimed moneys will be credited to Consolidated Revenue Account and invested as revenue of the Government for the development of the country. On the other hand, the moneys are not separated between the moneys of Muslims and non-Muslims. However, it is recommended that if the moneys can be separated between the moneys of Muslim and non-Muslim as the decision of the Muzakarah of the Fatwa Committee, of the National Council for Islamic Affairs supported with fatwa of Fatwa Committee for the State of Selangor that the unclaimed moneys and properties of Muslims must revert to Baitulmāl as one of the sources and locate under the category of non-seasonal property (*ghayr dawriyyah*) so that the property can be utilized for the benefits of Muslims (Rahmawati, 2019). As the unclaimed moneys only consist of the moneys, there is no issue on the separation between the immovable and movable estates.

However, for the issue of Islamic principle for the mixed wealth between Muslims and non-Muslims, the situation is same as applicable to Islamic banks whereas their customer is from Muslims and non-Muslims. In respect to that, the Shariah Advisory Council of Central Bank Malaysia in their meeting no. 58 on 27th April 2006 in the opinion that Islamic institutions are permitted to accept an application to open a deposit account or investment account from the customers without investigating whether their wealth is lawful or unlawful (Bank Negara Malaysia, 2010). This is in line with the opinion of Syariah Advisory Council of Kuwait Finance House, which stated that Islamic banking is permitted to make a transaction with conventional banks because the Prophet (P.B.U.H) also made a transaction with Jews but with a condition that the transaction is permitted by Shariah (Kuwait Finance House, n.d; Muhammad Othman, 2001). Therefore, it can be understood from the above decision that the

issue of mixed wealth did not arise, whereby the YDPA fund can accept the unclaimed moneys from non-Muslims and no need to investigate whether their wealth is lawful or unlawful.

For the unclaimed moneys in Tabung Haji, the moneys also did not separate between the moneys of living person and the dead. This is because Section 23 of Tabung Haji Act 1995 provided that notwithstanding any law to the contrary, all unclaimed moneys shall be held under the Fund until those moneys are paid to the appropriate depositors at any time subsequent thereto. For this purpose, depositors in respect of any individual person, includes that individual's heirs, executors, personal representatives, administrators, assigns, lawful attorney and agent. However, there is no issue on the separation between the movable and immovable property as the unclaimed moneys only consists of money. It is pertinent to note that the unclaimed moneys in Lembaga Tabung Haji only consist of moneys for Muslims as Section 16(1) of Tabung Haji Act 1995 has clearly stated that the Lembaga may receive deposits from any individual Muslim person who is a citizen of and residing in Malaysia.

Fifthly, on the limitation to claim the unclaimed moneys, Section 10(6) of Unclaimed Moneys Act 1965 provided that the owner can make an application to refund the money at anytime as there is no expiry date to claim the refund and the money will be refunded without any interest given, accordance with Section 11(3) of Unclaimed Moneys Act 1965. Although Section 8(3)(a) of the Financial Procedure Act 1957 provides that moneys standing to the credit of the Federation with any bank, or otherwise held by the Federation, may be invested by the Minister, but the investments together with any interest received therefrom shall form part of the Federal Consolidated Fund. Apart from that, Section 13(1) of the Unclaimed Moneys Act 1965 provided that the registrar shall pay any lawful claimant, whereby if any claimant makes any demand against the registrar for any unclaimed moneys credited to the Consolidated Trust Account, the registrar upon being satisfied that the claimant is the owner of the money shall authorize payment thereof to be made to him out of the Consolidated Trust Account or, if the money had been transferred to the Consolidated Revenue Account, the Minister shall direct payment to be made to him, and such amount shall be charged upon the Consolidated Fund and be payable out of the Consolidated Revenue Account (Unclaimed Moneys 1965).

For the unclaimed moneys in Tabung Haji, Tabung Haji Act 1995 provided that all unclaimed moneys in Tabung Haji shall be held under the Fund of the Lembaga Tabung Haji until those moneys are paid to the appropriate depositors at any time subsequent thereto. Section 22 of the Act also provided that the Lembaga may, at its absolute discretion, determine at any time whether it is prudent to declare a sum as distributable profit in respect of any particular period or year of the Fund and if it determines to so declare, the Lembaga shall, with the approval of the Minister, declare a sum as distributable profit in respect of any particular period or year of the Fund. If a declaration is made, the Lembaga shall also determine the manner, amount and time for crediting such distributable profit to each depositor. From the above Act, it is understood that the depositors or the beneficiary owner can claim the unclaimed moneys at Tabung Haji at any time as there is no limitation to claim that moneys provided with distributable profit, if any. However, it is reported that beginning 2018, the inactive account which means including the unclaimed moneys are not be entitled to annual or *haji hibah* (Tabung Haji, n.d).

The rule of submission for the unclaimed moneys from the inactive account for more than seven years to the registrar also did not apply to the unclaimed moneys in the Employees' Provident Fund (EPF). This is because Section 51A of the Employees Provident Fund Act 1991 (Act

452) provided that the Employees Provident Fund Board may transfer to the Registrar of Unclaimed Money, all sums of money standing to the credit of a member of the Fund which have not been claimed when such member has attained the age of 100 years or any age limit as prescribed by the Board, whichever is higher. Any application or claim relating to the credit of such member of the Fund after such transfer has been effected shall be forwarded to the Registrar of Unclaimed Money according to the Unclaimed Moneys Act 1965 (Employees Provident Fund Act 1991).

Therefore, the previous research proposed that for the unclaimed moneys in Tabung Haji, the moneys can only be claimed when such a member has attained the age of 100 years as prescribed by the Employees Provident Fund Act 1991. This is in line with the the decision of the Muzakarah of the Fatwa Committee, of the National Council for Islamic Affairs supported with fatwa of Fatwa Committee for the State of Selangor that the unclaimed moneys and properties of Muslims must revert to Baitulmāl as one of the sources under the category of non-seasonal property (*ghayr dawriyyah*) so that the property can be utilized for the benefits of Muslims (Rahmawati, 2019).

Last but not least, on the amount of unclaimed moneys, Ahmad Hidayat (2008) stated that the majority of unclaimed estates belongs to Muslim and in 2008, RM1.8 billion was deposited and classified as unclaimed moneys by the Registrar of Unclaimed Moneys under Unclaimed Moneys Act 1965. In 2011, it was reported that the unclaimed moneys held by the Registrar amounted to RM4 billion. Meanwhile, the statistics based on Workshop on Amendment of the Unclaimed Moneys Act 1965 in 2014 indicated that the total of unclaimed movable property amounted to RM6.5 billion until 2014. Based on Account General's Department annual report in 2015, there were about 1,719 unclaimed submissions with a total amounted of RM666.8 million for that year, compared to 1,724 submissions which amounted to RM512.9 million in 2014. In 2016, the statistic shows that the unclaimed moneys worth RM5.6 billion indicates that the smallest sum was 2 sen while the largest amount was totalled RM18,000 from an insurance payout. As of June 2017, the total amount of unclaimed moneys was RM5.779 billion consist of 55 million records since 1977. The largest sum ever refunded to an individual was about RM6 million while the smallest amount was 39 cent. Nevertheless, the total unaudited amount for unclaimed moneys up to June 2017, stood at RM8.8 billion and RM1.579 billion has been refunded to its owner. On the other hand, up to 31st October 2017, the amount increased to RM5.96 billion (Rahmawati, 2019).

Apart from that, Rahmawati (2019) reported that, up to 31st December, 2018, the total amount of unclaimed moneys received by the Registrar for that year, submitted from 1,101 entities were RM795 million, which concluded that the total amount of unclaimed moneys from 1975 until 31st December 2019 was RM10.018 billion with 38 880 submissions. Meanwhile, the total amount of moneys have been refunded until 31st December 2018 was RM252 million, which made the total amount of moneys refunded from 1977 until 31st December 2019 is RM1.910 billion. The smallest sum ever refunded was 1 cent. Apart from that, up to 15th December 2018, the amount of the unclaimed moneys credited into the Consolidated Revenue Account on that year was RM134 million, which concluded the total amount from 1975 was RM1.594 billion. This means that about RM6.514 billion of unclaimed moneys is are still left in Consolidated Trust Account, waiting to be claimed or credited to Consolidated Revenue Account after period of 15 years. Recently, the Accountant General's Department (AGD) reported that a total of RM11.6 billion remains unclaimed during 2022 despite its best efforts to return said money to

the rightful owners (Ashley, 2022). Apart from that, for the unclaimed moneys in Tabung Haji, it has been reported in 2017 that the money are worth of RM65 million (Rahmawati, 2019).

Conclusion

It has been settled by law that the unclaimed moneys are put under the custody of the Registrar of the Unclaimed Moneys and governed by the Unclaimed Moneys Act 1965 which comprises of the moneys of deceased and who is still alive. Until the moneys of the deceased are left unclaimed by the beneficiaries, the moneys remain not administered with the Registrar of the Unclaimed Moneys and put in the Federal Consolidated Account. The law provides that the unclaimed moneys in the Consolidated Fund can be invested by the Government. The unclaimed moneys in the fund only consists of moneys but they are mixed between moneys of Muslim and non-Muslim, as well as deceased and living owner. There is no limitation of time for the owner and beneficiaries' owner to claim the money provided without any interest.

Interestingly, the rule that remaining money from the inactive account for more than seven years that must be delivered to Registrar of Unclaimed Moneys is not applicable to the unclaimed moneys in Tabung Haji. However, the unclaimed moneys in Tabung Haji held by Lembaga of Tabung Haji and governed by Tabung Haji Act 1995. Similarly, as the unclaimed moneys of the deceased in Tabung Haji are not claimed by the beneficiaries, the moneys will remain not administered. The law provides that the moneys can be invested with the Government's guarantee of payment. The unclaimed moneys in Lembaga Tabung Haji comprise only Muslim moneys but mixed between moneys of deceased and living owners. There is no limitation period to claim the moneys, and the moneys are paid with distributable profit but, starting from 2018, the unclaimed moneys are not entitled anymore to receive annual or *haji hibah*. In this research, it is proposed that the time limitation to claim the unclaimed moneys with Tabung Haji until such depositor has attained the age of 100 years as provided in Employees Provident Fund Act 1991.

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References

- Ahmad Hidayat Buang. (2008). Appreciation of Syari'ah Principles in Property Management in Contemporary Malaysia Society. *Shariah Journal*, Vol. 16, Special Edition, 555-566.
- Akmal Hidayah Halim, Nor Azlina Mohd Noor, Azhani Arshad. (2018) Administration of Unclaimed Estates in Malaysia: The Peculiarities of Unclaimed Money, Undistributed Fund and Bona Vacantia. *Journal of Social Sciences Research (JSSR)*, Vol 4, No. 12, p. 1075-1079.
- Ashley Yeong. (2022). AGD reports RM11b in unclaimed monies, urges public to check for forgotten savings, funds. *Malaymail*.
- Bank Negara Malaysia. (2010). *Syariah Resolution in Islamic Finance*. Kuala Lumpur: Bank Negara Malaysia.
- Employees Provident Fund Act 1991.
- Financial Procedure Act 1957.
- Hamidon, H. A., Mokhtar, N. N., Zainol, N. N., Abdullah, M. I., & Sulaiman, M. A. (2022). The Issue of Unclaimed Property In State Of Selangor. *Journal of Islamic, Social, Economics and Development (JISED)*, 7(46), 37 - 47.

- Kuwait Finance House. (n.d). *Al-Fatawa al-Syari'yyah fi al-Masail al-Iqtisasyiyah*. n.p: Kuawait Finance House.
- Md. Yazid Ahmad et. al. (2017). *Baitulmāl's Potential as Trustee for Unclaimed Moneys of Muslims*. *International Journal of Civil Engineering and Technology (IJCIET)*, Vol. 8, Issue 12, p. 593–599.
- Mohamad, H. F. (2022). RM460 juta Wang Menunggu Dituntut di AmanahRaya. *Berita Harian*.
- Muhammad Othman Syabir. (2001). *Al-Muamalat al-Maliyah al-Muasirah fi al-Fiqhi al-Islami*. Jordan: Dar an-Nafais.
- Muzakarah Jawatankuasa *Fatwa* Majlis Kebangsaan bagi Hal Ehwal Ugama Islam Malaysia. (2015). *Kompilasi Pandangan Hukum*. Selangor: JAKIM.
- Rahmawati Mohd Yusoff, (2019). *The Administration of Unclaimed Estates in West Malaysia: Formulating A Legal Framework*, Unpublished Doctoral Thesis. International Islamic University Malaysia.
- Siti Mashitoh Mahamood. (2008). *Isu-isu Berbangkit dalam Pengurusan Baitulmal di Malaysia: Pemakaian Akta Wang Tak Dituntut 1965 (Akta 370) & Bidang Kuasa Baitulmal Dalam Harta Orang Islam*. *Jurnal Pengurusan JAWHAR*, Vol. 2, No. 1, 99-113.
- Tabung Haji Act 1995.
- Tabung Haji. (n.d). [Tabunghaji.gov](https://www.tabung-haji.gov.my/en/savings/faq/savings). Retrieved from <https://www.tabung-haji.gov.my/en/savings/faq/savings>.
- Trustee Act 1949.
- Unclaimed Moneys Act 1965.