T.C.

Social Sciences University of Ankara

Institute of Islamic Studies

Islamic Economics and Finance Department

TAXATION OF SUKUK IN TURKEY

Master Thesis

Kayhan Refik Okur

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ACCEPTANCE AND APPROVAL PAGE

ABSTRACT

Islamic finance system, which has the potential to develop in non-Muslim countries as an alternative finance, is developing not only the banking sector but also other sectors. In other markets such as capital markets, financial markets, commodity markets, it creates a domino effect and creates a great impact on the economy. Therefore, a serious legislative infrastructure is needed for the development of this sector. This study, in addition to providing information on the Islamic finance products such as murabaha, musharaka, ijara, salam, istisna, mudaraba and sukuk especially examines on sukuk (lease certificate) and types of sukuk. Then, after giving information about the improvement of Islamic finance in Turkey, it describes the kinds of sukuk being implemented in Turkey. As a core study, taxation of sukuk in Turkey and sukuk in Turkish tax system are examined specifically. Moreover, in the United Kingdom, Malaysia, and Luxembourg, which are selected as comparable examples, the development of Islamic finance and taxation of sukuk according to the country's legislation are being studied. Finally, the recommendations and conclusion are included.

Keywords:

Islamic financial products, Sukuk, Taxation of sukuk, Sukuk in Turkey.

ÖZET

Alternatif finans olarak Müslüman olmayan ülkelerde de gelişme potansiyeline sahip olan Katılım Finans sistemi sadece bankacılık sektörünü değil bununla birlikte diğer sektörleri de beraberinde geliştirmektedir. Sermaye piyasaları, finans piyasaları, mal piyasaları gibi diğer piyasalarda da domino etkisi yaratarak ekonomide büyük bir etki oluşturmaktadır. Dolayısıyla bu sektörün gelişimi için ciddi bir mevzuat altyapısına ihtiyaç vardır. Bu çalışmada, Katılım Finans ürünlerinin çeşitleri hakkında bilgi verilmesinden ziyade özellikle sukuk (kira sertifikası) ele alınarak sukuk ve çeşitleri ile özellikle de Türkiye'de uygulanmakta olan sukuk çeşitleri anlatılmaktadır. Tezin asıl amacı ise Türkiye'de islami finans ürünü olan sukuk'un vergilendirilmesi, Türk Vergi mevzuatındaki yeri ve vergi kanunlarındaki ilgili maddeleri üzerinde çalışmaktır. Ayrıca mukayese için örnek olarak seçilen İngiltere, Malezya ve Lüksemburg'da Katılım Finansı'nın gelişimi ve ülke mevzuatlarına göre sukuk'un vergilendirilmesi ele alınmıştır. Son olarak, tavsiyeler ve sonuç bölümüne yer verilmektedir.

Anahtar Kelimeler:

Katılım finans ürünleri, Sukuk, Sukuk'un vergilendirilmesi, Türkiye'de sukuk.

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ABBREVIATIONS

AAOIFI:	Accounting and Auditing Organization for Islamic Financial Institutions
ALC:	Asset Leasing Company
BBA:	Bai'Bithaman Ajil
BITT:	Banking and Insurance Transaction Tax
BNM:	Bank Negara Malaysia (Central Bank of Malaysia)
BOE:	The Bank of England
BOT:	Buy, Operate and Transfer
BSMV:	Bank and Insurance Transaction Tax (Banka ve Sigorta Muameleleri Vergisi)
CAB:	Central Advisory Board
COMCEC:	Committee for Economic and Commercial Cooperation of the Organization of the Islamic Conference
CIS:	Commonwealth of Independent Countries
CIT:	Corporate Income Tax
CTA:	Corporate Tax Act
DIFC:	Dubai International Financial Center
DPT:	State-Planning Organization (Devlet Planlama Teşkilatı)
EPC:	Engineering, Procurement and Construction
EU:	European Union
E & Y:	Ernst & Young
FCA:	Financial Conduct Authority
FRA:	Prudential Regulation Authority
GMC:	Government Musharaka Certificates
GVK:	Gelir Vergisi Kanunu
IECONS:	Islamic Economics System Conference
IF:	Islamic Finance
IFF:	Islamic Finance Foundation

IFIs:	Islamic Financial Institutions
IIFC:	International Islamic Financial Centre
IIFM:	International Islamic Financial Market
IIFA:	International Islamic Fiqh Academy
IFSB:	Islamic Financial Services Board
IMF:	International Monetary Fund
INCEIF:	International Centre for Education in Islamic Finance
ISAs:	Individual Savings Accounts
ISRA:	The International Sharia Research Academy for Islamic Finance
LFSA:	Labuan Financial Services Authority
LIBOR:	London Interbank Offered Rate
LIR:	L'impot Sur Le Revenu
MIA:	Malaysia Institute of Accountant
MIFC:	Malaysia International Islamic Financial Centre
Number:	No
OECD:	The Organisation for Economic Co-operation and Development
PBAT:	Participation Banks Association of Turkey
PBUH:	Peace Be Upon Him
PIT:	Personal Income Tax
RPGT:	Real Property Gains Tax
SBB:	Strateji Bütçe Başkanlığı (The Precidency Strategy and Budget Office)
SC:	Securities Commission
Sc:	Section
SDG:	Sudanase Pound
SDLT:	Stamp Duty Land Tax
SFHs:	Special Finance Houses
Shell MDS:	Shell Middle Distillate Synthesis
SPC:	Special Purpose Company
SPV:	Special Purpose Vehicle

TCGA:	Temporary non-residents and Capital Gains Act
TBMM:	The Grand National Assembly of Turkey
TKBB:	Türkiye Katılım Bankaları Birliği
UK:	United Kingdom
USA:	United States of America
USD:	United States Dollar
UTRN:	Unique Transaction Reference Number
VAT:	Value-Added Tax

1. INTRODUCTION

Islamic finance has been gradually developed worldwide in the capital market and insurance sector as well as in the banking sector. It has been developing through the demands of the people who refrain from the main prohibitions such as riba (interest), gharar (uncertainty) and maysir (gambling) according to their beliefs. The players of this sector are supposed to manufacture alternative financial instruments for their potential customers' needs. The needs of the customers can shape both the Islamic finance markets and the capital markets around the world. The instruments of IF such as murabaha, musharaka or sukuk are the most commonly used financial products in the market. All of them are very important for this market place but in particular, sukuk plays a critical role for the people who want to invest their money in the sector which is based on the Islamic rules. Sukuk is commonly known as an Islamic certificate. It is used as a financial instrument, which permits investors to share profits from the financed asset or activity. Furthermore, sukuk has an important role as a trigger of the development in many countries, which need infrastructural investments according to the principles of Islamic finance.

In Turkey, both private and state agents have increasingly improved Islamic Finance products. Recently, new state-owned participation banks have been established such as Vakıf Participation Bank (window), Ziraat Participation Bank (window) and Emlak Participation Bank (full-fledged). Although the Muslim population of Turkey is 99.8%, participation banks have only 6.5 % share in the banking sector. In Turkey, this sector has created new necessities in tax system. Because in this system, money is not sold or purchased like a commodity. Since commodity passes from a provider to customer and each transfer causes a tax such as stamp duty, expenditure tax etc. Therefore, it brings with it a necessity for the legislation regarding the Islamic finance instruments and taxes on them.

Tax can be defined as the amount of money collected by the state or legal entities authorized by the state to cover public spending, and by law, ultimately and unconditionally, from real or legal entities.

Although there are many words in the Qur'an that indicate various types of taxes (zakah/almsgiving, jizya = tax per head, fai/fay= wealth taken peaceably from an enemy, harac = land tax on non-Muslims), there is no word that expresses the term tax as a whole. In parallel with the expansion of the Islamic geography a rich terminology about tax has developed. In the classical sources, in addition to determined taxes by Qur'an and Sunnah, there are additional taxes and related terms developed such as dariba (means tax in Arabic), maks, wazifa, takalif (occasional taxes), rusum (excise taxes), avariz (property tax), bâc (market tax).

In Islam, taxes can be divided in two parts. They are: (i) taxes based on nass (Qur'an and Sunnah), (ii) taxes based on authority = ulu'l-amr. The taxpayers, rates and consumable place of the zakah/almsgiving), which functions as a function to regulate the distribution of income among Muslims among the fixed taxes, which are regulated by nass (Qur'an and Sunnah), is determined by how and the role of the state is only implementation. As with other worships, they are not authorized to make changes or spend on different items. The discretion of the tax is left to the management as a rule, provided that the principle of justice is taken as a basis in taxes other than zakat (Kenanoğlu, 2013).

In the Ottoman state, the taxes were divided into two parts: (i) Sharia / religious taxes (zakah/almsgiving, ashar (agricultural tax), harac (land tax on non-Muslims), jizya (tax per head), (ii) urfi taxes (custom-based non-Shari taxes). With the establishment of the Republic of Turkey, within a certain period, Ottoman tax system was abolished, and the tax laws of European countries were adopted. Income and Corporation Taxes, Tax Procedure Laws have been adopted based on Germany tax laws(Öncel, Mualla & Çağan, 1985).

On the other hand, there is a discussion about tax and Zakah payments. In these arguments it is said that the payment of taxes replaces the Zakah from the fiqh point of view. In other words, the people who pay their taxes regularly do not need to pay Zakah. AAOIFI standards explain differences between zakah and taxation as follows:

"Literarily, Zakah means blessing, purification, increasing and cultivation of good deeds. It is called Zakah because it blesses the wealth from which it is paid and protects it. In Sharia, Zakah is an obligation in respect of funds paid for a specified type of purpose and for specified categories. It is a specified amount prescribed by Almighty Allah for those who are entitled to Zakah as specified in Holy Qur'an. Tax does not rule out obligation to Zakah because of the differences in their nature, in their bases and in the causes for the benefit of which they are spent. Moreover, tax is not deducted from the amount of the due Zakah. However, the tax that was due before the end of the lunar year is deducted prior to arrival of the Zakah base because it represents a liability (account payable)."(AAOIFI, 1998b).

From the fiqh perspective, additional taxas are permitted if the needs. These conditions are summarized such as follows: (i) intense need, (ii) just and equitable distribution, (iii) spending of new taxes on the interst of ummah, (iv) taxes sohuld not be burdan (v) consultation with the wise and religiously knowledgeable persons (Hussain & Khan, 2019). But, as applied today, tax treatmet is different from Zakah obligation. Moreover, the objective of the taxation is different from Zakah. Tax is an obligation for the state revenue required for the expenditures of administration, national defense and security, state institutions, infrastructure, public health (building hospitals) and national education. Zakah aims to decrease inequality, alleviate poverty and establish social justice as an ideal tax system. Zakah is a spiritual and moral obligation however modern tax is a statutory obligation implemented according to a statute law. On the other hand, throughout history, revenues of the Islamic states were constituted of *Zakah*, taxes and tariffs. In Holy Qur'an Almighty Allah has mentioned *Zakah*, but not taxes. Many of Islamic scholars agreed that a government may impose taxes or tariffs, besides *Zakah*. The implementation of taxes has several reasons such as the treasury of the state is not having enough money to meet country's expenditures or to provide all kinds of infrastructure in the country. Because of the like reasons, Zakah and taxes have similarities and differeces from one another.

The foremost target of the study is to examine the taxation of sukuk as the most used product in Islamic finance. Firstly, the study review previous studies the literature review in this area. Secondly, the study explains the most used Islamic finance products to understand their working system and their basic philosophy. They are: murabaha, musharaka, mudaraba, ijara, istisna, salam. Because different types of sukuk based on these instruments such as ijara sukuk, mudaraba sukuk, salam sukuk etc. In the fourth part, as a case study, Turkey's sukuk tax legislation is examined with all relevant laws addressed one by one. In the following section of the thesis, some countries are selected to compare the regulation of the sukuk's tax systems around the world and their tax systems on sukuk income are studied. Finally, the study concludes findings and policy recommendation about this issue.

The main questions of the study are:

(i) How about the tax regulations on Sukuk as an Islamic Finance product in Turkey?

(ii) How is the income of sukuk being taxed in Turkey?

(iii) Which country has adapted the Sukuk product the most with its regulations?

(iv) What is the impact of taxation on the Islamic Finance products particularly sukuk?

1.1 METHODOLOGY

The study is a qualitative study that uses principal and secondary sources of data to describe, analyse and compare taxation of Islamic Financial Instruments and especially sukuk taxation in Turkey. This study includes the review of the written works, statistics, documents, laws, practices and works of related international institutions, and open sources of related national institutions. To develop the study, it also includes analysis of data from industry and economic reports, tax laws, research journals, and macroeconomic data. The study aims to put forward taxation of the sukuk revenue according to tax legislations.

1.2 LITERATURE REVIEW

Various studies and researches have been fulfilled over the last two decades, dealing with different features related to taxation/tax regulation and legislation on the Islamic finance products. The reviewed literature seems to point out that the changes on the finance market from conventional to participation brings into question “what will be the best regulation on Islamic Finance products and their taxation?” Many countries which have adopted Islamic Finance Industry have changed or improved their related legislation though some countries have crafted their legislations better than the others. The reviewed literature / studies is divided into two sections. (i) Some studies focus on taxation of Islamic finance products within different jurisdictions. (ii)Some specific studies focus on sukuk taxation, particularly in Turkey. However, general and sukuk based studies do not discuss the tax regulation systems from all aspects.

(i) Studies that focus on taxation of the Islamic finance products in specific countries:

Pakistan: Bukhari & Haq (2009) studied "Taxation of Islamic financial instruments" in Pakistan. The authors criticized their fixed return techniques under Islamic finance rules. The main target of this study is to examine tax treatments of the Islamic financial instruments. The authors examined the Income Tax Ordinance and the Board of Revenue in Circular No: 7 of 1981. According to these regulations, they explained taxation of profit-sharing accounts, taxation of payments under musharaka, taxation of mudaraba and taxation of ijara (leasing) operations. Also, they discussed the taxation of management fee. According the Income Tax Ordinance, 2001, section 18/1e, any management fee derived by a management company has to be taxed as a business income. The study concludes that the Pakistani legislature has not yet reviewed all the tax and related laws on the Islamic financial instruments. The authors pointed out many dichotomies such as Motor Vehicle Registration Act, Transfer of Property Act, Capital Value Tax and Stamp Duty Act etc. However, they do not deal with the taxation of sukuk in Pakistan.

Malaysia: Zahid Mahmood (Mahmood, 2019) studied in "Islamic Financial Instruments: Viability of Taxation". The study discusses international efforts to tax Islamic financing tools such as in United Kingdom, Malaysia, Ireland, and Luxemburg. In addition, the study mentioned taxation of the Islamic finance tools. Each tool had been examined on taxation according to the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention 2010. The author concludes that Malaysia has played an essential role in the implementation of tax regulations of the Islamic financing tools and they have offered the Islamic financing system as a powerful competitor to the conventional economic system. However, this study also does not discuss taxation of the sukuk products.

Luxemburg: Khalil Jarrar J.D. (2012) studied in "Taxing Islamic finance instruments under the international law: "Luxemburg Circular and Treatment of selected

Islamic Finance Instruments". Khalil Jarrar emphasized in his study on the Luxemburg Tax Laws and Luxemburg International Taxation in terms of taxation of the Islamic financial products. Because Luxemburg Government set up a special tax force to become Islamic Financial hub in Europe zone in 2008. Also, The Central Bank of Luxemburg is a member of the Islamic Financial Services Board (IFSB). He states that Luxemburg domestic tax law is based on an economic attitude and substance over formed principles and the Luxemburg Stock Exchange was the initial European stock exchange to involve in the sukuk market in 2002. In 2010, thirty-seven controlled Sharia compliant stock funds and sub-funds had been established in Luxemburg. Besides an attractive tax and regulatory regime, Luxemburg benefits from a full range of very capable service providers for example administrative agents, custodian banks, paying agents, transfer and register agents, lawyers, chartered accountants, and tax advisers.

Australia: Maria Bhatti (2010) studied in "Taxation Treatment of Islamic Finance Products in Australia". She discusses particularly murabaha contract according to Taxation of Financial Arrangements in Australia, profit mark-up is similar to interest or it is an equivalent treatment of murabaha and conventional fixed interest home equity loan. There is also deficiency of global expertise on Sharia. These could make Australia less attractive to international Islamic investors. As a conclusion in the study, there is no supportive legislation on Islamic finance institutions and their products. She does not provide tax treatment of sukuk in Australia.

Kenya: Kariuki Irene Wanjiru (Kariuki, 2018) examined that "Taxation of Islamic Banking Products in Kenya: A Comparative Case Study of Malaysia and Kenya." Her research deals with cut down incomes of Islamic Banks in Kenya which are taxed according to Income Tax Act. The research tried to reveal that further amendment to the current tax laws can improve Islamic banks in Kenya. Actually, the research compares Kenya and Malaysia in terms of taxation treatment of Islamic banking products. According to study Malaysia has no specific tax legislation for Islamic financial products, however, it has some amendments in the current tax legislations. The legislation gives the Islamic financial transactions an equal or neutral footing as conventional banks' products. In Kenya, there is also no specific tax legislation for Islamic finance products. The Income Tax Act, 2017 was intended to provide some neutrality in the tax treatment both Islamic and conventional bank transactions. The act mentioned "or an Islamic finance return" at the end of the definition of "interest". According to the author this is the similar treatment in Malaysia. But Malaysia is many steps ahead of Kenya in terms of the other tax legislations such as Stamp Duty, Value Added Tax etc. Author highlights that, population of Kenya has a lack of awareness about Islamic finance. Hence, he states that more amendments that are specific should be made in the tax statute to support Islamic finance in Kenya.

(ii) Some specific studies focus on sukuk taxation in Turkey. They can be reviewed and summarized such as follows:

Muhammet Kas (Muhammet Kas, 2016) studied that "The Role of Sukuk in Islamic Finance Market: Experience in Turkey". He examined in his study the origins and development process structure and types of Sukuk. He also explained the difference between returns of Sukuk and Bonds. As a conclusion, he realized that the returns of Sukuk differ because of the reasons the low volume and sukuk is known as an illiquid asset in the finance market. This study also does not discuss Turkey's sukuk implementation in terms of taxing.

Ulusoy & Ela (2018) wrote about "The Development of the Taxation of Sukuk in the World and Suggestions for Turkey". They mentioned in their study about taxation of sukuk in selected countries such as Hong Kong, Singapur, the United Kingdom, Malaysia, Luxembourg, and Pakistan etc. Finally, they examined the taxation of sukuk in Turkey and amendments on sukuk legislations in Turkish tax laws. This study is very useful article about taxation of sukuk in the world but the tax laws relating to Sukuk issue in Turkey needs to explain in a more comprehensive way.Fahri Oztop (Öztop, 2006) studied in "Özel Finans Kurumlarının Vergilendirilmesi = Taxation of Special Finance Houses". The core subject of his study is taxation of Special Finance Houses (SFHs). According to Turkish Income Tax; these institutions are responsible for deducting tax from their clients. It is named as income tax withholding for a natural person. For the corporation, it is named as corporate tax withholding. As Special financial institutions are established as joint stock companies, they are corporate taxpayers among the capital companies specified in article 1 of the corporate tax law. Their profits are subject to corporate tax. As a conclusion in stay, author discusses Special Financial Houses, and their place in tax law. However, this study does not discuss any issues related to sukuk in Turkey.

Yakar Kandır and Önal (2013) wrote an article about "Yeni Bir Finansman Aracı Olarak "Sukuk-Kira Sertifikası" ve Vergisel Boyutunun İncelenmesi = Investigation of The Tax Aspect of Sukuk Leasing Certificate as a New Financial Instrument". They provide information about sukuk types such as ijara (leasing), musharaka (partnership financing), mudaraba (labor-capital profit sharing), murabaha (cost plus financing), istisna (construction or manufacturing financing), salam (advance payment contract) and sukuk. Finally, they mentioned implementation of sukuk and its taxation in Turkey. With the regulation of the Communiqué on the Principles Regarding Lease Certificates and Asset Leasing Companies, published in the Official Gazette No. 27539 on 1 April 2010, required arrangements have been made for the issuance of a lease certificate or rental law. In the communiqué, sukuk is only issued as a lease certificate. But sukuk is not just a lease certificate. There are many different types of sukuk according to their financing methods. Therefore, the regulation made by the Communiqué only allows a form of sukuk that is close to ijara sukuk, does not include an arrangement related to other forms of sukuk. This shows that the arrangement is inadequate for the development of the Islamic finance market.

Erdal Yılmaz (2014) wrote an article about "Sukuk as A New Financial Instruments: Types, Application and Taxation of Turkey" in The Journal of Accounting and Finance Magazine. He firstly mentioned about concept of Sukuk and their process and diversity. In this study, it is mentioned about implementation of Sukuk in Turkey and also taxation of Sukuk according to Turkish tax laws. It has been concluded that the tax regulations on ijara sukuk are generally in line with the regulations made for bonds, therefore, it does not seem to have a significant tax advantage compared to traditional bonds according to author.

Erkan Aydın and Kadir Ayyıldırım (2015) studied on article about "Evaluating Lease Certificates and Asset Lease Companies According to Income Tax and Corporate Tax" in Journal of Erciyes University Faculty of Economics and Administrative Sciences. In this study, firstly, lease certificates are examined in terms of their legal qualifications within the scope of capital market legislation. After that, they mentioned on taxing the income generated from lease certificates and they are evaluated within the framework of income tax and corporate tax provisions in terms of being issued at home or abroad. In terms of the periodic income, redemption income and trading earnings of the revenues they provide, and the fact that the taxpayers who receive the income are full taxpayers or non-resident taxpayers. It is particularly important study about income and corporate tax on lease certificates. Nevertheless, there is no knowledge about the other tax code such as Value-added tax, stamp duty tax, expenditure tax etc.

There are some studies about sukuk and taxation of sukuk in Turkey. However, these studies also provide brief and general information about sukuk taxation in country[1].

[1] Konca (2011); Sarıgül (2015)(Akarca & Şafak, 2011); Balibek, Emre (2017); Kaplan, Ersin (2012); Sarıçiçek, Hasan (2011).

2. ISLAMIC FINANCIAL PRODUCTS

The principles of Islamic finance are based on the Sharia, which can also be named as the Islamic law. According to this law; the presence of riba, maysir and gharar in any business transaction or contract is completely prohibited. In the Qur'an, the prohibition of riba is mentioned several times, such as Surah Al-Baqarah, Surah Al-i Imran, Surah Al-Nisa and Surah Ar-Room[2]. Islam has also banned maysir (qimar or gambling). In Surah Al-Maide[3], qimar and gambling are clearly prohibited in the Qur'an.

Islamic financial products are different from their counterparts' products from this standpoint. For example, Islamic Financial products are equity related. In the society, people need some investment or saving financial instruments. In Islamic finance market, institutions, which are working according to Sharia rules, have created products to meet needs of their clients. They avoid forbidden products and services for example alcohol beverages, entertainment sector, and pork etc. These products, which have been created by IFIs are based on the concept of a social order of brotherhood and solidarity. The business venture transactions are made according to partnership and both risk and profit sharing. The participants in financial dealings are considered commercial partners. Islamic financial products are both equity-oriented and based on a variety of methods of profit and loss sharing. Islamic finance does not include speculative investments such as margin trading and derivative trade, they include only actual transactions with underlying properties. To sum up briefly, the basic rules of Islamic Finance are to avoid speculation-moral hazard and do not pay or take riba (Seibel & Imady, 2006). The following chapters describe main characteristics of Islamic Financial products before examining Sukuk taxation as an Islamic financial transaction and respective tax regulations.

2.1 MURABAHA [COST PLUS FINANCING]

The Arabic term *"murabaha*" was derived from word "ribh". It means profit, mark-up, or gain. As a fiqh term, it refers to a certain kind of sale having nothing to do with financing in its original sense. If a seller agrees with his buyer to provide him a specific property on a definite profit added to his cost, it is named as murabaha

[2] Al-Bakarah 2/275-281; Al-i Imran 3/130-132; Al-Nisa 4/160-161; Ar-Room 30/39.
[3] Al-Maide 5/90.

transaction. In other words, as a term in Islamic finance, murabaha means cost-plus/mark-up sale-based transaction. The basic element of murabaha is that the vendor discloses the real cost he has incurred in obtaining the product, and then adds some profit thereon. This profit may be in lump sum or might be based on a proportion (Usmani, 2012). According to AAOIFI standards definition and conditions of murabaha such as follows;

"Sale of goods at cost plus an agreed profit mark up. Its characteristic is that "the seller should inform the purchaser of the price at which he purchased the product and stipulate an amount of profit in addition to this…a. IFIs should make the cost or capital outlay known to the client. b. The first contract should be valid. c. The contract should be free of usury. d. The Islamic bank should disclose any fault that occurs after the purchase and should disclose all what is related to the fault. e. The Islamic bank should disclose the terms applicable to the purchase price, for example if the purchase was on credit. f. If any of the conditions in (a), (d) or (e) is not met, the purchaser shall have the option to: (i). proceed with the sale as it is; (ii). have recourse to the seller for the discrepancy; or (iii). cancel the contract."(AAOIFI, 1998a)."

Murabaha contract was conducted in pre-Islamic periods. A renowned Hanafi jurist Al-Marghinani determined murabaha as 'the sale of anything for the price at which it was purchased by the seller and an addition of a fixed sum by way of profit.' The Hanbali expert, Ibn Qudama, determined it as 'the sale at capital cost plus a known profit; the knowledge of capital cost is a precondition for it.' Hence, the supplier should say; My assets involved in this contract are so much or this item has cost me 100 and I vend it to you for this cost and over a profit of 10. This is legal without any disagreement among the jurists (Ayub, 2007).

Murabaha is commonly used as a financial product by most of the Islamic Financial Institutions (IFIs) in Muslim or non-Muslim countries in the World. According to some authors, it is not a financial product. It is a kind of sale contract. But it is more than simple sale contract such as IFIs use it as a tool of liquidity management in their portfolio. It is used by IFIs as a promise to vend assets that are not yet possessed by them which are intended to be obtained by client. Actually, it is essentially the sale of assets at definite price which contains the price of asset plus a margin of profit accepted by both sides.

According to some researchers, murabaha is a trade agreement, stipulating that one side purchases an asset for its personal account and vends it to the other side at the original charge plus a mark-up. The profit can be realised as a sum for the services provided by the intermediary, but also as a definite profit margin. Payment may occur instantly, but as well at a later date or in instalments (Visser, 2010).

According to Taqi Usmani, murabaha is not a financial product, it is a sale contract. 'Sale' is identified in Sharia as 'the exchange of a thing of value by another thing of value with mutual consent' (Usmani, 2012). Usmani explains some characteristic of murabaha such as follows:

"(i) Murabaha is a kind of sale where the seller expressly mentions the cost of the sold commodity he has incurred and sells it to another person by adding some profit or mark-up thereon.

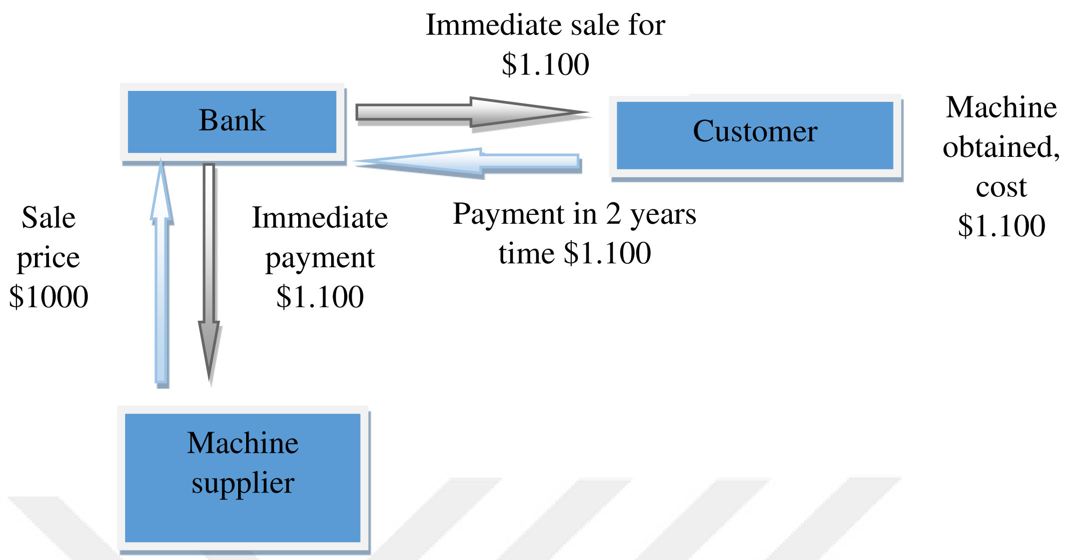
(ii) The profit in murabaha can be determined by mutual consent, either in lump sum or through an agreed ratio of profit to be charged over the cost.

(iii) All the expenses incurred by the seller in acquiring the commodity like freight, customs duty etc. shall be included in the cost price and the mark-up can be applied on the aggregate cost.

(iv) Murabaha is valid only where the exact cost of a commodity can be ascertained. If the exact cost cannot be ascertained, the commodity cannot be sold on murabaha basis." (Usmani, 2012).

Murabaha has been implemented as a method of interest-free funding by a big number of participation banks to finance the acquisition of the purchaser properties, intermediary or capital properties, raw materials, real estate, machinery, and equipment. It may possibly also be used for trade financing desires like import of properties or pre-shipment export finance. However, the issue of murabaha must be real and be in the ownership of the bank at the stage of trade in a physical or constructive ownership form; and these goods must be something of worth that is characterised as material goods in Islamic jurisprudence and must not be forbidden merchandises.

Figure 1: Murabaha Transaction



Source: (Emin, 2017)

When compared conventional and participation banking in their credit situation, murabaha is not like a conventional loan in which cash is granted to the client who then purchases the assets. In the murabaha transaction the IFI firstly buys the assets and vends them to the client on instalments or on an immediate payment at a mark-up. The transfer of ownership from intermediary to client is immediate, not prospective, or conditional on future events. But in conventional bank, the commodity is money. According to Islamic jurisprudence 'money is not a commodity that cannot be traded freely'. Because currencies must be exchanged at the same time. Furthermore, the interest rate is fixed at the contracting time and the client purchases the money from the bank as an asset and pays back on instalment principal amount plus interest. It is not allowable by Islamic jurists. According to Holy Quran; 'trading is lawful, but interest (trading of money) is unlawful." (Al-Baqarah, 2/275). This is the basic rule in IFIs.

2.2 MUDARABA [LABOR- CAPITAL PROFIT SHARING]

The Arabic term "*Mudaraba*" is derived from a clarification of a Qur'anic verse concerning to "walking and traveling the earth" (Al-Muzammil, 73/20) as this is what the mudarib will do to seek out commercial opportunities. The other verse is "Then when the prayer is finished, then disperse through the land (to carry on with your various duties) and go in quest of Allah’s bounty and remember Allah always (under all circumstances), so that you may prosper (in this world and the Hereafter)” (Al-Jumuah, 62/10). Some fiqh schools also use the term “*qirad”* in place of “*mudaraba*”.

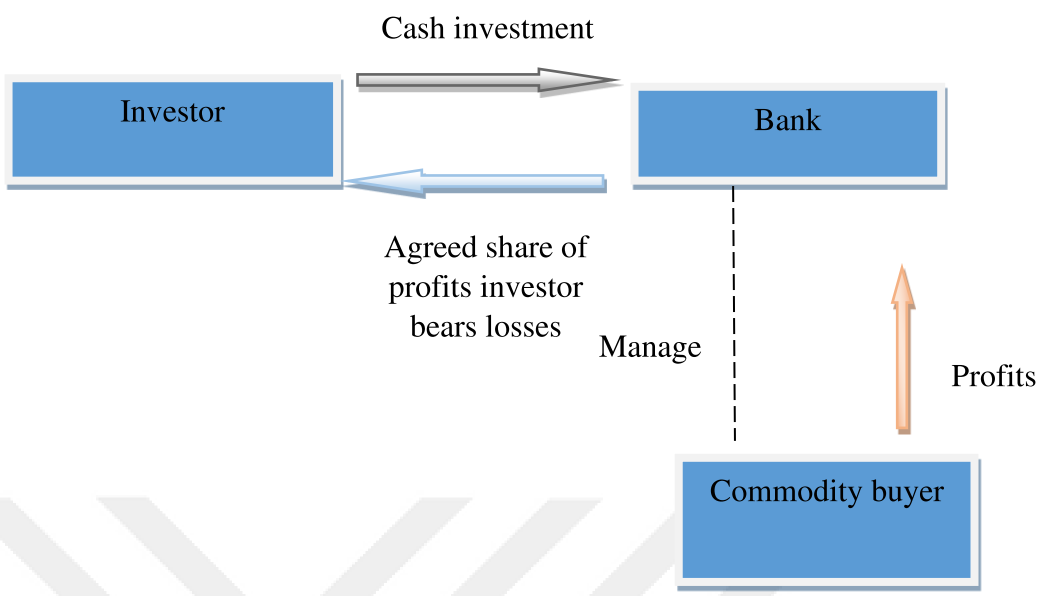
The first true example of the mudaraba is given in the example of Prophet Mohammed (PBUH)'s partnership with his first wife Khadija prior to their marriage. The method of one partner providing capital with profit sharing for a manager, who in this case would manage a commercial sales trip adopted by many of the Prophet's companions. The two primary sides in a mudaraba are the dealing partner or mudarib and the investor or Rabb-ul-mal (literally owner of the capital). The mudarib is the managing partner of the enterprise of commercial activity (Thomas et al., 2005).

According to AAOIFI definition of mudaraba such as follows;

“It is a partnership in profit between capital and work. It may be conducted between investment account holders as providers of funds and the Islamic bank as a mudarib. The Islamic bank announces its willingness to accept the funds of investment amount holders, the sharing of profits being as agreed between the two parties, and the losses being borne by the provider of funds except if they were due to misconduct, negligence or violation of the conditions agreed upon by the Islamic bank. In the latter cases, such losses would be borne by the Islamic bank. A Mudaraba contract may also be concluded between the Islamic bank, as a provider of funds, on behalf of itself or on behalf of investment account holders, and business owners and other craftsmen, including farmers, traders etc.” (AAOIFI, 1996b)

Mudaraba is a kind of agreement which is based on a profit-sharing between capital provider and labour provider. It may take place between investment account holder as providers of funds (rabb-ul-mal) and IFI as a labour provider (mudarib). The ratio of the profit is determined in pre-agreed time. If there is any loss, it will be born by funds/capital provider. But the loss is borne by IFI only in case of a verified misconduct, negligence, or violation of the arrangement. Mudaraba consists of two different forms, which are “*mudaraba al-muqayyada”* (restricted mudaraba) and “*mudaraba al-mutlaqa”* (unrestricted mudaraba). Restricted mudaraba is generally used for specific business, which is restricted by place, time, a part of trade. Unrestricted mudaraba is commonly used for general investments. It is, unlike restricted mudaraba, not limited by time, place, or a part of trade.

Figure 2: Mudaraba Transaction



Source: (ISRA, 2017)

In Mudaraba, the validity of the contract is based on the agreement of two parties which are capital provider (*Rabb-ul mal*) and labour provider (*Mudarib*). The agreement must be done at the beginning of the mudaraba contract. The proportion of the profit is determined as a definite proportion by each of them mutually. They can determine share of the profit equally or they can determine different proportions. But they cannot give a lump sum amount of profit for any side. They cannot determine the share of any side at a particular rate related with the capital.

Termination of mudaraba contract can be done by both parties at any time. But the one condition is the declaration of the decision about the termination of mudaraba contract to the other party. At the termination of mudaraba, if the capital of mudaraba is in cash, it will be shared between the two sides according to pre-agreed rate. But, if the capital of mudaraba is not in cash at the termination of mudaraba, the capital will be sold and shared between the sides according to pre-agreed rate.

2.3 MUSHARAKA [PARTNERSHIP FINANCING]

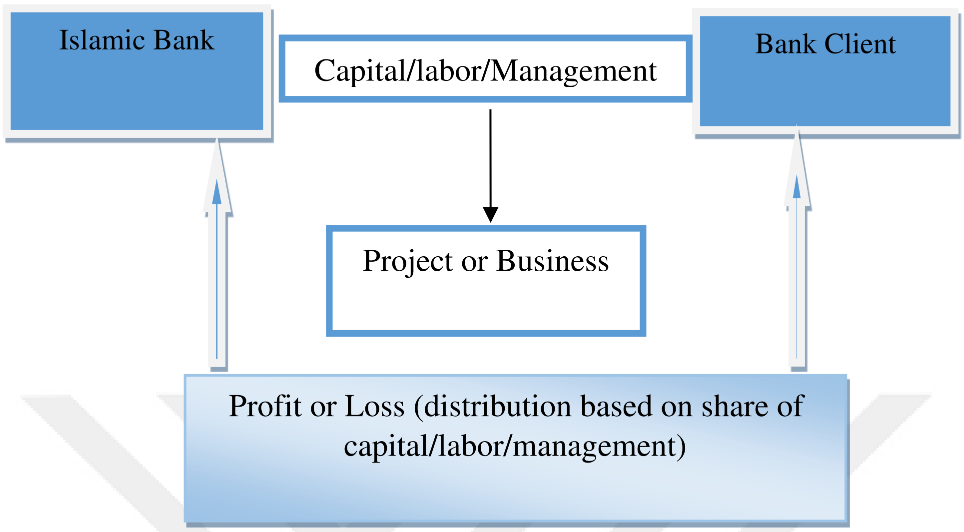
Arabic term "*Musharaka"* means sharing or share-out or partnership through enterprise or company. It must be at least two or more parties for establishment legally in the basic law. In terms of business or financial environment, musharaka means a joint venture which contains partnership between all the partners in profit or loss in the gains of the enterprise. Every partner can manage the business, however usually the partners can elect one or more partners to manage the enterprise. According to AAOIFI standards; definition of musharaka:

"A form of partnership between the Islamic bank and its clients whereby each party contributes to the capital of partnership in equal or varying degrees to establish a new project or share in an existing one, and whereby each of the parties becomes an owner of the capital on a permanent or declining basis and shall have his due share of profits. However, losses are shared in proportion to the contributed capital." (AAOIFI, 1996a)

Musharaka is a connection between two or more persons to participate in a business venture concluded by a mutual agreement and allocated the profits (or losses) of the business run through all of them or by one of them on behalf of the others. Profits made by that particular venture are distributed in accordance with the terms of the Musharaka agreement, while losses are distributed in proportion to partner's share of capital. As the meanings of terms suggests, following is being distributed by partners. Capital, Risk, Profit and Loss. (Nadeem A. 2011).

Islamic financial industry is fundamentally based on assets which is named as an asset-based form. The important thing is to provide real economic activities in the economic system, not to make an unrealistic or speculative economy. The musharaka provides share profit, loss and risk in the partnership that causes to undertake responsibility by all of the partners. To make profit, the partners seriously make effort to work, so the real economy gets stronger and more competitive. In conventional finance there is no loss sharing or risk sharing. According to the interest rate which is determined at the time of the money deposit, customer gains money for the duration of the time his money remains in the bank account. It feeds speculative or unreal economy instead of real economy.

Figure 3: Musharaka Transaction



Source:(Dr. A. Muneeza, 2018)

In musharaka agreement, both profits and loss are distributed according to predetermined rate, customarily in the proportion of the shares of the partners in the equity of the firm, though profits can be distributed in any reasonable proportion. Losses must be distributed in proportion to capital contributions (Visser, 2010).

According to Taqi Usmani, it is an ultimate alternative for the interest-based financing with far reaching effects on both production and distribution. In the modern capitalist economy, interest is the only tool arbitrarily used in financing of all type. Since Islam has banned interest, this tool cannot be used for providing money of any kind. Hence, musharaka can play a major role in the world economy if it is based on Islamic principles (Usmani, 2012).

2.4 IJARA [LEASING]

The root of the Arabic term “*Ijara*” is “al-ajr” that means compensation or return. In economy and trade, ijara means renting of any asset to use its usufruct. However, it also covers the renting of labour to use its work force in return of a wage. For example, if Ahmet has employed Ali in his office as a secretary or as a lawyer on a monthly salary, Ahmet is a musta'jir, and Ali is an ajir. The ijara may relate to the usufructs of assets and commodities. In this type of Ijara 'transfer of the usufruct of a certain commodity to the other person in exchange for a rent demanded from him' takes place. In this situation, the ijara means "leasing" in English. The lessor is named as 'mu'jir', the lessee is named as 'musta'jir' and the payment is named as 'ujrah'. According to AAOIFI standards definition of Ijara;

> "Ijara is the transfer of ownership of a service for an agreed upon consideration. According to fuqaha, it has three major elements: (i) A form, which includes an offer and a consent. (ii) Two parties: a lessor (the owner of the leased asset), and a lessee (the party who reaps the services of the leased asset). (iii) The object of the (ijara) contract, which includes the rental amount and the service (transferred to the lessee)." (AAOIFI, 1997b)

In Islamic contract law, ijara is an agreement of a known and projected usufruct of definite properties for a definite time period against a definite and legal profit or consideration for the service or profit for the benefit projected to be taken or for the effort or work projected to be expended (Ayub, 2007).

According to definition of ijara in Islamic contract law the ijara must be;

(i) an agreement

(ii) transfer of the determined usufruct

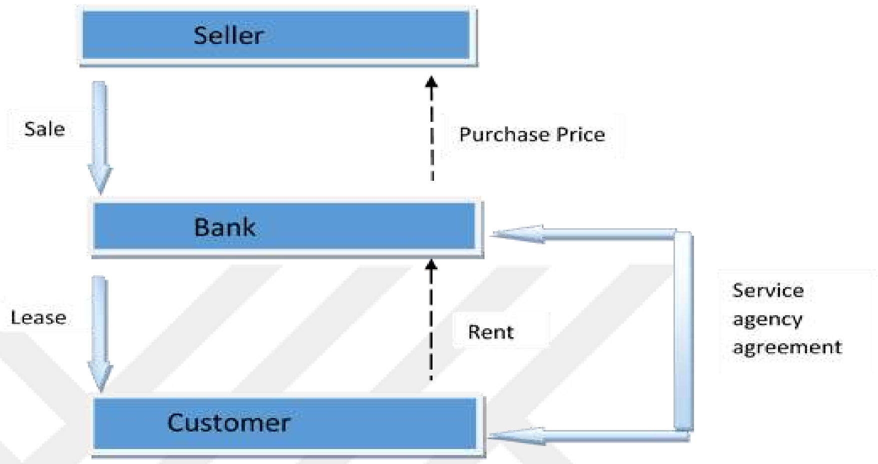
(iii) a specific asset

(iv) specified time period

(v) mutual agreement or rent

An essential condition for ijara to be allowable is that the lessor rests the owner of the leased item for the entire period of the lease and bears any responsibilities, like manufacturing deficiencies, emerging from possession, though not any responsibilities belonging to its use (Visser, 2010).

Figure 4: Ijara Transaction



Source: Illustrated by author.

The ijara is actually not a form of financing, like murabaha, it is a kind of sale contract. Thus, as Taqi Usmani points out, the result is that ijara transactions must obey Sharia rules which are alike to, but not the same as, western banking approaches to leasing. A number of Islamic experts claim that the Islamic method of leasing applied in Islamic banking today is a mixed instrument, not truly a working lease and not truly a financial lease but incorporating components of both. Due to an easy compatibility of the ijara concept in a leasing environment, it enjoys a growing utilisation in Islamic finance (Thomas et al., 2005).

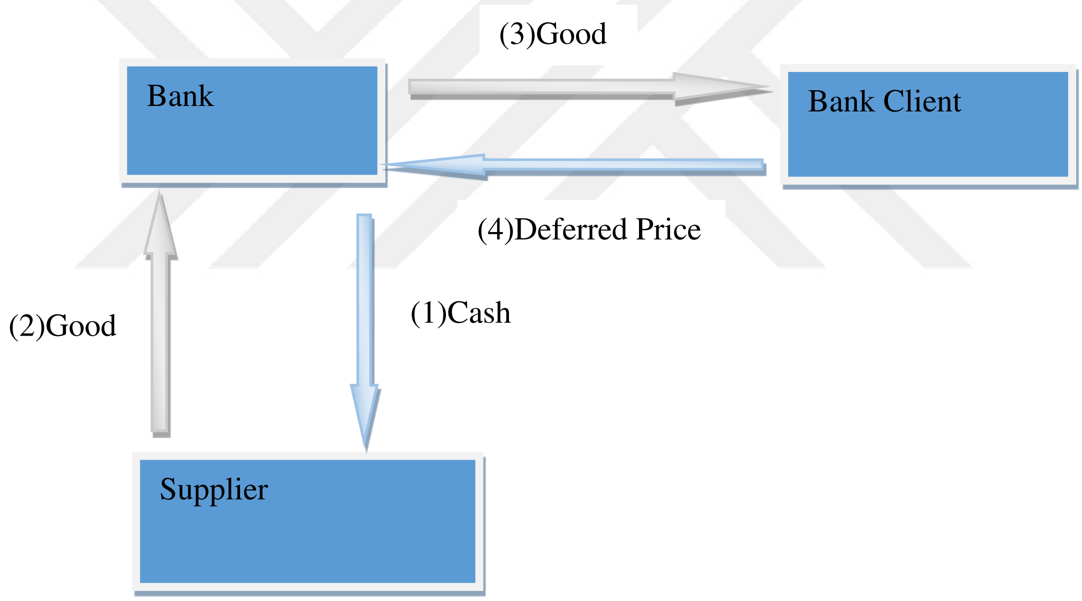
But there is only a basic difference between ijara and sale contract. In sale agreement the ownership of the asset transfers to person who purchased the asset. In ijara contract, instead of the ownership of the asset, the usufruct of the asset is transferred by this contract. However, the transaction of ijara may be used in financing for investee who cannot afford to purchase a big machine, vehicle etc. The IFI may mediate between investor and investee via ijara contract. In this case, ijara is a financing tool which is commonly used through financial institutions to stand by the real economic activities.

2.5 SALAM [ADVANCE PAYMENT CONTRACT]

The Arabic term "*Salam"* literally means a payment in advance. Same term *"salaf"* was used by the scholars of Hejaz (Arabian Peninsula), while Iraqi scholars mainly used "salam". It is a sale whereby the vendor takes on to supply some definite goods to the purchaser at a prospect date in exchange for a progressive price completely paid on the spot (Usmani, 2012).

According to AAOIFI standards definition of salam is; purchase of a commodity for deferred delivery in exchange for an immediate payment according to specified conditions or sale of a commodity for deferred delivery in exchange for an immediate payment.(AAOIFI, 1997a)

Figure 5: Salam Contract



Source: (Bouzekri et al., 2015)

Salam is a kind of sale contract like murabaha and ijara. Nonetheless, the major difference from them is that, in salam contract, the payment is in advance, delivery of the goods is in future. Because of these conditions, it is also named as a forward sale contract. Forward sales have been permitted by Sharia on a condition that the contract will not involve interest and gharar. All conditions of the contract must be clear and determined mutually by parties at the pre-agreed time.

Salam was permitted by Prophet Muhammad (PBUH) as an issue for certain situations. The major goal of this process was to meet the needs of farmers who needed cash to grow their harvest and to feed their families until they returned. After the ban of riba they could not take usurious loans. Thus, it was permitted for them to vend the farming goods in advance (Usmani, 2012).

Salam contract can be used to provide marketable goods like agricultural products, raw materials or manufactured commodities. The following important points are taken into account while making a transaction under salam (Mahmood, 2019).

(i) The transaction under Salam makes it obligatory that the whole payment should be made in advance for the seller to fulfil his urgent needs.

(ii) Salam can be used only for the goods which may be measured by their quality and quantity. For instance, salam may not be used for stones. Because stones are of different qualities. Due to different qualities, the price of each stone would be different.

(iii) The Salam transaction cannot be implemented in terms of a particular commodity of a field or garden. Due to their particularity, there is a probability that a commodity may be destroyed before its delivery. In this situation, the element of "*Gharar*" may pop up which is definitely prohibited for Islamic Financial transaction by Sharia.

(iv) The Salam cannot be used for such commodities which may not be measured in terms of weight or quantity.

(v) In terms of delivery of the asset, it is important to determine the exact date, time and place of delivery.

(vi) Salam is not used for the produces which may be delivered on the spot. Such as, if wheat is bartered with barley, then for a valid sale it is important that both commodities should be delivered at the same time. Therefore, salam cannot be used in this transaction.

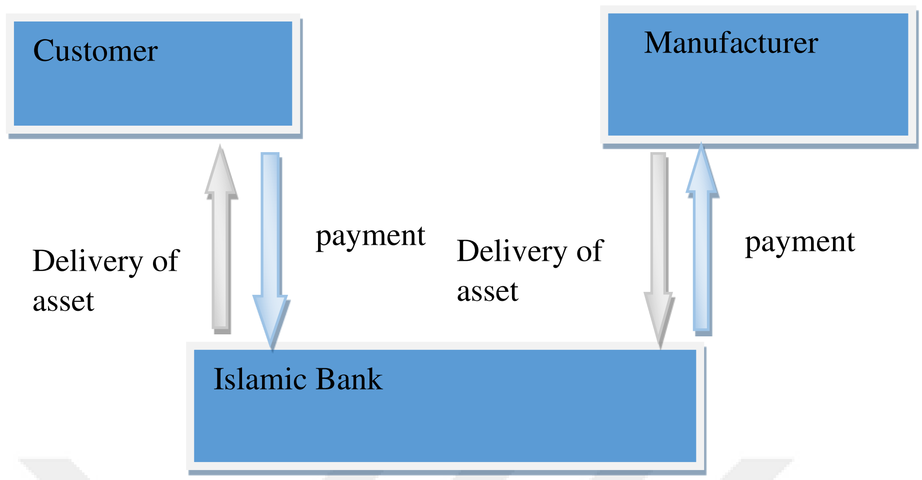
Salam is not inevitably a contract actually it may be defined as a process. The financier will need a deferred delivery agreement with the trader. When the trader behaves as a financier's agent, they will implement a definite agency agreement which is determined how the trader represents the financier. It is a kind of collateral agreement that consists of a mortgage and guarantee. These agreements are carried out between the financier and the last-buyer (Thomas et al., 2005).

2.6 ISTISNA [CONSTRUCTION OR MANUFACTURING FINANCING]

Istisna is an agreement of a manufacture with advance financing, or an agreement of attainment of properties by description or order where the amount is paid increasingly in accordance with the evolvement of a job. Payments are made as the building or manufacturing of the item comes nearer to finishing point (Visser, 2010).

Istisna is commonly used as a financial tool for construction of buildings. Such as, one person has a land, and he wants to construct a house on his land. But he cannot afford to pay to construct a house. He applies to the financier and the financier may provide enough money to him. And then, he may pay the amount of money which is due to be paid in instalments in accordance with the transaction. Nevertheless, the financier can construct the house at the determined place according to the agreement of the istisna transaction. It is also possible that if a client does not have any land, he will get to a house constructed through istisna contract. The client does not have to pay whole money in advance, he can pay in instalments. The payment includes total expenses of the house and the profit of the financier. The financier is responsible to construct the house which is totally determined by the parties of the contract at the beginning.

Figure 6: Istisna Contract



Source:(Jamaldeen, n.d.)

Istisna contract is also useful for acquiring manufactured goods. For example, the manufacturer may demand to manufacture a big machine with a pre-determined price and specifications. It is also useful in the project financing. The transaction of the istisna can be used in the massive construction, for instance airports, bridges, dams, and highways etc. Because of these specifications, as a financial tool istisna is especially useful for investment in real economy.

The well-known financial tool Buy Operate and Transfer (BOT) arrangements may also be implemented in the essence of istisna'. For example, government demands to construct a bridge, it may make a contract of istisna' with a constructer. The expense of istisna', may be the right of the constructer to operate the bridge and collect tolls for a specified period (Usmani, 2012).

There are some differences between istisna and salam which are summarized below.

(i) The topic of istisna is usually an object which requires manufacturing, while salam can be produced on anything, no matter whether it needs manufacturing or not.

(ii) It is essential for salam that the price is paid completely in advance, whereas it is not necessary in istisna.

(iii) The agreement of salam, once in effect, it cannot be annulled individually, while the agreement of istisna can be annulled before the manufacturer begins the work.

(iv) The stage of delivery is an important part of the sale in salam while it is not essential in istisna that the time of delivery is fixed (Usmani, 2012).

3. SUKUK

3.1. INTRODUCTION

Over the course of forty years, the Islamic financial sector has gradually developed and its financial products began to replace the products of traditional banking. One of the most used products of them are sukuk that meet the needs of alternative finance customers. Sukuk originated as Islamic securities and originally considered as an Islamic alternative to traditional "bonds". Sukuk issuance is becoming widespread in both Muslim and non-Muslim countries around the world. Its development has attracted the ettention of Islamic and conventional issuers and investors alike. In reality, it has the potential to become an indispensable tool relevant to the whole of humanity. Sukuk can further expand the boundaries of the Islamic capital market beyond Musilm majority countries, contributing to the real economies of both developing and edveloped nations by directing investments in key sectors and in sustainable and responsible development initiatives (ISRA, 2017).

3.1.1. DEFINITON OF SUKUK

Definition of sukuk can be examined from different angels such as linguistic, fiqh and Islamic capital markets and Islamic finance. Sukuk is the plural of the Arabic word "*sakk*", it means "certificate" or "order of payment". Sukuk are known as devices of the Islamic capital marketplaces. In Islamic finance, sukuk refer to Islamic securities with quite distinctive structures. It is a modern financial product, developed from European style securitization, in the form of a package. It contains almost all of the Islamic certificates produced independently of each other in the past (Bayındır, 2015, p. 99). On the other hand, the term sakk refer to any written document. The usage of the term sukuk can be traced back to the 1st Century during the Umayyad dynasty under the rule of Calip Marwan ibn al-Hakam (ISRA, 2017).

From a fiqh perspective, one of the original definition of sukuk was given by the International Islamic Fiqh Academy (IIFA) dealt with the matter in 1988. This determination was on investment certificates and more precisely on muqarada bonds (also famous as mudaraba sukuk), which is a precise form of sukuk. IIFA defined it such as follows:

"…investment instruments which allocate the [muqarada] capital ([mudaraba]) by floating certificates, as an evidence of capital ownership, on the basis of shares of equal value, registered in the name of the owner, as joint owners of shares in the venture capital or whatever shape it may take, in proportion to (…) each one's share therein." (International Islamic Fiqh Academy (IIFA), 2000)

Bahrain based International standard setter body AAOIFI provides a definition of sukuk such as follows:

"Investment sukuk are certificates of equal value representing undivided shares in ownership of tangible assets, usufruct and services or (in the ownership of) the assets of particular projects or special investment activity, however, this is true after receipt of the value of the sukuk, the closing of subscription and the employment of funds received for the purpose for which the sukuk were issued."(AAOIFI, 2003)

As seen from the definitions, there are three pillars for Sukuk to be considered in obedience with Islamic law. The primary, the certificates must symbolise possession in concrete properties, usufructs, or services. The subsequent is payments to the depositor derived from after-tax profits and the last is the price paid back at maturity should follow the recent market price of the original asset and not the original invested amount.

3.1.2. DEVELOPMENT OF SUKUK

In 1990, the first Sukuk that was foreign owned was issued in Malaysia by Shell MDS, with a value of RM 125 million (equivalent to $30 million), based on the principle of Bai' Bithaman Ajil. In 2000, 77 million Sudanese Pound (SDG) domestic sovereign short-term Government Musharaka Certificates (GMC's) were issued by the Sudanese Government. In 2001, the Sukuk market went international with the issuance of the first United States Dollar (USD) denominated international sovereign Sukuk Al Ijarah of $100 million (5-year tenor), and a series of domestic sovereign short-term (less than 1-year tenor). Salam sukuk issued by the Central Bank of Bahrain on behalf of the Government of Bahrain in 2001. In the same year, the first 5 years international corporate Ijara Sukuk of $150 million were issued by a Malaysian corporate Kumpulan Guthrie Berhad or Guthrie Group Limited. After that, many sovereign and corporate Sukuk issues (domestic and international) have been offered in various jurisdictions such as the United Arab Emirates (UAE), Saudi Arabia, Indonesia, Qatar, Pakistan, Brunei Darussalam, Singapore, Kuwait etc. Since then, the Sukuk market emerged as one of the main sections of the IFSI and a lot of innovation took place in its structures such as Ijarah, Musharaka, Mudaraba, Hybrid, Exchangeable and Convertible (COMCEC, 2018; ISRA, 2017; Khiyar & Galfy, 2014).

3.1.2.1. DIFFERENCES BETWEEN SUKUK AND CONVENTINOAL BOND

Sukuk have often been structured based on fixed income and debt creating contracts to provide isuses and investors with similar advantages as bonds. Undeniably, conventional interest based bonds and sukuk share some common qualities whilst there are also some important differences between them. Some similarities are: (i) They are both capital market instruments, (ii) They can be structured to provide regular returns to investors, (iii) They can be traded in the secondary markets and they are easily transfarable among investors. (iii) They can be both be rated by rating agencies (ISRA, 2017). Actually, as shown above, sukuk and conventional bonds have some similarities. However, there are main differences between them, such as follows:

Table 1: The Main Differences between Sukuk and Conventional Bonds

Differences	Sukuk	Conventional Bond
Ownership	Holder ownership well defined	Holder owns cash flow only from the pure debt.
Contract between holders and issuers	Based on lease or a defined business contract.	Purely earning money on money.
Nature and use of the underlying	The underlying assets, business or project must be Islamic permissible in both nature and use.	Bonds can be issued to finance almost any purpose (not necessarily assets) that is legal in its jurisdiction.
Sale operation	Sale of a share of assets, business activity or project.	Sale of a debt.

Asset-related expenses	Asset-related expenses may attach to sukuk holders.	Bondholders are not concerned with asset-related expenses.
Security prices	Sukuk prices depend on the market value of the underlying asset.	Bond prices depend only on the Creditworthiness of the issuer.
Risk and return	There is sharing of risk and profit by the financier and the borrower. Sukuk holders earn returns from profit generated through the asset.	Bondholders assume low risk and earn returns related to interest charged out of the loan contract.
Tradability of the instrument	Depends on the nature of the underlying asset (i.e. Istisna and Slam sukuk are non-tradable).	No restriction.
Shariahcompliance	Investment in Shariah-compliant activities.	Investment in any business without restriction.
Standardization	Lack of standardization.	Standardized instruments.
Status	Sukuk holders in asset-backed sukuk have recourse to the assets in the event of default, or if the issuers have difficulty in repaying. They are ranked senior to unsecured creditors. Holders of asset-based sukuk are generally ranked pari passu with other unsecured creditors and have no recourse to the assets.	Generally involves unsecured creditors, except if the bonds are backed by specific assets.
Principal Repayment by Issuers	In principle, there is no ex-ante fixed obligation of capital repayment for equity-based contracts. There are usually repurchase undertakings or dissolution provisions to guarantee capital repayment under ijarah and other structures.	Return of principal at maturity is an irrevocable obligation, irrespective of whether the funded project is profitable.
Relationship Between Issuers and Investors	Relationships based on Sharia contracts used in structuring the sukuk.	Lending relationship giving investors the status of creditors.

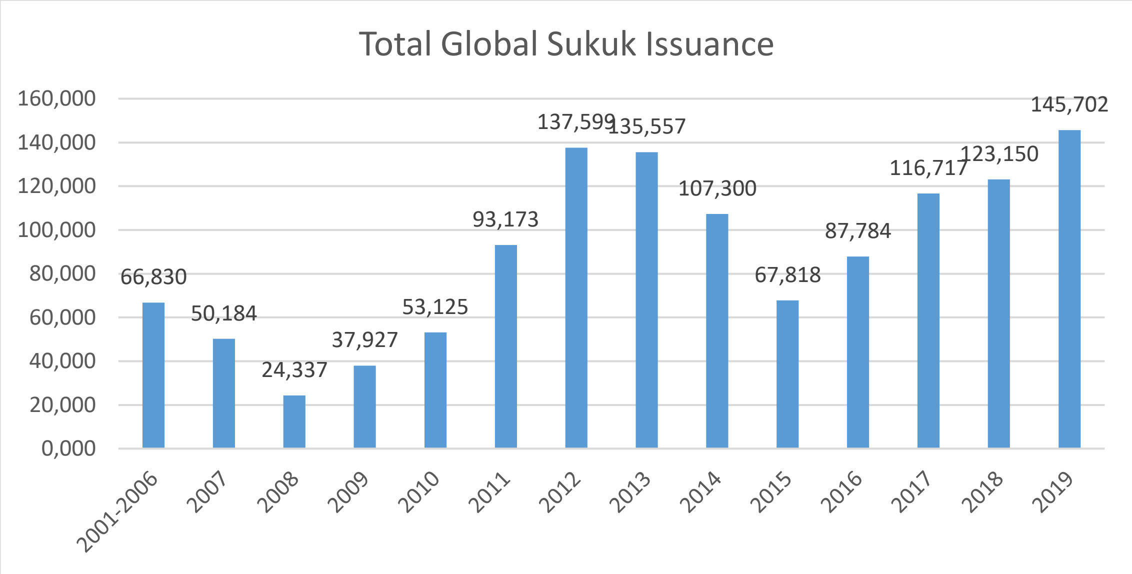
Source: (COMCEC, 2018; Naifar & Mseddi, 2013)

Structuers of Sukuk also share similarities with equity. Sukuk is a form of equity where each sukuk holder gets a share in the ownership of the underliying asset or pool of assets; while a share in a company represents an equity interest in the company as a whole, with voting rights being attributed to the shareldolder (ISRA, 2017).

3.1.3.2. GLOBAL SUKUK ISSUANCE

Whole global sukuk issuance reached $123,15 billion in 2018. The issuance size during 2018 was principally due to sovereign sukuk issuances from Asia, GCC, Africa and certain other jurisdictions while Malaysia carry on to control the sukuk market through share of countries like Indonesia, United Arab Emirates, Saudi Arabia and to some extent from Turkey augmented as well (IIFM, 2019).

Figure 7: Total Global Sukuk Issuance in the World



Source: (IIFM, 2019, 2020)

3.1.3.3. SUKUK ISSUENCE IN TURKEY

In Turkey, first Sukuk regulation introduced by Communique No: III/43 (Ijara Sukuk) by Capital Markets Board (CMB) in 2010. When the first Sukuk regulation was came into force in 2010, it was intended essentially to enable interest-free financing and investment in the form of a leasing (Ijara) transaction. After that, tax inequalities on Ijara Sukuk compared to conventional finance products were solved in 2011 by 6111 numbered Law. Finally, Sukuk regulations currently in force have been published under the Capital Market Law (CML) in 2012. Since to ensure Sukuk issues more accessible in Turkey, tax and fee exemptions were extended with a legal amendment to cover all lease certificates in 2016 (IIFM, 2019)

Thanks to effective, reliable and flexible regulatory amendments, the volume of Sukuk issues has reached important levels. After the tax exemptions and the discount on the CMB registration fees, some advances have been recognized in the lease certificate (Sukuk) issuances through the private sector ever since 2017. In that perspective, table 2 shows this development movement at Turkey's Sukuk market (IIFM, 2019).

Table 2: Corporate Sukuk Issuances (2014-2019)

USD Million	2014	2015	2016	2017	2018	2019
Lease Certificates (LC)	2074	1250	973	2210	4717	7758
Debt Securities (DS)	50482	37706	33019	43311	34551	51494
LC/DS (%)	4.11	3.31	2.95	5.10	13.29	15.06

Source: (IIFM, 2020)

In terms of issuances by years, as illustrated in table 2, the ratio of lease certificates to conventional debt securities has considerably rose in the last three years and reached to record high level (15.06 %) in 2019 (IIFM, 2020).

Table 3: Overall Sukuk Issuances by the Private Sector (2014-2019)

Overall Sukuk Issuances	2014	2015	2016	2017	2018	2019
Number of Issuances	21	40	34	66	164	207
Sum of Issuances (USD, million)	2 075	1 251	974	2 211	4 717	7 759

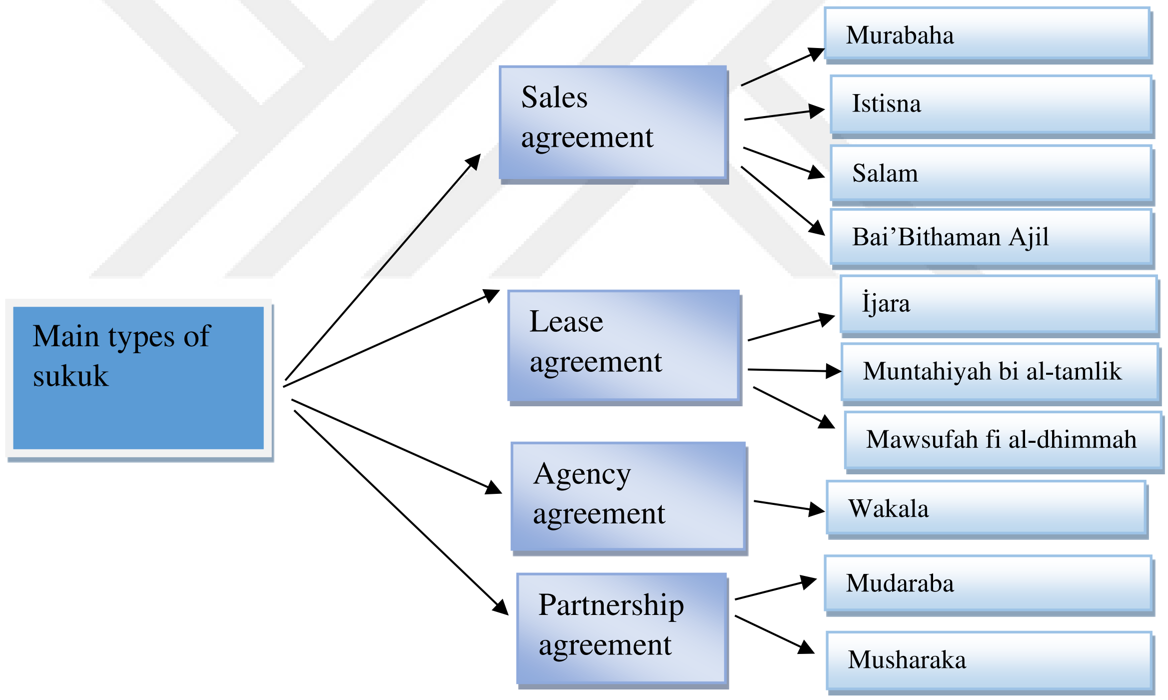
Source: (IIFM, 2020)

3.2. TYPES OF SUKUK

In the Islamic Capital Market, there are different kinds of the sukuk. Some of them are Ijara Sukuk, Mudaraba Sukuk, Musharaka Sukuk, Istısna Sukuk, Murabaha Sukuk and Hybrid model of the Sukuk.

The principal categories of sukuk contain sale-based sukuk, leased-based sukuk, partnership-based sukuk and agency-based sukuk. Sale-based sukuk are deferred payment sale or Bai'Bithaman Ajil (BBA), Murabaha, Salam and Istisna sukuk. Leased-based sukuk are Ijara, Ijara muntahiyah bi al-tamlik, Ijara mawsufah fi al-dhimmah. Partnership-based sukuk are Mudaraba and Musharaka. Agency-based sukuk is Wakala bi al-istithmar. The main types of sukuk are shown in the figure 8.

Figure 8: Main Types of Sukuk



Source: (Ali Abdul Manap, 2015)

Acording to AAOIFI, main types of sukuk are as follows:

(i) Sukuk of ownership in leased assets[4]

[4]Further, the right to use existing assets is divided into sukuk, sukuk ownership of disclosed future assets, sukuk ownership of a particular party's services, and ownership sukuk of future services disclosed.

(ii) Salam sukuk

(iii) Istisna sukuk

(iv)Murabaha sukuk

(v) Musharaka sukuk

(vi)Muzaraah (share-cropping) sukuk

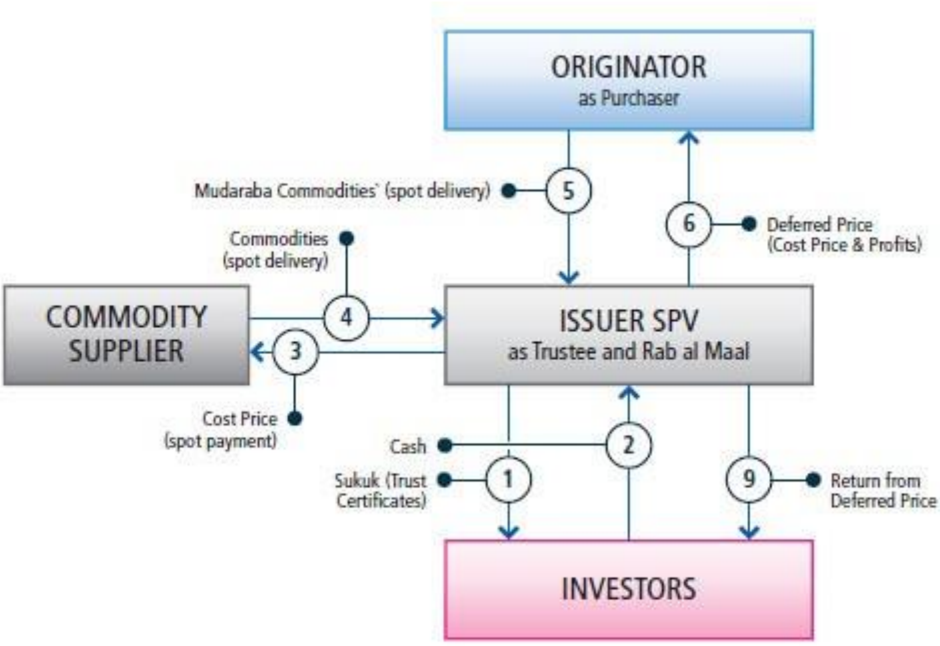
(vii) Musaqah (projects involving irrigation of fruit-bearing trees) sukuk

(viii)Mugharasah (projects involving plantation of gardens) sukuk (AAOIFI, 2005).

3.2.1. MURABAHA SUKUK

Murabaha is principally the sale contract which includes goods at a price promising the buying price plus a margin of return agreed on by both sides concerned. In parallel, murabaha sukuk are certificates of equivalent value issued for the goal of financing the buying of goods over murabaha. Hence, the certificate holders become owners of the Murabaha commodity. The issuer of the certificate is the purchaser of the Murabaha commodity. The contributors are the purchasers of the commodity. The holders of the certificate have owned the Murabaha commodity and they have right to its last sale price upon the resale of the commodity (Dar Al Istithmar, 2006).

Figure 8: Structure of Murabaha Sukuk

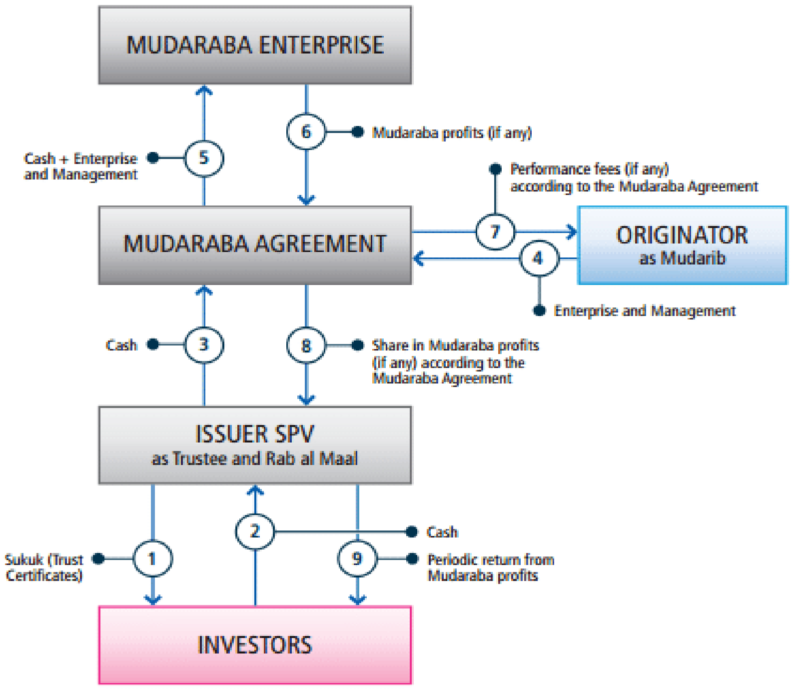


Source: (DIFC, 2009)

3.2.2. MUDARABA SUKUK

Mudaraba sukuk is integrated through the mudaraba contract, which consists of partnership between labor and capital. The structure begins with a party who wants Sharia compliant financing, named as an originator. The originator establishes a Special Purpose Vehicle (SPV) and enters into a mudaraba agreement with SPV. In mudaraba contract, both the originator and the SPV become the companions. The originator acts as the entrepreneur of the mudaraba venture, the managing partner. As the mudarib, the managing companion contributes his labour, skills, experience, and expertise. The SPV acts as the passive partner, the rabb-ul-mal of the mudaraba venture. As the rabb-ul-mal, the SPV contributes to the form of financial investment. As the financing party to the mudaraba, the SPV issues sukuk certificates for the sukuk holders. The returns of sukuk will be used to make the financial investment in the mudaraba. Hence, mudaraba sukuk permits the collecting of investors' funds with the sukuk holders having a mutual portion of the mudaraba capital, so they have a right to returns in proportion to their investment. The profits of the mudaraba contract will be paid to the sukuk holders according to a pre-agreed ratio of the incomes of the mudaraba sukuk. The participation in the mudaraba goes on till maturity day. At maturity day, the managing partner sales the parts in the mudaraba from the sukuk holders by the SPV. The managing partner pays an amount to the SPV to buy the parts in the mudaraba agreement. This quantity is used by the SPV to pay the sukuk holders their capital back, consequently that the sukuk certificates can be retrieved (Salah, 2014).

Figure 9: Structure of Mudaraba Sukuk

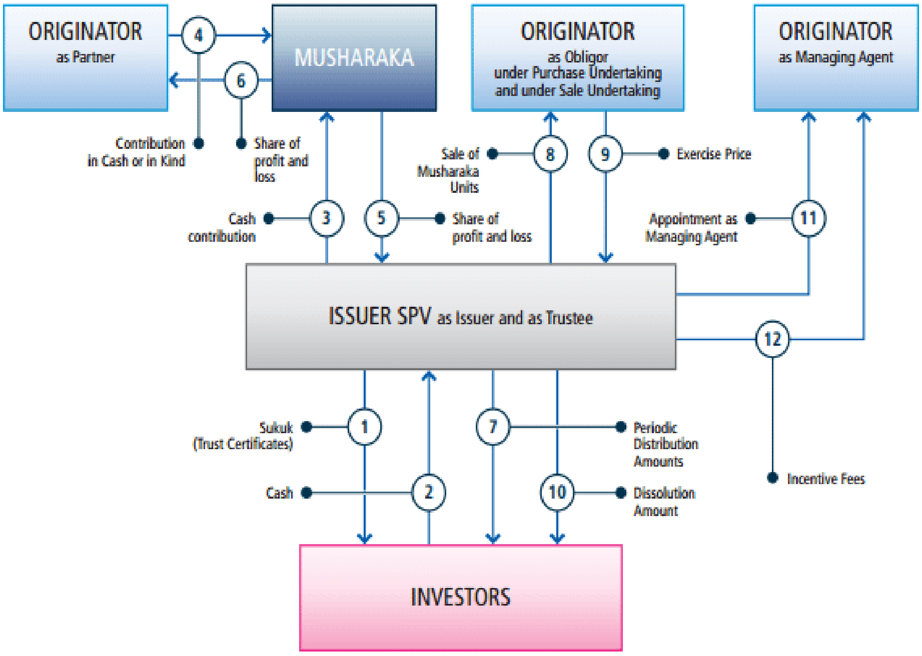


Source: (DIFC, 2009)

3.2.3. MUSHARAKA SUKUK

Musharaka sukuk are also a partnership agreement between two or more sides which subsidise capital to the partnership. Basically, it is an investment Sukuk and the parties offer financing to the projects. In musharaka sukuk, sharing of the profit ratio compromises at the start of the contract. If any loss, partners also share musharaka losses proportionally according to their capital contributions. If any profit is shared before musharaka termination or maturity date, it is counted to be in advance. This is processed as an “on account” payment. Musharaka Sukuk certificates can be considered as negotiable financial products and can be traded on the secondary market (Muhammet Kas, 2016).

Figure 10: Structure of Musharaka Sukuk



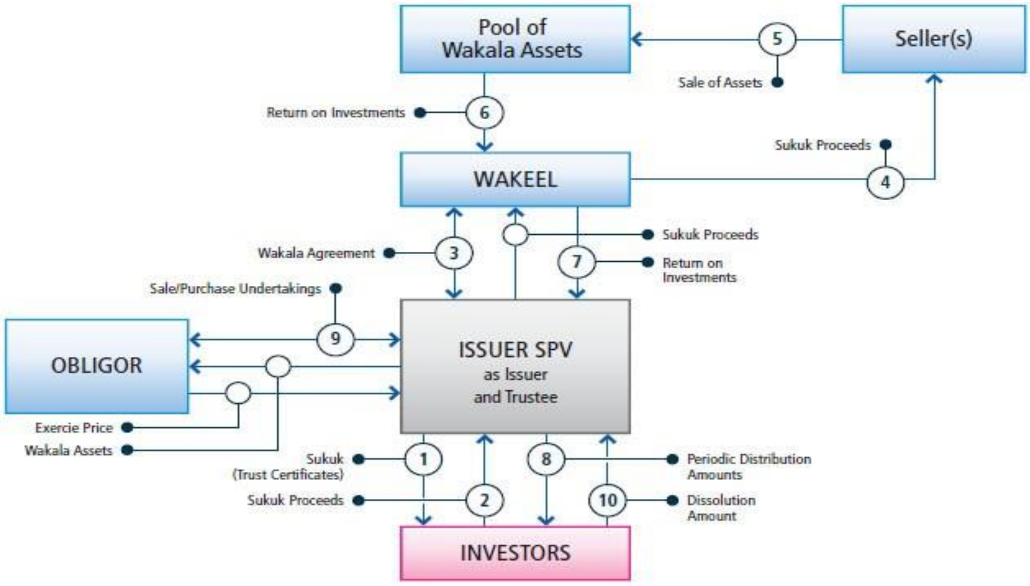
Source: (DIFC, 2009)

3.2.4. WAKALA SUKUK

Wakala is a contract between two sides which allows one side to act on the other side's behalf, in a method like an agency agreement. The principal (investor, via SPV) appoints an agent (named *wakeel*) to invest funds in a pool of investments or assets that are bought by the *wakeel* as agent and trustee of the sukuk holders. The agent who is appointed by investor uses its proficiency and experience to manage the investments for a pre-agreed period to yield a pre-agreed profit return. The principal uses the acquired profit return to fund the periodic sharing amounts payable to the investors by the issuer. If any profit in excess of the periodic distribution amounts it is generally paid to the agent (wakeel) as an encouragement fee like a bonus. Finally, on the maturity day, the investment manager transforms the sukuk portfolio to liquidate and pays the proceeds of the liquidation to principal to fund the termination amounts payable to the investors by the issuer (Latham & Watkins, 2014).

Wakala sukuk is based on an investment agency agreement that the agency invests the fund into a pool of eligible investments or assets. Generally, the investment pool is essentially held by the obligor. In the obligor' expertise as an agent will conduct the investment according to the contract between the principal (investors, via SPV) and the agent. The agreement also includes to manage the expected returns (profit) and fees (usually performance based) (Kusuma & Silva, 2014).

Figure 11:Structure of Wakala Sukuk

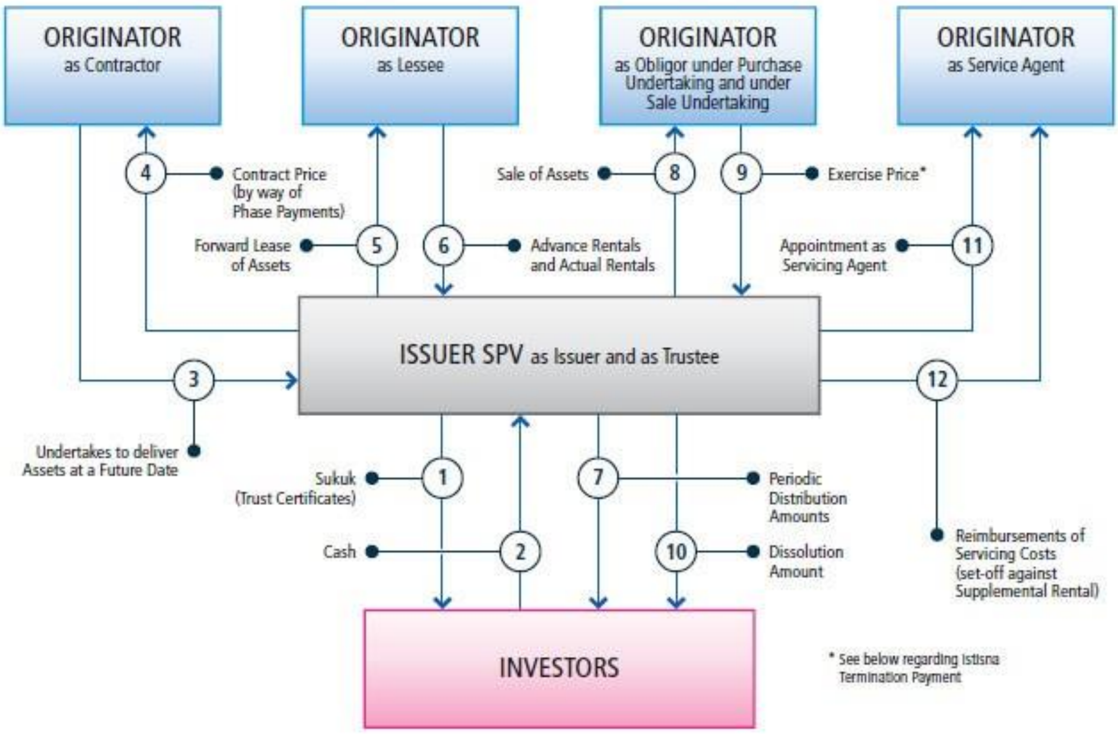


Source: (DIFC, 2009)

3.2.5. ISTISNA SUKUK

Istisna is a contractual arrangement which includes manufacturing goods and commodities. The customer does not have to pay whole payment in advance, he can pay in instalments. Istisna contract can allow cash payment or instalments in advance and upcoming delivery or an upcoming payment. A manufacturer or builder accepts to produce or build defined good or building for customer at a pre-determined price on a pre-determined day in the future. The whole amount of payment can be paid in instalments or periodically as pre-agreed between both sides. Istisna is usually used for housing or plant, project, factory, facility that finances the fabrication or construction of roads, bridges, and subways. In parallel with this definition, istisna sukuk are certificates that represent equivalent value. The certificates are issued by the issuer with a goal of mobilising the funds necessary for manufacturing products that are possessed by the certificate holders. The issuer of the istisna sukuk certificates is the producer (supplier), the subscribers are the buyers of the determined goods or commodity. Istisna sukuk are very useful for financing huge infrastructure projects (Dar Al Istithmar, 2006).

Figure 12:Structure of Istisna Sukuk



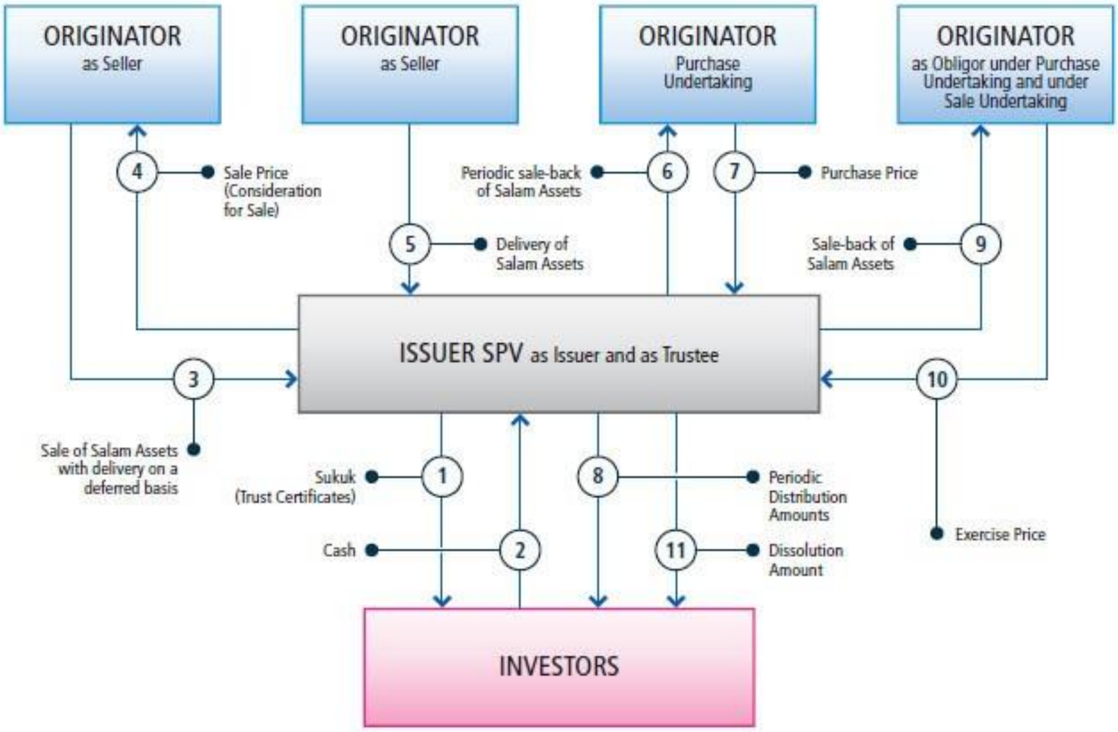
Source: (DIFC, 2009)

3.1.5. SALAM SUKUK

Salam is a sale contract that the vendor undertakes to supply some determined goods to the purchaser at a future time in exchange for an advanced price entirely paid at the beginning of the contract. Salam sukuk agreements are alike with the forward sale contracts in the conventional system. Salam sukuk agreement should be Sharia compliant. Accordingly, salam sukuk should away uncertainty (*gharar*).

Salam sukuk generally is used with the aim of short-term liquidity in IFIs. Debt securitization and tradability are non-Sharia compliant according to AAOIFI Sharia Standards. The salam sukuk produces indebtedness, it is non-tradable in nature, because of this feature, its uses are rare (Muhammad Hassan Bukhari et al., 2014).

Figure 13:Structure of Salam Sukuk



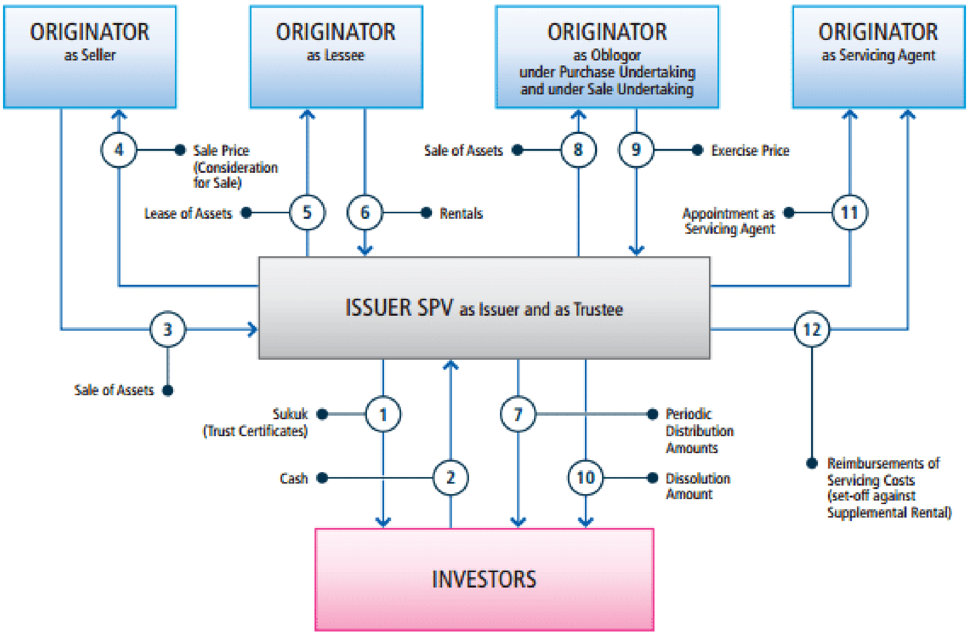
Source: (DIFC, 2009)

3.2.6. IJARA SUKUK

Ijara is a contractual agreement which one side (supplier or lessor) purchases and leases out tools required by the other side (client or lessee) for a rental charge. It is agreed that duration of the ijara and rental charge by both side in advance. The lessor has ownership of the asset during the ijara period. Ijara sukuk are securities which symbolise the possession of definite existing assets and are tied up to an ijara contract. So, ijara sukuk can be merchandised in the financial market at a determined value (Dar Al Istithmar, 2006).

The structure of ijara sukuk is grounded on the contract of Ijara (lease). An ijara agreement permits the transmission of the usufruct of a commodity in return for hire payment. It is alike to conventional lease contract. Therefore, as in the case of conventional bond issuance, sukuk relies on tangible fixed assets acquired by the SPV (Special Purpose Vehicle) rather than debt securities. Instead, ijara sukuk basically benefits from lease rents and risk sharing using the leasing contract for the returns paid to the investors with the usufruct right of the underlying asset.

Figure 14: Structure of Ijara Sukuk



Source: (DIFC, 2009)

3.1.6.1. IMPLEMENTATION OF IJARA SUKUK

Ijara sukuk is the most commonly used style of Sukuk in Turkey. This type of ijara sukuk is grounded on the contract of leasing. A leasing contract permits the move of the usufruct of an asset in return for a rental payment. Generally, it is like a conventional lease contract. However, the difference between them is that the ijara sukuk arrangement mainly uses the lease contract and benefits from the lease rents as well as the sharing of the risk as the returns are paid to the investors. The main differences between Islamic ijara and conventional lease can be summarized as follows:

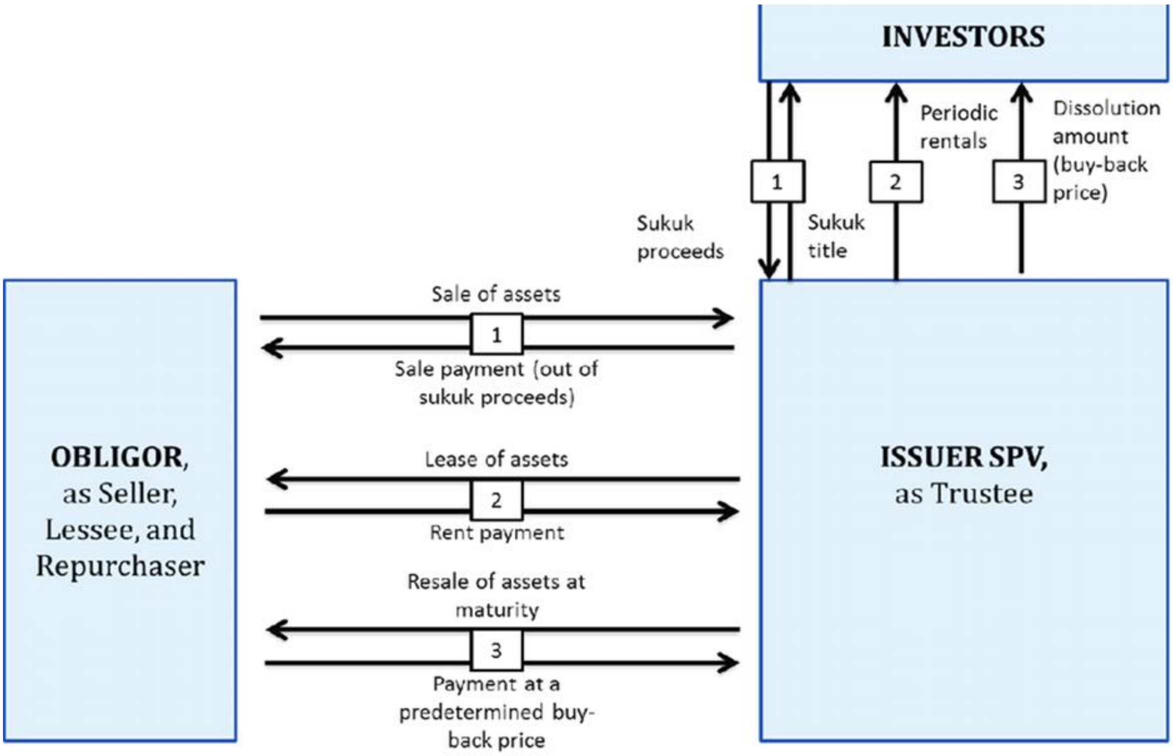
(i) Ijara should be exempt from any provision that could include interest or any element of the payment of interest.

(ii) The nature of the hired asset must also be Islamically suitable and therefore the asset must be allowable in itself and used for permitted functions.

(iii) Ijara draws a clear distinction between the roles and responsibilities of the lessor and the tenant (hirer); here all capital costs and chief maintenance are borne by the lessor as the asset is owned. Daily expenditures and maintenance will be the responsibility of the tenant / lessor due to the usufruct(Aziz & Shahid, 2013).

Following figure 16 shows the working mechanism of sukuk ijara.

Figure 15: Transaction of Ijara Sukuk



Source: (Islamic Finance, 2015)

The Ijara sukuk generally works like this: The transaction starts with a party that needs funding as an originator. The originator establishes a Special Purpose Vehicle (SPV), a separate legitimate entity with the only goal of assisting this operation. The SPV buying is determined as tangible assets from the originator at a prearranged buying price, which will be equal to the main amount of the sukuk. To finance the acquisition of assets, SPV issues sukuk to sukuk holders who are investors seeking sharia-compliant securities. The SPV uses the sukuk process to pay the originator the purchase price of the tangible assets. SPV also declares a trust on tangible assets and holds assets as trustees for sukuk holders. The originator and the SPV signs a lease for a specified period, called an ijara contract. Under this lease contract, the lessor (SPV) leases the assets back to the lessee (originator). Accordingly, SPV receives periodic leases from the originator for the use of underlying tangible assets. The Special Purpose Vehicle uses these amounts to pay the periodic return to its owners, as they are eligible for these payments as beneficiaries of tangible assets. Lease payments made to SPV from the originator and periodic payments from SPV to sukuk holders continue until maturity date. At maturity, the originator buys back the assets from SPV at a pre-determined value in accordance with a purchase commitment. The originator becomes the lawful owner of the assets and pays an acquisition price equal to the initial acquisition price of the assets. The originator also pays the sukuk's principal amount (Salah, 2014).

4. LEGISLATON OF SUKUK TAXATION IN TURKEY

Participation banking assets in Turkey have been doubled within a decade. To encourage the sector's improvement, new regulations have been made, and new participation banking has been established. Currently Turkey's participation finance sector is quite smaller than conventional finance sector. The sector represented 5.8% of banking assets by the end of September 2019 (Moody's, 2020). Three new state-owned participation banks have been founded between 2015 and 2020, to ensure the widening access and growing competition in the financial sector. Besides, a state-funded $2.6 billion Istanbul International Financial Centre (IIFC) in Istanbul has been planned to be opened in 2023 will be a crucial support for the growth of the sector. According to eleventh development plan (2019-2023)(SBB, 2019), Istanbul will become a global centre of finance, and it is particularly important to realise this objective for the development of Islamic finance. Participation banking is also being promoted through evolution of by-laws and administration. Borsa Istanbul, Turkey's stock market operator, launched trading in sukuk in August 2018, deepening the country's Islamic capital market actions. The Participation Banks Association of Turkey (PBAT), which groups participation banks working in Turkey, set up a Central Advisory Board (CAB) in 2018 to make certain standardization of participation banking products and association with international participation banking. PBAT aims a participation banking penetration of 15% by 2025 (TKBB, 2015). Further momentum can be gained with plans to equalize tax treatment for equivalent financial activities of commercial and participation financial institutions (TKBB, 2020).

Table 4: Milestones of Developments of Islamic Finance in Turkey

1983	
	•Establishment of Special Finance Houses (SFHs)
1999	
	•SFHs became subject to the same umbrella of regulations with conventional banks
2005	
	•SFHs were transformed to Participation Banks (PBs) with Banking Law 5411.
2009	
	•The firs Takaful Company was established.
2010	
	•Lease Certificate (Sukuk) Communique was anacted •The first private Sukuk issuance
2011	
	•Introducing of Islamic Index (Participation Index) in Istanbul Stock Exchange (BIST •The first Islamic private pension company was established.
2012	
	•Law on Regulating Public Finance and Debt Management was amended to enable the Turkish Treasury to issue Sukuk •The sukuk-related items was included into the new Capital Markets Law.
2015	
	•Ziraat Participation Bank (State-owned) was established. •Interest-free Finance Coordination Board was lounched.
2016	
	•Vakif Participation (State-owned) was established.
2017	
	•Regulation on working principles and procedures of Participation Insurance was issued in Official Gazetta •Gold indexed Ijara Sukuk started to be issued.
2018	
	•Central Shariah Advisory Board was introduced as affiliated to PBAT.
2019	
	•Emlak Participation Bank (state-owned) was established. •Public Oversight Accounting and Auditing Standart Authority issued 1 ethic norm and 6 interest-free auditing standarts based on AAOIFI standarts. •The relevant article in Public Finance and Debt Management Law, which forms the legal basis for the Turkish Treasury's Sukuk issuance, was amended to enhance the general framework of Sukuk structure.

Source: (COMCEC, 2020)

4.1 TAXATION OF SUKUK IN TURKEY

Definition of tax is "A compulsory contribution to state revenue, levied by the government on workers' income and business profits, or added to the cost of some goods, services, and transactions" (Simpson & Weiner, 1993).

It is necessary for the sukuk industry that a legislation must be put into place about taxation on incomes of the sukuk. There are many transfers of the assets in Islamic finance industry since it is vitally different from the conventional banking system that is transferring ownership of the commodity instead of money. Thus, the taxes are borne by owner of the commodity for each transfer. In all transactions, ownership of the commodity always requires additional tax duties that inevitably causes additional costs. As an example, ijara sukuk which is the most used product in Turkey's Islamic finance sector. In this type of ijara sukuk structure, premier transfer of asset ownership requires paying taxes, such as sales tax, value-added tax, holding tax or stamp tax. When the transferring of the ownership of the assets, the duty of the taxes occurs, each transfer includes additional tax costs. However, in conventional bonds, there is no requirement for a transfer of ownership from one side to another at a time. Hence, there is no necessity of the additional tax costs when the transferring of the ownership occurs. For transferring those disadvantages to advantages in Islamic Finance Market in Turkey, Turkish Government has put into place several laws about implementation and taxation of the sukuk.

The lawful origin of Sukuk as a financial tool, a free of interest-financing model has been fixed with the Communiqué Series III No: 43 on "Lease Certificates and Asset Lease Companies" in April 2010, in which ijara sukuk has been accepted. After the acceptance of tax exemptions for the issuance of Sukuk, the primary Sukuk was issued by Kuveyt Turk Participation Bank in Turkey in 2011. In 2013, the Communique Series III No: 61 on Lease Certificates having abolished the Communique Series III No: 43 and in which the new kinds of lease certificates have been put into force. The Communique on Lease Certificate (III-61.1) has regulated five kinds of lease certificates, which have been grounded four additionary sukuk structures in addition to ijara sukuk (ownership sukuk). These new models are: (i) management (musharakah sukuk), (ii) trading (murabaha sukuk), (iii) partnership (mudaraba sukuk), (iv) engineering, procurement and construction (EPC) (istisna sukuk).

The Turkish government announced for the years 2016-2018 its intentions to continue to strengthen the legal infrastructure for Islamic banking finance and financial products. In this context, a comprehensive tax reform was introduced in August 2016, significantly eliminating the tax-related roadblocks and uncertainties on sukuk issuances and transactions (White & Case, 2016). Tax laws that are already applied in Turkey are shown in the table below.

Table 5: Sukuk Related Taxes in Turkey

Tax name	Tax number	Issue/Revision
Personal Income tax	193	1960/2011
Corporate Income tax	5422	1946/2011
Corporate tax	5520	2006/2011
Value-Added tax	3065	1984/2011
Stamp tax	488	1964/2011
Property tax	1319	1970/2011
Expenditure tax	6802	1956/2011
Fees tax	492	1964/2011

Source: Author

4.1.1. INCOME TAX

Income tax is defined as a tax imposed on income generated by businesses and individuals within their authorities. In Turkey, taxation structure consists of two main income taxes. They are (i) personal income tax and (ii) corporate income tax. Unlike a company that is subject to corporate income tax on its income and earnings, an individual is subject to personal income tax on their income and earnings The procedures of taxation for individual income and earnings are provided in the Personal Income Tax (PIT) Law in 1960. The procedures of the taxation of corporations are contained in the Corporate Income Tax (CIT) Law in 1949 (a new version of the CIT Law put into force in 2006). Nonetheless, each is ruled by a different regulation, many procedures and requirements of the PIT Law are also applied to corporates, such as income elements and determination of net income. An individual's income may consist of one or more income elements listed below:

(i) Business profits,

(ii) Agricultural profits,

(iii) Salaries and wages,

(iv) Incomes from independent personal services,

(v) Incomes from immovable property and rights (rental income),

(vi) Incomes from capital investment,

(vii) Other incomes and earnings without considering the source of income (Ministry of Finance Turkey, 2016).

These incomes are taxed as a Personal Income Tax. The important legislation for changes in accordance with the sukuk instrument was made by Law No:6111 in 2011, which includes addition of several tax laws, such as law of income tax, law of corporate tax, law of value-added tax and law of stamp tax.

According to 6111 number Law, it was added on the Personal Income Tax, Number 75/5, "lease certificates" which represents the sukuk instrument in the Islamic capital market. After this arrangement of the legislation, lease certificates were placed in the Personal Income Tax as an earning on movable assets and that has been considered as a taxable income.

In the Personal Income Tax, there is also a withholding tax (deduction at the source tax), it is implemented according to provisional 67th article. Its rates are determined by 2020/2569 Presidential Decision on 23.05.2020. According to this regulation, withholding tax rates from personal income are;

"0% for earnings from gold-based government debt securities issued by the Ministry of Treasury and Finance and gold-based lease certificates issued by asset leasing companies established in accordance with Law No. 4749 on Regulation of Public Finance and Debt Management, 15% of the revenues obtained from financing bonds approved by the Capital Markets Board in accordance with Law No. 6362 and from lease certificates with a term of less than one year issued by asset leasing companies, and from their disposal, 15% for earnings arising from the disposal of financing bills approved by the Capital Markets Board and lease certificates with a maturity less than one year issued by asset leasing companies in accordance with Law No. 6362, 10% for other earnings," (Turkish Presidency Degree, No: 2569, 2020)

On the other hand, lease certificates issued abroad by full taxpayer lease companies are taxed on;

(i) Incomes in which maturity date until 1 year is 7%

(ii) Incomes in which maturity date from 1 year to 3 years is 3%

(iii) Incomes in which maturity date 3 years or more is 0%

(iv) Those in which are the outside from above is 10% (Presidential Decree, 2019, para. 1/b/bb)

Deductions are made by related authorities which are counted in law. There is no withholding tax on revenues obtained from the lease certificates issued by the Undersecretaries of Treasury Asset Leasing Company abroad.

In terms of income tax law of sukuk income, there is no difference between income of Islamic finance product as a lease certificate and conventional product as a bond. Both are subject to same rate of income tax according to legislations. Turkish Government has provided an equal competition field in capital market for both industries in terms of income taxation.

As shown, the financial profit or loss is treated the equal as interest based on conventional borrowing. Hence, the income tax law needs revising according to main purpose of the arrangement is the raising or debt finance provision.

4.1.2. CORPORATE TAX

The corporate tax is implemented on the income and earnings derived by corporations and corporate bodies. It is a tax type calculated according to the net corporate income earned by taxpayers during a calendar year. The income elements by the Corporate Income Tax (CIT) Law are the same as the Personal Income Tax (PIT) Law. Corporations and corporate bodies specified by the Law as taxpayers are follows:

(i) Capital companies and similar foreign companies,
(ii) Cooperatives,
(iii) Public enterprises,
(iv) Enterprises owned by foundations societies and associations,
(v) Joint ventures (Ministry of Finance Turkey, 2016).

The gains of the institutions listed above are subject to corporate income tax.

Whether the institution benefiting from the income obtained through the issuance of the lease certificate in the country is a full taxpayer or a limited taxpayer capital company, there is no deduction from the earnings. However, in full taxpayer income is declared by including it in corporate income, while in narrow taxpayer deduction, it is not declared because it is the final tax. 10% for the earnings from lease certificates obtained by full and limited taxpayer real persons and institutions (2569 Decree, 2020). This amount of tax is deducted by financial institutions and transferred to treasury account as a tax responsible.

The withholding rate (deduction) is based on both the periodic returns and the redemption income of the lease certificates, it has been determined as 0% for the institutions listed in CIT Art.2 / (1), without making a distinction between full and limited taxpayers with the Decree Law No. 2010/926. The institutions other than those listed in CIT art.2 / (1), the withholding rate will be applied as 10% (Aydın & Ayyıldırım, 2015)

The deduction rate of earnings from the purchase and sale of lease certificates issued by full taxpayer capital companies is 0%. Lease certificates issued abroad by full taxpayer lease companies are taxed on;

(i) Incomes in which maturity date until 1 year is 7%
(ii) Incomes in which maturity date from 1 year to 3 years is 3%
(iii) Incomes in which maturity date 3 years or more is 0%
(iv) Those in which are the outside from above is 10%" (Presidential Decree, 2019)

Deductions are made by related authorities which are counted in law. But there are also exemptions in the tax law no:5520.

The title of the 5th Article of the tax law is "Exemptions":

"The following benefits are exempt from corporate income tax.

e) 50% of the gains on the sale of immovable assets, in the assets for the same period as the 75% of the gains arising from the sale of the founders' shares, beneficial shares and priority rights owned by the institutions for the same period as the subsidiary shares in their assets for at least two full years.

j) Under the law no:6361, Law of Financial leasing, Factoring and Financing Companies, gains derived from the sale of financial leasing companies, participation banks and development and investment banks by the corporations and the gains arising from the transfer of the said assets to the institution of acquisition by the end of the lease period, provided that all movable and immovable properties are taken back to the lease and back at the end of the contract.

k) Gains arising from the sale of assets and rights to asset leasing companies on the condition of the issuance of lease certificates by the source institutions and the return of such assets to the institution from which the assets were acquired by the asset leasing companies."

Within the meaning of this law no:5520, article 5/e, j, k;

The title of the 5 is exemptions from the corporate income tax. The lawmaker counted individually all the exemptions in the Corporate Income Tax Law. We will mention several exemptions about lease certificates.

(i) 50% of the gains of institutions on the sale of immovable assets in their assets for at least two full years,

(ii) 75% of the gains arising from the sale of the founders' shares, beneficial shares and priority rights owned by the institutions for the same period as the subsidiary shares in their assets for at least two full years.

Moreover, in 2011, 6111 numbered law: "Law on restructuring of some receivables and amendments to social insurance and general health insurance law and some other laws and decree laws" was published. It was added with the amendment in this article that

"for the sale of immovable assets to Asset Leasing Companies (ALC) for the purpose of issuing lease certificates by the source institutions and the earnings arising from the sale of these assets to the source institution where the immovable is taken over by the Asset Leasing Companies, this rate is applied as 100% and there is no requirement for them to be active for at least two full years." (Law on Restructuring of some Receivables and Amendments to Social Insurance and General Health Insurance Law and some other Laws and Decree Laws of Turkey, no: 6011, 2011).

According to this amendment no restrictions have been applied on the tax rate and the number of years. Exemption has been extended by the lawmaker regarding the lease certificates. But it is not sufficient for sukuk in the Turkish tax legislation. The amendment includes only immovable properties, but assets to be purchased and rented by the asset leasing companies include all kind of assets, real estate and intangible assets. New amendments should be made regarding this issue. As stated by Ulusoy & Ela (Ulusoy & Ela, 2018) that amendments should cover all assets including immovable and intangibles. Arrangements for all securities bought and sold by the asset leasing companies should be made and their tax principles should be published. Otherwise, development of the Islamic finance products in Turkey will be impossible. Regulations made in a narrow framework on this subject will prevent development. Another issue is that as stated by some researchers (Aslan, 2012, p. 110) the comminuqe and tax regulations are new. Accordingly, issues according to these rules have not been realized yet in the market, and implementations are not yet known clearly.

4.1.3. VALUE-ADDED TAX

A value-added tax (VAT) is a consumption tax placed on a product whenever value is added at each stage of the supply chain, from production to the point of sale.

In Turkey, the Value Added Tax Act came into force on January 1, 1985. The Turkish tax system leverages value added tax on the supply and import of goods and services. Liability for VAT arises;

(i) When person or organization in Turkey, commercial, industrial, agricultural or independent professional engages in activities,

(ii) When goods or services are imported into Turkey.

VAT is applied at each stage of the production and distribution process. However, responsibility for the tax levies on the person who supplies or imports goods or services, the real VAT loading is on the last consumer. There are many exemptions from taxing in the VAT law. We will mention about lease certificate exemptions from the VAT.

The title of the 17th Article of VAT Law is about exemptions. They are: importation exemption, exportation exemption, social and military exemption, exemption of national security expenditure and searching of mine and oil exemptions, transportation and diplomatic exemptions. The article 17 of the VAT law is “The Exemptions of Social and Military Purposes with Other Exemptions.” The article 17/4 of the VAT is “Other Exemptions.” and it covers exemptions about sukuk such as follows:

17/4-(g) article; “Gold bullion and silver bullion delivered with precious stones (diamonds, diamond, ruby, emerald, topaz, sapphire, chrysotile, pearl), according to 12/06/2012 dated and 6362 numbered Capital Market Law importation as traded on a stock exchange established in Turkey, the stock market delivery and exchange of shares between exchange members, foreign currency, money, stamp, valuable papers, stock, bonds**, lease certificates issued by asset leasing companies** (including financing services provided by buying bonds limited to interest income obtained), metal and capital market instruments traded on a stock exchange established in Turkey, plastics, rubber, paper, glass, scrap and their waste, with delivery of the garment trimmings”(Ministry of Finance Turkey, 2016)

Within the meaning of this law no:3065, 17/4-(g); Transactions (transfer/delivery of ownership/usufruct with each other of the owners or lessors) in stock market which are founded according to Capital Market Law in Turkey, the stock market delivery and exchange of shares between exchange members, foreign currency, money, stamp, valuable papers, stock, bonds, lease certificates issued by Asset Leasing Companies are exempt from VAT.

17/4-(u) article; "Transfer all of the assets and rights by asset leasing companies and transfer of the assets and rights to the leased company by transferring the assets and rights to the asset leasing companies for the purpose of issuing the lease certificate and for the issuance of the lease certificate at the end of the contract period."

"In the context of an exception, value added tax that is imposed on the acquisition of the assets and rights transferred to the asset leasing companies and which cannot be eliminated by the discount until the period of the transfer is considered as expense in the determination of the income or corporate tax base for the period in which the transfer was made. *"*(Ministry of Finance Turkey, 2016)

With in the meaning of this law no:3065, 17/4-(u);

(i) Transfer all of the assets and rights by asset leasing companies,

(ii) Transfer of the assets and rights to the leased company by transferring the assets and rights to the asset leasing companies for the purpose of issuing the lease certificate and for the issuance of the lease certificate at the end of the contract period

Those transfers are not subject to VAT, so those are exemption from the VAT.

17/4-(y) article; "Within the scope of the Law on Financial Leasing, Factoring and Financing Companies dated 21/11/2012 and numbered 6361; leasing and transfer of the movable and immovable to the lessor and transfer to the lessor on condition that the leasing companies, participation banks and the development and investment banks shall be transferred to the lessee at the end of the contract period and the ownership of the asset subject to the lease shall be transferred to the lessee at the end of the contract."

"In the scope of the exemption, value added tax that is charged to the financial leasing companies, participation banks and all movable and immovable properties transferred to the development and investment banks and which cannot be resolved by discount until the period of the transfer is considered as expense in the determination of income or corporate tax base for the accounting period in which the transfer was made. *"*(Ministry of Finance Turkey, 2016)

With in the meaning of this law no:3065, 17/4-(y);

Under the Law on Financial Leasing, Factoring and Financing Companies, leasing and transfer of the movable and immovable assets, from lessor to lessee and at the end of the contract from lessee to lessor by Leasing Companies, Participation Banks and the Development and Investment Banks, are exemption from the VAT.

As a summary, the exemptions from the VAT;

(i) the sale of the asset by Originator to ALC;

(ii) the leasing of the asset by ALC to Originator;

(iii) the delivery of the leasing certificates by ALC;

(iv) the sale-back of the asset by ALC to Originator.

In terms of Value-Added tax of lease certificates; exemptions were introduced to asset leasing companies that issued lease certificates during the transfer of securities, real estate and intangible assets, and the lease certificates issued by asset leasing companies. This legislation is important to reduce the tax burden on the customer due to various transfers in Islamic financial transactions. With these regulations, the Turkish government aimed to enable both Islamic and conventional institutions to compete in an equal area. Thus, Islamic finance, which will become disadvantageous with tax burden due to many transfers, has been freed from these legislations on VAT.

4.1.4. STAMP TAX

Stamp tax applies to various documents, contracts, agreements, notes payable, letters of credit and letters of guarantee, financial statements, and payrolls. According to tax law; "the taxpayers of the Stamp Tax are those who sign the papers. People pay the Stamp Duty of the papers for transactions between government agencies and individuals". Stamp tax is implemented according to the kind of documents at different tax rates or lump sum quantity listed in Annex I of the Stamp Tax Law.

The sukuk (lease certificates) exemption from the stamp tax is placed II. table which is with addition of Law. The title of the 41. article of the II. table is "Papers which are exempted from stamp duty" It states that:

"Transfer of all kinds of assets and rights that constitute the basis for **the issuance of lease certificate**, purchase, sale, renting, proxy management**, lease certificate** issuance for the purpose of issuing a joint venture, a business or a job as the owner of the work and the rental or sale of the work arranged paper and certificates issued for all kinds of guarantees and guarantees relating to **lease certificates**. *"*(Ministry of Finance Turkey, 2016)

With in the meaning of this law no:488, Table II/41;

(i) Movable, immovable, and intangible assets that transfers to Asset Leasing Company,

(ii) Those which are related assets transfers from ALC to originator company, as a purchase, sale, renting, proxy management, lease certificate issuance for the purpose of issuing a joint venture, a business, or a job as the owner of the work,

(iii)The rental or sale of the work arranged paper and certificates issued for all kinds of guarantees and guarantees relating to lease certificates,

Transactions on papers and certificates which are mentioned above are exempted from stamp duty.

According to Turkish stamp tax legislations, the papers are divided into four main groups which are subject to stamp duty. The four main groups are papers on contracts, decisions, and certificate (protocols), papers used in commercial transactions and receipt (bill) and other papers. Those papers which are transacted between sides are subject to tax. In lease certificate transactions, the lease certificate is based on the contract between the financial institution and the client who invests money in financial products. Therefore, the certificate is subject to tax. However, the lease certificates are exempt from this tax with regulations made by the legislature. This amendment was made by 6111 number Law in 2011. In the same law,

"Dividends and interest vouchers for stocks and all kinds of bonds" are also exempt from stamp duty. Moreover, "Purchase and sale contracts and real estate sales promises contracts exclusively for real estate portfolios of real estate investment trusts and real estate investment funds" are exempt from this tax. Accordingly, the lawmaker aimed to make égalité for both Islamic and conventional finance systems. Nor Islamic finance is made advantageous by legislator, or vice versa.

4.1.5. PROPERTY TAX

The subjects of property tax are real estate and land property which are determined by Property Tax Law. Property taxes are calculated once a year and collected from tax responsible by related municipality. The taxpayer is the owner of the real estate or land. It is paid yearly to local municipalities in two equal instalments in May and November. In the tax law, there are several exemptions from Property Tax, such as consulate building, buildings belonging to foundations established to strengthen the Turkish Armed Forces, religious services and public worship places, Special budget administrations, special provincial administrations, municipalities, village legal entity, universities established by law and state buildings etc. However, there is exemption about sukuk (lease certificates) in the Property Tax Law.

The title of Property Tax Law's article 4 is "Exemptions and Exceptions." According to fourth article of the Law, "The buildings listed below are exempt from the building tax provided that they are not rented. (a), (b), (s), (y), (z) clauses are not required for rent.*"*(Ministry of Finance Turkey, 2016)

(z) "Buildings subject to the issuance of lease certificates under Article 7 / A of the Law No. 4749 of 28/3/2002 on the Regulation of Public Finance and Debt Management." (Ministry of Finance Turkey, 2016)

With in the meaning of this law no:1319, 4/z article;

Even if they are rented, the buildings which are subject to lease certificate issuance are exempted from the Property Tax. The transfer of the ownership of property is necessary for lease certificate according to Sharia Compliance. But it causes tax burden for people who prefer the Islamic finance products. In order to lift this excess tax burden, the legislator made regulations and provided both systems equally competitive field.

4.1.6. EXPENDITURE TAX

The Expenditure Tax Law consists of the three main parts which are Banking and Insurance Transaction Tax, Special Communication Tax and Tax on Games of Chance.

The subject matter of Banking and Insurance Transaction Tax is transactions and services performed by banks, bankers, and insurance companies. Hence, taxpayers are banks, bankers, and insurance companies as a tax responsible. Although there are lots of transactions in the banking and insurance sector which are subject on Banking and Insurance Transaction Tax (BITT), there are some exemptions from this tax. One of them is sukuk's incomes. According to Expenditure Tax Law 29/c article;

"Interest income on interest, dividend and bonuses of interest and dividends issued by the Central Bank and liquidity bonds issued by the Central Bank which are exempted from all kinds of taxes by special laws and rent income from lease certificates issued by asset leasing companies established in accordance with Article 7 / A of the Law on Public Finance and Debt Management dated 28/3/2002 and numbered 4749, and funds received at the end of maturity."(Ministry of Finance Turkey, 2016)

With in the meaning of this law no: 6802, 29/c article; It is exempted from the BITT that are following,

(i) rent incomes on lease certificates which are issued by Asset Leasing Companies established in accordance with Article 7 / A of the Law on Public Finance and Debt Management,

(ii) funds received at the end of maturity,

are exempt from Banking and Insurance Transaction Tax.

As can be seen from the article of the law; only rent income and funds received at the end of the maturity issued by established in accordance with Article 7 / A of the Law on Public Finance and Debt Management (Treasury, Central Bank) are exempt from this tax.

"Lease certificates which issued by asset lease company to money received in return for purchase or sale commitment and acquisition or disposal or bonds which issued through Turkish Lira in country are subject %1 Banking and Insurance Transaction Tax. 1% over the money received in favor of the bonds issued by the Turkish Lira and the lease certificates issued by the asset leasing companies without waiting for the maturity date"(Banking and Insurance Transaction Tax, 2011).

According to this amendment, lease certificates which are issued by special financial establishment (out of the Treasury) are subject to this tax. Furthermore, if beneficiary of the lease certificate which issued by asset leasing company sell the lease certificate, it would have born tax on received money by beneficiary. Here, the lawmaker encourages the use of lease certificates by imposing taxes if the lease certificates are sold before their maturity dates.

The private sector should take advantage of tax exemption for the issuance of lease certificates, such as the Undersecretaries of Treasury Asset Leasing Company for its growth in Turkey.

4.1.7. FEES TAX

Another of taxes levied on goods and services is fees. In Turkish taxation system, there are different types of fees, such as, Permit of License and Certificate Fees, Traffic Fees, Judgment Fees, Notary Fees, Tax Judgment Fees, Consulate Fees, Ship and Harbour Fees, Passport, Visa and Ministry of Foreign Affairs Certification Fees. These fees are implemented at different rates or fixed price by government according to law's ratios. However, there are several exemptions from Fees Tax Law.

According to Fees Tax of Turkey (Harçlar Kanunu) law'article 123*;*

"All kinds of assets and rights that constitute the basis of the issuance of lease certificate; transfer, purchase, sale, leasing, proxy management, **lease certificate issuance** for the purpose of a joint venture, a business or a job as a business owner to do the job and the rental or sale of this work and all kinds of collateral, mortgage and so on transactions are exempt from the fees set forth in this Law*"*(Ministry of Finance Turkey, 2016).

With in the meaning of this law no: 492, 123 article;

There are exemptions from those transactions/fees tax:

(i) Transactions of movable, immovable, and intangible assets that transfers to Asset Leasing Company

(ii) For those assets that transfers from Asset Leasing Company to originator

(iii) The mortgage transactions performed in these stages

The paragraph 15 of the Law numbered 4749 states that the lease certificates issued by HMVKŞ and the transactions and papers related to the issuance of lease certificates are excluded from the fees (Law and its Regulation on Public Financing and Debt Management (of Turkey), no: 4749, 2020).

"Within the framework of the regulations of the Capital Markets Board, in addition to ownership-based lease certificates, transactions regarding the management contract, trading including futures trading, partnership, different types of lease certificates based on work contracts and all kinds of guarantees, mortgages and similar transactions made in connection with these transactions are exempt from fees.” (Fees Tax Notification of Turkey, nr. 77, 2016).

With this legislation, a significant privilege was granted to the lease certificates. Because lease certificates contain assets and rights that are transferred through each purchase and cause multi taxing, such as fees tax. Through this arrangement, tax burden borne from extra transfers is prevented. It is especially important as it ensures that the lease certificate is preferred by the investor in Financial Market.

4.2 COMPARISON OF TAXATION OF SUKUK IN SELECTED COUNTRIES

The region of the Islamic financial industry spreads over more than 50 countries, involving some countries which are Europe, the USA, Asia, Africa, Australia and Commonwealth of Independent Countries (CIS) which are Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine. IFIs are critical part of the world economy and subject to the same economic laws as conventional (non-Islamic) financial market contributors. Today, the role of Islamic finance is growing every year. This development can be attributed the following reasons:

Firstly, there are many countries where have been a fast growth of the Muslim population and Muslim community in the World. The politicians and economists who live in these countries consider this population and their needs about savings and investments.

Secondly, it is observed that Halal financial products are more attractive than commercial ones because people who would like to invest their money on allowed or ethical products according to their beliefs and sensibilities. Such as Sukuk are rising investment products for either private or non-private investors. It may be important not only Muslims but also for non-Muslims. Because, selecting the allowed (halal) products, they do not invest in unethical products according to their religion ‘rules.

Thirdly, there is a development of issuing licenses and permits, which allows people to provide retail banking (mortgages, insurance and loans) in accordance with the Sharia’ Compliance. Most of the European governments have improved their economic and social policy to attract much more of Muslim communities in their countries. The authorities have started to reply to these desires.

Fourth, the governments and conventional banks realized that Islamic banking and finance provide much more business opportunities. Current economic system needs an alternative financial instrument, and this alternative system enriches the capital and financial markets. Today, considerable amount of professional investors would like to include Islamic financial instruments in their portfolio for the aim of diversification (Tatiana et al., 2015).

Because of this fast growth of Islamic finance in the world finance market, there is in an urgent need to regulation issues on accounting and taxation, auditing, and governance legislation for Islamic finance.

The specific selection criteria were used in this study for chosen of three countries which are the pioneer in the Islamic Finance legislation such as improvement of products, regulation and policies making etc. Different experiences having countries were selected in this study.

Malaysia is the one of the most developed countries in Islamic Finance. There are several authorities on regulation and implementation of Islamic Finance in this country. Bank Negara Malaysia (BNM) has Sharia Committee for implementation of Islamic Finance rules properly according to Sharia framework. It is very important for people who want to use Islamic Finance products for their investments or expenditure like house or car purchases.

United Kingdom was selected as a non-OIC country (United Kingdom). United Kingdom (UK) was the primary EU country to introduce judicial changes to arrange for a ‘level playing field’ to IF in its tax bills. To attract the Islamic capital and to gain its advantage, UK has changed and improved her financial infrastructure through legislations and implementations. Also, London Stock Exchange is especially important centre for capital market of the World. Most of the Islamic Finance Institutions perform financial transactions in LSE. Because of this experience, this country is important for Islamic Finance industry.

Luxembourg has the first Sharia' compliant insurance company in Europe and the first European stock exchange entered the sukuk market is The Luxembourg Stock Exchange. The Luxembourg Government seriously supports the Islamic finance both legislative and implementation. The Central Bank of Luxembourg is one of the members of the IFSB. Many international enterprises work in this country. They support the foreign investors who are Muslim or non-Muslim and attract the financial professionals in their country.

4.2.1. MALAYSIA

4.2.1.1. Overview of Malaysian Islamic Finance Development

As long as the global Islamic financial sector grows, there is a necessity to implement convenient practices especially taxation on domestic Islamic financial sectors. Maybe the best example in the World is Malaysia, a competent authority which has developed a regulatory infrastructure and it accommodates not only conventional but also Islamic finance. In Malaysia a dual financial sector provides an interesting proportion act as legacy tax obligations (MIA, 2014).

Malaysia has adopted various initiatives to become an international Islamic Finance centre and it seriously support with an alive and wide-ranging Islamic financial system that involves notable international and domestic financial institutions. Such as, Malaysia International Islamic Financial Centre (MIFC), Islamic Financial Services Board (IFSB), the International Centre for Education in Islamic Finance (INCEIF), also the International Sharia Research Academy for Islamic Finance (ISRA) was founded to support practical research in the areas of Sharia and Islamic finance.

In Malaysia, Islamic banking area went on to increase in 2019, adding approximately US$14.9 billion to whole assets from January to December period increased by the home financing segment. Total financing in the industry rose to US$145.3 billion as at end-2019. Financing for buying of residential property was the biggest contributor to Islamic banking financing in 2018, with US$43.3 billion. On the other hand, Malaysia is one of the world's largest sukuk issuers. The Securities Commission Malaysia (SC) expects the country's 2020 corporate bonds and sukuk issuance to be between US$21.1 billion and US$23.5 billion, compared with US$31.2 billion in 2019. According to the SC, some US$5.3 billion was elevated through primary public offerings and issuance of corporate bonds and sukuk in the first quarter of 2020. Corporate bonds and sukuk accounted for 96.92% of the total money raised (Asıla Jalıl, 2020; IFSB, 2019; S&P, 2020).

4.2.1.2. Taxation of Sukuk in Malaysia

Actually, there is not any special tax legislation on Islamic Finance in Malaysia. However, every tax act includes some article about Islamic Finance products. According to Income Tax Act of Malaysia (1967/2006), any profit derived from Islamic Financial transactions such as sukuk incomes on taxation will have same treatment with conventional transactions such as interest. Section 2(7) article of the Act is such follow: "Any reference in this act to interest shall apply, mutadis mutandis, to gains or profits received and expenses incurred, in lieu of interest, in transactions conducted in accordance with the principles of Sharia". As stated, there is no difference between interest gain from conventional finance and sukuk income from Islamic finance. According to this article, the lawmaker aims to provide tax neutrality between on sukuk incomes and interest incomes in the country.

On the other hand, according to Income Tax Act of Malaysia (1967/2016) there is exemption from Real Property Gains Tax on sukuk transactions that is:

"Chargeable gains accrued on the disposal of any chargeable assets in relation to the issuance of private debt securities under Islamic principles are exempted from Real Property Gains Tax (RPGT). This also applies to the disposal of any chargeable assets in relation to the Sukuk"

In the Malaysian tax system, interest income and sukuk income are subject to tax according to same basis but asset transfers that occur in the sukuk transactions are exempted from Real Property Gains Tax. This is because that the sukuk transactions in the Islamic Finance do not become disadvantageous against the conventional counterparties. Both sides can compete against each other without being advantageous or disadvantageous, so tax neutrality can be provided by this regulation.

In the conventional finance system, there is no asset transfer between the institutions, asset provider and customer. Hence, it may be more advantages than Islamic finance. Because Islamic finance transaction requires the transfer of the ownership of the assets, there is a huge tax burden on them. The tax laws have been issued to assure that Islamic financing arrangements are not affect negatively on taxation as compared with their conventional counterpart's arrangements. There are some exemptions from stamp duty tax since to ensure competition in the market.

Stamp Duty Exemption states such as follows:

"Exempted from stamp duty on all instruments of Al-Ijara Head Lease Agreement of immovable property executed between a customer and a financier (i.e. a bank, financial institution or leasing company), pursuant to a scheme of Al-Ijara Term Financing Facility." (Stamp Act of Malaysia, no: 378, 1949/2014).

The lawmaker targeted that to provide the equal competition between conventional and Islamic finance transactions because in the ijara contract (include sukuk al ijara) every transfer of the asset caused the stamp duty. Otherwise, the person who prefer the Islamic finance transaction would be exposed to heavy tax burden.

Exemption Number 9: Stamp Duty: All of the instruments of the Asset Sale Agreement or the Asset Purchase Agreement executed between a customer and a bank made under the principles of the Sharia law for the purpose of renewing any Islamic overdraft financing facility, if the instruments for the Islamic overdraft financing facility have been duly stamped." (Stamp Act of Malaysia, no: 378, 1949/2014)

In the meaning of this article, under the principles of Sharia, all instruments of the Asset Sale Agreement which are made between a client and a bank to aim of renewing any Islamic overdraft financing facility are exempted from stamp duty.

Stamp Duty (Exemption), (No.2) Order 2004: "All instruments executed between a customer and a financier under an Asset Sale Agreement or an Asset Lease Agreement made under the principles of the Sharia for the purpose of renewing any Islamic revolving financing facility" (Stamp Act of Malaysia, no: 378, 1949/2014)

According to this article, all applications made between a client and a financier under an Asset Sales Contract or Asset Lease Contract made in accordance with Sharia rules for the renewal of any Islamic revolving financing facility are exempt from stamp tax.

Stamp Duty (Exemption), (No.3) Order 2004 “All instruments made by any financier which relate to purchase of property for the purpose of lease back under the principles of the Sharia or under a principle sale and purchase agreement by which the financier assume the contractual obligations of customer” (Stamp Act of Malaysia, no: 378, 1949/2014)

For the objective of lease back after purchase the asset under the Sharia rules, all instruments made by a financier beneath a principle selling and buying agreement by which the financier assumes the contractual duties of client are exempted from stamp duty.

As a conclusion, applying the neutrality, the sale, and lease back, resale of asset will be ignored for taxation purposes. For example, it is supposed that no movement of asset has occurred. At the same time, the SPV and its activities ignored in the Malaysian tax. Since all income and expenses of the SPV will be treated belonging to the debtor. So, in reality, lease payments for the asset will be considered as simple coupon payments to sukuk holders (Cambridge Institute of Islamic Finance, 2014). Tax changes in Malaysia can be classified in table 6.

Table 6: Tax Changes in Malaysia

Tax neutrality –The Income Tax Act 1967/2006
Stamp duty is exempted from Islamic securities issued under MIFC until 2020
Administrative tax procedures are exempted from SPVs -Income Tax Act 1967/2006 and Labuan Companies Act 1990
Expenses incurred during the issuance of sukuk is tax deductible 2015
Tax incentives (management fees are tax free up to 2016)
Liberalization of withholding taxes to attract foreign entities to issue or invest in sukuk 2019

Source: (COMCEC, 2018; KPMG, 2020)

Further incentives include exemption from tax on relevant income for residents. They are: (i) whose statutory income is derived from dealings in non-ringgit sukuk that originate from Malaysia. (ii) Who receive fees from consultation on corporate finance dua to arranging, underwriting and distribution of non-riggit sukuk also eenjoy tax emption on the statutory income arising tehereform (ISRA, 2017).

4.2.1.3. Comparison with Turkey

As a consequent, Malaysia is one of the first countries in the region to start the legislation for Islamic Financial products, tax legislation and tax incentives on them (Naim, n.d.). However, Malaysia implements Islamic finance transactions under the existing legal/regulatory conventional frameworks. It makes only various amendments to prevailing legislations. The aim of these legislation amendments to ensure the tax neutrality and eligible competition area both Islamic and conventional finance industries. In other words, it gives Islamic finance transactions a neutral treatment to that of conventional transactions.

Similarly, with Turkey, there is no special tax legislation on Islamic Finance in Malaysia. However, every tax law includes some additional articles about Islamic Finance products. Most of them are exemptions from taxation such as Real Property Gains Tax, Stamp Duty Tax etc. In Turkey, similar implementation is valid today. On the other hand, when sukuk revenues are considered in terms of income tax, both countries are subject to tax in the same category as interest. Likewise, as with revenues of bonds and share certificates, the income of the sukuk are subject of taxation according to both countries' income tax legislations. In general, taxation of sukuk legislation shows parallelism with Malaysian tax system.

4.2.2. UNITED KINGDOM

4.2.2.1 Overview of UK's Islamic Finance Development

Islamic Finance first came to the UK in the 1980s, with the introduction of Murabaha transactions. The first UK Islamic bank, Al-Baraka International, launched in 1982. In 1983, the Bank of England (BOE) allowed Al-Baraka Bank to operate in the UK. It was the only bank offering exclusively Islamic Banking Services in the UK under the 1987 Banking Act. Its business did not take-off until it opened two branches in London in 1988 and 1989, and a branch in Birmingham in 1991 (Belouafi & Chachi, 2014).

Islamic Finance has grown outstandingly in the UK over the years. This significant growth is by virtue of many factors, which are economic, political, and regulatory factors in this process. One of the important features of this development is the supportive government policies aimed to extend the sector for Islamic Financial products by not only Sharia compliant institutions but also institutions with Islamic windows. The improvement of this sector has also enjoyed cross party support over the past decade. There are two core policy objectives about this sector. The first one is to establish and maintain London as Europe's gateway to international Islamic finance; and the second one is to ensure that nobody in the UK is denied access to competitively priced financial products on account of their faith (Belouafi & Chachi, 2014).

It was followed by the growth of Sharia-compliant products in finance sector, leasing, and project finance. In the first half of 2000s, the UK Government began to take a severe interest in Islamic Finance. It was improved a work programme by the government to make the UK's financial services rules compatible with the growth of Islamic Finance in the World. Actually, the UK is the top non-OIC country for Islamic finance with $6 billion total assets of UK-based institutions that offer Islamic financial services. The UK government achieved this development by creating a fiscal and regulatory framework intended to broaden the Islamic finance sector over the last three decades. Islamic banking is the leading Islamic financial sector in the UK. There are 5 fully Shariah-compliant banks licensed in the UK with 17 domestic branch offices and also more than 15 conventional banks and institutions which offer Shariah-compliant services (COMCEC, 2020; TheCityUK, 2019)

The tax implementation was transformed to assure that Islamic and conventional finance businesses with an equal objective resulted in equal tax bills. It was also a significant phase to permit the Islamic Finance market to develop. There has been serious development in the Islamic Finance services, to provide Muslims resident which is more than 2.5 million in the UK (Lescher, 2015a).

In 2003, the UK had recognized the massive potential of IF market and had started determining the tax and supervisory structure. It permitted the improvement of Islamic finance products in the country. One of the initial important initiatives was to eliminate the double stamp-duty land-tax charge on Islamic mortgages. Thus, the UK was the first

EU country to introduce statutory modifications to provide a 'level playing field' for IF in its tax bills. This improvement facilitated their aims to enhance IF sector and provide to enabled monetary and supervisory framework in the UK. Initiatives have included:

> "The removal of double-tax on Islamic mortgages and the extension of tax relief on Islamic mortgages to companies, as well as individuals. Reform of arrangements for issues of bonds so that returns, and income payments can be treated 'as if' interest. This makes London a more attractive location for issuing and trading Sukuk. Initiatives by the Financial Conduct Authority to ensure that regulatory treatment of Islamic finance is consistent with its statutory objectives and principles" (Belouafi & Chachi, 2014).

On the other hand, sukuk market in the UK commenced in 2007, and has increased dramatically. The United Kingdom Government became the first Western government to issue sovereign Sukuk. By 2020, 67 Sukuk had been registered on the London Stock Exchange. The UK government has also improved proficiency in the supporting professions, with professional counselling and lawful forms constructing Islamic Finance applies with strong Islamic insurance, fund management and banking sectors (Lescher, 2015b).

The fundamental problem in the taxation of Islamic Financial products in common is that these trades need extra phases when matched to their conventional counterparts to succeed the similar economic advantages. Therefore, if each step is taken separately, this will lead to additional tax costs. In response to this problem, the legislature's approach was to look at the economic substance of the transaction rather than the legal form. Overall, this suggests that this Islamic Finance product has an economic core similar to an interest-based loan, and thus questions the uniqueness of Islamic Finance products and are truly different from traditional products. This implementation is only for facilitating Islamic Finance in the UK (Moqbel, 2015). These developments have brought up that the legislation of tax system must be improved for this sector.

4.2.2.2 Taxation of Sukuk in the UK

In the UK Tax Legislation, sukuk are named as "the alternative finance investment bonds". There are many tax laws such as Corporation Tax Law, Income Tax Law, Value-Added Tax Law, Stamp Duty Land Tax Law etc in the UK.

According to Income Tax Act of the UK, Income Tax is a tax which pays on income. But do not have to pay tax on all types of income. The Act determined the items of "subject of tax" and "unsubject of tax" such as follows:

(subject of tax): (i) money you earn from employment, (ii) profits you make if you're self-employed - including from services you sell through websites or apps, (iii) some state benefits, (iv) most pensions, including state pensions, company and personal pensions and retirement annuities, (v) rental income (unless you're a live-in landlord and get less than the rent a room limit), (vi) benefits you get from your job, (vii) income from a trust, (viii)interest on savings over your savings allowance.

(Unsubjects of tax): (I) the first £1,000 of income from self-employment - this is your 'trading allowance'(ii) the first £1,000 of income from property you rent (unless you are using the Rent a Room Scheme), (iii) income from tax-exempt accounts, like Individual Savings Accounts (ISAs) and National Savings Certificates, (iv) dividends from company shares under your dividends allowance, (v) some state benefits, (vi) premium bond or National Lottery wins, (vii) rent you get from a lodger in your house that's below the rent a room limit" (Income Tax Act of UK, 2010).

All gains and income earned within an investment bond are subject to income tax that its rate is 20% and it is paid directly out of the investment bond in the UK. In terms of taxation on alternative finance investment bond, there is a tax neutrality for income and corporation taxes. The implementation of taxation on gains from financial transactions both conventional and participation banking is same rates. Actually, in the UK, there is a basic philosophical understanding which is there is no citizen can be treated differently because of their beliefs. The sentence explains that whether Islamic finance gains or commercial finance gains, both are subject to same tax rate which is named tax neutrality. Legislative measures about this neutrality have made by Supervisory bodies, which are the Financial Conduct Authority (FCA), the Prudential Regulation Authority (FRA), the Bank of England, and the government to establish a financial sector for Islamic and conventional instruments. Any inequality has rapidly remediated by revisions in the legislation and regulations.

In the Corporation Tax Act 2009, Chapter 6 of the Part 6 is named "Alternative Finance Arrangements". In the first part of this section, there is a definition of alternative finance. "In this Part 'alternative finance arrangements' mean

(i) purchase and resale arrangements, (ii) diminishing shared ownership arrangements, (iii) deposit arrangements, (iv) profit share agency arrangements, (v) investment bond arrangements.” (Alternative Financial Arrangements of UK, 2009).

In view of the Corporation Tax, a business that go into an alternative finance arrangement is to be treated as if it had gone into a loan relationship. References to a credit relationship in Tax Laws include references to alternative finance arrangements (Corporate Tax Act of UK 09/Sc. 509). Therefore, all credit relationship rules for corporate tax apply as in traditional regulations.

CTA09/Sc. 510 provides that the amount of the loan to which a company is party is as follows.

> “(i)Under a purchase and resale arrangement it is the first purchase price of the asset. (ii) Under a diminishing shared ownership arrangement, it is the amount paid by the financial institution for its acquisition of its beneficial interest in the asset. (iii) Under a deposit arrangement it is the amount deposited by the company with the financial institution. (iv) Under a profit share agency arrangement, it is the amount provided under the arrangement by the principal to the agent.” (Corporate Finance Manuel of UK, 2016/2020)

In all cases, alternative financing gains payable on the deal are treated as if they were interest payable under the loan relationship. Since alternative financing investment bonds are considered as debt securities for taxation purposes, Corporation Tax Act (CTA09/Sc. 517) ensures that, irrespective of the legal position, any trust made by the engagements is unnoticed for Corporation Tax purposes. This is the similar standard which relates to an ‘enactment about tax’ by virtue of Income Tax Act (ITA07/Sc. 564) and Temporary non-residents and Capital Gains Act (TCGA92/Sc. 151U). It implements to income tax, capital gains, capital allowances and inheritance tax. However, stamp tax which is a fee rather than taxes, covers the stamp duty land tax. Because of this classification, if the alternative finance investment bonds were subject to stamp duty or stamp duty land tax, they are exempt from both two duties payments (Corporation Tax Act of UK, 2009).

From the point of Value-Added Tax, the standard rate of Value-Added Tax in the UK is 20% on January 2011 (it was the 17.5% before). Most good and services are subject to this rate for VAT. At the same time, some goods, and services such as children’s car seats, sanitary products and home energy are subject to reduced rate which is 5% for

VAT. There is also zero rate for some goods and services which are most of the foods and children's clothes. In this legislation, there are exemptions on some goods and services which are counted individually.

According to VAT Notice of UK dealings in money, trading in securities and associated financial services are exempt from VAT which are,

> "(i) Financial services including the issue, transfer or receipt of, or dealing with money, securities for money or orders for the payment of money. (ii) The granting of credit such as loans. (iii) The management of credit by the person who has granted it. (iv) The provision of the facility of instalment credit finance for example hire-purchase. (v) The provision of qualifying financial intermediary services. (vi) The issue, transfer or dealing with a security, including shares and bonds. (vii) The operation of a current, deposit or savings account. (viii) The management of a qualifying special investment fund" (VAT Notice of UK, 701/49, 2019)

The UK VAT legislation provides several incentives which are subject to zero-tax rate in Islamic Finance structures involving commodities, such as transactions on the London Metal Exchange. This provides an advantage from Value-Added Tax (VAT) for Islamic Finance products and it makes the UK an attractive region for the cross-border Islamic Finance structures. The UK legislations have different implementation for the Income and Corporate Tax Acts that are both fundamental tax acts, they are based on tax neutrality but in terms of the VAT, the incentives have been applied for Islamic finance products.

According to the Alternative Finance Investment Bonds (Stamp Duty Land Tax) Regulations 2009; the following articles prescribe evidence which will exempt from stamp duty land tax certain transactions relating to underlying assets consisting of land:

"(i) the unique transaction reference number (UTRN) for the Stamp Duty Land Tax (SDLT) land transaction return on which relief from the tax was claimed on the transfer of the land from the original owner to the bond-issuer, (ii) the UTRN for the SDLT land transaction return on which relief from the tax was claimed on the transfer of the land from the bond-issuer to the original owner, (iii) any document that confirms that the replacement land is not in the United Kingdom and that conditions A to C in Part 3 of Schedule 61 have been met in relation to that land, and (iv) any document as provided by the relevant Land Registry confirming that the land has been registered in the name of the original owner (Stump Duty Land Tax of UK, 2019).

In 2003, the UK changed the legislation to remove the double charge through the Stamp Duty Land Tax for support of the ijara Sukuk. This change provides to become an equal on taxation the alternative finance investments and their counterparts 'investments.

4.2.2.3 Comparison with Turkey

The UK Government has been intensely interested in the Islamic Finance industry since 1980's. A work program has been developed by the UK government to align UK financial services regulations with other countries around the world for Islamic Finance's growth. The tax application has been transformed so that equal resolution Islamic and traditional financial transactions result in equal tax invoices. The main objective of the government is to ensure an equal competitive field for both financial sectors. To realize this purpose, government accepts an alternative finance arrangement is similar with a loan relationship in terms of income taxation. Supplementary, tax legislation other than income tax includes exemptions such as Stamp Duty Land Tax and Value-Added Tax. It is similar with Turkey that in terms of income and corporate tax gain of the alternative finance arrangements are subject taxation like conventional finance. In terms of expenditure or transfer taxes, both countries try to keep the tax burden at same level as conventional finance. Both in the UK as well as in Turkey, although the tax names applied are not the same, all the regulations about IFI have implemented to ensure equality between these two sectors.

4.2.3. LUXEMBOURG

4.2.3.1 Overview of Luxembourg's Islamic Finance Development

Luxembourg has the first development in Islamic Finance since 1983 and has taken the residence of the first Sharia-compliant insurance enterprise in Europe. In 2002, the first European stock exchange entered the sukuk market which is the Luxembourg Stock Exchange and sixteen sukuk issues have since been listed and traded on the Luxembourg Stock Exchange. Thirty-seven regulated Sharia compliant investment funds and sub-funds have been launched in Luxembourg since 2010 (Deloitte, 2015; Jarrar, 2012).

The Luxembourg Government supports the Islamic finance directly or indirectly. They introduced a special tax in 2008. One of the members of the Islamic Financial Services Board (IFSB) is The Central Bank of Luxembourg, in addition to this, most of the Luxembourg corporations and cross-functional employed groups work in this area. On the contrary, the other authorities, tax laws are based on an economic approach in Islamic or conventional banking sector. Therefore, Luxembourg internal tax laws can consider as one of the most modifiable of the European Union. They can encounter the requested support of the financial professionals and foreign investors (E & Y, 2016; Jarrar, 2012). The Grand Duchy of Luxembourg is the third largest Islamic fund center after the Kingdom of Saudi Arabia and Malaysia, and the first Eurozone country issuing a sovereign Sukuk (E & Y, 2016).

The circular letter has issued by the Luxembourg tax authorities on 12 January 2010 that explains the tax treatment of various Islamic financing issues. The Circular explains not only the tax treatment of Murabaha and Sukuk, but also describes other instruments, for example Mudaraba, Musharaka, Ijara and Istisna contracts. According to the Circular, tax treatment of a Sukuk is identical to the treatment of debt in conventional finance (although the income is linket to the performance of the underlying asset) (Chevalier and Sciales, 2010).

In the Circular, Islaimc financial instruments generally used by savers desiring to gain their investments in accordance with Islamic values. “The objective of Islamic finance is to ensure that risk and reward are shared between the party that contributes capital and the party that uses it”. The aim of the circular is to bring into focus core principles of Islamic finance:

(i) Both the lending entity, the bank, and the borrower of the funds has to play active roles in the investment process and share risks.

(ii) Prohibiting the process of loaning money against interest paid to a third party.

4.2.3.2 Taxation of Sukuk in Luxembourg

Sukuk has similar characteristics to their conventional bond but there is a distinctive difference that sukuk is asset backed. Sukuk represent the proportional ownership of the sukuk holders in the underlying assets. They can be supplied by governments or private companies. Potential profits are periodically paid to the sukuk holders according to their proportionate ownership in the sukuk. Sukuk holders are exposed to losses incurred on the assets that back the sukuk (Latham & Watkins, 2014).

In the view of the tax perspective, sukuk transaction is the same as the transaction of a loan in traditional finance (although returns depend on the performance of underlying assets) and sukuk payments are treated in the same way as interest payments for a bond issuer in traditional finance. Luxembourg's direct and indirect tax authorities have issued two circulars to ensure equal treatment of Islamic financial products and conventional products (Direct Tax Circular L. G:-A No. 55 of 12 January 2010 on Islamic Finance; Indirect Tax Circular No. 749 of 17 June 2010 on Islamic finance on murabaha and ijara agreements (ISRA, 2017).

In terms of its qualities, sukuk can be compared to debt instruments in traditional financing, payments are made to sukuk holders in the similar way are interest income in terms of tax. As a result of this, payments made to sukuk holders can be deducted from tax, provided that they are made for the benefit of the company. Therefore, incomes from sukuk will be considered as income from transferable securities in accordance with paragraph 3 of paragraph 1 of article 97 of L'impot Sur Le Revenu (L.I.R.). As a result, in terms of taxation of sukuk incomes are equal to the tax treatment of debt instruments in conventional finance, and the income of sukuk is considered to be the payment of interest (Jarrar, 2012).

4.2.3.3 Comparison with Turkey

According to the Luxembourg tax legislation; the arrangements of a sukuk are like to the arrangements of a loan in conventional sector, therefore, the income of sukuk are treated the same way as interest incomes for a bond issuer in conventional finance in terms of income taxation. The income tax is deducted as a withholding tax by issuer from sukuk holder's gains. But withholding tax do not implement on payments to foreign holders of sukuk issued by a Luxembourg issuer. What stands out in the Luxembourg tax system can be said to have attracted overseas investors by adding special arrangements in tax legislations for investors abroad. On January 2010, the Luxembourg Tax Administration issued a Tax Circular which includes the tax treatment of different Islamic financing issues such as sukuk, murabaha, mudaraba, musharaka etc. The distinctive feature of Luxembourg tax legislation is there is a special legislation about taxation of IFI that named as Tax Circular. But in Turkey, there is no special integrated legislation about taxation of IFI. Every amendment about IFI was made in general tax legislations and Banking Law.

As a conclusion, overall comparison of sukuk taxation in Turkey, Malaysia, UK, and Luxemburg can be summarized such as follow:

Table 7: Overall, Comparison of Sukuk Taxation in Selected Countries

	Turkey	Malayisa	UK	Luxemburg
Income Tax (Witholding)	%15 selling gains or periodic incomes issued in Turkey* %0 issued in abroad.	Resident individuals, unit trust companies and listed closed-end fund companies are exempted from income tax for interest income earned from ringgit-denominated Government bonds and corporate bond and sukuk	Alternative financing investment bonds are taxed like interest income. Income up to 5,000 is not taxable.	Sukuk are subject of tax like interest income. The first EUR1,500 of investment income is exempted. The exemption covers all income
Corporate Tax	%10 (for full taxpayer capital companies listed CIT art. 2(1) is %0)	Non-resident investors are also exempted from withholding tax on interest income earned from ringgit-denominated debt securities issued by the Malaysian Government as well as corporate bond and sukuk approved by the Securities Commission (SC)	Main rate (all profits except ring fence profits)19%	Dividends paid by Luxembourg resident companies have a 15% tax withheld at source.
VAT	Sale, lease and sale-back by ALC are exempted.	VAT in Malaysia, known as Sales and Service Tax (SST), was introduced on September 1, 2018 in order to replace GST (Goods and Services Tax) The fixed rate is 6%. Financial services are exempted from SST.	The standart rate is %20. The issue, transfer or dealing with a security, including shares and bonds are exempted.	Luxembourg's general VAT rate is 17%, with other rates including 14%, 8% and 3% that can apply to certain transactions. Financial transactions are exempted from VAT without tax credit.
	Lease certificate transactions are exempted	There is no stamp duty relating to the issuance and transfer of Malaysian Government debt securities or	The financial arrangements for buying a property or land involve a secondary	No stamp duty is generally payable on the transfer of assets.

Stamp Tax		corporate bond and sukuk approved by the SC.	transaction with the lender is exempted according to Stamp Duty Land Tax.	
Property Tax	Building subject to the issuance of lease certificates are exempted	Exempted from Real Property Gains Tax.	Stamp Duty Land Tax includes Property tax. There is no seperate property tax.	Generally, it ranges from 0.7 % to 1 %. There is no exemption in financial transactions.
Expenditure Tax (Banking and Insurance Transaction Tax)	Rent incomes on lease certificate and funds received at the end of the maturity are exempted	It is not implemented in Malaysia.	It is not implemented in the UK. Financial transactions are not subject to transaction. Value-added tax includes it.	
Fees Tax	Transfer, buy, sale, leasing of lease certificate issuance are exempted.	There is no fees in financial transactions.	There is no fees in financial transactions.	Fees for stock market transactions (purchase/sale of shares, bonds, funds and structured products) are 25% reduction on standard fee.

*According to 3032 Numbered Precidency Decision that publicated 30.09.2020 in Official Gazette; from profit shares paid by participation banks in return for a participation account

- %5 for current account and until 6 mounts deposit accounts,

- %3 for until 1-year deposit accounts,

- %0 for more than 1-year deposit accounts.

Source: Author

5. CONCLUSION AND RECOMMENDATIONS

It is impossible to ignore costs in financial transactions as well as in all economic activities. Costs are always in the centre whatever we are doing. For instance, people who are at shopping, firstly they look at the price of the item that consists of the costs of the manufacture, value of the brand and taxes on it. In Islamic Finance, all transactions involve several deliveries, so they cause additional delivery taxes compared to traditional financial regulations. The financing method based on using an asset that makes Islamic finance transactions different from conventional methods. The special structure that requires Sharia compatibility is disadvantageous across the traditional finance. Because of the tax burden on the IFI's transactions, the impact of taxation is negative. No one prefers to pay additional multiple taxation due to her preference. Some countries have taken effective step such as changing their tax laws to ensure tax neutrality for instance the UK, Malaysia, and Luxembourg. As discussed in the study above, in this point the profits of IFIs treated as interest. This point should have taken into consideration by regulatory bodies and other related stakeholders.

Some of the findings and recommendations of the study can be summarized such as follows:

1. It needs specific regulation/legislation for Islamic Financial Institutions' products, as well as sukuk product, to avoid generating extra tax burden on IFI's transactions. Also, complex tax structure is insufficient to comprehend new products and it may create contrary results to the tax legality principle. Accordingly, "a simple and effective tax system" (DPT, 2009, p. 10)[5] is required. For example, in Turkey Expenditure Tax Law, Banking and Insurance Tax Law is not implemented in the other countries.

2. In addition, tax treatment rules should be extended to other arrangements of Islamic finance transactions that are equal to equity investment. In Turkey, despite some new legislation efforts, the amendments may cover other sukuk structures also.

[5] Increased predictability in tax, lowering tax rates, increasing competitiveness, establishing a broad-based tax system, gradual reduction of the tax burden on brokerage costs, establishing long-term tax policies.

Otherwise, amendments do not cover other sukuk products, leading to an uncertainty among potential sukuk issuers and originators.

3. Even though Islamic Finance has continued to grow increasingly, taxation problem of its transactions is still going on in many countries. Tax laws vary according to economic, legal, and political histories of countries. As making tax adjustments, some countries are based on the economic result of the transactions, while others are based on compliance of the transaction with the Sharia. Whatever the reason is, it is important to ensure equal field for Islamic and conventional sector to compete with each other equally. No one of them should be advantageous or disadvantageous compared with another.

4. Many countries have lack of legislation about international tax and transfer tax which have borne through using Islamic Financial products such as murabaha, musharaka and ijara. The ignorance of the lacking on this legislation will have crucial problems development of the financial sector in countries. Because Islamic Finance industry is growing faster than conventional counterparts are. If countries do not reach IFI's improvement by regulation their legal infrastructure, they will probably lose to become eligible financial area for international investor in the world.

5. Sukuk, are named as a lease certificate or an alternative finance instrument, are very commonly used IF' product in the world. In Turkey, sukuk have gradually introduced marketplace day by day. Private and public enterprises are diversifying their portfolios by investing in sukuk. Amendments and exceptions in tax laws have relatively increased these investments. Most tax laws have introduced exemptions to corporate firms and public enterprises to encourage sukuk. The adoption of a tax neutrality is first step before introducing sukuk into a country's financial system to match the cost competitiveness of conventional bonds (COMCEC, 2018). Islamic financial products need specific and comprehensive tax regulations. It should include other types of Sukuk such as mudaraba sukuk, musharaha sukuk, wakala sukuk etc.

6. In addition to opening the new institutions, legal infrastructure should have strengthened, especially for the processing of their products. Amendments in Turkish tax system focuse on specific sukuk arrangements but there are several sukuk types issued in different jurisdictions. It is very urgent need to make amendments that are more specific in tax legislation to support the improvement of this sector. Arrangements can be made in accordance with the working principles of participation banks to increase and develop the variety of products and services. Participation banking legislation should be regulated separately from commercial banking law.

7. To realise the goal of becoming financial centre in Istanbul, it is necessary to make legislative arrangements by taking new efficient steps. Like amendments made about sukuk (lease certificate) on tax laws which are income-corporate tax law, fees, stamp duty, real estate tax etc. should also be made amendments for other Islamic Financial products. If Turkey wants to promote Participation Banking or Islamic Finance in her country, it is necessary to improve the regulatory framework by changing related laws. The primary goal of the amendments should be to remove contradictions. It will be provided to put IFI in a level playing field with commercial banking.

8. As stated by Turkey Development Plan, in Turkey, (i) the usage of lease certificate issues in funding public investments will be increased and (ii) legal arrangements will be reviewed to ensure ease of application in the use of special-purpose institutions in the issuance of lease certificates, (iii) Interest-free financial audit standards will be established.

9. Tax regulators and authorities have lack of knowledge of the specific characteristics of Islamic financial transactions and products. The wide range of Islamic financial transactions, products and services may need important incomes to approach tax specialists. These products must adhere to Sharia principles, understanding the exact substance of the product and its corresponding income and commodity tax treatment are essential.

10. In Turkey, public awareness about Islamic Finance and their products can be increased by providing a broad education in universities or institutions. The society should be true informed by using the visual and audio media effectively. Sufficient human resources should be trained in universities or institutions thus, participation banking personnel infrastructure should be established. If Turkey assigns the efficient steps required to development of Islamic Finance, she will firstly become an important financial centre in own region and the world.

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