

How Are Investments Divided Among Yorshim ?

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Question: A man passes away and leaves behind a substantial *yerusha* of cash and an investment portfolio that includes stocks, bonds, etc. How is that *yerusha* divided?

Answer: All assets, including stocks and bonds, are subject to the laws of *yerusha*. Debt that is owed to you is also an asset, so if the father is owed money, the money is also subject to the rules of *yerusha*. Consequently, all of these would be divided equally among the primary heirs.

The one variable is in regard to the rules of *bechor*. Usually, a first-born son gets a double portion of the *yerusha*; however, the Gemara says that he only gets *pi shnayim* of assets that are "*muchzak*", i.e., already in the hands of the father, and not assets that are "*ra'ui*", i.e., which fall into his estate after his death. A debt is an asset that is *ra'ui* because the payment is not received until after the father's death; therefore, a *bechor* would not get a double portion of a debt that was paid later and it would be divided equally amongst all of the brothers.

Most Poskim treat bonds as a form of debt because the money is only received at a later date. Accordingly, a *bechor* would not receive a double portion of a bond.

Many Poskim consider stocks to be a form of ownership in a corporation. Accordingly, it would be in the category of *muchzak* and a *bechor* would receive a double portion. Others say it would depend on what the company owns. If the corporation's assets themselves are *ra'ui* - for example, if it is a bank and some of its assets are receivables that weren't paid yet - then the stocks also would be considered *ra'ui*. Others argue that stocks are viewed as an asset in and of themselves and do not vary depending on what the company does. Rav Moshe Feinstein argued that small-scale stock ownership is not really like ownership of part of the corporation; rather, they are a small investment loan one makes with the hope of making a profit, which would mean that they are *ra'ui*. My sense is that most Poskim look at stocks as ordinary assets, which would mean that they are *muchzak* and a *bechor* would get *pi shnayim*, with the possible exception of receivables that weren't received yet.

With regard to actual cash, the Poskim generally assume that it is a regular asset and subject to *yerushas bechor*. Money held in bank accounts, however, is a major debate among earlier Poskim. The consensus is that bank accounts are considered a debt and, therefore, are only *ra'ui*.

Accordingly, a *bechor* would not get a double portion. Some Poskim argue that withdrawing money from modern banks is completely routine, therefore an account is as good as actual money. For this reason, they say that modern bank accounts are *muchzak*. However, that is probably a minority opinion, as most Poskim say a bank account is a debt and a *bechor* does not receive double.