

If a Partner Takes Out a Loan on Behalf of a Partnership, Can He Force His Partner to Repay Him Out of Pocket?

**Rabbi Shmuel Honigwachs**

**Question:** In the last segment, we discussed a case where one partner takes out a line of credit for a business under his name and wants to recoup the loan plus interest from his other partner. What if the business goes under and there are no profits or principal left? Can he force his partner to repay him out of pocket?

**Answer:** The Chavos Daas discusses the leniency of the Taz that we mentioned in the last segment, which allows a managing partner to borrow from a non-Jew with interest and invest it into the business, with the intention of withdrawing the loan payments from the partnership assets. The Chavos Daas writes that it would only apply if the non-borrowing partner is not required to pay out of pocket if the business has no profits. Whereas, if the other partner would bear responsibility to pay the loan out of pocket if the business has no profits, this arrangement would be prohibited.

It would seem from some Acharonim that it would only be forbidden for the borrowing partner to recoup the interest he paid if he did not explicitly stipulate his intention beforehand that should there be any losses, he would hold the partners personally responsible for that money. If he originally said that if necessary he would take the payments and interest from the partners personal assets, and his partners agreed, some Acharonim say that he may do so. It appears, however, that this is a fringe opinion and is not the accepted halacha.