

If an Item is Sent in Error, Does it Belong to the Shliach or The Meshalayach?

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Question: We previously spoke about several cases where benefits were provided to an employee, and discussed whether the benefit would belong to the employee or employer. Another possible scenario would be one where a mistake was made. An example of this would be if an employee orders a bunch of iPads on behalf of his employer and an extra one is sent by mistake. Assuming the seller doesn't want it back, does it belong to the employee or employer?

Answer: We said that very often when a benefit is given to an employee, he has to split it with his employer. In this case, however, the seller did not intend to provide any benefit. He simply sent the extra item by mistake. Accordingly, the item is halachically ownerless; therefore, the employee is comparable to someone who found an ownerless lost object, and he is permitted to keep it for himself.

I would point out that there are other types of mistakes where this rule would not apply. For example, there could be a case where an employee orders an iPad on behalf of his employer and thinks it is broken. He then complains to the seller, who sends him a replacement. Later, he realizes that the first iPad was, in fact, not broken. Again, assuming that the seller doesn't want it back, the item in this case is not ownerless because each time the seller intended to give the iPads to the buyer, i.e., the employer. Therefore, the extra iPad would be subject to the regular halachos of extra benefits and, depending on the case, would either belong entirely to the *meshalayach* or would have to be split evenly between the *shliach* and *meshalayach*.