

If Someone's Taxes Are Charged to Someone Else, Must He Reimburse Him?

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Question: Reuven and Shimon are business partners. Due to a clerical error on behalf of the IRS, Reuven's personal taxes were charged to the partnership. Can Shimon demand that Reuven reimburse the business for the money that he should have paid individually?

Answer: The Gemara talks about a case where the king's tax collectors take taxes from grain that was not yet tithed, in lieu of money that was the owner was really supposed to pay.

The Gemara says that even though the owner didn't really gain anything new - as he merely didn't have to give away some of his money - and he didn't actually *take* anything from *maaser* - as the tax collectors took the money, not him - he still is liable to reimburse the amount of the maaser. This *chiyuv* is called "*mishtarshi*". The Ketzos Hachoshen explains that *mishtarshi* means that because one person's bottom line is bigger than it otherwise would have been because of his friend's expenditure or loss, it is considered as if the friend now owns part of his assets; therefore, the beneficiary will have to reimburse him the full amount that he lost because of him.

Based on this rule, Reuven would be liable to reimburse the partnership for the money he gained by not paying his personal taxes.