

Is it Possible to Have a Partnership Without a Heter Iska?

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Question: I don't want to rely on the leniency of *heter iska* if I don't have to. On other hand, I want to engage in business partnerships.

How can I structure a real partnership to make money off of interest on invested money without problems of *ribbis*?

Answer: If someone is the sole investor in a business venture that includes interest, it is very difficult to avoid *ribbis* problems.

If one invests money in someone else's business and is the sole person putting up money, while the other person is the only one doing the work in exchange for 50% of the profits and losses, this arrangement is automatically qualified by Halacha as an *iska* [half-loan/half-deposit], and there are still numerous *ribbis* pitfalls.

First, if the managing partner is the only one doing the work, he is technically working for free in exchange for the money lent/invested with him, which could be a problem of *ribbis* if one did not arrange in advance to pay him at least a nominal fee for his work.

Furthermore, if the partner who is working is responsible to pay for all expenses that arise, that might also be a problem of *ribbis*.

Lastly, if one wants to change the terms in the middle of the venture - for example, changing it from 50-50 to 60-40 - that would be a problem as a *kinyan* is necessary to make such a change. If one did not make a *kinyan*, it may very well be a problem of *ribbis*.

If both partners put up some money for the venture, there is more room for leniency. The Rema rules that in cases where both partners invest money, there is no problem of *ribbis* and they can decide to split the profits however they see fit. The Chavos Daas says that it is not so simple to rely on this Rema, but many other Acharonim do agree with the Rema and accept his leniency in cases where there is no personal liability.