

May One Convert a Loan Into Equity?

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Case: Reuven lent \$1,000 to Shimon, but rather than asking for the money to be returned, Shimon suggested that Reuven use the money towards a 50-50 business partnership between the two of them.

Question: Would converting this loan money into an investment raise any problem of *ribbis*?

Answer: Converting a loan into an investment is theoretically permitted if all of the conditions that we have discussed in the previous sessions are fulfilled, such as ensuring that a real system of profits and losses is set up as well as a method of dealing with the work done (see previous session). However, one important technical issue that must be addressed is that of *kinyan*. According to the Mordechai (quoted in the Shach as well), in order to convert a loan into an investment while avoiding *ribbis* issues, a *kinyan* must be performed, as the status of the money cannot change based on a verbal declaration alone.

One method of doing this is for Shimon to return the money to Reuven and then have Reuven give the money back to Shimon as equity. Alternatively, a *kinyan sudar* may be performed as well without having to transfer the actual funds back and forth.

Another interesting question (which is subject to a *machlokes Acharonim*) that arises based on this Mordechai is whether the investor can change the terms of the investment after an agreement has been made from a 50-50 split of the profits to a 60-40 division.

This question was presented to the Bais Havaad at one point and involves issues of *Choshen Mishpat* (whether it is permitted for one party to change the agreement in this manner) as well as issues of *ribbis*. In that case, the final *pesak* was that the division of profits could not be switched in the middle, and remained at 50-50.