

Mekach Ta'os in Bartering

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Question: We know that if someone buys a product with the understanding that it is of a certain quality and then discovers it to be of lesser quality, that this would qualify as a *mekach ta'os* and the sale is nullified. Does *mekach ta'os* also apply in the service industry?

Answer: It could apply in many ways. I'll discuss one of them:

Let's say two people decide to barter their services to each other; Reuven agrees to do accounting for Shimon in exchange for Shimon doing plumbing for him. If Shimon misrepresents what's entailed in that plumbing job - if he, for example, claims it's a two-hour job, which would make it equivalent to two hours of accounting, while in actuality it is a ten-minute job - that would mean that Reuven did not receive what he "paid for", which would make the deal a *mekach ta'os*.

I would point out that in a case of bartering, the laws of *ona'ah* may not apply. If two people agree to trade services with one person performing a job the other needs and the other doing a job the first person needs done, *ona'ah* would probably not be able to be enforced if it is discovered that one job is worth more than the other. This is because the need may be what defines the agreement - meaning that the trade is for each one to have his need fulfilled and it is not based on the value of the service. However, if something was misrepresented and the entire deal was based on a deception, there is no reason why it should not be considered a *mekach ta'os*.