

PROPER HAFROSHAS TERUMAH: FIT TO BE TITHED?

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Outline of the Beis HaVaad Parsha Shiur on *Parshas Ki Savo*

Given by Rav Yosef Jacobowitz

לא עברתי ממצותיך ולא שכחתי

“I did not transgress any of your mitzvos and I did not forget”

(Devarim 26:13)

Rashi includes three *halachos* of *teruma/maser* in “transgressing your mitzvos”:

Not separating from:

- one type of produce on another (*min al she'eino mino*)
- the newer year's produce on an older year's produce (*chadash al yashan*)
- produce detached from the ground on produce still growing in the ground (*talush al hamechubar*) and vice-versa

This seems to indicate they are really one halacha, with one fundamental principle, as we will see in the examples below.

Mishna (*Terumos* 1:5): One may not be *mafrish* (separate) from *yashan* on *chadash* or vice-versa.

- Rash (and others): The source of this is from the words *shana b'shana* (Devarim 14:22), produce for each year must have tithes taken only from that year's produce.
- Rambam (*Perush HaMishnayos*): Source is from “*vharemosem mimenu*” (Bamidbar 18:26), “you shall raise from it,” the same *min* must be used, and produce from different years is apparently

considered like different *minim*.

- Gemara (*Bechoros* 53b): *Kol chelev yitzhar v'chol chelev tirosh*, etc. (*Bamidbar* 18:12), "all of the choice of the oil and all of the choice of the wine," the repetition of **chelev** teaches that one cannot separate from one *min* on another.

How can the Rambam argue with the Gemara's source of not separating for *min al she'eino mino*?

Two possible answers:

- The Gemara shows only that *chelev*, *tirosh* etc. are considered two different *minim*.
- The source that one may not separate tithes from one *min* on a different *min* according to Rambam is the word *mimenu*.

Rambam (*Hilchos Terumos* 5:2): One may not separate *teruma* from one *min* on another based on the *pasuk* "*kadagan min hagoren vchameleah min hayakev*" (*Bamidbar* 18:27), which mentions grains (*goren*) separately from wine (*yakev*).

- Mahari Kurkos: Isn't that also against the *pasuk* quoted by the Gemara above?
- Perhaps they are considered different entities, but the source that *min al eino mino* is not valid is from the Rambam's *pasuk* here (or the one quoted in the *Perush HaMishnayos*).