

Debt Relief

January 4, 2024

Q My friend is still awaiting his 2022 tax refund of \$10,000. In desperate need of the funds, he asked me to lend him the money. He says that when the refund arrives, he will hand it over to me—including the interest the IRS tacks onto late refunds. Is this a *ribbis* violation?



A Yes, that arrangement would be *ribbis*. Even though your friend will only pass along what the IRS gives him, he is considered your *loveh* (borrower), because he personally commits to repaying you, so any extra money he pays you is *ribbis*.

Instead of lending your friend money, you might wish to consider purchasing the debt from him. He won't owe you money, but he will be responsible to deliver to you what the IRS sends him, including the interest it pays (Y.D. 168:18). But know that if the IRS defaults, you'll be out the money, because the buyer of a loan assumes the risk of default (Y.D. 173:4). Usually, a loan is sold halachically by transferring the promissory note to the buyer. But in this case that's not possible, because there is no signed note that documents the IRS's debt. The Shulchan Aruch (Y.D. 168:18) provides a mechanism that can be employed here: Your friend should declare that he forgives the IRS its debt. In this way, the funds he receives from the IRS will not be his but ownerless, and you may then claim them. (See also Shach 173:8.) There is no obligation to notify the IRS of its windfall, and the money it pays is yours (Shach *ibid.*). With this solution, you don't acquire the debt; rather, your friend is hired to make the debt ownerless and the recovered funds available to you.

If the IRS determines that the refund due is less than the \$10,000 your friend expects, you may claim the difference from him, because purchasing the debt or paying someone to make it ownerless only subjects you to the risk of the debtor defaulting, not the risk that the debt is less than you were told (Y.D. 173:4). But you may not charge him interest on the difference.