

Forbidden Fruit?

Rav Aryeh Finkel

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Q I purchased a small blueberry bush with small clusters of berries to plant in my yard. Does this present an *orlah* problem?

A The Mishnah (Kidushin 37a) states that unlike other agricultural mitzvos, *orlah* (the prohibition to eat the fruits of a tree in its first three years) applies even in *chutz la'aretz* (the Diaspora), regardless of whether a Jew or a non-Jew planted the tree (Shulchan Aruch Y.D. 294:8). But *orlah*, as we shall soon see, is subject to certain leniencies in *chutz la'aretz*.

Orlah applies only to the fruits of an *eitz* (“tree”). An *eitz* is defined as a plant whose branches survive the winter and continue producing fruit the next season (see Shulchan Aruch O.C. 203:1 and Mishnah Brurah). A blueberry bush meets this definition, so it is subject to *orlah*.

Blueberries, like most berries, are usually cultivated by propagating small shoots cut from a mature bush. Although these cuttings are taken from fully grown plants, they are considered new trees and are subject to a new *orlah* count (Y.D. *ibid.* 16). Some cultivators propagate cuttings up to 36 inches long; such shoots can produce fruit within their first three years. Still, one may assume that many of the bushes are not sold until they mature for a few years. Because you don't know the age of your bush, it is only *safek* (questionable) *orlah*, which is permitted in *chutz la'aretz* (see Shulchan Aruch *ibid.* 9 and Igros Moshe Y.D. 1:186). And although you replanted the tree, that doesn't restart its three-year count if the root ball remained buried in its soil, which is usually the case (Y.D. *ibid.* 19).

