Tipping Point: May One Give Gratuities to Service Workers?

Adapted from the writings of Dayan Yitzhak Grossman
January 5, 2023

At the end of the year, it is common practice in the U.S. to leave a gratuity for mail carriers, sanitation workers, and others that provided services throughout the year.

One of the Gemara's[1] three interpretations of the prohibition of "*velo sechaneim*"[2] is that one may not give a "free gift" (*matnas chinam*) to a non-Jew.[3] Although the Gemara proceeds to explain that the permissibility of giving gifts to non-Jews is actually the subject of a dispute between R' Meir and R' Yehudah, the universal halachic conclusion is that such gifts are prohibited.[4]

Despite the unambiguous prohibition, the consensus of contemporary authorities is that tipping non-Jewish workers and service providers is generally permitted, for a variety of reasons. As we shall, see, however, none of these reasons is applicable to all situations, and some of them involve novel ideas and may be debatable. We shall subsequently propose a rationale of our own which is more broadly applicable than many of the other suggestions.

Several of the justifications given by the *Acharonim* are based upon a qualification of the prohibition by the Tosefta:

> When does this prohibition apply? When he does not know him, or when he is traveling from place to place. But if he is his neighbor or his friend, it is permitted, because it is as though he is selling it to him.[5]

This is understood to mean that the ostensible gift is really a quid pro quo: either compensation for a favor received in the past, or an outlay in anticipation of a favor to be reciprocated in the future.

Accordingly, R' Moshe Stern (the Debrecener Rav) rules that it is permitted to tip taxi drivers, in order to forestall a future in which drivers will refuse to accept recognizably Jewish customers:

> For if he does not give it to him, then the taxi driver will not stop for him in the future, because the owners of the taxis will publicize among themselves that a Jew with a Chassidic appearance does not tip, and the owners of taxis will no longer stop for Chassidim, and this will understandably result in great harm…[6]

This rationale for tipping is obviously limited to those contexts where the concern that Jews will be refused service in the future is a realistic likelihood.

R' Noach Isaac Oelbaum provides four justifications for tipping workers and service providers:

1. A worker with whom one has an ongoing relationship may obviously be tipped, based on the Tosefta.
2. Where tipping is customary, failure to tip will engender enmity (*eivah*), and it is permitted to give a non-Jew a gift in order to foster good relations (*darchei shalom*), because this is not considered a "free gift."[7]

3. Where tipping is customary, it is considered part of the workers' compensation, because they rely upon the tips and take them into account when assessing the profitability of their work.
4. It is plausible (*mistaveir*) that most of the time, tipping is motivated not by concern for the good of the recipient but by one's own interest, because he will feel embarrassed if he does not tip.[8]

Rav Oelbaum's first rationale is certainly correct, but as he himself notes, it is obviously limited to workers with whom one has an ongoing relationship. His second one is uncontroversial as well, but it is limited to where tipping is routine enough that a failure to tip will impinge upon *darchei shalom*. His third argument is certainly logical, though it lacks an explicit basis in the halachic literature, and once again, it only applies where tipping is standard and relied upon by workers. His fourth argument, that a gift given to assuage one's personal feelings of discomfort is not considered a free gift, seems quite novel.[9]

R' Doniel Neustadt writes:

> Giving a gift shows affection, or at least, more than casual acquaintance, which can lead to forbidden relationships, ultimately even to intermarriage. It is, therefore, forbidden to give a gift to a gentile if one is doing so for no reason other than establishing a friendship or a relationship. If, however, the purpose of the gift-giving is to benefit the Jew, it is permitted, because it is no longer a "gift" but rather an incentive for the future or a payback for the past. Thus it is permitted to tip a waiter, a taxi driver, a barber, etc., for a job well done, to give a gift to the mailman to show appreciation for his work, or to give a year-end bonus to a valuable employee. This is permitted even if the Jew will not benefit from the non-Jew in the future.[10]

This is similar to the justification offered by other authorities, based upon the Tosefta. Rav Neustadt then adds:

> [Indeed, once it is established that tips and gratuities are permitted, failure to do so when customary constitutes a chillul Hashem, as Orthodox Jews would be seen as lacking good manners, appreciation, etc.]

This consideration seems so obviously correct, at least where tipping is customary enough that failure to tip would be considered wrong, that it is surprising that other authorities do not mention it.

This writer would go further, however, and argue that even where tipping is not sufficiently common and expected that failure to do it would constitute a chillul Hashem, it would still be permitted to tip if one's intent is to make a kiddush Hashem. This is similar to the halacha about returning lost property to non-Jews, as codified by the Rambam and the Shulchan Aruch:

> It is permissible to keep an object lost by an idolater…Indeed, if one returns such an article, he transgresses a prohibition…If, however, he returns it to sanctify Hashem's name, so that others will praise the Jewish people and know that they are trustworthy, that is praiseworthy. When there is a possibility of the desecration of

Hashem's name, it is forbidden to keep an object lost by an idolater, and it must be returned.[11]

It is clear from this formulation that even where failing to return the lost object will not cause a chillul Hashem, it is nevertheless praiseworthy to return it in order to make a kiddush Hashem. Tipping, as well, could presumably be justified by the goal of making a kiddush Hashem, even where failing to tip would not cause a chillul Hashem.

[1]Avodah Zarah 20a.

[2]Devarim 7:2.

[3]Whether the prohibition extends to non-idolatrous non-Jews is the subject of considerable discussion among halachic authorities, a full analysis of which is unfortunately beyond the scope of this article, but see: Shu"t HaRashba *cheilek* 1 *siman* 8; Me'iri Avodah Zarah 20a s.v. *Kvar yadata*; Bais Yosef C.M. *siman* 249; Bach ibid.; Shach Y.D. *siman* 151 *s.k.* 18; Nishmas Kol Chai Y.D. *siman* 54; Sdei Chemed *Klalim* Vol. 3 *ma'areches halamed klal* 90 p. 298; Shu"t Be'er Moshe *cheilek* 3 *siman* 117 *os* 2; Shu"t Sheivet Halevi *cheilek* 4 *siman* 213; Shu"t Minchas Chein *cheilek* 1 Y.D. *siman* 8 *osios* 3-12; R' Doniel Neustadt, Do Not Show Them Favor–Weekly Halacha, Parshas No'ach 5773.

[4]Rambam Hilchos *Avodas Kochavim* 10:4; Shulchan Aruch Y.D. *siman* 151 *se'if* 11 and C.M. 249:2; Tur Y.D. *siman* 151; Sma C.M. ibid.; Shach and Taz Y.D. ibid.

[5]Tosefta Avodah Zarah end of *perek* 3.

[6]Be'er Moshe ibid.

[7]See Tosafos Avodah Zarah ibid. s.v. R' Yehudah *omer*.

[8]Minchas Chein ibid. at the end of the responsum *os* 32.

[9]The Maharshal (Yam Shel Shlomo Bava Kama *perek* 10 *siman* 20) rules that returning lost property to a non-Jew can only be justified by the goal of making a kiddush Hashem, and not by the selfish desire to be praised for one's rectitude. Perhaps we can distinguish between the prohibitions against returning lost property to a non-Jew and giving him a free gift, but it is difficult to see why one's subjective feelings should suffice to avoid the latter prohibition but not the former. Further consideration of this point is required.

[10]Rav Neustadt ibid. Rav Neustadt's footnote includes a reference to Ashrei Ha'ish Y.D. 10:33, a work to which I do not currently have access.

[11]Hilchos *Gezeilah Va'aveidah* 11:3, Shulchan Aruch C.M. 266:1.