

Using Ma'aser Money to Write Off a Loan

Rav Baruch Fried

Question: Reuven lends money to Shimon and he knows that Shimon is poor and cannot repay the loan. Reuven wants to forgive the loan and deduct the amount he was owed from his *ma'aser* account. Can he do that?

Answer: The Mishnah says that one can lend money to a Kohen, Levi or poor person and repay himself from future *terumos* and *ma'asros*. The Rema rules that one can also lend money to a poor person and repay himself with *ma'aser kesafim* from his future earnings. The Shach, writes that this is only permissible if the lender made this condition at the time that he gave the loan. He cannot decide that he wants to do this after the money was already lent to the borrower.

The Nodah B'Yehuda disagrees and says that one can pay himself back with *ma'aser* money even if he did not have this in mind when he gave the loan, as long as he obtains the borrower's permission to do so. He can do this because we consider it as if he gave him the money as *tzedakah* and the poor man used it to pay him back. The Nodah B'Yehuda adds that one can only do so if he would have given his *tzedakah* to this person regardless. Whereas, if he is only choosing to give it because he has an outstanding loan, every wealthy man would use all his *ma'aser* money to pay back debts to himself and would have nothing left over to give to *tzedakah*.

Rav Moshe Feinstein says that it is difficult to know if the practical ruling is in line with the Shach or with the Nodah B'Yehuda. He ultimately rules that one can rely on the Nodah B'Yehuda and use *ma'aser* money to pay himself back if he originally only accepted to give *ma'aser kesafim b'li neder*. If this is the case, the lender does not even need to obtain the borrower's permission.

The Poskim note that one can only use *ma'aser* money to repay one's loans that are possible to collect. If the borrower had declared bankruptcy or had died, both of which would render a loan impossible to collect, *ma'aser* money cannot be used to repay oneself.

Rav Shlomo Zalman Auerbach *zt"l* says that if the lender was *meya'esh* (despaired) of ever recovering the money he is owed, he cannot use *ma'aser* money to pay back the debt to himself. The Teshuva M'Ahava actually writes that if a lender despaired of ever being repaid, and then the borrower surprises him and pays back the loan, the lender now has to give *ma'aser* on the money he got back, as this is considered "new income" for him.