

Corporate Chometz: Part I

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THE HALACHOS OF BUSINESS RELATED CHOMETZ ON PESACH

The Three Prohibitions:

There are three prohibitions related to chometz on Pesach.

1. It is forbidden to eat chometz on Pesach.
2. It is forbidden to own chometz on Pesach or to have chometz on your property on Pesach.
3. It is forbidden to derive benefit from chometz on Pesach.

The first of the three prohibitions is not usually relevant to a business setting, but the second and third are very pertinent.

Regarding one's personal chometz, it is pretty easy to avoid the prohibitions. Any chometz that one owns can be sold and put away in a designated spot until after Pesach. If any chometz is found on Pesach in one's property, it does not belong to him because he disowned it previously.

In a business setting, however, there are many scenarios where it is much more difficult to avoid the prohibitions.

CHOMETZ ON YOUR PROPERTY:

If a businessman who deals in real estate owns a multi-unit residential building, he is not responsible for any chometz located inside apartments he rents out. If the tenants are paying rent, they gain control of their residences, and the landlord need not be

concerned if they have chometz in their possession. The same is true regarding the owner of an office building or shopping center. If individuals rent offices or storefronts, they gain control of their rented space, and the landlord bears no responsibility.

However, there are usually some common areas in such buildings that are not rented out to specific individuals and, therefore, represent a much bigger concern. For example, an apartment building may have a lobby or outdoor eating area that is open for use to all the tenants but is not rented to any of them in particular. Similarly, an office building may have a dining room and a shopping center may have a public eating area. All these common areas are not rented to anyone in particular and, therefore, remain under the control of the building's owner. This may present a big problem if chometz is left in any of these areas.

The Shulchan Aruch states (Orach Chaim 440:3) that if a non-Jew enters a Jew's home on Pesach with chometz in his hands, the homeowner is allowed to let him in and transgresses no prohibition from having this chometz in his home. The Mishnah Berurah adds, however, that once the non-Jew leaves, the homeowner must be careful to clean up any pieces of chometz which were left behind.

The explanation for this is that as long as the non-Jew is holding and eating the chometz, it belongs to him, and the Jew need not be concerned about it. But once leftover pieces fall on the floor, which the non-Jew has no intention of retrieving, this chometz becomes ownerless. The halacha states that there is a Rabbinic decree that a Jew may not allow ownerless chometz to remain in his possession on Pesach; therefore, he

must burn it immediately.

It would thus stand to reason that if a non-Jew would eat chometz in the common area of a property owned by a Jew, and would then leave some pieces or garbage in the area, these leftovers would fall under the category of ownerless chometz left on a Jew's property. The ramifications of this would be that the Jew would have to remove it immediately. If he doesn't, he would be in transgression of a Rabbinic prohibition.

Of course, it is not practical to expect the owner of a building to constantly keep watch over the common areas of his property over Pesach. The same problem would apply to many other types of businesses. For example, if someone owns a trucking business and uses non-Jewish drivers to haul goods, every time a driver ate chometz in his truck and dropped some crusts on the floor, he would have an obligation to burn them. Obviously, this is not possible. So, what is the solution?

It would seem that the only viable option would be for the business owner to sell his entire building or all of his trucks before Pesach so that he is not the owner and is not responsible for any chometz in the common areas. He will have to ask a competent Rov to create a good shtar to formulate this sale properly.

If someone is leasing an office building, he would

have an even more complex problem. When he leases the building, he gains control of it, and becomes the halachic owner; therefore, he is responsible to burn any ownerless chometz in the common areas. If a non-Jew would leave some leftover chometz in the dining area, he would be obligated to burn it; therefore, he would have to sublease the building to a non-Jew avoid this prohibition. However, he may have signed a lease that forbids him from subletting to someone else. Thus, it would seem that the only way to get around the problem would be for him to sell his entire business to a non-Jew for the duration of Pesach. Since it is still the same business, he would not be breaching the contract by subleasing, but he would be removing himself from ownership until the end of Pesach.

The Shulchan Aruch (483:2) does list one caveat that could ease the problem a bit for some landlords. He rules that if the landlord lives far away from the property he owns and has not been there in more than 30 days, he does not have to worry about ownerless chometz on the property and has no obligation to burn it. The Mishnah Berurah (443-14), however, quotes the Gr"a as stating that this exception to the rule only applies to chometz left by a non-Jew. If the chometz was left by an irreligious Jew, this exclusion would not apply and the problem would still have to be rectified.



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