

Tzedakah & Ma'aser II: Week 4

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BA'AL T'ACHER:

In the times of the Bais Hamikdash, if a person vowed to bring a *korban* he was subject to the prohibition of *ba'al t'acher*. He was obligated to bring the *korban* with haste and without procrastinating. The Gemara says that the timeframe of this prohibition is that the person has three *regalim* to bring the *korban* – meaning he may not allow three holidays to pass without bringing it.

Poskim compare *Tzedakah* to a *korban* in this regard and say that it is also subject to the prohibition of *ba'al t'acher*, but without the extension of three *regalim*. Therefore if one pledged money to *tzedakah* and there are paupers around, he must disburse it immediately. As we mentioned, with *ma'aser* however, an individual can set up his own schedule of when to give *ma'aser*. For some it is convenient to give it from each paycheck. For others, giving once every month, once every six months, or once a year may be more convenient, and every individual can set up a timeframe that works best for him.

Once the *ma'aser* money has been separated, it should be distributed in a timely fashion. If a collector asks him for a donation for himself, and he has *ma'aser* money ready to be distributed, it is possible that he has an obligation of *tzedakah* – independent of the obligation of *ma'aser* – to give the man a donation on the spot.

As we have said, every individual has the right to use his personal *ma'aser* money for whatever good cause he wants to support. While he may give out the money right away, if he prefers to give it as a monthly check over the course of a certain number of months, he certainly has a right to do so.

Once someone has separated his *ma'aser* money, it is advisable to place this money in a separate account to make sure it doesn't get mixed up with the rest of his money and doesn't end up getting lost or forgotten about.

THE OBLIGATION IS ON THE GAVRA (PERSON):

When one separates crops to be distributed as *ma'aser rishon*, that produce now becomes sanctified and must be given to a Levi. When one separates money for *ma'aser kesafim*, however, it is quite different. No specific money becomes sanctified. No specific dollar must be given to charity. Instead, there is an obligation on the person to give that amount of money to *tzedakah*.

In the *yeshivish* parlance, it is said that the obligation of *ma'aser* is "a *chiyuv* on the *gavra*", not a "*chiyuv* on the *cheftzah* (object)". It is a personal obligation on the individual, rather than an obligation on the money. This distinction has a number of halachic ramifications:

The Gemara says that one cannot take *ma'aser tevuah* from a "*davar shelo bah l'olam*". One's crops cannot be separated as *ma'aser* before they grow because they do not exist yet. When it comes to *ma'aser kesafim*, however, many Poskim say that one can donate money that he has not earned yet. If someone makes a donation to charity and says that the funds should count towards *ma'aser* of money he will earn next year, many Poskim say that such a condition is valid. The reason for this is because *ma'aser kesafim* is an obligation on the person, not on the money; therefore, it makes no difference if the earnings exist yet or not.

CHANGING MONEY TO A DIFFERENT CAUSE

There is also a discussion in the Poskim regarding whether one who pledges to give *ma'aser* money to one specific cause may change his mind and decide to give the money to a different cause instead. (While there is halacha of *hataras nedarim* and it is possible to annul vows, the general custom is not to do *hataras nedarim* for promises to give money to *tzedakah*.) The only reason that it may be possible to change one's mind when it comes to *ma'aser* money is because the obligation is on the person, and not on the money. Since a pledge does not obligate any specific money to be given to the cause, it is possible to posit that the individual has the right to change his mind and give his *ma'aser* elsewhere.

The Machaneh Efraim rules that if someone merely pledged to give the money, he can back out and give it to a different cause. But if he already placed the money in a trust for that cause, it can be said that the specific money in the trust account has transferred ownership and now belongs to the charity, which would mean that the donor can no longer change his mind.

This situation played out in a story where a wealthy man pledged to donate a very large amount of money to build a wing in a cancer research hospital. Sadly, the man passed away before giving over the money. His children decided

that as his heirs, they would prefer to donate the money to support Torah study. They reasoned that - because Torah study protects the world from illness, -as the Chofetz Chaim and many other gedolei Yisroel expressed - it is therefore a preferable way to use the money.

According to the Machaneh Efraim's ruling, if the father had only pledged the money, the children would be allowed to change his wishes and give it to another recipient. If he had already placed the money in a trust, they would not be permitted to do so.



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