

הלכה ברורה

בס"ד

# Halacha Berurah

צעירי  
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## Ma'aser Money - מעשר כספים (Part Two)

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Reviewed by Horav Yisroel Belsky

**I**n the previous issue we discussed the basic obligation of maaser, and how to determine one's annual income with regard to maaser. We also discussed how to deduct expenses, the halachos regarding a dowry, presents, and money that was inherited, as well as the importance of keeping a record of one's dealings. In this issue, we will discuss various additional applications of the halachos of maaser money.

### Mitzvos That May Be Performed with Maaser Money

There is a *machlokes haposkim* regarding the proper way to spend maaser money. Some *poskim* maintain that one should give maaser money to the poor or needy. Others maintain that one is permitted to use maaser money to fulfill mitzvos that are not obligatory. If one stipulates prior to separating maaser that he intends to utilize this option and use the money for general non-obligatory mitzvos, then according to all opinions he may do so, even if he was accustomed in the past to giving maaser to the needy and had done so for three consecutive years.<sup>1</sup>

As we mentioned, maaser money may only be used to fulfill non-obligatory mitzvos. One may not purchase a lulav, esrog, tefilin, or shofar with maaser money.<sup>2</sup>

One is permitted to sponsor the building of a shul or mikvah, the printing costs of seforim, etc., even they do not help the poor directly, but the community as a whole. Money that is voluntarily donated to a shul (e.g. to help pay for the expense of the building), may be paid with maaser money. However, if all the members of the shul are required to pay a certain amount of money to the shul, one is not permitted to use maaser money to pay that fee. Similarly, the purchase of seats in a shul may not be paid with maaser money, if paying this fee is mandatory for all the congregants.<sup>3</sup> Some *poskim* maintain that even in a situation where one is technically permitted to use maaser money to contribute towards a shul's

fundraising campaign, nevertheless, if one benefits from the shul and does not contribute any other money to the shul, one should not take the entire payment from maaser money. This is because one derives benefit from the shul, and that benefit should be paid for from his own money.<sup>4</sup>

One is permitted to purchase an aliyah in shul, even for oneself, using maaser money. Some *poskim* maintain that the amount of maaser money that one may spend is limited to the sum of money that one is contributing towards the aliyah that exceeds the next highest bid. This is because the shul is only directly benefiting from the amount of money that he is giving more than his fellow bidder, for the shul would have received the amount of money offered by the lower bidder. In any event, these mitzvos are only considered non-obligatory if at the time that one pledged the money, one intended to use maaser money. If one intended to use his personal funds, he would not be permitted to use maaser money since he is now obligated to pay for this mitzvah.<sup>5</sup>

One may use maaser money for a non-obligatory mitzvah even if one personally benefits from it. However, this is only permitted if one does not have sufficient funds and would not perform this mitzvah otherwise. One is permitted to use maaser money to purchase seforim, if the seforim would not have been purchased otherwise. In addition, the seforim must be made available to the general public, and one must inscribe in the front of each sefer that the sefer was purchased with maaser funds. This is done so that in the future, one's descendants will not acquire this sefer as part of their inheritance, since it belongs to tzedakah. The seforim should either be placed in a public area (e.g. a shul or yeshiva), or in one's house, provided that a sign is posted making it clear that the seforim are available for the use of the general public. One is permitted to function as the public administrator when dealing with these seforim (e.g. one may establish fixed borrowing hours or demand a deposit, etc.).<sup>6</sup>

One may not use maaser money for the mitzvos of machatzis hashekel, mishloach manos, or to purchase mat-

**Please Note:** Due to the intricacy of the material discussed in each issue, and the brevity of its treatment, a Rov should be consulted for a final psak halacha. In addition, this publication does not intend to be מכריע on issues that are a *machlokes haposkim*. Although we have usually brought the dissenting views in the footnotes, we have selected for simplicity sake to incorporate into the main text the views of the Mishnah Berurah, R' Moshe Feinstein, R' Shlomo Zalmen Auerbach and several other preeminent *poskim*. Please send all questions and comments to 1341 E. 23rd Street, Brooklyn, NY 11210 or email to halachaberurah@thekosher.net

zos.<sup>7</sup> Similarly, one may not use *maaser* money for *matanos la'evyonim* on *Purim*. However, this only applies to the *basic* requirement of *matanos laevyonim* (i.e. supplying two people with sufficient food for one meal). Money that is distributed to other people after one has already given *matanos la'evyonim* to two people may be given from *maaser*.<sup>8</sup> Similarly, one may not use *maaser* money for the minimum amount of *ma'os chitim* (money given to the poor before *Pesach*) that one is obligated to contribute. Any money that is contributed after the minimum amount was given may be taken from *maaser* money.<sup>9</sup>

Money that is donated at a *yeshiva* dinner or *melava malkah* may be taken from *maaser* money.<sup>10</sup>

### Using Maaser Money for Tuition Payments

The consensus of the *poskim* is that one may not use *maaser* money to pay for one's tuition costs. The *Chofetz Chaim* explains that since a parent has the obligation to either teach his son *Torah* himself or hire a teacher to do so, one may not use *maaser* money for this expense, since it is an obligatory *mitzvah*.<sup>11</sup> This, however, only applies to boys and not to girls, since a parent does not have an obligation to teach his daughter *Torah*. Rav Moshe Feinstein suggests that in the United States it would be forbidden for one to use one's *maaser* money for the tuition payments of a *Bais Yaakov*. He explains that since the government requires that all girls attend school, they would be *required* to attend a public school if they were not sent to a *frum Bais Yaakov*. Consequently, one may not pay the *Bais Yaakov* tuition with *maaser* money, since it is a *Torah* obligation to insure that one's daughter receives a proper *chinuch*. If one were to send her to public school, it would clearly jeopardize her *יהדות*, and one has a *Torah* obligation to prevent that from happening.<sup>12</sup> It would seem that one is permitted to use *maaser* money for one's daughter's seminary education. However, some *poskim* maintain that if the seminary is out of town, then one is required to deduct the amount of money that is saved by not having to provide room and board for their daughter, and pay that money out of their own pocket.<sup>13</sup>

One exception to the above *halacha* regarding paying a son's tuition with *maaser* money, is that one who pays more than the standard tuition, may pay that additional amount of money from *maaser* money. The reason for this is because the increased tuition that one is paying is used to help subsidize the tuition of those children who cannot afford to pay the standard tuition or cannot pay at all.<sup>14</sup>

Another leniency is that one may use *maaser* money for the tuition payments of older sons. This is because once a child grows older, the parent has fulfilled his obligation to teach his son *Torah*. A child has reached this age once he can learn by himself, without assistance (approximately once he has reached his *beis medrash* years).<sup>15</sup>

It is noteworthy to mention that there are some people who make an arrangement with the *yeshiva* as follows. At the beginning of the year, they pay even less than the minimum amount of tuition, and they supplement the rest at the *yeshiva* dinner or *melava malkah* where it is considered a donation. The donation is paid with *maaser* (in addition to being taken

into account for a tax deduction). However, this does not necessarily solve the problem. If one is required to pay the minimum amount and intends to pay it, one may not circumvent the system so that it should be permitted to pay it from *maaser*. As stated above, the consensus of the *poskim* is that one may only use *maaser* money to pay for the amount that exceeds the minimum tuition.<sup>16</sup>

In any case where one is permitted to use *maaser* money for tuition payments, one must stipulate before giving any money that the payments will be made using *maaser* money.<sup>17</sup>

### Supporting Unmarried Children

There is a *machlokes* among the earlier *poskim* whether one is permitted to use *maaser* money to pay for expenses incurred while raising children. Rav Moshe Feinstein held that this *machlokes* is not relevant nowadays. He maintains that since child labor is illegal, one is required to support all his children that live with their mother, while he is married to her. This is part of his requirement under the terms of their *kesubah*.<sup>18</sup>

Some *poskim* offer an extreme leniency and maintain that one is permitted to use *maaser* money to insure that his child has good friends. Therefore, one who invites some other children to their house to be friends with one's own child may use *maaser* money to pay for any expenses that result.<sup>19</sup> However, this leniency should not be relied upon unless it is an extenuating circumstance. Furthermore, even if one has no choice but to rely on this leniency, nevertheless, care should be taken that one does not overdo it (i.e. only use enough money to insure that they remain friends).<sup>20</sup>

### Supporting Married Children

One is permitted to support one's own children learning in *kollel* by using *maaser* money, if the children do not have sufficient means of supporting themselves. However, one should stipulate initially, that any money that is given to assist the children will be from *maaser* money. One who makes a commitment to pay a sum of money without any prior stipulation may not use *maaser* money, since it would be considered as if he is paying off a debt with *maaser* money. Nevertheless, one should not use all his *maaser* money to support his married children, since this may cause a *chillul hashem* for those who observe that he never gives any money to support other institutions.<sup>21</sup> We mentioned in the previous issue that some *poskim* maintain that married children who are continuously supported by their parents, do not have to give *maaser* from the money that they receive from their parents. However, this is only applicable if the parents are supporting their children using their own funds. If the parents are using their *maaser* money to support their married children, the children are required to separate *maaser* upon receiving the money.<sup>22</sup>

### Performing Services for a Tzedakah Organization

One who performed services for a *tzedakah* organiza-

tion free of charge, and would have otherwise charged for that work, may take this amount of money from his *maaser* money. However, this must be a service that most people would not voluntarily perform for the *tzedakah* organization.<sup>23</sup>

### Purchasing Goods from a *Tzedakah* Organization

One who purchases wine before *Pesach* or rents flowers for a wedding from a *gemach* or a *tzedakah* organization, may not pay for the full expense with *maaser* money. The reason for this is because one would have purchased these items regardless. However, if one overpaid by making the purchase from a *tzedakah* organization, he may use *maaser* money to cover the amount that he overpaid. Similarly, one who hires a poor worker to do work for him may not use *maaser* money to pay his wages, unless his wages are more than those of other people, and one only hired him because he needs the money.<sup>24</sup>

### Lending Money Using *Maaser* Money

One who lent money with the intention of taking that amount of money from *maaser* in the event that the borrower does not pay up the loan (e.g. the borrower legitimately declared bankruptcy), may do so even without the awareness of the borrower, if the loan is eventually not paid.<sup>25</sup>

One who did not make this stipulation when he lent the money may not take the money from *maaser*. However, if one would technically be able to recover this money from the borrower, but it would put a tremendous financial strain on the borrower, he is permitted to spare the borrower this agony and use his own *maaser* money to repay the loan. Obviously, he may only take the amount of *maaser* money that he would have given him (i.e. as *tzedakah*) had he not originally lent him any money. Additionally, the lender may set up a charity fund and collect the amount of the loan from others. This may be done even without notifying the borrower. However, one may not disclose the borrower's name to those who donate money, without first receiving permission from the borrower.<sup>26</sup>

### Purchasing Raffle Tickets From a *Tzedakah* Organization

One may use *maaser* money to purchase a raffle ticket from a *tzedakah* organization (e.g. a Chinese auction), only if the *entire sum* is benefiting the *tzedakah*. For example, if there is a specific amount of tickets that must be sold in order for one to win a prize, one may not use *maaser* money, since those amount of tickets are going to be sold anyway, and one's contribution is not considered an additional benefit to the *tzedakah*. However, if there is an unlimited amount of tickets sold (e.g. split the pot), where each ticket bought increases the amount of money the *tzedakah* will receive, one may use *maaser* money to purchase the ticket. Some *poskim* maintain that if one did not contribute any of their own money towards the event, then even in a situation where one is technically permitted to use *maaser* money to purchase the desired tickets, one should not deduct the entire fee from *maaser* money, because one enjoys themselves at the event

and should pay for that pleasure.<sup>27</sup> One who purchased a ticket and won a prize should preferably give to *tzedakah* the amount of money that it cost to purchase a ticket, in addition to separating *maaser* on the value of the item that was won.<sup>28</sup>

## מראה מקומות

1. ע"י רמ"א בס"י רמ"ט סעי' א', ומקורו הוא מהרי"ל בהל' ר"ה וטעמם שמעשר שייך לעניים, וע"י שו"ת הרדב"ז ח"ג סי' תמ"א שכל סגולה של עשירות נאמרה רק אם יתנו המעשר לעניים, אכן ע"י תשובת מהר"ם מובא בשל"ה בענין צדקה ומעשר, וגם מובא בט"ז ושי"ך שם, וע"י באר הגולה שם דאין כאן מחלוקת, והדין תלוי אם המצוה הוא מחיובות לעשות או הוא רק מצוה קיומית, אכן ע"י שו"ת חת"ס ב"י ד"ס רל"א, והוא סבר שהבאה"ג שגה בזה, וע"י"ש דאם התנה קודם לכן כו"ע מודה דשרי, וע"י פתחי תשובה בשר"ע שם.
2. ע"י באה"ג שם, ושו"ת חת"ס שם, וע"י ערוה"ש סי' רמ"ט סעי' ה'.
3. ע"י צדקה ומשפט פרק ו', וע"י משפטי התורה בח"א.
4. כך שמעתי מהגר"י בעלסקי שליט"א.
5. ע"י ט"ז בשר"ע שם, וע"י ערוה"ש שם, וע"י רעק"א בהגהות שם מש"כ בשם השל"ה שרק מה שהוסיף יותר מחבירו מותר ליתן ממועות מעשר, אכן ע"י א"ר בס"י קנ"ו שכתב שיש לדחות דברי השל"ה.
6. ע"י ט"ז ושי"ך שם, וע"י פתחי תשובה שם, וע"י בנחלת שבעה סי' ח', וע"י שו"ת חת"ס סי' רל"ב, וע"י צדקה ומשפט פרק ו' סעי' ט, וע"י שו"ת משיב דבר ח"ב סי' ע"ה, וע"י שו"ת באר שבע סי' מ"א, וע"י מש"כ שם בסוף התשובה, וע"י ציץ אליעזר ח"ט סי' א' פ"ב, וע"י חכ"א כלל קמ"ד סעי' י"א, אכן ע"י ערוה"ש ב"י ד"ס רמ"ט, ושמעתי בשם הגר"ש אלישיב שליט"א שבזמן הזה שספרים בנמצא אין לקנות ספרים במעות מעשר שאינו דומה לדורות הקדמונים שלא היה כ"כ ספרים והתרו לקנות במעות מעשר אם השאילן לאחרים.
7. ע"י צדקה ומשפט בפ"ו.
8. ע"י שו"ת מהרי"ל סי' נ"ד, וע"י מ"ב סי' תרצ"ד סק"ג.
9. כך שמעתי מהגר"י בעלסקי שליט"א, וע"י שו"ע א"ח סי' תכ"ט ברמ"א שצריך ליתן לזה, וע"י מ"ב שם סק"ג שיכולים בני העיר לכפות זה לזה, ע"י מ"ב סי' תר"ה סק"ו מש"כ בשם האחרונים בנוגע כפרות.
10. ע"י אג"מ ח"מ ח"ב סי' נ"ח, וע"י"ש שאם אכל שם צריך לנכות מה שהיה צריך לשלם אם היה צריך לאכול בביתו.
11. ע"י אהבת חסד פ"ט סעי' ב', וע"י שו"ת פרי יצחק ח"ב סי' כ"ו, וע"י שו"ת באר שבע סי' מ"א.
12. ע"י אג"מ י"ד ח"ב סי' ק"ג.
13. ע"י צדקה ומשפט פ"ו הערה ל"ה, וכעין זה מצינו באג"מ ח"מ ח"ב סי' נ"ח.
14. ע"י אג"מ י"ד ח"ב סי' ק"ג.
15. ע"י שו"ע הרב הל' ת"ת פ"א סעי' ז'.
16. כך שמעתי מהגר"י בעלסקי שליט"א.
17. ע"י שו"ת חת"ס י"ד סי' רל"א.
18. ע"י שו"ע רנ"א סעי' ג' ושי"ך שם, וע"י שי"ך בס"י רמ"ט סק"א בשם תשובת מהר"ם מרוטנבורג, אכן ע"י ברכי יוסף שם סק"י ח', וע"י אג"מ י"ד ח"א סי' קמ"ג, וע"י דרך אמונה פ"ז הע' ס"ג בשם החזו"ר.
19. ע"י שו"ת מנחת יצחק ח"ח סי' ה' סק"ג.
20. כך שמעתי מהגר"י בעלסקי שליט"א.
21. ע"י שו"ת חת"ס י"ד סי' רל"א, וע"י אג"מ י"ד ח"א סי' קמ"ד.
22. כך שמעתי מהגר"י בעלסקי שליט"א.
23. ע"י ספר מעשר כספים דף 130 בשם הגר"ש אויערבך זצוק"ל, וכך שמעתי מהגר"י בעלסקי שליט"א.
24. ע"י צדקה ומשפט פ"א הערה פ"ד, וע"י משפטי התורה בח"א.
25. ע"י רמ"א בשר"ע י"ד סי' רנ"ז סעי' ה', וע"י שי"ך שם.
26. ע"י שו"ת נ"ב מהדר"ת סי' קצ"ט, אכן ע"י שי"ך ב"י ד"ס שם, וע"י אג"מ י"ד ח"א סי' קנ"ג, ושמעתי מהגר"י בעלסקי שהמחלוקת בין הנו"ב והשי"ך הוא רק אן אין לעני כלום במה לפרוע אבל אם יש לו והב"ע"ח יכול להוציא בקושי מותר במקום זה לשלם לעצמו ממועות מעשר שלו וטוב שלא יאמר לעני שעשה דבר זה כדי שלא לביישו, וכן מצאתי בתשובה של הגר"ש אויערבך זצוק"ל שבסוף ספר מעשר כספים.
27. ע"י אג"מ א"ח ח"ד סי' ע"ב, וע"י צדקה ומשפט פ"א הערה פ"ה. ושמעתי מהגר"י בעלסקי שליט"א שיש לנכות מה שנהנה שם.
28. ע"י אג"מ שם, וצדקה ומשפט שם.



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## In the next issue:

### The Kashrus Status of Exotic Animals: Buffalo, Beefalo, Deer, and Giraffe

- Is there a mitzvah in the Torah to familiarize oneself with the halachos pertaining to the identification of kosher animals?
- Is one required to identify both of the two kosher signs prior to consuming an animal?
- Is there a difference in halacha between domesticated and non-domesticated animals?
- Is there a requirement for a mesorah – a tradition, in order to permit the consumption of an animal?
- Buffalo vs. Bison: What is their kosher status, and do they have a mesorah?
- Beefalo: Are crossbreeds between kosher and non-kosher animals kosher?
- Is deer meat kosher?
- Is it true that giraffes are kosher, but that they are not eaten due to the fact that they have long necks and there is an uncertainty as to what the correct location is for shechitah?

Is there a possibility that the giraffe, once restrained, is actually from the easiest animals to shecht?

We would like to wish a heartfelt *Mazel Tov* to our esteemed and devoted editor Yitzchok Hisiger, on his engagement to Itta Brocha Morgenstern.

R' Yitzchok has been the dedicated editor of Halacha Berurah since its inception, and has devoted an immeasurable amount of his time and effort toward the publication. May this be a *zechus* for the *choson* and *kallah*, and may they be זוכה to build a לתורתו בית.

A special *Mazel Tov* to the parents Rabbi and Mrs. Yisroel Hisiger and Rabbi and Mrs. Dov Morgenstern.

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