

Mishloach Manos with Shmittah Produce

Rabbi Yehuda Spitz

With Purim rapidly approaching in our post-Shemitta year (Eighth year / Shnas HaSheminis of the Shemitta cycle) and Sheviis produce now commonly commercially available,[1] an important question is raised: Although we know that the Purim Mitzvah of Mishloach Manos (sending food items to a friend) is intended to foster brotherhood and camaraderie, may one gift his friend with Kedushas Sheviis produce for Mishloach Manos? Alternatively, are these 'holy fruit' perhaps considered too 'holy' for such Purim use? Interestingly, there is no clear-cut solution to this Purim dilemma, and contemporary authorities are divided as to the proper halacha.

However, to properly understand the issues involved, some background is necessary.

Chazal derived several essential Shemitta halachos pertaining to preserving the sanctity of Kedushas Sheviis produce from several pesukim in Parshas Behar.

The Torah states (Vayikra Ch. 25:6-7) regarding to the Shemitta year, "V'haysa Shabbos Ha'aretz Lachem L'achla...V'livhemtacha V'lechaya Asher B'artzecha Tihyeh Kol Tevuasa Le'echol - And the Resting of the Land should be for you to eat... and

for your domesticated animals and the wild animals in your fields, all the produce should be for consumption.”

Personal Uses

One important halacha that is inferred from these pesukim is:

Lachem- for you, lechol tzarcheichem, for all of your needs. (Sukka 40a and Bava Kamma 102a)

According to the Mishnah (Sheviis Ch. 8:2), and duly codified as halacha,[2] Kedushas Sheviis produce is not only permitted to be eaten, it is even allowed to be utilized in whichever manner the owner deems it necessary: drinking, anointing, dyeing, and even lighting. However, there is a very important caveat, namely that the owner’s use of it during Shemitta must be that product’s main use year round. Otherwise, it would be considered ‘ruining’ the ‘holy’ fruit and duly prohibited.[3]

Doubling-Up Your Mitzvos

Previous articles discussed several Mitzvos involving actually eating or drinking the Shemitta produce, such as using Kedushas Sheviis wine for Kiddush or Havdalah, which involve direct bodily benefit (hana'ah).

There is a fascinating minority opinion of Rav Yitzchak de Leon, the renowned Megillas Esther, in his commentary on the Ramban's additions to the Rambam's Sefer HaMitzvos, who makes an interesting inference from the aforementioned pesukim in Parashas Behar. He writes that his understanding of the Ramban was that "Lachem L'achlah, for you to eat," is teaching us that there is an actual Mitzvah incumbent upon us (Mitzvah Chiyuvis) to partake of Kedushas Sheviis produce. Although not the normative halacha, as the majority of authorities argue on this assessment, there are still Poskim who maintain that one does indeed fulfill a Mitzvah by eating fruit imbued with Shemitta sanctity (Mitzvah Kiyumis) even though one is under no obligation to eat specifically that fruit.

According to both of these opinions, if one can ensure that all Shemitta halachos are being strictly adhered to (including proper disposal of remains), and has the option to choose a Shemitta fruit or a similar non-Shemitta fruit, it seems that there would be a preference to do so.[4]

Certainly, following this minority opinion, although not the halacha, would mean that not only is it permitted to use Shemitta wine for Kiddush and Havdalah, it would actually be the preferable option.

Indeed, this is the opinion of the Ridbaz, Rav Yosef Dovid Willovsky, perhaps best known for his renowned commentaries on the Yerushalmi.[5] His reasoning is that instead of simply performing one Mitzvah, making Kiddush or Havdalah with regular wine, one can instead perform it with Kedushas Sheviis wine and enhance the Mitzvah with another Mitzvah. What Jew does not like a good buy-one-get-one-free bargain, especially regarding Mitzvos, with their eternal reward?

Practically speaking, as long as one sticks to the guidelines of not 'ruining' the 'holy wine,'[6] as well as avoiding any other Shemitta-related concerns, it would be permissible to use Shemitta wine for these Mitzvos, and according to several contemporary Poskim, including Rav Yosef Shalom Elyashiv and his son-in-law, Rav Chaim Kanievsky, actually preferential for such Mitzvah use.[7]

Mitzvas Mishloach Manos Use?

However, that ruling may not sufficiently suffice for the Mitzvah of Mishloach Manos. As opposed to the direct benefit received when drinking Kiddush or Havdalah wine, our question is actually what happens when the owner needs Shemitta produce for a purpose that is one that he may not halachically benefit from? For example, there is a well known Talmudic dictum that 'Mitzvos lav lehenos nitnu, [utilizing something by] fulfilling a Mitzvah is not considered receiving benefit' (Eruvin 31a).

Although technically regarded as a 'need,' fulfilling a Mitzvah is not deemed an actual personal benefit. And, if that is nonetheless considered acceptable, what about Mitzvos that only contain indirect benefit? Are they included in the 'personal use leniency'? In other words, as is germane to us, may one use Shemitta produce to fulfill such a Mitzvah or obligation?

The answers to these questions will guide us as to whether one may gift Kedushas Sheviis produce as Mishloach Manos on Purim. We all know that this distinctive Purim Mitzvah[8] serves to foster 'achdus v'rayus,' unity and camaraderie. The crux of the matter seems to be defining whether this requirement is considered an outright obligation or rather a personal need. Although there is no clear consensus on the matter, there are several principal perspectives.

View # 1 – Akin to Paying a Debt

A number of Poskim, including the Ben Ish Chai, the Rogatchover Gaon, Rav Yosef Shalom Elyashiv, Rav Betzalel Zolty, Rav Shmuel Halevi Wosner, Rav Mordechai Eliyahu, Rav Chaim Kanievsky, and the Mishnas Yosef, maintain that since the Mitzvah of Mishloach Manos is obligatory, sending Kedushas Sheviis produce for Mishloach Manos is classified as akin to using Shemitta produce to pay a debt, an action which should be prohibited under the Shemitta restriction of L'achlah– to be eaten, and not for Sechorah, referring to merchandise or commercial use.[9]

As this restriction includes paying a debt, these authorities hold that one may not send Mishloach Manos with Shemitta produce.[10] These Poskim assert that this especially holds true regarding the common custom of 'returning the favor,' reciprocating with giving Kedushas Sheviis Mishloach Manos to one who has already gifted you with Mishloach Manos.

View # 2 – It's Personal

On the other hand, it is reported that the Steipler Gaon would send Mishloach Manos consisting of Shemitta produce, emphasizing that we may perform Mitzvos with Kedushas Sheviis fruit.[11] Other authorities who ruled this way include the Ponvezher Rosh Yeshiva Rav Elazar Menachem Mann Shach, Rav Shlomo Zalman Auerbach, the Minchas Yitzchak, Rav Yisrael Yaakov Fischer, Rav Menashe Klein, Rav Nissim Karelitz, and Rav Asher Weiss.[12]

These authorities maintain that the obligation of a Mitzvah, although binding, is nevertheless not considered akin to monetary debt to be excluded from proper Shemitta uses. Rather, they maintain that it is considered a personal use, akin to betrothing a woman, which may indeed be fulfilled with Shemitta produce.[13] Accordingly, 'Holy Mishloach Manos' would indeed be permitted.

View # 3 – No Reciprocation

Rav Nosson Gestetner maintained a novel, yet in-between approach. He concluded that sending the first Mishloach Manos with Shemitta produce is permitted. Yet, he holds that one may not reciprocate for a Mishloach Manos received with a Mishloach Manos consisting of Shemitta produce, as the idea of reciprocating (“tagmulin”) Mishloach Manos is based on a sort of ‘ethical debt’ to repay someone who did something nice for you.[14]

Caveat Emptor

It is important to note however, that even those who rule strictly agree that their proscription only applies to the first Mishloach Manos one gives / sends, as one is only truly obligated in giving just one set of foods to one person.[15] After that first package, they allow giving all additional customary Mishloach Manos to others with Shemitta produce, as the actual requirement has already been fulfilled.

It goes without saying that if choosing to use Shemitta produce as part of one’s Mishloach Manos, then one should always notify the recipient that the gift contains ‘holy fruits’ so they will know to treat it accordingly. This would certainly hold true if

one is relying upon 'Hetter Mechira' Israeli produce to gift and the recipient does not,[16] [17] and especially if gifting Israeli produce in Chutz La'aretz, as it technically was forbidden for it to have been shipped there.[18]

A simple notification would go a long way to avoid potential unpleasantness. Similarly, if one suspects that the recipient will not treat the Shemitta fruit as properly befits Kedushas Sheviis produce,[19] then one should certainly not use such fruit for this Mitzvah.

The Biur Necessities

Another important concern to be aware of relevant to using Shemitta fruit for Mishloach Manos - that it is subject to the laws of Biur. This refers to taking Kedushas Sheviis produce out of the house to a public place and giving up all rights to the fruit, announcing it as 'hefker' (ownerless) in front of three people.[20] Every type of Shemitta fruit has its own specific Zman Biur, time of year when this must be performed, as it depends on when each species of fruit is no longer commonly available in the fields, in the eighth year.

The Gemara (Pesachim 53a) informs us of the Biur dates of four types of fruit: dried figs on Chanuka, dates on Purim, grapes on Pesach, and olives on Shavuos - all in

the eighth year. Although the Mishnah (Sheviis Ch. 9: 2 and 3) divides Eretz Yisrael into nine different 'zones' for Biur, nowadays since the exact locations are unclear and all types of fruit are readily available throughout Eretz Yisrael, the consumer must keep abreast of the actual Biur dates publicized in newspapers by the experts in the Agriculture industry.

This means that if one chooses to give Mishloach Manos with Kedushas Sheviis produce, it must be prior to that individual fruit's Zman Biur, or to ensure that Biur was performed.[21] This Purim, with Shemitta produce abounding, this issue becomes imperative. If one neglected to properly perform Biur at its appropriate time, said produce will actually become prohibited. Certainly while fulfilling one Mitzvah, one would not want to Chas V'shalom be the cause of another's transgression.

On the other side of the Mitzvah, if gifted a nice bottle of Israeli Shemitta wine for Mishloach Manos, keep in mind that it must be used prior to its Biur on this upcoming Erev Pesach, or remember to make sure to do the Biur on Erev Pesach.[22] (As an aside, on a practical level, using Kedushas Sheviis wine for the Purim Seudah may quite understandably not be the best option due to the propensity of spills, certainly by the inebriated and/or judgmentally impaired).

Just some food for thought when discussing Kedushas Sheviis produce, especially when dealing with the seemingly innocuous, yet fully festive Mitzvah of Mishloach Manos.

A Freilichen Purim to all Klal Yisrael!

This article was written L'iluy Nishmas this author's beloved grandmother, Chana Rus (Spitz) bas Rav Yissachar Dov a"h and uncle Yerucham ben Rav Yisroel Mendel (Kaplan) zt"l.

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[1]Although we are actually post-Shemitta, all the same, the Eighth year is the time when many Shemitta Sheilos first occur, as much Kedushas Sheviis produce is only now flooding the marketplace and becoming commercially available. The vigilant consumer must remain on high alert to know how to properly deal with these 'holy fruit'.

[2]See Mishnayos Sheviis (Ch. 8: Mishnah 2), Tosefta (Sheviis, Ch. 7: 2), Rambam (Hilchos Shemitta V'Yovel Ch. 5: 1-5), Rash (on Mishnayos Sheviis ibid.), Aruch Hashulchan Ha'asid (Hilchos Shemitta V'Yovel 24: 3; however he classifies this as a separate issur and not that of 'ruining), Chazon Ish (Sheviis 10: 4), and Shu"t Minchas Yitzchok (vol. 8: 102).

[3]As delineated at length in previous articles titled 'Kedushas Sheviis Produce' and 'Making Havdalah with Shemitta Wine.'

[4]Rav Yitzchak de Leon, the renowned Megillas Esther, in his commentary on the Ramban's additions to the Rambam's Sefer HaMitzvos (Mitzvas Asei 3; see also the Mishneh L'Melech's Derech Mitzvosecha appended to his Prashas Drachim), writes that he understood the Ramban to mean that he held eating Kedushas Sheviis produce is a Mitzvah Chiyuvis. Others who share this assessment of the Ramban's shittah include the Tashbetz (Zohar Rakiya al Ha'azharos, Mitzvas Asei 66:36) and the Maharit Algazi (in his commentary on the Ramban's Hilchos Challah, 2:14). See also Sefer HaShemitta (Ch. 7:2, and footnote 2). However, most other authorities

disagree with his assessment, including the Megillas Esther himself, maintaining that there is no Mitzvah to specifically consume Shemitta produce. In fact, several other Poskim, most notably the Chazon Ish (Sheviis 14: 10, s.v. v'lamdanu; based on the Tosefta, Sheviis Ch. 6: 1), understand that the Ramban would even agree with this as well. In a similar vein, the Kamarna Rebbe (Otzar Chaim Hakatzer, Mitzvos Asei Shelo Nimnu, Mitzvah 3) explains that even according to the Ramban, due to the double language of the pesukim, 'achillha' in this context actually refers to being 'mafkir' Shemitta produce, and not doing any 'sechorah' with it. See also Aruch Hashulchan Ha'Asid (Hilchos Shemitta V'Yovel 24: 6), Shu"t Seridei Aish (new edition; Yoreh Deah 90: 1), Derech Emunah (vol. 4, Hilchos Shemitta V'Yovel Ch. 5: 2 and Biur Hahalacha ad loc.), Shu"t Ohr L'Tzion (Sheviis Ch. 2: 1), Mishmeres HaSheviis (Ch. 15, footnote 37), and Sefer Dinei Sheviis Hashalem (Ch. 16: 1) whom all rule similarly. However, see Toras Ha'Aretz (vol. 1: 8, 26), Sefer HaShemitta (Ch. 7, footnote 2), and Shu"t Shevet Halevi (vol. 4: 232, 4; printed at the end of the sefer), who nevertheless maintain that one still fulfills a Mitzvah Kiyumis upon consuming Peiros Sheviis. See also Kovetz M'Beis Levi (vol. 16, pg. 34, footnote 3) who posits that based on this and with all other factors being equal, it is preferable to eat a fruit containing Kedushas Sheviis than eating one that does not, especially if by choosing the other one, the 'holy' fruit might not get eaten and possibly go to 'waste'. In a similar vein, see Chut Shani (Shemitta, pg. 344) and Minchas Asher (Sheviis, Tinyana 10), who conclude that the Chazon Ish's shittah is indeed correct in the Ramban's opinion and there is no inherent Mitzvah incumbent upon us to eat Kedushas Sheviis produce. Yet, they posit from the fact that the Torah stressed 'L'achlah,' nevertheless shows that Hashem wants these fruits to be eaten and not to go to waste.

[5]Beis Ridbaz glosses to Pe'as Hashulchan (Sheviis, Ch. 5: 18, haghah; cited in Dinei Sheviis Hashalem, Ch. 32, 1: 4).

[6]Aside from refraining from the traditional spilling of the Havdalah wine, or extinguishing the candle in it, one may also not even put the customary several drops in the eyes and pockets. This is because all of the above are not the ordinary way to drink wine, and are not considered its main use. Hence, according to the majority consensus, all of these Havdalah extras are forbidden with Shemitta wine. See Sefer HaShemitta (pg. 31: 4), Shabbos Ha'aretz (Kuntress Acharon to seif 22), Shemitta Kehilchasah (Ch. 3: 11), Derech Emunah (vol. 4, Hilchos Shemitta V'Yovel Ch. 5, Tziyun Hahalacha 19), Bris Olam (Sheviis, Ch. 5: 3), Chut Shani (Shemitta, pg. 218), Mishpetei Aretz (Sheviis, Ch. 21: 5 and 6), Mishnas HaGri"sh (pg. 83), Dinei Sheviis Hashalem (Ch. 16, s.v. Shimushei Mitzvah 3), and Yalkut Yosef (Sheviis, Ch. 22: 7). However, it is known that Rav Shlomo Zalman Auerbach (Halichos Shlomo, Moadim vol. 2, Pesach Ch. 9: footnote 242) would use Kedushas Sheviis wine for Havdalah while being careful not to let the cup overflow, and was not worried about the few drops that would naturally spill. Several other Poskim, including Rav Moshe Sternbuch (Shemitta Kehilchasah Ch. 3: footnote 11), as well as Rav Shmuel Halevi Vosner (cited in Dinei Sheviis Hashalem (Ch. 32, 1: 12) conclude similarly, that one need not worry about a spill of several drops that one would not ordinarily concern himself with, as this is the normal way one drinks. However, most agree that one should not purposely spill his Shemitta wine while making Havdalah. On the other hand, Rav Ben Tzion Abba Shaul (Shu"t Ohr L'Tzion, Sheviis, Ch. 2: 6) dissented, allowing the spillage of Shemitta wine for Havdalah purposes, including extinguishing the candle in it.

[7]As delineated at length in a previous article 'Making Havdalah with Shemitta Wine.' Rav Elyashiv and Rav Chaim's shittos were originally published in Kovetz Halichos Sadeh (Issue # 196; Av 5576, pg. 5-7).

[8]See Esther (Ch. 9: 19 and 22), Rambam (Hilchos Megillah V'Chanuka Ch. 2: 13) and Tur, Shulchan Aruch and Rema and main commentaries (O.C. 695: 4).

[9]Avodah Zarah (62a) and Bechoros (12b); see also Mishnayos Sheviis (Ch. 8, Mishnah 3 and 4), Tosefta (Sheviis Ch. 7: 6), Rambam (Hilchos Shemitta V'Yovel Ch. 6: 1 and 10), Bartenura's commentary on the Mishnah (ad loc.), Pe'as Hashulchan (Ch. 24: 56), and Shaarei Tzedek (Ch. 17: 24). The Aruch Hashulchan (HaAsid, Hilchos Shemitta V'Yovel Ch. 25) designates an entire siman to the many nuances of the Issur Sechorah of Peiros Sheviis. This issue was featured in previous articles 'Shemitta Basics: 'Kedushas Sheviis Produce' and 'Using Arba Minim of Sheviis'.

[10]Shu"t Torah Leshmah (193; cited in Sefer Dinei Sheviis Hashalem Ch. 17: 9), Shvus Yitzchak (B'Dinei Sheviis U'Prozbol Ch. 8, pg. 76), Mishnas Yaavetz (Orach Chaim 80: 1 and 2), Shu"t Shevet Halevi (vol. 7: 183), Kovetz M'bais Levi (vol. 16: pg. 49), Derech Emunah (vol. 4, Hilchos Shemitta V'Yovel Ch. 6: 10, Tziyunei Hahalacha 121), and Shu"t Mishnas Yosef (vol. 1: 27). See also Mishpetei Aretz (pg. 160) and Sefer Chag B'Chag (Purim; Ch. 13: 22). This is also the conclusion of the Rogatchover Gaon (Tzafnas Pane'ach on the Rambam, Hilchos Megillah Ch. 2:

15). Rav Mordechai Eliyahu (Shu"t Maamar Mordechai vol. 5, 'Veshavsah Haaretz' end 10) maintains that although it would be prohibited to use Kedushas Sheviis produce for Mishloach Manos, nevertheless if one did so, b'dieved he would have been yotzai his chiyuv, as there would have been a chalos due to the hana'ah received.

[11]Orchos Rabbeinu (vol. 2, pg. 334: 51).

[12]Sefer Dinei Sheviis Hashalem (Ch. 17: 9), Shalmei Todah (Purim; quoting Rav Shach; cited in Rabbi Avraham Wiesenfeld's Shemitta in the Kitchen Q & A, pg. 57 footnote 141), Shu"t Minchas Shlomo (vol. 1, 26, pg. 165), Halichos Shlomo (Moadim vol. 1, Purim Ch. 19: 10), Shu"t Minchas Yitzchak (vol. 10: 57), Halichos Even Yisrael (Moadim vol. 2, pg. 452-453, 7 and 8), Shu"t Mishnah Halachos (vol. 18: 345), Chut Shani (Shemitta, pg. 298), and Minchas Asher (Sheviis: Tinyana 47).

[13]See Gemara Kedushin 52a and Rashi ad loc. (s.v. hamekadeish).

[14]Shu"t Lehoros Nossan (vol.10: 57 and 58).

[15]Gemara Megillah 7a, Rambam (Hilchos Megillah Ch. 2: 15), Tur and Shulchan Aruch (Orach Chaim 695: 4) and relevant commentaries.

[16]Some maintain that one may rely upon the halachically controversial method of circumventing Shemittah restrictions colloquially known as 'Hetter Mechira' (selling Israeli land and its produce for the duration of the Shemittah year to non-Jews), as utilizing this would technically mean that the Israeli produce does not maintain Kedushas Sheviis status and may be sold, and hence gifted as usual. However, historical possible reliance notwithstanding [see, for example, Rav Yechiel Michel Tukachinsky's Sefer HaShemittah at length (who devotes the entire second half of his sefer to the nuances of reliance on 'Hetter Mechira'); Rav Avrohom Yitzchak Hakohen Kook - one of the prime proponents of 'Hetter Mechira' b'shaas hadchak - wrote numerous responsa on topic, including Shu"t Mishpat Kohen (86 and 87) and the preface to his Shabbos Ha'aretz (Ch. 14 and 15); and more recently, R' Sam Finkel's fascinating, historical Rebels in the Holy Land], nowadays, the vast majority of contemporary Poskim [see, for example Chazon Ish (Sheviis, Ch. 21: 8 and 9, Ch. 24, and Ch. 27: 7), Kraina D'Igresa (vol. 1: 154), Shu"t DivreiYoel(vol. 1: 96, 6), Shemittah Kehilchasah (Ch. 'Hetter Mechira Bizmaneinu'), Derech Emunah (vol. 4, Hilchos Shemittah V'Yovel Ch. 8, Tziyun Hahalacha 7 and Michtavim M'Maran Zt"l26-27), the Badatz Eidah Hachareidis' Dvar HaShemittah (and Kol Koreh printed in the beginning), Orchos Rabbeinu (new edition; vol. 3, pg. 258), and Chut Shani on Hilchos Yom Tov v'Chol Hamoed (Michtavim pg. 373-374) with Kol Koreh signed by Rav Yosef Shalom Elyashiv, Rav Shmuel Halevi Vosner, Rav Aharon Yehuda Leib Steinman, Rav Chaim Kanievsky, Rav Michel Yehuda Lefkowitz, Rav Nissim Karelitz, and Rav Yehuda Shapiro] categorically reject relying on or even utilizing the 'Hetter Mechira' for any purpose whatsoever, even as a 'snif lehakel.' On the other hand, it is known that several Poskim including Rav Shlomo Zalman Auerbach (see, for

example, Maadanei Aretz, Sheviis, Ch. 1; Shu"t Minchas Shlomo, Kama vol. 1: 44, 1 s.v. ela and vol. 3, 158: 4; and Shulchan Shlomo on Sheviis, end sec. 'Hetter Mechirah'), Rav Ovadiah Yosef (Shu"t Yabea Omer vol. 3, Yoreh Deah 19: 7; vol. 10, Kuntress HaShemittah, Yoreh Deah 37-44, at length; Shu"t Yechaveh Daas vol. 4: 53, pg. 267, and his letter printed at the beginning of Yalkut Yosef on Sheviis and Ch. 25 ad loc. at length), and Rav Mordechai Eliyahu (Shu"t Ma'amar Mordechai vol. 5, 'V'shavsah Ha'aretz', 21), were of the opinion that there is validity to the sale b'dieved and that in extenuating circumstances one may indeed rely upon it, and the produce is permitted for consumption. It is also worthwhile to see Rav Meir Mazuz, Rosh Yeshivas Kisei Rachamim of Bnei Brak's impassioned defense of 'Hetter Mechira' nowadays (printed in Techumin vol. 35; 5775). Of course, the Israeli Chief Rabbinate relies upon it as well for their basic hashgacha. However, all things equal, it would certainly seem that with all of its inherent issues, using non-problematic produce would undoubtedly be a preferred option. See also Shu"t Igros Moshe (Y.D. vol. 3: 131) who refers those in Chutz La'aretz to ask Gedolei Eretz Yisrael, including the talmidim of the great Rabbanim who lived there, such as the Chazon Ish and Brisker Rav, how they should treat Peiros Sheviis.

[17] This author has seen several recent accounts of farmers describing 'Hetter Mechira' as "signing some papers, and then business as usual – treating the Shemittah year just as any other." Rav Shmuel Bloom, in his recent excellent *On the Shoulders of Giants*, devotes several remarkable chapters detailing the incredible Mesiras Nefesh of Israeli farmers in letting their land lay fallow during Shemittah. Over Chol HaMoed Pesach this year, this author got to see this firsthand by visiting the farm of Doron and Ilan Toweg in Moshav Azaria. Their rock-solid emunah is simply extraordinary! As part of a fascinating discussion about keeping Shemittah on their farm, they described how 'Hetter Mechira' is performed nowadays. In their

words, "An agent from the Rabbanut comes by a few weeks before Rosh Hashana with some papers and says "just sign here." We never see the new "owner" and have no idea who he is, just that we technically "sold" our land to him for the year and then we work it just the same as any other year. People say that "Hetter Mechira" is the same as Mechiras Chometz, which is acceptable by all, but although I am certainly not any sort of posek, in my eyes there are two very important differences. If the non-Jew would show up on Pesach and ask for the Chometz he bought, I would certainly let him have it. And more importantly, when I sell my Chometz, I am not enjoying it all Pesach long!"

[18]It is important to note that receiving Mishloach Manos in Chutz La'aretz containing Kedushas Sheviis produce hosts an additional set of complications, including the prohibition of taking Shemitta produce out of Eretz Yisroel. See Mishnayos Sheviis (Ch. 6, Mishnah 5; see also the Rash's and Vilna Gaon's Shnos Eliyahu commentary ad loc.), Sifra / Toras Kohanim (Parashas Behar 1: 9; see also the commentaries of the Raavad, Rash MiShantz, and Gr"a ad loc.), Tosefta (Sheviis Ch. 5: 1), Rambam (Hilchos Shemittah V'Yovel Ch. 5: 13), Pe'as Hashulchan (24: 18), Shaarei Tzedek (17: 24), Aruch Hashulchan Ha'Asid (Hilchos Shemittah V'Yovel 24: 25), Chazon Ish (Sheviis 13: 4 s.v. Pesachim), Shemittah Kehilchasah (Ch. 3: 17), and Mishpetei Aretz (Sheviis, 20: 2). Although many Poskim maintain that b'dieved one may indeed partake of them once they are already in Chutz La'aretz (although quite questionable whether one should be gifting them to another; moreover, one should be aware that the exporters and importers probably relied upon Hetter Mechirah or abusing Otzar Beis Din; neither of which are simple propositions, as delineated previously and at length in previous articles), this is strictly prior to the fruit's Zman Biur. Otherwise, they are vaday assur, but still must be treated with proper Kedushas Sheviis status. This is an important issue to be

aware of, and if on the receiving end of such Mishloach Manos, one must ascertain what to do from a knowledgeable halachic authority. These issues were dealt with at length previous articles titled Shemitta Sheilos: 'The Case of the Contraband Carrots' and 'Using Arba Minim of Sheviis'.

[19]As delineated at length in previous articles titled 'Kedushas SheviisProduce' and 'Fruit Use and Fruit Juice.'

[20]See Ramban (Parshas Behar Ch. 25: 7), Rosh (Sheviis Ch. 9, Mishnah 8: 5), Rash (ad loc.), Minchas Chinuch (Parshas Behar, Mitzvah 329: 7), Shaarei Tzedek (19: 4), Pe'as Hashulchan (27: 3), Pnei Yehoshua (Pesachim 52b), Aruch Hashulchan Ha'Asid (Hilchos Shemitta V'Yovel 27: 8), Beis Ridbaz (Sheviis, Ch. 12: 7), Chazon Ish (Shemitta 11: 6 and 7), and Shemitta Kehilchasah (Ch. 3: 20). When the Zman Biur for a specific fruit arrives, the Mishnah (Sheviis, Ch. 9: Mishnah 8) teaches us that one may still keep enough of that particular fruit for three meals worth for every member of the household. However, there is another opinion, that of the Rambam (Hilchos Shemitta V'Yovel Ch. 7: 1 - 3) that Biur refers to actually destroying said produce when it is no longer available in the field. As mentioned, this is not the normative halacha and Ashkenazim certainly follow the shittah of the Rosh, Rash, and Ramban, of removing it from the house and making it hefker, as cited by the aforementioned Poskim. [Interestingly, the Chochmas Adam (Shaarei Tzedek Ch. 19: 4 and 6) expresses preference to fulfilling Mitzvas Biur al yedei Sereifah, like the shittah of the Rambam.] However, whether Sefardim need be machmir for the Rambam's shittah is a matter of dispute between contemporary Sefardic authorities, with Rav Ben Tzion Abba Shaul zt"l (Ohr L'Tzion

on Sheviis, Ch. 3: 4) ruling to be machmir and Rav Ovadiah Yosef zt"l (cited in sefer Ma'ohr Yisrael vol. 2, pg. 105 and Yalkut Yosef on Sheviis, Ch. 21: 1, pg. 468) maintaining that making the produce hefker is sufficient. Either way, when the Zman Biur for a specific fruit arrives, the Mishnah (Sheviis, Ch. 9: Mishnah 8) teaches us that one may still keep enough of that particular fruit for three meals worth for every member of the household. For more on the topic of Biur, see Rav Yechiel Michel Tukachinsky's Sefer HaShemitta (Ch. 9), and Mv"R Rav Yaakov Blau zt"l's recent posthumously published Divrei Yaakov (vol. 1: 145).

[21]Alternatively, once one properly performs Biur he may actually reacquire the fruits himself, as the halacha follows Rabbi Yosi's opinion - see Mishnayos Sheviis (ibid.), Tosefta (Sheviis Ch. 8: 4); Yerushalmi (Sheviis Ch. 9, Halacha 4), Chazon Ish (Hilchos Sheviis 11: 6 and 26, Seder HaSheviis 1 s.v. pri), and Shu"t Minchas Shlomo (Tinyana 123: 10 and vol. 3: 132, 13).

[22]Since we know that the Zman Biur for grapes, and therefore wine as well, is Pesach of the eighth year, that means that anyone wanting to use Kedushas Sheviis wine on this upcoming Pesach must perform Biur on Erev Pesach on all of his Shemitta wine. One more exciting thing to do on busy Erev Pesach - this means mandating lugging all of your wine bottles out to the street and publicly declaring them hefker. If one did not do so, according to most Poskim, all of his Kedushas Sheviis wine would be prohibited. Talk about Erev Pesach pressure. But don't worry, according to most Poskim, after a successful Biur, you may simply reacquire your wine, and it is Havdalah-ready again.

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

L'iluy Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, Rav Yaakov Yeshaya ben R' Boruch Yehuda.