ליקוטי ופסקי הלכות

"חוקי חיים"

ותלמדם "חוקי החיים" לעשות רצונך בלבב שלם

שע"י "חדר הוראה" שבונת מנחת יצחק פעיה"ק ירושלם תובב"א - בראשות הרב חיים אהרן בלייער שליט"א

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Please do not read during Davening or Krias Hatorah

Maaser Money – 1 | Parshas Pekudei 5784

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Chiyuv to Take off Maaser Money

During Adar and Nissan

1. The months of Adar and Nissan are a time when Klal Yisroel excels in the mitzva of tzedaka in a wonderful way. Hundreds of millions of dollars exchange hands, whether toward matanos l'evyonim, kimcha d'Pischa, institutions, various organizations, or the like. It is also an opportune time for the mitzva of tzedaka because it is a time of geula, and the mitzva of tzedaka brings the Geula closer. Since much of the money given is maaser money, we will explain some principles about the chiyuv of giving maaser money.

Level of the Chiyuv

2. **D'oraisa.** Some poskim hold the chiyuv to set aside maaser from income is d'oraisa (ט"ז יו"ד סי' של"א סקל"ב והערוך השלחן סי' רמ"ט ס"ה בדעת הט"ז).
3. **D'rabanan.** Other poskim hold the chiyuv is only d'rabanan (מהרי"ל סי' נ"ד ובשו"ת החדשות סי' ק"ח וק"ט, שו"ת חות יאיר סי' רכ"ד בדעת הט"ז הנ"ל).
4. **Minhag.** Most poskim hold taking maaser from income is just a minhag (מהר"ם מרוטנבורג דפוס פראג סי' ע"ד, ב"ח יו"ד סי' של"א אות י"ט, שו"ת חת"ס יו"ד סי' רל"א) that we learn from Avrohom Avinu, who took maaser off everything. This is the approach most poskim take in practice.
5. Since it is a minhag, if someone takes off maaser, he should not stop without a pressing need, as it is like a minhag to do a mitzva (פתחי"ת סי' של"א סקי"ב בשם משנת חכמים). Thus, if someone who does not normally set aside maaser wants to do so one day, he should say that although he is setting aside maaser, he is not taking it upon himself to always do this (אהבת חסד פי"ח ס"ב).
6. Some say that taking off maaser once is already like a neder (שאילת יעב"ץ ח"א סי' ו'); others say it is only like a neder after three times (שו"ת חת"ס יו"ד סי' רל"א, חשב האפוד ח"ג סי' ל"ג).
7. **Taking maaser off profits retroactively.** If someone is not accustomed to taking off maaser but wants to start now, he does not need to separate maaser from his past profits; it is enough to take it upon himself to separate maaser from now on (שו"ת שבט הלוי ח"ט סי' ר"א). However, if someone took it upon himself to set aside maaser and after some time started slacking off, he must make up for the period that he was not taking off maaser (קצוה"ח סי' ר"ב סק"ו).

Testing Hashem's Guarantee that One Will Not Lose

8. Chazal interpret the posuk "עשר תעשר" (דברים י"ד, כ"ב) as "Take off maaser so that you will get rich," (גמ' תענית דף ט' ע"א), i.e., it is worth it for a person to take off maaser in order to get rich. In all other areas, it is assur to test Hashem, so to speak, but one may do this with regards to giving maaser (רמ"א סי' רמ"ט ס"ד) because the reward will definitely come (ש"ך סק"ג). Some say since the posuk refers to maaser from produce, one may not test Hashem about maaser from money (פתחי"ת שם סק"ב), but the Chofetz Chaim follows the Rama, who allows testing Hashem in this area (אהבת חסד פי"ח אות א'). If one sees he is not getting richer, he should realize that Hashem knows it is better for him not to get rich (הגר"ח קנייבסקי, דרך אמונה פ"ז מתנ"ע ציון ההלכה סקס"ח).

How Much to Give

9. The average amount to give is 10% of one's capital (שו"ע יו"ד סי' רמ"ט ס"א). The best way to do the mitzva is to give up to a fifth [20% - "chomesh"]; one should not give more than a fifth so that he does not end up needing tzedaka himself, ch"v (רמ"א שם).
10. **More than a fifth.** One may give more than a fifth of his money to support Torah since he receives a share of the reward – this does not have a limit (שיטה מקובצת כתובות דף נ', אהבת חסד פ"כ ס"ד, חי' תורה למהריט"ב פ' ויצא, כ"ק מרן גאבד ירושלים).
11. Someone who is extremely wealthy may give more than a fifth (שו"ת שאילת יעב"ץ ח"א סוף סי' נ', אהבת חסד פי"ט בהג"ה, שו"ת מנח"י ח"ה סי' ל"ד אות ב').
12. One may also give more than a fifth for pikuach nefesh as long as he keeps what he needs to live (כתבי חפץ חיים מכתב א', שו"ת אג"מ יו"ד א' סוף סי' קמ"ג, מו"ר בספרו צדקה ומשפט פ"א הערה כ"ג). This is also the ruling with regards to pidyon shevuyim (ערוה"ש סי' רמ"ט ס"ה).

Keeping Exact Records

13. To properly fulfill the mitzva to take off maaser, one should keep exact records of all his income and profits, business expenses, and losses ch"v for a specific period, as well as whatever he gives to tzedaka during that period (שו"ת חו"י סי' רכ"ד, נודב"י קמא יו"ד סי' ע"ג הו"ד בפתחי"ת סי' רמ"ט סק"א).
14. It is advantageous for a person to keep an exact account of his affairs in order to take off maaser or chomesh. This is better than the regular mitzva of giving tzedaka since when one gives maaser or chomesh, his own dealings become partnered with Hashem in a sense, thereby becoming a mitzva entity (אהבת חסד פ"כ אות ו').

Determining a Time Period for Calculating Maaser

15. Every person should set a specific time to calculate his maaser account – i.e., income, expenses, and tzedaka – based on what is convenient for his occupation. Some people prefer to do this every month, e.g., in Eretz Yisroel, where salaries are paid monthly; others prefer to do it every three months (חו"י סי' רכ"ד), e.g., in places where rent is collected quarterly; yet others do it every half a year (שו"ת אבקת רוכל סי' ג').
16. This can also be done once a year (אהבת חסד פי"ח ס"ב), e.g., at the end of the tax year or every Rosh Hashana, when the level of a person's sustenance is determined (ערוה"ש סי' רמ"ט ס"ז).
17. At the end of the predetermined period, one should calculate his income versus his expenses to figure out his profits. With that number, he should calculate how much his maaser or chomesh comes out to. For example, if someone made a profit of 10,000, his maaser is 1,000, and if he gives chomesh, the total of what he gives comes out to 2,000.
18. He should then calculate how much tzedaka he gave in that time period. If it is less than his maaser or chomesh, he should set aside the difference as the rest of his maaser money and distribute it to the needy.

Giving Maaser in Advance

19. Some poskim hold one may not set aside maaser for his future profits (שו"ת בנין ציון החדשות סי' י"ג).
20. However, most poskim hold one may set aside maaser for his future maaser account (נודב"י קמא יו"ד סי' ע"ג הובא בפתחי"ת שם, לבושי שרד ח"ד דינים, ליו"ד סי' ק"ד, חשב האפוד ח"א סי' ק"ה, שו"ת שבט הלוי ח"ב סי' קל"ג אות ט'), and the prevalent minhag follows these poskim. Still, it is best for one to stipulate when he takes on the mitzva that he will be allowed to give money to tzedaka and ultimately deduct it from maaser for future income (אהבת חסד פי"ח ס"ב).
21. Therefore, if one knows he gave more tzedaka than he needed to based on his profits from his set time period, he may deduct the money in excess of maaser from the next period.

Expenses

Deducting Expenses

22. When figuring out profits, one may first deduct expenses that were necessary for that income and only count the remainder as profit. We will now discuss what can halachically be considered an expense.
23. **Day care.** A woman who needs to pay to send her children to day care while she goes to work may deduct the cost from her work profits. However, if she would send her children to day care even if she wasn't working, she may not deduct the cost of the day care (שבט הלוי כת"י, מהוד"ק סי' רמ"ט א').
24. **Household expenses.** Routine household expenses, such as food and drink, cleaning, and maintenance, are not considered business expenses which may be deducted, since that money would be spent in any event.
25. **Travel.** Money spent on commute to work may be deducted from profits (ערוה"ש סי' רמ"ט ס"ז). If one buys a monthly travel pass ["chofshi chodshi"] that he would not have bought if not for his job, he may deduct it from his profits even if he uses it for personal travel as well.
26. **Learning a profession.** Money spent on learning a profession is a business expense and may be deducted from one's profits.

Maaser on Principal and Returns

27. If one obtains a property or capital fund, strictly speaking, he must set aside maaser for the face value once, and then again on any returns he gets.
28. **Received an apartment.** Thus, if one received an apartment as a gift or as an inheritance, officially he must give maaser for its value. However, he isn't obligated to spend money from elsewhere as maaser (יוסף אומץ פ' הצדקה והמעשר, שו"ת שבט הלוי ח"ה סי' קל"ג). If he rents out the apartment, he must set aside maaser from the rent money. If he sells the apartment, he must set aside maaser from the money he receives for it (שו"ת שארית שמחה סי' ל"א, כ"ק מרן גאב"ד ירושלים).
29. **Using rent income to pay off a mortgage.** If one bought an apartment for, say, $300,000 as an investment and paid $100,000 himself, taking out a mortgage from the bank for the remaining $200,000, and he is paying off the mortgage with the rent money he is collecting, he does not need to take maaser off that money; it is considered an expense to pay off his mortgage. However, if he will sell the apartment, he will need to take off maaser for its principal value, i.e., the $200,000 that he did not yet set aside maaser for (כ"ק מרן גאב"ד ירושלים).

Income and Profits

Profits

30. **Multiple businesses.** If someone has multiple businesses, and he profits from one but suffers a loss from another, or profits initially and then suffers a loss, and he set a specific time to take off maaser (above, 15), he can put all his businesses together, calculate one sum total based on his income and expenses from all his businesses, and then give maaser for the grand total (צדקה ומשפט פ"ה אות ט').
31. **Shares, stocks.** Some people buy shares in companies and then sell them after some time. If someone did this as a onetime venture, he should set aside maaser from the profits when he sells the shares. However, if he constantly deals with stocks, buying, selling, etc., instead of taking off maaser every time he sells, he can make a calculation of what he made versus what he lost at the end of the time period he set for himself, e.g. half a year or one year, and take off maaser from his net profits (הגר"נ קרליץ, באורח צדקה פ"ט אות ב').
32. **Gifts.** If one received items as gifts, e.g., on the occasion of his marriage, he does not need to use money he received as maaser for the cash value of items he received. However, if he received money, he must set aside maaser (שו"ת יד הלוי ח"ב סי' מ"ד). If he received checks, he must use cash as maaser for them.
33. **Apartment rental income.** Someone who rents out an apartment must take maaser off the rent he collects. If he also pays rent for the apartment he lives in, he only needs to take off maaser for rent money he collects in excess of what he personally pays for rent (מו"ר שו"ת שבט הקהתי ח"ו סי' של"ד).
34. **Stolen item that was returned.** If something was stolen from someone and then returned, he does not need to give maaser from it. If, however, money was stolen from someone and then returned to him after he had given up hope of recovering it, he must take maaser off that money (שו"ת צי"א ח"ו סי' כ"ו).

Received Money to Purchase Something Specific

35. If someone is given money to buy something specific, e.g. a washing machine, a new coat, etc., the recipient of the money becomes a shliach to buy the item for the one who gave him the money, even if he is the one benefiting. Therefore, he does not need to take maaser off that money (חזו"א, דרך אמונה פ"ז ציון הלכה סקס"ז).
36. If he received more than he spent to buy the item, e.g., he received 1,000 shekalim to buy a coat but the coat only costed 800 shekalim, he must take maaser off the entire amount he received. This is because he is clearly not a shliach to buy the coat; rather, he was given money to buy it himself, and maaser must be given for that money (הגר"נ קרליץ, באורח צדקה פ"ט הערה מ'). This is true even in a case where he has to pay some of his own money to arrive at the maaser.

Government Stipend

37. One must set aside maaser for any money he receives from a government, e.g., income support, unemployment, etc. If someone receives disability benefits but also has medical expenses for that disability, he can deduct his expenses from the benefits and give maaser from what is left (הגר"נ קרליץ, באורח צדקה פ"ט אות מ"א).
38. **Child benefits, maternity grant.** Someone who receives child benefits from his country's national insurance [e.g., Bituach Leumi] must take off maaser – since no one actually spends that money specifically on expenses associated with his children, it is considered general income (באורח צדקה פ"ט אות מ').
39. **Housing benefit.** Some benevolent countries, e.g., England, grant stipends to people who cannot afford to pay rent by themselves. Since this money is given for a specific purpose, if someone utilizes it to help pay rent, he does not need to take off maaser from it, whether he gets the money himself or it is paid directly to his landlord (הגרישי"א, באורח צדקה פ"ט אות ל"ד).
40. However, some say that since the housing benefit money saves one from paying rent himself, he must take off maaser from it (הגרש"ז אוירבאך). [As far as whether he needs to take off maaser based on the market rental rate for this apartment or on how much he would be willing to pay rent, see שו"ת חוקי חיים ח"א סי פ"ח].

Bochurim, Avreichim Supported by Their Parents

41. **Bochurim.** A bochur does not need to take off maaser from money his parents give him for food, clothes, tuition, and the like (שו"ת אג"מ יו"ד ח"ב סי' קיב ד"ה וגם יש טעם). However, if his yeshiva provides everything and his parents give him allowance money to buy things beyond his needs, he must take maaser off that money (מילתא דשכיחא ח"ג סי' לב).
42. **Avreichim.** If a couple receives a sum of money from their parents determined based on the expenses for their basic necessities, and none of it is left over at the end of the month, they do not need to take off maaser from it. This is because it was given for a specific purpose, i.e., their needs, and if they would take off maaser, they would be short on money for their basic necessities; their parents gave it to cover their costs, not to create more costs (מילתא דשכיחא שם). If they would take off maaser, their parents would need to give more money, and then the maaser is falling on the parents – this is not within the minhag (כ"ק מרן גאב"ד ירושלים).
43. However, if they get more than the costs of their basic needs, e.g., they have extra money at the end of the month to put into savings, they must take off maaser since the money was given to them plentifully, not just for their basic needs.
44. If an avreich gets a kollel stipend or tutors a bochur for pay, that money is like any income, and he must take off maaser unless he is in a difficult financial situation, in which case he is exempt from maaser altogether.

Kovetz Chanuka & Purim

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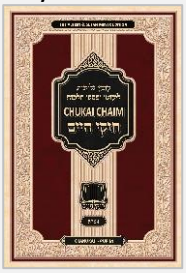
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Kovetz Pesach
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