

# ליקוטי ופסקי הלכות "חוקי חיים"

ותלמוד  
"חוקי חיים"  
לעשות רצונך  
בלבב שלם



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

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Giving a Gift to a Non-Jew

Parshas Vayishlach 5785

345

## Issur of תחנם לא

### Free Gift

1. Since we receive many questions at this time of year, mostly from bnei Chutz l'Aretz, about the halachos of gifts to non-Jews as their end-of-year holiday celebrations approach, we will set forth some halachic principles and details that apply in practice, as well as shailos that can come up at any place and time. Those to whom this is not relevant will be zocheh to expand their knowledge of another mitzvah in the Torah.
2. **לא תחנם.** The Torah commands us regarding our relations with avoda zara-worshipping non-Jews, "לא תחנם" (דברים ז', ג'). Chazal derive three different halachos from the wording of the posuk: 1) Do not sell them land in Eretz Yisroel to live on; 2) Do not "give them grace" by praising their appearance or actions; 3) Do not give them free gifts (גמ' ע"ז דף כ' ע"א). A reason for this mitzvah is to distance ourselves from the non-Jews' ways of giving (חינוך מצוה תכ"ו).
3. **"או מכור לנכרי."** Some derive the issur of giving gifts to non-Jews from a different posuk (דברים י"ד, כ"א): *Do not eat any neveila ... sell it to a non-Jew* (גמ' שם, גמ' פסחים דף כ"א ע"ב). The Torah is particular that we sell it to a non-Jew and not give it to him for free. Some understand based on these two sources that giving a gift violates a lav and an aseil (תוס' ע"ז שם ד"ה ר"י, מנ"ח מצוה תכ"ו).
4. Based on this, the Shulchan Aruch rules (ח"מ סי' ) יו"ד סי' קנ"א סי"א, ח"מ סי' ) one may not give a gift to a non-Jew he does not know. (רמ"ט סי' ב)

### To Whom Is it Assur to Give Gifts?

5. **All nations.** The posuk of לא תחנם refers to the Seven Nations. Thus, some hold the issurim derived from it only apply to those nations (סמ"ג לאוין מ"ח). Similarly, some hold one only violates the lav by giving a gift to an actual avoda-zara worshipper (ע"י שו"ת ) (שבט הלוי ח"ד סי' ר"יג).
6. However, most poskim do not differentiate and hold the issur applies to all nations, including ones that do not worship avoda zara (תוס' ע"ז כ' ע"א ד"ה אמר, תוס' יבמות דף כ"ג ע"א ד"ה ההוא, סתימת הרמב"ם ) (פ"י ע"ז, חינוך מצוה תכ"ו, מנ"ח שם, ב"י ח"מ סי' רמ"ט, שו"ת יו"ד סי' קנ"א סקח"י).
7. **Yishmael.** Some are meikel with the offspring of Yishmael who do not do avoda zara (שו"ת רשב"א ח"א סי' ח'), but from their lack of distinction, it is clear many poskim hold the issur is for all nations, including Yishmael (ב"י שם, שו"ת שם, נשמת כל חי סי' נ"ד).
8. **Ger toshav.** One may give a gift to a non-Jew who accepts upon himself the seven mitzvos Bnei Noach [i.e., the three severe aveiros of avoda zara, gilui arayos, and murder, as well as אבר מן זכר, ב"י, ב"ה ] like the din of a ger toshav (אבר מן זכר, גילוי, ברכת השם, החי ), as the issur of לא תחנם was not stated with respect to them. However, the average non-Jew in the street today is not defined as a ger toshav.
9. **Jewish mumar [sinner].** Even if someone sins to satisfy his desires [לתאבון ], we must sustain him; we certainly must do chesed to him (פתח"ת יו"ד סי' רנ"א סי' ב, אהבת חסד דיני הלואה פ"ג אות ב'). Even though we do not need to sustain one who sins out of spite [להכעיס ], it is unlikely that the lav of לא תחנם applies to him, as he is not like a non-Jew for this lav. The issur of לא תחנם certainly does not apply to someone raised secular [who is likely considered an oneis for these purposes] (חזו"א אור"ח סי' פ"ז סק"ד).

## Acquaintance

10. One may give a gift to a non-Jewish acquaintance, as such a person is not subject to the issur of לא תחנם (שו"ת שם). Giving something to an acquaintance is more like a sale than a gift as he will repay the favor or has already given benefit (לבוש סק"ח, לבוש).

## For One's Own Benefit

11. Some say one may give a gift to a non-Jew if he will get some personal benefit (ט"ז שם). As long as one personally benefits, it is viewed as a sale, not a gift, as he receives something or some value in exchange.
12. **Gift to a mailman.** Thus, one may give a gift to a non-Jew who delivers the mail daily so that he will continue to do his job properly.
13. **Gift to a maid.** Similarly, one may give a gift to a non-Jewish woman who helps with the housework, as this makes her do a more reliable job, and the giver benefits.
14. **To prevent harm.** One may give a gift to a non-Jew accompanying him so that he does not harm him; this is like a sale (תוס' ע"ז שם).
15. **For peaceful relations [דרכי שלום].** One may also give a gift to a non-Jew for the sake of peaceful relations (שו"ת ח"מ סי' רמ"ט). This is also like a sale – the giver gives to prevent them from antagonizing or harming us, leading to peaceful coexistence. However, one must know that it is truly for peaceful relations, as not every gift to a non-Jew falls into this category.

## Mitzva Purpose

16. **Chometz erev Pesach.** When erev Pesach falls on Shabbos [as it does this year, 5785/2025] and there is no other way to get rid of one's leftover chometz, he may give it as a gift to a non-Jew. This does not violate the issur of לא תחנם since it is for Jewish benefit, namely to not violate ימצא (בל יראה ובל ימצא) (רשב"א גיטין לח: בשם הרמב"ן, מ"ב תמ"ד סק"ז, ודלא כחק יעקב תמ"ה, אות י"ב).
17. **Tevilas keilim.** One may give a new dish as a gift to a non-Jew on Shabbos or Yom Tov and then borrow the dish from him to exempt it from tevila until after Shabbos (שו"ת אור"ח סי' שכ"ג סי' ז). This is not a problem of לא תחנם (ק"י בשו"ת כת"ס אור"ח סי' ס"א) since there is a mitzva purpose for a Jew (ע"פ הרמב"ן הנ"ל).

## Paying Extra Money to a Non-Jew

18. **Getting change.** When buying something from a non-Jew, one should take the change from the seller after paying, as telling him to keep the change for himself is a problem of לא תחנם. If, however, it is just small change and it is inconvenient for the Jew to take it, he can leave it with the non-Jew, as he is doing so for his own benefit (אהל יעקב הל' לא תחנם אות י"ט).
19. **Tip for service.** When a non-Jew services a Jew, e.g., as a waiter, hotel bellhop/porter, deliveryman, taxi driver, etc., and there is a chance he will use him again and derive benefit in the future by tipping him, then the Jew may give him extra money. Similarly, one may tip him in the middle of his job so that he improves his service (שו"ת שרגא המאיר ח"ז סי' קנ"ה). However, if the job is done and the Jew will not benefit at all from tipping him, he should not do so, as it is a problem of לא תחנם (נשמת כל חי מהגר"ח פאלאג"י סי' נ"ה) לא תחנם (נשמת כל חי מהגר"ח פאלאג"י סי' נ"ה).
20. **Standard to tip.** However, if the accepted practice in that place or situation is always to tip, one may give a tip. As long as one is doing it because of the local custom, it is like the service provider's wages and is not a problem of לא תחנם (אשרי ) (האיש יו"ד פ"י אות ל"ג, מו"ר בעל שבט הקהתי).

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## Yaakov's Gifts to Eisav

21. In Parshas Vayishlach, Yaakov Avinu sends a large gift to Eisav. Some meforshim ask how Yaakov was allowed to send a gift to Eisav – there is an issur of תחנם, the Avos kept the whole Torah, and the gifts came right after Yaakov testifies that he kept the 613 mitzvos (רש"י עה"ת), which include תחנם! How did he send Eisav the gifts?
22. **Eisav was a Yisroel.** Some answer that Eisav had the status of a Yisroel (גמי קידושין דף י"ח ע"א). Even if he was a mumar, most poskim hold there is no issur of תחנם with a Jewish mumar (above, 9).
23. **Peaceful relations.** Even if Eisav had the status of a non-Jew, when a Jew is traveling with a non-Jew and is afraid he will harm him (above, 14) or he wants to win his favor (י"ש חולין פ"ח סי' ק"ג), he may give a gift. That is why Yaakov said, *I will remove his anger* – so that he would not harm him (י"ס שמחה פ' וישלח). He also said, *And I sent to tell my master [this] to find favor in your eyes*, i.e., to receive peace in exchange, which is mutar (above, 15).
24. **Gaps between the herds.** Some explain this is why Yaakov was a bit sparing and did not fill the gaps between the herds when he gave this big gift to his brother, Eisav. It was because Yaakov was being careful about תחנם and was being exacting to give only what he estimated was necessary to save himself from Eisav. If he would have given more generously and filled the gaps between the flocks, it would have been a violation of תחנם (רבי אלחנן וורסמן, לא תחנם). (אור אלחנן עמ' רפ"ד).

## Gifts to Non-Jews around Their Holidays

25. It is very common for Jews to have dealings with non-Jews, either as employers or employees of non-Jews. When their holiday season arrives, it is customary for people to give gifts to each other. Since the Jew usually benefits from giving the gift, there is no problem of תחנם, as mentioned. However, this raises other shailos regarding the type of gift and accompanying well-wishes, as will be explained.

## Business with a Non-Jew in Their Holiday Season

26. In early times, when non-Jews were more devoted to avoda zara, it was assur to do business with, buy from, sell to, or give a gift to them – even in a mutar way – during their holidays, and during the three days prior in Eretz Yisroel. This is because doing this would cause them to go and thank their avoda zara for their gains (ש"ע). (י"ד סי' קמ"ח). A Jew who did this violated the lav of lifnei iver, as non-Jews are also commanded not to do avoda zara (see above, 8).
27. Today, though, they are not devoted to avoda zara like they once were, they do not go thank their deities for their gains, and there is also a concern for animosity if we do not relate toward them as they expect is proper. Thus, strictly speaking, one may do business with them or give them gifts even during the period of their holidays (ש"ע שם סי"ב, רמ"א שם).

## Things to Avoid during Their Holidays

28. **Rejoicing with them.** Still, a scrupulous person will stay far away from rejoicing with them if he can do so without causing animosity (רמ"א שם).
29. **Not on that day.** Also, one should be careful, if possible, not to send a gift on that day itself. Instead, he should send it before or after, or even on the evening prior to the actual day (רמ"א שם).
30. **Avoda zara-related items.** Although we are meikel nowadays on all sorts of business dealings on their holiday, one should make sure even today not to do business with them on their holiday with items related to their religion (בשם כנה"ג).

## Gifts of Forbidden Food, Drink

### Bottle of Stam Yeinam

31. **Issur of stam yeinam.** Chazal forbade one to drink or get benefit from wine of a non-Jew if one does not know whether it was poured for avoda zara (ש"ע סי' קכ"ג ע"א). Some poskim say that even nowadays, when non-Jews do not usually pour wine for avoda zara, stam yeinam is still assur to drink or get benefit from (שם). Others say only drinking stam yeinam is assur today, but benefit is mutar (רמ"א שם). The minhag is to be meikel to prevent a substantial financial loss (שם).
32. **Bottle received as a gift.** Thus, according to the opinion that one may not benefit from stam yeinam (דעת המחבר), if a Jew received a bottle of wine as a gift from a non-Jew or bought it mistakenly and has no use for it, he may not pass it on to a non-Jew, as he benefits from doing that. However, some allow him to regift it to a non-Jew, as it is considered a situation of financial loss since it is already in his possession (ש"ת שב ורפא ח"ג סי' ל"ב).

33. **L'chatchila** one should not buy bottles of wine from non-Jews to give to non-Jews, as we hold that l'chatchila, one may not benefit from the wine even today if it is not a situation of financial loss. Some suggest that in a pressing situation, one should have in mind when buying the wine not to acquire it. This way, it never belonged to him, and in a pressing situation, he may pass it on to a non-Jew (ש"ת ויען דוד ח"ו בסוף הספר ראש דוד סי' ט"ז).

## Meat, Fish

34. One may not do business with any food item that is assur d'oraisa even if there is no issur to get benefit (ש"ע י"ד סי' קי"ז ע"א). Thus, there is an issur to buy neveila or treifa meat to give to a non-Jew.
35. One may not buy non-kosher meat or fish as a gift for a non-Jew, as that is an issur of doing business. A gift is like a sale, as if he weren't getting any benefit from it, he would not give it as a gift (ש"ך שם סק"ג).

## Cholov Stam

36. There is no issur to do business with an issur d'rabanen, so as long as there is no issur to get benefit, one may give it as a gift to a non-Jew. Thus, non-kosher cheeses which are only assur d'rabanen may be given as a gift to a non-Jew.
37. **Dairy chocolate.** Similarly, one may buy a dairy chocolate platter as a gift for a non-Jew since all it is is cholov stam, which is only an issur d'rabanen.

## Various Greetings

### With the Word Sholom

38. One may not enter a non-Jew's house on his holiday and say Sholom. If he finds him outside, he may, but he should say it in a low voice and speak solemnly (ש"ע י"ד סי' קמ"ח ע"ט). It is only assur with the word Shalom because it is a name of Hashem. However, there is no issur of well-wishes without Hashem's name (בדק הבית שם ארחות חיים, ש"ך סק"ז).

## C-mas; Their Holiday for the Birth of "Oso Ish"

39. Most nations in the world celebrate their "C-mas" holiday on December 25<sup>th</sup>. Thus, that day is called their holiday. However, some celebrate it on the 6<sup>th</sup> or 7<sup>th</sup> of January based on variations in the Gregorian calendar that arose over time due to errors [this is the reason for the different dates of the "nittel" minhagim adopted by Chassidim]. Thus, the standard date of their holiday is December 25<sup>th</sup> unless it is known about a particular non-Jew that he belongs to a group which celebrates it on a different day.
40. One should not use the full name they use for their holiday [ch-mas], as it contains the name of the false, worthless "messiah" who their religion is based on. Thus, the minhag of Klal Yisroel is to use a Jewish nickname, e.g., "Kratzmach" or the like, to refer to the holiday when necessary (ש"ע י"ד סי' קמ"ח ע"ט). One should not even refer to it with a nickname they use. "X-mas" is also a name they use.
41. Thus, when wishing them well verbally or writing a greeting card, one should not use the original name of their holiday. Rather, one should find a generic way of wishing them well, e.g., Happy holidays.
42. **"Seasonal greetings."** The best way to wish non-Jews well in this time is to say or write "Seasonal greetings," as that does not contain the word "holiday," and is just a greeting for the season (מ"ר מרן גאב"ד ירושלים בעל שערי טוביה).

## New Year

43. In early times, the non-Jews celebrated the new year as a holiday having to do with their religion, so the first day of the new year had avoda zara concerns. However, nowadays that most nations of the world celebrate the new year as the beginning of the year without any connection to Ch-tianity, one may wish a non-Jew "Happy New Year," as it is just the beginning of their year, not a proper holiday.
44. Nevertheless, if a non-Jew is known to believe in and celebrate a religious-themed new year, one should refrain from wishing him "Good year" then unless there is concern for creating animosity, in which case one may wish it in a low voice.
45. **Wishes to a Jew.** However, one Jew should not wish another Jew "Happy new year," as it is not a Jewish new year. We should not identify with any new year other than our Rosh HaShana on the 1<sup>st</sup> of Tishrei or any of the four Rosh HaShanos taught in the Mishna.

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