



## Understanding a Chatzer in Maaserot

In this week's *Mishnahyot* we learnt that a *chatzer* – one's courtyard – is *koveah*. In other words, if one's produce has reached *gmar melacha* (completely processed) and it is brought into one's *chatzer*, then *terumot* and *maaserot* (*maaserot* for short) must be separated prior to consuming the produce. From this point, the requirement applies even if one wishes to eat the food as a snack (*achilat arai*). In short, the produce is now *tevel*.

The *Mishnah* (3:5) records a debate regarding the definition of a *chatzer* that qualifies for this law. *R' Yishmael* understand that it must be like a *chatzer tzurit* – protected with a guard. *R' Akiva* disqualifies a *chatzer* if it is shared by two residents with independent access rights. *R' Nechamya* understands that only a *chatzer* where one would be unashamed to eat inside it would qualify. Whereas *R' Yossi* disqualifies a *chatzer* in which, if a stranger wandered in he would not be questioned.

*Rabbeinu Tam* (*Tosfot*, *Niddah* 47b) cites our *Mishnah* when raising a difficulty on another *Gemara* (*Bava Metzia* 88a). The *Gemara* cites a debate regarding what is *koveah* on a biblical level. *R' Yanai* maintains, that the produce is not considered *tevel* until it is brought into the house. He cites the verse for *vidui maaserot* as a proof, "I have removed the *kodesh* (referring to *maaserot*) from my house" (*Devarim* 26). *R' Yochanan* however argues that even one's *chatzer* is *koveah*. He cites the *passuk* relating to *maaser rishon*, "and you shall eat it in your gates and be satisfied". The *Tosfot* asks that our *Mishnah* appears to prove that one's *chatzer* is *koveah* and therefore presents a difficulty for the position of *R' Yanai*. The *Tosfot* answer that while it is true that according to *R' Yannai* on a biblical level the produce is not *tevel* until it reaches the house, on a rabbinic level a *chatzer* can be *koveah*. The *Ramban* explains that since one's *chatzer* can be protected like one's house one may confuse the two and err with respect to this law.<sup>1</sup> He cites the *Yerushalmi* in support, that *R' Yanai* agrees that a *chatzer* is *koveah* on a rabbinic level (like an acquisition).

Similarly, the *Mishnah Rishona* understands in our *Mishnah* that everyone agrees that the law is rabbinic. Nevertheless, it is only applied to a *chatzer* that is like one's house. The debate is regarding the critical attribute that makes a *chatzer* like a house. According to *R' Yishmael* and *R' Akiva* the criteria is whether it is protected. He understands that according to *R' Nechamya* it is whether he feels comfortable to engage in his affairs as he would at home. Finally, while *R' Yossi* does not require that it be protected, it nevertheless cannot be open to everyone.

What is the position of the *Rambam*? How does he rule? The *Rambam* (*Maaser* 4:1) rules that produce only become *tevel* on a biblical level once it reaches one's house. It would appear then that the *Rambam* ruled like *R' Yannai*. Indeed, this is the position of the *Kesef Mishnah* (3:4). He explains that the *Rambam* rules like *R' Yannai* since he was *R' Yochanan's* Rav.

The *Biur HaGra* (YD 331:139) however understands that the *Rambam* rules like *R' Yochanan* that a *chatzer* is *koveah* on a biblical level. He cites the *Rambam* (4:7) who states, "just like a house is *koveah* for *maaser*, so too a *chatzer* is *koveah*" which appears to be equating the two (if the *chatzer* qualifies as in our *Mishnah*). The *Chazon Ish* (*Maaserot* 5:16) cites the *Rambam* (3:3) as a further proof. There, the *Rambam* lists six situations that are *koveah* with a *chatzer* being one of them and a house omitted. He reasons that if a *chatzer* is fundamentally different to a house then the list should have also included a house separately. Furthermore, he cites the *Rambam* (4:2) that states that only if one eats *tevel* that was *koveah* in one's house would he be liable to lashes (due to a biblical violation). He adds "... however regarding the *rest* of the six cases we mentioned" one would not receive lashes, rather *makot mardut* (a rabbinic form). The *Chazon Ish* understands that by referring to the "rest of" the six implies that the *chatzer* was not excluded. Furthermore, that *Rambam* began (chapter 3) by referring to *chatzer* and continued (chapter 4) by referring to a house to teach that they are equivalent.

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<sup>1</sup> See the *Riva* (*Bava Metzia* 88a) that addresses the question of why we are not concerned that one might separate *maaserot* from rabbinic *tevel* produce in the *chatzer* for *tevel* on a biblical level.

## Revision Questions

מעשרות ב' - ג' - ח'

- Explain the debates regarding the point in time during a traders journey that his produce become obligated to remove *ma'asrot*: (ב' ג')

  - If the seller is taking his stock to sell in another city.
  - If the seller is an ordinary travelling salesman.

- Explain the debate regard the status of produce that has had *trumah gedolah* separated from it prior to the produce's *g'mar Melacha*. (ב' ד')
- Regarding the previous question, what product is the exception within the *Chachamim's* opinion? (ב' ד')
- If someone buys fruit from someone while they were picking them from the tree, does he need to separate *ma'asrot*? (ב' ה')
- If someone buys fruit while they are still connected to the tree, does he need to separate *ma'asrot* before eating the fruit: (ב' ו')

  - If he did not specify which fruit he would be taking?
  - If he specified the fruit he was buying?

- Under what condition is a field worker (employee) required to separate *ma'asrot* prior to eating the fruit? (ב' ז')
- If a field worker is working with one type of fruit can he: (ב' ח')

  - Eat from another type without separating *ma'asrot*?
  - Exchange it with a worker working with another type of fruit and eat it without separating *ma'asrot*?

- Can anyone eat from figs (without separating *ma'asrot*) that have been carried through the courtyard of a house and place in area set aside for drying? Under what circumstances can the workers eat these figs? (ג' ט')
- When can a general field worker (not involved in working directly with fruit) eat fruit with out separating *ma'asrot*? (2 cases) (ג' י')
- When can a general field worker (working directly with fruit) eat fruit with out separating *ma'asrot*? (ג' י')
- When can one who finds dried figs in the street, eat them without separating *ma'asrot*? (ג' י')
- What type of *chatzer* is *kove'ah*? (include all opinions) (ג' י')
- Are roofs *kove'ah*? (ג' י')
- Is a porch *kove'ah*? (ג' י')
- Which of the following are *kove'ah*? (ג' י')

  - Guard's hut in a field.
  - A potter's hut.
  - *Sukkah*.

If a fig tree is growing in a *chatzer* (that is ordinarily *kove'ah*) can one eat from its fruit without separating *ma'asrot*? (ג' י')

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## Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
20 November י"ט חשוון	21 November כ' חשוון	22 November כ"א חשוון	23 November כ"ב חשוון	24 November כ"ג חשוון	25 November כ"ד חשוון	26 November כ"ה חשוון
Maaserot 3:9-10	Maaserot 4:1-2	Maaserot 4:3-4	Maaserot 4:5-6	Maaserot 5:1-2	Maaserot 5:3-4	Maaserot 5:5-6



