



Misappropriate Acquisitions with Maaser Sheni Money

This week we started *Maaser Sheni*. Recall that *Maaser Sheni* refers to the second tithe separated in the first, second, fourth and fifth years of the *shemittah* cycle. This *maaser* may be retained by the owner, but must be taken to *Yerushalaim* and eaten there. We have also learnt in the past that one can redeem the *maaser sheni* produce with money (if he adds “*chomesh*”). That money must then be taken to *Yerushalaim*. Ideally it should be used to purchase a *korban Shelamim*. However, it may also be used to purchase food that will then be considered like *maaser sheni* and consumed there.

The *Mishnah* (1:7) discusses the law where one used *maaser sheni* money to purchase something else, for example, land or a horse. The *Mishnah* explains that in such a case one must *yochal kenegdan* - “eat against them”. The *Bartenura* explains that one must take his own money equal to the amount that he spent and purchase other food in *Yerushalaim* and treat that food as *maaser sheni* food.

The *Bartenura* continues that the solution presented by the *Mishnah* is only when the seller has fled, otherwise the original *maaser sheni* money should simply be returned. Returning the money is indeed the first option as presented by earlier *Mishnayot*. We shall however try to understand this second solution – being *yochal kenegdan*.

The *Tosfot* cites *Rashi* that explains that if the seller has run off, one sets some money aside and declares that the *kedushat* (sanctity) *maaser sheni* of the original money, wherever they are, is transferred to the coins resting in front of him.

The *Riva* cites the *Gemara* (*Bava Kama* 69a) that teaches that if one had something stolen and he has not given up hope of retrieving it, neither he nor the thief can consecrate (*makdish*) it. Important for our discussion, the owner cannot consecrate the object since it is not in his possession. The

Gemara there draws parallels between case of consecrating and redeeming *kedusha*. The *Riva* therefore asks, since the *maaser sheni* money is not in his possession, how can he transfer the *kedusha*?

The *Tosfot* provide two answers. The *Riva* explains that in our case he is not redeeming the original *maaser sheni* money and it retains its *kedusha*. Instead, the ruling in our *Mishnah* is a *knas* – a fine – placed on the purchaser for the improper use of *maaser sheni* money.

R' Meir, the second answer, however explains that this case is different and the purchaser can redeem the original *maaser sheni* money. The reason that this case is different is that it is in the interest of the seller for another person to redeem the *maaser sheni* money in his possession for him. He continues, that we have a principle of “*zachin lo l'adam shelo befanav*” – one is able to acquire or operate on behalf of another without their knowledge if it is to their benefit. He explains that this concept holds true since the person effectively acts as the *shaliach* (agent) of the other party. In this case as well, the purchaser would be able to redeem that original *maaser sheni* money as he would effectively be acting as the *shaliach* of the seller in redeeming the money.

The *Ritva* however explains that there is difference between our case and the case of theft. In our case, the money came into the hands of the seller by mean of an acquisition. The seller thought that because of the sale, the *kedushat maaser sheni* transferred to the object sold and the money was, as a result, regular money. Consequently, since if we had access to the seller and explained the situation he would realise that it was a mistake and happily return the money, the money is considered like a *pikadon* (collateral) being held by the seller. In such cases a *mafkid* (entrusting party) can consecrate or redeem an object in held by another. Consequently, in our cases as well, the purchaser can redeem his *maaser sheni* money.¹

Yisrael Bankier

¹ See the *Ketzot HaChoshen* (354:2) who raises a difficulty with this explanation. See also the *Chatam Sofer* (ChM 169) who attempts to resolve this difficulty.

Revision Questions

מעשרות ה' ז' ח'

- Does one need to separate *ma'asrot* from grain found in ant holes? (ה' ז')
- What vegetables are exempt from separating *ma'asrot* and why? (ח' ז')

מעשר שני א' – ב' ה'

- What activities are forbidden to perform with *ma'aser sheni*? (א' ז')
- What trade relate activities are forbidden to be performed with:
 - *Ma'aser behema*?
 - *B'chor behema*? (ב' ז')
- If a *behema* was purchased with *ma'aser sheni* (in *Yerushalaim*) for use as a *korban shlamim* does the hide have the sanctity of *ma'aser sheni*? (ג' ז')
- Regarding the previous question, does it matter if the value of the hide is greater than the value of the meat? (ג' ז')
- If a *chaya* was purchased with *ma'aser sheni* (in *Yerushalaim*) for use as a *korban shlamim* does the hide have the sanctity of *ma'aser sheni*? (ד' ז')
- If one purchased a sealed barrel of wine with *ma'aser sheni* in a place where wine is ordinarily sold without a container, does the barrel have the sanctity of *ma'aser sheni*? (ד' ז')
- What is the law regarding one that purchased water or salt with *ma'aser sheni* money? (ה' ז')
- What is the law regarding one that purchases fruit with *ma'aser sheni* money outside *Yerushalaim*? Does it make a difference if the purchase was *be'shogeg* or *be'meizid*? (ה' ז')
- What is the law regarding one that purchases an animal with *ma'aser sheni* money outside *Yerushalaim*? Does it make a difference if the purchase was *be'shogeg* or *be'meizid*? (ו' ז')
- What must one do if they purchased land with *ma'aser sheni* money? (ז' ז')
- Can one purchase a *korban chatat* with *ma'aser sheni* money? (ז' ז')
- What must one use *ma'aser sheni* money to purchase? (ז' ז')
- Explain the debate regarding using *ma'aser sheni* oil for rubbing on skin? (ב' ז')
- When can *ma'aser sheni tiltan* be eaten? (ג' ז')
- Explain the debate between *Beit Shammai* and *Beit Hillel* regarding *trumah tiltan*? (ב' ז')
- With respect to which law are we stricter with *carshinei ma'aser sheni* then *carshinei trumah*? (ב' ז')
- With respect to which law is *carshinei ma'aser sheni* treated differently to other *ma'aser sheni* produce? (ב' ז')
- Explain the four different opinions regarding the treatment of *carshinei trumah*? (ב' ז')
- What is the law regarding *ma'aser sheni* and regular coins that fell and mixed when:
 - The money is picked up one by one?
 - The money is picked up all at once?

Melbourne, Australia

Sunday -Thursday

10 minutes before *Mincha*
Mizrachi Shul
 Melbourne, Australia

Friday & Shabbat

10 minutes before *Mincha*
Mizrachi Shul
 Melbourne, Australia

Efrat, Israel

Shiur in English

Sunday -Thursday

Rabbi Mordechai Scharf
 9:00am
Kollel Magen Avraham
 Reemon Neighbourhood

ONLINE SHIURIM

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mishnahyomit.com/shiurim

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rabbi E. Kornfeld
Rabbi C. Brown
<http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm>

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
 In US dial: 718 906 6400
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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
4 December ד' כסלו	5 December ה' כסלו	6 December ו' כסלו	7 December ז' כסלו	8 December ח' כסלו	9 December ט' כסלו	10 December י' כסלו
Maaser Sheni 2:6-7	Maaser Sheni 2:8-9	Maaser Sheni 2:10-3:1	Maaser Sheni 3:2-3	Maaser Sheni 3:4-5	Maaser Sheni 3:6-7	Maaser Sheni 3:8-9

