



## Mixed Maaser Sheni and Maaser Ani

The *Mishnah* (2:11) discusses mixtures of produce from different years of the *shemittah* cycle. Which year the produce is from is important. In the first, second, fourth and fifth year, the second tithe is *maaser sheni*. As we have learnt in the past, it must be taken to *Yerushalaim* and consumed there. In the third and sixth year, the second tithe is *maaser ani* and is instead given to the poor. In the *shemita* year however, the produce has *kedusha* and is exempt from all tithes. The *Mishnah* teaches that we treat the mixture like the majority of the mixture. If however there is an even split, then we rule stringently. We shall try to understand this *Mishnah* by focusing on the case where the mixture contains produce from the second and third years.

The *Mishnah Achrona* understands that the *Mishnah* is specifically discussing how one is meant to perform *hafra* – the separation of *terumot* and *maaserot*. In other words, if there is a majority in the mixture from the second year, then the second tithe taken for the entire mixture is separated as *maaser sheni*. In other words, the principle of *bitul* (annulment) is applied to the produce in the minority and it takes that status of the majority.

The *Mishnah Achrona* however continues that despite *bitul*, the owner would still need to give the amount of *maaser ani* that should have been separated from the third-year produce. Since *maaser ani* is considered the property of the poor, and the *bitul* does not apply to monetary matters, the value would still need to be handed over. Note that this case is different to *Demai* where, since there is a doubt whether *maaser ani* was separated, the owner can retain it. In this case, the required *maaser ani* is definitely in the mixture. We see a similar idea with *bitul* with respect to *terumah*. If one part of *terumah* is mixed with one-hundred parts of regular produce,

it is *batel*. This means that a non-*kohen* can eat the entire mixture. Nevertheless, he must still give the *kohen* a quantity of produce equal to the amount of *terumah* that was mixed in, since the monetary aspect was not annulled.

Rav Chaim Kanievsky *shlita* in *Derech Amuna* (*Maaser Sheni* 1:101) however explains that the *Mishnah* is not discussing a case where we have a mixture of produce from two different years. If that were the case, there would be no *bitul*. That is because this is case of *davar she'yesh lo matirin*. In other words, the situation can be remedied without relying on *bitul*. For example, the *terumot* and *maaserot* can be separated from other produce to satisfy the requirements within the mixture. The case in the *Mishnah* is where produce from both years were stored in the same storeroom and some remained, yet we are unsure the year of that produce.<sup>1</sup> The *Mishnah* therefore teaches that we treat that produce like a majority of the produce that was stored there.

Rav Chaim continues that in the case where it was fifty-fifty one separates the second tithe and declares that is considered *maaser sheni* if the produce is from the second year, and it is *maaser ani* if the produce is from the third. He continues that according to the *Rambam*, who only mentions *maaser sheni*, the owner would not be required to give the *ani* anything based on the principle of *hamotzi me'chaveiro alav ha'raya*. If one wants to extract property from another, he bares the burden of proof, and the *ani* would need to prove the produce is from the third year. He continues however that according to the *Raavad*, *Rash*, *Rosh*, *Bartenura* and *Gra* he would still need to give the *ani* the *maaser*<sup>2</sup>. That is because whenever we have a doubt regarding gifts to the poor we rule stringently.<sup>3</sup>

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<sup>1</sup> Note that the *Mishnah* never stated that there was a mixture, only that one was in the majority of the other. Furthermore this understanding of the *Mishnah* follows only nicely from the previous *Mishnah* that discussed a storeroom that was shared by *yirsaelim* and *nochrin*.

<sup>2</sup> That is only after first redeeming it out of concern it is *maaser sheni*.

<sup>3</sup> Note that that is the case because the food is definitely *tevel*, the case is only regarding the status of the second tithe. If however there was doubt whether the produce was even *tevel* (like in the case of *Demai*) then everyone agrees that *hamotzi me'chaveiro alav ha'raya* applies to *maaser ani*.

**Revision Questions**

מכשירין ב' ה' – ג' ז'

- When is there a restriction regarding when one can use a communal bath after *Shabbat*? (Include both opinions.) (ב' ה')
- When would one be forbidden from buying vegetables until the time it takes for them to be imported from a nearby location has past? (ב' ו')
- Explain the debate regarding how one should identify the religion of an abandoned child. (ב' ז')
- When would one not be required to announce that he found a lost object? (ב' ח')
- What is the law regarding bread that is found in a city that is populated by both *Yisraelim* and *goyim*? (ב' ח')
- What is the law regarding meat that was found in such a city? How does the law change if the meat was cooked? (ב' ט')
- When would produce that was found in the street be considered *tevel*? *Chulin*? *Demai*? (ב' י')
- Explain that debate regarding the status of fruit in a storehouse that is shared by *Yisraelim* and *goyim*. (ב' י')
- What is the law regarding a mixture of fruit from different years of the *shmittah* cycle? Why is this important? (ב' י"א)
- What is law if the mixture contains exactly half from two consecutive years? (ב' י"א)
- Explain the debate regarding which water is considered “*b'chi yutan*” in a case where produce was placed on the river’s edge in order to draw water. (ב' י"ג)
- What is the law regarding the moisture in produce that is in contact with the walls of an earthenware utensil that is filled partially with liquid? (ב' י"ג)
- To which of the seven liquids does this law not apply? (ב' י"ג)
- Explain the debate regarding bread (that was made with fruit juice) that, after baking, was placed over the mouth of a barrel of wine. (Include all three opinions.) (ב' י"ג)
- What is the law regarding wheat that was placed on a washed floor? (ב' י"ד)
- What other case brought is similar to the one in the previous questions? (ב' י"ד)
- What is the law regarding one that placed produce on newly dried cement? (ב' י"ה)
- Should one be concerned when casting their wheat onto a new washed threshing floor? (ב' י"ה)
- Explain the debate regarding wheat that was being brought for grinding and rain fell on it. (ב' י"ה)
- What is the law regarding olives on the roof onto which rain fell? (ב' י"ו)
- What are the other two cases debated by *R' Yehuda* and the *Chachamim*? (Hint: River and dirty feet.) (ב' י"ז)

**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*

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9:00am  
Kollel Magen Avraham  
Reemon Neighbourhood

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**Next Week's Mishnayot...**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
17 October י"ז חשוון	18 October י"ח חשוון	19 October י"ט חשוון	20 October כ"א חשוון	21 October כ"ב חשוון	22 October כ"ג חשוון	23 October כ"ד חשוון
Machshirin 3:8-4:1	Machshirin 4:2-3	Machshirin 4:4-5	Machshirin 4:6-7	Machshirin 4:8-9	Machshirin 4:10-5:1	Machshirin 5:2-3

