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Issue #81
ז' אלול תשפ"ב
פרשת שופטים

Maaser Kesafim- Calculating Maaser *Part 1*

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The concept of maaser is one that dates back to the Avos. The Rambam[1] writes that the institution of giving maaser started with Yitzchok Avinu[2], who gave maaser from his profits in the land of G'rar. The Raavad points out that we find that Avraham had already preceded his son Yitzchok in this mitzvah, as he gave maaser to Malki-Tzedek[3].

This mitzvah is also one of the more difficult ones, as evidenced by the fact that it is the only mitzvah in which Hashem allows us to test Him. If one gives correctly, he can expect to be rewarded even in this world, through the beracha of financial success[4].

The Torah obligation of maaser, giving a tenth of one's money, applies to the produce one grows in the field. The nature of the obligation to separate maaser from the earnings received from other avenues is more ambiguous. Tosfos[5] (ibid) quotes from the Sifrei, that implies it is a biblical commandment, but the poskim argue that perhaps it is only derabbanan, while a third opinion[6] is that the obligation is that of a minhag (Chasam Sofer, Aruch Hashulchan, R' Moshe Feinstein and others). The Chofetz Chaim warns that it is important for one who begins to give maaser to declare that he is doing so "bli neder", that is, without taking a vow upon himself to continue to do so[7].

An additional challenge to this mitzvah is its proper observance. Rav Moshe Feinstein zt"l[8] famously wondered aloud why people would ask him questions about every aspect of life except tzedaka. It is said in the name of Rav Shlomo Zalman Auerbach zt"l that the Yeitzer Harah, aware of the bracha inherent in this mitzvah, works very hard to cause a person to falsely believe that he has fulfilled this obligation properly.

The obligation of giving maaser is obviously one tenth of his earnings. (The Shulchan Aruch[9] writes that while a tenth is the standard approach, the best way is to give a fifth.) But how does one calculate his earnings?

A person's salary or any other form of income is subject to maaser. However, according to most poskim the sum is not calculated according to the gross earnings of his business, only the net gains[10]. If he is running multiple businesses, many poskim maintain that one may offset his profits from one with his losses in another[11].

In addition, any expenses incurred in running the business, can be deducted from the calculation of maaser. That would include rental of an office space, supplies, insurance or the hiring of employees. Traveling expenses can also be deducted from his "bottom line". However, there are two considerations. One is that it must be a legitimate business expense. For example, if he happens to do business while on a trip that he would take anyway, he may not deduct those travel expenses. Similar, if he puts an office in his house, the house does not become a business expense (if he paid extra for the addition on the house to be used as an office, then that amount is deducted from his net income). An additional point is that it has to be a genuine necessity for the business. If he puts himself up in the best hotel in the city, unless there are business considerations, that is not a business expense, but a personal one.

If one needs to have a babysitter for his child in order to be able to work, that would surely be considered part of the cost of doing business. Also, any extra clothes or accessories one needs for a job are also considered a business expense.

Aside from these considerations, a person's net income might be affected in a number of ways. Taxes that are taken by the government, according to some poskim, should not be deducted from maaser, because the taxpayer does benefit from of his tax money (at least in part)[12]. Rav Moshe Feinstein zt"l[13] was lenient in allowing one to deduct taxes from one's total earnings. It is worthwhile to note that he was stringent in this regard for his own personal maaser calculations. Social Security Tax can also be deducted from his income, but when (if) he receives a Social Security check years later, he will take off maaser at that time.

If one chooses to put money from his salary into a 401K, IRA or any other investment plan for the future, it is still counted as part of his salary. It is really just a savings account, and the fact that a portion is deducted from his paycheck, does not change the reality that the money is entirely his.

If he receives benefits from his job, such as health insurance or other perks, that is also part of his earnings, as it is another creative way to increase his total salary[14]. Others[15] say that if there is no option to receive cash in its place, it should be treated as a gift, which has different rules, see below. Rav Shlomo Zalman Auerbach zt"l[16] added that it is only viewed as a financial gain if the perk is something he needs and would have paid for it himself. For example, if someone receives a free apartment or car from his employer, it will be subject to maaser. However, if his office offers free access to a gym that he doesn't care to use, or he does use it but would never pay out of his own pocket for it, he does not add it to his total income. Also, if he would be prepared to spend less, then only that lower amount would be considered his net gain.

Interest earned from a loan (halachically valid of course) is included in his income. Stocks or real estate that increase in value, is not considered to be earned income, for their value can just as easily decrease. Only when they are sold, and the profits are realized will it be subject to maaser. (As an aside, poskim say that the increase in real estate value caused by inflation is not called a profit.) There is a complex shailah if one investment is sold in order to reinvest the money elsewhere, if maaser must be taken from that money[17]. One should seek the guidance of a Rav when dealing with such a situation.

If one receives gifts, there is a disagreement among the poskim if one must give maaser from the value of the gift. The Chazon Ish[18] maintained that the obligation is only on actual cash, not gifts. Rav Moshe Feinstein, Rav Shlomo Zalman Auerbach and others[19] argued that one should take maaser from gifts. However, the obligation is only according to the monetary value to the recipient of the gift. If a person receives a $500 coffee table book, it is not necessarily a financial gain for him, and he doesn't have to count it as income. Also, if he would have bought a similar item, but at a more frugal price, he can calculate the financial gain at that lower price.

If one receives a gift or even cash, along with express condition from the benefactor that no maaser should be taken, he would be exempt from giving. This is particularly relevant to money given to both married and single children. Rav Moshe Feinstein zt"l[20] writes that children cannot take maaser from the money they receive from their parents, because it is meant for their living expenses, so it is as if they made a stipulation. Similarly, if one receives a gift for a specific purpose, the assumption is that the benefactor wants it to be used for that purpose only. If the gift was given, in order to help the recipient financially, no maaser should be taken. If the gift was given as a social nicety, not necessarily for the financial benefit, then it is subject to maaser. There are different opinions amongst the poskim so each person should ask a shailah before giving tzedaka from such money.

One's personal expenses in running his home are not deductions to his total income[21]. If after providing for his family's needs, he does not have money for tzedaka, he has no obligation to give maaser. A person's obligation to tzedaka begins after he fulfills his obligations at home. He does however have to fulfill the general mitzvah of tzedaka, which the Shulchan Aruch[22] writes is a minimum of 1/3 of a shekel per year[23].

All poskim[24] say that one should calculate his income based on his finances, namely, his total gains and total losses over one full year, not more. A good time to do it would be when he calculates his yearly taxes. If his income is very stable from month to month, it is preferred that he makes a monthly calculation, and not wait for the end of the year[25].

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1 פ"ט הלכות מלכים ה"א
2 בראשית פרק כו פסוק יב
3 שם פרק יג פסוק כ
4 גצ' תענית דף ט ע"א
5 תענית שם
6 וכ"כ חת"ס, ערו"ה והגרמ"פ
7 אהבת חסד ח"ב פרק יח
8 כ"ש מכמה תלמידים, ע"ע מסורת משה ח"ג עמ' תצג
9 יו"ד סי' רמט
10 פתחי תשובה שם ס"ק א
11 אהבת חסד שם סע' ב, צדקה ומשפט פ"ה סע' לה
12 ע' מנחת יצחק ח"ה סי' לד
13 אג"מ יו"ד ח"א סי' קמג
14 כ"ש מדיין פירסט שליט"א ועוד
15 ספר באורח צדקה עמ' קמו
16 בחוברת קול התורה גליון לט
17 ע' אהלי ישרון הלכות מעשר כספים פ"א סע' י-יא
18 דרך אמונה פ"ז מהלכות מתנ"ע ס"ק כז
19 אהלי ישרון שם סע' טז-יז, קול התתורה שם, צדקה ומשפט פ"ה סע' כז
20 אג"מ יו"ד ח"ב סי' קיב
21 ערו"ה סי' רמט סע' ז, ברכ"י, אהבת חסד שם סע' ג, אג"מ שם, הגרש"ז שם, צדקה ומשפט שם סע' ח
22 שם סע' ב
23 יש שיטה שהובא בכמה דפוסים בקיצור שו"ע (פרק לד סע' ד) שיכול לנכות הוצאות הבית מחשבון המעשה, וכ"כ בשו"ת אבקת רובל סי' ג. יש מורים שבמקום הדחק יש לעשות חשבון המעשר ע"פ שיטה זו (צי"א, שבט הלוי), אבל רוב רובא של פוסקים חולקים על מהלך זו.
24 אהבת חסד שם סע' ב, ערו"ה שם, אג"מ יו"ד ח"א סי' קמג
25 אהבת חסד שם