

HALOCHOSCOPE

This week's question:

May one *maaser* money for *Chanukah gelt*? Does it depend on the recipients?

The issues:

A) *Chanukah gelt*

B) *Maaser kesafim*, tithing money; *Devar mitzvah* and other uses of *maaser*

C) Who qualifies to receive *maaser kesafim*?

A) *Chanukah gelt*

In the Talmud, the only connection between *Chanukah* and money is that one may not count money by the light of *ner Chanukah*. It is considered *bizuy mitzvah*, demeaning the *mitzvah*. This minor activity that might even involve a second *mitzvah* of *tzedakah*, is still forbidden. This is a very slight hint to *tzedakah* while the *nairos* burn. *Chanukah-gelt* is a Yiddish term, indicating that the *minhag* arose post-Ashkenazic settlement.

The *poskim* discuss a *minhag* to give money to the poor on *Chanukah*. Specifically, the poor youth go around asking for donations at people's doors. The commentators explain the *Chanukah* is a time for reinforcing *tzedakah* and *gemilus chasadim*, kindness. There are also mystical connections between the miracles and *tzedakah*. Specifically, *tzedakah* must be donated to poor Torah scholars. This celebrates the victory over the Greeks, whose declared agenda was *lehashkicham torasecha*, to eradicate Torah study.

There is also a *minhag* to give money to distribute money to *melamdei tinokos*, the teachers of one's children, during *Chanukah*. Some say that *Chanukah* is connected to *chinuch*, the Hebrew term for both induction and for education. The Greeks were most opposed to the Oral Torah, represented by school teachers and children. The Talmud also connects the two: One who is scrupulous about *ner Chanukah* will merit having scholarly children. Therefore, it is an auspicious and opportune time to recognize one's children's teachers. A deeper explanation is given based on the manner in which this money is acquired by the teachers. The poor go around collecting at the doors of people's homes. This is connected to the other *mitzvos* performed at the doorway, including *mezuzah* and *ner Chanukah*. *Melamdei tinokos* are often poor, and they represent the tribe of Shimon. On a mystical level, this rectifies the sin of the sale of Yosaif.

The original *minhag* for the youth to collect might have been modified. Rather than make them ask, we give it to them. This was then expanded to include all children to save them embarrassment. We may also speculate that it grew out of the older *minhag*, to give money to the children themselves, in celebration of their *chinuch*, to support and excite them, and as an incentive. Some sources cite the *minhag* that the children take the money to their *melamdim*. Perhaps this grew into a *minhag* to give money to the children.

It is also likely that this *minhag* is connected to another detail of *ner Chanukah*. One

must expend extra energy and resources to procure *ner Chanukah*. Thus the poorest Jew must also kindle the lights. If it takes borrowing, selling his clothing, or hiring himself as a menial laborer to earn the few pennies needed, he must do it. Therefore, the *tzedakah* distributors must add the extra money needed for the poor to be able to kindle. This might have grown into a *minhag* to give extra *tzedakah* on *Chanukah*, and for the poor to go collecting the money. Minor children also have an obligation to kindle, due to *chinuch*, training in *mitzvos*. However, the poskim say that they need not sell their clothing for it. Perhaps, the second *minhag* to give the children money grew from this. People wanted to include the poor children, despite their exemption.

Another source is the concept of providing for the poor at any *Yomtov*. On Scriptural *Yomim Tovim* this is part of the *mitzvah* of *simchas Yomtov*, bringing joy to others at a festive time. On *Purim*, it is a specific *mitzvah* of *matanos la'evyonim*. The same applies on *Chanukah*. [See Shabbos 22a. Sh Ar OC 670:MA PMG, commentaries. Chanukas Habayis 15b. Moed Lechol Chai 27:73-74 76-77. Chemdas Yamim II:60b. Nohaig Katzon Yosef, Chanukah, 11. Bnai Yisaschar, Kislev-Teves 4:35. Shaarei Halacha Uminhag (Chabad) 283. Avnei Yashpeh OC:129. Mikdash Yisroel, Chanukah 8.]

B) Ma'aser Kesafim; Devar mitzvah

Having discussed *maaser kesafim* at length in earlier issues, it will not be dealt with here. Simply, *maaser* is the tithe that one separates from his money, to be distributed to the poor or used for a *dvar mitzvah*, towards a *mitzvah*. It is modeled on crop tithes. [See Kesubos 50a, Sh. Mk. Taanis 9a, Tos. Pe'ah 1:1, Shnos Eliyahu. Sefer Hamitzvos A:195 L.S.:232. Tur, B.Y. Sh. Ar. Y.D. 249, 331, commentaries, Ar. Hash. Noda Biyehuda I:YD:73. Tshuvos Chasam Sofer YD 229. Igeress Hagra. Ahavas Chesed 2:19, etc.]

One may reserve the option to choose how to spend his *ma'aser*. The basis for this is that not everyone considers it designated *tzedaka* money. Moreover, while some consider it Scriptural, others maintain that it is not even a Rabbinical ordinance, but a self-imposed *minhag*. Therefore, some permit using it for a *devar mitzvah*, to cover the expense of another *mitzvah*. However, there are limitations to this usage. *Ma'aser* money is considered *matnos aniyim*, gifts due to the poor, similar to the agricultural tithes for the poor. It is not considered one's personal fund, since it does not belong to him. He has discretion on how it should be distributed or spent in the same way that one can choose how to distribute his *tzedaka*. Regular tithes have the same quality. There is debate on whether this discretion, or *tovas hana'ah*, the benefit of cultivating favor by choosing a certain recipient, is considered a monetary asset. One might accept payment from a third party to give the tithe to a person of the third party's choice.

Since it is not totally his personal fund, the one separating it may not use it for *mitzvos* that are outstanding personal obligations. This is based on the laws of festival offerings and *ma'aser sheini*. [For a discussion, please see Halochoscope X:45.] It would be like using someone else's money to pay of a debt. A common example is payment for one's children's Torah teachers. This is a *mitzvah*, but an obligation that one usually pays for. Paying for it with *ma'aser* would be like paying off a debt with other people's money. [See Chagiga 7b-8a, Gitin 30a-b, Tosefta Peah 4:16, Poskim. Tur Sh. Ar. YD 245:4, 249:1, 253:1-2, 331:146, commentaries. Tzedaka Umishpat 1:3185, 6:7, 33. Ma'aser Ke-

safim (Bronstein) 10:1-4 notes 11: 14: 16: 18:21. Igros Moshe YD II:113.]

C) Qualifications to receive maaser money

The Talmud's 'above poverty line' is possession of two hundred *zuz*. This is presumed to be sufficient to provide for a year's basic needs. It would increase according to family size or dependents. When silver was the standard currency, this figure remained almost constant. Living standards did not vary greatly either. In any other culture, whatever is needed to provide what are considered basic needs is considered the minimum. Many poskim maintain that one can expect to live above the bare basic poverty line. Nowadays, the figure can vary from person to person, and can even vary for the individual from month to month, based on varying basic necessities. A lack of in-house plumbing would be considered unbearable. Tuition costs are also much higher in the modern systems, and are considered a basic necessity until an older age than it was in former times. Depending on the locale, communication and transportation are considered essential, as are various forms of insurance coverage. Normally, if a poor man has less than the minimum, one may give him a large gift at one time, though it will place him far above the minimum. When distributing *tzedakah* to the poor, the Torah uses the term *dai machsoro*, enough to fill what he is lacking. This includes basic expectations according to the recipient. One born into a wealthy family will view his personal needs differently than one born poor. It is plausible that a child or even a teacher might consider *Chanukah gelt* a basic expectation. This might depend more on individual mindset than on custom. Thus, a recipient slightly above the '*tzedakah* poverty line', might qualify based on the expectation, which puts him below it.

There is a hierarchy of deserving recipients of *tzedaka*. The closer the relative, the higher up he or she is on the hierarchy. Thus, one should provide *tzedaka* funds for his own children before others. Accordingly, one who has children could use his *maaser* for household expenses. However, some of these are prior obligations.

A married man has an obligation to feed, clothe and shelter his wife. One was obliged to provide the same for his children under age six, in Talmudic times. In the days of child labor, at age six they could provide for themselves. One could then support them as an act of charity. Some say that this only applies if one stipulated at the time he separated the money that he would use it for this. Some add that even this should only be relied on in pressing circumstances. Nowadays, many poskim maintain that the parent's personal obligation continues until children can fend for themselves. Some claim that this applies until they marry. [Marriage costs are debated. Some say that paying for one's own marriage is an obligation, but not paying for a child's marriage. Others maintain that nowadays, parents are expected to pay for the marriage, unless the 'child' is independent.] Others maintain that it follows the prevailing practices of Rabbinical courts, who can compel a parent to support his child, in some communities until fifteen years old. Where the law of the land compels a parent to support a child, *maaser* may not be used.

After the child has married, but needs support, one may and should use his *maaser* for them, rather than for others. This is especially true if the children are Torah students. However, some say one is obliged to maintain his children in Torah studies until they have finished, which is indefinite. Therefore, this is also a prior obligation. Some distin-

guish between those who undertake support as an obligation, and those who voluntarily provide periodic support. If one is not fulfilling his undertaking, his money is indeed considered a gift. Some suggest that if one gives enough for the students to live comfortably, the basics may be paid from *maaser*, but the extras should be paid from non-*maaser* funds. Others maintain that in this situation, one should pay half from *maaser* funds, and the remainder from non-*maaser* funds.

One could speculate whether one may give children an allowance from *maaser*. The child will use this money himself, though not for absolute necessities. If the accepted norm is for children to have a small allowance to use for extras, this is an allowable gift to the poor. It might not be part of the parental obligation. However, one should avoid using his *maaser* solely for such 'quasi-personal' needs. He should also give part of his *maaser* to other poor people. [See Kidushin 32a. Tur Sh Ar OC 694:MA 1, YD 248 249:1 251:3-4 12 253:1-2, commentaries. Igros Moshe YD I:143-144 OC IV:7. Tzedaka Umishpat 2:16 notes. Maaser Kesafim Bronstein 10:1-4 etc.]

A *melamed tinokos* is often within the category to receive *tzedakah*. If he counts on the gratuities, they are part of his definition of *dai machsoro*. A child over six also qualifies. This is at least the same as an allowance. If *Chanukah-gelt* is pure *tzedakah*, one may use *maaser* for it. Though one may not use it for *matanos la'evyonim* on *Purim*, this is because it is a clearly defined prior obligation. One may add to the minimum obligation from *maaser*. On *Chanukah* it is a *minhag* at the donor's discretion, as obligatory as regular *tzedakah*. If the school requires the donation, especially if it is a fixed amount, or if the teacher expects it as part of the tuition, one could argue that it is a prior obligation.

If the gift is viewed as a present to bring joy, the same criteria apply. It is not on the level of an obligation like *simchas Yomtov*. *Chanukah-gelt* could also be viewed as a voluntary discretionary gift. If it is a true gift to bring extra joy, the recipient will not be dependent on it as part of *sechar limud*. On the contrary, it will be seen as a mark of recognition on the part of the donor. Since it is given for no other reason than to promote Torah study or to celebrate the festival, it may be considered a *devar mitzvah*. [See Mikdash Yisroel, Chanukah 2. Ma'aser Kesafim (Bronstein) 16 18:2-3 19:5.]

In conclusion, unless a parent undertook this as an obligation, *maaser* may be used for the teacher. Some *maaser* may also be used for the child's *Chanukah-gelt*.

On the Parsha ... *Take the man a gift. A little balsam and a little honey .. [43:11]* Why is the emphasis here on a small amount? [See R Hirsch] This gift was not in payment. For that Yaakov sent the money. It was not a bribe, like the gift to Eisav. That would be a large amount, given 'grudgingly'. This was meant as a sign of honor and recognition. It was hoped that this would show that their father held the man in high regard. Yaakov hoped that this would bring Yosef joy and put him in a good mood. A token gift, given willingly, would work better. The type of gift intended with *Chanukah-gelt* is the same. It is not meant as a wage, which is an obligation on the donor and for the sole benefit of the recipient. It is meant to show how much the donor appreciates the recipient, similar to a card.

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