

HALOCHOSCOPE ^{TO}

This week's question:

Someone has a choice between buying some software for his computer, which will make his work easier, or buying a *Shas*, a set of Talmud, which he will not necessarily learn from at present. He can not afford both; is he Halachically obligated to purchase the *Shas*?

The issues:

- (A) The Mitzvah of writing a *Sefer Torah*.
- (B) The status of a *Shas* or other *Sefarim* in this respect
- (C) Is there an order of precedence or any urgency regarding a Mitzvah?

(A) *Writing a Sefer Torah*

There is a Scriptural Mitzvah to write a *Sefer Torah*: "Write for yourselves this song ..." (Parshas Vayelech 31:19) which is interpreted as "Write the *Sefer* that has this song written as a part of it ...". The reasons given for this Mitzvah include having a personal *Sefer Torah* available to study from. It is clear that the Mitzvah is not simply to possess a *Sefer Torah* but to actually write it. For example, if one has inherited a *Sefer Torah* or was given a gift of one, he has not fulfilled his obligation. Some commentators add: the object of this Mitzvah is to provide many copies of the Torah so that more people are able to learn, rather than simply to have a personal copy — one Talmudic sage wrote four hundred *Sifrei Torah*. By inheriting one has not increased the number of *Sifrei Torah* in the world.

The Talmud describes one who buys a *Sefer Torah*, rather than writing it himself as one who is grabbing a Mitzvah, implying a lower level of observance of the Mitzvah, while he who writes the *Sefer Torah* is "as if he received it personally on Mt. Sinai." Although the language of the Talmud: "grabbing a Mitzvah", implies the observance of a Mitzvah, it is not altogether clear whether or not the buyer has fulfilled this particular Mitzvah. Some commentators maintain that the Torah is very specific in its wording; the Mitzvah is to write the Torah. Therefore, one who acquired a *Sefer Torah* without writing it himself, has fulfilled a Mitzvah but has not fulfilled his obligation in this particular Mitzvah. Other commentators conclude that the grabbed Mitzvah referred to is indeed the Mitzvah of writing a *Sefer Torah* — the Mitzvah is to take possession of a *Sefer Torah* either by writing it or by buying it, provided one does not acquire it passively through inheritance.

As is the case in many Mitzvos, one may delegate a *Shliach*, an agent, to write the *Sefer Torah* on his behalf and then pay him for his work. This is different from buying a *Sefer Torah* in the market-place, and one has

fulfilled the Mitzvah properly according to all opinions. [Of-course, it is more admirable to perform a Mitzvah in person than to delegate a Shliach.]

There is also some debate about the requirement to retain possession of the Sefer Torah after writing it. Some Poskim are of the opinion that one must retain possession of the Sefer Torah at all times, similar to the Mitzvah of *Mezuzah* which is affixed to the doorpost and must remain there all the time. Others say that the Mitzvah is to write it rather than to possess it and that therefore one who lost it or donated it to a Shul has not cancelled his Mitzvah of writing it. However, according to all opinions, one may not sell a Sefer Torah, except to raise funds for certain specific causes: to marry, to pay ransom to redeem captives, and to pay for Torah study. This is because the holiness ascribed to a Sefer Torah is transferred to the money and the money may therefore not be spent on anything less holy, which practically rules out everything. There is a question whether one may sell one Sefer Torah to buy another even if the new one will be more beautiful. This is due to concern that the new one will not be purchased immediately and the sanctity of the money will eventually be forgotten. There is also a view that a privately owned Sefer Torah may be sold by its owner, but that no good will come of this sale. [See Parshas Vayelech 31:19. Megilah 27a Kidushin 41a Baba Basra 14a Sanhedrin 21b Menachos 30a Rashi. Rambam Hil Sefer Torah 6:1 Sefer Hamitzvos 18. Chinuch Mitzvah 613, Minchas Chinuch. Tur, Shulchan Aruch Orach Chaim 153:10, Yoreh Deah 270:1 Rema, Gro', Pischei Teshuva, R. Akiva Eger etc.]

(B) Books of Talmud etc.

The Torah has two parts to it: the *Torah Shebiksav*, the written Torah, i.e., the Chumashim and, according to most Poskim, the rest of the Tanach, and the *Torah Sheb'al Peh*, the orally transmitted Torah, including all the Talmud, Midrashim commentaries etc. Both were handed over to the Jewish people at Mt. Sinai, but in their different forms —the Torah Shebiksav was not to be studied orally, and the Torah Sheb'al Peh is not meant to be written down. However, at certain points in time it was determined by the sages that in order to assure the continuity of the Torah it must be written down, because it was no longer possible for people to remember the entire Torah in all of its detail. At first, when the Torah Sheb'al Peh was memorized, Torah study took the form of a group of students discussing the nuances of the written Torah using as their text the Sefer Torah. Nowadays the Sefer Torah is only read from in Shul, while studying is done using the volumes of the Talmud and commentaries.

According to many Poskim the object of the Mitzvah of writing a Sefer Torah is to have the Sefarim available to study from. Since it is no longer customary to study from a Sefer Torah, the consensus is that according to these Poskim, today the Mitzvah applies to writing or buying the Sefarim that are used to study Torah Sheb'al Peh: Chumashim, books of the Mishna, Talmud, and their commentaries. There are three basic views on how this is applied: According to one view There is no Scriptural obligation today to write a Sefer Torah, but there is a Scriptural obligation to write or to procure Sefarim to

learn from. A second view is that the main Scriptural Mitzvah today applies to the printed texts that are used. True, there is still a Mitzvah, (according to one interpretation Rabbinical,) to write a Sefer Torah, but we should rather not produce more Sifrei Torah to learn from, because this poses a risk of *Bizayon*, demeaning them by not treating them with their due respect. Since Sifrei Torah are not used to study from, we should not focus our efforts on writing Sifrei Torah, but on purchasing other Sefarim. The third opinion is that the Scriptural obligation to write a Sefer Torah still applies today — it is impossible to say that the Mitzvah as it is stated in the Passuk has been changed. However, it is more important to write or purchase Sefarim for personal use than to write a Sefer Torah for use in a Shul. Nonetheless, it is equally important to write a Sefer Torah for personal use, as opposed to writing one to be left in Shul. According to all views one fulfills a Scriptural obligation when purchasing a Shas.

There is another reason given why we might not be obligated in this Mitzvah in the same way as the earlier generations: The main use of the Sefer Torah as a learning tool was by analyzing nuances; we are unable to do this because our version of the Torah might be imperfect. However, many Poskim do not accept this theory, since we do have a reliable *Masora*, tradition.

What remains to be discussed is: is there a difference between Sefarim? If one does not foresee studying from the Sefer must he purchase it all the same? Firstly, it is important that he have the Sefer available to study if and when he is ready for it. Secondly, nobody purchasing a Shas is planning to study the whole thing right then but has long term plans to study different parts of it over the course of time. Therefore, at the point that one begins studying Talmud he should think about buying the whole set. Thirdly, one of the phrases that recur in the Poskim is a "Sefer to learn from with his sons ..." The implication of this is that just as the Mitzvah of *Talmud Torah*, Torah-study, is first and foremost with ones family-members, it is also important to share the Sefarim with them. It is important for children to see Sefarim, in particular a Shas, as this will stimulate them to learn. They will assume it is normal and want to be able, one day, to study from the Sefer, which would not be the case if they only see few people possessing the Sefarim. Indeed this is another reason it is so important that every individual fulfills this Mitzvah.

Naturally one is not obligated to purchase all available Sefarim at once, but should focus on the basics and those which he plans to learn sooner. A Shas is one of the basics, and the funds are available. Should they be spent on this rather than on the alternative? The terminology used by some Poskim with regard to this Mitzvah indicates that this particular Mitzvah is not obligatory if one does not have the funds to spare. One contemporary Posek maintains that if one can afford to he should fulfil the Mitzvah fully, but if one has limited funds he should not spend more than a tenth of his money on Sefarim, and this, too, is not an obligation. [See Gitin 60a. Tur, Bais Yosef, Bach, Drisha/Prisha, Sh. Ar. Y.D. 270:2 Levush etc. Pischei Teshuva 10, Aruch Hashulchan. Shaagas Arye 35-6. Chazon Ish Y.D. 167. Igros Moshe Y.D. I:163.]

(C) *The order of precedence in regard to Mitzvos*

There is an order of precedence regarding which Mitzvos should be performed first, depending on circumstances. The most common circumstance is a *Mitzvah Overes*, a Mitzvah that may only be performed within a limited time. If there is a conflict between the performance of two Mitzvos the Mitzvah Overes takes precedence. The reason for this is that it is still possible to perform the other Mitzvah later; if it is simply impossible to fulfill both, certain rules go into effect. For example, if one of the Mitzvos may be performed by someone else while the other must be performed by oneself, such as honoring one's parents, it is more important to fulfill that which must be performed by oneself. Certain Mitzvos are considered a higher priority, such as *Mes Mitzvah*, burying an indigent dead person.

If there is no conflict, one is supposed to perform a Mitzvah at the earliest opportunity — *Zrizim Makdimin Lemitzvos*, the conscientious hurry to do Mitzvos. In addition, the Midrash says: *Mitzvah Haba'ah Leyadcha Al Tachmitzenah*, do not let a Mitzvah opportunity sour, i.e., do it right away. "Opportunity" implicitly does not refer to a Mitzvah that is incumbent all the time. In our case, the Mitzvah is obligatory until one has written or purchased the Sefarim and it must be viewed as "due immediately". However, according to the opinion that only one who can afford it is obligated, it is like a Mitzvah that presents itself as an opportunity, i.e., when the funds become available. One could say that since there is an opportunity one should not delay the performance of the Mitzvah. However, this money is not spare but could be used for another purpose which will, hopefully, leave the person with more time for Torah-study and probably more money to use to buy Sefarim. In addition, the question was only raised now that the money became available, which indicates that the person is not a man of means and probably fits the category of one who is not obligated to spend his money on Sefarim. He should, therefore, use his own judgment whether it is worth his while to wait and risk letting the Mitzvah go sour, taking into account the immediate impact of the Sefarim on his home, and the prospects of a better opportunity later. [See Eruvin 17b. Pesachim 4a. Yuma 33a, Rashi. Megilah 6b, Rashi. Moed Katan 9b. Yevamos 39a 47b. Kidushin 29b 64b. Makos 10a. Menachos 43b. Mechilta Bo 12:17 commentaries.]

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This issue of HALOCHOSCOPE has been sponsored by
Ovadia Tolbert and Shai Miller in honor of their birthdays
on the 19th and 20th of Shevat respectively.

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