

HALOCHOSCOPE TOOL

Someone serves as the (*Baal*) *Tokei'a*, the person who blows *Shofar*, in a Shul that starts and finishes early on *Rosh Hashana*. He has been approached by another Shul, that davens later, to blow for them as well. The second Shul wishes to pay him for his services. Aware of the problems involved with receiving payment for this service, he has agreed with the first Shul to *Havla'ah*, to "absorb" the payment for the service in the payment for the preparation. May he now add to this the payment for the second Shul, thus being paid double, by two shuls, for practicing? The second Shul has a hard time with *Minyan*, getting ten men. They are willing to pay people to come and help them. The *Tokai'a* understands that he is not being hired to help with *Minyan* on the day that he blows. However, the first day of *Rosh Hashana* falls on a *Shabbos*, when they do not require his services to blow *Shofar*. If he takes payment for joining their *Minyan* on the first day, may he absorb the payment for blowing *Shofar* on the second day in the payment for joining the *Minyan*?

We shall devote two weeks to this discussion.

The issues:

(A) Receiving payment for *Tekias Shofar*

[Next week: (B) *Havla'ah*, absorbing the payment especially including practicing costs, or other ways to permit accepting payment

(C) Hiring people to participate in a *Minyan*]

(A) *Payment for Tekias Shofar*

The Rabbis forbid receiving *Schar Shabbos*, payment for services rendered on *Shabbos*. The source for this restriction is a Talmudic passage referring to the liabilities and responsibilities of a paid *Shomer*, watchman, hired to watch animals or children. If he is hired on a daily basis one may not pay him *Schar Shabbos*, the cost or charge for *Shabbos*. Therefore, he is not liable or responsible for *Shabbos*. If he is hired on a weekly, monthly or yearly basis, one pays him the fee for the whole period, for example the year, thus including the fee for *Shabbos*. Another Talmud passage discusses reductions made in the marriage contract of a rebellious wife, or additions that are made to penalize a rebellious husband. They are made on a daily rate, per day that the party refuses to abide by the normal marriage agreement. While the amount reduced from the wife's

Kesuba includes a penalty for each Shabbos, the allowance appended to the husband's liability does not include Shabbos. This is because the wife's amount is simply being reduced. The husband's, being added on, has the clear appearance of being paid for Shabbos. It is *Mechazi Kischar Shabbos*. Though this is obviously not a payment being made to the wife (she would rather not have to take it) it bears the appearance of such, due to its "daily" value.

The Poskim explain this prohibition as a section of the restrictions implied in the *Passuk* (in *Yeshaya*) that describes various activities that one is expected to do differently on Shabbos. As the *Passuk* puts it, "if you then your reward will be" One of these is *Mimtzo Cheftzecha*, [if you refrain from] conducting your affairs. Though this verse is part of the Scriptures, it is not taken to be an addition to the Scriptural laws of Shabbos. However, it is used, both as a source and as a link, to support some Rabbinical restrictions. The Rabbis wished to prevent commercial or business activity on Shabbos. They are not in the holy spirit of Shabbos, and can lead to *Melachos*, both due to one's forgetting about the holiness of the day, Shabbos, and due to the normal activities linked to this type of activity, such as writing. They included in this restriction any work done for pay on Shabbos, and any goods received specifically on Shabbos. Even if the work itself is done over the course of a few days, including a Shabbos in the middle, the Shabbos part must be subtracted. Thus if one does permissible work for a fee, he may not accept the payment for what he does on Shabbos. Accordingly, rent for a room, (hotel, which is paid for by the day) charges per hour, and hired workers paid for by the day, may not be paid for the part of the work they perform on Shabbos. This even affects taking interest on an interest bearing account, or profits from stock that appreciated on Shabbos. [For solutions to this problem see e.g. *Igros Moshe* O.C. IV:59.]

The Poskim debate whether this applies to payment for a Mitzvah. The initial basis for the debate is on the application of the word "*Cheftzecha*" on the *Passuk*. this means "your" affairs. The Talmud accordingly limits the restriction to activity done for personal reasons. Activity done for the sake of Mitzvos is permitted. Therefore, some Poskim maintain that just as one may raise *Tzedaka* money, one may be paid for doing a Mitzvah, such as acting as *Chazan* in a Shul on Shabbos.

The objection to this is that the money is for the *Chazan's* personal needs; he is not doing a Mitzvah by taking it. He is paid for services rendered. They happen to be a Mitzvah, but it is not particularly a Mitzvah to pay him. In fact, the Talmud's case of the *Shomer* refers to one watching a red heifer, or a child who might contaminate food. These jobs are Mitzvos. Furthermore, the Talmud actually uses a

very similar example to demonstrate the undesirability of *Schar Shabbos*. As one of four examples of money that is earned against the approval of the Rabbis, the wage paid to a *Meturgaman* is cited. This is one who relays the words of the sage delivering his lecture on Shabbos (if he did not have a loud voice.)

Some Poskim, explain the lenient view differently. They maintain that this is a Rabbinical prohibition and was never meant to apply to payment for performing a Mitzvah. This leniency applies, according to some, specifically to Mitzvos that must be done on Shabbos. Thus, a *Chazan*, *Korai*, and *Tokai'a* may be paid for their services. Others reject this. On the contrary, this is the very reason that the activity should not be paid for. It is not possible to say that this is done for the rest of the week. It should certainly be included in the restriction of *Schar Shabbos*.

Another solution is proposed to the problem raised about the *Shomer*. True, he is watching for the ultimate needs of a Mitzvah. However, he is not actually performing a Mitzvah by watching. He is performing what is known as a *Hechsher Mitzvah*. This may not be charged for on Shabbos. A *Chazan* is actually performing a Mitzvah, and may be paid for Shabbos.

A second issue is that even if this payment is permitted from the Halachic standpoint, one who receives such money will not see *Siman Brocha*. When one earns money honestly and for correct reasons, Hashem blesses the money. It can produce more money or at least give pleasant and productive use. Money earned for an activity against the approval of the Rabbis, usually due to what the activity or charging for it could lead to, will not be blessed. The Talmud, as mentioned, cites *Schar Meturgaman* as an example. Some Poskim show, from the context of this passage, that it could not be actually forbidden. It must be permitted but not approved of. No-one wants to earn money that will not be a *Siman Brocha*.

However, there are sources that do not make this inference. On the contrary, from the fact that the money is not blessed, they infer a condemnation of the practice of accepting the payment. If anything, the Talmud would like to forbid it outright, but since people will not listen the rule applies that for a Rabbinic restriction (or even a hinted Scriptural one) it is better that they do not know that it is forbidden. They will violate it anyhow, even if they are informed that it is forbidden. If they would violate it knowingly it would be worse. In any event, payment for a *Chazan*, like that for a *Meturgaman*, is not blessed.

A third issue is raised. Based partly on Kabbalistic sources, it is considered more worthy to pay for a Mitzvah than to get it free. Therefore, the *Chazan* or other functionary may receive payment because he is giving the congregation a chance to

pay for the Mitzvah. In addition, some Poskim say that the Chazan will be more careful to do his job right if he is paid, both due to the added scrutiny of the congregants and due to his own conscience. In addition, if there is payment, there is more competition for the job, and it is easier to hire the most competent applicant. Competency is measured by piety and how well versed one is in the liturgy and its meaning and tune.

We might add that one could distinguish between a Chazan or a Meturgaman and a Tokai'a. A Chazan is called a *Shliach Tzibbur*, he represents the congregants. They pay him to do this job for them. Thus, they are literally hiring him to do something for them. The Poskim debate a case where paying congregants made conditions with the Chazan not to have in mind those who do not pay. Normally, if he does not have one member in mind the entire congregation does not fulfil its obligation. In this case, the opposite is true. If he follows through on his agreement the paying listeners fulfil their obligation and the others do not. If he breaks his agreement, by including the non-paying listeners, no-one fulfils his obligation. The question is whether a Tokai'a is the same. Some say that he does not blow Shofar for the congregation. They do not have individual obligations to blow, but to hear it blown. As long as he has in mind to discharge them, they fulfil their obligation. Therefore, he is not a *Shliach*, and can not be held to an agreement. If so, he is not being paid for a job done for someone else, but for a Mitzvah he is doing. One could debate whether the Meturgaman fits either category. Accordingly, it is possible that a Tokai'a taking payment might be considered less serious than a Meturgaman taking payment.

On the other hand, in modern times a Chazan is considered less *Shliach* than a Tokai'a. Originally, *Tefilos* were recited by heart. The *Shliach Tzibbur* represented the congregants. Nowadays, he does not. A Tokai'a is truly needed to help the individual congregants discharge their obligations. The case where this plays a role is when one has a choice between two shuls. In one the Tokai'a is more competent and pious, but the Chazan is not. In the other shul the opposite is the case. The Poskim rule that one must attend the shul where the Tokai'a is more competent, for the reason mentioned. [See Psachim 50b Kesubos 64a Baba Metzia 58a, Poskim. Tur, Bais Yosef, Shulchan Aruch Orach Chaim 306:4 365:6 585:5 595:1, commentaries. Shmiras Shabbos Kehilchasa 28:n142-143.]