

HALOCHOSCOPE ^{TOI}

To make things more convenient, and to better facilitate his Tzedaka, someone opened a bank account dedicated to his Maaser Kesafim. may he use funds from the account to pay for the checks and possible other charges and costs?

The issues:

(A) *Tzedaka* and *Maaser Kesafim*, charitable donations and money tithes

(B) What may one spend Maaser Kesafim on?

(C) Using Tzedaka funds for expenses of the Tzedaka

(A) *Tzedaka* and *Maaser Kesafim*

Giving charity is a Scriptural obligation, despite its appearance as a voluntary act. Indeed one way to perform this Mitzvah is to voluntarily utter a vow imposing an obligation on oneself, to gain merit for the sick, the souls of the deceased, in repentance, thanksgiving, etc. The main Mitzvah of *Tzedaka* is to provide for the poor. This could be on a personal level, providing alms to the poor if and when they ask. There is also a communal obligation to distribute funds and food to the community's poor, funded by a compulsory collection. the most voluntary aspect is the amount, being relative with no minimum.

The Mitzvah we are concerned with here is *Maaser Kesafim*, a fourth kind of Tzedaka. Actually, tithing one's earnings is not necessarily a form of Tzedaka according to some opinions. It may be spent on a Mitzvah which is not part of a prior obligation, even including the purchase of *Sefarim*, as shall be discussed in the context of our question. In any event, this type of Tzedaka does have a prescribed amount, proportional to one's earnings.

The obligation of *Maaser* is also linked to the Scriptural obligations to tithe one's crops. These Mitzvos apply inside Eretz Yisroel, to give *Terumah* to the *Kohanim*, *Maaser Rishon* to the *Leviim*, *Maaser Ani* to the poor and *Maaser Sheini* taken to Yerushalayim. Some Poskim base the Maaser Kesafim obligation on the Talmudic passage interpreting the terminology used by Yaakov, when he volunteered to donate a tenth of what Hashem gave him. Since he used the double term, *Aser Aasrenu*, it is implied that he meant two tenths, or *Chomesh*, a fifth. The simple intent of the Talmudic passage is to limit one's

spending on Mitzvos, lest he becomes destitute. It is also interpreted as praising the practice of Maaser Kesafim. The terminology means both a tenth, *Maaser*, and a fifth. Thus, the obligation is at least a tenth and for the generous-hearted, a fifth. There is also a Midrashic link between crop-tithes, mentioned earlier, and money tithes. This reference indicates a definite obligation, at least Rabbinical and according to some Poskim Scriptural. The reference to Yaakov's vow indicates a voluntary undertaking. Accordingly, some Poskim consider the practice a *Minhag*.

Being a tithe, it should be separated and designated. Capital is tithed when it is received, and earnings or profits after some expense deductions. It is practical to designate one time each year to keep account. With regard to crop tithing, exactly a tenth must be given. Although the reasons for this do not necessarily apply to money tithing, one should nonetheless keep account and be as exact as possible. The consensus is that one may keep a record of Tzedaka donations throughout the year as Ma'aser, and balance his account on the designated anniversary date.

In our case, a further step was taken. The Maaser, once deducted, is placed in its own account. In this way, it is easy to keep track of earnings and tithing, and to donate accordingly to Tzedaka as the money is earned. This method saves one from making an accounting at the end of the year, earning period or of keeping any anniversary date. [See Parshas Vayetzei 28:22 Re'ay 15:7-11 Taanis 9a (Tosafos). Kesubos 50a 67b. Kidushin (2a Tos.) 8a. Bava Kama 7a. Bava Basra 8a-b. Sanhedrin 33b. Poskim. Sefer Hamitzvos (Rambam) Asei 195 Lo Saase 232. Semag As. 162 Lo Sa. 289 etc. Tur Bais Yosef Shulchan Aruch Yoreh Deah 247 248:1-2 (Gra, Bach Aruch Hashulchan). (Choshen Mishpat 98 etc.) 249:1 Rema, commentaries (Pischei Teshuva, Ar. Hash. 7). 258:1 13 (Pischei Teshuva 4 Ar. Hash. 8 37.) 259:1 Rema. 305:3 5. 331 Bach Taz commentaries. Pe'ah 1:1 Shnos Eliyahu. Maaser Kesafim citing R. S.Z. Auerbach. Halochoscope I:16 II:37 IV:2.]

(B) Spending Maaser money

The main difference between the opinions on what kind of obligation Maaser is in the uses of the Maaser money. Based on the more lenient views, specifically those who consider it a Minhag, some Poskim suggest that one might be allowed to stipulate how he wishes to spend it when he begins to observe the practice. In addition, the justification for spending it on purposes other than alms for the poor is based on the leniency of the initial obligation. Crop tithes include Maaser given to the poor, and *Maaser Sheini*, a tithe taken to Yerushalayim and eaten there by the owner. It may be redeemed and the money spent for personal consumption in

Yerushalayim. Thus, the ideal use of Maaser Kesafim might depend on which Maaser on crops it is compared to. [Ahavas Chesed 2:19.]

It is not within the scope of our topic to discuss how one calculates his personal finances before separating Maaser. Basically, one need separate only once on his capital. Subsequent earnings are treated the same way. Before deciding how much one has earned he may deduct from the gross earnings certain allowable expenses. In our case, one could argue that the normal way to do business and, in fact, live, is with a bank account. Thus, one might say that bank charges may be deducted from the gross income. Accordingly, if one may do this for his personal funds, should it be permitted for Tzedaka. Had he kept the money in his personal account, they would have been depleted in the same proportion. The only major difference might have been payment for checks, which are a separate charge per account.

Thus we have provided two possible reasons to permit using the Tzedaka funds for the checks. First, it could be argued that they are a Mitzvah use. The checks are for a Tzedaka fund, and Maaser Kesafim could be used for them according to many Poskim. Second, the charges would anyhow be an allowable deduction as a cost of doing business. [See Tur Sh. Ar. Y.D. 249:1 Rema, commentaries (Bais Lechem Yehuda, Kneses Hagedola, Birkei Yosef, Pischei Teshuva 1). Tzedaka Umishpat 5:8-9 (& notes), Maaser Kesafim: Teshuvos R. S.Z. Auerbach 9.]

(C) Tzedaka expenses paid by the Tzedaka

After Tzedaka has been transferred to the possession of the institution or collector, it is no longer the liability of the donor. The Talmud describes two types of *Hekdesh*, consecrated property, on an animal. One might designate a particular animal. If it is lost, Hekdesh loses. Or one designates any animal. Until he offers it it is his liability. Animals do not easily get lost. They are not as difficult to guard. However, money is described as having no secure hiding place other than the ground. Accordingly, if Hekdesh owns money, it must be guarded. A guardian must be paid. Hekdesh has no non-Hekdesh money to pay the guardian with.

Thus it is reasonable to use Hekdesh funds for a guardian. The same is true of Tzedaka. In fact, with Hekdesh an elaborate procedure had to be worked out in order to pay laborers from the Shekalim, the collection of annual donations to the communal offering fund. Ultimately, their work is a purchase that Hekdesh made. The difference between them and a guardian is that a laborer provides a visible service. Hekdesh is enriched as a result, so they pay for it. Guarding money seems to be an invisible service. Instead, it reduces the very funds it is guarding.

In fact, one may not use certain denominations of currency for his *Machatzis Hashekel*, annual donation to Hekdesh. This was meant to be a fixed amount per person. If one caused Hekdesh to have to change the coins with a moneychanger, Hekdesh would have to pay a fee. If one uses coinage that will require changing he must pay the extra cost of changing it. However, if Hekdesh needs to change their other funds, evidently they do pay the charges. In our case, should he be considered the owner before donating it to the *Gabbai*, collector, and be held liable for costs to save Hekdesh from them, or is he like a *Gabbai*?

Obviously, the Tzedaka fund will need to open its own accounts despite the existence or absence of a donor's account. So The donor can not be asked to pay charges specially for Tzedaka. As part of his own account he would do so anyhow. The issue is that he need not open a special account. He is doing it for his own convenience. Why should Tzedaka lose as a result?

First, there is an element of *Gabbai Tzedaka* here. By designating the funds one has deemed them Tzedaka funds. Certain rules now apply to that money. The donor still has discretion on how to spend it, but it is not like his own money. he is, in effect a guardian for the poor. Second, if we take the comparison to crop tithes and add an element of sanctity, we might compare it to *Maaser Sheini*. While special care must be taken to avoid causing *Maaser* a loss, we follow those who permit money changing with *Maaser Sheini* money.

Furthermore, the Talmud permits a guardian of orphans, or the oldest brother, to use money from the estate to purchase presentable clothing in order to impress business associates. Thus, using the capital of the funds could be permitted here, too, to benefit the Tzedaka. The Poskim also cites the passage in the Talmud that witnesses of the new moon would be provided with a meal to encourage them to come. Based on this they allow fundraisers to spend money on their needs. They even allow a *Gabbai* to exchange currency in a bank rather than a cheaper private moneychanger. The normalcy and convenience of the *Gabbai* is worth the Tzedaka's while. In our case, too, the poor stand to gain from the *Maaser* account. [See *Maaser Sheini* 2:8-9, *Shekalim* 1:6-7, *Baba Kama* 11b, *Poskim. Tzedaka Umishpat* 7:22-23, note 43.]

In conclusion, it would appear reasonable to allow use of Tzedaka funds for the checks of the *Maaser* account.