

# HALOCHOSCOPE TOI

If someone bought vegetables that turned out to be from *Eretz Yisroel*, what is the procedure to separate *Maasros*, tithes?

The issues:

(A) *Tevel*, *Maasros* and *Demai*, the terms that describe produce and its tithes

(B) Produce that is included in these laws

(C) The procedure for separating the *Maasros*

(A) *Tevel* etc.

Produce of the land of Israel must be tithed. Before any tithes are separated the produce is known as *Tevel*. Some consider this a type of mixture of *Chulin*, fully tithed and permissible produce, and the tithes in it. However, most consider it in its own status. This status changes as the tithes are removed. The relevance of the status is seen when the discussion turns to the penalties for eating the produce, or when certain mixtures are made and the like.

Tithes are removed if the produce has reached an acceptable stage of growth. This is when it would be considered fit to pick it and eat it. Each item varies in this respect. Once it reaches this stage, it may be picked to be eaten as snack food without tithing it. However, it may not be eaten as a proper meal. There are different ways to make it count as formal eating, such as picking more than one together, cooking, salting, purchasing etc. The stage that makes it forbidden to be eaten as a snack is when its harvesting production process has been completed. It is now ready for the next stage of its production. For wheat, this would be when it is ready to be sorted and milled. I.e., it has been gathered and patted down in its silo. Another condition is that it has been brought to the house. At this point one may not eat it even as snacks before tithing it. There are ways to avoid letting it reach this point, so that one could still snack on it and feed it to animals

The tithes are known collectively as *Maasros*, which means tenths (also the actual meaning of tithes). However, the individual tithes have their own names, and not all are tenths. The first tithe to be taken is *Terumah Gedolah*, the main *Terumah* tithe given to the *Kohain*. This is not taken as a tenth, and actually has no fixed amount, or limit. The Talmud debates whether there is an upper limit or maximum. We follow the view that one may donate almost the entire crop. He must leave some over, due to the terminology used by the Torah: *Terumah Gedolah* is called the first of the crop, meaning that there is something else left

after its removal. Rabbinically three levels of minimum donation are suggested. The generous give a fortieth of the total crop, the average give a fiftieth (2%) and the stingy, a sixtieth. Only true *Kohanim* may eat *Teruma*, in a high level of purity. If it is defiled (contaminated spiritually) it is forbidden to eat and must be burned. If it is unknown whether it was defiled, one must treat it with respect but not eat it nor destroy it. It is left to decompose by itself.

The next tithe is *Maaser Rishon*, the main tenth tithe given to the Levite. This is not holy in its own right, but is the possession of the Levite. However, a part of it must be given to the Kohain. This is the *Terumas Maaser*, a tenth of the *Maaser*, which has all the sanctity of *Teruma* itself. Thus, until this is separated the entire *Maaser* has the status of *Tevel* for this tithe.

The next tithe to be removed will also be the last, and is a tenth of the remainder. Depending on the year of the seven year cycle, it is either *Maaser Sheini* or *Maaser Ani*. *Maaser Sheini* must be taken to be eaten in Yerushalayim. If this is difficult, or if the produce will go to waste as a result, it is redeemed for money, specifically silver currency that is legal tender, and the money is spent in Yerushalayim on food products. This has some sanctity, though the level is debated. Ideally, it is redeemed for its value, plus a quarter. However, it may also be redeemed for a minimal amount, a *Perutah*. *Maaser Ani* is given to the poor. In the first, second, fourth and fifth years *Maaser Sheini* is separated. In the third and sixth, *Maaser Ani* is separated and the seventh is *Shemitta*, when no *Maasros* are separated.

Nowadays, all people are presumed to be defiled by contact with spiritual contaminants. Thus, it is impossible to properly separate the tithes to be given to a Kohain, who is anyhow presumed *Tamei*. Furthermore, we no longer have reliable incontrovertible evidence of the lineage of our *Kohanim* and *Leviyim*. In practice, for example to do a *Pidyon Haben*, redemption of the first-born, or in shul, we accept claims of lineage based on tradition. But for tithes this is insufficient. The penalties for eating them when not entitled to them are too serious. Nonetheless, they must be separated, or the food is forbidden to eat. They are separated, then the *Teruma* (both types) is left to decompose. The remaining *Maaser Rishon* may be retained by the owner, unless a Levi can prove that he is entitled to it. *Maaser Sheini* is redeemed on a nominal amount, as we shall explain. The small coin is deformed and thrown away, or tossed into the sea. *Maaser Ani* should be given to the poor.

The Poskim debate whether the tithes apply Scripturally to all produce. The majority apply it to wine, olive oil (including table grapes and olives) and *Dagan*. The Talmud debates whether *Dagan* includes only the five bread grains or other produce grown and harvested in similar fashion. Some add to this list any of the species that Eretz Yisroel is blessed with. A minority applies it to all tree fruits. Rabbinically it applies to all tree or ground fruits and vegetables. However, there are

two conditions. It must be eaten by normal humans, and it must be *Nishmar*. This means that it is not *Hefker*, ownerless. Some say this means that it was literally owned for the entire time of its growth. Others say it refers to common practice, meaning if the prevailing practice is to cultivate it and harvest it it must be tithed. If not, the wild produce is not tithed.

The Talmud debates whether tithes apply Scripturally nowadays. With the destruction, the Jews were exiled. Though some have returned, in order for the tithes to apply all the Jews must return, in a formal ingathering of exiles. We follow the majority view that they do not apply Scripturally nowadays. Rabbinically, additional areas were included in the obligation. Produce of a gentile has its own set of rules. Basically, if the entire production is done in his possession it is exempt. If part of it is done after a Jew buys it, or before the gentile gets it, in the Scriptural areas it is treated more stringently than in other areas. If the produce is taken out of Eretz Yisroel before the obligation takes full effect, i.e., before it finishes production or is brought to a house, it does not become obligated. However, this matter is hard to determine, according to many Poskim. Some say that though produce might be packaged out in the fields it is brought into some form of storage before shipment. Once it has become formal *Tevel* it can not lose this status until the tithes are separated. [See references throughout the Torah and Talmud, specifically Seder Zraim. Tur, Shulchan Aruch Yoreh Deah 331, commentaries, Poskim.]

#### **(B) Demai**

In the days of the second Bais Hamikdash, it was determined that Jews could be divided into two groups. There were *Chaveirim*, meticulous in their observance of the laws of *Maasros*, and *Amei Haaretz*, a term usually used to describe the ignorant. Here it is used to describe those who are lax, and sometimes negligent. Therefore, though one could rely on them most of the time, which is enough for Scriptural rulings, the fact that they are suspect part of the time prompted a decree on all of their produce. Thus Rabbinically, unless one can verify the status of a vendor, one must consider produce "*Demai* - what is this?" It is presumed that for *Teruma Gedolah*, no-one but the irreligious is negligent. The sincere fear of the consequences of eating it, or *Tevel* before it is separated, is sufficient to make everyone separate it. However, ignorance or negligence leads to a minority (or a minority of the time) neglecting *Maaser Rishon*, which contains the *Terumas Maaser* part, and *Maaser Sheini*. Therefore, when purchasing produce, the tithes must be removed. However, due to the doubts surrounding them, the tithes removed have many leniencies applied to them. First, it must be borne in mind that the majority practices mean that Scripturally no separating is necessary. Thus the entire issue of *Tevel* etc. is Rabbinical. In cases of additional doubts, leniencies may be applied. Second, the issue of the monetary ownership of the tithes can be isolated from the issue of sanctity. Third, in cases of urgency one may tend to leniencies. [See e.g. *Demai*, Poskim.]

### **(C) Procedure**

Nowadays, farmers might be so ignorant of the laws or of their gravity, that it is worse than Demai. It is considered *Safeik Tevel*. However, exporters often come under the supervision of the rabbinate. Nonetheless, not enough supervision is given, due to differences of opinion on the validity of certain rulings, or the commercial pressures and machinations of the dealers. [Exceptions apply when a reliable Kashrus organization takes responsibility by issuing their Hechsher.] Therefore, though the issue is riddled with non-Scriptural rulings and doubts about their applicability, Israeli produce must be treated as though it has become obligated and was not yet tithed. No Brocha is recited, but the tithing must be done by the consumer, or if he is religious, the retailer.

The procedure is the fulfillment of a Mitzvah, and must be done by a Halachically competent adult Jew in order to take effect. The produce of a single species is tithed. Ideally, it should be collected in one place, touching rather than scattered about. It need not be physically separated, since it is not being given to the Kohain or Levi, but must be verbally designated. One points to the part he designates and pronounces the formula printed in Sidurim. The Teruma Gedola and Terumas Maaser must be physically separated and left to decompose. A piece big enough to be a hundredth of the total, plus a tiny addition for the Teruma Gedola is taken off, then placed next to what will later be designated as the remaining nine parts of the Maaser Rishon. This enables the entire ten parts of it (including its Terumas Maaser) to be on one side. That side will be designated for Maaser Rishon. First the additional tiny amount of the piece will be designated as Teruma Gedola. Afterwards, the Maaser Sheini or Maaser Ani will be designated by pointing or indicating nine hundredths (a tenth of the ninety) on the other side. Maaser Sheini is redeemed on currency, which will be disposed of in the manner discussed. There is discussion on using non-Israeli currency, especially if it contains no silver. Some Poskim even permit paper money for this, and the prevailing practice is to use any legal tender. Redeeming an amount worth too little to be of value, is questionable. Therefore, it is redeemed on a coin that has been used for real Maaser Sheini redemption a few times. Each time one Peruta's worth of the coin was used up. This bit of real Maaser Sheini redemption (*Chamura*, stringent) may be added to by increments smaller than a Peruta's worth. Often a Rav or local Bais Din has such a coin. One may use the coin of a fellow Jew to redeem one's own Maaser Sheini. The piece of Teruma is left to decompose.

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