

HALOCHOSCOPE ^{TOI}

To recap: 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. 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*?

The issues: (this week)

- (B) *Havla'ah***, absorbing the payment; other ways to permit accepting payment
- (C) Hiring people to participate in a *Minyan***

(B) *Havla'ah*

In the last section we discussed the problem with receiving payment for services rendered on *Shabbos* or on *Yomtov*. The *Poskim* debate whether the restrictions forbidding *Schar Shabbos* apply to a job done for a *Mitzvah* purpose.

The *Talmud* says that if one stipulates that the payment will not be made for *Shabbos*, but for a week of work, the payment for *Shabbos* may be included. One may not count out the money being paid and mention "this is for the first day, this is for *Shabbos*, etc." This makes it obvious that the extra is paid for *Shabbos*, even though it is all given at one time. This is learned from the case of the rebellious husband's penalty. In the last section we cited this *Talmudic* passage. A rebellious husband is one who refuses to abide by the obligations of his marriage. To force him to either reconcile or divorce without delay, he is penalized for each day of delay. A daily amount is added to his *Kesuba*, marriage contract obligation. However, the amount added for the *Shabbosos* is not included, because it has the appearance of *Schar Shabbos*. He is being forced to

pay the extra all at one time. However, saying that he is penalized per day makes it obvious that some of the addition to the basic Kesuba is for the Shabbosos.

The normal type of *Havla'ah* for a Chazan is to ask him to also lead services on a regular basis during the week. He could also be paid for occasional services, such as *Rosh Chodesh*. If they are ceremonious, it will look like he is the Chazan for the year when it comes to a ceremony. The Tokai'a is responsible for blowing during Elul, on the weekdays. The Rosh Hashana Chazan is paid for leading the services on the first day of Selichos, which is generally regarded as a special occasion. *Havla'ah* removes the issue of not seeing a *Siman Brocha* from this money.

The other way ritual functionaries are paid *Behvla'ah* is by including their practice. This may be viewed two ways. Either they are only paid for the practice, or they are paid for the job, which includes practice done on days other than Shabbos. [The functionary has the choice to do it on any day he wishes. He is thus not hired for Shabbos.] In our case, the Tokai'a is already being hired to practice for the first Minyan. If he is hired for the job, including practice, the second Minyan may hire him as well. When and how he practices is left to him. He may decide to practice twice, or to have both jobs in mind with one practice. The fact that he is being paid twice for the same thing does not matter, since he is ultimately doing it for both. The Talmud often uses a parable. A light for one costs as much as a light for one hundred. It is the same bother, but is more worthwhile when done for more people. If a bath-house charges a set fee for each customer it will make more money for the same investment, the more people that bathe. To each shul the job, including the practice, is worth only so much. If the Tokai'a can recoup more because he is doing it twice, that is a measure of his own good fortune.

If he already agreed to take the job for one shul, and started or finished practicing, the question arises whether he may take payment from the second shul. May he maintain that he is "selling" his services, including in his price the outlay and labor? This way, since he practiced and trained earlier, he may charge all buyers for the practice. Or is he being paid for a job? Since he will not stipulate the practice as part of his job, because he had already practiced by the time he agreed to take it, he should not be able to accept payment for this practice retroactively. It is possible that one may claim that at the time he practiced he was only willing to do it if he would be paid for the job that he was practicing for. Therefore, he may take payment for any job he later agrees to for which he had practiced earlier.

To make it look more just, he might want to be sure he knows about both jobs before he agrees to the fee, or at least before he is paid by one of them. Once he has

already received payment from one of them, it would appear that he must practice anew for the second job. However, if he is paid in advance, he may claim that he wishes to be paid by both for the practice that he will be doing. If this is possible, he might try to get the two shuls to give him one lump sum.

There are other leniencies that Chazanim rely on. The most common is to accept the fee as an outright gift. This way it is not *Schar Shabbos*, nor does it touch on the absence of *Siman Brocha*. The objection to this is the maxim that one who spurns gifts will have long life. Therefore, people often try to avoid gifts. Another excuse to take payment is that a Chazan often must travel to the location where he serves. He could fulfil his Mitzvah at home. He is compensated for his time. In our case, the Tokai'a's extra travelling is done on Rosh Hashana itself, so the issue of *Schar Shabbos* is not resolved. However, in terms of *Siman Brocha*, it is possible that the extra time is not part of his Mitzvah. Therefore, if it is included in the entire amount, together with the payment for the practice, both problems are avoided. Thus, in our case too, the Tokai'a could be paid for the second Shul this way.

Another suggested excuse for a Chazan is the following. We have mentioned that the original job of a *Shliach Tzibbur* was to discharge the obligation of the congregants. This was a Mitzvah that he was doing on their behalf. Nowadays, most usually recite the Tefilos by themselves. His job is to inspire and to delight them with his singing. This is not part of the original Mitzvah, and there is no problem of *Siman Brocha* with this payment. Even if he does take payment for discharging the individual obligation of one congregant, this is not his duty. Therefore, it is not like taking payment for a Mitzvah. The problem with taking payment for a Mitzvah seems to be, according to this, that he is obligated to perform the Mitzvah anyhow. These situations are such that he does not have the obligation, but agrees to do it for payment. However, as we have already mentioned, a Tokai'a is indeed discharging the Tzibbur their obligations.

Another suggestion to justify Chazanim taking payment does not work for the Tokai'a in the second shul. It is presumed that the person would do the Mitzvah anyhow. Therefore, the money he takes is not for the actual performance of the Mitzvah. In our case, he has already fulfilled his obligation in the first Shul. The second blowing is extra. The Poskim debate whether a Shul can pay off a Chazan's debts or loans instead of paying him. Thus, he makes no direct gain, but is protected from losing some money. Some say that it would still be considered *Schar Shabbos*, because he is gaining from the effort he made on Shabbos. However, it works to remove the problem of lack of *Siman Brocha*. [See Baba Metzia 58a,

Poskim. Sh. Ar. O.C. 306:4 585:5, Eshel Avraham, Match Efraim (Ktzay Hamatch 22). Teshuvos Vehanhagos II:279.]

(C) Hiring Minyan attendees

The Talmud lists requirements for a Jewish community. One requirement is *Asara Batlanin*, ten people who are always free to spend their time in shul to make a Minyan when it is needed. Hashem should never have to “wait” when the time for davening comes until a Minyan arrives. These ten people were provided for by the community. they were not hired to make the Minyan, but their entire time was devoted to it. Therefore, their total living expenses were paid for.

In more recent times the problem of keeping up a Minyan arises in small communities. the Poskim discuss hiring people to complete the Minyan. The issue is whether community members can be forced to participate in the costs of hiring. The conclusion is that for the Yomim Noraim they may be forced to.

Thus the concept of hiring a Minyan man has precedents. In the example cited, the entire town needs a Minyan. In the case we are discussing there are other Minyanim in town. This shul has difficulty with its Minyan. The Talmud does not consider an extra shul an unnecessary luxury. Once it is built it should be used and not left to ruin. Besides, this shul serves a purpose for those who daven late. They are entitled to a Minyan, and may hire one. The justification to take pay for going to a community to make a Minyan is the travelling time. In a case where no travel is necessary, what justification is there? One reason mentioned earlier, applies here. If the Minyan man prefers to daven somewhere else, he is not receiving payment for the Mitzvah. He is being paid to give up his chance to daven elsewhere. However, the Schar Shabbos issue still arises, especially in our case. Perhaps the only safe way to avoid this is Havla’ah with week days during Elul. Alternatively, the Poskim do rely on Havla’ah of the period right before or after a Shabbos or Yomtov. If the Minyan man comes for Mincha before Yomtov and for Maariv at its close, he could be paid for these times and include the Shabbos or Yomtov. Thus, in our case, too, if the Tokai’a is paid as a Minyan man in this way, he could add to that the fee of being Tokai’a, and include all of it in one Havla’ah. [See Brochos 6b Megilah 3b 5a Baba Basra 3b Sanhedrin 17a, Poskim. Tur Sh. Ar. O.C. 55:21-22, 152:1, commentaries. Eshel Avraham 585:5. Igros Moshe O.C. IV:59.]