

# BUSINESS WEEKLY

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HaRav Chaim Kohn, shlita



Restoring the Primacy of Choshen Mishpat

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## STORY LINE

by Rabbi Meir Orlian

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## Merged Money

Mr. Sender was the gabbai of Congregation Tiferes Yisrael. His special joy was walking around the shul with the pushke (tzedakah box).

"Tzedakah tatzil mimaves," he would quietly declare. "Charity saves from death."

Each year on Erev Yom Kippur, the bimah was covered with pushkes and plates on behalf of various institutions.

"Please try to collect your pushke before Yom Kippur," Mr. Sender would instruct the people who left the boxes there. "Afterward the money is liable to get lost."

But there were always some organizations that would not come to collect the money until after Yom Kippur. Mr. Sender was careful to place each tzedakah plate neatly in the office.

When Mr. Sender checked the money after Sukkos, he saw that someone had dumped

all the remaining money from the plates into a single box. There was about \$150 from four plates.

"What do I do now?" he thought. "How much should I give to each institution?" Mr. Sender asked the president if he knew who had mixed the plates together.

"No," replied the president. "Just divide it evenly between the organizations. That's the simplest way."

"I recall, though, that two of the organizations had more than the others," said Mr. Sender. "I don't know how much, though."

"I don't really think it makes a difference," said the president. "It's all tzedakah and the respective institutions haven't acquired the money yet. So it's not a problem even if you switch from one plate to another."

"I'm not convinced," replied Mr. Sender. "If people put money in a certain pushke, it

should go there!"

"Perhaps the shul is responsible for not protecting the plates?" chimed in the secretary. "I think you should give the maximum amount, let's say \$100, to each organization and fill in from the general tzedakah fund."

"That seems excessive to me," said Mr. Sender. "I did put away the plates properly. I'll ask Rabbi Dayan!"

Mr. Sender called Rabbi Dayan and asked: "If plates of tzedakah got mixed up, what do I do with the money? Can I give it to whichever institution I want?"

"Once money was placed in a tzedakah box, it should be given to that institution and cannot be given freely to another tzedakah," said Rabbi Dayan. "If the boxes got mixed and you cannot ascertain how much money was on each plate, you should divide the money according to your estima-

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## Two Homeowners

Reuven and Shimon share a house; Reuven lives on the ground floor and Shimon lives on the upper floor.

Reuven informed Shimon that the homeowner's insurance policy is up for renewal and expects him to cover half of the cost. Shimon responded that he is not interested in paying half the cost of the homeowner's insurance and would rather save the money and rely on bitachon (faith) that nothing bad will happen to the house.

**Q: Is Shimon obligated to pay for half of the homeowner's insurance premiums?**

**A:** The Mishnah in Bava Basra (7b) teaches that residents of a city can compel one another to contribute toward necessary municipal projects. Similarly, residents of a courtyard can compel one another to contribute money to cover the costs of necessary repairs and improvements. This halacha establishes the principle that when

partners need to repair something and it is impossible for one partner to repair just his share of the broken item, e.g. an air conditioner, each partner is obligated to contribute his portion of the cost.

Furthermore, even when people are not actually partners but they share a common need, e.g. residents of a city, one resident cannot refuse to pay his share by claiming that he is not interested in the repair or improvement (Nesivos 178:3, 164:1,

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tion. You are not required to add money of your own if you were not negligent (Tzedakah U'mishpat 8:9[25]; Pischei Tes-huvah, Y.D. 259:13)."

"Could you please explain?" asked Mr. Sender.

"A person's courtyard (chatzer) 'acquires' for him, even without his knowledge," explained Rabbi Dayan. "Similarly, a person's container can 'acquire' money placed in it, provided that the person has permission to place the container there. Thus, according to many authorities, a tzedakah box 'acquires' the money placed inside of it on behalf of the institution, even though they do not yet know that money was placed in their box. It is considered as if the money was already given to their representative (see C.M. 200:3; Shach 200:7)."

"Then how do we deal with our case?" asked Mr. Sender. "Maybe we're not giving the money properly to each institution?"

"Since the plates got mixed up, you should divide according to your estimation, because all the money is in doubt," replied Rabbi Dayan. "No organization is muchzak (in possession). If there is no reason to assume that one plate had more than the other, you would ordinarily divide evenly."

"What if all the money was dumped into one of the tzedakah boxes?" asked Mr. Sender. "Would it now all go to that institution?"

"No, since you know that some of that money was already acquired by the other institutions," replied Rabbi Dayan. "However, according to some authorities, that institution is now considered muchzak and would have the upper hand. It would be entitled to the uppermost amount reasonable for that box, and the remaining amount should be divided as you estimate (see SM"A 164:10; Ketzos 202:7)."

264:6; see also Divrei Malkiel 1:96§18, 3:157).

Based on these principles, it is evident that if the residents of a city need something for their protection, one of the residents may not refuse to contribute his share by claiming that he would rather place his trust in Hashem to protect him. One may not rely on miracles and is expected to conduct himself in a manner that is consistent with the way normal people conduct themselves (Brachos 35b). Therefore, partners or residents in a city may compel one another to pay for any precaution that people normally take to protect themselves.

Accordingly, since it is common practice for people to have a homeowner's insurance policy, one who pur-

chases one is not considered to be lacking in his trust in Hashem (see Shevet Halevi 4:1 and Igros Moshe, O.C. 2:111). Therefore, partners may not refuse to contribute to such a policy.

The same principle applies if one partner wants to get insured by a reputable company that is more expensive and the other partner prefers to obtain a cheaper policy from a generic company, claiming that any coverage satisfies his obligation to obtain homeowner's insurance. The partners would have to determine whether the cheaper company is considered reputable or not, since, as mentioned, one must take normal precautions, which means that one must obtain a policy that people consider reliable.

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**Lost and Found #12**

**Q: I found a knapsack with clothes in it. How am I supposed to publicize this?**

**A:** In the times of the Beis Hamikdash, people would publicize the aveidah on the Festivals, when all the Jewish people would assemble in Yerushalayim. After the destruction of the Beis Hamikdash, the Sages instituted the procedure of publicizing in shuls and batei midrash. When this became impossible,

they established that one must notify one's friends and neighbors (B.M. 27b).

Nowadays, one should publicize in such a manner that the owner will most likely hear about or see it. This includes public places in the vicinity of the lost item: shuls, public bulletin boards, etc. For expensive items, you can publicize in a local paper and recoup the advertising cost from the owner (Hashavas Aveidah K'halacha 3:1).

You should identify the item in a general manner: knapsack with clothes, sweater, bicycle, laptop, etc., without divulging details of the item. The person who lost the item should provide details as simanim (C.M. 267:3-4).

The notice should remain posted long enough for the owner to see it; this would be at least a week or two. If the notice is removed after this time, there is no need to replace it.

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