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UNDER THE AUSPICES OF HARAV CHAIM KOHN, SHLITA



STORY LINE

By Rabbi Meir Orlian

COMMUNAL ERUV TAVSHILIN

The house was awlirl preparing for the "three-day" Yom Tov — Thursday and Friday, then Shabbos. The aroma of challah, meat and chicken wafted from the kitchen. The whirl of the vacuum cleaner competed with the hum of the washer. The older children ran in and out doing errands.

Rabbi Dayan took a break from the preparations to go over his drashos (sermons) for Rosh Hashanah and to review the laws of shofar blowing.

When he finished, Rebbetzin Dayan paused for a moment from her cooking and cleaning. "Don't forget to make the eruv tavshilin," she gently reminded him.

"Of course," replied Rabbi Dayan. "I'll take care of it now."

Rabbi Dayan took a challah and some cooked eggs. He called over his fifteen-year-old son, Aharon. "Could you please ask your friend Chaim to come and help me with the eruv tavshilin?"

Aharon went next door and returned two minutes later with Chaim.

"Thank you for coming," Rabbi Dayan said to Chaim. "I'd like you to help me make the eruv tavshilin."

"Sure, what do I have to do?" asked Chaim.

"Right now the challah and eggs are mine," said Rabbi Dayan. "I want you to acquire them on behalf of all the Jewish people in the community, so that the whole community will have a share in them. Please take the challah and eggs and raise them at least a tefach (about four inches)."

Chaim raised the challah and eggs. Rabbi Dayan then took them from him, made the brachah and recited the declaration enacting the eruv tavshilin.

Chaim looked at Rabbi Dayan with a puzzled expression. "My father also just made an eruv tavshilin and didn't give it to anyone," he said. "Why did I have to pick it up? Besides, you have your own children here. Why couldn't Aharon do it?"

"Most people make the eruv tavshilin only for their own household," Rabbi Dayan explained. "Even though the standard version in the siddur or machzor states, 'for us and all Jewish people living in this city,' it is not really intended for others. However, the Rav truly intends it for the entire community in case someone forgets or is unable to make his own, and this covers that person on a one-time basis. I needed you to acquire the challah and eggs on

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DONATING MORE THAN PLEDGED

Someone pledged \$300 for an aliyah. Shortly after Yom Tov we received a check from him for \$360.

Q: Do we have to contact him to confirm that he intended to send more than he actually pledged?

A: The Gemara (B.M. 63b) discusses a case where someone borrows money and discovers that he received more than he intended to borrow. His response to the extra money depends on whether it is assumed that the lender erred when he counted it out. When it's likely that the lender erred (for example, instead of receiving five \$10 bills the borrower received six \$10 bills) the borrower must return the extra money. However, if it is unlikely that the lender erred (for example, the borrower discovered two \$1 bills in addition to the five \$10 bills), it is assumed that the lender did not err but rather intended to give the additional money as a gift, and the borrower is not required to return the extra money.

Even if the lender is not known to be generous, and the two never had any business dealings with each other, it is possible that he is returning money that he or someone else stole from the borrower. Shulchan Aruch (C.M. 232:2) extends this to cases of someone who pays more when making a purchase or repaying a loan (See Shach, Y.D. 160:2 regarding ribbis issues and C.M. 232:2 whether the lender can later claim that he erred when he gave the borrower extra money.)

The obvious question is why the recipient isn't obligated to confirm whether the extra money was given in error or not (Ritva, B.M. 63b). Some explain that this halachah is



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behalf of the entire community, since the eruv tavshilin must be made with one's own food" (O.C. 527:9-11).

"But only I picked up the food, not anyone else!" Chaim said.

"There is a well-known principle in monetary Halachah, 'zachin l'adam shelo b'fanav' — it is possible to acquire for someone [even] not in his presence," answered Rabbi Dayan. "Thus, when you picked up the challah and eggs you acquired them not only for yourself, but also for the other townspeople, so that everyone will share in this eruv tavshilin" (C.M. 243:1).

"Why did I have to call Chaim over?" asked Aharon. "Why couldn't I do it?"

"For a transaction to be valid, the item must move from the possession of one to the possession of another," explained Rabbi Dayan. "Since a father has certain monetary rights in the acquisitions of his children, the children are not considered independent entities. Had you raised the eruv food, it would be almost like transferring it from my right hand to my left hand. Therefore, I needed someone who is not a household member" (M.B. 366:55).

"Even an older child is insufficient?" asked Aharon. "I'm already bar mitzvah!"

"The Gemara (Eruvin 79b; B.M. 12a-b) differentiates between younger and older children," replied Rabbi Dayan. "There is a dispute whether this distinction is between children before and after bar-mitzvah or between children financially dependent and independent. Since you are still financially dependent, it is preferable to have someone like Chaim, who is not a household member, acquire the food for the community. If we had married children here, they could accept the eruv" (C.M. 270:2; O.C. 366:10).



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rooted in the Gemara (Bava Metzta 21b), which teaches that people are always checking their money. In other words, there is a chazakah (halachic presumption) that people know how much money they are carrying and we are confident that the other party carefully checked that he was paying what he intended to pay. Although we do not rely on this presumption regarding prohibited items (Y.D. 1:1, O.C. 437:2), there is a fundamental difference between prohibited items and money. Concerning prohibited items, the one who will partake of that item has the responsibility to confirm that he is not partaking of something that is prohibited.

In contrast, in monetary cases, the obligation is on the owner of the money to exercise caution (see Onkelos, Bereishis 39:11). Consequently, the recipient has no obligation to confirm with the other party since one may presume that it was given intentionally as a gift or to repay some sort of debt (Lachmei Todah, Basan #23, p. 91). Nevertheless, when there are grounds to suspect that the other party may have erred, it is considered a pious act (lifnim mishuras hadin) to confirm that the other party did not err (Lachmei Todah and Sefer Yerei'im 127). Adopting a pious approach is an option with regard to one's personal funds, but an employee may not adopt the pious approach without first consulting with his employer.

In your case, writing a check is a circumstance in which a person does not err and thus there is no obligation to contact the donor to confirm that he intended to give more than his initial pledge, especially since it is common for people to give generously to their shul or beis medrash.

For questions on monetary matters, Please contact our confidential hotline at 877.845.8455 ask@businesshalacha.com



MONEY MATTERS

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Q: Can I copy a few pages from a copyrighted sefer for my own use?

A: Copying a few pages is usually not a violation of hasagas gevul (commercial infringement), since a person who needs only a few pages will generally not buy the sefer anyway. It would seem permissible even according to the opinion that Halachah recognizes ownership of intangible intellectual property, since the author presumably does not intend to prohibit such minimal copying. Although he writes "any portion," he primarily intends to prevent copying significant portions or commercial use. Especially in libraries, where there are photocopy machines stationed, he abandons hope of such restriction. [One must be careful not to ruin the library's sefer when copying.]

However, to copy a page that has significant inherent value, such as a major summary chart, could be prohibited according to the opinion that Halachah recognizes ownership.

Certainly, a person who bought a sefer and wants to copy a few pages for his convenience, such as for travel ease, is allowed to.

In many places, copying individual pages is permitted also according to dina d'malchusa as "fair use" (Emek Hamishpat, Zechuyos Yotzrim, Intro. 4:1-5; ch. 35:198).

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