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Maasrot Responsibilities of a Contractor

The beginning of the sixth *perak* discusses the responsibility of a contractor to separate *terumot* and *maasrot* under different work arrangements. One arrangement is where the worker is an *aris*; a sharecropper who agrees to provide the owner of the field with a percentage of the yield. The second is a *choker* who provides the owner a fixed amount. The *Mishnah* opens by explaining that an *aris* divides the produce in front of¹ the owner without first separating *maasrot*.

The *Bartenura* explains that the *Chachamim* did not require the *aris* to separate *maasrot* in advance of the division in order to remove any deterrent for one engaging in these arrangements. The *Chachamim* were motivated by the concern for *yishuv eretz yisrael*; they did not want there to be regions in Israel left uncultivated. Recall, that one is not allowed to sell *tevel* - produce from which no *maasrot* have been separated. The *Mishnah Rishona* therefore understands from this ruling that when the *aris* provides the owner with his untithed share, it is not considered as if he sold it.²

We find a similar situation with a *choker* who works another *yisrael's* field. In that case he must only separate *terumah gedolah* but may leave the rest untithed when providing the owner with the payment. The *Mishnah Rishona* explains that even though, the fixed fee is not considered the owner's share (it is a payment made by the *choker*) since the prohibition of selling *tevel* is rabbinic, they relaxed the prohibition since the field belongs to the recipient.

The *Bartenura* however provided a different reason why the *choker* can provide (mostly) untithed produce. He explains that this is because it is understood at the beginning of the work arrangement that the *choker* would provide the payment in this manner. Nevertheless, as with anyone, the *choker* must separate *terumah gedolah* immediately after the completion of work, prior to moving the produce.

The *Mishnah Rishona* explains that there are two considerations. The first is the prohibition of selling *tevel* which he addressed. The second however is the financial aspect – the fee that must be paid for working his land. The *Mishnah Rishona* explains that the *Bartenura* in his

commentary was addressing this second aspect. In other words, for the *aris* where the only consideration is the prohibition of selling *tevel*, the *Bartenura* explains that the *Chachamim* were lenient due to *yishuv eretz yisrael*. For the *choker*, even though this explanation is necessary, a further explanation was required why the *choker*, as part of the business arrangement, can provide (mostly) untithed produce. The *Bartenura* there provides the additional reason that it is implicit in the work arrangement.

The *Mishnah Rishona* however questions the need for the justification of *yishuv eretz yisrael* in the case of the *aris*. In that case, since the shares are being distributed according to the original agreement, it should not be considered payment. In other words, in the arrangement of the *aris* there should be no prohibition of the *aris* providing the owner with *tevel*.

The *Mishnah Rishona* however cites the *Rosh* who understands that the *aris* would have been required to separate *maasrot* were it not for the dispensation. The *Rosh* suggests that this is because the *pasuk* of “you shall surely tithe all the produce of your planting” (*Devarim* 14:22). The *Mishnah Rishona* however finds this explanation difficult – the produce of the owner does not ever belong to the worker. The *Rosh* however appears to understand that irrespective of the financial interests, for *maasrot*, the *pasuk* considers it all belonging to the one engaged in the “planting”.

This may be related to another discussion. *Barteruna* comments that when an *aris* provides the share to the owner, he need not first separate *maasrot*. The *Tosfot Yom Tov* explains that that *maasrot* must be understood to mean both *terumot* and *maasrot* in order to differentiate it from the case of a *choker* that must first separate *terumah gedolah*. The *Chidushei Mahriach* however explains that the next *Mishnah* provides other cases that differentiate between the *choker* and *aris*. Perhaps whether an *aris* must first separate *terumah gedolah* is based on our discussion. If the owner is simply taking his share, then there is no requirement to first separate *terumah gedolah*. If however it is considered all “his planting” with respect to *maasrot*, then much like the *choker*, the *aris* must separate *terumah gedolah* immediately at completion, prior to providing it to the owner.

Yisrael Bankier

¹ The *Tosfot Yom Tov* cites the *Rambam* who explains that the division must be performed in front of the owners, to ensure that they understand that they are receiving *tevel*.

² He continues that even according to the opinion that does not maintain the principle of *bereira*, since the division is *bemuchbar* they would agree.

Revision Questions

דמאי ה' א' – ו' ג'

- How does one “fix” demai bread purchased from a baker? (ה' א')
- How does one separate *trumah gedolah* and *trumah ma'aser* from *tevel* at once? (ה' ב')
- Explain the debate regarding separating the tithes from one demai loaf for other demai loaves:
 - Purchased from a baker? (ה' ג')
 - Purchased from a retailer? (ה' ד')
- What is special about the way produce belonging to or purchased from an *ani* must be tithed? (ה' ה')
- Can one tithe from one group of produce for another if they were purchased at different times from
 - The same wholesaler? (ה' ו')
 - A private owner (*ba'al ha'bait*) selling from home? (ה' ז')
 - A *ba'al ha'bait* selling at the market (NB: two cases)? (ה' ח')
- If someone purchased *tevel* from two different people can he tithe from one for the other? (ה' ט')
- Can one tithe from produce belonging to a non-Jew for produce belong to a Jew? Belong to *Kuti* for a Jew? (ה' י')
- What is the status of produce that has grown in a pot that has a hole in the bottom (*atzitz nakuv*)? (ה' יא')
- What is the law if someone tithes: (ה' יב')
 - From demai for other demai produce?
 - From demai for *tevel* produce?
 - From *tevel* for demai produce?
- What is an *aris*? What is a *choker*? (ה' יג')
- What must an *aris* and *choker* do before giving the produce to the owner of the field? (ה' יד')
- What is the difference in the responsibilities of a *choker* in the field belonging to an *Yisrael* and a *Nochri*? (ה' טו')
- Explain the debate regarding a *kohen* or *levi* who is an *aris*? (ה' טז')

Melbourne, Australia

Sunday -Thursday
 10 minutes before *Mincha*
Mizrachi Shul
 Melbourne, Australia

Friday & Shabbat
 10 minutes before *Mincha*
Mizrachi Shul
 Melbourne, Australia

Efrat, Israel

Shiur in English

Sunday -Thursday
 Rabbi Mordechai Scharf
 9:00am
Kollel Magen Avraham
 Reemon Neighbourhood

ONLINE SHIURIM

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

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Rabbi C. Brown
<http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm>

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
 In US dial: 718 906 6400
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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
19 June י"ג סיון	20 June י"ד סיון	21 June ט"ו סיון	22 June ט"ז סיון	23 June י"ז סיון	24 June י"ח סיון	25 June י"ט סיון
Damai 6:4-5	Damai 6:6-7	Damai 6:8-9	Damai 6:10-11	Damai 6:12-7:1	Damai 7:2-3	Damai 7:4-5

