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Ma'aser Ani in Demai Breaking Down of Sin

When dealing with regular *tevel* (untithed produce), first one separates *trumah gedola* which is given to the *kohen*. Next a tenth is separated and given to a *levi* – this is *ma'aser rishon*. The *levi* separates a tenth from that, *trumot ma'aser*, and gives it to a *kohen*. The original person, must then take a second tithe. In the first, second, fourth and fifth years of the *shemita* cycle this tithe is called *ma'aser sheni* and eaten by the owner in *Yerushalaim*. In the third and sixth years this tithe is called *ma'aser ani* and given to the poor.

When dealing with *demai*, *trumah gedola* is assumed to have already been separated by the *am ha'aretz*. *Ma'aser rishon* however must be designated so that *trumot ma'aser* can be separated. The remainder of the *ma'aser rishon* as well as the *ma'aser ani* may be kept by the owner because, unlike *trumah*, they have no *kedusha*. These two *ma'asrot* are simply the property of the *levi* and *ani*. Since it is doubtful whether these *ma'asrot* really need to be separated from *demai*, the burden of proof is left on the *levi* and *ani* if they wish to extract it the purchaser of the *demai* produce.

Even though the owner can keep the *ma'aser ani* separated from *demai*, there is a debate regarding whether some of the produce needs to be designated as the *ma'aser sheni* first (4:3). *R' Eliezer* maintains it is not necessary, whereas the *Chachamim* require it. How do we understand the debate?

The *Gemara* in *Makkot* (17a) explains that both agree that if *ma'aser ani* has definitely not been separated from produce then it is considered *tevel*¹. *R' Eliezer* however understands that since *ma'aser ani* is “only monetary”, an *am ha'aretz* will separate it, so the produce is no longer *tevel* and then keep the *ma'aser ani*. The *Chachamim* however understand that since physically separating *ma'aser ani* requires effort he will not bother. Therefore we must suspect that *ma'aser ani* has not yet been separated

from the *demai* produce. A closer look at this understanding² of the debate will be valuable as we approach *Yom Kippur*.

It appears that according to *R' Eliezer* we are suspecting the *am ha'aretz* of stealing from the poor. He separates the *ma'aser ani* then keeps it from himself. Granted that an *am ha'aretz* is not particular with *ma'asrot*, but an assumed thief?! The *Tosfot* (*Gittin* 25a) explains that while it is true that we don't suspect him of a being a thief, nevertheless *ma'asrot* are different. The reason is that *ma'asrot* is money that does not have an identified claimant; consequently it is not really considered *gezel*. Likewise the *Rosh* here explains that the *am ha'aretz* considers it his property as he has the right give it to whom he wishes. Furthermore, he does not consider it theft as an *ani* has not taken it yet.

Returning to the *Chachamim*, it appears that they understand that for the *am ha'aretz*, separating *ma'aser ani* is too much of a bother. One can ask that since we know that designation alone is enough to remove the prohibition of *tevel* where is the bother? If we assume that the *Chachamim* agree with *R' Eliezer* that if it was simple the *am ha'aretz* will then keep it, why do they argue? The *Maharit* (1:25) explains that the *am ha'aretz* will not know this designation alone is enough, and mistakenly think that physically separation is required. For a large stock, this is a bother. The *Chazon Ish* (*Demai* 9:3) however understands it is less of a bother on the conscience of the *am ha'aretz* to simply ignore the *mitzvah* than to separate the gifts of the poor and subsequently keep it.

Rationalising away sin; having a false sense of entitlement; willfully making ourselves ignorant to sooth our conscience. Are we better than an *am ha'aretz*?

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¹ *Ran* (*Nedarim* 84b) and *Bartenura* here explain that there is a *chiyuv mita* like regular *tevel*. The *Rambam* however understand that it is different, and punishable with lashes.

² There are other ways of understanding the debate. The *Gemara* in *Nedarim* (84b) also explains that both understand that if *ma'aser ani* has not been separated from produce then it is considered *tevel*. *R' Eliezer* however understands that if the *am ha'aretz* did not want to give the *ma'aser ani* away, he could simply renounce the ownership of all his property, qualify as *ani* and then take the *ma'aser ani*. The *Chachamim* however understand that he would never do that as he would be afraid that others would take his property while they were in an ownerless state.

The *Rash* also cites the *Yerushalmi* that explains that the *Rabbanan* argue that since the purchaser of the *demai* will be able to keep it why not make him designate it. The *Tosfot Yom Tov* understands that *Yerushalmi* is not bringing the *Chachamim*'s reason; they do suspect the *am ha'aretz* of not separating *ma'aser ani*. Instead this is their retort: even though you trust the *am ha'aretz*, separating *ma'aser ani* will do no harm.

The *Rambam* (*Ma'aser* 8:9) however understands that the *Chachamim* only require the *ma'aser ani* to be separated in case people become accustomed to not separating this second tithe, and in other years also not separate *ma'aser sheni* from *demai*. The *Tosfot Yom Tov* understands that his position is based on the *Yerushalmi*.

Revision Questions

דמאי ג' – ה' – ו':

- According to *R' Yehudah* what precautionary measures must one take when giving wheat to his mother-in-law to make bread? (ו': ג')
- If someone forgot to separate *trumot* and *ma'asrot* from *demai* and it is now *Shabbat* what can they do? Does the ruling change on *motzei Shabbat*? (ו': ד')
- What can one do if *trumot ma'aser* separated from *demai* gets mixed up with the original produce? (ו': ד')
- When do the *Chachamim* allow you to trust the *am ha'aretz*'s claim that his produce has been tithed? (ו': ב')
- Explain the debated between *R' Eliezer* and the *Chachamim* regarding the separating *ma'aser ani*. (ו': ג')
- On *Shabbat* can someone separate food that have been called *trumot ma'aser* or *ma'aser ani* prior to *Shabbat*? (ו': ד')
- If someone sends an *am ha'aretz* to buy food, when can he believe the messenger that he bought it from a seller of *tithed* produce? (ו': ה')
- If someone is visiting a foreign city, how can he determine who is a *ne'eman*? (ו': ד')
- If the visitor went to person A under the advice of person B, and asked person A which local seller is careful about the laws of *chadash* and the response was person B – can he be trusted? (ו': ד')
- If two travelling salesmen enter a city and one says that his produce is *chadash* and his friend's is *yashan* and that his friend's produce has been tithed while his own has not – can they be trusted? (ו': ד')
- How does one "fix" *demai* bread purchased from a baker? (ו': ה')
- How does one separate *trumah gedolah* and *trumot ma'aser* from *tevel* at once? (How is allowed to separate in this way?) (ו': ב')
- Explain the debate regarding separating the tithes from one *demai* loaf for other *demai* loaves:
 - Purchased from a baker? (ו': ג')
 - Purchased from a retailer? (ו': ד')
- What is special about the way produce belonging to or purchased from an *ani* must be tithed? (ו': ה')
- Can one tithe from one group of produce for another if they were purchased at different times from the same wholesaler? (ו': ה')

Local Shiurim

Sunday -Thursday

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Mizrachi Shul

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Friday & Shabbat

10 minutes before *Mincha*

Beit Ha'Roeh

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
19 th September י"א תשרי	20 th September י"ב תשרי	21 th September י"ג תשרי	22 th September י"ד אלול	23 th September ט"ו תשרי סוכות	24 th September ט"ז תשרי סוכות	25 th September י"ז תשרי
Demai 5:7-8	Demai 5:9-10	Demai 5:11-6:1	Demai 6:2-3	Demai 6:4-5	Demai 6:6-7	Demai 6:8-9

