



## Overhanging trees

The *Mishnah* (3:7) taught that whether a tree is planted in *Yerushalaim* and the branches stretch outside the walls or the reverse, we assess whether the parts of the tree is considered inside *Yerushalaim* with respect to the walls. In other words, the walls are the only consideration despite the fact a tree may hang over them. For the purposes of *maaser sheni*, whether one is considered inside *Yerushalaim* is important. Firstly, *maaser sheni* produce may only be consumed inside *Yerushalaim*. Secondly, while one can transfer *kedushat maaser sheni* onto money, if the produce is *tahor*, one can only do so outside *Yerushalaim*.

This *Mishnah* should sound familiar. We discussed this case in *Maaserot* (3:10). There however, with respect to *maaser sheni*, the *Mishnah* taught that the determining factor is the branches. The *Yerushalmi* explains that the *Mishnah* there means that we *also* consider the branches when determining the location. The *Barenura* explains that that means we also consider the branches when it results in a stringency. In other words, if the branches are hanging inside *Yerushalaim*, just as once would not be able to redeem the *maaser sheni* by the branches, one cannot at the trunk of the tree outside the walls. Similarly, if the tree whose trunk is inside has its branches hanging outside the walls, since one would not be able to eat *maaser sheni* produce by those branches, one is not allowed to eat such produce by the trunk of the tree.

It appears that the two *Mishnayot* contradict each other. In this *Mishnah* however, the *Bartenura* explains that this *Mishnah* is consistent with the one in *Maaserot* explaining that when it states we also go by the branches to mean that the walls is the determining factor. The *Tosfot Yom Tov* notes that the *Bartenura* appears to be contracting his explanation in *Maaserot*. He then cites the *Rash* that first explains that the *Mishnah* in *Maaserot* expresses the opinion of *R' Yehuda* whereas our *Mishnah* is the opinion of the *Chachamim*. In other words, the apparent contradiction is not a difficulty since they express two different opinions. The *Rash*'s second answer is the same as the *Barenura* in this *Mishnah* that explains the *Mishnah* in *Maaserot* in the terms of this *Mishnah*. These two answers are found in the *Gemara* (*Makkot* 12b) – first being the opinion of *Rav Kahana* and the second being *Rav Ashi*'s. Consequently, it appears that the *Bartenura* provides the first explanation in *Maaserot* while adopting the second explanation here.

The *Tosfot Yom Tov* then cites the opinion of the *Rambam* who also explains that the two *Mishnayot* as one consistent position. He however explains, per the understanding of the *Kesef Mishnah*, that this *Mishnah* relates to the law of consuming *maaser sheni* which is only permitted inside the walls irrespective of overhanging trees. The *Mishnah* in *Maaserot* however relates to redeeming *maaser sheni* produce and there even if one is outside the walls, if he is under the branches of a tree whose trunk is inside *Yerushalaim* then he can longer redeem the produce. In other words, if someone is underneath the overhanging branches outside the walls we rule stringently and treat him as being outside *Yerushalaim* thereby preventing him from consuming *maaser sheni* but treat him as being inside preventing him for redeeming *maaser sheni* (*Maaser Sheni* 2:5).

The *Mishnah Rishona* finds this understanding of the *Rambam* since that *Mishnah* should have taught we go by the trunk rather than, as it states, we go by the branches. This is because the stringency is we treat the area below the branches outside the gates of *Yerushalaim* as being inside since its trunk is inside.

The *Mishnah Rishona* therefore explains why the *Rambam* did not settle with either of the previous two explanations. Firstly, if the ruling of both *Mishnayot* is determined by the walls, then any reference to the branches or trunks is not appropriate. Furthermore, explaining the two *Mishnayot* according to two different opinions still means that the *Mishnayot* contradict each other.

Instead the *Mishnah Rishona* explains that principally, the walls are the determining factor consistent with the opinion of the *Rabbanan*. When the earlier *Mishnah* explains that we also go by the branches, it means that the *Chachamim* ruled stringently to include any overhanging branches that originated from trees inside *Yerushalaim* to be consider like *Yerushalaim*. They did not rule stringently however in the opposite case – where the tree was planted outside with the branches hanging inside – to consider those branches as if they were outside *Yerushalaim*. The reason being that *maaser sheni* enters *yerushalaim* and not the reverse so the stringency applied to expanding the inside *Yerushalaim* and not the reverse.

### Revision Questions

מעשר שני ב' ר' – ג' ט'

- How does one remedy a situation where a *ma'aser sheni* silver coin and a regular silver coin got mixed together? (ב' ר')
- There is a debate between *Hillel* and *Shammai* regarding redeeming *ma'aser sheni* money with a particular coin – what type of coin do they argue about? (ב' ר')
- Can someone exchange his *ma'aser sheni* copper coins for silver coins? (Include the opinions of *Beit Shammai* and *Beit Hillel*) (ב' ר')
- Can one exchange a combination of *ma'aser sheni* money and fruit for *ma'aser sheni* money? (ב' ר')
- Is there any restriction on the money exchange once one reaches *Yerushalaim*? (Explain all 6 opinions) (ב' ט')
- If one reaches *Yerushalaim* and one son is *tameh* while the other is *tahor*, is there a way they can all eat together? (ב' ר')
- Can one ask someone to take their *ma'aser sheni* to *Yerushalaim* on condition that the messenger will eat a share of it? (ג' ר')
- Can one by *trumah* produce with *ma'aser sheni* money? (ג' ב')
- If one person has *chulin* fruit in *Yerushalaim* and another has *ma'aser sheni* money and needs the money – can the *kedushah* be transferred to the fruit? (ג' ג')
- If someone has fruit in *Yerushalaim* and *ma'aser sheni* money outside *Yerushalaim* can he transfer the *kedushah* from one to the other? What if the money was in *Yerushalaim* and the fruit was outside *Yerushalaim*? (ד' ג')
- Which of the following can be taken in and out of *Yerushalaim*: (ה' ג')
  - *Ma'aser sheni* money?
  - *Ma'aser sheni* fruit?
- In what case is the ruling that when *ma'aser sheni* fruit has passed through *Yerushalaim* it must be return and cannot be redeemed? (Include all opinions) (ה' ר')
- When is a tree that is planted on the border of *Yerushalaim* considered to be inside the city? (Include both opinions) (ו' ג')
- What is the *halachic* status of the interior and roof of a chamber: (ז' ג')
  - Built in the *kodesh* and opening to a non-holy area?
  - Built in *chol* and opening to *kodesh*?
  - Built in both *kodesh* and *chol* with openings to both *kodesh* and *chol*?
- Explain the debate regarding what should be done with *ma'aser sheni* produce that has been brought into *Yerushalaim* and became *tameh*. Does it matter how the *ma'aser sheni* became *tameh*? (ז' ט')
- Explain the debate regarding whether one can redeem produce that has been purchased with *ma'aser sheni* money and has consequently become *tameh*. (ח' ג')

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**Sunday -Thursday**  
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Mizrachi Shul  
Melbourne, Australia

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

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### Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
11 December י"א כסלו	12 December י"ב כסלו	13 December י"ג כסלו	14 December י"ד כסלו	15 December ט"ו כסלו	16 December ט"ז כסלו	17 December י"ז כסלו
Maaser Sheni 3:10-11	Maaser Sheni 3:12-13	Maaser Sheni 4:1-2	Maaser Sheni 4:3-4	Maaser Sheni 4:5-6	Maaser Sheni 4:7-8	Maaser Sheni 4:9-10

