



Volume 10. Issue 11

Late Interest

The *Mishnah* in the fifth *perek* of *Bava Metzia* discusses different forms of interest that one would be forbidden to be involved with. One of these categories is interest that precedes or follows a loan. *Rabban Gamliel* states that if one was considering issuing a loan to an individual, and that individual was to provide an incentive (e.g. a gift) to ensure the loan was made this would be called 'early' interest. Conversely, 'late' interest is if one was to pay back a loan and then send a gift to the lender while mentioning that the gift is to compensate the lender for providing the loan. Both these examples are forbidden under the prohibition of *ribbit*.

The wording of the *Mishnah* seems to imply that the *issur* of late *ribbit* only applies where one paid back the loan with an extra gift *and* mentions specifically that the gift is to compensate the lender for not being able to use those funds for other purposes during the loan period. The *Tur* (*Yoreh D'eah* s.160) uses this implication to rule that if one provided a gift after the loan was paid but did not mention anything there would not be an *issur*. This also seems to be consistent with *Rashi's* interpretation of the *Mishnah*, who explains that the reason one is able to add a gift at the time of paying off the loan is because it was not a condition stipulated when the loan was provided and nothing was mentioned to connect this gift with the actual loan, and therefore the gift itself stands alone.

The *Rishonim* (including the *Ramban*, *Ran* and *Rosh*) point out an apparent difficulty with this explanation. We have explained the *issur* of 'late' interest is due to the fact that one made specific mention of the purpose of the gift, as well as the fact that the gift was not given at the time the loan was paid back. The implication is that the 'late' interest seems to be tied to the person's statement and timing of the gift. If one were to give a gift at the same time as the loan repayment even without mentioning the purpose then it would be *assur* as full-fledged rabbinic interest. From here the *Rishonim* state that the *Mishnah's* category of 'late' *ribbit* only applies where one specifies that the gift was given in order to compensate the lender for the opportunity cost of having his funds tied up with the borrower.

The *Ritva* writes that from this *Mishnah* it is not clear whether the category of 'late' interest applies only in a case where one gives a gift and makes it clear that it is in consideration for the loan. Even if the borrower did not mention it specifically, yet gave a gift it would still be considered 'late' interest due to thoughts in his heart. This means that even if one does not say so specifically, but rather only gives a present to the lender, his internal thought would render that gift into the category of 'late' interest. The borrower's internal thought of gratitude which manifests itself in the giving of a gift to the lender with the loan repayment, is enough to consider the gift as 'late' interest, despite the borrower not making mention of the gift's purpose.

The *Rambam* too writes that 'late' interest is *assur* even where one did not specify why it was given. The *Mishneh Lamelech* differentiates between the *issur* of the lender and that of the borrower. The *issur* of the lender is to receive interest, and there is no *issur* if the borrower does not specify why he is giving a gift. This is due to a *chazakah* that one (i.e. the borrower) will not make himself a *rasha* (i.e. by putting himself in a questionable situation). However, the borrower himself may not provide a gift to the lender, either at the time of paying back the loan, or afterward, and irrespective of whether he specified the purpose or not, since he himself internally knows why he is giving the gift to the lender. This is the case that the *Mishnah* is referring to, i.e. from the point of view of the borrower, which is irrespective of whether he specified the gift's purpose or otherwise.

The *Tur*, through an opinion of the *Smag* (s. 193), brings another interesting idea. There is a distinction between a small gift and a large gift with regard to the gift's express purpose. The giving of a small gift would be permissible without express purpose that it is connected to the loan, as it is relatively insignificant and would not be seen as having any nexus to the loan (and thus no concern of 'late' *ribbit*). However, a larger gift would be problematic, even without express mention of its purpose due to its significance causing the parties to having issues with regard to 'late' interest.

Yehuda Gottlieb

Revision Questions

בבא מציעא ה' ט' ז' ג'

- What is the debate regarding a case where a person sent his son with money, to a shop to purchase a oil? In what case is there agreement? (ה' ט'): "מאזני צדק אבני צדק איפת צדק והין צדק יהיה לכם" (ויקרא י"ט: ל"ו)
- Regarding the previous question, when does *Rabban Shimon ben Gamliel* maintain that these obligations do not apply? (ה' י"א)
- If a seller measured perfectly, what percentage must he add for dry goods? For liquids? (ה' י"א)
- Can a buyer claim *mekach ta'ut* if he purchased fruit, and using them, was not able to grow fruit? (ה' י"א)
- If someone purchased figs, what percentage of wormy figs is acceptable? (ה' י"ב)
- In what case is the purchase of wine that subsequently became vinegar considered a *mekach ta'ut*? (ה' י"ג)
- What is debated regarding the purchase of land to build a "house"? (ה' י"ד)
- What restrictions are placed on one that owns a well in the property of another person? (ה' י"ה)
- What other case is similar to the one in the previous question? (ה' י"ו)
- When do these restriction not apply in this case? (ה' י"ז)
- What is the law regarding a case where a public pathway is running through person's field, and he allocates a another pathway on the side of his field as a replacement? (ה' י"ז)
- How wide is: (ה' י"ז)
 - A private path?
 - A public path?
 - A "king's way"? What else is the same width?
- How large is a grave site? (Include both opinions) (ה' י"ח)
- What is excluded when a person sells another a *beit kur* of "soil"? And when is it included? (ה' י"א)
- How is the *beit kur* measured? (ה' י"ב)
- What is the law if the actual land is smaller or larger? (ה' י"ב)
- How is the law different if the seller said:
 - "Approximately a *beit kur*"? (ה' י"ב)
 - "A *beit kur* between these markers"? (ה' י"ג)

Local Shiurim

Melbourne, Australia

Sunday -Thursday

10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat

10 minutes before *Mincha*
Beit Ha'Roeh
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/

Rav Meir Pogrow
613.org/mishnah.html

Rabbi E. Kornfeld
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
28 th April י"ח אייר	29 nd April י"ט אייר	30 th April כ' אייר	1 st May כ"א אייר	2 nd May כ"ב אייר	3 rd May כ"ג אייר	4 th May כ"ד אייר
Bava Metzia 7:4-5	Bava Metzia 7:6-7	Bava Metzia 7:8-9	Bava Metzia 7:10-11	Bava Metzia 8:1-2	Bava Metzia 8:3-4	Bava Metzia 8:5-6

