



## The Double Share

In the beginning of the week we discussed the laws that apply to a *bechor adam* – first born man – along with what qualifies one as a *bechor*. One of the laws we learnt was that the *bechor* receives a double share in his father's inheritance. The *Mishnah* (8:9) taught that while this is generally true, there are a number of situations where the *bechor* shares equally with his brothers. One such case is the improvement of the property (*shevach*) after the father's death but prior to the division of the estate. We shall try to understand this exception.

The *Tifferet Yisrael* explains that the *shevach* that the *bechor* shares equally is only that which changed over the period, i.e. turned into something else. For example, unripe grain that developed into stalks of grain (*shibolim*). However regarding other changes, like if a tree that become thicker, the *bechor* retains his advantage. The *Tifferet Yisrael* also adds, that if the improvements had come about due to expenditure then *bechor* does take from the improvement unless he objected requesting to divide the property first. This is also how the *Shulchan Aruch* rules (ChM 278:1).

The *Netivot HaMishpat* however finds this distinction between types improvement difficult. If the *bechor* is considered as if he has his received the double share in the land at the time of death, then he should retain his double share in any improvements. If however this is not the case and all the heirs have an equal share until the time of division, then all improvement should be shared equally.

The *Netivot HaMishpat* cites the *Ran* who explains that the double inheritance of a *bechor* is referred to as a *matana* – a gift. With respect to gifts, if one gives another a gift via a third-party who will acquire it on his

behalf, it is not received until the person learns of the gift and is willing to accept it. This is because if the person hears about it and immediately objects, he never acquires the gift. The *Ran*, cited by the *Shita Mekubetzet*, understand that changing improvement during that intermediate period belongs to the giver and not the receiver. The *Netivot HaMishpat* asks that that conclusion is strange. Once the receiver accepts, it is retroactively considered his from the time it was given to the third-party to receive on his behalf. So why then does the *shevach* not belong to the receiver?

The *Netivot HaMishpat* understands that the *Ran* holds the same position as the *Rif*. The *Rif* understands that if one says to a messenger, “give this *shtar shichrur* to my servant” in order to free him, then the servant is not freed until the *shtar* reaches his hand. This is despite the fact that the master cannot retract since the messenger acquired it already on the servant's behalf. The *shtar shichrur* was handed over but it was incomplete until it reaches the hand of the servant.

He continues that this is similar to someone how gives a gift of land to someone “from now and after death”. During that intermediate period only improvements in the land itself belong to the receiver. However, any improvements of change are considered like a product (*peivot*) and are retained by the giver. Likewise, since the *Torah* specifically used the concept of *netina* when referring to the extra share enjoyed by the *bechor*, it was referring to similar arrangement. The *Torah* was particular that when the inheritance is divided only those improvements in the land itself are retroactively owned by the *bechor*. However any improvement of change (unripe grain into stalks) is considered *peivot* and shared equally amongst the brothers.

*Yisrael Bankier*

### Revision Questions

בכורות ח' ה' ט' ח'

- What two cases involving the children of two fathers are similar to the cases already provided and in which specific detail is the law different? (ח' ה' ו')
- If a *bechor* is old enough such that he is obligated to redeem himself, which takes preference: redeeming himself or redeeming his son? (ח' ו')
- Who much money is used for *pidyon bechor*? (ז': ח')
- Which other payments use this currency? (ז': ח')
- Which is the only "redemption" that cannot be performed with something of value and must use money? (ז': ח')
- What other items cannot be used for *pidyon bechor*? (ח': ח')
- From what items does the *bechor* not receive double? (ט': ח')
- What transactions are not returned in the *yovel* year? (י': ח')
- Explain the debate regarding whether a gift is considered a sale regarding *yovel*. (י': ח')
- Does *ma'aser beheima* apply outside *Eretz Yisrael*? (ט': א')
- To which animals does *ma'aser beheima* apply? (ט': א')
- Which of the following is allowed: (ט': א')
  - Taking *ma'aser* from this year's animal for last year's animals.
  - Taking *ma'aser* from sheep for goats.
- What is the maximum distance between two herds that would still combine them to require the separation of *ma'aser beheima*? (ט': ב')
- Under what circumstance could two herds still combine beyond that distance? (ט': ב')
- In which two circumstances would one be exempt from separating *ma'aser beheima* from his herd? (ט': ג')
- When would two brothers, heirs to their father's estate, be exempt from separating *ma'aser beheima*? (In such a case, what would they be obligated to do regarding *machatzit ha'shekel*?) (ט': ג')
- Which five animals born to the herd are not included in the group for separating *ma'aser beheima*? (ט': ד')
- What are the three opinions regarding the three times (*geranot*) during the year that one must separate *ma'aser beheima*? (ט': ה')
- What are the two opinions regarding the "Rosh Hashanah" for *ma'aser beheima*? (ט': ה')
- What does *ben Azai* rule as a result of this debate? (ט': ה')
- Do ten animals born on each side the "goren" combine to obligate on to separate *ma'aser beheima*? (ט': ו')
- Why were the *geranot* instituted? (ט': ו')
- Describe how one would separate *ma'aser beheima*. (ז': ט')
- Explain the debate regarding one who simply selected ten animals from one hundred as *ma'aser*. (ז': ט')
- What is the law if a *ma'aser beheima* got mixed with the untithed animals? (ז': ט')
- What is the law if one called the ninth, tenth or eleventh animal as the tenth? (ט': ח')
- Explain the debate how the eleventh animal (described in the previous question) is dealt with. (ט': ח')
- What is the law if one called to the ninth, tenth and eleventh animal as the tenth? (ט': ח')

### 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/](http://www.shemayisrael.com/mishna/)

*Rav Meir Pogrow*  
[613.org/mishnah.html](http://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  
 Then select: 1 – 2 – 4

### Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
13 <sup>th</sup> July ט"ו תמוז	14 <sup>th</sup> July ט"ז תמוז	15 <sup>th</sup> July י"ז תמוז	16 <sup>th</sup> July י"ח תמוז	17 <sup>th</sup> July י"ט תמוז	18 <sup>th</sup> July כ' תמוז	19 <sup>th</sup> July כ"א תמוז
Erchin 1:1-2	Erchin 1:3-4	Erchin 2:1-2	Erchin 2:3-4	Erchin 2:5-6	Erchin 3:1-2	Erchin 3:3-4

