



Resident – For Tax Purposes

The *Mishnah* (1:5) debates a city's various infrastructural needs and whether the residents are obligated to contribute in funding them. The *Mishnah* then asks that if a person moves to a city, when do they become defined as a resident? The *Mishnah* answers that this is if the person has been living there for twelve months. If however they purchased a house there, then they would immediately be obligated to pay taxes. How do we understand the twelve months window?

The *Mordechai* cites *Rabbeinu Baruch* who explains that the twelve month time limit only applies to people that are passing through the city. If however someone moved to the city with the intention of staying, even if he is only renting, he is considered like one that purchased a property and would be required to contribute immediately.

The *Nimukei Yosef* (5b) however explains that the twelve-month window applies to everyone – even one that wished to move to the city.¹ The *Ran* also maintains this position since the *Mishnah* does not differentiate between why the person has come to the city when teaching this law.

The *Rivash* (132) who also agrees with this position, continues that if one rented a property for twelve months then it would be considered like purchasing a property. He explains that the *Mishnah* does not specifically require one to purchase a property to be considered a resident. While it is true that intention alone does not qualify, taking an action that demonstrates the intention to stay longer than twelve months does.

Interestingly the *Rivash* (475) also rules that if someone is obligated to live in a city for more than twelve months then he is also immediately considered part of that city. At first, the responsa appear to contradict the previous one and aligns more closely with *R' Baruch*. Yet *HaRav Eliyahu Lichtenstein*² explains that that responsa refers to a *chazan* who is contracted to work in that city. The agreement would constitute an overt action demonstrating his intent to stay in

the city. Consequently, it is consistent with the previous responsa that only intention partnered with an action would qualify.

The *Iggrot Moshe* addresses the case of whether *Bnei Yeshiva*, individuals or young married couples, that are living in a town temporarily to study in *Yeshiva* or *Kollel*, are considered residents for these purposes. The *Iggrot Moshe* cites the *Rama* who rules like the *Mordechai*, that the twelve-month rule only applies to someone without the express intent of whether they are moving permanently. Recall that the *Mordechai* ruled that if someone moved to the city, it would be considered as if he purchased a property. The *Iggrot Moshe* explains that the logic also works in reverse. In other words, if someone move to a city, but knew from the outset that the move was temporary, even if the duration is several years, they would still not be considered a resident for these purposes.

The *Iggrot Moshe* continues by entertaining the possibility that it does not work both ways. He explains the debate between the *Nimukei Yosef* and the *Mordechai* as follows. For the *Nimukei Yosef* the law is dependant on timing while for the *Mordechai* it is dependant on intention. The *Iggrot Moshe* explain that perhaps the *Rama* disagrees with the *Nimukei Yosef* if one came with the intention of staying (siding with the *Mordechai*). Yet, he might agree with the *Nimukei Yosef* that once one stays in a place for more than twelve months he is considered a resident irrespective of his intention. Nevertheless, a *kollel* member that came to learn for three years after marriage might still be exempt. This is because his staying there can be defined as being *ones* – forced. The *Rama* rules in such a case, where circumstances beyond one's control keeps them in the city for longer than twelve months, they are not considered a resident. The *Iggrot Moshe* argues that the *yeshiva* student's situation qualifies as *ones*, for one does not merit to learn successfully from anyone, and this *yeshiva* may be his only option.

Yisrael Bankier

¹ The *Nimukei Yosef* notes when the *Mishnah* states that if he purchased a property, he is obligated immediately, that is only if he lives in that property. Otherwise, he would only be required to pay

for the infrastructure or services that benefit the house. See however the *Chazon Ish* (4:20)

² In the footnotes to the *Ran*, *Mosad HaRav Kook*.

Revision Questions

בבא בתרא א' - ב' - ח'

- Explain how a fence is to be constructed when dividing a property that had joint ownership. (א': א')
- How do they determine which material should be used for the fence work? (א': א')
- Regarding which property is one not able to force his partner to construct a fence? (ב': א')
- According to *R' Yosi*, if one neighbour constructed a fence, what would the other neighbour have done such that we can now obligate him to share in the construction cost? (ג': א')
- What is the maximum height of the fence that members of a shared-courtyard are obligated to contribute to the construction cost? (ד': א')
- What other feature of a courtyard is debated as to whether the cost can be placed on all members? (ה': א')
- What qualifies a person to be a citizen of a city? (ה': א')
- How large must a shared courtyard be before it can be subdivided? (ו': א')
- How large must a shared field be before it can be subdivided? (ו': א')
- How large must a shared garden be before it can be subdivided? (ו': א')
- What item can never be divided? (ו': א')
- What must one do if he wishes to dig a hole near the hole of his neighbour? (ב': א')
- What other three things must be distanced from the fence at that same distance? (ב': א')
- What are the restrictions placed on the installation of an oven? (ב': ב')
- Can the residents of a shared courtyard prevent another from: (ב': ג')
 - Opening a shop?
 - Producing pottery?
 - Opening a *cheder*?
- Are there any restrictions when building a wall near a neighbour's window? (ב': ד')
- What other case brought in the *Mishnah* has a similar ruling? (ב': ד')
- How far must one distance his ladder from his neighbour's dovecote? (ב': ה')
- Is there a restriction on the construction of a dovecote in one's property? What is *R' Yehuda*'s opinion? (ב': ה')
- How does one determine the ownership of a stray *gozal*? (Include both scenarios.) (ו': א')
- Is there a limit on where trees can be planted outside a city? (ו': ב')
- Which trees have a greater restriction? (ו': ב')
- Is the city required to pay the owners of the trees when clearing them from the outskirts of the city? (ו': ב')
- What are the restrictions on building a threshing floor? (ו': ח')

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

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Rabbi Chaim Brown
www.shemayisrael.com/mishna/

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

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
17 February י"ב אדר	18 February י"ג אדר	19 February י"ד אדר	20 February ט"ו אדר	21 February ט"ז אדר	22 February י"ז אדר	23 February י"ח אדר
Bava Batra 2:9-10	Bava Batra 2:11-12	Bava Batra 2:13-14	Bava Batra 3:1-2	Bava Batra 3:3-4	Bava Batra 3:5-6	Bava Batra 3:7-8

