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Bava Basra Daf 55

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

A Gentile’s Land and Taxes

Rav Huna bar Avin sent: If a Jew bought a field from a gentile, and another Jew came and occupied the land, we do not take it out of his hands (*as the land is as if it is ownerless*), and Rabbi Avin, Rabbi Ila, and all our Rabbis agree on this matter.

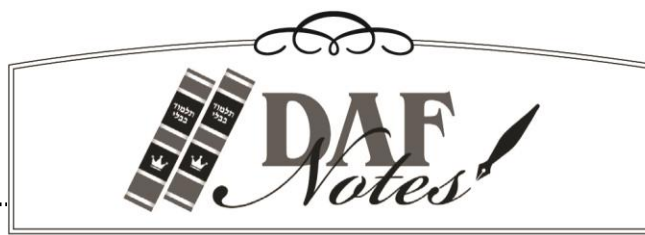
Rabbah says: These three things were stated by Ukvan bar Nechemyah, head of the Exilarch, in the name of Shmuel. The law of the kingdom is the law; a Jew cannot make a claim on another Jew who buys land from a Persian who owned the land for forty years (*for that is the amount of time it takes for them to establish a chazakah according to their laws*); and the rich people who (*by paying their taxes*) buy the land of poor people who could not afford to pay their taxes have indeed made a valid purchase. However, this last law is only true if the tax that was unpaid was the property tax. However, if their land was seized because they did not pay a head tax, the purchase is invalid. Why? This is because the head tax is collected from the person, not the land. [*The law of the land is not to collect the land, but to collect it from the person himself.*]

Rav Huna the son of Rav Yehoshua says: Even the barley in his pitcher is indebted to the king for the head tax. [*Therefore, his land is indebted as well, and if someone purchases his land that was possessed by the authorities due to the head tax, the seizure is valid.*]

Rav Ashi says: Huna bar Nassan said to me that Ameimar had difficulty with Rav Huna’s statement. If it is true, you have nullified the inheritance of a firstborn, as you have made his father’s property into a prospective asset!? A firstborn does not inherit a prospective asset like he inherits things that are clearly in the possession of his father when he dies! [*A firstborn only gets a double portion of possessions that are clearly in his father’s possession when his father dies, not what comes into the estate’s possession after his father dies. Being that a king is considered to own the possessions of people who have died and not yet paid taxes, all property is really his, and accordingly, the firstborn should not get a double portion.*]

Rav Ashi asked on Ameimar’s position: If this logic is true, it should also be true because of the property tax!? [*Since the land is mortgaged to the king for the property tax, it should be regarded as a prospective asset!?*] Rather, it must be that the firstborn inherits his double portion in a case where the property tax was paid before the father died. Accordingly, the case of the head tax is also where he paid the head tax at the beginning of the year and then he died.

Rav Ashi says: Huna bar Nassan told me the following statement: I asked the scribes of Rava, and they told me that the law follows Rav Huna the son of Rav Yehoshua.



The *Gemora* says: This is incorrect. The scribes wrote this to justify actions they had done according to Rav Huna (*but Rava did not agree*).

Rav Ashi says: An unemployed person must pay his portion of the taxes. This is only if the people in the city exempted him (*by convincing the tax collectors to have mercy on him*) from paying his share (*and thereby raised the burden on the other residents; he is then required to reimburse them*). If the tax collectors (*on their own accord*) never bothered him or asked about him, it is Divine help (*and he does not have to pay at all*). (55a)

Dividers

Rav Assi said in the name of Rabbi Yochanan: A border or *chatzav* tree planted in between two fields divide the fields with respect to a deceased convert's property. [*If a person acquires one of them when the convert dies, he must actively acquire the other as well.*] However, regarding *pe'ah* (*a corner of the field is left over for the poor*) and impurity, they are one field.

When Ravin arrived (*in Bavel from Eretz Yisroel*), he said in the name of Rabbi Yochanan: Even for *pe'ah* and impurity, they are two separate fields.

The *Gemora* asks: What is the case of *pe'ah*? The *Mishna* states: These divide a field (*and turn it into two separate fields*) regarding *pe'ah*: Hard land (*filled with rocks; it is not fit for planting*), a gathering of rainwater, and a public or private road or path that is permanent in both hot and rainy seasons.

The *Gemora* asks: What is the case of impurity? The *Mishna* states: If one entered open fields during the

rainy season (*when one is forbidden to walk through other people's fields, for he will damage the produce growing there*), and there is a grave in one of the fields, and he said, "I entered that area, but I am uncertain if I entered that specific field." Rabbi Eliezer maintains that he is *tahor* and the *Chachamim* maintain that he is *tamei*. Rabbi Eliezer posits that a doubt regarding entering an area is rendered *tahor* even in a private domain and a doubt regarding coming into contact with *tumah* is rendered *tamei*. In this case there is an uncertainty whether the person even entered the field that contains that grave, so Rabbi Eliezer rules that he is *tahor*. This is because Rabbi Eliezer maintains that there are two doubts here. One doubt is if the person entered the field in question, and even if he entered that field, did he pass over the grave. If he is unsure if he touched the grave or not, but he knows he went into that field, he is *tamei*. [*This is where the ruling above is relevant; if there is a border between the two fields, it is regarded as two fields, and if he entered one, but the grave is in the other field and he is uncertain if he entered that field, he is tahor.*]

The *Gemora* says: However, regarding *Shabbos* (*regarding the matter of carrying on Shabbos from a private domain to a public one*), it does not divide. [*If a man takes out half of a dried fig into a public domain and puts it down, and then takes out another half of a dried fig and puts it down in a different public domain that was separated from the other by a border, it would not be regarded as a divider and he will be liable for carrying on Shabbos.*] Rava says: It even divides regarding *Shabbos*. For we learned in a *braisa*: If a man takes out half of a dried fig into a public domain and puts it down, and then takes out another half of a dried fig, the *halachah* is as follows: If it was in one spell of forgetfulness (*that it was Shabbos*), he is liable (*to bring a korban chatas*); but if it was in two spells of

forgetfulness, he is not liable (*for it is regarded as two distinct actions*). Rabbi Yosi said: If it (*the two times that he took out food in the amount of half a fig*) was in one spell of forgetfulness and it was placed in the same public domain, he is liable. However, if it was placed in two public domains (*separated from each other*), he is exempt from liability.

And Rabbah said: This is only the *halachah* if there is between the two public domains a place that would render him liable to a *chatas* offering (*such as a private domain, for if one would carry an object from a public domain into a private one, he would be liable to bring a chatas*), but not if there is only a *karmelis* (*an area that is four tefachim by four tefachim, but it is not a private or public domain*) in between. [*A private domain would separate the two public domains, but a karmelis would not.*] Abaye said: They are separate domains even if there is only a *karmelis* between them, but not if there is only a block of wood. Rava said: They are separate domains even if there is a block of wood between them. And Rava's opinion here follows his other view that a domain with respect of *Shabbos* has the same meaning as a domain with respect of divorces. [*The Rashbam cites the Gemora in Gittin (77b) to explain this: A certain man threw a get to his wife as she was standing in a courtyard and it went and fell on a block of wood. Rav Yosef thereupon said: We have to see: If the block was four amos by four, it forms a separate domain (and she will not be divorced), but if not, it is the same domain as the courtyard. This ruling applies to a case where it his courtyard and he lends her a place in it to accept the get. She will not be divorced if the block is four by four, since men will usually lend one place but not two places (and the block is not the place that he lent to her; if it is not four by four, then it is regarded as part of the place that he lent her). Similarly,*

this block of wood is considered a divider with respect to Shabbos.] (55a – 56a)

INSIGHTS TO THE DAF

The Quantification of Shabbos Prohibitions: Practical Applications

By: Meoros HaDaf HaYomi

Cooking is a labor (*melachah*) forbidden on *Shabbos*, occurring when liquid or solid foods or other substances improved by heating, like pigments, are even parboiled. Utensils containing hot liquids are defined in three categories: A **primary** utensil (*keli rishon*) holds a boiling liquid and continues to be **primary** even off the fire or electric plate as long as an average adult's hand recoils from its contents. Liquid poured directly from there cooks the external layer of any solid, uncooked food and a small amount of any cold liquid, even water (*Shulchan 'Aruch, O.C. 318:10*; see *Mishnah Berurah, ibid, S.K. 82*). A container having received liquid from a *keli rishon* is called a **second utensil** (*keli sheni*) and likewise cooks in many circumstances as long as one's hand recoils from its contents. A container receiving liquid from a *keli sheni* is a **third utensil** (*keli shelishi*) and virtually never cooks.

Making a glass of tea on *Shabbos*: A person wanting to make a hot drink on *Shabbos* might rinse a cup, inadvertently neglect to dry it or shake it out thoroughly and pour boiling water into it from a *keli rishon*. Most *halachic* authorities forbid this as the boiling water cooks the small amount of cold water in the cup (see *Responsa Igros Moshe, O.C., I, 93*; *Responsa Minchas Yitzchak, IX, 30*). They raise the question as to whether cooking a few drops of water is actually prohibited by the Torah – *d'oraisa* – or by

rabbinical decree (*derabanan*). As we shall see, the topic is linked to Rashbam's interpretation of a certain example cited in our *sugya*.

Rabbi Yochanan holds that "half a prohibited quantity is forbidden by the Torah" (Yoma 74a). Forbidden substances or acts are quantified according to measures received by Moshe Rabbeinu at Sinai. The minimal amount of food prohibited on *Yom Kippur*, for example, is equivalent to the volume of a large date. A person eating less is not punishable but, according to Rabbi Yochanan, is still forbidden to do so by the Torah. ["Half a quantity" does not mean only a half but rather, less than the halachically prohibited amount; we shall therefore hereon use the term "subquantity."] Many Rishonim maintain that this rule also applies to *Shabbos* (Rashi, *Shabbos* 74a, s.v. *Vechi mutar*; Ritva and *Hagahos Ashri*, *ibid*; see *Mishneh LeMelech, Hilchos Shabbos, 18:1*). For instance, according to Rambam, the quantity of water forbidden to heat on *Shabbos* is enough to wash a baby's pinky (*Hilchos Shabbos, 9:1*). Following the above opinion, someone boiling less is not punishable in any earthly *beis din*, but is still prohibited from doing so by the Torah. Some *halachic* authorities, though, cite Rashbam's reasoning that this principle does not pertain to *Shabbos*.

The amount of food forbidden to carry on *Shabbos* from a *reshus hayachid* (literally, a "private domain" but actually any area, even ownerless, bound by certain enclosures) to a *reshus harabim* (a public domain having a certain breadth and other conditions) is equivalent to the volume of a dried fig. Our *sugya* mentions a person who carries out a subquantity of food and, according to Rashbam (s.v. *Bemaseches Shabbos*), he is innocent of any transgression as the Torah calls *Shabbos* labor *melech machsheves*: "skilled" or "important" work. *Shabbos* labor is

quantified by its **importance**, a condition that defines *melachah*, and a subquantity is therefore not *melachah* at all. By comparison, eating a subquantity on *Yom Kippur* is still eating and a partial transgression of the "affliction" demanded by the Torah (Vayikra 17:29). [This meaning is just one definition of *melech machshaves*; see also Rashi in *Chagigah 10b*.] A subquantity of any prohibition, though, is outlawed at least *derabanan* (see *Shabbos, ibid*) and we must therefore assume that Rashbam would rabbinically forbid pouring from a *keli rishon* on a subquantity of cold water, such as in our example (see *Responsa Divrei Yatziv, O.C. 156*; *Responsa Shevet HaLevi, VII, 136*).

DAILY MASHAL

A Stamp Without a Letter

As the rabbi of Poznan, Rabbi Akiva Eiger zt"l cared for his community like a merciful father, daily visited the ill and saw to their medical treatment. When a plague engulfed the city, he led the efforts to overcome it. News of his dedication reached the emperor, who sent him a letter of appreciation. After a while, a government minister needed to make his way through Poznan and the emperor asked him to form an impression of the revered rabbi. During his visit, the minister expressed his curiosity about a small box of torn stamps on the rabbi's desk. "The sale of postage stamps is part of your internal revenue", replied the rabbi. "I often have to send a letter with a private courier and I then tear up a stamp to prevent a loss to the government." His explanation stunned the emperor and his cabinet and the Kiddush Hashem brought great honor to the Jewish community (Emunas HaTechiyah). (Today the sale of stamps funds postal services but in that era it was a form of indirect tax, similar to our sales tax).