

## Learning How to Give

### *Tzedakah and Maaser Kesafim*

“Reuven,” a businessman, had always been careful to give ten percent of his income (*maaser*<sup>1</sup>) to charity. Whenever he could he would give even more, at times as much as twenty percent (*chomesh*<sup>2</sup>). One day his partner and co-worker urged him to join him at a fund-raising event for Jerusalem’s Mir Yeshivah. Reuven hesitated; he just wasn’t the type to attend such functions, and he had never seen himself as a major philanthropist. Eventually, although still hesitantly, he agreed, and pledged 30,000 NIS (at the time, approximately \$8,000 U.S. dollars). Previously he had not imagined making such a major commitment, but he appreciated the importance of the cause and decided that it was worth the special effort to contribute generously to Torah.

At 10:30 p.m. that same night, the manager of Reuven’s convenience store in the Old City called, asking if he could close early since it was a quiet night with no customers in sight. Reuven was not enthusiastic, but he agreed that if there were no customers by 11:00 p.m., half an hour later, the manager could close for the night.

The next morning, the manager reported that he had not been able to close the store until 4:00 a.m! Customers had suddenly started coming in droves, bringing in over five times as much business as any ordinary night. Reuven had become “the type” to give *tzedakah* on a large scale, and his business promptly reacted in kind.

Reuven’s generosity for Torah was a special effort, and he saw special blessing. His ongoing practice of giving at least ten percent of his income to charity is strongly rooted in *halachah* and has ancient origins – and it is no less a source of blessing.

### The Biblical Obligation to Give Charity

The obligation to give *tzedakah* (charity) is based on a number of *pessukim* in the Torah. For example, the Torah tells us, “If there will be a destitute person among you, any of your brethren in any of your cities, in your land which Hashem your G-d gives you, do not harden your heart and do not close your hand to your destitute brother. For you shall surely open your hand to him, and you will lend to him<sup>3</sup> what he lacks” (*Devarim* 15:7-8). With these words, the Torah commands us to supply the needs of a fellow Jew. We are not obligated to make him rich, but we should provide for him in keeping with the standard he is accustomed to (Rashi, citing *Kesubos* 67b).

As we learn from these *pessukim*, charity is both a Torah ordained positive commandment – “You shall surely give him” – and a negative commandment – “Do not harden your heart and do not close your hand.”

### The Origins of Giving Ten Percent (“*Maaser*”)

We find the concept of “tithing” one’s assets – giving specifically ten percent – in operation as far back as the *Avos* (Forefathers).

<sup>1</sup> Derived from *esser*, the Hebrew word for “ten.”

<sup>2</sup> Derived from *chamesh*, the Hebrew word for “five.”

<sup>3</sup> If he does not want to accept outright charity, we should offer him the money as a loan (Rashi).

- Avraham “gave him [Malki Tzedek, a ‘priest of G-d’] one tenth of everything” (*Bereishis* 14:20). Based on this *passuk*, the *Raavad* writes that Avraham was the first to tithe financial assets (*Hilchos Melachim* 9:1).
- “Yitzchak planted...and in that year he reaped a hundredfold” (*Bereishis* 26:12). Rashi writes that he assessed the field’s produce in order to separate tithes (see *Bamidbar Rabbah* 12:11). According to the Rambam, we learn from here that Yitzchak was the first to tithe financial assets (*Hilchos Melachim* *ibid.*).
- Yaakov said, “And all that You give me, I will surely tithe for You” (*Bereishis* 28:22). With this declaration, Yaakov instituted tithing of financial assets (*Daas Zekeinim miBaalei Tosfos*, citing the *Midrash*).

Another source for the concept of *maaser* is the Torah’s commandment to take tithes from agricultural produce: “You shall surely tithe *all* the grain of your planting which comes from the field, every year” (*Devarim* 14:22). *Sifre* points out that the two words *es kol* (“all”) in this *passuk* appear to be redundant; the message of the verse is clear enough without them. These two “extra” words indicate that the commandment to separate tithes extends beyond agricultural produce: “They include interest received, business profits, and all other earnings, which are obligated in tithes.” This is known as *maaser kesafim*, tithing financial assets.

### The Nature of the Obligation

The *poskim* agree that the *mitzvah* to give *tzedakah* in general is Torah ordained (*d’Oriesa*). According to a minority opinion based on the *Sifre*, the obligation to give specifically ten percent of one’s income (*maaser kesafim*) is also Torah ordained (see Responsa *Shaar Efraim* 84, note by the author’s son; see also Responsa *Chasam Sofer*, vol. 2, *Yoreh Deah* 232, citing the *Maharil*<sup>4</sup>). However, many *poskim*, among them the *Noda B’Yehudah* (*Mahadura Kama*, *Yoreh Deah* 73), rule that the obligation to give ten percent is of rabbinic origin (*d’rabbanan*).

According to a third group of *poskim*, most prominently the *Bach*, giving specifically ten percent is neither *d’Oriesa* nor even *d’rabbanan*, but only a custom (*Bach*, *Yoreh Deah* 331). The *Taz*, the *Bach*’s son-in-law, expresses surprise at his father-in-law’s opinion. He points out that the obligation to give *maaser kesafim* is explicit in the *Shulchan Aruch* (*Yoreh Deah* 249) and the *poskim* (*Taz*, *Yoreh Deah* 331:32).

Rav Eliezer Yehudah Waldenberg (1915-2006), author of Responsa *Tzitz Eliezer*, cites the opinion of the *Taz* – in opposition to the *Bach* – who rules that giving *maaser* is clearly an obligation. The *Tzitz Eliezer* writes that the *Bach* really meant that one who gives *maaser* certainly fulfills the *mitzvah* of giving charity.<sup>5</sup> However, the Torah does not obligate<sup>6</sup> us to give specifically ten percent of our income for *tzedakah* (vol. 9, 1, Chapter 1:8).

<sup>4</sup> Although the *Maharil* himself states explicitly that *maaser kesafim* is *d’rabbanan* (Responsa *Maharil* 84).

<sup>5</sup> He earns the merit of doing an optional *mitzvah* which he is not specifically obligated to do (*kiyum mitzvah*).

<sup>6</sup> Unlike positive commandments such as *tefillin* which we are obligated to fulfill, there is no obligation (*chiyuv*) to give *maaser kesafim*, although it is certainly praiseworthy and earns the merit of a *mitzvah*.

According to Rav Waldenberg, the majority opinion is that *maaser kesafim* is *d'rabbanan*, with many opinions holding that it is only a *minhag* (custom) (Responsa *Tzitz Eliezer*, vol. 10, 6). However, according to the *Minchas Yitzchak*,<sup>7</sup> the majority opinion is that *maaser kesafim* is only a *minhag* dating back to the Forefathers (Responsa *Minchas Yitzchak*, vol. V, 34:3-4).

The *Minchas Yitzchak* writes that classifying *maaser* as a *minhag* has practical ramifications: one who takes on the custom, or who has given *maaser* at least three times (even if he did not make any explicit plans to continue), has thereby halachically committed to this custom as a binding vow (*neder*). He may not discontinue his practice unless he annuls the vow. To avoid problems, the Chafetz Chaim advises that when we begin giving *maaser*, we should declare in advance that it is “*bli neder*” – we are not adopting it as a *neder* (*Ahavas Chesed*, Part 2, Chapter 18, 2).

### What Should We Give?

Is everyone obligated to give *maaser*, or does *halachah* recognize exemptions and exceptions?

#### One Who Cannot Afford to Give

The *Rema* writes that one’s own *parnassah* (livelihood) takes precedence over that of any other person; we are not obligated to give charity until we have enough for our own support (*Yoreh Deah* 251:3).

Not surprisingly, there is no one definite, black-and-white criteria defining the needs of “one’s own *parnassah*.” Rav Yaakov Bloy,<sup>8</sup> author of *Tzedakah U’Mishpat*, writes that while he has no clear definition of what is included in one’s personal needs, the *poskim* do provide basic guidelines. *Parnassah* includes enough for food, clothing, and housing, necessities which should be covered before we give charity. He cites Responsa *Teshuras Shai* (Part 1, 270), who writes that this issue is subjective, and depends on individual circumstances.

Rav Bloy goes on to cite the *Aruch HaShulchan*<sup>9</sup> (*Yoreh Deah* 251:5): the *Rema*’s ruling that “one’s own *parnassah* takes precedence” refers to one who is only earning enough for bare bread and water. However, one who makes a comfortable living, and can afford to dress well and eat good meals including meat, is certainly obligated to give a tenth or a fifth of his income to charity.

Rav Bloy points out that the *Aruch HaShulchan* seems to be describing two extremes. At one end is a minimum of bread and water, and at the other, meat and good food. Clearly, there is something in the middle. Many people today have more than bread and water, but cannot afford meat every day and make do with what they have. At times, they will forego an article of clothing or other needs because they cannot afford

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<sup>7</sup> A ten volume collection of responsa by Rav Yitzchak Yaakov Weiss, (1902-1989), a noted *rav* and *posek*.

<sup>8</sup> Rav Yaakov Bloy (1929-2013) was a Jerusalem *rav* and *posek*, renowned for his expertise in the field of halachic issues related to finance.

<sup>9</sup> A major commentary on *Shulchan Aruch* by Rabbi Yechiel Michel Epstein (1829-1908), first published in 1884.

them. Someone like this might even qualify to receive charity himself, since he lives below the accepted standard in his community.

He concludes that one who does not have enough for ordinary needs, and at times does without, is exempt from giving *maaser* (ten percent), and certainly *chomesh* (twenty percent). However, he should not exempt himself entirely from the *mitzvah* of giving charity. In any case, it is a *mitzvah* for him to refrain from accepting charity funds even if this means that he will not be able to give *maaser* – it is certainly better than taking and then giving *maaser* (*Tzedakah U'Mishpat*, Chapter 1, note 15).

### **Tzedakah Brackets**

*Chazal* established that even a pauper who is supported by charity funds is himself obligated to give charity (*Gittin* 7b). Everyone should give at least a minimal sum to *tzedakah*. The question is, how much should we be giving?

In countries with a progressive income taxation system, such as the United States, South Africa, the United Kingdom and Israel, income taxes are calculated in “tiers” or “brackets.” The tax rate increases as one’s taxable income increases; the more one earns, the higher the percentage of tax he pays.

In *tzedakah* too there are tiers. Unlike income taxes, however, when it comes to *tzedakah*, we can pick our own tier. As we will explain, giving twenty percent is the ideal; giving ten percent is considered an “average” *mitzvah*; while giving less, for those who can afford to give the ten or twenty percent, is considered miserly.

### **Minimum Donation**

We learn from *Chazal* that the absolute bare minimum in giving charity is a very small sum: “One should never give less than one third of a shekel a year” (*Baba Basra* 9a). The *Ritva*<sup>10</sup> writes that this figure is based on the obligation to donate half a *shekel* to the *Beis HaMikdash* each year (*Shmos* 30:13). Due to changes in currency values, the half a *shekel* of ancient times was the equivalent of a third of a *shekel* in the time of *Chazal*.

According to *Tzedakah U'Mishpat*, *Chazal*’s third of a *shekel* was the equivalent in 2003 of 7.5 NIS in Israeli currency, or \$1.60. In today’s values (2012) it would be \$1.99, or about 8 NIS. Whatever our circumstances, then, everyone should give at least two dollars a year to *tzedakah*.

### **Maaser – Ten Percent**

Another basic figure is ten percent of our earnings, literally *maaser*, which means “one tenth.” Giving ten percent, writes the *Shulchan Aruch*, is considered average. For one who has the means, giving less is “*ayin ra’ah*,” stinginess (*Yoreh Deah* 249:1).

This amount is based on the Biblical commandment concerning tithing agricultural produce. *Chazal* tell us that giving ten percent of our income to charity brings with it special blessing. The Torah says, *Asser te’asser*, “you shall tithe and tithe again from all the produce of your planting which comes out of the field, every year” (*Devarim*

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<sup>10</sup> Major commentary on the Talmud by Rav Yom Tov ben Avraham of Seville (1250-1330), a prominent *Rishon*.

14:22). The Torah's use of the apparently redundant double wording "*asser te'asser*" carries a promise: *asser bishvil shetis'asher*, separate tithes so that you will become wealthy (*Taanis* 9a). *Tosfos* cites the *Sifre* which extends this commandment and the blessing it brings to include *maaser kesafim* as well.

*"Akiva" had just returned from a successful set of meetings out of town. As he walked into his office, he decided to celebrate by donating five hundred dollars to his shul, which was having financial difficulties. The check was soon on his desk in a stamped envelope, ready to be mailed. Two hours later, a former business associate called. He told Akiva that to his great anger, someone who owed him money was not paying. It suddenly occurred to him that he still owed Akiva money for work he had done two years ago, on a project which later fell through. He understood now how angry Akiva must have been at the time, and he wanted to make amends. He was putting a check in the mail... for five hundred dollars.*

*Tosfos* writes that one who does not give the necessary tithes will ultimately be left only with what "comes out of the field" – in other words, his crops will dwindle until he is left only with the ten percent which should have been given as *maaser* (see *Bamidbar* 5:10).

*A wealthy man owned a fertile field which produced an impressive annual crop of one thousand kur (a measurement of quantity used in the time of Chazal). Every year the owner faithfully separated one hundred kur for maaser. Before his death, he warned his son to continue to give the hundred kur yearly as maaser. The first year, the field produced as usual and the son dutifully gave the maaser. The second year, though, he decided that a hundred was really too much to just give away... The following year, that same field produced only one hundred kur, instead of the usual thousand! He was devastated. Word spread, and his relatives came to visit, dressed in festive white. Hurt by their behavior, he asked why they were celebrating his downfall. They replied, "Do you expect us to feel bad for you for bringing this on yourself? Why didn't you give maaser properly, as you should have?" They told him that initially, he had been the owner of the entire field, and the Al-mighty was the Kohen, allocated the ten percent to be given to the poor. Now the roles were reversed. The Al-mighty had retained the whole field, allowing the son, like a Kohen, only ten percent (midrash cited by Tosfos).*

The Torah tell us, "Each man's sanctified gifts shall be his; what a man gives to the *Kohen* shall be his" (*Bamidbar* 5:10). Understood simply, "shall be his" means "shall be the *Kohen's*" – whatever is given to the *Kohen* becomes his. However, we can also understand the pronoun "his" as referring to the giver – what he gives to charity will always remain his. Rav Yissachar Frand<sup>11</sup> illustrates this point with a story which took place in the early decades of the twentieth century.

*Rav Moshe Mordechai Epstein, rosh yeshivah of the famed Slobodka Yeshivah in Europe, visited the United States in 1924 to raise desperately needed funds for the yeshivah. While still in New York, he received an urgent telegram. The yeshivah's students faced imminent draft into the Lithuanian army, a disaster on every possible level. As an emergency measure, the yeshivah was relocating one hundred fifty students to Eretz Yisrael, removing them from the grip of the Lithuanian government.*

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<sup>11</sup> A prominent *Rosh Yeshivah* at Ner Israel, Baltimore, and a popular speaker and author.

The cost was enormous – \$25,000 in 1924 currency.<sup>12</sup> Perhaps miraculously, Mr. Schiff, a wealthy New York Jew, donated the entire sum.

During the Depression, only a few years later, Mr. Schiff lost his fortune and was literally living in the basement of a building he had previously owned. Rav Moshe Mordechai's son-in-law, Rav Yechezkel Sarna, came to the United States in the 1930's to raise money for the yeshivah, and Mr. Schiff, now impoverished, spoke at a parlor meeting. He told the group at the meeting that everything he had ever owned was gone; all he had left of his vast investment empire was the \$25,000 he had given to establish the Chevron Yeshivah.<sup>13</sup> That belonged to him and his family forever, and could never be lost.

### **Chomesh – Twenty Percent**

A higher charity “bracket” is giving *chomesh*, literally “one fifth,” or twenty percent of our earnings. The figure of one fifth comes from our Forefather Yaakov's vow, “And all that You give me, *asser a'asrenu*, I will surely tithe for You” (*Bereishis* 28:22). With the double wording *asser a'asrenu*, this *passuk* can also be translated as, “And [from] all that you give me, I will give a double tithe.” One tenth and another tenth – a “double tithe” – is twenty percent (Rashi).<sup>14</sup>

The Talmud relates that the *Sanhedrin* in Usha<sup>15</sup> ruled, “One who distributes funds to charity, should not disburse more than one fifth.” The *Gemara* in *Kesubos* interprets this ruling as a ceiling on charitable contributions. One who wishes to give more than a tenth should not exceed one fifth, “so that he does not come to need assistance from others” (*Kesubos* 50a).

The Jerusalem Talmud differs on the meaning of this ruling, writing that twenty percent is not a maximum figure, but rather, that it is in fact the sum which everyone should be giving (*Pe'ah* 1:1).

The Rambam rules that if we are faced with captives who need to be redeemed, or desperately poor people who lack food or clothing, we are obligated to provide all their needs, expending up to one fifth of our assets (*Peirush HaMishnayos, Pe'ah* 1:1). According to the Rambam, then, in a time of extreme need giving twenty percent is no longer merely the ideal, but a requirement.

### **As Needed**

The *Shulchan Aruch* writes that the highest level of *tzedakah* is to provide for the poor individual's needs in full. Apparently, based on the language of the *Shulchan Aruch*, this is true even if it requires an expenditure of more than one-fifth. However, the

<sup>12</sup> Equal to \$338,182 in 2012 dollars.

<sup>13</sup> Relocated to Jerusalem after the 1929 Chevron Massacre, “Chevron” is today one of the major Torah centers in *Eretz Yisrael*.

<sup>14</sup> Technically, a tenth and another tenth would come to less than twenty percent of the original total. For example, if we take ten percent off one hundred dollars, we are left with ninety dollars. An additional ten percent deducted from the remaining ninety dollars would only be nine dollars. However, *Chazal* instruct that the second ten percent should be equal to the first.

<sup>15</sup> Under Roman rule the *Sanhedrin* left Jerusalem, relocating several times in the course of a century in an attempt to evade persecution. One of these temporary locations was Usha, in the northern part of *Eretz Yisrael* (*Rosh Hashanah* 31).

*Rema* comments that we should not exceed twenty percent, so that we do not eventually end up needing charity ourselves (*Shulchan Aruch, Yoreh Deah* 249:1).

### Exceeding *Chomesh*

Are there circumstances which allow for giving more than twenty percent?

Rav Moshe Feinstein and Rav Yitzchak Yaakov Weiss differ in their understanding of the conflicting rulings of the *Shulchan Aruch* and the *Rema* concerning *chomesh*.

The *Igros Moshe* writes that there is a difference of opinion between the *Shulchan Aruch* and the *Rema* concerning the ruling issued by the *Sanhedrin* in Usha. According to the *Shulchan Aruch*, one who has sufficient means is obligated to supply the needs of the poor, even when those needs exceed twenty percent of his assets. On the other hand, according to the *Rema*, it is forbidden to exceed twenty percent, even for those who can afford it. Rav Moshe rules in keeping with the *Rema* (*Igros Moshe, Yoreh Deah*, vol. I, 143).

The *Minchas Yitzchak* was asked if a wealthy person can give more than *chomesh*. He writes that in his opinion, based on the *Rema*'s precise wording, he is not disagreeing with the *Shulchan Aruch*. He is instead elaborating on Rabbi Yosef Karo's *pesak*: one who cannot afford to give more, is not permitted to go over *chomesh*. One who can afford it may give more, as the *Shulchan Aruch* writes. The *Minchas Yitzchak* concludes that practically speaking, in times such as ours when there are so very many needy people, especially in *Eretz Yisrael*, one may give charity in excess of *chomesh* even according to the *Rema*, and it is a *mitzvah* to do so (*Responsa Minchas Yitzchak*, vol. V, 34:2).

While twenty percent is generally viewed by the *poskim* as the maximum we can give to charity, according to some opinions, we may exceed this amount in a case of great need, when there are many poor people – assuming that we can afford it (see *Tzedakah U'Mishpat*, Chapter 1, 4).

Some *poskim* mention a number of additional circumstances where it is permitted to give more than *chomesh* to charity.

- Provided that one's own *parnassah* will not suffer, it is permitted to give somewhat more than a fifth.
- An extremely wealthy person may give more than a fifth.
- When faced with indigent people who lack basic necessities, we can exceed *chomesh* to help provide for them.
- It is permitted to go over one fifth to save a fellow Jew's life, and to help support Torah study.
- When making a will, it is permitted to bequeath more than a fifth of one's assets to *tzedakah*. However, the *Acharonim* disagree on the amount that can be willed to charity, with opinions ranging from one-third (*Kitzur Shulchan Aruch* 34:4) or one half (*Aruch HaShulchan, Yoreh Deah* 249:1), on the lower side, to an unlimited amount (*Rema, Yoreh Deah* 249:1), on the high side.

How is *Maaser* Computed?

How do we compute *maaser* or *chomesh*? What is counted as “income?” Can we deduct business expenses, income taxes and the like from our income? How often should we make the computation and distribute the funds?

### **When is *Maaser* Computed?**

The Jerusalem Talmud raises the question of donating *chomesh*. Let us say that we have one thousand dollars. If we donate twenty percent of our principal the first year, we are left with eight hundred dollars. Another twenty percent the following year will leave us with a further reduced principal. By the end of five years, says the *Yerushalmi*, we will be left with nothing at all, and this is surely not the Torah’s intention. Therefore, the *Yerushalmi* concludes, we only donate *chomesh* from the principal the first year. Once we have given twenty percent of the original amount, we do not take off an additional twenty percent in subsequent years – from then on, *chomesh* is given only from the earnings generated by the principal (*Pe’ah* 1:1).

This is in fact the *pesak* of the *Shulchan Aruch* concerning the computation – we take twenty percent from the principal the year we earn it, and after that, only from any earnings generated from the principal (*Yoreh Deah* 249:1). The *Shach* writes that the same is true of computing *maaser* (ten percent as opposed to the more generous twenty percent).

If the principal amount is invested in an item which appreciates in value (for example, Apple Computer stock), but has not yet been sold, there is no *maaser* due. *Maaser* is only paid out when the asset is sold and the gain is realized.

*Allan earned \$15,000 in consulting fees in 2012, after taxes. He promptly donated \$1,500 as maaser, leaving him with \$13,500. \$10,000 was deposited in the bank, and the other \$3,500 was invested in General Electric shares. At the end of 2013 the \$10,000 had earned \$400 in interest, and the GE stock appreciated to a value of \$5,000. Allan owes ten percent of the \$400 earned in interest, with \$40 going to charity. However, he does not owe maaser on the increased value of the GE stock, until the stock is sold and he actually realizes the gain. When he does sell his shares, he will need to give maaser only on the increase in their value. If they went from \$3,500 to \$5,000, his profit is \$1,500, which would mean \$150 in maaser. He need not give again on the original investment of \$3,500, from which maaser has already been given.\**

### **How Often Should we Compute?**

The *poskim* mention a number of possibilities. One obvious answer is once a year, following the pattern of agricultural tithes which were distributed yearly (*Noda B’Yehudah, Mahadura Tanina, Yoreh Deah* 198). The *Chavos Yair* writes that the ideal time is every year before Rosh Hashanah, because that is when our livelihood in the coming year is determined in Heaven (Responsa *Chavos Yair* 224). Other options are every six months (Responsa *Avkas Rochel* 3) or every three months (*Chavos Yair* *ibid.*). The *Chafetz Chaim* advises every six months, but at least once a year (*Ahavas Chesed*, Part 2, Chapter 18, 2).

Practically speaking, a good time to compute *maaser* is while preparing our annual income tax returns, when we are in any case making many similar calculations.



Although we should have a designated time to compute *maaser* at regular intervals, we should not wait for our yearly or twice-yearly computation to begin distributing the money to *tzedakah*. We should be giving *maaser* (or *chomesh*) as the money is earned, based on an estimated *maaser* tally. For example, ten percent of every paycheck should be deposited in a separate charity account, for prompt distribution when *tzedakah* opportunities arise.

### **What is Income?**

What counts as “income” for purposes of computing *maaser* or *chomesh*?

To arrive at a figure, we should first add up all our revenues for the year. This is our gross income, the total of all amounts received, before taxes and deductions. We then subtract from this total any deductions allowed by *halachah*. What remains is our “net income.” Ten (or twenty) percent of our net income is the *maaser* (or *chomesh*) we donate to charity.

The *poskim* write that if we plan to give twenty percent, as opposed to only ten percent, we should still first set aside ten percent as *maaser*, and then set aside an additional ten percent, bringing the total for charity to *chomesh*. The *Chidda*<sup>16</sup> writes that even if we intend to give more than ten percent, we should first take off one tenth, and only then take off the additional sum. There is profound significance to first separating one tenth as *maaser*: “tithes have *sod v’yesod*, Kabbalistic significance and a well-founded source” (Responsa *Avkas Rochel* 3; *Birkei Yosef, Yoreh Deah* 249:8).

*Efraim Meir, a friend from Los Angeles, produces television commercials. He was introduced to Rav Simchah Yisrael Bloom, known as “the Dayan,” the son of the late Rebbe of Kashau. Efraim asked Rav Bloom’s advice about switching to a job which offered a more lucrative compensation package. They also discussed the issue of maaser kesafim, since the new position would enable Efraim to give more tzedakah. Rav Bloom advised him to take the job, and also to raise his tzedakah allocation from ten percent to eleven percent, “to say ‘thank you’ to Hashem.” Ten minutes after this conversation, the rav called Efraim back and told him “Go up to twelve percent, to say ‘please.’”*

*Efraim’s aim was to graduate to chomesh. Rav Baruch Yehuda Gradon, a rosh kollel in Los Angeles, advised him to make the increase gradually, so he began upping his tzedakah donations by one percent yearly.*

Generally speaking, the following would be included under the heading of “income”: wages, tips, bonuses and commissions; interest and dividends; business profits, distributions and royalties; awards, prizes and monetary gifts; money made by selling non-monetary gifts; scholarships, fellowships and *kollel* stipends; income tax refunds, welfare payments, and the monetary value of food stamps; unemployment compensation, workman’s compensation, and social security benefits; money received from a pension, if *maaser* was not previously deducted when the money was earned; net income from the sale of stocks, bonds, securities, personal property or a home; income from rental properties; damages from lawsuits and accidents greater than

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<sup>16</sup> Rav Chaim Yosef David Azulai (1724-1806), known as the *Chidda*, was a great *rav, posek, mekubal*, and a highly prolific author. He was born in Jerusalem and passed away in Leghorn, Italy, where he served as *rav*.

actual costs incurred; inheritances, life insurance proceeds, income from estates and trusts; alimony payments.<sup>17</sup>

As we see, “income” is broadly defined to include basically all revenues received.

### **Deductions**

The *poskim* discuss various types of expenses, both business and personal. Some are permitted as deductions in computing net income for *maaser*; others are not.

### **Business Expenses**

Rav David Oppenheimer, *rav* of Nikolsburg, asked Rav Yair Chaim Bachrach (1639-1702), author of *Responsa Chavos Yair*, if it is permitted to deduct travel and other business expenses before computing *maaser*, or are they considered to be in the same category as personal expenses, which are not deductible?

Rav David Oppenheimer’s own initial opinion was that based on the wording of the *Gemara* regarding tithes on agricultural produce (*Menachos* 70a), it would appear that there are no deductions allowable. *Maaser* on produce is a flat ten percent of the yield, regardless of any costs. However, he writes, the costs of doing business are in a different category, and should definitely be deducted before computing *maaser*. He mentions several reasons for this, among them that giving *maaser kesafim* is only rabbinically ordained, and according to the *Bach*, only a custom, so that we may rule more leniently and permit the deduction of business expenses.

The *Chavos Yair* agrees with Rav David Oppenheimer; business expenses may be deducted before computing *maaser*. Otherwise, he writes, Jewish businessmen would be left with nothing at all for their labors.

*Aaron traveled to China to buy merchandise for his electronics business. He found a good deal on cameras which he knew would sell well, and bought a large stock for fifty dollars apiece. Back home, he sold each camera for one hundred dollars. However, despite the one hundred percent markup, his profit on each camera was not fifty dollars – it was five dollars. The trip to China alone cost him thousands of dollars. Once there he needed a translator and a quality assurance company. He also had to pay for shipping, customs duties and other import costs. Total: forty-five dollars of related expenses for every camera he brought in. If Aaron were to take maaser from the gross profits (fifty dollars per camera), rather than from the net profits (five dollars per camera), he would literally be giving away his entire profit!\**

In sum, the *Chavos Yair* equates giving *maaser* to having a partnership with the Almighty. In a partnership, each partner deducts the business related expenses and damages he has incurred, including thefts. As long as there was no negligence involved, these are legitimate deductions (*Tur* and *Shulchan Aruch Choshen Mishpat* 227:28). The same is true of our partnership with Hashem, Who represents the poor – we may deduct business expenses before dividing the profits.

*She'eilas Yaavetz*<sup>18</sup> (vol. 1, 6) cites the *Chavos Yair*, but disagrees with his *pesak*. He rules that any money we receive is a blessing from Hashem. Therefore, we should

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<sup>17</sup> See the Guide to *Maaser* form.

give *maaser* on our gross income without deducting expenses (see *Pis'chei Teshuvah, Yoreh Deah 249:1*).

Practically speaking, we follow the opinion of the majority of *poskim*, among them the *Aruch HaShulchan*, who rule that all business related expenses, including travel and meals while on the road, are legitimate deductions. *Maaser* is computed from the net profit after subtracting all such business expenses (*Aruch HaShulchan, Yoreh Deah 249:7*. See also *Tzedakah U'Mishpat*, Chapter 5, note 35, on the question of deducting the cost of food only in excess of what would have been spent while at home).

### Luxury Deductions

This raises an interesting question which was presented to the *Minchas Yitzchak*: what constitutes “legitimate business expenses”? Let us say we need to buy a car for the business. We can buy a reasonable car for \$20,000, or we can buy a top-of-the-line Lexus for over \$80,000. We can also justify the Lexus, saying that it will generate a favorable impression of our financial standing and make our business more attractive to potential clients and investors.

The *Minchas Yitzchak* cites a *pesak* from the *Chavos Yair*. One of the partners in a business wanted to deduct the cost of clothing he had purchased for a business trip as a related expense. The *Chavos Yair* ruled that as long as the clothing in question was not overly extravagant, and was the norm for meetings and travel, it was a legitimate expense. (He specifically mentions a suit with silver buttons, perhaps the equivalent of today’s Armani, as an example of extravagance beyond the norm!)

The *Minchas Yitzchak* applies the same principle to deducting the cost of a car for purposes of computing *maaser*. We can buy the better car if we wish, but we should only deduct the cost of a less expensive but still suitable car. The difference between the less expensive model and the more expensive one we choose to buy is not a business expense – it is personal preference (*Minchas Yitzchak*, vol. V, 34:6).

### Netting Out Unrelated Gains and Losses

Another question related to deductions is calculating losses vs. gains in two separate business ventures or two properties.

*Moshe was forced to sell a building at a loss of five thousand dollars. However, that same year he also sold another building in a better neighborhood, for a profit of thirty-five thousand dollars. How should he compute his earnings? No profit on the first building, and therefore, no maaser, but thirty-five thousand on the second? Or thirty-five thousand in profit minus the five thousand dollar loss, for a total of thirty thousand?\**

The *Chavos Yair* rules that it is permitted to make an overall computation of profits and losses during the same time period, and take *maaser* from the net profit, rather than from each item individually. It would not, however, be permitted to deduct a loss from the previous year or years from this year’s profits (*Responsa Chavos Yair 224*).

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<sup>18</sup> Responsa of Rav Yaakov Emden (1697-1776), son of the Chacham Tzvi. Rav Yaakov Emden, an eminent *talmid chacham*, was the author of major commentaries on the Mishnah and Talmud, and other works.

The *Noda B'Yehudah* was asked a similar question. His ruling is in keeping with the *pesak* of the *Chavos Yair*, although he does not cite him (*Mahadura Tanina, Yoreh Deah* 198; see *Aruch HaShulchan, Yoreh Deah* 249:7 and *Igros Moshe, Yoreh Deah*, vol. I, 143). The *Igros Moshe* adds that one who wishes to fulfill the *mitzvah* on a very high level may certainly give *maaser* from the profits of every individual transaction, without deducting losses, but is not required to do so.

The *Shevus Yaakov*<sup>19</sup> disagrees with the majority opinion. He writes that *maaser* should be given from each transaction on its own, regardless of whether other transactions were profitable or not (*Responsa Shevus Yaakov*, vol. II, 86).

### Deducting Personal Expenses

There is a difference of opinion among the *poskim* about the permissibility of deducting personal expenses from our income before computing *maaser*.

The *Aruch HaShulchan* rules that household expenses are not deductible when computing *maaser*. For example, one who earns a thousand dollars a year should give one hundred (*maaser*) or two hundred (*chomesh*) to charity, even if he spent over a thousand dollars on personal and household expenses (*Aruch HaShulchan, Yoreh Deah* 249:7).

The *Tzitz Eliezer* was asked about deducting personal expenses before calculating *maaser*. The questioner mentions conflicting opinions among the *poskim* on this question. The *Kitzur Shulchan Aruch (Hilchos Tzedakah)* rules that net income is calculated *after* deducting household expenses, while the *Aruch HaShulchan (ibid.)* rules that the household expenses are *not* deductible. In addition, the questioner asked, if we follow the ruling that personal and household expenses are deductible, what is included in this category? Can these expenses be calculated generously, or should they be reckoned in keeping with a modest standard of living?

The *Tzitz Eliezer* responded that there is a difference of opinion among the *poskim* on the question of deducting personal expenses. The *Avkas Rochel, Knesses HaGedolah* and *Kitzur Shulchan Aruch* are lenient, while the *Beis Dino Shel Shlomo, Birkei Yosef* and *Aruch HaShulchan* rule strictly.

Rav Waldenberg cites the *Maharam Broda*, who rules leniently on both questions: it is permitted to deduct household expenses, and one need not skimp – even lavish personal expenses can be deducted from one's income in computing *maaser*.

Rav Waldenberg himself rules leniently. He mentions his *pesak* concerning *maaser kesafim* in general: according to most *poskim*, it is *d'rabbanan*, not *d'Oriosa*, and there are many who say that it is only a custom. He writes that one may be lenient and deduct household expenses before computing *maaser*, without skimping on what he spends.

However, if someone previously computed *maaser* on a number of occasions without deducting household expenses, this practice has taken on the status of a *neder* (vow), unless he explicitly declared in advance that he was not adopting it as a *neder* (“*bli neder*”). If he later became aware of the more lenient ruling and now wishes to deduct

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<sup>19</sup> Responsa of Rabbi Yaakov Reischer (1670-1733), *rav* and *posek* in Prague, Ansbach, Worms and Metz.

household expenses before computing his *maaser*, he would need to have his vow annulled (see *Yoreh Deah* 214:1, *Shach* 5; *Taz* 232:16; *Pri Chadash*, *Orach Chaim* 496; and *Chayei Adam*, *Hilchos Pesach* 127).

*Tzedakah U'Mishpat* rules strictly on the question of deducting personal expenses. He writes that “the consensus of the *poskim* ... is that one may not deduct these expenses from the computation of *maaser*” (Chapter 5, 8, note 34).

*Rabbi Yitzchak Adlerstein*<sup>20</sup> once asked *Rav Yaakov Kamenetsky*,<sup>21</sup> of blessed memory, for his opinion of the *pesak* of the *Knesses HaGedolah*, which permits deducting personal expenses before computing *maaser*. *Rav Yaakov* smiled and asked, “What are you going to consider necessary expenses?” *Rabbi Adlerstein* suggested that maybe as Americans accustomed to a high standard of living, it would be legitimate to deduct only fifty percent of our personal expenses, rather than one hundred percent.

*Rav Yaakov* asked again, “What would be considered absolutely necessary – galoshes? In Europe we had no sidewalks, and we trudged through the mud without them. What are necessary expenses for food – potatoes? During the First World War we had a potato once a week, for *Shabbos*... and those were the best years of my life.”

*Rav Yaakov* did not explicitly say “yes” or “no,” but the message was clear.

### **Childcare and Housekeeping Costs**

Although there are many similarities between allowable business deductions for income taxes (at least in the United States) and allowable deductions in computing *maaser*, there is one major area where the two diverge: the question of deducting the costs of childcare or other household help which enables a woman to go out to work.

*In 1937, the IRS (Internal Revenue Service of the United States federal government) noticed a discrepancy of \$23.62<sup>22</sup> in Henry and Lillie Smith’s income tax, deducted “for sums spent by the wife in employing nursemaids to care for [the couple’s] young child; the wife, as well as the husband being employed.” The Smiths maintained that the deduction was justified based on a three-part rationale: but for the babysitter, the wife could not leave her child; but for the “freedom so secured,” she would be unable to work; and but for these two factors, “there would be no income and [therefore] no tax.” The court held against them, and considered childcare costs to be comparable to the other expenses which enable a worker to be employed, among them medical bills which keep him out of bed and on his feet; clothing which enables him to leave his house properly attired; the home he lives in and the food he eats, all of which contribute to his ability to work. Their conclusion was that these are all “‘personal’ expenses, the deductibility of which is expressly denied.” (United States Board of Tax Appeals, promulgated December 4, 1939; cite: 40 B.T.A. 1038).*

<sup>20</sup> *Rabbi Adlerstein* is a noted rabbi, author and speaker, who serves as the director of Interfaith Affairs for the Simon Wiesenthal Center and holds the Sydney M. Irmas Adjunct Chair in Jewish Law and Ethics at Loyola Law School.

<sup>21</sup> *Rav Yaakov Kamenetsky* (1891–1986) was a prominent Lithuanian-born *rosh yeshivah* and *posek* in the United States after World War II, who served as *rosh yeshivah* of *Mesivta Torah Vodaath* in Brooklyn, New York from 1948 to 1968. He and *Rav Moshe Feinstein* guided and led American Jewry for decades, until they both passed away in March, 1986.

<sup>22</sup> The 2013 equivalent of approximately \$400.

In this instance, *Tzedakah U'Mishpat* is more lenient than the IRS. He writes that a working woman paying for childcare or other household help can deduct the costs as a work-related expense, since she would be unable to work without this help. This is true even if her job outside the home is easier than the housework being done by the hired worker (Chapter 5, note 35).

### Are Taxes Deductible?

We pay income tax and sales tax, federal, state and city taxes, real estate taxes and inheritance tax. All of these and more take a big bite out of our income. When we compute net income for purposes of *maaser*, can we deduct any or all of these tax payments?

The *Igros Moshe* rules that not all taxes have the same status in terms of computing *maaser*. Sales tax and real estate tax on one's home are no different than other debts we are required to pay, and should not be deducted. Income tax paid on earnings is in a different category – Rav Moshe writes that “It is considered as if we never earned it to begin with.” That money was never ours, so it is not counted as income for *maaser* purposes. The same would be true of taxes paid on real estate purchased as an investment. These taxes are business expenses, similar to the rent paid on a store or wages paid to workers, which are deducted from income before computing our *maaser*.

An interesting point raised in Rav Moshe's responsum is the deduction of charitable contributions when computing income tax. Certain governments allow a tax deduction for donating money (or even goods) to charities, which lowers the tax bill. Are we required to give *maaser* based on the higher amount of post-tax net income which results from taking the tax deduction (since we pay less tax as a result of the tax deduction, we are left with a higher net income), or do we compute the *maaser* based on what would have been a lower amount of net income, assuming no tax deduction? Rav Moshe rules that we need only give the *maaser* on the lower amount of the post-tax net income, and can take the benefit from the tax deduction allowed for charitable donations (*Igros Moshe, Yoreh Deah*, vol. I, 143).

A questioner asked the *Minchas Yitzchak* about deducting taxes, citing Rav Moshe's ruling that not all taxes are deductible. He writes that if one can afford to be more stringent, he will be blessed, but one who is not as well off may deduct all taxes before computing *maaser*, even sales taxes (also called VAT or “value added tax”), real estate taxes and any other taxes, which Rav Moshe did not permit as deductions. One who has not previously deducted all taxes but wishes to do so in the future should have his vow annulled (*Minchas Yitzchak*, vol. V, 34:9).

### Retroactive *Maaser*

*Joseph has worked for twenty-eight years, earning money and paying taxes. He was never aware of the need to give maaser kesafim. He would donate a few dollars to charity from time to time, but he had never heard that there was a distinct, defined obligation to give ten percent on a regular basis. When he became aware of the concept of maaser he was ready to commit himself to give, but what of the past? How could he possibly put together years' worth of forgotten figures, let alone pay out all that money retroactively?\**

According to the *poskim*, Joseph can relax and concentrate on present and future obligations. *Maaser* is not collected by the IRS or Israel's *Mass Hachnassah*, with back taxes and penalties.

The *Shevet HaLevi* rules on this question. One who did not make a commitment to give *maaser*, but simply gave charity without any specific computation, is not obligated to go back, make the calculations, and give the missed *maaser* retroactively. He points out that the obligation to give *maaser kesafim* is at most a rabbinic obligation, and according to the *Bach*, only a praiseworthy custom. Accordingly, we are lenient and do not require retroactive payment of *maaser*. However, if one did in fact make a commitment to give *maaser*, he should make the computation and give what he missed (*Shevet HaLevi*, Vol. 9, 201:1).

Rav Moshe Sternbuch dealt with an interesting question, presented by a seventy year old *baal teshuvah*. The questioner had calculated his lifetime of earnings, coming up with the staggering figure of nearly two hundred thousand dollars in unpaid *maaser*! Now, however, his entire assets consisted of thirty thousand dollars in the bank. He was very concerned about facing the Heavenly Court with theft from the poor on his record, but even if he were to give all he had to charity – which he was willing to do – it would not cover his many years of unpaid *maaser*.

Rav Sternbuch was deeply impressed by this man's sincerity. Practically speaking, his response was similar to that of the *Shevet HaLevi*. He wrote that it has never been customary to take *maaser* after the fact, on money that has already been spent. Even according to the stricter halachic opinions that *maaser kesafim* is *d'Oriosa* or *d'rabbanan*, it would be comparable to agricultural produce. If the owner did not set aside the necessary tithes and the produce has already been consumed, there is no longer anything to give *maaser* from. Unless this questioner had in fact previously intended to give *maaser* and not fulfilled his commitment, he is not obligated to make up the *maaser* on those funds retroactively.

Rav Sternbuch offers another interesting reason to exempt the questioner from giving *maaser* retroactively. *Chazal* tell us, *asser bishvil shetis'asher*, "separate tithes so that you will become wealthy." One who gives *maaser* will be blessed, and certainly will not lose. Charity becomes a ten percent "partner" in his *parnassah*. This ten percent is cause for all of his earnings to increase, so that *tzedakah* gains as well (See *Ahavas Chesed*, vol. II, Chapter 20, 6). In this case, when the questioner made that money, he did not intend to give *maaser* on it. Charity was never a partner in his assets, and he never reaped the blessings such a partnership brings. The money is gone, and can no longer grow as a result of giving *maaser*, so it is no longer obligatory. Rav Sternbuch writes that he should give *maaser* from the thirty thousand dollars which he does have, and that money will be blessed.

Rav Sternbuch also mentions another reason that we are not obligated to take *maaser* retroactively. If committing to *maaser* suddenly puts us years in arrears on donations to charity, it becomes exceedingly difficult to make such a commitment. Instead, we begin the calculation from the present date, and the Al-mighty will extend His blessings from that time forward (*Teshuvos V'Hanhagos*, vol. II, 483).

## Distributing the Funds

We have committed (*bli neder*) to giving *maaser* or *chomesh*, and we understand how to make the computation. Now that we know *how* to give, to *whom* should we give?

The *poskim* set priorities based on a number of factors, including:

- The recipient's relationship to the giver. Relatives come first, with closer relatives taking precedence over more distant (*Rema, Yoreh Deah* 251:3, 257:10).
- The urgency of the need. For example, redeeming captives and matters of life and death take precedence over other causes, and those in need of food come before those who lack proper clothing (see *Shulchan Aruch Yoreh Deah* 251:7).
- The nature of the cause. For example, supporting Torah study, such as providing for a *talmid chacham* or maintaining Torah institutions, has priority over other causes (see *Shulchan Aruch Yoreh Deah* 251:9).

Our *maaser* and *chomesh* funds are not unlimited. At times we are faced with conflicting priorities. We need to make difficult choices about whom we will give to, and by default, whom we will not be giving to. A competent *halachic* authority should be consulted for help in making these decisions. What follows are a number of recommendations from the *poskim* for consideration.

As we said, the *Rema* writes that we must first be sure that we can support ourselves, before we distribute charity. Once we have enough for our own needs, highest on the list of recipients are our parents, if they are needy, followed by our children. Next come needy siblings, then other relatives, and then neighbors. The poor of our own city (*aniyei ircha*) take precedence over the poor of another city (*Shulchan Aruch* and *Rema, Yoreh Deah* 251:3).

However, the *Rema* makes it clear that it is only permitted for a son to use *maaser* money to support needy parents if he would be unable to provide for them otherwise. He writes that “a curse should befall” a son who uses his *maaser* to support his parents without justification (*Rema, Yoreh Deah* 240:5).

Concerning the use of *maaser* funds to provide for one's children, Rav Bloy writes that in his opinion, it would only be permitted in order to help a married child who is struggling financially.<sup>23</sup> Parents should not use *maaser* money to provide for younger or even older children at the age when children are still ordinarily supported by their parents (*Tzedakah U'Mishpat* 6:4, note 12).

A number of *poskim* rule that in terms of institutions, giving priority to “*aniyei ircha*” does not necessarily mean that we should give first to institutions which are geographically closer to us. *Aniyei ircha* are the institutions we are connected to – where we learned, where our children go, or which we benefit from or are associated with, regardless of physical proximity. For example, let us say a former student of the Mir Yeshiva in Jerusalem now lives in Passaic, New Jersey. There happens to be a *yeshivah* across the street from his home in Passaic, but if he personally has no

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<sup>23</sup> See *Shach*, who explains the *Maharam Mirutenberg's* opinion permitting the use of *maaser* money to provide for grown children whom one is not obligated to support. One may do so even if he can afford to support them from his own funds, because as the *Shulchan Aruch* rules, this is a bona fide form of *tzedakah* (*Yoreh Deah* 251:3).



connection to the local *yeshivah*, then the Mir, where he learned, takes priority for *maaser*.

*Who exactly are “aniyei ircha?” Apparently, there is no one answer. “Refael” has the thankless responsibility of collecting dues in his community’s shul and is all too aware of the serious financial problems facing the local day school. Both of these institutions, which directly benefit the members of the community, are strapped for funds, while a great deal of their tzedakah money goes out of the city, often to institutions to which the shul members have no special connection. In light of the above definition of “aniyei ircha,” this might not be the ideal approach to distributing maaser.*

The *Aruch HaShulchan* mentions a number of items for which we can use *maaser* money: distributing food or money to the poor; providing meals for a needy *yeshivah* student in our home; or inviting a poor guest for a Shabbos or weekday meal (*Aruch HaShulchan, Yoreh Deah 251:5*).

### **Flexibility in the Use of *Maaser* Funds**

Someone who is not well off can be more flexible in how he uses his *maaser* money. It may be permitted for him to use *maaser* to pay his children’s *yeshivah* and seminary tuition, and for *mitzvos* which are meritorious but not obligatory, such as buying *sefarim* to lend out to others (see *Shulchan Aruch Yoreh Deah 249:1, Shach 3*). However, we cannot use *maaser* money to purchase our *tefillin*, *lulav* and *esrog*, give *matanos le’evyonim*,<sup>24</sup> *machatzis hashekel*<sup>25</sup> and the like, since these are obligatory *mitzvos* (*Nachalas Shivah 8:2; Tzedakah U’Mishpat 6:13, 6:15, notes 33 and 37*).

*“Aric,” a financial advisor in Los Angeles, had learned that maaser kesafim is ten percent of one’s earnings after taxes. He was paying yeshivah tuition for his young children, and wanted to know if that money could be counted as part of his maaser, especially since part of his high tuition payments subsidized students on scholarship. Aric sat with the president of the school and they worked out the figures: approximately thirty-five percent of Aric’s tuition dollars went towards the education of students who were not paying full tuition. He has heard that there are different halachic opinions as to the status of this money in terms of maaser.*

Rav Moshe discusses the question of using *maaser* money to support one’s children and pay their tuition in two separate responsa.

Rav Moshe wrote that in our times, a father is responsible for his children’s support until the age when they would typically be considered old enough to earn their own living. However, if the custom in the father’s or mother’s family is that children do not customarily go out to work until they are married, the father is obligated to support his children as long as they live at home. It follows that he cannot use *maaser* money for this purpose, since it is like any other financial obligation, which cannot be paid with *maaser* money. He points out that in the United States, children do not

<sup>24</sup> Gifts (usually of money) to at least two poor people, which we are obligated to give on Purim.

<sup>25</sup> Literally “the half shekel”; money given to charity *erev* Purim, in memory of the half a shekel donated yearly for the sacrifices in the *Beis HaMikdash*.

usually go to work until they are grown up (*Igros Moshe, Yoreh Deah*, vol. 1, 143; see also *Tzedakah U'Mishpat* 6:4 and notes 11-12).

In the second responsum, Rav Moshe was asked about using *maaser* money to pay a daughter's tuition in Bais Yaakov. Rav Moshe's ruling in this responsum is similar: nowadays elementary and high school tuition, whether for sons or for daughters, should not be paid with *maaser* money. Paying tuition is part of the father's obligation to educate his children, and like other financial obligations, it cannot be paid with *maaser*. However, Rav Moshe writes that one who is exempt from giving *maaser* because he is hard pressed to provide for his family's needs does not need to be strict in this matter (*Igros Moshe, Yoreh Deah* 2:113; see also *Ahavas Chesed* 2:19:2).

For example, full tuition may be \$5,000 a year. If a parent can only afford \$3,000, but the school still requires that he pay the full \$5,000, he may use *maaser* money to make up the \$2,000 difference.

Aric's question about using *maaser* funds for that portion of our tuition which subsidizes scholarship students is not an easy one. On the one hand, we are paying in part for the Torah education of someone else's child, a legitimate use of *maaser* money. On the other hand, unless an exemption exists, any parent sending a child to school is obligated to pay full tuition, and we are not permitted to use *maaser* funds to pay off obligations. [OPEN – NEED TO ASK A PSAK]

## Taking Steps

*Chazal* tell us that "Your people's needs are many" (*Berachos* 29b). Today as well, our fellow Jews in need are waiting for our help. We can do our part by following these five steps.

### 1. Set Your Fiscal Year

*Maaser* or *chomesh* should be computed at a set time on a regular basis. Some *poskim* suggest making the computation every year before Rosh Hashanah, but we can select any other time period up to one year which we find more convenient. Practically speaking, using the same fiscal year as income taxes is an excellent option, since we are in any case making similar computations for tax purposes.

### 2. Decide on Your *Tzedakah* Bracket

*Maaser*, ten percent of our net income, is considered average, while *chomesh*, twenty percent, is ideal. When planning *tzedakah* distribution, we should have in mind that we are not making a binding commitment to stay with this specific figure in the future (*bli neder*).

### 3. Make Your Computation

*Maaser* or *chomesh* must be calculated carefully – we should not rely on casual estimates. Our ten or twenty percent is applied against our "net income," which is our income less allowable deductions. Losses may not be carried forward to future years. We should make a final calculation of our *tzedakah* obligation after the fiscal year ends and make up any shortfall. Excess *maaser* payments may be carried forward and

credited to one's *maaser* obligation in the next year, especially if one stipulates in advance that excess *maaser* payments can be credited to the next time period (*Tzedakah U'Mishpat* 5:11, note 44).

#### 4. Establish a Separate Fund for *Tzedakah*

Once we know how much we should be giving, we can ensure that the money goes to *tzedakah* by immediately depositing it in a separate bank account, designated exclusively for *tzedakah* funds. Once the money is there we no longer feel that it is ours, making it much easier to give. Ideally, it should be distributed as we earn it, based on an estimated *maaser* computation

#### 5. Give *Tzedakah* with a Smile!

Above all, we should view *tzedakah* not as a burden, but as an opportunity.

The *Shulchan Aruch* writes that charity should be given graciously, happily and cheerfully. We should sympathize with the recipient's problems and try to lift his spirits. One who gives the money angrily or grudgingly loses the merit of the *mitzvah*. At times we may be asked for charity and have nothing to give. When that happens, the *Shulchan Aruch* warns us not to lose our temper or raise our voice to the poor person appealing for funds. Instead, we should do what we can to make him feel better, and let him see that we do want to give, even if at present we cannot help (*Shulchan Aruch* 249:3-4).<sup>26</sup>

#### The Promise

*Chazal* tell us, “*asser bishvil shetis'asher*, give *maaser* so that you will become wealthy” (*Taanis* 9a). This is a promise with no expiration date.

*Iyun HaParashah*, a high level monthly Torah journal funded by private contributions, was deeply in debt. The two editors, who take no salary, would borrow money from *gemachim*<sup>27</sup> for publication costs, repaying the loans when donations came in. When their personal debt for the journal hit \$100,000 they considered stopping publication, at least until they could cover the loans. A generous donor who heard the story wrote them a check for the very substantial sum of \$25,000.

*Hashem* has no shortage of ways and means to give. The very next day, this donor's brokerage account went up by \$25,300 – reimbursing his contribution, and then some.

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<sup>26</sup> This discussion of *tzedakah* and computing *maaser* leaves many issues and questions open. A *rav* should be consulted as questions arise.

<sup>27</sup> Interest-free loan funds.