



פרשת ראה
שבת ראש חודש אלול
תשפ"ב

LUNCH N LEARN

During the month of Elul, Kollel has partnered with Shnei Ohr Chabad to host a weekly Lunch n Learn in North Caulfield.

All men are invited to join us each Thursday from 1:00-1:30pm for a topical shiur given by one of the Kollel Rabbis, accompanied with a lunch spread. Followed by Mincha

This week, Rabbi Johnson gave a shiur on the Mitzvah of Shemitta on loans and Pruzbul, in Halacha and Avodas Hashem

For more details & location, email
kollel@yeshivahcentre.org

SHABBOS SHIUR

All men and women are invited to join us for this week's feature shiur between Mincha and Maariv on Shabbos afternoon in the Yeshivah Shule.

This week's shiur will be given by Rabbi Telsner on the topic:

Is there a Mitzvah to live in Israel today?

TISHREI SHIURIM

Join us each morning Monday-Thursday for a 25-minute shiur in the Halachos and customs of the Yomim Noraim based on the classic work Mateh Efraim. Led by Rabbi Johnson.

10:50-11:15am live in Kollel (men only) or join in from home or work on Zoom.



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When to Make a Pruzbul

A Halachic analysis based on the Parsha of the week

Rabbi Yonason Johnson

This year (5782) is a Shemittah year. The word Shemittah literally means to release. There are two main aspects of the laws of Shemittah; Shemittas Karkaos (the release of the land) and Shemittas Kesafim (the release of loans).

Shemittas Karkaos refers to the laws that apply to the land and its produce. One may not work on the land and the produce must be "released" and made ownerless and free for anyone to take. The produce itself has sanctity and there are restrictions on how it must be treated and how it can be used. These Mitzvos are discussed in Parshas Behar.

Shemittas Kesafim refers to the law that in the seventh-year outstanding loans are cancelled. The Mitzvah of Shemittas Kesafim is recorded in Parshas Re'eh. We do not count seven years from the date each loan was made. Rather, it is the Shemittah year that cancels loans, whether they were made just before Shemittah or made six years prior¹.

Not all types of loans are cancelled by Shemittah. The details of these laws will not be discussed in this article.

The agricultural laws of Shemittah are Mitzvos Hateluyos Baaretz - only applying to land in and produce from Eretz Yisroel. However, the Mitzvah of Shemittas Kesafim is a Chovas Haguf (a personal obligation) and therefore applies in Chutz Laaretz as well².

The consensus of most Poskim and the ruling of the Shulchan Aruch is that Shemittah nowadays is only Rabbinic and was established as a Zecher (remembrance) of the Biblical Shemittah³. This applies to both Shemittas Karkaos and Shemittas Kesafim.

When do the loans become cancelled?

Everyone agrees that the agricultural laws take affect from the beginning of the Shemittah year⁴.

But at what point do the loans become cancelled?

The Posuk⁵ teaches:

מִקֵּץ שִׁבְעֵ-שָׁנִים תַּעֲשֶׂה שְׁמִטָּה: וְהָדָבָר
הַשְּׁמִטָּה שְׁמוּט כָּל-בְּעַל מִשָּׂה יָדוֹ אֲשֶׁר יִשָּׂה
בְּרֵעֵהוּ לֹא-יִגֹּשׁ אֶת-רֵעֵהוּ וְאֶת-אֶחָיו כִּי-קָרָא
שְׁמִטָּה לֵה':

"At the end (Mikeitz) of seven years, you shall make a release (Shemittah). And this is the matter of the release, each creditor must relinquish whatever he lent to his fellow, he may not exact repayment (Lo Yigos) from his fellow, his brother, for it is called a release (Shemittah) to Hashem."

Whilst often translated as "the end", the Ibn Ezra explains that the word Mikeitz means the beginning of the Shemittah year. A year has two ends; the beginning and the conclusion, as we find in the phrase *מִן הַקֶּצֶה אֶל הַקֶּצֶה*, from one end to the other end.

Many of the commentators, most notably the Ramban, argue. Were the Posuk to read *מִקֵּץ שִׁבְעֵ-שָׁנִים* "at the Keitz of the seventh year", the Ibn Ezra would be correct. However, the Posuk says *מִקֵּץ שִׁבְעֵ-שָׁנִים* "at the end of seven years." If Keitz refers to the beginning, the beginning of "seven years" happens in year one! So in this instance Mikeitz must mean the end of the year.

This is also the tradition brought in the Talmud⁶ that the Shemittah year releases loans at the end of the year at sunset as Rosh Hashana comes in. As a ruling in the Talmud, this is the accepted and binding Halacha⁷.

The opinion of the Rosh

The Rosh⁸ is of the opinion that even though the loans are only relinquished at the end of Shemittah, the prohibition on claiming or pursu-

The weekly Halacha analysis continued from front

Rabbi Yonason Johnson

ing the loans (Lo Yigos) begins at the start of the Shemittah year.

He derives this from the simple reading of the Posuk⁹: “he may not exact repayment from his fellow, his brother, for it is called a Shemittah for Hashem”. The prohibition on exacting repayment begins immediately when the year is called a Shemittah to Hashem i.e. at its commencement.

The loan is still in effect and due throughout the Shemittah year until its end and one can accept repayment. However, once the Shemittah year begins one may not take steps to claim that loan¹⁰.

(The Tumim writes that when the Ibn Ezra writes that Shemittas Kesafim is at the beginning of the Shemittah year, his intention is like the Rosh i.e. not that the cancelling of debts takes place then, but that one cannot pursue debts from then. We must explain the Ibn Ezra like this because we cannot say that he would heretically write a commentary against the clear teaching of the Gemara!)¹¹

In contrast to the Rosh, many Rishonim¹² maintain that one may collect loans during the Shemittah year. The Shulchan Aruch¹³ rules that the one can claim and pursue loans in the seventh year. The Shach writes that presumably this is the primary opinion.

When to make the Pruzbul

Aside from the application of this dispute in relation to when loans can be pursued, it also has bearing on when a Pruzbul should be made.

Pruzbul is a mechanism instituted by Hillel the Elder through which debts can continue to be collected even after the Shemittah year. This is done by giving over one's debts to the Beis Din – either verbally¹⁴ or with a written document. Loans which are given to the Beis Din for collection are not cancelled by Shemittah¹⁵.

Hillel the Elder instituted the mechanism of making a Pruzbul because he saw that people were avoiding lending money due to the fear that Shemittah will come and erase the debt. This is a violation of a negative Mitzvah in the Torah which warns against this behaviour. The Gemara ex-

plains that the enactment of Hillel works because nowadays Shemittah is only Rabbinic.

According to the opinion of the Rosh discussed above, since one cannot pursue loans during the Shemittah year, they may also not write a Pruzbul during the Shemittah year. As such, the Pruzbul must be written during the 6th year, before Rosh Hashana of the seventh year. This view is also held by other Rishonim¹⁶.

The primary Halacha as brought in the Shulchan Aruch¹⁷, follows the Rishonim who do allow loans to be collected throughout the Shemittah year itself. Since one may write a Pruzbul as long as they can still collect the loans¹⁸, the Pruzbul need only be written at the end of the seventh year.

In the Halachos of loans¹⁹, the Alter Rebbe writes that Lechatchilah one should write the Pruzbul at the end of the sixth year out of concern for the opinion of the Rosh. However, if one did not make the Pruzbul then, they can make the Pruzbul up until the end of the seventh year before Rosh Hashana, following the primary opinion.

Many other Acharonim, including the Misgeres Hashulchan²⁰ and Rabbi Avraham Chaim Naeh²¹ write that, like the Alter Rebbe, we should be concerned Lechatchilah for the opinion of the Rosh. It is appropriate for G-d fearing Jews to conduct themselves this way²² and particularly amongst Chassidim²³.

Loans in the seventh year

The Bach writes that according to the Rosh, loans that were made in the seventh year itself can be collected throughout the seventh year²⁴. As such, a Pruzbul would be required at the end of the seventh year to cover loans made during the seventh year.

However, others²⁵ argue and maintain that according to the Rosh, one may not collect loans made in the Shemittah year. According to this view, one may not write a Pruzbul in the seventh year for these loans. The Lubavitcher Rebbe²⁶ seems to follow this understanding of the Rosh.

Since those who are stringent to follow the Rosh only do so Lechatchilah, they may rely on the lenient opinion to make a Pruzbul in the seventh year for the loans of the seventh year, especially as according to Halacha, this

is the Halachic time for a Pruzbul for all loans.

The Rebbe

The Rebbe strongly encouraged the publicising of the Shittah of the Alter Rebbe that every G-d fearing person should make a Pruzbul and should do so at the end of the sixth year²⁷ in accordance with the Rosh.

The Rebbe said that one should make the Pruzbul with a special Chavivus (preciousness), knowing that he is going in the ways of the Alter Rebbe and thereby connects himself to the Alter Rebbe.

In addition to the Pruzbul made at the end of the sixth year, one should make a Pruzbul again at the end of the seventh year to cover any loans that were made during the seventh year itself²⁸.

1. See Rashi quoting Sifri
2. Yerushalmi Sheviis 10:2
3. Based on Gittin 32b. Rambam laws of Shemittah 9:3 (there is debate on what the Rambam's opinion is in relation to Shemittah of the land. However he is clearly of the view that Shemittas Kesafim is only Rabbinic). Shulchan Aruch CM 67:1
4. When the Beis Hamikdash stood, certain work could not be done already from Pesach or Shavuos in the lead up to Shemittah. There was also the obligation of Tosefes Sheviis.
5. Devarim 15:1-2
6. Arachin 28b
7. CM 67:30
8. Gittin Chapter 4 Siman 20
9. Devarim 15:2
10. See Shulchan Aruch Harav Choshen Mishpat laws of loans 36
11. In truth, as a Pashtan, explaining the literal meaning of the Torah's words, the Ibn Ezra as do other Pashtanim, does not bind himself to explain in accordance with the sages.
12. See Beis Yosef, Rambam Hilchos Shemittah 9:10, Rashba, Ramban
13. CM 67:30
14. Ran Gittin 19a, Ram"o CM 67:19
15. See Makkos 3b with Rashi and Tosfos. This is because the prohibition in the Torah is worded as Re'eihu referring to collection by individuals.
16. Baal Haitur in the name of Rabbeinu Nissim and Rabbeinu Yerucham.
17. CM 67:30
18. CM 67:31
19. Seif 36
20. Siman 180
21. Untres Shemittas Kesafim
22. Nitei Gavriel quoting Rav Elyashiv
23. Nitei Gavriel quoting the Kehillas Yaakov
24. Bach CM 67:30
25. Korban Nesanel on the Rosh, Kneses Hagedola and Yam Shel Shlomo 4:45. Mahari Kurkus Hilchos Shemittah chapter 9 also understands the Rosh this way and challenges the Rosh that as a result, people will not lend money at all during the Shemittah year if they cannot make a Pruzbul.
26. Likkutei Sichos vol 12 p256
27. Likkutei Sichos vol 24 p316, volume 7 p355
28. Likkutei Sichos vol12