Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Bechoros Daf Nun Vuv

MISHNA

- If one buys an animal or has an animal gifted to him (and they never had maaser taken from them), they are patur from animal maaser.

GEMARA

- **Q:** How do we know this? **A: R' Kahana** said, the pasuk says "bechor banecha titen li kein taaseh l'shorcha l'tzonecha" which makes a hekesh between a son and the animals and teaches that just as a son is not purchased or gotten as a gift, the same must be true for animals.
    - **Q:** That pasuk speaks of the animal bechor, not maaser!? **A:** The words "kein taaseh" refer to an action that must be done. This doesn't refer to bechor, because a bechor becomes kodesh without anyone doing anything. Therefore, it must be referring to maaser.
        - **Q:** Maybe instead say that it refers to a chatas or asham, and teaches that purchased or gifted animals may not be used for these korbanos? **A:** The comparison to a son teaches that just as the son is not redeemed due to any aveira, so too we are referring to tzon and bakar that are not being brought for some aveira.
        - **Q:** Maybe instead say that it refers to an olah or shelamim, and teaches that purchased or gifted animals may not be used for these korbanos? **A:** The comparison to a son teaches that just as the son is not redeemed due to any neder or nedava, so too we are referring to tzon and bakar that are not being brought for a neder or nedava.
        - **Q:** Maybe instead say that it refers to a korbon re'iyah, and teaches that purchased or gifted animals may not be used for this korbon? **A:** The comparison to a son teaches that just as the son does not come about at a set time, so too we are referring to tzon and bakar that do not come about at a set time (and a korbon re'iyah comes on Yom Tov).
        - **Q:** Based on the comparison to a son we should say that just as a son is never purchased, we should also say that even when the animals are purchased while still unborn they should not be subject to maaser, and yet **R' Assi in the name of R' Yochanan** said that such animals would be subject to maaser!? **A: Rava** said, the pasuk of "taaseh" teaches that they are not subject to maaser only if they are purchased at a time when they are fit to be included in a maaser count. **R' Elazar** gave this answer as well, to explain why the Mishna does not contradict **R' Yochanan**.
            - **Q: R' Shimon ben Elyakam** asked **R' Elazar**, a Braisa says that the ptur of being an animal that was purchased applies even to an animal that was purchased when it was not yet fit to be counted as maaser!? **A: R' Elazar** said, this Braisa is not a correct Braisa. And, even if you say that it is, it follows the view of **R' Shimon ben Yehuda in the name of R' Shimon**, who says that an animal that is too young to be a korbon is still counted for maaser and would just not be offered until it is old enough to be offered (8 days).
        - A Braisa was taught before **Rav**. The Braisa said, if an animal used to pay a zonah (an "esnan") was repurchased by the man, it would be included in his animals for purposes of animal maaser.

- **Q:** It should not be counted since it was a purchased animal!? **A:** The one who asked must have forgotten that **R' Assi in the name of R' Yochanan** said that when the animal is purchased before being born it does not become patur from maaser, and that is the case that the Braisa is referring to.
- **Q:** Why can't the Braisa say that the zonah should count this animal for maaser – why does it give the case of where the man repurchased it from her? **A:** The Braisa is referring to a case where the zonah was a goy.
    - **Q:** Why not discuss the case of a zonah who was a Yid? **A:** The Braisa is teaching that payment given to a zonah who is a Yid is not considered to be an "esnan", as **Abaye** says elsewhere.

MISHNA

- Brothers who have not yet divided their father's estate, and are therefore partner's in the estate: when they are obligated to add a kolbon, they are patur from giving animal ma'aser, and when they are chayuv to give animal ma'aser, they are patur from having to pay the kolbon.
    - If they got animals from the father's undivided estate they must give animal maaser (it is not considered to be a partnership). If they did not get them from the undivided estate, but are instead truly partners, they would be patur from maaser.
    - If they divided the estate and then put it back together as a partnership, they would each be chayuv to pay a kolbon (along with their machtzis hashekel) and would be patur from animal maaser.

GEMARA

- A Braisa says, the pasuk says "yihiyeh ***lach***", which teaches that maaser does not apply to animals of a partnership. We would think that even when the animal is taken from an undivided estate it should be patur. The word "yihiyeh" teaches that it would be chayuv.
    - **Q:** This pasuk is written regarding bechor!? **A:** Another pasuk teaches that bechor applies even to an animal owned in partnership, so this must be teaching regarding something else, and we darshen that it is teaching regarding maaser.
- **R' Yirmiya** said, there are times when the brothers would be chayuv to pay the kolbon and to give animal maaser, there are times when they would be patur from both, there are times when they would be chayuv in the kolbon but patur from maaser, and times that they would be chayuv in maaser and patur from the kolbon.
    - They are chayuv in both if they had divided the money of the estate but not the animals. They are patur from both if they had divided the animals of the estate but not the money. They are chayuv in the kolbon and patur from maaser if they divided the money and the animals. They are chayuv in maaser and patur from the kolbon if they did not divide either.
        - This all seems obvious. The case that was needed to be taught is the case where they divided the animals but not the money. We would think that once they divide the animals we see that they intend to divide everything and they should even be chayuv to pay the kolbon. He therefore teaches that they are not.
- **R' Anan** said, the **Rabanan** only said that dividing the estate and then recombining it makes the brothers patur from animal maaser when the division was such that one brother took the sheep and the other took the goats (only then are they considered to have totally dissolved the estate). However, if each took half of the sheep and half of the goats, they are each taking their share of the estate and are not exchanging their share with their brother, and therefore even when they recombine the animals it is still considered to be the original estate (based on the principle of breirah) and they are therefore chayuv in maaser. **R' Nachman** said, even if they each took half of the sheep and half of the goats we say that the estate was dissolved (he doesn't hold of breirah).
    - **R' Elazar** said, the **Rabanan** only said that dividing the estate and then recombining it makes the brothers patur from animal maaser when the division was such that one brother took 9 larger animals and the other took 10 smaller ones (only then are they considered to have totally dissolved the estate). However, if they divided by number,

they are each taking their share of the estate and are not exchanging their share with their brother, and therefore even when they recombine the animals it is still considered to be the original estate (he holds of breirah) and they are therefore chayuv in maaser. **R' Yochanan** said, even if they each took half based on number we say that the estate was dissolved (he doesn't hold of breirah).

- **R' Yochanan** follows his shitah from elsewhere where **R' Assi in the name of R' Yochanan** said that brothers who divide an estate are considered purchasers of their portions and must therefore return it to each other at Yovel.
- The ruling was necessary to be stated regarding maaser and regarding Yovel. If he would only have said it regarding maaser we would say that maaser is compared to bechor which teaches that just as bechor is clear that it was always yours, so too one is only chayuv maaser when it was clearly always yours, but regarding Yovel we would say that the halachos of Yovel only apply to sold fields, not to fields gotten through inheritance or gifting. If he had only said it regarding Yovel we would have said that he treats it like a purchased field because that creates a chumrah, or we would say that he said that only l'chatchila, but regarding maaser he would not treat it as purchased. That is why both rulings are necessary.
- **Q:** A Mishna says that if partners divide their assets, with one taking 10 sheep and the other taking 9 sheep and one dog, the one who took the 10 sheep may not bring any of them on the Mizbe'ach, because they are all possibly "an exchange for a dog" which is passul to be offered on the Mizbe'ach. Now, if we hold of breirah we should say that he should take one of the sheep and declare it as having been the exchange for the dog and only it should be assur. The Mishna shows that we don't say breirah!? **A: R' Ashi** said, the case is where the dog is worth more than just one sheep. That is why we need to consider it as having possibly been exchanged for each of the sheep.