

Overview

Siman 39 Seif 1:

Tefillin written by a slave, a woman, a child – even if he reached the age of *chinuch* – a Cuthean, or an apostate to idolatry or someone who informs on another person are invalid. The reason is that the Torah writes וקשרתם and וכתבתם to teach that one who does not don *tefillin* or doesn't believe in them may not write them.

- ❖ The same *halacha* is true for a *Sefer Torah* and a *mezuzah*. (M.B. 1)
- ❖ A gentile is not able to write *tefillin* since he does not write it for the sake of the *mitzvah*. (M.B. 5)
- ❖ Someone who is an apostate to publicly desecrate *Shabbos* is invalid to write a *Torah*, *tefillin* or *mezuzos* but if he is an apostate concerning other *mitzvos* he remains fit unless he transgresses *mitzvos* to anger Hashem. (M.B. 6)

Stories to Share

The Right Assistant

ש"ע ס' ל"ט, א': "דכתיב וקשרתם וכתבתם..."

People who are handicapped face many obstacles that the more able-bodied cannot even imagine. Even putting on tefillin is complicated for a person who is physically incapable of tying them on his own arm. Since most people in this situation have a personal attendant who takes care of their physical needs, the simplest solution is to ask the attendant to lay the tefillin on the handicapped man.

One handicapped person wondered whether his non-Jewish attendant was truly permitted to lay tefillin on him. The man reasoned, "After all, my assistant cannot write tefillin since he is not obligated to wear them. Perhaps the same rule applies to putting them on someone who is obligated in tefillin."

When this question reached Rav Elyashiv, zt"l, he ruled that it is permitted for a non-Jewish attendant to put tefillin on a handicapped man. "It seems clear that it is not necessary that only one who is obligated can lay tefillin on this man's arm. A proof to this is found the gemara in Bechoros 30. There we find that when a certain woman was married to a Torah scholar, she would lay tefillin on his arm. A woman is also not obligated in tefillin, nevertheless, she would lay tefillin on her husband's arm. The same is true regarding other people who are not obligated to wear tefillin."

Halacha Highlight

Parshiyos for Rabbeinu Tam *tefillin* written by someone who does not wear them

Shulchan Aruch Siman 39 Seif 1

כל שאינו בקשירה או אינו מאמין בה אינו בכתיבה

Whoever is not a binder or does not believe in the *mitzvah* is not fit to write them

The Gemara Gittin (45b) notes that the juxtaposition of the words וקשרתם — and you should bind them - and וכתבתם — and you should write them - teaches that whoever is not a binder of *tefillin* is not fit to write *tefillin*. This principle teaches that anyone who is exempt from the *mitzvah* of *tefillin* is not fit to write the *parshiyos* or do other work in the making of *tefillin* (סעי' ב'). For this reason slaves, women and minors are not fit to write *tefillin* since they are all exempt from donning *tefillin*. Mishnah Berurah (סק"ט) notes that someone whose left arm was amputated may write *tefillin* even though he does not wear *tefillin*. Although practically he does not don *tefillin*, since the reason for that is out of practical considerations rather than *halachic* ones he remains in the category of those who are obligated to wear *tefillin* and is permitted to write *parshiyos*.

Based on this juxtaposition, there were some Poskim who ruled that someone who does not wear Rabbeinu Tam *tefillin* should not write *parshiyos* for Rabbeinu Tam *tefillin*. If one does not wear them he should not write them. Others write that although one should make an effort to obtain *parshiyos* that were written by someone who wears Rabbeinu Tam *tefillin*, as long as the *parshiyos* were written by someone who is G-d fearing it is acceptable. Additionally, many do not wear Rabbeinu Tam *tefillin* not because they do not believe in them; rather Shulchan Aruch wrote (סעי' ל"ד סעי' ג') that they should only be worn by those who have a reputation of piety. As far as having *parshiyos* written by a scribe who uses a different style of script, Poskim write that there is no issue since we hold that all the different styles of writing are acceptable (עי' פסקי תשובות אות ג').

But Rav Elyashiv did qualify this psak. "Nevertheless, if it is possible, you should have one who is obligated tie on your tefillin since some hold that tying them on is also part of the *mitzvah*. It is worthwhile even to pay for this if the cost does not represent a significant loss."

קונטרס הלי תפילין, ס' ל"א, משנת תפילין, ע' ר"י