The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן רמ"ד סעיף ו'

Overview

Siman 244 Seif 6:

A Jew who purchased the right to collect the tax may hire a gentile to collect taxes on Shabbos if he is a contractor, meaning that they stipulate that for every 100 dinarim that are collected he will be given a percentage. Similarly, he can lease the taxes for all the Shabbosos to the gentile and the gentile will keep the profits from Shabbos for himself. We are not concerned that someone will think that he is working for the Jew, since when facing a financial loss such as this, this concern is put aside. A Jew who is in charge of the currency is subject to the same halacha as the one in charge of taxes even though when making coins it produces a loud noise, see below siman 252. The Jew should be careful not to sit next to the gentile when he works on Shabbos making coins or collecting taxes.

- This is halachically permitted similar to the allowance to give hides to a gentile before Shabbos as discussed in siman 252 which may be given to a gentile contractor before Shabbos. Although there are grounds for stringency, Chazal were nevertheless lenient out of concern that people will become confounded regarding money and the Jew may violate a Torah prohibition. This implies that regarding taxes that are not recorded it is prohibited to have a gentile collect the taxes since it will not involve a potential Biblical prohibition. Taz and Magen Avrohom maintain that even in this case one may be lenient. A Jew who purchased the right to boil salt may hire gentile workers as contractors to be paid a fixed amount based on their productivity even though the wood and utensils belong to the Jew. The gentile may not be hired for a week or a month since the Jew will benefit from his work. (M.B. 32)
- In other words one may not mention Shabbos at all; rather one stipulates that for every "x" that he collects he will receive a percentage of that. (M.B. 33)
- In this case, as well, it is technically permitted since the gentile is working for himself. In the case of the Jew in charge of the currency one is merely selling him the rights to the currency for Shabbos and the gentile will keep the profits for himself. The only possible issue is the appearance of impropriety and Rema wrote that when faced with a possible financial loss it is not a problem. (M.B. 34)
- Poskim imply that one may not hire a day worker in these circumstances. One who trusts Hashem and does not search for leniencies will be fortunate. (M.B. 35)
- It is permitted to give silver to the gentile before Shabbos and stipulate that for every "x" number of coins that he produces he will be paid a fixed amount. Alternatively, he may lease it to the gentile for Shabbos and the gentile will take all the profits for that day. (M.B. 36)
- What is prohibited is to sit there to know how much business the gentile is doing so that one will know how much to pay him the next day but if one sits there to assure that nothing is stolen it is permitted. (M.B. 37)

Halacha Highlight

Selling a business for Shabbos

Rema Siman 244 Seif 6
וכן יוכל להשכיר המכס
One may also lease the tax [collecting business]

Shulchan Aruch discusses a case of a Jew who purchased the rights to collect taxes. He rules that it is permitted to hire a gentile as a contractor to collect taxes on Shabbos. Meaning, the agreement between them is that for every 100 dinarim of taxes that the gentile will collect he will receive a percentage of that. Although working as a contractor should always be permitted, when the work allows observers to be concerned that perhaps the gentile is a day laborer rather than a contractor, it is prohibited. In this case, however, it is permitted. Since not hiring the gentile would cause the Jew to suffer a financial loss Chazal were concerned that the Jew may resort to doing the work himself. Rather than allow the Jew to desecrate Shabbos they allowed the Jew to hire a gentile as a contractor to work in his place.

Rema writes that one may also make an agreement that the gentile will collect taxes on Shabbos and keep all of the money that is earned on Shabbos. This is also permitted since the gentile is then working for himself rather than for the Jew and the Jew does not benefit from the melacha that is done. Mishnah Berurah (ס"ק ל"ה) adds that one who wants to keep a store running on Shabbos and to do so needs to hire a gentile to run the store for him, must be certain to transfer ownership of all of the merchandise to the gentile before Shabbos so that when he is working on Shabbos he will be selling merchandise that is his own. This is accomplished by the gentile taking physical possession of the merchandise (משיכה) and paying the Jew (כסף) for the merchandise. In a pressing circumstance it may be sufficient for the gentile to give some of the money that he owes for the merchandise. Rav Moshe Feinstein (שו"ת אג"מ או"ח ח"ד סי' נ"ה) expressed disapproval of selling one's business to a gentile for Shabbos, since most people do not follow the procedure properly and the agreement is not compliant with halacha. Additionally, in the United States he saw this leniency as a slippery slope that could lead to further desecration of Shabbos.