

Overview

Siman 515 Seif 4:

If a gentile brought a gift of something that may have been attached to the ground on the first day of Rosh HaShanah which fell on Thursday, there are authorities who permit eating it on Shabbos after שיעשו but others prohibit it. According to our position we would also be stringent concerning the two days observed in the Diaspora. Practically, regarding Rosh HaShanah one should be stringent on the Shabbos that follows but on Yom Tov one may be lenient on the Shabbos that follows. This is limited to fruit that does not require preparation on Yom Tov for Shabbos but produce that must be prepared on the 2nd day of Yom Tov for Shabbos is prohibited since we are stringent even regarding moving objects on the 2nd day unless it is for guests or some similar need.

- ❖ The same applies to animals that require trapping. (M.B. 33)
- ❖ Two days in advance is not considered preparation. (M.B. 35)
- ❖ Since the two days of Rosh HaShanah are treated as one day, one must wait שיעשו after Shabbos is over. According to this opinion it is prohibited even if the produce became detached or the animal became trapped on its own. (M.B. 37)
- ❖ Regarding the two days of Rosh HaShanah the item is prohibited on Shabbos even if the produce became detached on its own whereas on Yom Tov it will be permitted immediately after the first day of Yom Tov. (M.B. 38)
- ❖ Taz cites Maharshal that it is permitted immediately after Shabbos whereas Rav Akiva Eiger contends that one must wait שיעשו after Shabbos. (M.B. 39)
- ❖ If the two days of Yom Tov fall after Shabbos and the gentile delivered the item on Shabbos it is permitted after שיעשו following the 1st day of Yom Tov. (M.B. 40)
- ❖ Even though we are lenient for guests, nevertheless, the item is considered *muktzah* until the guests actually arrive. (M.B. 41)
- ❖ A gentile may cook the food on *erev* Shabbos in order to eat it on Shabbos after waiting שיעשו. If one does not have any more of this food in his home and needs it for Shabbos, he may cook it himself for *kavod* Shabbos but may not taste the food until after שיעשו transpired from the beginning of Shabbos. (M.B. 42)

Halacha Highlight

The penalty for a *melacha* that is performed

Shulchan Aruch Siman 515 Seif 5
ואם באו מחוץ לתחום

If it was imported from beyond the *techum*

Shulchan Aruch addresses the status of items that a gentile delivers on Yom Tov that were not attached to the ground or trapped on Yom Tov. He rules that if they were delivered from within the *techum* the items are permitted and if they were delivered from beyond the *techum* the items are prohibited for the one for whom they were imported as well the members of his household. However, since the items are permitted for others they are not *muktzah* and may be moved although they are confined by the restrictions that apply to items that were imported from beyond the *techum*.

Rav Shmuel HaLevi Vosner (שו"ת שבט הלוי ח"ג סי' ל"ה) notes an inconsistency in the Mishnah Berurah. It is clear from this *halacha* that although nothing was done to physically alter the object that was imported (i.e., it was merely moved from one location to another), nevertheless, since a *melacha* was performed with the item, the item is prohibited to the one for whom the *melacha* was performed. In contradistinction, Biur Halacha (ש"ח סי' ע"ח) writes that when a Jew transports something from one domain to another on Shabbos, the transported item is technically permitted for the one for whom it was imported since the *melacha* that was performed did not physically alter the item. Rav Vosner answers that there is a fundamental distinction between the penalty Chazal imposed when a gentile performs a *melacha* for a Jew and when a Jew performs a *melacha* to benefit a Jew. The reason Chazal prohibited benefitting from a *melacha* performed by a gentile was out of concern that it would lead the Jew to ask the gentile directly to perform a *melacha* for his benefit. As such it does not matter whether the *melacha* that was performed physically altered the item or not since the concern applies in all instances. When a Jew performs a *melacha* there is no concern that it will lead to asking the Jew to perform a *melacha* for him in the future and the penalty is merely against benefitting from the *melacha* that was performed. As such if the *melacha* did not change the item physically, the penalty does not apply.