



Overview

Siman 649 Seif 5 (b):

It is permitted even *l'chatchila* to stipulate that it will be used only on the 1st day and that he does not separate from it during *bein hashmashos* of the 2nd night and onwards and then it is permitted, even *l'chatchila* to eat from it on the 2nd day and beyond and fulfill the *mitzvah* with what remains, however, we are not experts at making such stipulations as discussed above at the end of *siman* 638 in the Rema. **Something invalid because it is idolatrous, because the *esrog* is prohibited for consumption, because it is not the correct species or is not the minimum size is invalid for the 1st day as well as the subsequent days.** (A *חזונית* invalid for all seven days.) **Those who observe two days of Yom Tov may, on the 2nd day, take items that are invalid on the 1st day but the *beracha* is not recited.** (If a friend has a *lulav* and *esrog* that is valid, one should recite the *beracha* on his set, with his permission.)

- ❖ The stipulation is made on *erev* Yom Tov before *bein hashemashos*. (M.B. 39)
- ❖ If one designated the *esrog* for the 2nd day it is permitted to eat it even without a stipulation provided that one leave the size needed for the *mitzvah* since only the part needed for the *mitzvah* was set aside. Others maintain that the entire *esrog* was set aside and it is prohibited to eat it unless one made the necessary stipulation. (M.B. 41)
- ❖ There is dispute whether one must leave a majority of the *esrog* intact. (M.B. 43)
- ❖ The implication is that an *esrog* prohibited for consumption is invalid even though it permitted for benefit. An *esrog* of *orlah* from outside of Eretz Yisroel or *demai* is valid. If an *esrog* absorbed a prohibited taste, e.g. *cheilev*, it should not be used on the 1st day but may be used on the subsequent days. (M.B. 45)
- ❖ According to Shulchan Aruch even an *esrog* with a *חזונית* may be used on the other days. Rema's ruling that dry and speckled is invalid for all seven days is also subject to this debate. (M.B. 48)
- ❖ In a pressing circumstance one may be lenient regarding a *חזונית* the subsequent days since on those days the *mitzvah* is only Rabbinic. (M.B. 49)
- ❖ As opposed to *seif* 6, Shulchan Aruch here refers to where another is available, albeit requiring effort to obtain and he is teaching that it is not necessary to

Halacha Highlight

A woman borrowing a *lulav* without permission

Rema Siman 649 Seif 5 (a)

ומתר לטל לולב של חברו בלא דעת חברו

It is permitted to take a friend's *lulav* without his permission

Rema rules that after the 1st day one fulfills the *mitzvah* of *lulav* and *esrog* even if he borrows a friend's *esrog*. Furthermore, it is permitted for one to take his friend's *lulav* and *esrog* without permission to fulfill the *mitzvah* on the remaining days of Sukkos. This ruling is based on the principle *ניחא ליה לאינש למעבד מצוה בממוניה* – A person is happy to allow others to fulfill a *mitzvah* with his possessions. *Mishnah Berurah* (ס"ק ל"ד) explains that as long as there is no concern that one will damage the "borrowed" object, it is permitted to use a friend's object to fulfill a *mitzvah*. In this regard a *lulav* is different from a *sefer* where there is a concern that the borrower will damage the *sefer* in the course of his studies. He also adds that if the owner is present one must ask the owner for permission and may not rely on this principle and it may not be removed from the location where it was found.

Rav Moshe Feinstein (אג"מ אור"ח ח"ב סי' קי"ו) writes that even a woman who is exempt from the *mitzvah* may "borrow" a *lulav* in order to fulfill the *mitzvah*. Since she is rewarded for voluntary fulfillment of the *mitzvah*, she qualifies for the principle that allows one to borrow a *mitzvah* object without permission. Following this approach he explains *Mishnah Berurah's* position elsewhere (סי' תקפ"ו סק"ט) where he cites authorities who permit "borrowing" a friend's *shofar* and blasting 100 sounds with it. The rationale for that ruling is also rooted in this principle, namely, that a person is happy for others to use his possession in order to fulfill a *mitzvah*. Although many of the 100 blasts are customary and not essential for the fulfillment of the *mitzvah*, nevertheless, as long as one receives reward for the voluntary part of a *mitzvah* it qualifies under this principle, so too, a woman who is rewarded for voluntary fulfillment of the *mitzvah* of *lulav* qualifies for the allowance to "borrow" someone's *lulav* without permission.

- ❖ exert that effort on the subsequent days. (M.B. 50)
- ❖ Magen Avrohom in the name of Darkei Moshe maintains that one should recite the *beracha* on a friend's and then use his blemished one for *hallel* and the *hoshanos*. (M.B. 51)