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## Paying Workers on Time

As an introduction to this issue we will loosely translate the words of the *Chofetz Chaim* in his introduction to these *halachos*.<sup>1</sup>

The *mitzvah* of paying workers on time is something which stands at the height of the world. Many *lavin* are transgressed when one does not do this properly. One has an obligation to pay a worker even if the worker is very rich. Many people who have nice *middos* and are careful with other *mitzvahs* are very lax with this *mitzvah* and do not take it seriously. The reason for this is a lack of knowledge regarding these *halachos*. Therefore, it is very beneficial to discuss them so that after going through these *halachos* one will know what the correct manner to act is.

### The Source

The *Torah* lists the *issur* of holding back workers wages in a number of places.<sup>2</sup> The *issur* is known as *bal tolin*.<sup>3</sup> There are six *Torah*

commandments that deal with paying a worker his wages.<sup>4</sup>

### The Reason - Reward

The *Chinuch*<sup>5</sup> says that *Hashem* wants his creations to live. If one does not have food to eat, he can not live. Therefore, one has to be paid on time in order to buy food.

The word *Shabbos* (in Hebrew) stands for (when the letters are mixed around) *b'yomi titen sechar*.<sup>6</sup> Some say because of this *mitzvah* one merits a *neshoma yeseira*.<sup>7</sup> This *mitzvah* is a great *mitzvah* and one should be very careful with it.<sup>8</sup>

The *Arizal* was careful not to *daven mincha* without making sure to pay his worker.<sup>9</sup> The *Chofetz Chaim* would run before *Shabbos* in order to make sure that his worker was paid on time.<sup>10</sup>

<sup>1</sup> Sefer Ahavas Chesed pages 78-81. See Mishchas Shemen 3:68.

<sup>2</sup> Refer to Kedoshim 19:13, Ki Teizeh 24:15. Some say if one does *bal tolin* he needs to ask *mehilah* from the person (Avnei Yushfei 5:121:5).

<sup>3</sup> The reason for calling this *mitzvah* "*bal*" is just as by *chometz* we say "*bal*" *yira* etc. So too the *sechar* should not stay with the employer. (Momon Yisroel page 96:footnote 3, see Sema C.M. 339:11). No *beracha* is

recited on this *mitzvah* (See Halanos Sechar page 1:footnote 5 for the reason).

<sup>4</sup> Mesechtas Bava Metziah 111a.

<sup>5</sup> *mitzvah* 230. see 588.

<sup>6</sup> Refer to B'shvili Ha'parsha page 326.

<sup>7</sup> Refer to Pela Yoetz pages 95-96.

<sup>8</sup> Moreh B'etzvah 3:99.

<sup>9</sup> Yesodo Yeshurin 2:page 167, Teshuvos V'hanugos 1:899:page 317.

<sup>10</sup> Hanugos of the Chofetz Chaim page 258.

### Not keeping it properly

One who does not pay his workers at all but keeps the worker's money for himself causes a great *chilul Hashem*,<sup>11</sup> and is regarded as if he is taking away the worker's life.<sup>12</sup> In addition, some say *Hashem* will lessen his years in this world.<sup>13</sup> One who holds back even a small amount like a *peruta* has transgressed this *issur*.<sup>14</sup>

### First Morning

The *issur* of *bal tolin* is only until the first time period when payment was supposed to be made,<sup>15</sup> but other *issurim* may exist.

### The Different Times

A day worker, who finished his work at night, must be paid by the *ba'al habayis* before *alos hashachar*.<sup>16</sup> A worker who was hired to work at night and finished his work by *alos hashachar* can be paid until *shekia*.<sup>17</sup> One who did not pay him before *shekia* should be careful to pay him before *tzeis hakochavim*.<sup>18</sup> One who worked for a couple of hours by day should be paid before sunset.<sup>19</sup> A worker who works all night may be paid by the owner a whole night.<sup>20</sup> Those who hold like the opinion of *Rabbeinu Tam* with

regard to *shekia* should hold like the opinion of the *G'ra* (which is much earlier) in regard to *bal tolin*.<sup>21</sup>

On *Erev Shabbos*, where the custom is to refrain from work before *shekia*, the boss should pay his workers before *shekia*.<sup>22</sup>

There is a discussion in the *poskim* if the boss is in *Eretz Yisroel* and the worker is in America whose work day determines when payment is given?<sup>23</sup> *L'maseh*, it seems that we go according to the workers day.<sup>24</sup>

An example of a worker who is a night worker and has to be paid before *alos hashachar* is a babysitter.<sup>25</sup> Examples of workers who work a couple of hours by day and have to be paid before *shekia* are a dentist, painter, or taxi driver.<sup>26</sup>

### Condition

Today the common custom is to hire a worker and pay them on a bi-monthly or monthly basis. One who is getting paid every month should be paid on the last day of the month<sup>27</sup> unless one made a condition with his workers that they will accept payment on a different day.<sup>28</sup> The worker does not have to ask at the

<sup>11</sup> Kav Hayosher 14:pages 62-63.

<sup>12</sup> Mesechtas Bava Metziah 111a, Shulchan Aruch C.M. 339:2, see Sema 339:1. Refer to Ben Yehoyuda Mesechtas Bava Metziah page 279, Modanei Yom Tov 2:pages 417-418.

<sup>13</sup> Zohar quoted in Yesod V'shoresh Hu'avodah shar hakollel 18:pages 702-703 (new).

<sup>14</sup> Ahavas Chesed 10:13:pages 98-99. See Igros Moshe C.M. 1:59 if workers can go on strike because they are not getting paid on time.

<sup>15</sup> Rosh Mesechtas Bava Metziah 9:43, Aruch Ha'shulchan 10.

<sup>16</sup> Mesechtas Bava Metziah 111a, Ahavas Chesed 9:1, Aruch Ha'shulchan 339:3.

<sup>17</sup> Ahavas Chesed 9:1, Nesiv Hachessed footnote 2, see Halanos Sechar 2:footnote 5.

<sup>18</sup> Ahavas Chesed *ibid.* see footnote 7.

<sup>19</sup> Shulchan Aruch C.M. 339:4, see Shulchan Aruch Harav 12, Ahavas Chesed 1:9:2:page 83, Aruch Ha'shulchan 3-4.

<sup>20</sup> Ahavas Chesed 9:2.

<sup>21</sup> Yisroel V'hazmanim 1:78:pages 767-768, Ohr Yisroel 1:page 125:footnote 1, Mishpat Shlomo page 23.

<sup>22</sup> Ahavas Chesed 1:9:2, see Nesiv Hachessed footnote 10. Refer to Shevet Ha'Levi 7:231:2. One has to pay his worker even if it will mean that the boss will not be able to buy food for *Shabbos* (Biur Halacha O.C. 242 "I'chabed").

<sup>23</sup> Shevet Ha'Levi 7:232:1.

<sup>24</sup> *Ibid.* See Mishpat Shlomo page 27:23.

<sup>25</sup> Mishpat Shlomo page 26.

<sup>26</sup> Halanos Sechar page 9:footnote 18.

<sup>27</sup> Mishpat Shlomo pages 43, 46.

<sup>28</sup> Refer to Sefer Chasidim 1066:page 548, Kenesses Hagedolah C.M.339:7, Shulchan Aruch Harav 18, Nesiv Hachessed 10:footnote 24, Aruch Ha'shulchan 339:14, Pischei Choshen Sechiros 9:17:footnote 41, Halanos Sechar pages 13-14, Avnei Yushfei 2:118:1, Sharei Toras Habayis page 221, Kovetz Bais Aron V'yisroel 83:page

end of every payment period since it is known that this is when the employer pays.<sup>29</sup> Although a condition helps to avoid transgressing any *issur*, one is not fulfilling the *mitzvah* of paying a worker on time in this situation.<sup>30</sup> According to the *Zohar no mechilah* helps in this *inyun*.<sup>31</sup> One should not tell his worker that he is making a condition in order not to transgress *bal tolin*.<sup>32</sup>

This is common with a babysitter. Before hiring a babysitter one should inform the babysitter that she will not be paid that night. If the babysitter accepts this then there is no problem of *bal tolin*.<sup>33</sup>

#### Type of Workers

The *issur* of not paying workers refers to any worker, rich or poor,<sup>34</sup> and even to a worker who only does light work for you.<sup>35</sup>

#### Utensils and Land

The *issur* also applies to payments for rental of utensils, such as furniture, equipment, cars, clothing and animals.<sup>36</sup>

Many times the money paid for rentals is paid in advance and therefore not subject to the *halachos* of *bal tolin*.<sup>37</sup>

According to the opinion of most *poskim* the *issur* also refers to rent due on a building

(land)<sup>38</sup> for example, a hotel room. This is very common when one rents a summer home or bungalow for the summer. He must make sure to pay when the rent is due.<sup>39</sup> The same is true when renting a hotel room.<sup>40</sup>

Whom does it apply to?

The *halachos* of paying workers on time applies to men and women alike.<sup>41</sup>

Non-Jew - many say that the *issur* does not apply to a non-Jewish worker;<sup>42</sup> however, some were careful about this *issur* even to a *goy* since a *chillul Hashem* may be involved.<sup>43</sup> Although others say *mi'ikar hadin* this *issur* applies to a non-Jew as well,<sup>44</sup> the custom is not like this opinion.

*Kollel* - There is a discussion in the *poskim* if someone learning in *kollel* must be paid on time as well.<sup>45</sup>

*Mechalel Shabbos* – a Jew who disgraces the *Shabbos* should still be paid on time.<sup>46</sup>

80, Mishpat Shlomo page 110, see Teshuvos V'hanhugos 3:470:8.

<sup>29</sup> Opinion of Horav Elyashiv Shlita quoted in Momon Yisroel page 128:footnote 115.

<sup>30</sup> Halachos Sechar page 14:13:footnote 42, Sharei Toras Habayis page 223.

<sup>31</sup> Teshuvos V'hanhugos 1:899:2.

<sup>32</sup> Emes L'Yaakov 11:footnote 91.

<sup>33</sup> Kovet Bais Aron V'yisroel 46:page 142.

<sup>34</sup> Ohr Yisroel 1:page 128:1.

<sup>35</sup> Ahavas Chesed 9:3:footnote 11.

<sup>36</sup> Shulchan Aruch 339:1, Mishpat Shlomo page 9:5.

<sup>37</sup> Momon Yisroel page 126. See page 127 footnote 114 quoting the opinion of Horav Chaim Kriesworth zt"l.

<sup>38</sup> Mesechtas Bava Metziah 111a, Shulchan Aruch 339:1, Gr'a, Pischei Teshuva 339:1, Ketzos Ha'shulchan 339:1, Ben Ish Chai Ki Sova 1:19, Ahavas Chesed 9:5, Aruch Ha'shulchan 2, Mishnas Rav Aaron (teshuvos) 2:72, Hamesivta 5745:pages 108, Mishpat Shlomo page 14, see Shevet Ha'Levi 1:352.

<sup>39</sup> Halanos Sechar 3:4, Teshuvos V'hanhugos 1:899:3, Mishpat Shlomo page 14.

<sup>40</sup> Mishpat Shlomo page 53.

<sup>41</sup> Ahavas Chesed 1:9, see Nesiv Hachessed footnote 16, Halanos Sechar 5:1. Refer to Rama C.M. 270:1.

<sup>42</sup> Refer to Momon Yisroel page 119:footnote 86 quoting the opinion of Horav Elyashiv Shlita, see Sdei Chemed mareches bais 68:pages 339-340, Ohr Yisroel 1:page 128, Avnei Yushfei 5:121:4.

<sup>43</sup> Shevet Ha'kehosi 1:351:3:quoting the opinion of the Belzer Rebbe zt"l.

<sup>44</sup> Rambam in Sefer Ha'mitzvahs 200:page 37, Teshuvos V'hanhugos 1:899:4, see Chazon Ish Y.D. 1:6 in regard to a *tinuk sh'nishba*. Refer to Peulas Ha'suchein page 43.

<sup>45</sup> Refer to Teshuvos V'hanhugos 3:470:9, Mishpat Shlomo page 65.

<sup>46</sup> Teshuvos V'hanhugos 2:730, Ohr Yisroel 1:page 128.

*Apikores* - this *halacha* does not apply when paying an *apikores*.<sup>47</sup>

Young boy or Girl – one who has a young boy (under *bar-mitzvah*) or a young girl (under *bas-mitzvah*) working for him must pay them on time.<sup>48</sup> This has ramifications in regard to a babysitter. One who has the same babysitter on a steady basis does not have to pay her at the end of every night etc since it is assumed that she does not expect it. One who has a babysitter for one night should be careful to pay her on time.<sup>49</sup>

Another area which this applies to young children is in the following case. Many times one tells a young boy or girl (it would not apply to his own children) if you does this and this for me I will give you a toy. One must give the gift to the child that day. Not giving them the present on that day is *ossur*.<sup>50</sup>

#### Paying Before

There are some who are stringent and maintain that one who pays a person before the work is completed has not fulfilled the *mitzvah* of paying workers on time. For example, one should not pay a cab driver for his ride until he has reached his destination.<sup>51</sup>

If a *mikvah* is strict about when to pay, then the *mikvah* charges are subject to *bal tolin*.<sup>52</sup> If this is the case, it would seem that one should pay after he leaves in order to fulfill the *mitzvah* of paying on time.<sup>53</sup> If there is a sign which says “you must pay before using the *mikvah*” then do so, but have in mind that the money is not *koneh* until you are finished.<sup>54</sup>

#### What to Pay with?

One who does not have all the money to pay his worker must still pay his worker with whatever money he does have.<sup>55</sup> People are not careful with this and it has to be corrected.<sup>56</sup>

#### Check

Since the accepted custom in America is to pay by check, a boss may pay his worker with a check.<sup>57</sup> Normally an employer would not be able to pay his worker with a post-dated check,<sup>58</sup> but if the worker agrees then one may pay his worker with a post-dated check.<sup>59</sup> Although a check may be used to pay a worker there are certain jobs where a check is not used to pay for the services rendered. For example,

<sup>52</sup> Opinion of Horav Sheinberg Shlita quoted in Momon Yisroel page 131:footnote 122. Some say since a *mikvah* belongs to the public there is no *bal tolin* (Mishpat Shlomo page 64).

<sup>53</sup> Mekabtzeil pages 205-209.

<sup>54</sup> Momon Yisroel page 131.

<sup>55</sup> Ahavas Chesed 9:10, Nesiv Hachessed footnote 28, Teshuvos V'hanhugos 3:470:10.

<sup>56</sup> Ahavas Chesed 9:21.

<sup>57</sup> Opinion of Horav Moshe Feinstein zt”l quoted in Milei D'nizeikin page 122, Opinion of Horav Elyashiv Shlita quoted in Momon Yisroel page 107:footnote 37. See Teshuvos V'hanhugos 3:470:3, Modanei Yom Tov 2:page 422, Avnei Yushfei 5:121:6, Hamesivta 5745:pages 109-110.

<sup>58</sup> Teshuvos V'hanhugos 1:899:1, Opinion of Horav Elyashiv Shlita quoted in Momon Yisroel page 107:footnote 40, Avnei Yushfei 5:121:6, Peulas Ha'suchair pages 66-67, Mishpat Shlomo page 102, see Pischei Choshen Sechiras 9:footnote 36.

<sup>59</sup> Shevet Ha'kehusi 3:316.

<sup>47</sup> Momon Yisroel page 119, see Milei D'nizeikin page 122. This *issur* does not apply to paying a reform Jew (Teshuvos V'hanhugos 3:470:6).

<sup>48</sup> Milei D'nizeikin page 121 quoting the opinion of Horav Moshe Feinstein zt”l, Halichos Chaim 2:page 166:345, see Modanei Yom Tov 2:pages 426-427.

<sup>49</sup> Opinion of Horav Moshe Feinstein zt”l quoted in Milei D'nizeikin pag 121.

<sup>50</sup> Nesiv Hachessed 1:footnote 16, Hamesivta 5745:page 109, 5761:page 264, Ohr Yisroel 1:page 129:2, Modanei Yom Tov 2:pages 425-431.

<sup>51</sup> Opinion of the Chofetz Chaim quoted in Hamesivta 5745, Teshuvos V'hanhugos 3:470:1, Ohr L'tzyion 2:45:footnote 4, see Avnei Yushfei 5:151:2.

one must pay cash to a barber for a haircut or a cab driver for his ride.<sup>60</sup>

According to some *poskim* one is permitted to pay his worker with a check if the worker is able to cash the check (the bank is opened).<sup>61</sup> Others say one may pay with a check even if the bank is closed.<sup>62</sup> If the bank is opened and the worker does not redeem the check then it was still a valid payment on the employer's side.<sup>63</sup> If the check bounced then there is *bal tolin*.<sup>64</sup> Although some say one may not pay with a credit card,<sup>65</sup> the custom seems to be lenient with this.

In *Eretz Yisroel* one is allowed to pay his worker with dollars since it is accepted all over.<sup>66</sup> However, one would not be able to pay a worker in the United States using *Israeli Shekalim*.

Food stamps may not be used as a payment for a worker.<sup>67</sup>

#### Collateral

There is a discussion in the *poskim* if giving a worker collateral will exempt the boss from the *issur* of *bal tolin*.<sup>68</sup>

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<sup>60</sup> Momon Yisroel page 107.

<sup>61</sup> Opinion of Horav Elyashiv Shlita quoted in Momon Yisroel page 107:footnote 39, Mishpat Shlomo page 113, see Chut Shuni Shabbos 2:page 332:1.

<sup>62</sup> Rivevos Ephraim 8:421:2 and Avnei Yushfei 5:121:6. Refer to Pischei Choshen Sechiras 9:footnote 36 who is unsure what the *din* would be if the bank is closed. Some say he has to agree to it (Opinion of Horav Elyashiv Shlita quoted in Peulas Ha'suchein page 65).

<sup>63</sup> Ibid.

<sup>64</sup> Refer to Mishpat Shlomo page 113, Peulas Ha'suchein page 67.

<sup>65</sup> Opinion of Horav Elyashiv Shlita quoted in Momon Yisroel page 107:footnote 40.

<sup>66</sup> Avnei Yushfei 4:120:4, see Mishpat Shlomo page 104.

<sup>67</sup> Mishpat Shlomo page 113.

<sup>68</sup> Refer to Ketzos Ha'choshen 74:23, Aruch Ha'shulchan 339:8, see Milei D'nizeikin page 124.

#### Employer Has No Money

Many times it can happen that the employer does not have any money to pay his employee and the question is often asked if the boss has transgressed the *issur* of paying one's workers on time.

An employer who does not have money to pay his workers does not transgress the *issur* of paying workers on time.<sup>69</sup> Some say it is a *midas chasidus* for the employer to borrow money in order to pay his workers on time,<sup>70</sup> while others say the employer is required to do so.<sup>71</sup> If the owner has marketable assets then he should sell them in order to pay his workers.<sup>72</sup> However, the custom is not like this.<sup>73</sup> One who has a large check should cash it in order to pay his workers with it.<sup>74</sup>

One should not hire a worker if he knows that he will not have enough money to pay him.<sup>75</sup>

#### Money Sent by Mail

If the employer sent the money by mail and it came later than the accepted date the employer is subject to *bal tolin*. If the worker agreed to have the payment sent by mail then there is no *bal tolin* even if it is late.<sup>76</sup>

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<sup>69</sup> Mesechtas Bava Metziah 112a, Rosh 9:43, Shulchan Aruch 339:10, Chinuch 588, Levush 10, Kitzur Shulchan Aruch 185:4, see Muzal Eish 45 (on the side of the Shulchan Aruch), Modanei Yom Tov 2:page 423, Hamesivta 5745:page 108, Kinyan Torah 4:137:6, Emes L'Yaakov Biurim 11:page 241, Mishpat Shlomo page 74. No other *issur* is either involved (Pischei Choshen Sechiros 9:footnote 32). Refer to Shevet Ha'Levi 7:233:1.

<sup>70</sup> Pischei Teshuva 8, Ben Ish Chai Ki Sovo 1:24, Shulchan Aruch Harav 18, Aruch Ha'shulchan 14,

<sup>71</sup> Ahavas Chesed 9:7. See Teshuvos V'hanhugos 3:470:10, Kovetz Bais Aron V'yisroel 46:page 143:6.

<sup>72</sup> Momon Yisroel pages 114-115:footnote 68.

<sup>73</sup> Avnei Yushfei 4:120:2.

<sup>74</sup> Ohr Yisroel 2:page 75:11:footnote 16. Refer to Mishpat Shlomo page 103 if one has a CD account does he have to take his money out to pay his workers.

<sup>75</sup> Ahavas Chesed 10:12, Pischei Choshen Sechiros 9:6.

<sup>76</sup> Mishpat Shlomo page 92.

### Asking For the Money

An important rule in the *halachos* of paying one's worker on time is that the employer has not transgressed the *issur* if the worker did not ask for his money.<sup>77</sup> The reason why the worker has to ask is because otherwise the employer may assume the worker is *mochel* the money.<sup>78</sup> According to the *Zohar* even if the worker does not ask for the money the employer has to give it to him.<sup>79</sup> A worker is not allowed to ask for the money before the time to be paid arrives.<sup>80</sup> If he asked for his money after the normal time he gets paid then there is no *bal tolin*.<sup>81</sup> If the worker stands there waiting for his money but is too embarrassed to ask for it, that is considered asking for the money.<sup>82</sup>

If the worker asked for his money at the beginning of the month (because that was his pay date), he does not have to ask for it at the beginning of every month.<sup>83</sup>

If the worker sent a messenger to ask for the money on his behalf then it is as if the worker asked for the money.<sup>84</sup>

The employer does not have to go to the worker's house to pay him,<sup>85</sup> but he can call him to tell him that he can come and collect the money.<sup>86</sup>

### Wishes to Wait

If the worker asked for money but he is willing to wait then there is no *bal tolin*.<sup>87</sup> However, if the owner does not ask for the workers consent but says to the worker "I will pay you next week" then there is *bal tolin*.<sup>88</sup>

### Paying in Advance

If the employer pays in advance then there is no *bal tolin* because the worker agreed to the form of payment.<sup>89</sup> However, the employer does not fulfill the *mitzvah* of paying his worker on time.<sup>90</sup>

### Have Money Ready Beforehand

In order to avoid problems of paying one's worker late, one should have his worker's wages ready before he hires the worker.<sup>91</sup> One who will be leaving the house and there is cleaning help should leave money with someone who is in the house in order to pay her when she is finished.<sup>92</sup>

### Messenger

Another rule regarding the *halachos* of paying a worker on time is if one hires a worker through a messenger then the boss will not transgress the *issur* of *bal tolin* if the wages are not paid on

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<sup>77</sup> Mesechtas Bava Metziah 111a, Rosh 9:43, Ritvah 111, Rambam Hilchos Sechiros 11:4, Shulchan Aruch 339:10, Ben Ish Chai Ki Sovo 1:22, Shulchan Aruch Harav 15, Erech Shai 339:10, Kitzur Shulchan Aruch 185:4, Ahavas Chesed 9:11, Nesiv Hachessed 29, Ve'aleihu Lo Yeibol 2:page 266. This even applies to utesnils etc (Ahavas Chesed 9:11). There is no need to wake up the worker in order to pay him on time (V'aleihu Lo Yeibol 2:page 267).

<sup>78</sup> Erech Shai 339:10.

<sup>79</sup> Ulam Hamishpat 339:10. See Halanos Sechar 4:1.

<sup>80</sup> Opinion of Horav Elyashiv Shlita quoted in Avnei Yushfei 2:118:3.

<sup>81</sup> Nesiv Hachessed 9:35.

<sup>82</sup> Nesiv Hachessed 9:29, Mishpat Shlomo page 88, see Kovetz Bais Aron V'yisroel 46:page 143.

<sup>83</sup> Momon Yisroel page 112:footnote 60 quoting the opinion of Horav Elyashiv Shlita, Mishpat Shlomo page 86.

<sup>84</sup> Rav Akiva Eiger 339, Nesiv Hachessed 9:footnote 32, Aruch Ha'shulchan 339:12.

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<sup>85</sup> Nesiv Hachessed 9:footnote 31.

<sup>86</sup> Halanos Sechar 4:5.

<sup>87</sup> Opinion of Horav Chaim Kreisworth zt"l quote in Momon Yisroel page 112:footnote 61, Avnei Yushfei 5:152:1.

<sup>88</sup> Momon Yisroel page 113.

<sup>89</sup> Refer to Momon Yisroel page 108, Teshuvos V'hanhugos 1:470, 1:899:10. Refer to Kovetz Bais Aron V'yisroel 46:page 143:4.

<sup>90</sup> Shevet Ha'kehusi 1:349.

<sup>91</sup> Chinuch 588, Ahavas Chesed 9:9. See *ibid* 10:12.

<sup>92</sup> Ohr Yisroel 2:page 71:3.

time.<sup>93</sup> Many sages had the custom to hire workers through messengers in order not to transgress the *issur* of *bal tolin*.<sup>94</sup> This is very common when an employment agency is the one who gives jobs to people to work in different places.<sup>95</sup> Some say one still transgresses the *issur* of the money "waiting" by the boss, and if one uses a messenger to hire workers he does not fulfill the *mitzvah* of paying workers on time.<sup>96</sup>

The *poskim* give a reason why we do not say a messenger is like the person who sent him and therefore, the *issur* of *bal tolin* should apply.<sup>97</sup> The *Tosfas Rid*<sup>98</sup> says when the worker does not see the boss hiring him then he does not expect to be paid on time.

There is an uncertainty if a woman can hire someone and make her husband transgress the *issur* of *bal tolin* because of the *klal* "one's wife is like himself."<sup>99</sup> Some say he would be *o'ver* the *issur*.<sup>100</sup>

There is no *bal tolin* on a public institution since there is no single employer.<sup>101</sup>

Some say a secretary who hires a worker for her boss is not considered a messenger, but it is like the boss himself hired the worker and there is *bal tolin*.<sup>102</sup> The same is true if a worker was hired through writing (i.e. mail),<sup>103</sup> or by telephone.<sup>104</sup>

#### Hiring a Craftsman

There is a discussion in the *poskim* if a *kablan* (craftsman) is included in *bal tolin* if one were to pay him later.<sup>105</sup> The consensus is that he is included in this *issur* and one may not pay him late if he wants to avoid this *issur*.<sup>106</sup> Included in this category are plumbers, tailors and electricians, and therefore one must be careful to pay these people on time.

One important factor is that as long as the craftsman has your item (i.e. tailor) then there is no *bal tolin*.<sup>107</sup> Some say the reason is because if the craftsman did not give you the product then he is *mochel* on getting paid on time.<sup>108</sup> For example, if one gave his car into fix to the mechanic and the car is ready there is no *bal tolin* as long as it is by the craftsman. Even if the craftsman informs the customer that the article is ready to be picked up, there is no *bal tolin* since the article is in the craftsman's hands (unless he makes reference to the money he wishes to be paid).<sup>109</sup> Once the craftsman

<sup>93</sup> Mesechtas Bava Metziah 110b-111a, Shulchan Aruch 339:7, Rama, Ben Ish Chai Ki Sovo 1:23, Shulchan Aruch Harav 17, Ahavas Chesed 10:2-3, Aruch Ha'shulchan 9.

<sup>94</sup> Shulchan Aruch Harav 18.

<sup>95</sup> Momon Yisroel page 118, Mishpat Shlomo pages 55-56.

<sup>96</sup> Opinion of Horav Elyashiv Shlita quoted in Momon Yisroel page 118:footnote 83.

<sup>97</sup> See Rashash Bava Metziah page 25, Meshech Chuchma Vayikra 19:13, Hisoreros Teshuva 2:86, Hapardes 25:8:page 2-5, Kovetz Bais Aron V'yisroel 83:pages 83-86, Teshuvos V'hanhugos 1:899:7-8, Mishpat Shlomo pages 60-62.

<sup>98</sup> Mesechtas Bava Metziah 111a "lo tzrichasa."

<sup>99</sup> Nesiv Hachessed 10:footnote 10.

<sup>100</sup> Aruch Ha'shulchan 339:9, Mishpat Shlomo page 72. See Shevet Ha'kehusi 6:445. Refer to Shevet Ha'Levi 7:232:4 in regard to an older child being a messenger for his father or mother.

<sup>101</sup> Avnei Yushfei 2:118:4 quoting the opinion of Horav Elyashiv Shlita.

<sup>102</sup> Shevet Ha'kehusi 6:445. See Halachos Sechar 7:12:footnote 34 who is unsure about this. Momon Yisroel page 133 says if one hires through a secretary there is no *bal tolin*.

<sup>103</sup> Shevet Ha'kehusi 1:348:2, Mishpat Shlomo pages 56-57.

<sup>104</sup> *ibid*:1, Mishpat Shlomo pages 56-57.

<sup>105</sup> Refer to Mesechtas Bava Metziah 112a.

<sup>106</sup> Rosh 9:43, Rambam Hilchos Sechiros 11:3, Shulchan Aruch 339:6, Levush 6, Ben Ish Chai Ki Sovo 1:25, Shulchan Aruch Harav 13, Nesiv Hachessed 10:4.

<sup>107</sup> Shulchan Aruch 339:6. See Sma 10, Shach 1. See Aruch Ha'shulchan 7, Teshuvos V'hanhugos 3:470:12.

<sup>108</sup> Levush 6, Pischei Teshuva 2, see Shevet Ha'Levi 7:232:2.

<sup>109</sup> Nesiv Hachessed 10:2. Refer to Biur Halacha O.C. 242 "I'kovod," where he implies even if the craftsman comes

brings the item to the customer <sup>110</sup> or the customer picks it up there is *bal tolin*.<sup>111</sup>

If a craftsman makes a custom shirt from his own material then it is a sale and he is not considered hired.<sup>112</sup> A craftsman who comes to your house to fix something and uses some of his own screws and other pieces then it is considered a sale and no *bal tolin*.<sup>113</sup>

#### Employer Known to Pay on a Certain Day

The *issur* of *bal tolin* does not apply if a worker knows that his future boss pays only on a certain day, since it is as if he agreed beforehand to accept late payment.<sup>114</sup> In addition, an employer is not subject to *bal tolin* if he did not make arrangements with his worker regarding when he will get paid.<sup>115</sup> This is very common when people work on an hourly basis, and they do not hand in their hours, but once they hand in their hours the boss should make arrangements with the worker as soon as possible.<sup>116</sup>

Since a waiter for a *kiddush* knows that he is not getting paid until after *Shabbos* there is no *bal tolin*.<sup>117</sup>

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to your house you can say I do not want the item now and there will be no *bal tolin*.

<sup>110</sup> Teshuvos V'hanugos 3:470:12, Mishpat Shlomo page 38.

<sup>111</sup> Halachos Sechar 3:9:footnote 25. See Shevet Ha'kehusi 1:353.

<sup>112</sup> Refer to Ketzos Hachoshen 339:3, Rav Akiva Eiger 339:6, Nesiv Hacheshed 10:4, Kovetz Bais Aron V'yisroel 84:pages 47-52, Avnei Yushfei 5:152:2. See Shearim Metzuyanin B'halacha 185:3.

<sup>113</sup> Mishpat Shlomo page 52.

<sup>114</sup> Refer to Mesechtas Bava Metziah 111a, Rosh 9:43, Shulchan Aruch 339:9, Shulchan Aruch Harav 16, Kitzur Shulchan Aruch 185:6, Ahavas Chesed 9:13, Aruch Ha'shulchan 339:11.

<sup>115</sup> Rama 339:9, Shulchan Aruch Harav 16, Ahavas Chesed 9:13, Aruch Ha'shulchan 339:11.

<sup>116</sup> Mishpat Shlomo pages 82,84.

<sup>117</sup> Momon Yisroel pages 131-132.

#### Telling a Third Party to Pay

The employer may tell a third party to pay his workers and he is not subject to the *halachos* of *bal tolin*.<sup>118</sup> The third part is not either *o'ver* on *bal tolin*.<sup>119</sup>

#### Sending a Bill

Many times one goes to an office for a visit and they say that they will send you a bill in the mail. One does not have to pay them at that time since it is a common practice to receive the bill in the mail. The reason is since it a common practice for a bill to be sent in the mail the doctor etc does not accept the payment until the bill comes.<sup>120</sup> Some say one does not have to pay the bill right when he receives it, but whatever is the accepted practice is what one should do<sup>121</sup> (unless the bill requires a particular payment date).

#### Shadchan

There is a discussion in the *poskim* if a *shadchan's* fee is subject to *bal tolin*.<sup>122</sup>

#### Reward in this World

Even though there are many times when *bal tolin* does not exist, when one pays his worker etc on time he fulfills a *mitzvahs assei* of "*b'yomi titen sechar.*"

We all know that in this world one does not get paid for *mitzvahs*.<sup>123</sup> The question is why not?

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<sup>118</sup> Mesechtas Bava Metziah 111a, Shulchan Aruch 339:10, Shulchan Aruch Harav 15, Aruch Ha'shulchan 13, Ahavas Chesed 10:5. Refer to Hisoreros Teshuva C.M. 26. See Momon Yisroel pages 134-135, Hamesivta 5745:page 107.

<sup>119</sup> Shulchan Aruch *ibid*, Shulchan Aruch Harav 15, Aruch Ha'shulchan 13.

<sup>120</sup> Momon Yisroel pages 121-122, Ohr Yisroel 2:6:2, see Toras Hayoledes pages 393-395:footnote 5.

<sup>121</sup> Momon Yisroel page 122:footnote 94. Some say up until a month (*ibid*).

<sup>122</sup> Refer to Ohr Yisroel 1:5, B'shvili Haparsha kedoshim pages 323-335, Lehoros Nossan 10:122, Halichos Yisroel 6, Yismach Lev 1:page 23, Mishpat Shlomo page 56, Peulas Ha'suchein pages 95-96.



There is a *mitzvah* of *bal tolin* so how can we not get paid for our *mitzvahs* right away?<sup>124</sup>

Some say *Moshe* was a messenger in giving us all of the *Torah* except for two *mitzvahs* so *Hashem* does not have to pay us since there is no *bal tolin* when there is a messenger involved.<sup>125</sup>

The *Chasam Sofer* says since we have to do *mitzvahs* all our life and we never finish doing *mitzvahs*, there is no *bal tolin*.<sup>126</sup>

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<sup>123</sup> Mesechtas Kiddushin 39b.

<sup>124</sup> Refer to *Peulas Ha'sucheir* pages 129-131 in depth.

<sup>125</sup> *Yismach Yisroel Bereishis* page 5, see *Yalkut Shemoenei Kedoshim* page 375:608, *E'ven Yecheskel* page 28, *Lekutei Baser Lekutei Avos* page 9, *Kovetz Bais Aron Yisroel* 99:page 141, *Yalkut Hadrush* page 258, *Zera Yaakov* 7:pages 161-162, *Mishpat Shlomo* pages 22-24.

<sup>126</sup> *Lekutei Baser Lekutei* 4:page 219, *Chasam Sofer Eikev* page 32.

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### Halachically Speaking

" Halachically Speaking is a bi-weekly publication compiled by Rabbi Moishe Dovid Lebovits, a former *chaver kollel* of *Yeshiva Torah Vodaath* and a *musmach* of *Horav Yisroel Belsky Shlita*. Rabbi Lebovits currently works as the Rabbinical Administrator for the KOF-K Kosher Supervision.

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