

# HALACHICALLY SPEAKING

Volume 16 Issue 1



{ TOPIC }

## Giving and Accepting Gifts



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

► Each issue reviews a different area of contemporary *halacha* with an emphasis on practical applications of the principles discussed. Significant time is spent ensuring the inclusion of all relevant *shittos* on each topic, as well as the *psak* of Harav Yisroel Belsky, Shlita on current issues.

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# Giving and Accepting Gifts

Giving and accepting gifts are a part of society's norms. People give and accept gifts for birthdays, anniversaries, Chanukah, and many other occasions. Husbands and wives, parents and children, and others often give gifts to each other. What does halachah say about accepting gifts? Are there any issues to be concerned about?

## Gifts in the Torah

There are many places in the Torah that discuss gifts given to various people, and also places that mention gifts being refused. Avraham Avinu told Sarah to say she was his sister<sup>1</sup> so that Avimelech would give presents.<sup>2</sup> Avraham mentioned that he did not want to take anything from the king of Sedom.<sup>3</sup> He also did not want to take the Mearas Hamachpeilah from Efron as a gift.<sup>4</sup>

The Drisha<sup>5</sup> mentions that Avraham did not want to take gifts due to the issue of *ישוּיָא מִתְּנֵה יָחִידָה* (he who hates gifts will live).<sup>6</sup>

1 Bereishis 12:13.

2 Rashi, Bereishis 12:13. See *Sifsei Chachamim* on Bereishis 12:13, *Gur Aryeh*, Bereishis 12:13, *Drisha*, C.M. 249:5.

3 Bereishis 14:23. See *Gur Aryeh*, Bereishis 12:13 and Bereishis 20:14.

4 Refer to *Birchos Peretz*, *Parshas Chayei Sara*, page 14-15. Also see *Orchos Matanah*, pages 449-453.

5 C.M. 249:5.

6 *Mishlei* 15:27. See *Maharal* in *Nesivos Olam Nesiv HaTorah* 4.

When Eliezer went to find a wife for Yitzchak he came prepared with many presents for her.<sup>7</sup> When Yaakov went to meet Esav he prepared himself in a few ways, and one of them was by giving him presents.<sup>8</sup>

## Reasons for Not Accepting Gifts

There are a few reasons for not accepting gifts.<sup>9</sup>

Rashi<sup>10</sup> says that one who avoids presents will definitely avoid stealing.<sup>11</sup>

The Sema<sup>12</sup> says that one who accepts presents will constantly want money. Furthermore, one will come to flatter those who give him gifts. If one sees a person who gave him gifts doing something wrong, he will not rebuke him.<sup>13</sup> In addition, one who receives gifts thinks that he will live off the gifts and neglects to realize that everything is from Hashem.<sup>14</sup>

A person who likes gifts will be jealous of others. On the other hand, a person who refuses gifts will not be jealous of others, and will say that everything he has is from Hashem.<sup>15</sup>

## Explaining the Reasons

There are a few differences between the reasons mentioned above.

- If one receives an anonymous gift, is this considered a gift one should not accept? The reason of flattery would

<sup>7</sup> Bereishis 24:53.

<sup>8</sup> Bereishis 32:17.

<sup>9</sup> For more on this, see *Orchos Matanah*, pages 409-410.

<sup>10</sup> *Mishlei* 15:27. See *Ibn Ezra*, *Mishlei* 15:27.

<sup>11</sup> Refer to *Sefer Chassidim* 316.

<sup>12</sup> *C.M.* 249:4.

<sup>13</sup> *Drisha*, *C.M.* 249:5, *Prishah*, *C.M.* 249:5.

<sup>14</sup> *Drisha*, *ibid*. See *Metzudas Dovid*, *Mishlei* 15:27 *Alshich*, *Malbim*, *ibid*.

<sup>15</sup> *Rabbeinu Yonah* in *Kad Hakemach* on *Chemdah*.

not be applicable here since one does not know who gave him the gift, but the other reasons would still apply.<sup>16</sup>

- If one receives a present from a non-Jew, the first reason would not apply in this case since one may not flatter a non-Jew, but the others reasons may still apply.<sup>17</sup> Many are lenient and say that it does not apply to a present from a non-Jew.<sup>18</sup>
- Accepting presents from an organization would be permitted. The reason of flattery would not apply since one does not know who to potentially flatter. The other reasons may still exist.<sup>19</sup>

## Sources from the *Gemara*

There are a few different places in the *Gemara* that mentions scenarios where gifts were not taken.<sup>20</sup> The *Gemara* mentions that one who receives many presents shortens his life.<sup>21</sup>

## Halachic Sources

The Rambam<sup>22</sup> mentions that complete *tzaddikim* and people who are extra careful with their actions do not take gifts from anyone, and they have *bitachon* that Hashem

16 *Maadanei Yom Tov* 2:pages 403-404. Refer to *Orchos Matanah*, pages 410-411.

17 *Maadanei Yom Tov* 2:page 404. See *Derech Sichah* 1:page 9.

18 See *Derech Sichah* 1:page 9. Refer to *Riva* on *Bereishis* 12:13, who says that there is no issue with accepting gifts from a non-Jew. This is also quoted in the *Bartenura* on *Bereishis* 12:13. Refer to *Chashukei Chemed*, *Maseches Gittin* 61a, *Betzel Hachochmah* 6:63. See *Orchos Matanah*, pages 447-449.

19 Refer to *Orchos Matanah*, pages 411-412.

20 *Maseches Kiddushin* 59a, *Bava Basra* 13b, *Megillah* 28a, *Chullin* 44b.

21 *Maseches Sotah* 47b.

22 *Hilchos Zichiyah V'matanah* 12:17.



will provide for them. Rashi<sup>23</sup> mentions that there is no prohibition to accepting gifts from others.<sup>24</sup>

The Shulchan Aruch mentions that doing so is a pious act (worthy for all to do, not just *tzaddikim*).<sup>25</sup> Others mention that this is a pious act as well.<sup>26</sup>

## Benefit for the Giver

There is a discussion among the *poskim* whether there is a benefit for the giver to give a gift then there is no issue with the taker to accept gift.<sup>27</sup> Based on the lenient opinion, giving money for a name on a *sefer*, shul, and so on is not an issue since the giver is doing it for his own good.<sup>28</sup>

Furthermore, stores can give out free gifts for promotions.<sup>29</sup>

## Using the Item

The Meiri<sup>30</sup> mentions that if one is accepting a gift such as food, then there is no issue of accepting such a gift.

## When the Giver Gets Back

Some mention that if the giver of a present will be getting

<sup>23</sup> *Maseches Brachos* 10b, “*yehena*.”

<sup>24</sup> Refer to *Maharsha*, *Maseches Brachos* 10b.

<sup>25</sup> *C.M.* 249:5. This is also mentioned in the *Tur*, *C.M.* 249, *Beis Yosef*. See *Orchos Matanah*, pages 391-392.

<sup>26</sup> *Kitzur Shulchan Aruch* 29:21, *Aruch Hashulchan* 4. See *Rabbeinu Yonah* on *Maseches Avos* 5:10.

<sup>27</sup> *Sema*, *C.M.* 171:24, *Nesivos Hamishpat*, *C.M.* 171:19, *Shach* 9, *Chaim Shaul* 1:42. Refer to *Kovetz Beis Aharon V'Yisrael* 135:pages 167-168, *Orchos Matanah*, pages 405-406.

<sup>28</sup> *Orchos Matanah*, page 435.

<sup>29</sup> *Orchos Matanah*, page 435.

<sup>30</sup> *Maseches Brachos* 10b.

back a present as well, there is no issue of either party accepting gifts.<sup>31</sup>

## Small Gifts

Some mention that there is no issue with taking a small gift.<sup>32</sup>

## Someone Who Is Lacking

If someone is lacking and does not have what to live on, he may accept gifts.<sup>33</sup>

# Shabbos

In order for one to add to the enjoyment of Shabbos, he is able to accept gifts. This is not included in *soneh matanos*.<sup>34</sup>

## *Mishloach Manos*

There is no issue of accepting gifts when giving *mishloach manos*, since by accepting a gift one is allowing his friend to do the mitzvah of *mishloach manos*.<sup>35</sup> In addition, when one gives *mishloach manos* he receives one in return.<sup>36</sup> Others say that since this mitzvah was established by Mordechai Hatzaddik, there is no issue of giving presents.<sup>37</sup>

## Gifts for Rav and Rebbi

The custom is that on Purim etc we give money to our

31 *Mishneh Halachos* 15:215.

32 *Sifsei Chachamim*, *Bereishis* 12:13, *Mishneh Halachos* 17:137.

33 Refer to *Orchos Matanah*, pages 395-399. *Mishneh Halachos* 15:215

34 *Eishel Avraham Butatchatch* 2:242:page 45. See *Mishneh Halachos* 17:137.

35 *Moadim U'zemanim* 2:186 in footnote. See *Chaim Sheyeish Bahem Moadei Hashanah*, pages 279-280, *V'darashta V'chakarta* 6:page 28.

36 *Orchos Matanah*, page 429. Refer to *Sheilas Yaakov* 1:62:2, *Mishneh Halachos* 17:137.

37 *V'darashta V'chakarta* 6:page 30.

Rav or child's rebbi. There is no issue of *soneh matanos* in this case. Giving a gift to a Rav or rebbi is like repaying a loan, since they have taught us and our children Torah.<sup>38</sup>

## Rebbeim

The reality is that rebbeim often need to seek outside help to support their families, as their salaries do not cover their expenses. The Chasam Sofer<sup>39</sup> mentions that most wise people accept presents since they have no choice due to their love of Torah. There is no issue with accepting these presents.<sup>40</sup>

## Baby and Bar Mitzvah Gifts

The custom is that a gift is given when a baby is born and when a child becomes bar mitzvah. Why is there no issue of *soneh matanos* in this regard?<sup>41</sup> It is possible that since one came to the baby's bris or *kiddush* (for a baby girl), or to the bar mitzvah and enjoyed the meal, he is paying for his enjoyment.

## Chassan and Kallah

The custom is that gifts are given to a *chassan* and *kallah* upon their marriage.<sup>42</sup> There is no issue of *soneh matanos* in this regard.<sup>43</sup> One of the reasons for giving a gift to the newly married couple is that if one enjoys the wedding meal and does not make the *chassan* and *kallah* happy, there are

38 *Orchos Matanah*, page 432. See *Divrei Malkiel* 5:237.

39 *Maseches Chullin* 44b, "eizehu."

40 For more on those in learning accepting money, see *Rema*, Y.D. 246:21, *Shach* 20-21, *Taz* 7, *Igros Moshe*, Y.D. 2:116, *Yabea Omer*, Y.D. 7:17, *Chelkas Yaakov*, Y.D. 138 (giving cheaper prices to Rabbanim, and so on), *Maadanei Yom Tov* 2:pages 408-410, *K'rayna D'igrisa* 1:52.

41 *V'darashta V'chakarta* 6:pages 28-30.

42 Refer to *Shulchan Haezer*, page 72:14.

43 *Mishneh Halachos* 5:215, 17:137.



curses that apply to him. Since one is benefitting from giving the gift, there is no issue of *soneh matanos* for the *chassan* and *kallah* to accept it.<sup>44</sup> Some mention that since a *chassan* is comparable to a king, people want to give him presents and there is a benefit to the giver.<sup>45</sup>

## Those Who Are Learning

If one who is learning wishes to accept money from his parents in order for him to continue learning, there is no issue of *soneh matanos*.<sup>46</sup> A person who gives money to someone who is learning does not lose out on any income, since his money was set from Rosh Hashanah — besides for the money given for the Torah of his children.<sup>47</sup>

## Parent to Child

Any gift a parent gives to a child is not included in *soneh matanos*. It is considered a mitzvah since giving gifts to one's child brings the parent and child closer, positively impacting the child.<sup>48</sup>

## Yom Tov

Even if a woman is careful and wishes not to accept presents during the year from her husband because she does not want to accustom herself to presents, in honor of Yom Tov she may accept presents.<sup>49</sup>

44 *Yismach Lev* 1:pages 188-189, *Teshuvos V'hanhagos* 3:404.

45 *V'drashta V'chakarta* 6:page 30.

46 *Teshuvos V'hanhagos* 3:275, *Shevet Halevi* 6:229.

47 *Teshuvos V'hanhagos* 3:275.

48 *Orchos Matanah*, page 433. See *Shevet Halevi* 6:229.

49 *Chai Halevi* 4:35:7.

איזן ער להקציב? ה' בעולמו אלץ י' אמות של הלכה בלובד... (ברכות ה')

## Chanukah Gelt

The custom is for children to receive gifts and money on Chanukah.

Harav Yaakov Kamenetsky, *zt"l*,<sup>50</sup> says that parents would send money with their children to give to their rebbeim on Chanukah. The *minhag* of giving Chanukah gelt to children is derived from this.<sup>51</sup>

Some mention that the reason for giving Chanukah gelt is that we spend a lot of money on other *Yamim Tovim*, but on Chanukah there aren't too many Yom Tov-related expenses. Therefore, we add to our spending by giving out money to publicize the miracle and to show how precious mitzvos are by giving money out.<sup>52</sup>

Others mention that when the Yevanim ruled over Eretz Yisrael, learning Torah was not allowed. When Klal Yisrael was victorious over them, the children were given money to entice them to learn. Therefore, the custom evolved to give out money on Chanukah.<sup>53</sup>

Gifts and money are given out on Chanukah since they bring joy.<sup>54</sup>

Harav Yaakov Kamenetsky, *zt"l*, used to give money to his children on the night when the fifth candle was lit.<sup>55</sup> The Steipler Gaon, *zt"l*, followed this *minhag* as well, for the fifth

50 *Emes L'Yaakov* 670, footnote 583. See *Chaim Sheyesh Bahem*, page 247, *Minchas Yitzchak Moadim*, *Avnei Yushpei* 1:129:2.

51 Refer to *Chashukei Chemed*, *Maseches Megillah* 10b:page 136.

52 *Edos B'yehosef*, page 140:10. For other reasons, see *Sefas Emes*, Chanukah, page 26, *Kuntres Moadim U'zmanim*, pages 48-50, *Lekutei Basar*, *Lekutei Shabbos*, page 199, *Ohr Yisrael* 50, page 245, *Beis Yitzchak* 26:pages 476-477.

53 *Sifsei Chaim*, *Moadim* 2 page 134. See *Shaarei Halachah U'minhag* 2:page 279.

54 *Avnei Yushpei* 1:129:2.

55 Heard from Harav Yisroel Belsky, *zt"l*. Some mention not to give out the money on every night of Chanukah (*Shaarei Halachah U'minhag* 2:page 280). The custom is to be lenient (*ibid.*).



night is the only night that never coincides with Shabbos, and money can always be given on that night.<sup>56</sup>

One is permitted to use *maaser* money for gifts to rebbeim, since these gifts are not obligatory.<sup>57</sup> The *poskim* say that one should separate *maaser* from his Chanukah money. There is a dispute among the *poskim* regarding a non-monetary gift;<sup>58</sup> the *minhag* is that the recipient need not separate *maaser*.<sup>59</sup> Harav Yisroel Belsky, *zt"l*, maintains that a child who receives money all year from his parents for personal use need not separate *maaser* from his Chanukah money, since the Chanukah money is not considered a special gift.<sup>60</sup>

Chanukah *gelt* should not be given to an *avel*.<sup>61</sup>

## Giving Presents to a Non-Jew

One is forbidden to give a non-Jew a gift.<sup>62</sup> However, if one will benefit from giving the non-Jew a present, it is permitted.<sup>63</sup> Based on this, it is customary to give one's mailman a present during the non-Jewish holiday season.

56 *Derech Sichah*, page 187; *Alei Siach*, page 190:13. Many other Rabbanim gave out Chanukah *gelt* as well (*Edos Byehosef*, page 140:10). This was the custom of the Chofetz Chaim, *zt"l* (*Meir Einei Yisrael* 1:page 62) and Harav Shlomo Zalman Auerbach, *zt"l* (*Halichos Shlomo, Moadim*, page 270:footnote 11). Refer to *Shaarei Halachah U'minhag* 2:page 279.

57 Harav Yisroel Belsky, *zt"l*; see *Mikadesh Yisrael Chanukah* 2, *Zera Yaakov* 26:page 102:27.

58 See *Tzedakah U'mishpat* 5, footnote 7.

59 Harav Yisroel Belsky, *zt"l*.

60 See *Teshuvos V'hanhagos* 3:282.

61 *Nishmas Yisrael* 1:pages 428-429.

62 *Maseches Avodah Zarah*, *ibid.*, *Rambam*, *ibid.*, *Shulchan Aruch, Y.D.* 11:11, *C.M.* 249:2, *Levush, Y.D.* 151:11. In regard to an item that is not worth a *prutah*, see *Sefer Lo Sichaneim*, page 8:footnote 4.

63 *Rashba, Gittin* (Kook), pages 372-373, *Magen Avraham, O.C.* 90:30, *Machatzis Hashekel*, see *Taz, Y.D.* 151:8, *Kesav Sofer, O.C.* 61, *Sefer Lo Sichaneim*, pages 9-10:footnote 10.

This present shows appreciation for the work that he has done, so that in return he will work more efficiently in the future.<sup>64</sup> Additionally, the *poskim* say that if one has a personal relationship with the non-Jew he may give him a present even if he will not receive any benefit in return.<sup>65</sup>

## WIC Programs

There is no issue with accepted WIC checks from the government as one pays taxes and this is not considered taking gifts.<sup>66</sup>

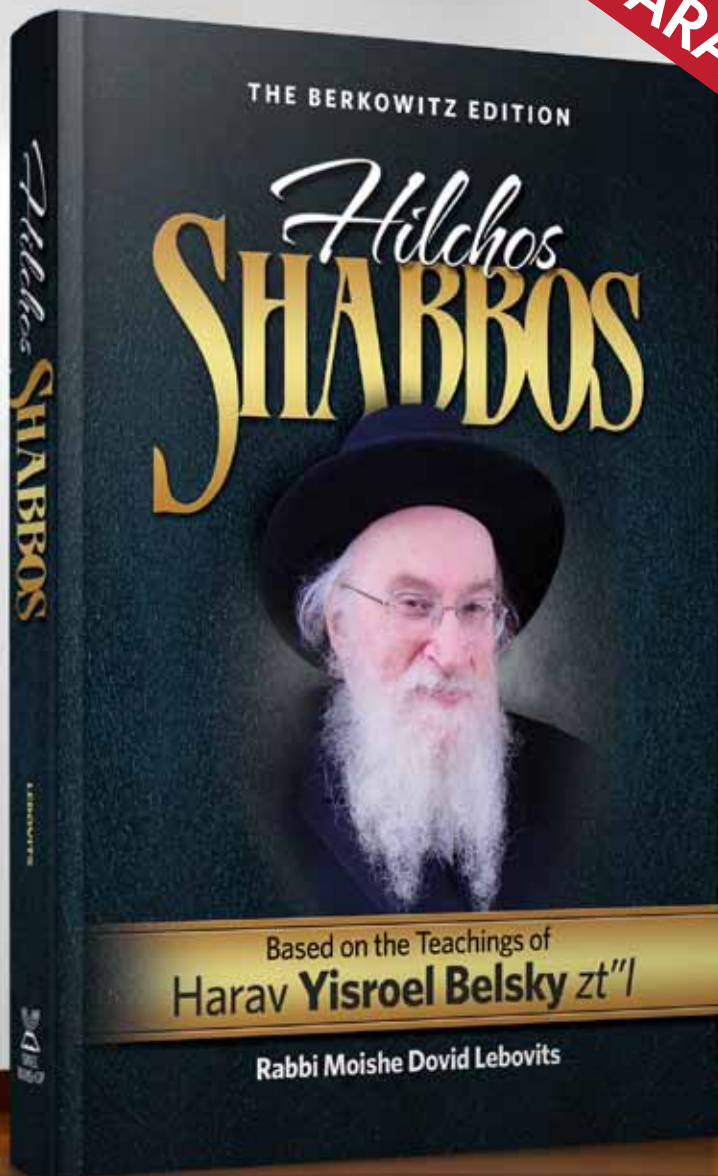
<sup>64</sup> Horav Yisroel Belsky, *zt"l*.

<sup>65</sup> *Tosafos, Maseches Avodah Zarah, "Rabbi Yehuda," Shulchan Aruch, Y.D. 151:11, Taz 8, Levush, Y.D. 151:11.*

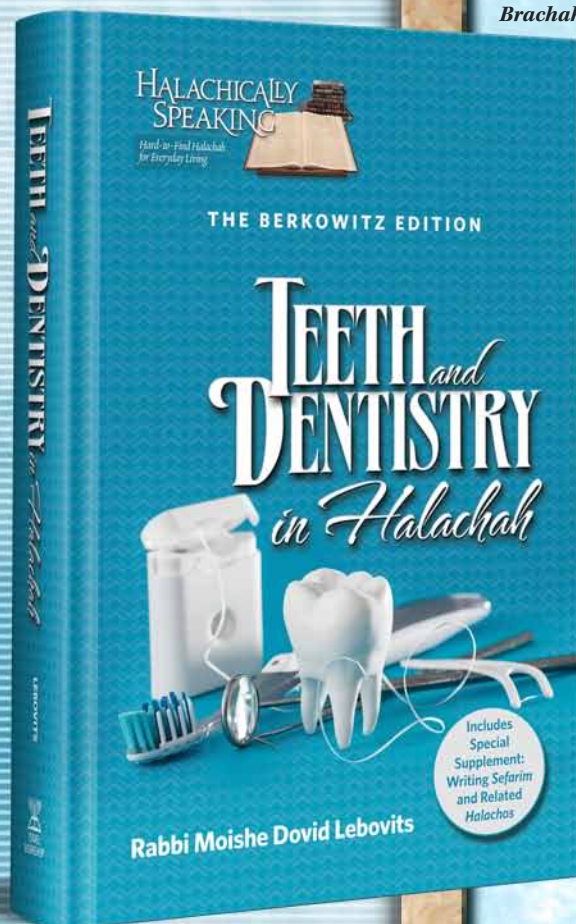
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