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Intro

Today we will בע"ה learn דף קי"ג of אסכת בבא קמא of סכת בבא קמא of the topics we will learn about include.

Several Halachos that pertain to הזמנה, a summons to Bais Din;

The Mishnah's Halachah

אין פורטין

לא מתיבת המוכסין

ולא מכיס של גבאין

A person may not exchange money with the various types of tax collectors from the place they store the tax money. ואין נוטלין מהם צדקה ווטלין מהם צדקה

And he may not accept charity from a גבאי סוכס סי גבאי, גלאי מוכס לפי שהן של גזל לפי שהן של גזל

Because the tax money is assumed to be stolen;

The three explanations as to why the money is considered but in spite of the Halachah of

דינא דמלכותא דינא

The government's laws that do not contravene the חורה are Halachically binding. Therefore, a מוכס appointed by the government rightfully collects the taxes?

The Machlokes regarding גזל עכו"ם Whether a Jew is permitted to steal from a non-Jew?

The Gemara's distinction of

בגזילו

אסור

בהפקעת הלוואתו

מותר

It is forbidden to actually steal something that belongs to a non-Jew.

However, it is permitted to evade paying a debt owed to a non-Jew. And as Rashi explains,

להבריח המכס

הוי כהפקעת הלואתו

To evade taxes is like not paying a debt.

All agree regarding

אבידתו מותרת

If a person finds an object that a non-Jew lost, he may keep it. And

טעותו מותרת

If the non-Jew erred and willingly overpaid, the Jew may keep it.











So let's review ...

The Gemara mentions several Halachos that pertain to הזמנה, a summons to Bais Din:

١.

יהבינן זימנא אפומא דאיתתא

ואפומא דשיבבי

If the following three conditions are met, Bais Din sends the הזמנה to the defendant even with a woman or neighbor who will see him:

דליתיה במתא

If the defendant is out of town; AND

דלא חליף אבבא דבי דינא

He does not pass the Bais Din; AND

'אתי ביומיה

He will return on the same day;

However, Bais Din does not send the הזמנה with a woman or neighbor if, either,

איתיה במתא

The defendant is in town; OR

חליף אבבא דבי דינא

He does pass the Bais Din;

Because the woman and neighbor will not deliver the הזמנה, as they will assume that he already met up with Bais Din.

OR if

לא אתי ביומיה

The defendant will not return on the same day, because אימא אישתלויי אשתליי

They might forget to give him the הזמנה.

Several Halachos that pertain to...

### הזמנה

Summons to Bais Din



### יהבינן זימנא אפומא דאיתתא ואפומא דשיבבי

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The defendant is in town

Becaus

the woman and neighbor will not deliver the シルタ, as they will assume he already met Bais Din

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קובעים זמן

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שני וחמישי ושני זמנא וזמנא בתר זמנא ולמחר כתבינן

Bais Din summons the defendant for three consecutive sessions, and if he still did not come, they issue a פתיחא, a document, the following day.

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קובעים זמן שני וחמישי ושני זמנא וזמנא בתר זמנא ולמחר כתבינן

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3.

לא יהבינא זמנא

לא ביומי ניסן ולא ביומי תשרי

Bais Din does not summon the defendant for a session during the months of Nissan and Tishrei, because people are then occupied with harvesting their crops.

ולא במעלי יומא טבא ולא במעלי שבתא

Nor do they summon him on Erev Shabbos or Erev Yom Tov, because people are busy with their preparations. אבל מניסן לבתר יומי ניסן

וביומי תשרי לבתר תשרי קבעינן

Bais Din does send the defendant a הזמנה during Nissan and Tishrei, for a session during the following months of Iyar and Cheshvan. However,

ממעלי שבתא לבתר מעלי שבתא

לא קבעינן

Bais Din does not send the defendant a הזמנה Erev Shabbos even for a session during the following week, because

בעבידתיה דשבתא

טריד

He is too occupied and might forget.

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> Because אריד חניד באבאל אריך he is too occupied and might forget







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לא יהבינן זמנא לא לבני כלה בכלה ולא לבני ריגלא בריגלא

Bais Din does not deliver a הזמנה to someone attending the Drasha that is given on Shabbos and before Yom Tov, because as Rashi explains

דממנע ולא אתי People will refrain from attending the Drasha. וראודוא דאורא רמאי

והאידנא דאיכא רמאי חיישינן אוים דיישינן

But for those unscrupulous people who attend the Drasha merely to avoid a הזמנה, they are given the הזמנה even at the Drasha.

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Zugt Di Mishnah אין פורטין

לא מתיבת המוכסין ולא מכיס של גבאין

A person may not exchange money with the various types of tax collectors from the place they store the tax money. ואין נוטלין מהם צדקה

And he may not accept charity from a גבאי or גבאי; לפי שהן של גזל

Because their tax money is assumed to be stolen; אבל נוטל הוא מתוך ביתו

או מן השוק

He may accept their personal money that was not mixed with the tax moneys.

And the Braisa adds

אבל נותן לו דינר

ונותן לו את השאר

If he pays with a large coin of one דינר, he may accept the change from the tax money, because as Rashi explains מפני שהוא כמציל מידו

He is merely retrieving his own money.



## לא מתיבת המוכסין ולא מכים של גבאין

A person may not exchange money with the various types of tax collectors from the place they store the tax money

## ואין נוטלין מהם צדקה

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The Gemara asks:

Why is the tax money of a מוכס assumed to be stolen? והאמר שמואל

דינא דמלכותא דינא

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The Gemara asks

Why is the tax money of a מוכם assumed to be stolen?

> והאמר שמואל דינא דמלכותא דינא

Therefore, a מוכם appointed by the government rightfully collects the taxes?







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The Gemara offers several solutions:

The Mishnah refers to either

1.

במוכס שאין לו קצבה

 $\boldsymbol{A}$  מוכס who collects more taxes than the government's mandate;

#### OR

2.

במוכס העומד מאליו

A מוכס who was not appointed by the government;

3.

רב אשי says the Mishnah refers to

במוכס נכרי

A non-Jewish מוכס, and a Jew is permitted to evade paying him the taxes, because

גזל עכו"ם מותר

A Jew is permitted to steal from a non-Jew.

As the Braisa states

ישראל ונכרי אנס שבאו לדין

If a Jew and an extortionist non-Jew brought their case before Bais Din;

אם אתה יכול לזכהו בדיני ישראל זכהו

בדיני נכרים זכהו

Bais Din should initially attempt to favor the Jew through either Jewish or secular law;

ואם לאו באין עליו בעקיפין

דברי רבי ישמעאל

But if they cannot, רבי ישמעאל says, Bais Din may employ deceptive measures against the non-Jew and rule in favor of the Jew.

רבי עקיבא disagrees and says

אין באין עליו בעקיפין

מפני קידוש השם

Bais Din should not deceive the non-Jew, because if he becomes aware of it, it will cause a חילול השם. However, even רבי עקיבא agrees that

הא ליכא קידוש השם

באין עליו בעקיפין

When there is no concern for Chillul Hashem, Bais Din may deceive the non-Jew. Apparently, because both רבי hold

גזל עכו"ם מותר

The עכו"ם point out, that this applies only to the עכו"ם of old, who worshipped Avoda Zara.









The Gemara asks from a contradicting Braisa in which רבי says

מנין לגזל נכרי שהוא אסור

It is forbidden to steal from a non-Jew, because the Pasuk states:

אחרי נמכר

גאולה תהיה לו

An עבדי, a Jewish servant, who was sold to a non-Jew, must be redeemed. This implies

שלא ימשכנו ויצא

One may not simply take the עבד עברי away from the non-Jew. Apparently, because גזל עכו"ם אסור?

רבא makes the following distinction:

בגזילו

אסור

בהפקעת הלוואתו

מותר

It is forbidden to actually steal something that belongs to a non-Jew; as in the case of the second Braisa, one may not take the עבד עברי that belongs to the Non-Jew. However, it is permitted to evade paying a debt owed to a

However, it is permitted to evade paying a debt owed to a aon-Jew; as in the case of the first Braisa, where Bais Din merely absolves the Jew from a debt he owes the non-Jew. And as Rashi explains,

להבריח המכס

הוי כהפקעת הלואתו

To evade taxes is like not paying a debt.

However, if it will create a חילול השם, it is forbidden











The Gemara continues with the discussion of גזל עכו"ם אזל עכו"ם אמר ר"ש חסידא אמר רב ביבי בר גידל אמר ר"ש חסידא

1.

גזל נכרי אסור

One is forbidden to steal from a non-Jew, because the Pasuk states

ואכלת את כל העמים אשר ה' אלהיך נותן לך

You shall consume the goods of the nations that Hashem has given you.

בזמן שהן מסורים בידך

ולא בזמן שאינם מסורין בידך

Only when the non-Jewish nations are under the jurisdiction of Jewish rule, but not when they are free.

2.

אבידתו מותרת

If a Jew finds a lost object of a non-Jew lost, he is permitted to keep it, because the Pasuk states

לכל אבדת אחיך

לאחיך אתה מחזיר

ואי אתה מחזיר לנכרי

You must return only to your brother, a Jew, but you are not required to return a lost object to a non-Jew.

תניא רבי פנחס בן יאיר אומר במקום שיש חילול השם אפילו אבידתו אסור

If this will cause a Chillul Hashem, it is forbidden to keep his lost item.









שמואל says

טעותו מותרת

If the non-Jew erred and willingly overpaid money the Jew is permitted to keep it.

כי הא דשמואל זבן מכותי לקנא דדהבא

במר דפרזלא

As שמואל once purchased from a non-Jew a pan made of gold, which the non-Jew, assuming it's to be made of copper, sold for a cheaper price.

And also

בד' זוזי

ואבלע ליה חד זוזא

The non-Jew had asked for four Zuz and שמואל paid only three Zuz.

This was permitted because the non-Jew should have checked the item he sold, and the payment he received, and was not obligated to point out his mistake.

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# שותו מותרת טעותו מותרת

If the non-Jew erred and willingly overpaid money the Jew is permitted to keep it

## כי הא דשמואל זבן מכותי לקנא דדהבא במר דפרזלא

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