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PARSHA ENCOUNTERS

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Parshas Vayishlach  Rabbi Shimon Atlas

Have No Fear

At the beginning of the Parsha, Yaakov Avinu hears that his brother, Esav, is coming to greet him with 400 men. The posuk tells us: “And Yaakov became very frightened and it distressed him.” Rashi explains that Yaakov Avinu was fearful that he might get killed and that he may kill others. The psukim proceed to explain that Yaaakov developed a plan to prepare for battle, daven to Hashem, and to send presents in an attempt to appease his brother.

Harav Shimon Shwab zt”l asks why Yaakov Avinu was afraid of Esav. The gemarah in Brachos teaches that only sinners, and not tzaddikim, get frightened. The gemarah derives this from a possuk in Yeshaya that states when the advancing army of Sancherev approached Klal Yisrael, “Sinners were afraid in Tzion.” Yaakov Avinu was not a sinner, so why was he afraid of Esav? What promoted him to state in his tefilla to Hashem that he was afraid of Esav: “Rescue me, please, from the hand of my brother, from the hand of Esav, for I fear him”?

Harav Shwab zt”l answers that it is natural for everyone to be fearful in a dangerous situation. Even the greatest tzaddikim will sometimes experience fear. The difference between tzaddikim and others is that tzaddikim pour out their fears and worries to Hashem in the hope that Hashem will save them. They are then immediately confident that Hashem hears these

tefillos and their fears and worries disappear. We find this idea in the tefillah of Dovid Hamelech, where he initially expressed fear: (Tehillim 6, 3-4) “Heal me, Hashem, for my bones shudder with terror. My soul is utterly terrified.” After he completed this tefilla, however he expressed complete confidence: (Tehillim 6, 9-10) “Depart from me, all evildoers, for Hashem has heard the sound of my weeping. Hashem has heard my plea, Hashem will accept my prayer.” Similarly, Yaakov Avinu was justified in fearing that his bother, Esav was coming to kill him, and expressing this fear by immediately davening to Hashem. After he concluded his tefilla to Hashem, however, we see that he was no longer fearful. That evening, Yaakov went alone to get small jars that he left behind. We also find that the description of Yaaakov’s struggle with the ministering angel of Esav contains no mention of fear or apprehension. Once Yaakov Avinu davened to Hashem, he was confident that Hashem would take care of him.

We must always remember that Hashem is watching out for us. Once we ask Him to help us, there is no further reason to be fearful as we are in good hands.

Rabbi Atlas wrote this Parsha Encounters in honor of his mother in law, Mrs. Judy Knopf, receiving the Lev V'nefesh award from the kollel, and in honor Mr. Marvin Glassenberg.

HALACHA ENCOUNTERS

It's That Time of Year

Rabbi Moshe Rosenstein

Yaakov Avinu tells Eisav in this week's Parsha, "*Im Lavan garti, I have been living with Lavan.*" Chazal tell us what he was really saying was, "...*vitaryag mitzvos shamarti, [and even so,] I kept all 613 mitzvos.*" We too spend our lives living in a society and culture that is alien to the ideals and morals that Torah represents and we too try our hardest to be able to say *vitaryag mitzvos shamarti*. At no time of year is it more apparent that we are living in a community that is not strictly our own as it is this time of year, the "Holiday Season." One cannot do anything from shopping to going to work without the "themes" of the season being apparent from all sides. As it has become the custom in their culture to give each other gifts at this time of year, many of us find ourselves in the situation that we too need to be involved in the exchanging of gifts with our non-Jewish employers, employees or associates. In this week's Halacha Encounters we will examine some of the halachos related to the giving of gifts to Gentiles, particularly during this time of year.

Giving "Holiday" Gifts

In olden times when the Gentiles were assumed to be actual idol worshippers, it was forbidden to give a gift to them on their holidays (or three days prior as well). The reason for this prohibition was that they would, as a result, thank their gods. Since Gentiles are bound by the Seven Mitzvos B'nei Noach, including the prohibition to recognize or serve other gods, the Jewish gift-giver would have therefore violated the prohibition of *lifnei ivier lo sitein michshol*, not placing a stumbling block in front of another person. The *poskim* point out that nowadays this problem is less prevalent and it is therefore permissible to give gifts, although it is preferable to give the gift somewhat before the actual day of the religious observance.¹ If, however, one was not able to give the gift earlier, it is better to give it on the actual day than to give it later, as this may be insulting to the recipient and cause animosity.² If one includes a card, one should not mention the actual name of the holiday on the card³ but should rather write "season's greetings" or the like.⁴

Giving a Gift of Non-Kosher Food

There is a general prohibition against doing business with food that is not kosher.⁵ According to many *poskim*, this prohibition is Biblically prohibited.⁶ In general, this prohibition includes raising, buying and selling or most other forms of profiting from dealings with non-kosher food products.⁷ The *poskim* also address giving non-kosher foodstuffs as gifts. The Beis Yosef rules that one may not give non-kosher products as gifts either. Since the purpose of a gift is really to strengthen one's relationship with the recipient (especially when it comes to a business associate), this is akin to a business deal and is therefore included in the prohibition.⁸

Some *poskim* mention that if one is giving the gift strictly out of fear of repercussions, then it is permissible as this can not be considered a "business deal."⁹ However, under other, normal circumstances, it would not be permissible to give a non-kosher gift (for example, a gift basket with treif food in it or the like) to clients, secretaries, co-workers or other business associates.

Exceptions to the Rule

There are however, several criteria and exceptions to the prohibition of doing business with non-kosher food products.

1 – Issurei diRabonnon. The prohibition applies only to food items that are prohibited from the Torah.¹⁰ Any food that is only Rabbinically prohibited is permissible. Therefore items commonly found in gift baskets (or the like)

may not be subject to this prohibition at all. Items like wine, liquor or chocolate may very well only be prohibited *midiRabonnon*. Certainly, however, most meat or cheese products as well as caviar from non-kosher fish are, in fact, *assur min haTorah* and would therefore be subject to the prohibition. If one is purchasing a gift basket that contains many items, one must be sure to ascertain that there are no *issurei* Torah contained in it.

2 – If the Jew received the basket as a gift. The prohibition of doing business with non-kosher food only applies if one set out initially to deal with the treif food; if one went out to buy the food with the intention of reselling it or giving it as a gift.¹¹ Food that one receives "by chance" is not subject to the prohibition and one may therefore sell it or give it away. There are several common scenarios where this dispensation will apply. If one receives a free sample in the mail of non-kosher food or a voucher for a meal in a restaurant, one would be permitted to give it away to a non-Jewish neighbor or housekeeper. Likewise, if one received a gift basket or the like that contains non-kosher food in it, one would be permitted to give *that* basket (or any of the non-kosher food contained in it) to a non-Jewish neighbor, associate, worker or housekeeper.¹²

3 – If the gift is going to an employee. Some *poskim* permit the giving of non-kosher food to employees. They contend that this is not called "doing business" with the food but rather "using" the food.¹³ This leniency is the subject of a dispute amongst the *poskim* and it is therefore questionable if one should rely on it *limaaseh*.¹⁴

4 – If the gift is coming from a group. If a group of non-Jewish employees are pooling their funds together to purchase a gift for their employer, it may be permissible for a Jew to contribute as well.¹⁵ This too is questionable and one should be sure to clarify the Halacha before agreeing to participate.

These are the basic guidelines concerning how and when it is permissible to give a gift to Gentile associates. As always, one should consult their Rav for a final Halachic ruling on these matters. BE"H we should be *zocheh* to make a Kiddush Sheim Shamayim and be able to say next year "*B'America garti v'Taryag Mitzvos shamarti.*"

¹ Rema Y.D. 158:12

² Shach 158:13

³ See Y.D. 147:2 and Gra 3

⁴ Rav Shmuel Fuerst, *shlit" a* and contemporary *poskim*

⁵ Y.D. 117:1 in the name of the *Rishonim*

⁶ See *Taz* 1

⁷ See 117:1 and commentaries

⁸ Y.D. 186b quoting *Hagahos Maymonios Ma'achalos Asuros* 8:8.

⁹ *Pri Toar* Y.D. 117:3

¹⁰ 117:1

¹¹ *ibid.*

¹² See *Chidushei R' Akiva Eiger* Y.D. 117 s.v. *v'im nizdamein*.

¹³ See *Shach* 117:3

¹⁴ Especially given that the *machlokes* is in reference to employees that one has a responsibility to feed. It is questionable as to whether or not one can apply this to our case as well where there is no actual responsibility on the part of the employer to give a gift to the employee.

¹⁵ See *Aruch HaShulchan* 117:23; *Darchei Teshuva* 39; *Sha'arim Hamitzuyanim b'Halacha siman* 64

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