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# DAF YOMI DIGEST
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בס"ד

## OVERVIEW of the Daf

**1) Collecting a double portion from a loan (cont.)**

Abaye continues to present his challenges to Rabbah regarding Rabbah and R' Nachman's respective positions concerning the question of a first-born collecting a double portion from land or cash received for a loan owed his father.

Rabbah responds to Abaye's challenges.

**2) Heirs of heirs**

The incident mentioned by Abaye pertaining to whether the phrase, "And after her lifetime it shall go to my heirs" includes heirs of heirs or not.

R' Huna maintains that it includes heirs of his heirs whereas R' Anan holds that it excludes heirs of heirs.

In Eretz Yisroel they ruled like R' Anan but not based on his reasoning.

From the analysis of R' Anan's position the Gemara infers that R' Huna holds that a husband collects prospective assets the same as those assets that were already in his wife's possession at the time of her death.

R' Elazar explains the rationale behind R' Huna's position.

Rabbah supports the explanation offered by the people of Eretz Yisroel.

R' Pappa gives a final ruling on many of the topics that were discussed. ■

## REVIEW and Remember

1. What was Abaye's difficulty with Rabbah's position?

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2. How does Rabbah respond to Abaye's challenges?

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3. What is the point of dispute between R' Huna and R' Anan?

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4. What are R' Pappa's definitive rulings?

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Today's Daf Digest is dedicated
By the Okner family
In memory of their grandmother
Mrs. Minnie Kaplan

## Distinctive INSIGHT

***Property that is only potential to be owned - ראוי***

אמר רבה מסתברא טעמא דבני מערבא דאי קדים סבתא וזבנא זבינה זביני

The Gemara had presented a case where a שכיב מרע declared that he wished that his property be given to his grandmother immediately, but only for her to use until her death. At that point, he did not want his grandmother's heirs to divide his property, but that it be transferred to his own heirs. The שכיב מרע had an only daughter, who was married, but she predeceased the grandmother. When the grandmother then died, the daughter's husband came to collect the inheritance which the שכיב מרע had given to the grandmother. The Amoraim disagreed regarding how to rule in this case. Rav Huna said that the שכיב מרע meant that his property be given to his heir (the daughter) or to the heir's heir (the husband). Rav Anan disagreed and he ruled that the שכיב מרע meant that the property be given to his heir (only to the daughter), but not to her heirs in her absence. Therefore, the property would remain in the possession of the grandmother, and now be divided among her heirs.

As the discussion regarding this topic concludes, Rabba explains that the halacha is in accordance with Rav Anan, and the husband does not inherit from his wife, the daughter. The reason is not, however, because of how Rav Anan understood the words of the שכיב מרע, but rather because as long as the property is in the possession of the grandmother we see the property as being ראוי - only something that is potential to be owned by the daughter. The rule is that a husband only inherits property from his wife that is actually in her possession at the time of her death, and not property that is yet to be collected.

Rashbam understands that Rabba disagrees with R' Elazar who had said that the daughter is the full and immediate owner of the property of the שכיב מרע (using the concept of כל האומר אחריך כאומר מעכשיו דמי), and the grandmother only had rights to use the property during her lifetime. Rabba therefore noted that if the grandmother had sold all of the property and left nothing for after her death, the sale would be binding. If the daughter is considered the immediate owner, such a sale would be invalid.

According to Rashbam, the dispute of Rabba and R' Elazar is actually a dispute among Tannaim on 137a,

*(Continued on page 2)*

# HALACHAH Highlight

***Collecting a double portion from money that was deposited in the bank***

ואין הבכור נוטל בראוי כבמוחזק

*The first-born does not collect prospective assets as he does from those that were in the father's possession*

A very practical question related to inheritances is whether a first-born has the right to a double portion of his father's money that was deposited in an interest-bearing account in a bank. Shulchan Aruch[1] rules that a firstborn does not collect a double portion of money that his father loaned to others even if the loan is documented. Even if land is collected for that debt the firstborn does not have the right to a double portion. Teshuvas Ginas Veradim[2] writes that money that was in the bank at the time the father died is considered prospective assets (ראוי) from which a firstborn does not collect a double portion. The reason is that money deposited in a bank is considered a loan to the bank and the fact that he could collect on the loan whenever he chooses, i.e. a withdrawal, does not change its essential character. Furthermore, the fact that the loan is guaranteed also does not change this halacha since we do not find the Poskim distinguishing between a loan that is guaranteed and one that is not.

Rav Shmuel Halevi Wosner[3], author of Teshuvas Shevet Halevi, also addressed the question of whether money deposited in a bank is considered ראוי or מוחזק. He answered that the simple reading of our Gemara indicates that a loan is considered ראוי since the money the father lent to the borrower is not the same money he receives in return. Consequently, although a depositor can make a withdrawal from the bank anytime he chooses, nevertheless, since the bank pays interest for the right to use the money while it is in the bank it is categorized as a loan. In Eretz Yisroel, however, where the practice of earning interest on deposits is built on the heter iska model the matter is more complex. Since half of the money is considered a deposit one could argue that that part of the deposit is considered מוחזק and the firstborn would have the right to a double portion from that money. He hesitates issuing a definitive ruling on the matter since everyone knows that even the money that is a deposit is used by the bank as they see fit and therefore it is difficult to rule against the other heirs and grant the firstborn a double portion from those funds. ■

1. שו"ע חו"מ סי' רע"ח סע' ז'.
2. שו"ת גנת ורדים אה"ע כלל ד' סי' י"ט.
3. שו"ת שבט הלוי ח"ד סי' רט"ו. ■

*(Insight...continued from page 1)*

where Rebbe holds that saying אחריך is equivalent to saying מעכשיו. He holds that the second person is considered the owner of the property immediately, and the first one may not sell the property. Rabban Shimon ben Gamliel holds that the first one may sell the property, leaving the second one with nothing. Rabba contends that the halacha is according to R' Shimon ben Gamliel, and the property is not considered owned by the daughter (we do not say מעכשיו), and the husband does not inherit the property which was only ראוי. ■

# STORIES Off the Daf

***Heirs to a loan***

"אין בכור נוטל פי שנים במלוה..."

A certain wealthy man in Israel passed away, leaving a number of large investments in his local bank. The heirs wondered if the firstborn son had a right to a double portion of the money. After all, we find on today's daf that a firstborn has no right to a double portion in a loan.

The eldest brother claimed that a loan for investment purposes is usually considered to be half loan and half deposit. It therefore seemed clear to him that he was entitled to a double portion of half of their father's investments.

When Rav Wosner, zt"l, was consulted regarding this question, he replied that it was not simple at all. "Although it's half deposit, we all know that the money is given to be used, just like the half that is a loan. The same money is not returned and the bank has the right to invest it as they feel fit. Although the firstborn has what might be a valid claim, it appears that it is his burden to prove his right, and there is really no way to do this. Even in Israel, where the banks operate on a heter iskah, it is difficult to make the other heirs sustain a loss due to this unclear claim."[1]

But when this question was brought to the attention of Rav Yaakov Blau, zt"l, he offered a straightforward opinion. "Although there is a dispute among the poskim whether the firstborn son inherits a double portion of half of the father's loans to Jews made through a heter iskah since half is considered a deposit, this is not relevant here. This is because a loan to a bank is like a loan made with a clear understanding that it will certainly all be paid out and later returned. This is equivalent to any other loan in which a firstborn has no extra rights."[2] ■

1. שו"ת שבט הלוי, ח"ד, סי' רט"ו
2. פתחי חושן, הל' ירושה, פ"ב, ס' ל"ו, והערה ע"ד ■

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