

THE HOWS AND WHYS OF SELLING CHAMETZ

Q: What is the basis for selling *chametz*?

A: The Torah forbids the possession of *chametz* during the festival of Pesach and instructs us to destroy our *chametz* on *erev Pesach*. *Chametz* that remains in a Jew's property over Pesach becomes *assur b'hana'ah* (prohibited for any benefit) even once Pesach has passed, whether the *chametz* remained in their possession on purpose or through oversight. Hiding the *chametz* from sight does not help in this respect.

Anyone who owns a large amount of *chametz* and wishes to avoid incurring the financial loss that its destruction would invite is permitted to sell it to a non-Jew.

It is insufficient to merely sell the *chametz* to a non-Jew; you must also rent the location of the *chametz* to the non-Jew. Only once you have taken both steps are you permitted to leave the *chametz* in your home without violating the prohibitions of *bal yeira'eh* and *bal yimatzeih*—because the *chametz* now belongs to a non-Jew and is located in the area he is renting.

Q: How long has the custom of selling *chametz* existed?

A: The concept of selling *chametz* to a non-Jew as a means of avoiding ownership of *chametz* during Pesach appears in a Mishnah at the beginning of the second chapter of Tractate Pesachim. The Tosefta mentions the theoretical option of buying the *chametz* back from the non-Jew after Pesach. During the era of the early *poskim*, a recommendation was made regarding such a sale. In subsequent times, selling the *chametz* was presented as a practical course of action, and was included as such in the Shulchan Aruch. Eventually, the custom became dominant throughout Jewry.

Q: Why is it necessary to have a Rav arrange the sale?

A: There are multiple laws involved in making such a sale. It is therefore customary to sign an authorization form designating a Rav familiar with these laws as our emissary to execute the transaction on our behalf in full accordance with halachah.

According to the view of the Alter Rebbe (in his *Seder Mechiras Chametz*), if the transaction does not comply with all of the halachic requirements, the owner of the *chametz* will have transgressed *bal yeira'eh* and *bal yimatzeih mid'Oraisa* (as prohibited by the Torah). The Alter Rebbe adds specific requirements to the standard methods of transaction. Some of these details are significant enough that otherwise the entire sale might be rendered invalid. The most obvious example is the requirement of an *areiv kablán*, a third-party guarantor to the sale. Accordingly, it is crucial for the sale to be conducted by a Rav.

Q: What exactly should I do?

A: Fill in the authorization form that is supplied by the Rabbonim, specifying the addresses in which *chametz* is to be found. Then, a *kinyan sudar* is performed with the

Rav (by lifting an item belonging to the Rav). It is important to inform the Rav if you are planning to travel elsewhere for Pesach, so accommodation can be made according to any time difference between your destination and the Rav. It is a custom to pay the Rav for his efforts in this sale.

Q: What does the authorization note include?

A: The authorization note is a form that authorizes the Rav to sell your *chametz* and to rent out the location in which the *chametz* is found, in the manner he deems appropriate. On the form, specify all the addresses in which your *chametz* will be found. In addition to the form, it is best to make a *kinyan sudar* with the Rav.

Q: What is a *kinyan sudar*?

A: According to halachah, it is insufficient to conduct any transaction in which an item is transferred from one person's ownership to another's based on a verbal agreement alone. An act of acquisition is essential. This is because the present owner must have sincerely resolved to transfer ownership of the item to the other person. The person acquiring the item can then rely on the sincerity of the decision. In order to be certain that the owner truly resolved to make the transaction, an act of acquisition such as a *kinyan sudar* is performed as follows:

The person acquiring the item hands something of his own to the original owner. Common practice calls for the witnesses to a transaction to offer such an object for this purpose. The owner then raises the object he was handed, thereby making the transaction effective.

When we authorize a Rav to sell our *chametz*, we do not technically require a *kinyan sudar*. That is because the Rav is not purchasing our *chametz*; he is merely acting as our agent to sell it to a non-Jew. We are nevertheless accustomed to performing such an act through raising a garment, or another object belonging to the Rav, in order to confirm that our request that he act on our behalf is made in earnest.

Q: Is it necessary to read the entire form?

A: It is preferable, although not essential. It is certainly not desirable to make the authorization unthinkingly, out of habit. Rather, it is important to realize that you are truly and completely selling your *chametz* in a binding sale. For that reason, if you failed to read the document, but are nevertheless familiar with its purpose and truly intend to make the sale, the sale is valid.

Q: Until when can *chametz* be sold?

A: Once the time of *biur chametz* has passed, any *chametz* that we still own becomes *assur b'hana'ah*. At that point, it is no longer possible to sell any *chametz*. It is therefore highly inadvisable to wait until the last moments before the *biur chametz* deadline to authorize your sale. It is advised to come to the office of the Badatz **at the earliest opportunity** to sell your *chametz*.

Although the office of the Badatz is open for selling the *chametz* until **Thursday**

night, Nisan 14, at 1:00 am, it is strongly advisable to take care of your *chametz* in the preceding days.

Q: Which comes first, filling in the form or making the *kinyan sudar*?

A: There is no preference--either sequence is fine.

Q: Should I hand my keys to the Rav?

A: No. In *Igros Kodesh*, the Rebbe writes that in recent times and in many locations, even individuals most scrupulous in their observance of mitzvos do not follow the custom of handing a key to the Rav when selling their *chametz*.

Q: Do I need to specify every place in my home where *chametz* will be locked away?

A: It is necessary to specify each address that is included in your sale such as homes, offices, cars, vacation homes, off-site storage rooms, and lockers in shul. Likewise, include any change in residence for Pesach, if you intend to travel and bring *chametz* there before the *zeman* and want it included in the sale. In the form, also add "...and wherever the *chametz* may be found." Be sure to record the exact address of each location, including apartment number, where applicable. However, you do not need to specify each closet within your home, office, and the like. This is because the authorization form states clearly that the sale will include all the *chametz* that is placed in "designated places" within the addresses listed.

Remember not to move the *chametz* to an address not recorded on the form once it has been itemized.

Q: In addition to recording the name of the person selling the *chametz* as well as the appropriate addresses, what else must I do?

A: You need to securely close off or lock away all *chametz* that remains on your properties and will be sold to a non-Jew, and clearly mark those locations (e.g., tie or tape the doors closed). There are a number of reasons for this— among them, the need to clarify what exactly is included in the sale, and to prevent us from accidentally accessing these locations during Pesach.

All areas which are certain to contain real *chametz* must be sectioned-off with a secure *mechitza* that is 10 *tefachim* (around three feet) high. If the *chametz* is stored in a normal kitchen unit with doors, it is sufficient to close the doors and mark it clearly.

Q: Is there any form of *ha'aramah* (evasion) involved in this sale?

A: No. According to the Alter Rebbe the sale is absolute in every sense, to the extent that it is a valid remedy to avoid the stringent biblical prohibitions of *bal yeira'eh* and *bal yimatze*. The Tzemach Tzedek adds that the Alter Rebbe's requirement for an *areiv kablan*, third-party guarantor, dispels any concern of *ha'aramah*.

Q: Can we include real *chametz* in the sale?

A: According to the Alter Rebbe the sale is a totally valid sale (not simply *ha'aramah*)

and there is therefore no reason not to include actual *chametz* in the sale. The Chabad Rebbeim personally followed this practice.

Q: If I verbally nullify any *chametz* that remains in my possession on *erev Pesach*, must I also sell it to a non-Jew?

A: *Chazal* insisted that verbally declaring all *chametz* nullified is insufficient. We must actively search for any *chametz*, remove it from our property and destroy it. If there is particular *chametz* that we wish to retain, we can sell that *chametz* to a non-Jew. However, this *chametz* is **not** included in our verbal declaration of nullification because we intend to buy it back from the non-Jew after Pesach.

Q: What is the source of the custom to pay the Rav for arranging the sale?

A: The practice is ancient and is reported in *Sdei Chemed* and similar sources. In addition to the obvious reasons such as the actual efforts expended and the need to cover the costs involved in the sale, it is also a means of paying the Rav for serving the community throughout the year. Halachic sources also discuss halachic reasons for this practice that strengthen the validity of the sale.

Q: Can I sell *chametz* through any Rav I like?

A: Rabbinic responsa discuss at great length the concept of encroaching on the rabbinic jurisdiction of a community rabbi. This is upheld by many contemporary authorities such as *Sha'alos u'Teshuvos Sha'arei Ezra*, who specifically forbids selling *chametz* through someone who has not been designated for this purpose by the Badatz.

Q: If I sign an authorization form at the offices of the Badatz a few days before Pesach, and then purchase additional *chametz*, is the new *chametz* included in the sale?

A: According to the Tzemach Tzedek, yes, it is included in the sale. The authorization form includes an additional clause, in accordance with the suggestion of the Tzemach Tzedek (as an "extra measure") that the Rav is authorized to perform a *zechus* for us and include in the sale any *chametz* that may enter our possession up until *erev Pesach*, and this year - the day before.

Q: Can I still access an area that was designated as sold to a non-Jew after the time of *biur chametz* has passed?

A: While processing the transaction with the non-Jew, the Rabbonim come to an agreement with him whereby he good-naturedly allows the sellers to temporarily access those places that are being sold to him **in cases of necessity**. If you do access these locations during Pesach, be careful to avoid touching any *chametz* and avoid remaining there for any length of time.

If you intend to spend Pesach in the home in which your *chametz* is sold, or if you are travelling elsewhere but are leaving guests in your home during Pesach, do not include the rooms that will be used over Pesach in the sale of *chametz* --because no one may live in the rooms that have been sold as *chametz* to a non-Jew.

Q: If I sell my *chametzdige* utensils to a non-Jew, must I immerse them in a *mikveh* after Pesach like I would when purchasing utensils from a non-Jew?

A: In *Likkutei Sichos*, the Rebbe explains at length that this is unnecessary; although the non-Jew is technically authorized to make use of the utensils during Pesach, this is highly unlikely to ever occur.

Q: Is there anything else I must do in addition to selling personal *chametz*?

A: Yes. In *Igros Kodesh*, the Rebbe writes that it is a mitzvah to encourage neighbors and business owners to sell their *chametz* as well, in order to avoid the strict prohibitions of owning *chametz* on Pesach. There is an added benefit in doing so, since it acts as a much-needed reminder to many Jews about the general prohibition of *chametz* and of the customs and traditions of their ancestors.

Q: Do I need to search for *chametz* in those areas that will be sold to a non-Jew?

A: No, common practice is not to search these areas. (The Tzemach Tzedek explains this at length in his halachic correspondence with the *Divrei Nechemiah*.)

Q: Can I simply sell my entire house to a non-Jew and thereby free myself from the obligation to search for *chametz*?

A: No. Each *chametz*-owning individual has an obligation to conduct a search. The best practice is that even a guest in another's home should place some personal *chametz* in their room at the time of *bedikas chametz*, providing an opportunity to conduct their own search. (According to the strict letter of the law, however, it is acceptable if the host searches for *chametz* on a guest's behalf). Some suggest that a guest should purchase the room in which he is staying from his host (using a purchase method that is halachically valid). However, it is still advisable to listen to the host recite the blessing over the search that he conducts prior to the guest conducting the search in their rooms. It is also advisable that even if you plan to travel for Pesach, (and you are leaving home less than thirty days before Pesach), to clean at least one area in your home and conduct a search there, without a blessing, before departing.

Only someone who does not possess any *chametz* at all is exempt from the search.

Q: Is there any type of *chametz* that I can't sell?

A: 1. You may sell *chametz* located in the trunk of your car, even though it does not have an address, provided that you simultaneously sell *chametz* located within your home. In such a case, specify the details regarding the vehicle, such as its parking spot and license plate number in the Sale of *Chametz* authorization form. If possible, it is preferable that the entire car be leased to the non-Jew, and hence the car cannot be driven around on Chol Hamoed (even if was properly searched and found to be clean from *chametz*). Nonetheless, according to the strict letter of the law, you need not be concerned about this. Still, ensure that the trunk is locked, and the key is securely stored away.

Needless to say, if you find it difficult to entirely rid your car of *chametz*, you cannot simply include the entire car in the sale and then ride in it during Pesach.

2. As mentioned above, if you are certain there is absolute *chametz* in a particular location, it is not sufficient to sell the *chametz* there and mark the location with tape; the area needs to be sectioned off with a proper *mechitza* of 10 *tefachim*. In an area where a proper *mechitza* cannot be arranged, you cannot sell the *chametz* located there; rather, dispose of the *chametz* properly.

3. Halachic authorities debate whether we can sell crumbs of *chametz* that are worth less than a *perutah*. True, the text of the sale includes a clause stating that the sale includes *chametz* that "is not subject to sale and will never be bought by anyone." Nevertheless, this clause does not indicate that the sale extends to *only* this form of *chametz*. Therefore, if you have no *chametzdig* utensils or other forms of *chametz* that are worth at least a *perutah*, and merely wish to evade cleaning the house of crumbs, you cannot rely on the sale. You must conduct an adequate search to rid your homes of all *chametz*, in accordance with *halachah*, on the eve of the fourteenth of Nissan.

4. If you are aware that you own *chametz* that is currently in transit--it has been deposited with movers, on a boat or airplane, at a port, or in the mail--this must be specified in your authorization form. Even if you report this in the form, the sale will be valid only if you simultaneously sell additional *chametz* that is in your home. If the moving or mail company happens to belong to a Jew, consult your Rav for specific instructions.

5. If you own animals that require to be fed *chametz* on Pesach, you cannot rely on the standard authorization form, and you need to consult your Rav.

6. If members of your household own *chametz* that is their personal property, they should sell it separately and not rely on the sale conducted by the head of the household.

7. As Chabad Chassidim, we are accustomed not to sell food or beverages that were received from the Rebbe, but to eat or drink them in their entirety before Pesach. This practice is explained at length in *Likkutei Sichos*.

8. Some contemporary poskim argue that challah dough which was separated for the mitzvah of *hafrashas challah* cannot be sold and should be destroyed.

9. Due to time-zone limitations, if you intend to travel for Pesach to a location where Pesach begins earlier than it does in your present location--for example, if you travel from the USA to Eretz Yisrael or Europe--you must inform the Rav before selling your *chametz*. This is because at the time that the prohibition will affect you on *erev Pesach*, the sale of *chametz* will not yet have been conducted here, in the offices of the Badatz. This year, due to popular request, the Badatz has prepared a special authorization form for those who are traveling overseas and will be in an earlier time zone for Pesach. By completing this form, the Badatz can ensure that your *chametz* will be sold earlier than usual to correspond with the time difference in your location on *erev Pesach*.

Q: When on *motzaei Pesach* can I begin using the *chametz* I sold?

A: You can make use of the *chametz* that was sold immediately after Pesach has ended. It has always been the custom of the Rabbonim of the Badatz to leave during the Rebbe's

farbrengen towards the end of Pesach to buy back the *chametz* from the non-Jew as soon as Pesach has ended.

Q: Where can we study more about the laws and customs of selling *chametz*?

A: *Shulchan Aruch Admor Ha-Zaken*, 448; *Seder Mechiras Chametz* that appears in *Siddur Admor HaZaken* and in the commentary *Sha'ar HaKolel* (authored by HaRav Lavut, the Rebbe's grandfather); *Piskei Dinim of the Tzemach Tzedek*, 448; *HaMo'adim B'Halachah*, authored by Rabbi Zevin; and in numerous contemporary halachic compilations.