

HALOCHOSCOPE

This week's question:

May one schedule an examination to qualify for school on *Chol Hamoed*, if one has a second opportunity four weeks later? The exam involves writing one or two sentences, and completing it by filling in boxes as a multiple choice. Delaying the exam means delaying admission to the school or the course.

The issues:

A) *Chol Hamoed*

B) Writing on *Chol Hamoed*

C) *Davar haavaid*, irretrievable loss

D) *Mechavain melachto lamoed*, planning work for *Chol Hamoed*

A) Writing on *Chol Hamoed*

Chol, literally mundane, is the term used to describe the days of the week that have no holy quality. The intermediate days of *Yomtov* are the less holy part of the holiday, by comparison to the first and last days. Nonetheless, the special *mitzvos* of the holiday, *sukah*, *lulav* or refraining from *chametz*, are in full force. There is a special *musaf* prayer, corresponding to special offerings. *Moed* means a meeting between Israel and Hashem, and describes the *Yomim Tovim*. The Torah uses the term *mikra kodesh*, holy proclamation, for *Chol Hamoed* as well, indicating that it is also holy.

Chol Hamoed has some characteristics of *Yomtov*. Regular *shemone esrai* is said for the three standard *tefilos*, but *yaaleh veyavo* is inserted. *Halel* is recited, along with a special Torah reading. *Kiddush* is not recited, nor is there a major obligation to eat a bread meal. Fasting is forbidden, and many poskim maintain that *simchas Yomtov*, the obligation to indulge in wine and delicacies, applies. *Kevod hamoed*, honoring the holiday by dressing festively and the like, also applies. He who shows disrespect for the *moed* is likened to an idolater, the gravest sinner, and forfeits his share in the World-to-come.

Melacha, activity forbidden on *Yomtov*, is restricted on *Chol Hamoed*. From an apparent Scriptural contradiction, the Talmud derives the Rabbinical authority to determine the level of *melacha* restriction. Some consider this a Scriptural concept with Rabbinical guidelines. Thus, if the Rabbis decide that a type of *melacha* is forbidden, it assumes Scriptural stringency. Others maintain that the Scriptural reference is *asmachta*, a link to support a Rabbinical ordinance with Scriptural allusions. Nonetheless, it is based on Scripture and instituted to reinforce Scriptural *mitzvos*. It is a strong ordinance, and violators are strongly condemned. The reason to institute a rabbinical ordinance is to enhance the *Yomtov* before and after the intermediate days. Let the people be free to eat, drink and study Torah. Accordingly, the prohibition applies mostly to *melachos* forbidden on *Yomtov* with emphasis on the tedium of *chol* activity. Some term these '*melechtes avoda*,

work'. This includes agricultural, commercial and skilled labor activities.

Melachos involved in food production, on items already detached from the ground, are permitted. On *Yomtov*, some of these are forbidden or restricted, such as threshing and grinding. In addition, one may detach items from the ground for immediate use, such as wood for fuel and fruit. Starting a fire is also permitted on *Chol Hamoed*, thus permitting use of electricity and driving.

The guidelines for permissible or forbidden *melacha* can be roughly grouped five ways: *tzorech hamoed* means things needed for *Yomtov* or a later day of *Chol Hamoed* are allowed. Preparing for after *Yomtov* is not allowed. *Simchas Yomtov*, enjoying the holiday, is a subdivision of this. *Davar haaveaid* permits *melachos* done to avoid a loss, even if they are not done for *Yomtov*. *Melachos* such as sewing would be permitted for *tzorech hamoed*, but it is skilled work. Such *maase uman*, professional work, is not permitted universally. It resembles commercial activity. *Maase hedyot*, amateur work, is permitted. If professional work is needed *letzorech hamoed*, it must be done *betzinah*, in private, to prevent misleading onlookers. The professional may not stipulate a fee. Rather payment is made casually. *Poel sheain lo ma yochal*, a desperately poor skilled worker, may work for his immediate needs, a subdivision of *tzorech hamoed*. Nowadays, this is broadly expanded to include workers whose continuing employment depends on steady attendance. *Davar haavaid* is also a factor. Since the attendance is the issue, they should minimize the actual work. *Tzorech mitzvah*, a *melacha*, such as writing an engagement contract, is allowed in conjunction with the other dispensations. *Tzorchei rabim*, public needs, are considered necessities all the time, to save on public expenses. When permissible, a *melacha* may not be done with *tircha*, undue effort, even if it is more economical. Some *melachos* are forbidden due to *kavod hamoed*, respect for *Yomtov*. Thus, laundering and haircutting may not be done *letzorech hamoed*. They should have been done beforehand. Having neglected to do them, showing disrespect, one is penalized on *chol Hamoed*. However, an *oness*, one who had no control on his situation before *Yomtov*, may perform these *melachos* on *Chol Hamoed*. [See Chagiga 18a Moed Katan esp. 2a-b 11b Yerushalmi 2:3 Avoda Zara 22a Avos 3:11, Poskim. Rambam Yomtov 7. Tur Sh Ar OC 530 etc, commentaries.]

B) Writing

Kosaiv, writing, is a *melacha* on *Shabbos* and *Yomtov*. Most writing is *maase hedyot*, since it is not done professionally. When it is done as *maase uman*, such as by a professional scribe, it is forbidden on *Chol Hamoed*. Writing is also often associated within other forbidden activities, such as commerce. When writing is permitted, many poskim recommend a custom to make a change in style, such as writing on a slant.

Tzorech hamoed, such as a *mezuzah*, *tzorchei rabim*, such as hiring a team of *sofrim* to write a sefer torah for a shul that has none, and *davar haavaid*, such as a divorce to release a woman whose husband is leaving town, are all discussed as possible permissible cases. Another example of *davar haavaid* is filling out official reports, one of the explanations of something called *igros reshus*. [This could also be *maase hedyot*.] For example, tax filings have a deadline. Passing this could incur financial loss or other undesirable consequences. Nonetheless, one may not plan these for *Chol Hamoed*. [See below]

Writing in any language is forbidden. However, it is unclear whether the distinctions between professional and amateur writing applies to other languages. In Hebrew, there are very specific requirements for *ksav ashuri*, the properly formed letters used in a *sefer torah*. It seems that any other type of script is considered *maase hedyot* automatically. In other languages there is no precision applied to the lettering. Thus, it could all be considered *maase hedyot*, or mostly *maase uman*. Official documents written in certain lettering, this might be considered *maase uman*. The poskim debate this matter.

Even *maase hedyot* script should be *tzorech hamoed* or *davar haavaid*, such as shopping lists to buy stuff for *Yomtov*. Commercial transactions that already took place may be recorded to avoid loss. *Chidushei Torah*, novel thoughts, may be written down. In our case, the small amount of writing required is to provide a handwriting sample for analysis. A signature is also required. Clearly, this is *maase hedyot*. Filling in boxes or circles with a pencil is neither writing nor drawing. However, making an impression is also considered part of the *melacha* in many applications. Nonetheless, this is as unprofessional as it comes. Both issues depend on whether the other dispensations apply. [See Shabbos 103a-b 104b Moed Katan 18b-19a Beitzah 39a, Poskim. Tur Sh Ar OC 340:4-5 539:3 (Sht'z 13) 545 YD 271, commentaries. Chol Hamoed/Zichron Shlomo, biurim 9.]

C) Davar haavaid

In our case, the examination date is chosen by those administering it. The candidate has no input at all. The dates are spread out months apart, on a schedule that allows the grading and subsequent administrative decisions in time for the acceptance of candidates and the orderly organization of a class schedule. The candidate does not necessarily need to take the test on *Chol Hamoed*. He can defer the exam until the next available date. However, this will set him back some months in being able to start his courses. The question is whether the delay is enough to make this a *davar haavaid*.

Davar haavaid usually refers to monetary losses. As a result of refraining from the *melacha*, the farmer might lose his crop. It is broadened to protect a person's income in general. Losing an the opportunity to make a profit does not constitute a *davar haavaid*. However, there exists a concept of *davar sheaino matzuy tamid*, a rare opportunity. Commerce is restricted. If a major fair happens to fall on *Chol Hamoed*, a merchant may participate. His business depends on this. If, however, it is a regularly scheduled event, that will also occur the following week, the merchant may not participate. He could sell his merchandise the following week. The question arises: what about a scheduled event that occurs less regularly? In our case, the event occurs every couple of months. It appears that the reason a regularly scheduled event is not *davar haavaid* is due to its regularity, rather than its being scheduled. Accordingly, this exam could be considered *davar sheaino matzuy tamid*.

However, the *davar sheaino matzuy* seems to apply to financial consideration as well. While an outright loss is not necessary to qualify, there must be a lost opportunity to profit. Nonetheless, it could be argued that the ability to gain employment based on a course of study is part of one's larger plan for a livelihood. Since he does not plan to work from day to day, but on a salary, this is part of that plan. Losing this chance sets his plan back, which is a financial consideration. [See refs to section A. Sh Ar OC 539:5.]

D) *Mechavain melachto lamoed*

Davar ha'avaid is permitted to prevent imminent loss that could not have been prevented earlier. One may not delay an activity to coincide with *chol hamoaid*, to be able to do it then, relying on *davar ha'avaid*. *Mechavain melachto lamoaid* is forbidden Rabbini- cally, in part, as a penalty. One doing the activity to prevent real loss ignores the spirit of *chol hamoaid* as a time of rest. A matter that should have been taken care of before *Yomtov*, but got delayed due to *oness*, circumstances beyond control, is permitted on *chol hamoaid*. The usual example is workmen who backed out of an agreement very late. It could not be rearranged before *chol hamoaid* and the produce will rot if delayed any longer. This is not considered *mechavain melachto lamoaid*.

Our case involves registering for this exam a month in advance. At that time, the person is well aware that the date will coincide with *Chol Hamoed*. Is this *mecahavain melachto lamoed*? Usually, the example is one who could have done the work before *Yomtov*. He left it until *Chol Hamoed* because he knew that he would be 'free' then. In our case, the person could not register for a date sooner than *Chol Hamoed*. He could, however, register for a date a couple of months after *Yomtov*. Is registering for the earlier date considered *mechavain melachto*? If it is, the student may not register for this exam. Even if we consider it *davar haavaid*, *mechavain melachto* will override it.

In reality, the language used by the poskim implies that one must have real intent when he plans the *melacha*. If he had no intent, he could be considered an *oness*. A *shogeg*, where he made a mistake, can have less stringent consequences, but there is still some negligence involved. Our case involves some intent when registering, but the choice of *Chol Hamoed* is not made by the student. In this respect, he is an *oness*. He has no intent to take advantage of *Chol Hamoed*, and he does not choose this date specifically. This, combined with the fact that it was not pushed off to *Chol Hamoed* from an earlier date, seems to mitigate this problem. [See Moed Katan 11a-12b, Pokim. Tur Sh Ar OC 537:16 538:1 etc. 539:4-9 545:5, commentaries.]

In conclusion, The student may register and take this exam. He should keep writing to the absolute minimum, and it is commendable to make a *shinuy*, slight change.

On the Parsha ... *You shall write on the stones all the words of this Torah 'ba'er haitev' very clearly ... [27:8] In the seventy languages [Rashi] [So that all the nations of the world may study and learn from it.] Written in one language [Hebrew] and explained/translated in seventy languages [Targum Yonasan/Yerushalmi]. The lettering should be clear [Targumim, Ibn Ezra] The entire Torah was written out with its tagim-crowns. This was the authoritative source for the crowns in the Torah. [Ramban 3] The Torah had to be written out so they could use it to swear upon. [Rashbam] What does the way it is written have to do with translating it into seventy languages? It appears that the term could apply to the way they are written or to the ease with which they are to be understood. We mentioned that Hebrew has professional and amateur script, while other languages might not. Perhaps if the Hebrew lettering is beautiful and professional, other nations will wish to learn and understand it in their own languages.*

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