

VOLUME I: NUMBER 16: SURPLUS CHARITY FUNDS

by Rabbi Aron Tendler

Question:

A member of Reuven's community became ill, and required highly specialized medical treatment in another country that was only available at a very high cost. Reuven decided to organize a campaign to raise funds for this cause. Everyone responded very generously, and more funds came in than were actually needed. Reuven is now asking what should be done with the additional funds.

Answer:

- A. If the cause for the surplus was because the sick person did not actually require all of the treatments that had been originally anticipated, or if money was collected for this cause and ultimately, for whatever reason, the sick person did not undergo the treatments, Reuven must return the money to those who had donated it. If he is no longer able to identify who the original donors were, or if it would be a very large expense to identify and return the money to them, the unused money should be used to help defray the medical expenses of another needy, sick, person. They should not be diverted to a different type of charity.
2. If the patient did receive all or some of the treatments necessary, but more money came in than was actually needed, the surplus funds belong to the sick person and his family. This is true even if the patient passed away during the course of the treatment or afterward.
3. In the above case (B), if Reuven is a well known charity collector for various causes, if he would require these funds for another cause he would be permitted to divert these funds for that cause. If, however, he is just a friend who took the initiative this one time for this one cause, he would be obligated to give the surplus to the patient or his family.
4. If Reuven ran his campaign on behalf of a recognized public charity fund or medical assistance program, (as is frequently done for tax purposes), he would be permitted to use the surplus funds for another charitable purpose, even if this is the only time that he has tried to raise money for charity. This is true even though the money had been collected for a specific needy or sick person.

Sources:

The Mishna in Shekalim (2:5) states "Surplus of the poor - to the poor. Surplus of a specific poor person - to that person." The Raav (HaRav Ovadiah MiBartenura) there explains this Mishna as follows: If funds were collected for a specific poor person, and there was a surplus, these funds should be given to that person anyway even if he is presently not needy. [The reason for this is very interesting. The Yerushalmi on this Mishna states that in exchange for the embarrassment suffered by the poor person due to the fact that a collection had to be made specifically for him, he and his estate acquire any surplus that may come in due to this collection]. However, if a general collection was made for the poor but not for one specific individual, if it was for a specific cause for the poor, such as clothing or medical expenses, and there is a surplus, the funds should not be given to the poor for other purposes. They should only be used for the purpose that it was expressly collected for. This is stated as the Halacha in Shulchan Oruch (Yoreh Deah 253:6-7). The Yerushalmi there states, however, that if at the time of the collection we thought that this person was needy, and after the collection we find that he really was not needy, he has no right to these funds at all. The Rosh (Teshuvos HaRosh Klal 32 Siman 6) adds that the same would apply in the case of a collection for an individual's medical expenses, if the patient would be cured, or (R"L) die before the treatment started, or if the doctors decided that the proposed treatment that they had collected for was not appropriate after all. The donors intended to donate their funds for the express purpose of providing this individual the treatment that he could not afford, and this treatment was never rendered. The Shulchan Oruch (ibid.) and the Gr'a (ibid. 14) agree with the Rosh regarding this. Therefore, prescribes the Rosh, preferably, the money must be returned to the donors. If they can not be identified, or if the expense would be too great, the money may be used for a different individual but for the same cause for which it was originally intended. The Yerushalmi there adds, that if money was collected for a specific needy person by officers of a charity fund or any other person who is known in the community to collect for various charities and, there are surplus funds, they may be used for other charitable purposes. However, the Rosh, the Raav, and the Shach (Yoreh Deah 256:7) all state that this should only be done if absolutely necessary at this time (Tzorech Sha'ah). But in the case of an individual collecting for a friend, everyone agrees that the collector may not divert surplus funds for other purposes, and we remain with the Halacha as stated in the above mentioned Mishna - "Surplus of a specific poor person - to that poor person".

This week's class is based on a column by Rabbi Tzvi Shpitz, who is an Av Bet Din and Rosh Kollel in the Ramot neighborhood of Jerusalem. His column originally appears in Hebrew in

Toda'ah, a weekly publication in Jerusalem. It has been translated and reprinted here with his permission and approval.

This class is translated and moderated by Rabbi Aaron Tendler of Yeshivas Ner Yisroel in Baltimore. Rabbi Tendler accepts full responsibility for the accuracy of the translation and will be happy to fax originals of the articles in Hebrew to anyone interested.

Feedback is appreciated! It can be sent to atendler@torah.org.

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***Please Note:* The purpose of this column is to make people aware of Choshen Mishpat situations that can arise at any time, and the Halachic concepts that may be used to resolve them. Each individual situation must be resolved by an objective, competent Bais Din (or Rabbinic Arbitrator) in the presence of all parties involved!**