

VOLUME I: NUMBER 21: A CHILD'S RESPONSIBILITY FOR A PARENT'S DEBT

by Rabbi Aron Tendler

Question:

Reuven studied in a Hebrew day school as a child. Due to financial difficulties, his parents were unable to pay the full amount of the tuition owed, and even after graduation from the school there remained a \$1000 debt to the school. Over the years since Reuven left the school, the administration continued to request that Reuven's parents settle their debt for the money owed. Reuven's parents always responded by saying that they are not yet able to do so.

After a number of years, Reuven was hired as a teacher in the same school that he had studied in, as a child. To his surprise, his first paycheck was considerably less than he had expected it to be. Upon inquiry, he was informed that the school administration had decided to deduct the \$1000 owed by his parents for his education, from his paycheck. Their rationale for this is that Reuven was only able to become a teacher and earn this money due to the education provided by the school, which was not fully paid for. Therefore, Reuven should not benefit from this money at the expense of the school.

Reuven replied that this is an issue between the school and his parents, and the school has no right to withhold any of the salary that he has earned.

Is the school permitted to keep the money that they withheld to compensate for the unpaid tuition?

Answer:

- A. Reuven is correct, and the school has no right to withhold any of his salary to pay for his parent's tuition debt.
2. If Reuven's parents have passed away, or if it seems that they will never be able to pay their debt owed to the school, it is proper for Reuven to pay their debt for them, if he is able to. The reason for this is because Reuven would be removing his parent's from the category of "Loveh Rosha V'Lo Yishalem" - A Wicked Man Borrows And Does Not Repay (Tehillim 37:21), as well as

the category of those who do not pay for services provided for them, thus fulfilling the Mitzvah of Kibbud Av V'Eym (Honoring One's Parents).

3. If the only way for Reuven to pay off his parent's debt is by using Ma'aser (Charity) funds, he is permitted to do so.
4. If Reuven has other siblings, the Mitzvah of Kibbud Av V'Eym is incumbent upon all of them. Therefore, it is proper that all of the siblings divide among themselves their parent's debt, despite the fact the actual debt was a result of the expense of Reuven's education.

Sources:

The Shulchan Oruch in Choshen Mishpat (107:1) states the following; "There is a Mitzvah on the inheritors to pay the debts of their father, even if their father only left Mitaltelin (movable items - as opposed to Karka - real estate, non-movable items) as their inheritance." The Sm'a, over there, (1) explains this Halacha as follows: Although, according to the Torah, debtors have no right to claim payment for money owed to them by the deceased from Mitaltelin that the deceased has left to his children, there is still a Mitzvah on the inheritors to repay the debtors to fulfill the Mitzvah of Kibbud Av V'Eym. This is because it is unbecoming for a person to have a reputation of someone who does not pay his debts, even after death. However, if the father did not leave any money as an inheritance, the children are exempt from paying his debts, since the Mitzvah of Kibbud Av V'Eym is at the expense of the parent, as is discussed in the Shulchan Oruch (Yoreh De'ah 245:5).

The Nesivos Mishpat there (1) elaborates on this even more and says that although the Shulchan Oruch does say that the heirs have a Mitzvah to pay the parent's loans, the money that they have inherited belongs to them and not to the debtors until they choose to pay for their parent's debts. Therefore, if one of the creditors would confiscate part of the estate as payment for money owed him, Bais Din would be obligated to force him to return what he has taken from the heirs, if the heirs would decide that they are not interested in paying the parent's debts.

According to the above, it is clear that the school administration had no right to withhold Reuven's salary to repay the tuition debt of the parents. Although his parents are still obligated to pay for the services provided by the school many years ago for their child, the child is not required to discharge the debt for them. The school had no intention at all of claiming the tuition from Reuven, at the time that the education was provided. Therefore Reuven has the right to demand the salary that the school withheld from him, and if necessary, he may take the school to Bais Din to force the return of his money.

As we stated above, the Shulchan Oruch (Yoreh De'ah 245:5) states that the Mitzvah of Kibbud

Av V'Eym comes at the expense of the parent. If the parent's have no money of their own, a child is not obligated to support them using money of his own. However, because of the Mitzvah of Tzedakah (Charity) a child is required, and may be forced by a Bais Din, to support his impoverished parents to the best of his ability. If the child himself is unable to support them, any money that he may have designated as Ma'aser money should be used to support his parents. See there for more details of this Mitzvah.

Although the Halacha that a child is forced to support his parents, only applies to necessities such as housing, food, and clothing, and does not apply to paying the parent's debts, it seems logical that if he would voluntarily do so and clear his parent's name, this would definitely be fulfillment of the Mitzvah of Kibbud Av V'Eym, as the S'ma quoted above, has explained. Also, the Shulchan Oruch and the Rema (Yoreh De'ah 253:12) state that it is permitted to use charity funds to pay off the debts of an impoverished person.

Therefore, practically speaking, if Reuven is not interested in paying off his parent's debt, the school is obligated to pay him his full salary. However, it would be proper for him to voluntarily pay off their debts and clear their name, thus performing the Mitzvah of Kibbutz Av V'Eym. As we stated above in Answer D, if he has siblings, the total debt should be divided either equally between them, or in a manner proportionate to their wealth, as is discussed by the Rema in Yoreh De'ah 245:5.

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!