

SHE'AILOS U'TESHUVOS

by Rabbi Doniel Neustadt

QUESTION: If one forgot to daven Mussaf (on Shabbos, Rosh Chodesh or Yom Tov) and only remembered to do so in the afternoon, which should he daven first - Mussaf or Minchah?

DISCUSSION: In most cases, Mussaf should be davened first, followed by Minchah. This is because the correct order of the tefillos follows the order of the korbanos that were brought in the Beis ha-Mikdash, and the Korban Mussaf was always brought before the afternoon Korban Tamid, which was the last korban of the day.(1)

[The only exception to this halachah is the case of a person who is required to daven Minchah at that particular time, e.g., before partaking in a wedding or a Sheva Berachos meal. In such a case, since one is not allowed to partake of such a meal before davening Minchah, it is considered as if the time of Minchah has arrived and one should not daven Mussaf first.(2)]

The halachah remains the same even if a man remembered to daven Mussaf so late in the day that he would not have time to daven Minchah any longer. He should daven Mussaf, and then daven Maariv twice, once for Maariv and a second one as a tashlumin ("make up") for Minchah.(3) If this happened to a woman, however, she should daven Minchah and omit Mussaf, since she is obligated to daven Mincha and it is questionable whether she is obligated to daven Mussaf altogether.(4)

QUESTION: If one began eating or drinking in a car, does he need to recite another berachah if he wants to continue eating or drinking once he gets to his home or office?

DISCUSSION: If he began eating or drinking while the car was in motion or stuck in traffic, he may continue eating or drinking once he gets to his destination and no additional berachah rishonah is recited. This is because eating or drinking in a moving car is not considered a kevius makom, and continuing to eat or drink in another location is not considered a shinui makom. The halachah remains the same even if he initially had no intention of continuing to eat or drink once he arrives at his destination.

If, however, he began to eat or drink in a parked vehicle with the intention of finishing his food or drink before resuming the drive, and then he changes his mind and wants to continue eating or drinking, the halachah is as follows:

* As long as he remains in the car he may continue eating or drinking without reciting an additional berachah.

* When he reaches his destination, he must recite a berachah acharonah, and recite a new berachah rishonah if he wants to continue eating or drinking.(5)

QUESTION: On Shabbos [or Yom Tov], is it permitted to discuss purchases, e.g., to ask someone where he bought a particular item such as a suit or a painting?

DISCUSSION: If the questioner is interested in buying a similar item, then it is forbidden for him to ask the question and it is forbidden to answer him. If, however, the question is being asked as part of a theoretical discussion with no intent to act upon the topic being discussed, it is permitted.

The same halachah applies if the questioner wants to know how much that particular item cost. If the question is being asked because he is contemplating buying a similar item, it is forbidden to talk about that on Shabbos. If, however, he has no interest in buying such an item but is just asking out of curiosity, it is permitted.(6)

Please note that while this type of conversation is not halachically forbidden on Shabbos, it is still considered "idle talk." Shulchan Aruch expressly urges us to minimize idle talk on Shabbos.(7)

QUESTION: Are pets muktzeh on Shabbos and Yom Tov?

DISCUSSION: The Talmud(8) states that it is forbidden to move animals on Shabbos. In Halachic terms, animals are considered like sticks and stones which have no permissible Shabbos use and are muktzeh machmas gufo, severe muktzeh, which may not be moved for any reason. This ruling is quoted by the Shulchan Aruch(9) and most of the later poskim and no distinction is drawn between farm animals and households pets; all are considered severe muktzeh. Some poskim expressly include "playful animals" in this prohibition.(10)

There are, however, other poskim who do distinguish between farm animals and household pets. In their opinion, a pet is considered like a household item, similar to a toy or a picture, and is not classified as muktzeh at all.(11) While it is advisable to follow the majority opinion and not carry or move pets on Shabbos,(12) those who are lenient have a halachic authority upon whom to rely.(13) Certainly, if the pet is in distress, one may be lenient and move it or carry it.(14)

All opinions agree that it is permitted to touch (without moving) or feed one's pets on Shabbos. It is also permitted to hold onto a leash and walk a dog in an area which is enclosed by an eiruv.(15) It is permitted to place a leash on a dog on Shabbos.(16)

QUESTION: Are there any mourning restrictions on a child, sibling or spouse of someone who is sitting shivah?

DISCUSSION: In Chazal's times, a child or a sibling of a mourner sat shivah along with him, which meant that all of the restrictions that were placed on the mourner were followed by his child or sibling as well. Although today we longer conduct ourselves in this manner, it is still customary in many communities that siblings, children and spouses(17) participate in some limited way with the

mourners.(18) Since this custom was not universally accepted,(19) one should consult his rav to determine his community's custom.

Even among communities that practice this custom, there are varying degrees as to what is restricted. It is, however, generally accepted that one does not attend weddings or eat any other meals outside of his home including a seudas mitzvah of any type or meals which are social get-togethers.(20) Also, one should avoid taking a hot bath or shower.(21) [Others are even more stringent: Relatives do not change their clothes (except for Shabbos), take a haircut, shave or cut their nails.(22)]

The poskim debate whether or not restrictions on relatives apply when the mourner is sitting shivah in another city.(23)

All of these restrictions are in effect only from the day of the burial through the end of that week; once Motzaei Shabbos arrives these restrictions are lifted, even if the shivah began on Friday.(24)

FOOTNOTES:

1 Based on Mishnah Berurah 286:12, Aruch ha-Shulchan 286:17 and Kaf ha- Chayim 286:35-36.

2 O.C. 286:4.

3 See Mishnah Berurah 286:13, Aruch ha-Shulchan 286:17; Da'as Torah 286:4 and Kaf ha-Chayim 286:36.

4 See Mishnah Berurah 106:4.

5 Entire Discussion based on Mishnah Berurah 178:42, as explained in B'tzeil ha-Chachmah 6:73-74 and Vesain Berachah, pg. 148, quoting Harav Y.S. Elyashiv.

6 Mishnah Berurah 307:27, quoting Rambam.

7 O.C. 307:1.

8 See Shabbos 128b.

9 O.C. 308:39

10 See Tosfos, Shabbos 45b s.v. hachah; Shulchan Aruch ha-Rav 308:78; Da'as Torah 308:39; Kaf ha-Chayim 308:235.

11 Minchas Shabbos 88:10, quoting Nezer Yisrael and Halachos Ketanos; Az Nidberu 8:36.

12 Minchas Shabbos, ibid; Yabia Omer 5:26.

13 Harav S.Z. Auerbach; see Shulchan Shelomo O.C. 308:74-4; B'tzeil ha- Chachmah 5:33-34. There are conflicting sources concerning Harav M. Feinstein's opinion on this subject; see Sefer Tiltulei Shabbos, pg. 119 and Igros Moshe O.C. 5:22-21.

14 See Mishnah Berurah 305:70 and Chazon Ish O.C. 52:16.

15 Under certain, very specific conditions, it is even permitted to walk a dog with a leash in a public domain; see O.C. 305:16 and Aruch ha-Shulchan 5.

16 O.C. 305:1, 8, 10.

17 Spouses participate in mourning only when the deceased is either their father-in-law or their mother-in-law; see Gesher ha-Chayim 19:5-3.

18 This custom is recorded by the Rishonim and quoted by the Rama Y.D. 374:6 and by almost all of the latter poskim, including the Chochmas Adam 161:5, Kitzur Shulchan Aruch 203:2, Sha'ar ha-Tziyun 128:126, and Gesher ha-Chayim 19:3-5, as common practice. [While Rama and other early sources mention this custom concerning first cousins as well, contemporary poskim rule that it is not customary nowadays to do so; Pnei Baruch, pg. 501.]

19 Knesses ha-Gedolah Y.D. 374 writes that this custom was not practiced in his area at all. See also Aruch ha-Shulchan 374:16 who remarks that "some" are not careful about these restrictions. Sefaradim, too, do not practice this custom; Yalkut Yosef, Aveilus, 8:2.

20 Taz Y.D. 374:2 and Shach 7.

21 On Erev Shabbos, however, it is permitted to take a hot shower; Da'as Kedoshim Y.D. 374.

22 See the various views in Divrei Sofrim 374:54 and Eimek Davar 72.

23 See Pischei Teshuvah Y.D. 374:4 and Gesher ha-Chayim 19:5-3. Harav S.Z. Auerbach (Shemiras Shabbos K'hilchasah 65, note 80) and Harav Y.S. Elyashiv (oral quote) rule leniently on this issue. See also Orchos Rabbeinu, vol.4, pg. 116.

24 Rama Y.D. 374:4 and Shach 7.

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