

CONDUCTING BUSINESS WITH NON-KOSHER FOOD ITEMS

by Rabbi Doniel Neustadt

In order to protect a Jew as much as possible from inadvertently eating non-kosher foods, the Torah restricts our accessibility to food items that are not kosher. It is strongly recommended, for example, not to store unmarked edible non-kosher food in one's house for a lengthy period of time[1], since one can easily forget that the food is not kosher and consume it by mistake[2]. Moreover, the Torah forbids "conducting business" with all non-kosher meat, fowl or fish, including kosher-species animals that are treifos (rendered non-kosher due to terminal illness) or neveilos (rendered non-kosher at the time of slaughter), even if they are not stored in one's home or business, and even if they are clearly marked as non-kosher. This prohibition, called *issur sechorah b'dvorim ha-asurim*, is the subject of this Discussion[3].

"Conducting business" means that it is forbidden to own non-kosher foods with the intention of using them in a business transaction. But merely dealing with non-kosher food without owning them is permitted. Indeed, it is even permitted to own non-kosher foods and benefit from them if they are not being used in a "business transaction." Thus the following rules apply[4] :

- It is forbidden to buy non-kosher food in order to sell it for a profit, use it to repay a debt or give it as a gift. All of these activities are considered "business transactions."
- It is forbidden to accept non-kosher foods as collateral for a loan.
- It is permitted to buy non-kosher items in order to feed one's non-Jewish workers, but it is forbidden to own or raise non-kosher animals which will be used as food for the non-Jewish workers, even if they are designated as such.
- It is permitted to transport non-kosher foods or to be an employee of a store or restaurant that sells non-kosher food. See following Note.

Note: There are certain non-kosher foods, such as cooked meat and milk mixtures, chametz on Pesach and non-kosher wines[5], which are *assur b'han'ah*, a much stricter restriction than *issur sechorah*. While *issur sechorah* forbids only "business transactions" as explained earlier, *assur b'han'ah* forbids all types of benefit, including such "non-business transactions" as feeding one's employees or getting paid to transport those foods. In addition, there is a separate prohibition against conducting business with fruits or vegetables grown in Eretz Yisrael during the *shemita* year. These cases are not the subject of this Discussion.

Question: Are there any non-kosher foods that are not included in *issur sechorah*?

Discussion: Yes, there are several non-kosher items with which it is permitted to conduct business. These include the following:

1. Non-kosher fats of a kosher-species animal, even if the animal was a neveilah or a treifah[6].
2. Blood of a kosher-species animal, even if the animal was a neveilah or a treifah[7].
3. Eiver min ha-chai (a limb of a kosher-species animal which was severed while the animal was alive[8]).
4. Wormy fruits[9].
5. All non-kosher items which are Biblically permitted but have been forbidden by the Rabbis[10], such as unsupervised cheese, bishul akum and chalav akum[11].
6. Food items which are manufactured and designated for animal consumption, i.e., dog food, even if the food is edible for human consumption[12].
7. Live horses, donkeys, camels[13] or household pets[14].
8. Non-food items, such as furs, leathers or soaps[15].

Question: If one already bought or owns non-kosher food, may he sell it for a profit or must he get rid of the items immediately?

Discussion: The answer depends on the exact circumstances: If he bought the food for the purpose of turning a profit, he must sell all of his stock immediately, even if it will cause him a loss. He is not, however, required, to discard the items outright and suffer a total loss. But if he did not buy the non-kosher food in order to profit, but it just so happened that some non-kosher food came his way, he may sell it for a profit. Let us explain:

Shulchan Aruch rules that if a hunter happened to net kosher and non-kosher animals or fish together, he may sell the non-kosher items for a profit. This is permitted because the non-kosher items came to him "by chance," unintentionally. Similarly, an animal that was rendered non-kosher during the slaughtering process may be sold, since the non-kosher item came to him "by chance." In addition, it is permitted for one who is owed money by a non-Jew to foreclose on non-kosher food items so that he may collect his debt, since this, too, is considered as if the food came to him unintentionally. Similarly, one who inherited or received non-kosher food items as a gift may sell those items for a profit or give them as a gift.

In all of these cases, the non-kosher food must be sold immediately, without delay, even if one would generate a greater profit by waiting for the market price to rise[16]. One is not, however, required to sell it below current market value[17].

Based on this principle, many poskim^[18] rule that if one is offered a deal in which he must buy non-kosher items together with permitted ones, he may buy the entire package, since the primary purpose of the deal is to buy the kosher items and the prohibited items came to him "by chance." Therefore: If a customer will order from a supplier only if the supplier will sell him non-kosher items along with kosher ones, the supplier is allowed to sell the non-kosher items on the customer's terms, since this is considered "by chance."^[19] But it is clearly forbidden to own a store or a business that stocks up on prohibited items routinely in order to have them on hand for customers, even if not stocking them would cause the business to fail^[20].

Note: The leniency of conducting business with non-kosher food that came "by chance" applies only to food items which are included in issur sechorah. Food items mentioned earlier which are assur b'han'ah may not be bought or sold under any circumstances.

Question: Is one required to use only kosher soap when washing himself?

Discussion: There is a view that prohibits the use of non-kosher soap for washing, based on the Talmudic^[21] principle of sichah k'shesiyah, loosely translated to mean that anointing oneself with fat [on Yom Kippur] is forbidden just like one is forbidden to drink [on Yom Kippur]. According to this view, the same principal would apply to any non-kosher material being used to wash oneself^[22]. But many other poskim disagree and rule that sichah k'shesiyah does not apply to soap which is unfit for consumption^[23]. While the Mishnah Berurah^[24] rules in accordance with the latter view, he nevertheless recommends using kosher soap when it is readily available. Nowadays, when body soap is rarely made from animal fat, virtually all body soaps are kosher and the term "kosher soap" has been rendered obsolete.

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1. See *Pischei Teshuvah*, Y.D. 57:22 who defines "lengthy period of time" as (at least) longer than three weeks.
 2. See *Peri Megadim* (Sifsei), Y.D. 84:18, based on Rama, Y.D. 57:18, *Mishnah Berurah* 677:19 and *Badei ha-Shulchan*, Y.D. 87:8.
 3. The Rishonim debate whether the prohibition of conducting business with non-kosher food items is min ha-Torah or mi-derabanan. The opinion of most poskim is that doing business with non kosher food items is forbidden min ha-Torah; see *Tosafos* (*Pesachim* 23a); *Rosh* (*Bava Kama* 79b), *Taz*, Y.D. 117:1, *Noda b'Yehudah*, *Tanina* Y.D. 62 and *Teshuvos Chasam Sofer*, Y.D. 105 and 108.
 4. Based on rulings of Rama, Y.D. 117:1, *Shach* 3, *Aruch ha-Shulchan* 19 and *Igros Moshe*, Y.D. 1:51.
 5. See *The Daily Halachah Discussion* on 3 Teves whether or not it is permitted to buy non-kosher wine to give as a gift.
 6. This is permitted since the Torah explicitly allows conducting business with fat; Rama, Y.D. 117:1.

7. Pischei Teshuvah 117:1 quoting Peri Toar, Noda B'yehudah, Tanina, Y.D. 62 and Chasam Sofer 106—since the Torah compares blood to water. While other poskim do not agree with this leniency, see Divrei Chayim 2:27, nowadays when blood is not considered as a food item, all poskim agree that it is permitted b'schorah; see Shoel u'Meishiv 3:3-30.
8. Pischei Teshuvah 117:1 quoting the Chasam Sofer. Other poskim disagree with this leniency.
9. Many poskim quoted in Darchei Teshuvah 117:6. A minority opinion disagrees with this leniency; see Chelkas Binyomin 117:2.
10. Y.D. 117:1.
11. See Kaf ha-Chayim 117:77.
12. Igros Moshe, Y.D. 2:37.
13. This is permitted since these animals are used for work or play and not for food; Shach, Y.D. 117:1.
14. Darchei Teshuvah 117:10; Chelkas Binyomin 17:3.
15. Darchei Teshuvah 117:12.
16. Rama, Y.D. 117:1.
17. Shach, Y.D. 117:11; Chochmas Adam 69:8. See Kaf ha-Chayim 117:40 for more details.
18. Bach, Taz, Y.D. 117:4; Peri Chadash 117:5; Maharsham 1:126; Aruch ha-Shulchan 117:18 and 26.
19. Aruch ha-Shulchan 117:27.
20. Consensus of the poskim; see Darchei Teshuvah 117:46; Mishpatei Uziel, Y.D. 2:15; Igros Moshe, Y.D. 2:38; Minchas Yitzchak 3:93; Kaf ha-Chayim 117:67, rejecting the ruling of the Aruch ha-Shulchan 117:27 who attempts to justify those who conduct their business in this manner.
21. Yoma 76b.
22. Shach, Y.D. 117 in Nekudos ha-Kesef.
23. Peri Chadash 117:4, Aruch ha-Shulchan 117:29; Kaf ha-Chayim, O.C. 326:45; Yechaveh Da'as 4:43.
24. Beiur Halachah 326:10, s.v. bishar. This is also the opinion of Darchei Teshuvah 117:33.

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Rabbi Neustadt is the Yoshev Rosh of the Vaad Harabbonim of Detroit and the Av Beis Din of the Beis Din Tzedek of Detroit. He could be reached at dneustadt@cordetroit.com