

HOLIDAY GIFTS

by Rabbi Doniel Neustadt

Question: Does the prohibition against giving a gift to a non-Jew apply to gifts given to an employee, a mailman, a cleaning lady, etc.?

Discussion: One of the applications of the Biblical command, You shall not seal a covenant with them nor shall you show them favor^[1], forbids "favoring" a non-Jew^[2] by giving him a gift for no compelling reason. But giving a gift to a non-Jew with whom one has a business relationship is permitted. The gift that you are presenting to your employee, mailman, etc., is being given in appreciation for a job well done in the past or as an incentive for keeping up the good work. In reality, this is not a gift but a "payment" of sorts, which, just like any other business transaction, is permitted to be made by a Jew to a non-Jew^[3].

Question: Is it permitted to give a gift to a non-Jewish employee, colleague, etc., during the non-Jewish holiday season?

Discussion: Obviously, Jews are forbidden to celebrate non-Jewish holidays, as many of them are considered to be a function of avodah zarah, idolatry. But as explained in yesterday's Discussion, giving a gift to an employee or to a person who renders a service is merely an expression of gratitude, a form of payment for past or future service which it is not considered a celebration of avodah zarah and is permitted. It is proper, however, that no specific mention be made that the gift is in honor of the non-Jewish holiday^[4], and that the gift be given a day or two before or after the holiday rather than on the holiday itself^[5].

Question: Is it permitted to buy a non-kosher bottle of wine in order to give it to a non-Jew as a gift?

Discussion: This should be avoided. Wine that was produced without the supervision of an observant Jew is called stam yeinam which is forbidden to drink. Whether or not it is permitted to "derive benefit" (i.e., to profit monetarily, to gain from it or enjoy it in any possible way) from stam yeinam nowadays, when wine is no longer commonly used for avodah zarah worship, is a subject of debate among the Rishonim. The Rama^[6], who quotes both views, rules that it is best to be stringent unless a substantial financial loss is involved^[7]. It is therefore inappropriate to buy non-kosher wine for gift-giving, since one is "deriving benefit" from stam yeinam. Moreover, even one who received a non-kosher bottle of wine for a present may not give that wine as a gift to a non-Jew, since he will then be "deriving benefit" from stam yeinam, which according to the stringent view cited above is prohibited. If a substantial financial loss is at stake, one should consult a rav^[8].

Question: Is it permitted to buy an assortment of non-kosher meats or fish in order to give it to a non-Jew as a gift?

Discussion: This is strictly forbidden, since it is forbidden to profit from most^[9] Biblically forbidden non-kosher^[10] food items. Since, as we explained in yesterday's Discussion, one "profits" by giving a gift to an employee or an associate, the poskim^[11] agree that buying a Biblically forbidden non-kosher item in order to give it to a non-Jew is prohibited. But if one received an assortment of meats or fish as a present, he may give that assortment to a non-Jew as a gift. This is because unlike the case with stam yeinam, it is permitted to "profit" from a non-kosher food item that came into one's possession "by chance," unintentionally; this is not considered "doing business" with non-kosher items^[12]. Question: Is it permitted to buy an assortment of non-kosher cheeses in order to give it to a non-Jew as a gift?

Discussion: This is allowed, because it is permitted to do business with Rabbinically forbidden non-kosher food items. Since the requirement that cheese be supervised is Rabbinic in origin, one may "do business" with unsupervised cheese. It is, therefore, permitted to buy and give it to a non-Jew as a gift^[13]. If, however, the cheese contains animal fat or any other ingredient that is Biblically non-kosher, then this leniency would not apply.

1. *Devarim* 7:2.

2. In the opinion of several Rishonim (Rambam, *Sefer ha-Mitzvos* 50; *Teshuvos Rashba* 1:8; *Sefer ha-Chinuch* 426; Meiri, *Avodah Zarah* 20a), this prohibition applies only to non-Jews who are involved in the practice of *avodah zarah*, idolatry; see *Tzitz Eliezer* 15:47.

3. Y.D. 151:11 and Taz 8.

4. Y.D. 147:2.

5. Rama, Y.D. 148:12.

6. Y.D. 123:1.

7. The *Levushei Serad*, quoted (partially) in *Pischei Teshuvah* 123:1 and (completely) in *Darchei Teshuvah* 123:3, totally permits deriving benefit from stam yeinam nowadays. According to him, even a God-fearing person does not have to be stringent. Note, though, that his discussion focuses on Jews whose livelihood depends on dealing in stam yeinam—unlike our case, which is limited to gift-giving. See also *Sha'ar ha-Tziyun* 467:57.

8. See *Chochmas Adam* 75:14, *Maharam Shick*, Y.D. 150, and *Darchei Teshuvah* 123:3.

9. Some notable exceptions are: Non-kosher fats of a kosher animal; blood of a kosher animal; *Eiver min ha-chai* (the limb of a kosher animal which was severed while the animal was alive); wormy

fruits. All these foods are Biblically non-kosher and may not be consumed, yet one may do business with them.

10. "Non-kosher" includes both treifos (rendered non-kosher due to terminal illness) and neveilos (rendered non-kosher at the time of slaughter).

11. Shach, Y.D. 117:3; Pri Chadash 117:3; Darchei Teshuvah 117:29; Kaf ha-Chayim 117:28.

12. Rama, Y.D. 117:1. An exception would be if the non-kosher item contains a cooked meat and milk mixture, since one may not derive any "benefit" from basar b'chalav.

13. Y.D. 117:1 and Darchei Teshuvah 60.

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