

Tu BiShvat: The New Year for Trees

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Tu BiShvat is the date when the ma'aser year changes for fruit from 5778 (ma'aser ani) to 5779 (ma'aser sheni); every fruit that blooms from Tu BiShvat and on is subject to ma'aser sheni.

Citrus fruit, almonds, peaches, and several other fruit bloom around Tu BiShvat. Often fruit that bloomed before and after Tu BiShvat (i.e. with two different ma'aser obligations) hang on one tree. How can we distinguish between them?

Optimally fruit that already bloomed on Tu BiShvat should be marked on the trees so it will be clear that when ripe they will need ma'aser ani taken while the rest will be obligated in ma'aser sheni. Practically speaking, this is difficult and we need a more feasible solution.

The Mishna (Machshirin 2:11) informs us that in this situation we follow the majority, but when "it is half and half, we are stringent." There is a dispute regarding what "stringent" means: whether we take ma'aser sheni, a more severe obligation (Rambam), or ma'aser sheni and ani (Ra'avad).

In practice, we can follow the majority: mix together the fruit harvested and separate terumot and ma'aserot, using the conditional formula: "these are ma'aser sheni, and if it is necessary to separate ma'aser ani - these are ma'aser ani." Then redeem the fruit on a coin without a blessing.

This conditional text solves our problem of whether to take ma'aser sheni or ma'aser ani; however, there is still the issue of taking ma'aser from one year to exempt another; even bedi'avad, this separation does not count (Rambam Terumot 5:11). That is, I cannot separate ma'aser from year 3 fruit to exempt year 4 fruit, and vice-versa. For the above case of fruit blooming before and after Tu BiShvat, it is possible to be lenient (see Hilchot HaAretz, pp. 49-50; HaTorah VeHa'aretz II 319-340).