

Giving ma'aser rishon when there is a doubt

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Rambam (Ma'aser 9:2) rules: "One need not separate ma'aser rishon ... since it is uncertain, for this reason we say to the Levi ... bring a proof that it is untithed and then take the tithes."

If there is uncertainty whether or not produce is tithed (that is, safek tevel), terumot and ma'aserot are taken so that the produce will no longer be in an uncertain status. However, the ma'aser rishon need not be given to the Levi. While it is forbidden to eat safek tevel, giving the produce to a Levi is a monetary matter. In this realm, the principle "hamotzi me'ichavero alav hara'aya" is employed. That is: if the Levi wants to take produce from its owner, he must prove that the produce is definitely untithed (tevel vadai). Since this is impossible, the owner need not give the ma'aser rishon to the Levi. Even so, terumot and ma'aserot still need to be set aside in such cases and the formula is recited in its entirety.

Sefek tevel can be a practical doubt (I'm not sure if terumot and ma'aserot were properly separated from this produce) or a halachic doubt (I'm not sure if terumot and ma'aserot need to be taken from the produce):

1. Relevant when purchasing fresh produce at the open market and from places without kashrut certification (as discussed in the Ki Tisa 5779 issue).
2. Someone brings me produce and I'm not sure where he bought/received them (and I'm embarrassed to ask or don't trust him).
3. Someone tells me that he tithed the produce, but I don't completely trust him.
4. Produce grown inside the home or in a hothouse (as there are opinions that they don't require tithing).
5. Produce grown in areas of Israel where it is unclear whether tithing is mandated.