



Pear Harvest, Palestinian Hands, Kibbutz Dvir

## Fruits of Our Labor:

# Tithing and Separating Israeli Produce

By Mordechai Kuber

In the Diaspora, we take it for granted that fresh fruits and vegetables are inherently kosher.<sup>1</sup> But in Eretz Yisrael, nothing, except for water, is automatically kosher. It is important for the Diaspora-dwelling kosher consumer to be aware of this when traveling to Eretz Yisrael. And even when shopping at home, consumers should be aware that peppers, tomatoes, canned citrus fruit and other fruits and vegetables from Eretz Yisrael must be carefully examined and not presumed kosher.<sup>2</sup>

Israeli produce is subject to greater scrutiny because of the *mitzvot hateluyot ba'aretz*, the specific commandments, mostly agrarian, that can be fulfilled only in Eretz Yisrael or with the produce of Eretz Yisrael. God commanded that more obligations be observed in a

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sanctified land. Just as Jews have more *mitzvot* than Gentiles, Nazarites more than Kohanim and the Kohen Gadol more than a Nazirite, Eretz Yisrael has more *mitzvot* than the Diaspora.

Thus, Israeli produce is subject to a series of tithings, which are referred to as *terumot* and *ma'asrot*. These two general categories actually include a total of five tithings. Before these separations are performed, the produce may not be consumed. In the time of the Beit Hamikdash, each one of the tithes was distributed to different recipients. Today, not all of these tithes are distributed in the same way, for a variety of reasons, which are briefly described in the chart that follows.

For Israeli produce to be certified kosher, all the necessary *terumot* and *ma'asrot*, as delineated in the chart that follows, have to be designated by the *mashgiach*. The *mashgiach* must also see

that *terumah gedolah* and *terumat ma'aser* have been discarded and that *ma'aser sheni*, when applicable, has been redeemed with coins. The remaining produce is thereby kosher-certified and ready for consumption. In different settings, the *mashgiach* performs the separations differently, as will be explained.

### The Factory

During season, fresh produce is delivered daily to a factory. The produce is then processed, a procedure that involves cutting, inspecting and sorting, which almost always results in more than one percent edible waste. As long as it is edible, this one percent can be designated as *terumah gedolah* and *terumat ma'aser*.<sup>3</sup>

At the beginning or the end of the workday, the *mashgiach* will review the receipts of the last twenty-four hours to determine the quantity of produce for which he must arrange tithing. He

will inspect the quantity of edible waste and perform the tithing.

In general, supervision at a factory is not as complicated as in other settings. This once-a-day procedure is not taxing and can be performed at a *mashgiach's* leisure. As such, even a mediocre *mashgiach* should be able to oversee tithing in a factory.

In some settings, the tithing occurs even less frequently. Since *terumot* and *ma'asrot* are separated from wine rather than grapes, and oil rather than olives, tithing is only an annual exercise at wineries and olive oil factories.

Furthermore, only factories that manufacture products that are fruits and vegetables in some form or another tend to receive fresh produce. Most of the OU-certified companies in Israel, including well-known names such as Telma, Osem and Elite, do not receive fresh produce. All produce that they receive has already been processed and tithed by other companies.

Additionally, widespread importing significantly lessens the concern about *terumot* and *ma'asrot*. For example, almost all wheat, except for the *shemurah* wheat, is imported and milled locally. All vegetable oil is pressed and extracted locally from imported legumes, and all sugar is imported. While there are some kosher certifiers who tithe Israeli-extracted oil despite the *chutz-la'aretz* source of the legumes, many rule that there is no such obligation.

Additionally, most of the fruit and juice used by manufacturers is imported. In an Israeli factory, even apples, strawberries and apricots, which all grow locally, are almost exclusively imported. Due to the higher costs of labor, utilities and taxes and the lower agricultural yields in Israel, it is more economical for Israeli manufacturers to obtain processed fruit from abroad.

### The Collection Center

Throughout Eretz Yisrael, growers send their harvest to various collection centers where the produce is distributed to wholesalers and supermarket chains. The situation in a collection

center is more complex than in a factory, and therefore the need for top-notch kosher supervision is more acute. First, in a collection center, unlike in a factory, there are no natural wasting and selection procedures. Therefore, when the *mashgiach* separates *terumah gedolah* and *terumat ma'aser*, he must take the one percent-plus from produce that would have otherwise been sold. An irreligious owner is not eager to sacrifice salable produce to the *kashrut* effort, and a persistent *mashgiach* is therefore required to guarantee that the requisite amounts are available for tithing.

In addition, the produce of each grower must be accounted for individually, since the tithing-obligations of the growers are not equivalent.<sup>4</sup> Practically, this means that in many situations each grower's tithes must be individually separated. At the collection centers, where ship-

ments are received daily from tens of growers, this is quite a chore. In a factory, however, the production process results in abundant waste, far in excess of the necessary one percent-plus. Therefore although we cannot identify the source of the waste by grower, we may safely presume that each grower has contributed at least the mandatory one percent-plus to the effort.

Furthermore, shipments are sent throughout the day from the collection centers as there is a rush to get produce to the market. In contrast to the once-a-day tithing at a factory, a *mashgiach* at a collection center might have to tithe two or three times daily, each time separating and measuring for each grower. At the peak of a season, this is a very taxing and demanding job, requiring a talented and steeled *mashgiach*.

In Eretz Yisrael, many kosher certifiers of local markets rely solely upon the tithing supervision at the collection cen-

Tithe	Year in the Shemittah Cycle	Percentage of Produce	Recipient	How It Is Handled Today
<i>Terumah gedolah</i>	1-6	Biblically: any amount Rabbinically: two percent as an average	Kohen	Produce is discarded. Reason: Kohen cannot consume it because of ritual impurity that cannot be corrected for lack of <i>parah adumah</i> (red heifer)
<i>Ma'aser rishon</i>	1-6	Ten percent	Levite	According to the Chazon Ish, it is consumed by the owner of the produce. Reason: it is unclear who is a real Levite today, therefore no Levite can make an absolute claim to <i>ma'aser</i>
<i>Terumat ma'aser</i>	1-6	Ten percent of <i>ma'aser rishon</i> , which is one percent of total produce	Kohen	Produce is discarded. Reason: Kohen cannot consume it because of ritual impurity
<i>Ma'aser sheini</i>	1, 2, 4, 5	Ten percent after removal of <i>terumah gedolah</i> and <i>ma'aser rishon</i> , which is almost nine percent of total produce	Owner of produce consumes in Jerusalem or redeems with coins	Redeemed with coins and produce is eaten by owner
<i>Ma'aser ani</i>	3, 6	Ten percent after removal of <i>terumah gedolah</i> and <i>ma'aser rishon</i> , which is almost nine percent of total produce	Poor	1. Given to poor 2. If one is uncertain if <i>ma'aser ani</i> was separated, owner may consume because poor cannot make absolute claim to <i>ma'aser ani</i> in such circumstances 3. For factories, it is possible to consider charitable contributions as substitutions for <i>ma'aser ani</i> , which enables <i>ma'aser ani</i> to be consumed by anyone

ters. Since not all of the *mashgichim* who supervise the collection centers are up to the arduous task, it is imperative for the consumer to verify the standards of the *mashgichim* at the shops he patronizes.

## Stores and Supermarket Chains

Stores and supermarkets present even more of a supervisory challenge. In the best of circumstances, a store will limit its suppliers to produce wholesalers that are already kosher-certified. However, since all produce looks alike, visual recognition, the staple tool of the in-and-out *mashgiach*, is not applicable. Thus there is no easy way to determine whether any produce has been received from an uncertified supplier. Thus, there is a need to rely on the trustworthiness of the proprietor, and frequent visits during the day are mandatory to spot-check deliveries and unopened cartons and bags.

But the situation is oftentimes even more complicated. Not all proprietors are limited to kosher-certified suppliers, and the tithing of some items must take place at the store. At any given time, there will be permitted and not-yet-permitted produce in the store. The not-yet-permitted produce must be segregated until the *mashgiach* arrives, and only the trustworthiness of the proprietor and the obedience of the workers determine whether the *mashgiach* catches everything.

Since produce stands are fast-paced, hectic places, many consumers insist on purchasing produce from stores with super-strict *hashgachot*. Other consumers feel that since the situation is so difficult to control completely, when it comes to *terumot* and *ma'asrot* they do not want to rely even on a *hashgachah* upon which they ordinarily rely. Although this super stringency is not a halachic necessity, it demonstrates the sensitivity with which this area of *kashrut* is treated.

The atmosphere at stores that are part of a national supermarket chain is much calmer. This is because such stores receive produce only from the chain's kosher-certified distribution centers. Many of the

individual stores do not have their own *mashgiach*. In such circumstances, the consumer relies on the certifying rabbi of the chain, without the aid of any on-site supervision. The consumer's only assurances of *kashrut* are the contractual obligations of the stores (to purchase only the chain's kosher-certified produce) and the trustworthiness of the store's proprietors. Therefore it is important for the consumer to verify that the store where he shops has its own produce *mashgiach* and that the certifying rabbi's supervision is acceptable.

## Export Produce and the OU Effort

We noted above that the cost of *terumot* and *ma'asrot* is the one percent-plus that must be discarded as *terumah gedolah* and *terumat ma'aser*. For domestic distribution, the growers and wholesalers, as irreligious as they may be, have no choice but to part with this amount. They cannot otherwise sell their merchandise to the general public, as most avenues of distribution are kosher-certified.

For export, however, growers are not so encumbered. They are not interested in the one percent-plus deduction, nor are they interested in the cost of daily, and sometimes constant, rabbinic supervision. The Rabbanut Harashit (Chief Rabbinate) has not been able to require that only tithed produce be exported, and until recently no arrangements were made for the tithing of produce that is exported to the United States. Except for Gush Katif insect-free leafy vegetables, which are targeted to a specialized, kosher market, exporters have steadfastly resisted tithing and rabbinic supervision.

Last year, after an intensive effort by the OU, there was finally a breakthrough. Agrexco, the largest exporter of Israeli produce, agreed to tithe one product: tomatoes on the vine. The OU agreed to undertake this project as a public service, as a sign of our support of Eretz Yisrael in its time of need. Therefore, we waived the ordinary requirement of a certification fee. We also offered our assistance in promoting the product, and assured Agrexco that sales would increase.

Agrexco has yet to analyze sales data from last year's season. Unfortunately, Agrexco has not yet indicated its willingness to renew the arrangement for this year's winter season. Ultimately, we hope the company will find that sales have increased and it will be willing to expand to other exported produce.

Whether or not fruits and vegetables from Israel are tithed by the exporter, it is still possible to tithe them on our own.<sup>5</sup> We should consider it an obligation to support Eretz Yisrael by visiting the Land and purchasing its produce. At the same time, we should be aware of the special *kashrut* considerations that this produce entails. **JA**

## Notes

1. Some fruits and vegetables are insect-prone, and must be inspected for infestation, even in the Diaspora. The OU Kashruth Department has prepared an excellent manual on this topic.

2. To know if fresh produce is from Israel, look for a sticker on the product; for canned produce, look for a statement on the label. In the absence of such markers, the consumer may presume that the produce is not from Eretz Yisrael.

3. According to Biblical law, only superior produce may be designated as *terumah gedolah* and *terumat ma'aser*. But nowadays, where it will be discarded, it is permitted to designate edible waste.

4. Not all areas of Eretz Yisrael are halachically equivalent with regard to the laws of tithing, as there is great debate about the boundaries of halachic Eretz Yisrael and the level of obligation within different areas. For example, areas south of Moshav Paran in the Arava (approximately fifty miles north of Eilat) are not considered Eretz Yisrael according to almost all opinions. The Bet Shean valley, areas on the west coast, north of Akko, and areas south of the old southern tip of Yam Hamelach are debatable. In addition, Gentile-grown produce is often not subject to the tithing obligation. Therefore, the level of obligation will vary by region and by the nationality of the grower.

5. It is possible to separate *terumot* and *ma'asrot* on uncertified Israeli produce, even in the Diaspora. Rabbi Yaakov Luban, executive rabbinic coordinator of the OU's Kashruth Division, has written a concise guide outlining the procedure. It may be obtained from the Kashruth Department.