

What is the status of a loan for which ribbit is not a guaranteed result? (צד א' בריבית, shiur 3)

- Where ribbit might or might not happen due to outside circumstances, everyone agrees that this is אבק ריבית
- But what about where the sides agreed to terms which might lead to ribbit based on their actions?
 - Two examples of actions which could lead to ribbit
 - A purchase which might be reversed, but the buyer used the goods in the interim
 - A loan which licenses the lender to purchase a field from the borrower, if it is ever for sale
 - It's a machlokes tannaim, R' Yehudah (ok) and the Chachamim (not ok) – Bava Metzia 63a
 - Rabbi Yehudah is lenient because this is not "set" from the start (Tosafot)
 - We follow the chachamim, and most rule that this is still ריבית קצוצה

What is the status of interest on late payment for a purchase? (טרישא, shiur 5)

- Ribbit in a commercial transaction is אבק ריבית, either from pesukim or because the ribbit is vague
- A mishnah (65a) prohibits imposing a higher price for paying for grain at the time of the granary
 - Rav Nachman – Tarsha is fine; the mishnah is where the ribbit is "set" (קין)
 - Rav Pappa – Tarsha is fine where the seller only sells now because that helps the buyer
 - Rav Chama – Tarsha is fine where the purchase is delayed until the buyer re-sells the goods, and this buyer benefits from use of the seller's name in his own business.
- Rav Nachman's tarsha
 - Rashi: Only name the later price, not the earlier price.
 - Logic: The ribbit is unclear, it's on a purchase, and we want to enable credit (Rashba)
 - Rambam and Shulchan Aruch accept Rav Nachman, as explained by Rashi
 - "Naming" the price includes any case in which the price is obvious
- Rav Pappa's tarsha is explicitly rejected in the gemara
- Rav Chama's tarsha
 - This is fundamentally a case of a hybrid investment and loan:
 - It is an investment in that you send merchandise which is now worth X, and you receive the X+ price for which the agent sells it.
 - But it is a loan in that you lend the agent that X+, to pay back to you later.
 - And you need to take care of certain details:
 - The original owner must keep אחריות for the goods until they are sold, or that אחריות will be ribbit.
 - The agent's work must be compensated, or else the work is ribbit
 - This leads into heter iska, when you make the loan and pikadon simultaneous rather than sequential, and there is no merchandise, only money.

What is the status of a late fee for failure to pay on time? (דרך קנס, shiur 6)

- Three passages of Mishnah/Gemara indicate that late fees are not prohibited as ribbit
 - Mishnah Bava Metzia 5:3 (65b) – If you don't pay me back within 3 years, I get to keep the mashkon
 - Bava Batra 168a – Machloket where a debtor pays off part of a debt and pledges that if he doesn't pay by X date, he will owe the entire debt. But the machloket is re: asmachta; ribbit is a non-issue.
 - Mishnah Ketuvot 6:3 (66a) – If she says she is bringing in 1000 dinar of items into the marriage, he can set up a condition to give her 1500 if he divorces her.
- Why permit this? There is no extension of time associated with the late fee.
- We have 3 objections, leading poskim to prohibit the "late fee" approach
 - This is ריבית מאוחרת or ריבית בשעת פרעון – The lender comes out ahead
 - This is הערמת ריבית – The lender gets extra money, and just doesn't call it ribbit!
 - Agreeing to the late fee is itself payment to the lender

- But we have 4 heterim
 - Where forgiving a mashkon, like Mishnah 65b on mashkon forfeiture (Yoreh Deah 177:17)
 - Where the fine arrangement isn't set from the time of the halvaah like Mishnah 65b on mashkon forfeiture (Beit Yosef 177:18:end)
 - Where one borrows money and re-pays produce, or vice versa, like Mishnah 65b on mashkon forfeiture (Rama 177:14)
 - Where it's a case of selling merchandise (Yoreh Deah 177:18)
- Could you have multiple deadlines, with new fines along the way? (Mordechai Bava Metzia 454-455)

What is the status of a loan of materials, which could fluctuate in value? (סאה בסאה, shiur 4)

- Mishnah Bava Metzia 5:9 and gemara 75a prohibits lending כור for כור other than in particular circumstances
- Rav Safra on 62a includes סאה בסאה as a case of אבק ריבית קצוצה; why is it not ריבית קצוצה?
 - Rosh 108:15 – The borrower gives back nothing extra; it's worth more, but the quantity is the same
 - Ramban 60b – We evaluate based on the worth of the promised payment when the loan is extended
 - Taz 162:1 - Because it's קרוב לשכר ולהפסד; he could just as easily lose everything.
- Although it may not yield ribbit, Yoreh Deah 162:1 indicates one is liable at the time of the loan
- Four ways to permit סאה בסאה
 - עשאה דמים - Make the loan about the financial value of the materials
 - דבר מועט - Engage in loans of small quantities
 - It's like יש לו (the third heter, below) – Baal haMaor Meiri
 - People are not makpid on small items/differences – Rama
 - The price likely won't change much – Baal haMaor
 - יש לו - Make sure the borrower has at least some of this commodity
 - It's as though the lender acquired this from the start, as a barter (Gidulei Terumah, Rashi)
 - יש לו can be broad
 - Owning part of the amount is fine, and even receiving it as a gift from the lender
 - We reject the Taz's view that having money suffices
 - יצא השער – Lend items for which there is a set price
 - Justifications
 - It's as though the borrower has the goods, and the lender has received them – Beit Yosef
 - The borrower could buy and pay back now – Shaar Deah
 - We expect the price to remain stable – Meiri
 - Defining יצא השער
 - A range of prices in the place where locals normally shop
 - There is debate regarding fluctuating prices
- The deal must always be קרוב לשכר ולהפסד

After the fact: What do you do once a loan with ribbit has been extended? (יוצאה בדיינים, shiur 2)

- Before anything is collected, we interfere by tearing up the shtar (Tosefta)
 - Either lest the lender claim ribbit, or lest the beit din prevent the lender from claiming keren
- After ribbit has been collected
 - ריבית קצוצה is reversed by a beit din (Bava Metzia 61b-62a)
 - Explanation #1: This is a special mitzvah for the lender (Rashba/Ran)
 - Explanation #2: The money belongs to the borrower (Rabbeinu Yerucham)
 - Per Rambam, Shulchan Aruch, one should re-pay אבק ריבית to satisfy Gd
 - There is some debate regarding re-paying lower level ribbit, like ribbit meucheret