

# HALOCHOSCOPE

## This week's question:

**May one try on a garment for size before checking it for *shatnez*? May one continue wearing it while it is being pinned and marked for alterations?**

## The issues:

- A) *Sha'atnez*, forbidden mixtures of wool and linen in clothing
- B) The obligation to check for something forbidden
- C) *Davar she'aino miskaven*, permissible 'wearing'

## A) *Sha'atnez* [excerpted from Halochoscope II:28]

A garment containing both wool and linen fibers is forbidden to wear. The basic prohibition is a Scriptural *mitzvah*, and includes Rabbinical extensions. The *mitzvah* is considered a classic example of a *chok*, statute that need not have a logical explanation. The word *chok* is related to engraving, meaning something that cannot be changed or even reinterpreted. Some maintain that there is no explanation for this *chok*. Others say that an explanation exists. However, while other types of *mitzvah* can be explained on all levels, a *chok* can only be explained on certain levels. To explain *kilayim*, forbidden mixtures, some commentaries say that the one mixing them shows his dissatisfaction with the boundaries made by Hashem when He created things separate from each other.

The exact definition of the Scriptural *mitzvah* is derived from the terminology used by the Torah forbidding it. The Hebrew word *sha'a-t-nz* is considered an acronym for *shua*, *tavuy*, *nuz*. These three words are translated slightly differently by the commentators, but basically include the various ways fibers are combined in a garment. In one view, *shua* means that when the fibers are first combed, before spinning the thread, the wool and linen are combed together in a blend. Another view translates *shua* as compressing fibers together to form felt. *Tavuy* is translated as spinning. *Nuz* is translated by some as woven, meaning that the wool and linen are woven together. Others translate *nuz* as tightly twisting two spun threads into one.

There is further debate on whether it is considered true Scriptural *sha'atnez* when only one of these ways of bonding the two is present. According to one opinion, the wool and linen must be combined at all three stages to be considered *sha'atnez* Scripturally. Others maintain that as long as each of them went through these processes individually, if they were later combined, it is still considered *sha'atnez* Scripturally. Thus, any permanent combination of wool and linen after these stages is forbidden Scripturally. This includes sewing two pieces of cloth together with a full stitch – the thread is threaded into the two pieces and back through them. Even if the thread used to sew is a neutral fiber, the newly attached pieces of wool and linen is *sha'atnez*. [Many poskim only consider a single stitch valid bonding if its ends are then tied together. There is further discussion on

says, however, that if the unintended consequence is inevitable, it is forbidden. This is known as *psik raisha*. However, there are levels of *psik raisha*. If the result is beneficial, it is as though the person had intent, known as *psik raisha denicha lei*. If the resulting action is unwanted, it is called *psik raisha delo nicha lei*, and is permitted.

However, a separate case exists that seems to contradict this. The Talmud forbids wearing *sha'atnez* to avoid a tax or fee (such as at the airport). This seems to be identical to tailors and salesmen. Indeed, in another passage, the Talmud cites a debate about this very issue. The Poskim debate the resolution to this issue. In one view, the stringent view on tax avoidance is consistent with the stringent view on tailors. We follow the lenient view. The other opinion reconciles them. To avoid taxes, one must wear the garment, violating *levisha*. To model them, only *ha'ala'ah* is needed. This is permitted when it is unintentional. Some explain, *levisha* does not require bodily benefit, but *ha'ala'ah* does require it. Some say, *ha'ala'ah* may be considered *davar she'aino miskaven*. *Levisha* is a *psik raisha*. Some add, that when one wears it to avoid taxes, he keeps it on his body for longer. Thus, it is considered a *psik raisha*. A different approach is that to avoid taxes it is necessary to wear it to gain the benefit. Therefore, it is considered *psik raisha*. [A slightly different version is that since wearing it is necessary, benefit is inevitable.] Whereas to model it for size one need not wear it, but another method is equally beneficial. Therefore it is *davar she'aino miskaven*. Another approach is that to avoid the tax one needs to actually wear it as an item of clothing. Clothing being worn is exempted from the tax. This is called *miskaven*. To model it for size, one need not intend it as an item of clothing. Another approach maintains that the entire debate about *davar she'aino miskaven* is primarily about doing one activity that leads to or includes a second activity. To do the identical activity with a different intent, such as actually wearing but to void tax, could be viewed as taking this too far. Finally, there is a view that the stringent view is concerned with *maris ayin*, appearances.

Ashkenazim follow the lenient view, but may adopt stringency. One posek differentiates between a salesman and a buyer. He maintains that a buyer is forbidden to try on *sha'atnez* according to all opinions. This view directly contradicts earlier sources, and his position is inherently perplexing and difficult to reconcile. Some later poskim attempt to reconcile it and commend those who follow his view. However, he is referring to known *sha'atnez*. The consensus is that for unknown *sha'atnez*, even this opinion would not forbid trying it on for size. The same would hold true for wearing it to be measured for alterations. [See Kilayim 9:2 5 Shabbos 29b Beitza 14b-15a (Shiltei Giborim) Baba Kama 113a, Poskim. Rambam Kilayim 10:16 18 Tur BY Sh Ar YD 301:6, commentaries. Minchas Yitzchok IV:15. Shevet Halevi II:169. Cheshev Haefod I:137. Zichron Bezael 72.]

In conclusion, if it is not known to contain *sha'atnez*, the consensus is to permit trying it on. If it is known to contain *sha'atnez*, some would say that one should not try it on.

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how they are tied.] Moreover, if two items of neutral material are sewn together, but one had wool attached to the end and the second had linen attached to the other end, one may not wear the combined item, or even part of it. There is even an opinion that any permanent combination of wool and linen can be Scripturally forbidden even without the standard sewing bond. Thus, a cotton pillow lined with pieces of the two materials and sewn up or tied permanently would pose a problem. Mixtures of these two materials that do not fit the conditions mentioned for Scriptural *sha'atnez* are nevertheless forbidden Rabbini- cally, in most cases. This includes, for the most part, those that are disputed by one opin- ion or another. That view will still forbid it Rabbini- cally.

Only wearing *sha'atnez* is forbidden Scripturally. Other forms of benefit are permit- ted. Some are restricted Rabbini- cally. The Torah uses two terms when forbidding *sha'at- nez*, *levisha*, wearing, and *ha'ala'ah*, (literally) putting it over the body. Accordingly, the prohibition only applies to wearing it certain ways and to certain items of clothing. Gen- erally, all *levisha* is a form of *ha'ala'ah*. It covers at least part of the body. Not all *ha'ala'ah* is *levisha*. Thus, only the *ha'ala'ah* that bears a resemblance to *levisha* is for- bidden. For example, although covering with a blanket is not a form of *levisha*, it is *ha'ala'ah* that resembles it, because clothing is worn to protect the body. Protection in- cludes keeping warm, which is also true of a blanket. Similarly, an oven mitt is worn to protect the hand from heat. However, a knapsack made of *sha'atnez* does not provide benefit to the wearer's body. Therefore, it is not forbidden Scripturally.

Likewise, if the bodily benefit is not by wearing, such as a mattress or a bottom sheet, it is not included in the Scriptural prohibition. However, *sha'atnez* under the body is forbidden Rabbini- cally. The concern is that the edges could curl up and cover a part of the body. Once the decree was instituted to forbid it, it applies even if the *sha'atnez* is covered by layers of neutral material. Similarly, an item that might provide temporary benefit to the body, such as a towel, is forbidden Rabbini- cally. A curtain, shower curtain or a cover of something else that one might use for privacy temporarily is not used to benefit the body and is permitted. We shall discuss later cases where it is worn without the intent for benefit, but for show and the like.

One who discovers that the clothing he is wearing is *sha'atnez* must remove it imme- diately. If it is the kind forbidden Rabbini- cally, and he is in a public place, he may con- tinue wearing it until he reaches a private place. [See Kilayim Perek 9 Beitza 14b-15a Yevamos 5a-b Nidah 61b (Rosh), Poskim. Rambam Kilayim 10:1-26. Tur BY Sh Ar YD 300-304, commentaries.]

### **B) The obligation to check**

When faced with a doubt regarding a prohibition, various rules are followed. They either resolve the doubt in a *halachically* satisfactory way, or they decide the issue re- gardless of whether the doubt still exists practically. Even in the absence of a decision, certain rules are applied on how to proceed. In Scriptural issues, one assumes stringency. In Rabbini- cal cases, one assumes leniency. If the doubt is uneven, such as where the chances on one side are greater (known as *rov*), or if an assumption can be made based on probability or circumstances (known as *chazakah*), these might be taken into consid- eration to determine a more definitive ruling. However, all this applies when there is no

way to determine the facts through investigation. If it may be clarified by checking or ex- amining the facts, one does not rely on these rules. Rather, the issue must be resolved through checking it thoroughly.

In the case of *sha'atnez*, a number of considerations make it necessary to actually check out a questionable situation. This prohibition is specifically on the mixture. Other mixtures are also forbidden. However, the usual case involves one forbidden component mixed with a permissible component or group of them. In those cases, the forbidden component can be *batel*, overwhelmed by the other components and neutralized. If the components are both permitted, but it is the mixture that is forbidden, the regular rules of bitul do not apply. If a known thread of wool is woven into a large piece of linen, it is forbidden. The only way to permit it is to find and remove the wool. This might be al- most impossible, short of dyeing it in a way that only one of the two will absorb the dye. If this test is performed, and the lost fiber cannot be detected, the rules vary depending on the nature of the prohibition. For a Rabbini- cal form of *sha'atnez*, once one has done his best, the item is permitted. For a Scriptural case, this does not help, since the mixture is known *sha'atnez*, and the doubt remains.

The Talmud says that when purchasing clothing from a gentile, one must assume that it is *sha'atnez*. The gentile has no reason to avoid it, since it is not a *mitzvah* for him. Linen is a strong thread used all the time. Furthermore, one may not rely on an assurance from the tailor, but it must be checked thoroughly every time. If it proves impossible to check the actual fiber, the item may not be used. If the fiber is fine, but the stitching is unknown, it might be necessary to re sew it. However, where linen is more expensive than an equal or better neutral substitute, one may rely on the tailor. It is still recommended to test it. Labeling laws help, but labels are not completely reliable. Some clothing is made up of many small and hidden parts, that require a trained expert to test them. Some spe- cific parts are more problematic. These include linen stiffening in collars or waistbands, soft woolen padding, and where a single button holds a large load. Thus, the obligation remains to have wool or linen clothing checked and tested professionally. Even some neutral items could have problematic components that are not always disclosed. [See Ki- layim 9:7 Nidah 61b, Poskim. Tur Sh Ar YD 302:1-2 Rema etc., commentaries.]

### **C) Davar she'aino miskaven**

We mentioned wearing an item for no bodily benefit. The Talmud discusses the case of a salesman modeling the item on himself, and a tailor who sews the item holding it on his knees or other parts of his body. *Tznuin*, those who wish to practice personal stringen- cy yet conceal it from others, would arrange to keep the items off their bodies. Accord- ingly, one need not refrain in such cases, but doing so is considered virtuous.

The Talmud explains this view as consistent with a Talmudic debate about unintend- ed consequences of one's actions. On *Shabbos*, one may not dig a groove in the ground. Dragging a chair or a bed can cause a groove. If this is not inevitable, nor intended, one view permits it, while the other forbids it. There follows further debate on whether the le- nient opinion only applies when it is too heavy to lift. Our case of *sha'atnez* is cited as proof that even if there is an alternative to do as the *tznuin* do, it is permitted to act le- niently. This unintended consequence is known as *davar she'aino miskaven*. The Talmud