

Interest

Ref: Sefer Mishpatim, Hilchot Malveh Veloveh, Chapters 4–7



A lender should not lend at interest.⁹

A borrower should not take a loan at interest.¹⁰

No one should be involved with a lender or borrower of a loan given at interest.¹¹ (I.e. be a witness, or a guarantor, or write up a contract regarding interest.)

The reason Torah calls interest *neshech* (snake) is because it bites and hurts the victim.

Why are 2 terms used for interest? Torah warns us many times about this prohibition to point to its seriousness.

A person who offers a loan at interest violates **6 mitzvot**. A person who borrows at interest violates **2 mitzvot**. An intermediary violates **1 mitzvah**. (i.e. the guarantor or witness or broker etc)



The *Rabanim* ruled that we should refuse to accept, if robbers or people who took interest, willingly return their gains. This will cause them to do *teshuvah*.

There can be a fine line between what is regarded as taking interest and what is allowed.



Interest forbidden by the *Rabanim* is called *avak ribit* (shade of interest).

When a person takes interest he denies *Hashem*, the G-d of Israel, and denies the exodus from Egypt.

INTEREST

	Allowed	Explanation
Gives his family members interest	× Even though he does so happily	They might learn to charge others interest.
Torah scholars lending money one to other	✓	They understand that the extra amount is a present
Person finds extra money at return of loan		It must be assessed whether extra amount was mistake or present
<i>Rabanim</i> allowed <i>avak ribit</i> in certain cases e.g. a trusted person looking after the possessions of orphans can accept total liability and yet share the profit with the orphans.	✓	



To lend and borrow money to or from a Gentile at interest.¹²

INTEREST (GENTILE)

	Allowed	Explanation
Lends money to Gentile for interest	✓	Limited to where necessary lest he learn from gentile

Lends money to <i>Ger toshav</i> (Resident alien)	✓	
 Borrows money from Gentile	 ✓	 Permitted because he will avoid contact with Gentile
Jew borrows from a Jew money belonging to a Gentile	x	Jew must return loan to gentile, and only then can second Jew borrow it.
Jew borrowed from Gentile and Gentile then converted	✓	As long as a new loan is drafted before the conversion, totalling the original amount and the accumulated interest.
Gentile borrowed from Jew and then converted	✓	To prevent suspicion that Gentile converted to avoid paying interest

INTEREST (IN BUSINESS)

	Allowed	Explanation
An investor gives money to a businessman to use and profits are shared (so that his profit is great and loss minimal)	x	If formula of share of profit and loss as set up by <i>Rabanim</i> is used, then this is allowed – <i>heter iskah</i> . Here profit of investor is minimal and possible loss is great.
Pay for a loan with a present	x	
‘Pay’ for a loan with words of praise or thanks or other	x	
An intermediate person is asked to persuade a third party to give the first party a loan. The intermediary is paid by the first party	✓	It is a wage. Torah only forbade a lender taking interest from a borrower
Someone asks to ‘rent’ money and pay ‘rental’ plus return the money	 x	 Rental is where the same item returns, whereas borrowing allows for other coins to be returned. This is called <i>avak ribit</i>

 **Reminder**

Key Facts of *Sefer Kinyan (Hilchot Shutafin)*



	Allowed	Explanation
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Lender says to borrower, at time loan is given, to let him have free use of borrower's courtyard	x	<i>Deoraita</i> (Scriptural prohibition)
After repayment due, borrower says that he can't yet pay but offers lender use of his courtyard until loan repaid	 x	 <i>Avak Ribit</i> It should be noted that the halachah follows the opinion that it is <i>Deoraita</i> .
Person sells field but tells purchaser at start that when he has cash, property should revert to him i.e. seller becomes borrower and purchaser becomes lender	x	Purchaser (lender) may not have benefit of produce of field (<i>Deoraita</i>). Transaction is not binding i.e. an <i>asmachta</i>
Purchaser of field volunteers to the seller to repossess his field when he obtains funds	✓	Purchaser may benefit from produce. This is like a binding contract of sale and a new contract of return.
Security where fixed interest involved (with property) e.g. a courtyard where benefit is always present from start	x	<i>Deoraita</i> (Tenancy has value as soon as he acquires the security)
Security involving Rabbinic prohibition (with property) e.g. a field	 x	 <i>Avak Ribit</i> (Produce may not be there straight away. Also, product not guaranteed)
Security where taking benefit is permitted with property. Here borrower gives lender his property as security but charges him nominal rent	 x	Ordinarily rent would be much more and here only a nominal rent is being requested
• Property is courtyard		
• Property is field	✓	Here permitted because it is unknown if produce will ever make a profit

	Allowed	Comment
Field security. Value of produce taken by lender starts to exceed amount he needs to return	 ✓	 Cannot be removed from field because this would mean legal expropriation and with a field the interest is only <i>avak ribit</i>

Field security. With orphans when value of produce taken exceeds amount they need to return	 ✓	 Lender can be removed from land because <i>Rabanim</i> released laws of Rabbinic interest for orphans.
Asks for more rent if paid monthly, than if paid in one instalment	✓	Obligation for rent only due at end of rental period.
Loan given to improve a field which was rented and owner then increases the rent	✓	It would be worth more to rent because of the improvement
Exchange of jobs where job is the same	✓	
Exchange of jobs where later job is more	x	Value of return is greater