**Jewish Business Ethics**

**Under-charging**

*Where a shop-keeper gives me too much change and I don't notice until I have left the shop, what obligations do I have as a matter of Jewish law and ethics to go back and return the money?*

There is a temptation to answer by saying that of course you are always obliged as a matter of ethical behaviour, even if not by law, to return money that someone else has given you in error.  But an extreme example shows that this would be too simplistic a response.  Imagine that on my way back to London after a once-off visit to Manchester that I stop to buy petrol, and the sales assistant pays me 5p too much change by mistake which I don't discover until I get home: driving back up the motorway to return the 5p would clearly be more certifiable than ethical.

For the purposes of establishing the principles on which Jewish law and ethics approaches questions of this kind, we start from two basic concepts: *yi'ush ba'alim* (the idea that once the owner loses hope of recovering a lost object it becomes ownerless and the obligation to search for the owner in order to return it falls away) and *mechilah* (the concept that the person to whom a debt is owed can choose to waive it).

From these two concepts one can establish the following principles.  If the amount of money by which you have been overpaid is so large that the owner will probably notice it and would certainly hope to recover it, then you will have a Jewish legal obligation to return it (although not to spend your own money on travelling or other charges for that purpose).  If the amount of money by which you have been overpaid is completely insignificant for all purposes, you can assume that the owner will not notice it, or that if he or she does notice it they will instantly write it off in their minds - in which case you have no legal or ethical obligation to return it.

As so often, therefore, the extremes are easy to identify and enunciate; but how do we navigate the grey area in between?  In particular, how do we determine what amounts to a significant sum of money?  A useful rule of thumb in these circumstances is that you are entitled to take as a starting point the assumption that what is insignificant to you will be insignificant to the shopkeeper.  Ask yourself, if I had been over-charged by that amount rather than under-charged, would I go back to the shop to complain?  If the answer is yes, then there is little doubt that you have at least an ethical duty to treat the shop-keeper as you would like to be treated yourself, and to return the extra payment.  If the answer is no, then from a purely ethical perspective you may choose to ask yourself an additional question: are there reasons why what is insignificant to me might be significant to the shop-keeper?  (In this context, it is as well to bear in mind that the profit-margin on some high-bulk items can be very small - a matter of 5% or less; so that an over-payment in change of 5p might amount to the entire profit element on the sale.)

It is clear that I do not have to spend my own money on restoring someone else's property that they have given to me, whether or not by mistake.  So if a business pays me significantly too much money by mistake I have a duty to return it - but I am entitled to deduct any expenses of doing so, including banking charges, postal costs and so on.  A more difficult question is whether I am obliged to spend time on returning the over-payment, and whether I can charge for my time if I do so.  Although this can be complicated both from a legal and an ethical perspective, I am entitled at the least to take into account any direct loss of earnings that I suffer as a result of taking time to restore the over-payment, and deduct the amount of that loss as if it were any other kind of direct expense incurred.

If in doubt whether the shop-owner wants me to go to the trouble of returning a relatively trivial over-payment I may be tempted to pick up the phone and check that he or she is content to grant express *mechilah* (waiver) for the amount.  That is without doubt an ethically impressive course of action, but it requires a note of caution: if I am not speaking to the actual owner of the business, but to an employee (or even co-owner), I can rely on his or her waiver only if satisfied in the circumstances that it falls within the authority that has been delegated to them by the owner.  It is famously easy to be generous with other people's money, and a cheery assurance that I don't need to worry about the over-payment is worthless unless it comes either from the person whose money it is or from someone who has clear authority to act on that person's behalf in relation to sums of that kind.

Finally, whose duty is it to check whether payments are correct or not?  In law, this varies considerably; and people are sometimes surprised to learn, for example, that as a matter of both secular and Jewish law if a person makes a payment into my bank account in error it is my duty to report it, and I cannot simply take the line that if asked to return it I will but otherwise I will keep it and eventually spend it.  At the other extreme, I clearly have neither a legal nor an ethical duty to check a long shopping receipt from the supermarket to satisfy myself that the assistant has not omitted an item or charged the wrong price.  Where the balance is to be struck between these two extremes is again difficult to express; but as with many areas of law and ethics one has to have regard to the fifth volume of the Shulchan Aruch - the laws of common sense.  In particular, if I have some reason to think that there may be a problem (most obviously, because I was expecting a bill to be larger than it is) then I have at least an ethical responsibility to check to see whether the reason is an over-payment by the shopkeeper or a miscalculation by me.

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