

in fact they grow on most water and on water of the incoming year.

**On the first of Shevat – פְּאִתְהוּ בְּשֵׁבַט:** The Ran explains at length, and it is also indicated in *Tosafot*, that since there is an allusion in the Torah that the new year for trees is not determined by Rosh Hashana, the Sages established that the new year for trees depends on the time of the formation of their fruit. With regard to the reason for setting this date, some explain that it is the day by which most of the rainy season has passed. Accordingly, it may be suggested that the *tannadim* disagree whether the rainy season should be counted from the seventeenth of Marheshvan until Nisan, or from *Sukkot* until Nisan (see Rabbenu Hananel). Others connect this to the dispute between Rabbi Meir and Rabbi Yehuda (*Bava Metzia* 106b) that defines six seasons: seedtime, winter, cold months, harvest, summer, and hot months. According to one opinion, winter ends on the first of Shevat, and according to the other it ends on the fifteenth of Shevat (*Perai Yehoshua*). The author of the *Meiri* explains that this date was set in the middle of the rainy season.

Alternatively, the opinions of Beit Shammai and Beit Hillel may be based on a dispute as to when the sap rises in a tree (see Rashi). Another explanation is that according to Beit Shammai, the beginning of a year cannot be in the middle of a calendar month, based on the midrashic exposition of the words: The months of the year, in the Jerusalem Talmud. According to Beit Hillel, the reality of when the sap rises in the tree defines the year for the tree, regardless of the calendar date.

פְּאִתְהוּ בְּשֵׁבַט רֵאשִׁי הַשָּׁנָה לְאִילָיִךְ.  
מָאי קַעֲמֵמָא? מָאי רְבִי אֶלְעָזָר אָמַר רַבִּי  
אִשְׁעֵינָא: הַזְּאִיל וְיֵצֵא אוֹב גְּשָׁמֵי שָׁנָה,  
וְעֵדֶיךָ אוֹב תְּקִיפָה מְבַדְּדִיךָ.

מָאי קְאָמְרֵךְ הֵיךְ קְאָמְרֵךְ: אֵרֶךְ עַל פִּי  
שָׂדֵיךָ תְּקִיפָה מְבַדְּדִיךָ, הַזְּאִיל וְיֵצֵא אוֹב  
אוֹב גְּשָׁמֵי שָׁנָה.

תַּנּוּ רַבְנֵיךְ: מַעֲשֵׂה פְּרִצֵי עֲקִיבָא שְׁלֵלֵיךְ  
אֶתְרוּגוֹ בְּאִתְהוּ בְּשֵׁבַט, וְתֵגוּ בּוֹ שָׁנִי  
עַיְשָׁוְרִיךָ.

**S** The mishna taught: **On the first of Shevat<sup>4</sup> is the new year for trees,** according to the statement of Beit Shammai. The Gemara asks: **What is the reason that the new year for trees was set on this date?** Rabbi Elazar said that **Rabbi Oshaya said:** The reason is since by that time most of the year's rains have already fallen, and most of the season, i.e., winter, is yet to come, as it continues until the spring equinox, which usually occurs in Nisan.

The Gemara asks: **What is he saying?** The Gemara explains: **This is what he said:** Even though most of the winter season is yet to come, nevertheless, since most of the year's rains<sup>5</sup> have already fallen, it is considered the end of the previous year of rain, and anything that grows from then on is considered produce of the next year.

The Sages taught in a *baraita*: There was once an incident involving Rabbi Akiva,<sup>6</sup> who picked an *etrog* on the first of Shevat and set aside two tithes. This occurred in the second or the fifth year of the Sabbatical cycle. In the second and fifth years one sets aside second tithes, whereas in the third and sixth years one sets aside poor man's tithes. Rabbi Akiva set aside both second tithes and poor man's tithes because he was in doubt about the *halakha*.

①

**Seedless onions – תוצלום תפוחין:** All agree that seedless onions are onions that do not produce flowers, as the flowering impairs both the size and the quality of the crop.

According to Rabbeynu Hananel, the reference here is to onions whose flowers were crushed so that the bulbs would grow more. According to others (see Rashi), it is referring to onions that are planted when they are very small, with a diameter of up to 15 mm and weighing up to 2 g, and in a season when changes in the weather prevent the onions from flowering.

**Most of the year's rains – יראו גשמי שנתך:** Although it is clear from the talmudic sources that in the time of the Talmud the rainy season in Eretz Yisrael began earlier than it does today, even nowadays more than 50 percent of the annual rain in Eretz Yisrael falls before February, so that most of a year's rain usually falls before the fifteenth of Shevat.

#### BACKGROUND

**Onions and cowpeas in the seventh year – תוצלום ותפול תפוחי ענת –** Seedless onions and cowpeas that were not watered during the thirty days before Rosh Hashana of the Sabbatical Year are treated like sixth-year produce. If they were not watered for a shorter period of time, they are treated like after-growths [sefifin] and are prohibited, in accordance with the mishna here (Rambam *Sefer Zerdim, Hilkhot Shemitta VeYovel* 4:17).

**Rabbi Akiva – רבי עקיבא:** Akiva ben Yosef was one of the greatest of the *tannaim*. He lived from just after the destruction of the Second Temple until the bar Kokheva revolt. Rabbi Akiva was one of the leading Sages of Yavne during the period that Rabban Gamliel II was *Masi*, and he was the primary teacher of Rabbi Yosei, Rabbi Yehuda, Rabbi Shimon, Rabbi Meir, and Rabbi Elazar, who are the most widely cited *tannaim* in the Mishna.

Rabbi Akiva systematized and arranged the many oral traditions, and it was the Mishna of Rabbi Akiva as received by his disciple, Rabbi Meir, that ultimately served as the basis for the Mishna redacted by Rabbi Yehuda HaNasi and his disciples.

Among Rabbi Akiva's students were Shimon ben Azzai, Shimon ben Zoma, and Elisha ben Avuya, with whom he entered the orchard (see *Hagiga* 14b), meaning that they studied esoteric,

#### HALAKHA

**Seedless onions with regard to tithes – תוצלום תפוחין פתוחות:** Seedless onions that were not watered for thirty days before Rosh Hashana are tithed together with produce of the outgoing year. If they were not watered for a shorter period of time, then even if they began to dry up before Rosh Hashana, they are tithed like produce of the incoming year. With regard to cowpeas, see *daf* 13b (Rambam *Sefer Zerdim, Hilkhot Madaser Shevi* 1:9).

#### PERSONALITIES

mystical elements of the Torah. Only Rabbi Akiva emerged from the experience unscathed.

According to legend, Rabbi Akiva began his studies at the age of forty, when Rahel, the daughter of the wealthy Kalba Savva, agreed to marry him on condition that he would go to study Torah. Rabbi Akiva became the student of Rabbi Eliezer ben Hyrcanus and Rabbi Yehoshua ben Hananya; he ultimately became a prominent scholar with twenty-four thousand students.

Toward the end of his life, Rabbi Akiva actively supported bar Kokheva's revolt against the Roman authorities, declaring him to be the Messiah. After the repression of the revolt, when the emperor Hadrian decreed that Torah study be prohibited, Rabbi Akiva continued gathering Jews and teaching Torah until he was captured and tortured to death. He is counted among the ten martyrs whose execution is described in liturgy.

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אחד פדבוי בית שפאני ואחר פדבוי בית הלל.

One tithе was in accordance with the statement of Beit Shammai<sup>N</sup> that the new year for trees is on the first of Shevat, in which case it was already the third or sixth year, when one must set aside poor man's tithе; and one tithе was in accordance with the statement of Beit Hillel that the new year for trees is on the fifteenth of Shevat,<sup>B</sup> so it was still the second or fifth year, when one must set aside second tithе.

רבי יוסי בר יהודה אומר: לא מננה בית שפאני ובית הלל ננה בה, אלא מננה רבן גמליאל ורבי אליעזר ננה בה.

Rabbi Yosei bar Yehuda<sup>N</sup> says: He did not act as he did in order to conform with the conflicting practices of Beit Shammai and Beit Hillel. Rather, he acted as he did in order to conform with the conflicting practices of Rabban Gamliel and Rabbi Eliezer.

זתנן: אחרוז שורה לאילן בשלשה דרכים: ולית פדוד אחר. שורה לאילן בשלשה דרכים: לעולה, ולרביעי, ולשביעיית. ולית פדוד אחר שפיעת לקיטתו עישורו, דבוי רבן גמליאל.

As we learned in a mishna: The *etrog* tree<sup>a</sup> is like an ordinary tree in three ways<sup>N</sup> and like a vegetable in one way. How so? It is like an ordinary tree in three ways: With regard to *orla*, that the fruit of the first three years after the tree is planted is forbidden; with regard to fourth-year produce, that the fruit that grows in the fourth year after the tree is planted must be brought to Jerusalem and eaten there or else it must be redeemed; and with regard to the Sabbatical Year, that the year is determined by the time of the formation of its fruit. And the *etrog* is like a vegetable in one way, which is that its tithе year follows the time of the picking of its fruit; this is the statement of Rabban Gamliel.<sup>H</sup>

רבי אליעזר אומר: אחרוז שורה לאילן לכל דבר.

Rabbi Eliezer says: The *etrog* is like fruit of a tree with regard to all matters, and so its tithе year also follows the time of the formation of its fruit. Since Rabbi Akiva was in doubt whether the *halakha* is ruled in accordance with the opinion of Rabban Gamliel or Rabbi Eliezer, he set aside two tithes in order to follow both of their opinions.

BACKGROUND

The fifteenth of Shevat and the season – תמוזה עשר בשבע: תמוזה: Since the fifteenth of Shevat does not fall on a fixed date on the solar calendar, the relationship between the fifteenth of Shevat and the seasons varies. The fifteenth of Shevat can occur as early as the middle of January in a leap year and as late as the fourteenth of February, though in most years it occurs at the end of January or the beginning of February.

Since winter extends from the twenty-second of December until the twenty-first of March, in most years the majority of the winter is after the fifteenth of Shevat.

**Etrog tree – ארוג:** The *etrog* tree (*Citrus medica* L.) is marked by several characteristics that distinguish it from most of the fruit trees that were common in Eretz Yisrael in ancient times. First, it is in constant need of watering, like other citrus fruits that originated in tropical zones, and the winter rain is insufficient. Second, it flowers and produces fruit almost all year round, with young fruit and ripe fruit on the tree at the same time. For these reasons it makes sense to liken an *etrog* to a vegetable, since vegetables also require continual watering, and certain vegetables have no fixed season when they are picked and eaten.





**NOTES**

One in accordance with the statement of Beit Shammai – **אָדער פֿאַרן זאַמלן פֿאַרן זאַמלן פֿאַרן זאַמלן**: In the Jerusalem Talmud the question is raised: How could he actually follow two opinions? Objectively, he was required to separate either the second tithe or the poor man's tithe. If he set aside the wrong tithe, not only would it have no effect, but that tithe itself would need to have the correct tithes removed from it (see *Turei Even*). Furthermore, the amount of the second tithe would be insufficient, since he would have set aside one-tenth of the remainder after separating the poor man's tithe, which is less than one-tenth of the entire measure. The answer given in the Jerusalem Talmud is that Rabbi Akiva set aside only one tithe as second tithe, which he then redeemed, and he gave that value to poor people. The later authorities ask why it was necessary to give the money to poor people if he separated it only due to doubt, since the principle is that the burden of proof falls upon the claimant. Rav Nissim Gaon writes in tractate *Eruvin* that Rabbi Akiva acted beyond the letter of the law in order to cover all possibilities.

Rabbi Yosei bar Yehuda – **וְרַבִּי יוֹסֵי בַר יְהוּדָה**: In the Jeru-

salem Talmud Rabbi Yosei bar Yehuda's opinion is explained as follows: If the uncertainty had been with regard to the opinions of Beit Shammai and Beit Hillel, it would not have been necessary to discuss an *etrog* specifically. Therefore, the doubt is with regard to an *etrog* because of its unique status.

**Like a tree in three ways – תָּמִיד לְאֵילָן בְּשִׁלְשׁוֹת דְּרָבָם**: *Tosafot* explain that the Mishna does not discuss all the ways that an *etrog* tree is like an ordinary tree. For example, it does not mention that the prohibition of diverse kinds (*kilayim*) and the obligation to leave produce of the corners (*pe'ot*) apply to both *etrog* trees and other kinds of trees. It mentions those differences only with regard to the time of the formation of the fruit (see Ran). In his Commentary on the Mishna, the Rambam explains that an *etrog* tree is like an ordinary tree with regard to the Sabbatical Year, and an orchard of *etrog* trees is treated like an orchard of fruit trees with regard to the prohibition against cultivating it from the end of the sixth year and with regard to the allowance to water it at the end of the sixth year (see Ritva).

**HALAKHA**

The *halakha* of an *etrog* – **וְרַבִּי אֶלְעָזָר**: Of all the various kinds of fruit, the *etrog* alone is treated like a vegetable in that it follows the time of its picking for the purposes of tithes and the Sabbatical Year. However, with regard to the Sabbatical

Year, the *halakha* adds an extra stringency: An *etrog* that was formed during the sixth year, even if it was picked only in the seventh year, is subject to the *halakhot* of tithing (*Shulhan Arukh, Yoreh De'ah* 331:126).



*Erog* trees with fruit

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ומי עבדין פתרי חומרי וחרמי: לעולם  
 תלכה פורבי בית הלל והוזהר לעשות  
 פורבי בית שמאי עושה פורבי בית הלל  
 עושה מקולי בית שמאי ומקולי בית הלל  
 רשע. מחומרי בית שמאי ומחומרי בית  
 הלל - עליו הפרח אומר: ידבקיל פחד  
 הולך. אלא: אי פביה שמאי פקיליהו  
 ומחומריהו, אי פביה הלל פקיליהו  
 ומחומריהו

רבי עקיבא גמריה אסתפק ליה, ולא  
 ידע אי בית הלל באחד פשבט אומר אי  
 פתמשד עשר פשבט אומר.

רבי יוחי בר יחודה אומר: לא מנהג בית  
 שמאי נביית הלל נהג בה, אלא מנהג רבן  
 גמליאל ורבי אליעזר נהג בה. באחד  
 פשבט - פביה שמאי נהג פה?

No Need to set  
 aside the tithes

The Gemara questions Rabbi Akiva's conduct: But do we adopt the  
 respective stringencies of two authorities who disagree on a series  
 of issues? Isn't it taught in a *barritha*: The *halakha* is always in accor-  
 dance with the statement of Beit Hillel,<sup>N</sup> but one who wishes to act in  
 accordance with the statement of Beit Shammai may do so, and one  
 who wishes to act in accordance with the statement of Beit Hillel  
 may do so. If he adopts both the leniencies of Beit Shammai and also  
 the leniencies of Beit Hillel, he is a wicked person. And if he adopts  
 both the stringencies of Beit Shammai and the stringencies of Beit  
 Hillel, with regard to him the verse states: "The fool walks in darkness"  
 (Ecclesiastes 2:14). Rather, one should act either in accordance with  
 Beit Shammai, following both their leniencies and their stringencies,  
 or in accordance with Beit Hillel, following both their leniencies and  
 their stringencies. If so, why did Rabbi Akiva follow two contradictory  
 stringencies?

The Gemara answers: Rabbi Akiva wished to act in accordance with  
 the opinion of Beit Hillel, but he was in doubt about his tradition<sup>N</sup> and  
 did not know whether Beit Hillel said that the new year for trees is on  
 the first of Shevat or whether they said that it is on the fifteenth of  
 Shevat, and so he set aside two tithes in order to conform with both  
 possibilities.

The Gemara further clarifies the *barritha*, which states: Rabbi Yosei bar  
 Yehuda says: He did not act as he did in order to conform with the  
 conflicting practices of Beit Shammai and Beit Hillel; rather, he acted  
 as he did in order to conform with the conflicting practices of Rabban  
 Gamliel and Rabbi Eliezer. The Gemara asks: Seeing that he did this on  
 the first of Shevat, it would seem that he acted in accordance with the  
 practice of Beit Shammai. According to Beit Hillel, both the formation  
 of the fruit and its picking took place in the same year, as the new year  
 does not begin until the fifteenth of Shevat, and so there would have been

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אמר רבי חנינא ואיתקמא רבי חנניא: תבא  
בארנו שחננו פירושו קודם המשה עשר  
ואיך שבת עסקנו. וכו' והוא אמרו  
קודם לכן, ומעשה שהיה כך היה.

Rabbi Hanina said, and some say that it was Rabbi Hananya who said:  
Here we are dealing with an *etrog* tree whose fruit was formed prior to  
the fifteenth of the other, previous, Shevat, in the second year, and it  
was picked on the first of the following Shevat, in the third year. Accord-  
ing to the opinion of Rabbi Eliezer that the tithle year of an *etrog* follows  
the time of the formation of its fruit, the fruit was obligated in second  
tithe, whereas according to the opinion of Rabban Gamliel that the tithe  
year of an *etrog* follows the time of its picking, it was obligated in poor  
man's tithe, and so Rabbi Akiva set aside two tithes. And by right it  
should have taught that even if the fruit had been picked earlier, any time  
after the fifteenth of the previous Shevat, but the incident that took place,  
took place in this way, that the fruit was picked on the first of Shevat.

רבנא אמר: כוון חנני, לא אחר בשבת  
היה, אלא המשה עשר בשבת היה, ולא  
מנהג בית שפאי והיה הלל נהג בה אלא  
מנהג רבן גמליאל ורבי אליעזר נהג בה.

Ravina said: Combine the two statements and teach<sup>n</sup> the *baraita*  
as follows: It was not on the first of Shevat that Rabbi Akiva picked  
the fruit, but on the fifteenth of Shevat, and he did not act as he did in  
order to conform with the conflicting practices of Beit Shammai and  
Beit Hillel, but rather, he acted as he did in order to conform with the  
conflicting practices of Rabban Gamliel and Rabbi Eliezer, both in  
accordance with the practice of Beit Hillel.

NOTES

The *halakha* is always in accordance with the statement  
of Beit Hillel – לעולם תלכה פדברי בית הלל –  
*Eruvin* (daf 6b) with regard to the latter part of this statement.

opinion, but those who disagree are more incisive in their logic,  
as were Beit Shammai, one is permitted to decide for himself  
which opinion to follow.

He explains that the permission to follow either Beit Hillel or Beit  
Shammai as long as one is consistent predates the establish-  
ment that the *halakha* is always in accordance with Beit Hillel.

He was in doubt about his tradition –  
The same question about following two stringencies can be  
asked with regard to Rabbi Yosei bar Yehuda's explanation of  
Rabbi Akiva's behavior as well. Why didn't the Gemara explain  
how Rabbi Akiva could follow the stringencies of both Rab-

ban Gamliel and Rabbi Eliezer? The author of the *Turei Even*  
answers that since Rabbi Eliezer was a follower of Beit Shammai,  
the same answer with regard to Rabbi Akiva's uncertainty as  
to Beit Hillel's opinion applies to Rabbi Yosei bar Yehuda's  
explanation as well. The Ritva writes that the question does not  
arise in Rabbi Yosei bar Yehuda's explanation. The opinions of  
Beit Shammai and Beit Hillel comprise two contradictory stringencies,  
whereas the opinions of Rabbi Eliezer and Rabban Gamliel are not contradictory,  
and it is possible for both opinions to be valid, one for tithes and the other for the Sabbatical  
Year.

The first part of the statement, that the *halakha* is always in  
accordance with Beit Hillel, is referring to a later date, when  
the *halakha* had been determined to be in accordance with  
Beit Hillel. The Ritva writes that the latter section is mentioned,  
despite the fact that nowadays one may not act in accordance  
with the opinion of Beit Shammai, because it applies to similar  
disputes in any period. If the majority of the Sages hold a certain

how Rabbi Akiva could follow the stringencies of both Rab-

ban Gamliel and Rabbi Eliezer was a follower of Beit Shammai,  
the same answer with regard to Rabbi Akiva's uncertainty as  
to Beit Hillel's opinion applies to Rabbi Yosei bar Yehuda's  
explanation as well. The Ritva writes that the question does not  
arise in Rabbi Yosei bar Yehuda's explanation. The opinions of  
Beit Shammai and Beit Hillel comprise two contradictory stringencies,  
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Year.