



Arba Minim in the Eighth Year / Rabbi Netanel Oyerbach

Buying and Selling

1. While it is true that *shemita* produce is permitted to eat even if not rendered ownerless or if forbidden work was performed on its behalf (*shamur* and *ne'evad*, respectively), to avoid helping wrongdoers it is best to purchase *arba minim* from those who grew it in a permissible fashion. That is, either through *otzar beit din* or *heter mechirah*.
2. It is preferable to buy an *etrog* with *kedushat shevi'it* since the *mitzvah* of safeguarding *kedushat shevi'it* was performed with it.
3. When purchasing an *etrog* from *otzar beit din* it is important to avoid transgressing the prohibition of transaction with *kedushat shevi'it* produce (*isur sechorah*). For this reason, check for the following:
 - a. The *etrog* was grown in an orchard with halachic supervision and the agricultural activities were performed under the instruction of a *beit din* (rabbinical court). So too, distribution is performed under the *beit din*'s guidance.
 - b. The vendors are supposed to be agents of the *beit din*. This year it is best to buy the *arba minim* in places authorized as *beit din* agents (they should have a certificate stating that they are agents of a particular *beit din*).
 - c. It is best to buy the entire set together, so a price is not given for the *etrog* separately (*havla'ah*); according to the opinions that the *hadas* also has *kedushat shevi'it*, they should be purchased in this way as well.
 - d. If purchasing an *etrog* only, it is best to buy it in a closed box. In this way, the *etrog* is not selected according to its quality, which is similar to a transaction.
 - e. Ensure that the *etrog*'s price does not exceed the price set by the *otzar beit din*.
4. **Etrogim imported from outside of Israel** should not be sold in the regular manner either, rather together (*havla'ah*) with a *lulav*. Some are lenient and allow purchase as usual, but it is problematic to rely on this leniency.¹

¹ Rambam (*Hilchot Shemita* 6:5) forbids transacting with imported produce as usual due to the concern that this will be done with *shemita* produce as well. The posekim are lenient today since most produce available in the marketplace is not holy. However, *etrogim* grown with *heter mechirah* are rare and since most *etrogim* in the market are from *otzar beit din*, it is important to avoid transacting with imported *etrogim* as well.



Kedushat shevi'it for the arba minim

1. **Lulav, aravah, and hadas** do not have *kedushat shevi'it* (*hadas* according to most opinions). They have no special guidelines and may be exported as usual.
2. **Etrog**
 - a. *Etrogim* harvested during the **shemita** year have *kedushat shevi'it*. They may be used in the regular manner and not directly spoiled.
 - b. *Etrogim* that **began to develop during shemita** and were harvested after *Rosh Hashanah* 5783 have *kedushat shevi'it* and *terumot* and *ma'aserot* should be separated from them without a *berachah*. This is because the stage that determines the *terumah* and *ma'aser* obligation for *etrogim* is both *chanatah* (beginning of development), like a fruit, **and** harvest, like a vegetable. Nevertheless, one should still give *ma'aser rishon* to a *Levi* so that there will be no question that the *etrog* belongs to the owner.²

Uses of an etrog with kedushat shevi'it

1. Do not preserve the *etrog* in cloves for *havdalah* since this directly spoils it.
2. Those who prepare *etrog* jam from *etrogim* with *kedushat shevi'it* must perform *bi'ur* at the appropriate time. Some hold that *bi'ur* occurs in *Shevat* while others maintain it is in *Nissan*. For this reason, optimally perform *bi'ur* twice at these times; alternatively, declare the jam ownerless before *Rosh Chodesh Shevat*; afterwards it can be taken and held onto as ownerless, thus it will not require *bi'ur*.
3. It is permissible to export *etrogim* for the *mitzvah* of the *arba minim* after the time of *bi'ur*³ or well before the time of *bi'ur*, when it is clear that the fruit will not last outside of

2. Rabbi Eliahu based on Tosafot, *Pesachim* 38a, s.v. *atiya*; *Sukkah* 35b, s.v. *atiya*. The obligation is to take an *etrog* "for yourselves"; if part of the *etrog* should have been given to a *levi*, the entire *etrog* does not belong to the *etrog* owner. The *chiddush* here is that even for *etrogim* harvested during the eighth year, it is important to make sure the *ma'aser rishon* is actually delivered to a *levi* (*netinah*), despite the doubt whether we are obligated to separate *terumot* and *ma'aserot*. Because of this doubt, one might think that there is no obligation of *netinah* due to the rule "*hamotzi mechaveiro alav hara'ayah*" (the *levi* must prove that there is an obligation to separate *terumot* and *ma'aserot* even in this case according to all halachic opinions, but he cannot do so, since there is a halachic dispute on the matter). That is, while in cases of *safek tevel* (halachic or factual doubt whether produce was tithed) there is no obligation to give the *ma'aser rishon*, since this is a financial matter; see *Hilchot Ha'aretz, Terumot and Ma'aserot* 15:4 (soon to be published in English). For *etrogim* that might be *tevel*, however, there is nevertheless an obligation of *netinah*: the *etrog* must completely belong to the owner (*lachen*), and this is a matter of halachic prohibition.

With regard to giving *ma'aser ani* or *ma'aser sheni* for *etrogim* harvested from *Rosh Hashanah* to 15 *Shevat* of the eighth year, see Chazon Ish (9:14 §38a, s.v. *yoreh de'ah*), who maintains that one should separate *ma'aser sheni*. See also *Atah Or* §13, who maintains that *ma'aser ani* should also be separated due to doubt.

3. This time is when the fruit is no longer found on trees. For *etrogim*, *bi'ur* time is generally mid-April during the eighth year; this *shemita* year, the *bi'ur* deadline is late *Nisan* 5783-2023.



Israel until the time of *bi'ur*. After *Sukkot*, it is recommended (but not required) to eat the *etrogim* (e.g. as jam or another dish) before the time of *bi'ur*.⁴

Sukkah decorations

Kedushat shevi'it produce should not be hung as *sukkah* decorations if it can be spoiled by prolonged exposure to heat or cold for the eight-day duration of the holiday. Some permit this if it does not spoil under these conditions. However, others forbid this, since it is forbidden to benefit from *sukkah* decorations or to eat of them throughout the holiday (and we may not disqualify *kedushat shevi'it* produce as prohibited food).

However, we may make the use of *sukkah* decorations conditional. Therefore, the optimal procedure for those interested in hanging *kedushat shevi'it* produce in their *sukkah* is to say the following:

"איני בודל מפירות אלו כל שמונת הימים של סוכות ושמיני עצרת."

"I will not abstain from this produce all eight days of *Sukkot* and *Shemini Atzeret*."

This statement makes it halachically possible to eat them at any time, and thus avoids the problem.⁵

4. For the various opinions on this question, see *Shabbat Ha'aretz* 5:13 §1.

5. Rabbi Elyashiv maintains (*Mishpatei Eretz* 24:1 and n. 2) that hanging hearty *shemita* produce is permissible, while Rabbi Eliahu is stringent, employing the rationale mentioned in the text above. However, he does permit this when stipulating that the fruit may be used throughout the holiday.