

In Hilchos Shabbos

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Now learn the issues & the opinions

Amazon Deliveries Part 2 – Packages which were delivered on Shabbos

A summary of the weekly Wednesday night shiur by **Rabbi Shmuel Stein** at the Miami Beach Community Kollel / To receive a copy send an email to InHilchosShabbos@gmail.com

In the previous chapter we discussed whether it is permissible to order a package which will be delivered on *Shabbos*. In this chapter we will discuss whether one may benefit and use a package which was delivered on *Shabbos*. We will focus on the following issues:

- 1) Benefiting from the *melacha* performed by the non-Jew
- 2) Is the package *Muktza*?
- 3) If it came from outside the *Techum*
- 4) Opening the package on *Shabbos*

1) Benefiting from the *melacha* performed by the non-Jew

Benefiting from the package which was delivered on *Shabbos* may involve the prohibition of *Amira l'Akum*. As we discussed earlier (in Chapter Six), there are two components¹ which comprise the prohibition of *Amira l'akum*:

- 1) *Amira*: Asking a non-Jew to perform a *melacha*
- 2) *Hana'ah*: Benefiting from a *melacha* performed by a non-Jew

In this chapter we will focus on the second component and how it applies to a *Kablan*, particularly benefiting from a delivery which arrived on *Shabbos*.

Hana'ah: Benefiting from a *melacha* performed by a non-Jew

The Shulchan Aruch² writes that in addition to the prohibition of *Amira* - asking a non-Jew to perform a *melacha* - *Chazal* also prohibited benefiting from a *melacha* which a non-Jew performed for the sake of a Jew.

For example, if a non-Jew turns on the light on behalf on his Jewish neighbor, it is prohibited for the Jew to benefit from that light on *Shabbos*.³ Even though the Jew did not ask the non-Jew to turn on the light, since the non-Jew turned on the light for the sake of the Jew, he may not benefit from the *melacha* on *Shabbos*.⁴

Why is it prohibited to benefit from the *melacha*?

The *Mishna Berura* gives two reasons why *Chazal* added this additional prohibition of *Ha'anah*:

1. To safeguard the prohibition of *Amira l'akum* itself. If it were permitted to benefit from a *melacha* which a non-Jew performed for the sake of a Jew, it could lead to asking a non-Jew to perform a *melacha*.⁵
2. To prevent being associated with a *melacha*. If one would benefit from a *melacha* he would on some level be associated and connected to a *melacha* which was performed for the sake of a Jew.⁶

Ha'anah by a *Kablan*

The Shulchan Aruch and Rema discuss an interesting question:

We discussed in the previous chapter that one may ask a *Kablan* to perform a task even if he will perform the *melacha* on *Shabbos*. For example, one may give his clothing to a cleaner's even though they may clean the clothing on *Shabbos*. Since the cleaner is a *Kablan* (who is paid to complete the job) any *melacha* which he performs is for his own sake (to complete the job sooner). The question is however, if the *Kablan* completed the job on *Shabbos*, is it permissible for the Jew to benefit from the *melacha* which was done. For example, what if the non-Jewish cleaners completed the job on *Shabbos*? Is it permissible for the Jew to benefit from the clothing and wear it on that *Shabbos*? The Shulchan Aruch and the Rema disagree on the question.

Opinion of the Shulchan Aruch – One may benefit from the *melacha*

The Shulchan Aruch⁷ rules that it is permitted to benefit from the *melacha* which was completed on *Shabbos*. Since the non-Jewish *Kablan* performs the *melacha* for his own sake (to complete the job sooner), the prohibition of *Ha'anah* does not apply - as it applies only when the non-Jew performed the *melacha* for the sake of the Jew.⁸ Thus, the Shulchan Aruch⁹ rules that it is permissible for the Jew to wear the clothing which was laundered on *Shabbos*.

Opinion of the Rema – One may not benefit from the *melacha*

The Rema¹⁰ rules that it is prohibited to benefit from the *melacha* which the non-Jewish *Kablan* performed on *Shabbos*. He argues, that although the non-Jewish *Kablan* may have performed the *melacha* on *Shabbos* for his own sake (to complete the job sooner) since the *Kablan* ultimately performed the *melacha* for the Jew he may not benefit from the *melacha* which was performed.¹¹ Thus, one may not benefit from the clothing on *Shabbos* since the non-Jewish cleaner's laundered it for the Jewish customer.¹² One may only benefit from the *melacha* which the non-Jew performed after *Shabbos* after the time of *k'dei sheyasu* (i.e., the time it takes to perform the *melacha*) has passed.¹³

Benefiting from a Package which was Delivered on *Shabbos*

When a package is delivered on *Shabbos* there can be two scenarios regarding whether one may benefit from the package on *Shabbos*:

1. If the Jewish consumer requested that the package be delivered on *Shabbos* (e.g., by ordering the product with Amazon Prime on Friday to be delivered on *Shabbos*)

then according to all opinions one may not benefit from the package since the prohibition of *Amira l'Akum* was violated.

2. If the Jewish consumer did not specifically request that the package be delivered on *Shabbos* (e.g., it was ordered for Sunday but arrived early or was ordered for Friday and arrived late), then benefiting from the package would seem to be contingent on the dispute between the Shulchan Aruch and the Rema discussed above, as we will discuss.

In order for the non-Jewish deliveryman to deliver the package for the Jewish consumer he had to perform numerous *melachos* (*Hotza*, *Techum*, driving the truck). According to the Shulchan Aruch, since the deliveryman is a *Kablan* (who is paid to complete a job) and he was not asked specifically to perform the job on *Shabbos*, one may benefit from the package which was delivered. Thus, Sephardim who follow the opinion of the Shulchan Aruch may benefit from an Amazon package which was delivered on *Shabbos*. However, according to the Rema since the *melachos* involved with delivering the package for the sake of the Jewish consumer it is prohibited for him to benefit from it until after the time of *k'dei she'yasu*. Thus, Ashkenazim who follow the opinion of the Rema would seem to be prohibited to benefit from an Amazon package which was delivered on *Shabbos* and would only be able to benefit from the package on *Motzai Shabbos* after the time of *k'dei she'yasu* (see footnote¹⁴).

Leniencies

The *poskim* give several reasons why it may be permitted even according to the Rema to benefit from a package which was delivered on *Shabbos*:

1) The deliveryman does not realize that the customer is Jewish

Rav Shlomo Zalman Auerbach¹⁵ writes that our case of a package which was delivered on *Shabbos* is different than the case of the Rema of wearing a garment which was laundered by the non-Jewish cleaner on *Shabbos*. In the case of the Rema, the non-Jewish cleaner knew the Jewish customer personally and understood that he was performing the *melacha* particularly for a Jewish customer. However, in our case, the non-Jewish Amazon deliveryman is merely performing his job and delivers packages to both Jewish and non-Jewish customers alike and when he performs the *melacha* it is not done particularly for a Jewish customer. We therefore do not view the non-Jew as if he is performing the *melacha* for the sake of a Jew and thus one may benefit from the *melacha* on *Shabbos*. Similarly, writes that Rav Shlomo Zalman Auerbach,¹⁶ if one's luggage was lost by an airline and was delivered to his home on *Shabbos*, he may benefit from the contents of the luggage on *Shabbos* since they deliver lost luggage to both Jewish and non-Jewish passengers alike and was not specifically delivered for a Jew. [However, one may not specifically request the airline to deliver the lost luggage on *Shabbos*.¹⁷]

2) The deliveryman only performed *melachos* which are prohibited *mid'Rabbanan*

The *Biur Halacha*¹⁸ writes that one may be lenient and benefit from the *melacha* which was done by a *Kablan* if the *melachos* he performed was only prohibited *mid'Rabbanan*. Accordingly, Rav Shmuel Felder¹⁹ argues that when an Amazon package is delivered on *Shabbos*, the deliveryman performs at most only rabbinical prohibitions to deliver the package; therefore, one may benefit from the package.²⁰ For instance:

1. **Driving the delivery truck.** We can assume that when an Amazon deliveryman delivers a package to one's home, he delivered the previous delivery to a home which is nearby.²¹ The deliveryman could have walked from the previous home to the home of the Jew and delivered the package by foot, but he chose to deliver it by truck for his own convince. Therefore, in regard to the prohibition of driving the delivery truck on *Shabbos*, the Jewish customer would not be prohibited to benefit from the package since the deliveryman performed the *melacha* for his own sake.

2. **Hotza (carrying).** Although the package was transferred outdoors violating the *melacha* of *Hotza* since according to many *poskim* the public areas nowadays are considered only a *Reshus haRabbin* *d'Rabannan* one may be lenient in regard to the prohibition of *Amira l'Akum*.²² [This leniency would not apply to large cities which contain 600,000 people and are considered a *Reshus haRabbin* *d'Oraisa* according to all opinions.²³]

3. **Techum Shabbos.** Even if the package came from outside the *Techum*, the prohibition of taking an object outside of its *Techum* is *mid'Rabbanan*.²⁴

Therefore, since the non-Jewish deliveryman performed only *melachos d'Rabbanan* to deliver the package for the Jewish consumer one may be lenient and benefit from the package on *Shabbos*. [However, regarding a lost luggage which was delivered on *Shabbos*, if the deliveryman was sent out specifically to return the luggage of the Jew, it would be questionable whether one may benefit from the luggage on *Shabbos* since the driving, which is a *melacha d'Oraisa*, was performed (without any nearby stops).²⁵]

3) The object was not changed by the *melacha* which was done

*Matnas Avraham*²⁶ gives a novel explanation as to why it is permissible to benefit from a package which was delivered on *Shabbos*: [One of the reasons] Chazal enacted the prohibition of *Ha'anah* was that they did not wish for the Jew to benefit or be associated with a *melacha* which was performed for the sake of a Jew. The Magen Avraham²⁷ explains that when the *melacha* which the non-Jew performed did not change the object, one may benefit from the *melacha* since doing so does not directly benefit the Jew. For example, when a non-Jew transfers a package (violating a *melacha* of *Hotza* or *Techum*) the Jew may benefit from the object since the *melacha* did not create a change in the object and thus does not directly benefit from a *melacha*. Therefore, one may benefit from the *melachos* when the non-Jew performs with the package do not change the package but merely transfer it from one place to another, the prohibition to benefit from the package does not apply.

However, the Magen Avraham²⁸ points out that there is another reason why Chazal enacted the prohibition of *Ha'anah*: so that one should not come to ask the non-Jew to perform the *melacha*, which in most instances will prohibit benefiting from a package which was delivered on *Shabbos* by a non-Jew. However, *Matnas Avraham* argues that in our case where the deliveryman is a *Kablan* this concern does not apply. Since it is permissible to ask a non-Jewish *Kablan* to perform a task which will be performed on *Shabbos* (so long as it was not specified to be done on *Shabbos*), there is no concern that one will come to ask the *Kablan* to perform the task as it is indeed permitted to do so.²⁹

Therefore, since both concerns of the enactment of *Ha'anah* do not apply in our case, one may benefit from the Amazon package which was delivered on *Shabbos*.

Accepting the Package from the deliveryman

The Mishna Berura³⁰ writes that "the custom is that when a package is delivered (in an area which does not have a proper *eiruv*) not to accept the package directly from the hands of the deliveryman; rather one should ask him to place it on the floor or on a table. This is because there is a concern that before the deliveryman stops walking, he will place the package in the hands of the Jew, and it turns out that the Jew completed the act of *Hotza*."

Signing for a package

*Shmiras Shabbos k'Hilchas*³¹ adds that if the package which arrives needs to be signed for, he should tell the non-Jew that he may not sign and allow the deliveryman to sign instead.

2) Muktza

If the contents in the package are *muktza* one may not move the package since the box becomes a *Bosis* (a base) to the *muktza* object. For example,

- A package containing an electronic item which is considered a *kli she'melachto l'issur* may not be moved indoors to protect it from getting stolen, because the package is considered *muktza*.³² However, the Mishna Berura³³ writes that one may kick the *muktza* object into the house since this is considered *Titul k'lachar yad* (a backhanded manner) which is permitted.³⁴

If one is unsure whether the package contains a *muktza* object

The Shulchan Aruch³⁵ rules that if one is unsure whether an object is *muktza* it may be moved on *Shabbos*. The Mishna Berura³⁶ explains that although the prohibition of *muktza* is only *mid'Rabannan* and we are generally lenient when there is a doubt, there are certain rabbinical prohibitions which Chazal saw fit to be stringent even when there is a doubt.³⁷ For example,

- If there is a drawer which one is unsure whether there are *muktza* objects contained in it, one may not open the drawer on *Shabbos* since there is a doubt as to whether the drawer is *muktza*.³⁸

Similarly, if one receives a package and is unsure whether it contains a *muktza* object or not, he must be stringent and assume that the package is indeed *muktza* and it may not be moved or opened on *Shabbos*.

An object which one may return to the store

The Rema³⁹ writes that a store owner who has merchandise which he is intending to sell is considered *muktzah Machmas Chisaron Kis*, because the owner is careful that they are not used so that they do not become ruined.⁴⁰ Since in the mind of the owner they are entirely 'set apart' from being used, they are considered *muktzah Machmas Chisaron Kis* may not be moved at all on *Shabbos*.⁴¹ Similarly, Rav Shlomo Zalman Auerbach⁴² rule that if one has merchandise which he wishes to try but may wish to return, it is considered *muktza* because he is careful not to use the object as it may get ruined.⁴³

However, this applies only once one decides to return the merchandise. If, however, he is still unsure whether he wishes to return the merchandise, for example, if he wishes to show it to his friends before deciding to return it, it is not considered *muktza*.⁴⁴ Similarly, if the return policy which gives a certain amount of time to return the item and even allows one to wear the item during that time, the item is not considered *muktza*.⁴⁵

3) Packages which came from outside the *Techum*

One of the issues which arise with receiving a delivery on *Shabbos* is if the package came from outside the *Techum*. To understand this issue and some of the leniencies which apply we will quickly review the basic *halachos* of *Techum Shabbos*.

The Prohibition of Walking outside of one's *Techum Shabbos*

The Torah⁴⁶ states that "on the day of *Shabbos*, a man may not go out of his place." From here we learn that one may not leave his *Techum*, his boundary, on *Shabbos*.⁴⁷ Meaning, *mid'Oraisa*, wherever one rested on the onset of *Shabbos* he may not walk outside of his 12 *mil* (each *mil* equals 2,000 *amos*)⁴⁸ boundary in each direction.⁴⁹ However, *mid'Rabannan* one may not walk outside of his 2,000 *amos* boundary in each direction.

One's objects are also restricted by the *halachos* of *Techum Shabbos*

The Shulchan Aruch⁵⁰ writes that "Just as a person may not walk outside of his 2,000 *amos* on *Shabbos*, so too it is prohibited for one's objects to be taken out of the *Techum* of the owner. The Shulchan Aruch adds, that and objects of a non-Jew also may not be taken out of its *Techum Shabbos* (which is established as 2,000 *amos* from where it rested on the onset of *Shabbos*);⁵¹ although the non-Jew does not have a *Techum Shabbos*, still, Chazal did not differentiate between the objects of Jew and the objects of a non-Jew.⁵²

If a person or object leaves the *Techum*

The Shulchan Aruch⁵³ writes that if a person leaves his *Techum* on *Shabbos*, he may not move at all from the place he is for the duration of *Shabbos*. Similarly, if an object left its *Techum* it must remain in its place for the duration of *Shabbos*.⁵⁴ For example, if an Amazon package was delivered on *Shabbos* from outside the *Techum* (i.e., the object left its *Techum* which was established for it on the onset of *Shabbos*), the package may not be moved from the place it was dropped off for the rest of *Shabbos*.

Moving within Four *amos*

The Shulchan Aruch⁵⁵ states that even if a person leaves his *Techum*, he may move within his four *amos*. This is derived from the verse⁵⁶ which states, "A person shall remain underneath [his place]" and the place of a man (and an object) is four *amos*.⁵⁷ The same applies for an object which was taken outside of its *Techum*, as it may be moved within four *amos*.⁵⁸

Inside a house or a walled area

The Shulchan Aruch⁵⁹ adds that an enclosed area is equivalent to four *amos*. Meaning, if the object which came from outside the *Techum* was placed inside an enclosed area it may be moved with the entire area regardless of how large the area is. For example,

- If the object was placed inside one's house, it may be carried within the entire house.
- If the object was placed in one's yard which is enclosed, it may be moved within the entire yard.
- The Mishna Berura⁶⁰ adds that if the object was placed in a city which is enclosed by an *eiruv*, the object may be moved within the entire city.

Accordingly, if a package was delivered on *Shabbos* from outside the *Techum*, if the city has an *eiruv* then the package may be moved (and used) within the entire city.⁶¹ If the city does not have an *eiruv*, if the package was placed inside one's house or enclosed yard, it may be moved within the entire house or yard. However, it may not be worn outside the house since this would be removing the item from within its four *amos*.

To Summarize

Based on what we have discussed thus far, there are several issues to consider when receiving a package on *Shabbos*:

1. Benefiting from the *melachos* which was performed by the non-Jewish deliveryman: If the package was ordered in a prohibited manner (i.e., an overnight delivery) one may not benefit from the package on *Shabbos* and must wait the time of *k'dei she'yasu* after *Shabbos* to benefit from it. However, if the package was ordered in a permissible manner, many *poskim* rule that even according to the opinion of the Rema one may benefit from the package on *Shabbos* since the deliveryman is a *Kablan* who performs the *melacha* to complete his job.

2. *Muktza*: A package which contains a *muktza* object may not be moved on *Shabbos*. If one is unsure whether the package contains a *muktza* object the package may also may not be moved. However, one may kick the package as it is permitted to move a *muktza* object *k'lachar yad*.

3. Package which arrived from outside the *Techum*: If a package was delivered from outside the *Techum* it may only be moved within the four *amos* of where it was delivered. For example, if a pair of shoes were delivered, they may not be worn outside as this removes them from their four *amos*. However, if the is an *eiruv* in the city they may be worn within the enclosed area. Similarly, they may be worn inside a house.

4) Opening a package on *Shabbos*

Based on what we have discussed, it can be permissible to benefit and the contents of a package which was delivered on *Shabbos*. The question which remains is whether the package may be opened on *Shabbos*. Although the earlier *poskim* did not discuss opening a package which was delivered on *Shabbos* they did discuss opening a letter which was delivered on *Shabbos* which can give us insight to the halacha regarding our discussion.

Opening a letter on *Shabbos*

There is a large debate among the *poskim* regarding the halacha of opening a letter which was delivered on *Shabbos*.

The opinion of the *Pri Chadash* – Prohibited *mid'Oraisa*

The *Pri Chadash*⁶² writes that opening an envelope which contains a letter is prohibited *mid'Oraisa* since tearing the seal of the envelope violates the *melacha* of *Koreiya* (tearing).⁶³ Therefore, he concludes that it is even prohibited to ask a non-Jew to open the envelope on *Shabbos*.

The opinion of the *Chacham Tzvi*

The *Chacham Tzvi*⁶⁴ cites the opinion of the *Pri Chadash* and writes "This that he (the *Pri Chadash*) prohibits opening a letter even through a non-Jew is an entire mistake and he prohibited that which is permitted. There is much proof to this, and I have even argued with the *Pri Chadash* to his face while he came to visit our city, and he remained silent." It remains unclear though whether the *Chacham Tzi* meant to entirely permit opening the envelope on *Shabbos* or whether he still holds that it is prohibited *mid'rabanan* and is only permitted to ask a non-Jew to open it. The *poskim* dispute this point:

The position of the *Mishna Berura*

The Mishna Berura⁶⁵ writes "It is forbidden according to all opinions [both the *Pri Chadash* and the *Chacham Tzvi*] to tear open an envelope on *Shabbos*, even if one is

careful not to tear any letters.” He explains⁶⁶ that the *Chacham Tzvi* argued and permitted opening an envelope by asking a non-Jew⁶⁷ [but nevertheless holds that it is prohibited *mid’rabanan* for a Jew to open the envelope himself].

The position of the Yavetz

The Yavetz,⁶⁸ the son of the *Chacham Tzvi*, writes that it is permitted to open a letter on *Shabbos* and Yom Tov. I have accepted this ruling from my father the *Goan* [the *Chacham Tzvi*]. Although I am small (in Torah) and do not understand his reason (for entirely permitting this).

However, in truth, there are several reasons given to permit opening an envelope on *Shabbos* (which we will later apply to opening a package which was delivered on *Shabbos*):

1. Shulchan Aruch HaRav – Only tearing two separate objects apart is prohibited.

The Shulchan Aruch HaRav⁶⁹ explains the *melacha* of *Koreiya* applies only when two objects are torn apart, such as tearing two pieces of paper which are glued together. However, tearing one object, such as tearing a piece of paper, is not prohibited under the *melacha* of *Koreiya*. Therefore, only opening the envelope by tearing its glued flaps is prohibited as two separate pieces of paper are torn from each other. However, tearing the envelope itself is permitted since one object is torn.⁷⁰

2. Chazon Ish – opening in a destructive manner. The *Chazon Ish*⁷¹ writes that if one opens the envelope in a manner which destroys it, it is permissible. Just as we find that one may open a package in a destructive manner in order to obtain one’s *Shabbos* needs.⁷² [Some⁷³ are stringent as they are concerned that although one may have intention to tear the package or envelope in a destructive manner, he may ultimately not do so and remain with a functional container.]

3. Tehila l’Dovid – Chosolos. *Tehila l’Dovid*⁷⁴ writes that an envelope falls under the leniency of *Chosolos* (which we discussed in Volume One, Chapter Twenty) which includes packages which one discards after its usage. Since the container is discarded immediately after it is opened it has no value for itself and may be torn on *Shabbos*. Thus, the envelope which contains the letter and is discarded immediately after it is opened attains the status of a *Chosel* and may be torn open on *Shabbos*.

Others⁷⁵ argue that this leniency applies specifically to containers which hold food, but not to an envelope which holds a paper letter. Only a container which holds food and is

subordinate to the food may be torn open, because it attains the same status of the food and just as food may be ‘torn’ on *Shabbos* so too one may tear its packaging.⁷⁶ However, an envelope which holds a paper letter may not be torn on *Shabbos* just as the letter which it holds may not be torn on *Shabbos*. [According to this opinion, the leniency of *Chosolos* does not apply to packages which contain non-food items such as tissues, clothing or magazines, and would need to be opened in a destructive manner when needed for *Shabbos*.⁷⁷]

However, as we mentioned, the Mishna Berura⁷⁸ does not seem to agree with any of these leniencies and writes that according to all opinions it would be prohibited at least *mid’Rabanan* to open a letter on *Shabbos*.

Conclusion regarding opening an envelope on Shabbos

*Nishmas Shabbos*⁷⁹ concludes that “the halacha would dictate that if there is a *Shabbos* need, one may open a letter (or package) on *Shabbos* so long as one is careful to: a) not tear it on the glued flaps (in accordance with the *Shulchan Aruch HaRav*), and b) to open it in a manner which destroys the envelope (i.e., in a way that it is no longer usable for another purpose). Nevertheless, since the *minhag ha’olam* is to be stringent to the point that opening a letter on *Shabbos* is looked at something strange, therefore one should be stringent and not permit a Jew from opening a letter on *Shabbos*. *Rav Poalim*⁸⁰ writes as well that ‘the *minhag ha’olam* is not to open envelopes (unless it is done by a non-Jew).’ However, one may ask a non-Jew to open the package, preferably through hinting.”

Opening Packages on Shabbos

We can apply the *halachos* of opening an envelope on *Shabbos* to opening a package on *Shabbos*. Thus, although *halachically* it would seem permissible to open a package in a destructive manner and not on the flaps, there is basis to be stringent and refrain from opening the package on *Shabbos*.⁸¹ One may ask a non-Jew to open the package, preferable through hinting.

¹ See *Shmiras Shabbos k’hilchaso* 30:1; *Nishmas Shabbos* 5: Klal 1

² *Shulchan Aruch* 276:1

³ *Shulchan Aruch* 267:1

⁴ However, the Rema (276:1) writes that in a case where the non-Jew turned on the light on his own without being asked to do so (and the Jew did not have the opportunity to stop the non-Jew from turning on the light), we do not force the Jew to leave his home (or the room). Since the Jew was able to use the dark room, albeit with difficulty, we do not force the Jew to leave his room when the non-Jew turned on the lights without permission even though he will inevitably benefit from the light which was turned on (Mishna Berura 276:13). The Mishna Berura (276:14) adds that one does not need to even turn his head away from the light which was turned on, but it is a *midas chasidus* to do so. See also *Orchos Shabbos* (23:50).

⁵ *Mishnah Berura* 276:2.

Who may not benefit from the melacha? The Mishna Berura (276:3; *Biur Halacha, d’h afilu*) writes that whether this penalty applies to only the one who asked the non-Jew to perform the *melacha* (and his family and his guests) or to everyone, depends on whether the *melacha* which the non-Jew performed was prohibited *mid’Oraisa* or *mid’Rabannan*. If the *melacha* which was performed was a *melacha d’Oraisa* then it is prohibited for any Jew to benefit from the *melacha* that was performed. However, if the *melacha* which was performed was only a *melacha d’Rabannan* then only the Jew who the *melacha* was performed on his behalf (and his family and guests) may not benefit from the *melacha* (see Mishna Berura 325:38, 515:47, regarding guests).

⁶ *Mishna Berura* 325:28

⁷ 252:4

⁸ *Mishna Berura* 252:27

⁹ *Shulchan Aruch*, *ibid*

¹⁰ 252:4

¹¹ 252:28.

Matnas Avraham (p. 421) explains that the *Shulchan Aruch* and the Rema are really arguing about the two reasons discussed above as to why Chazal prohibited *Ha’anah* from the *melacha* which a non-Jew performed from the sake of a Jew:

The *Shulchan Aruch* holds like the first reason, so that one should not *come to ask* the non-Jew to perform the *melacha* on *Shabbos*. Therefore, in the case of a *Kablan* where it is permissible to ask a non-Jew to perform the *melacha* (since he chooses to perform the *melacha* on *Shabbos*) there is no reason to enact the prohibition of *Ha’anah* because there is no concern that one may ask the non-Jew to perform the task.

The Rema holds like the second reason, so that one should not be associated with a *melacha* which was performed for the sake of a Jew, if so, even in the case of a *Kablan* one may not benefit from the *melacha* since it was done for the Jew.

¹² Rema, *ibid*

¹³ Rema, *ibid*

¹⁴ **Calculating the time of k’dei sha’yashu.** The Mishna Berura (325:39) writes that when a package is delivered on *Shabbos*, “the time of *k’dei sha’yashu* is calculated based on how the package was delivered. For example, if the non-Jew rode a horse to deliver the package, we must determine how much time it takes to bring the package while riding a horse. However, if a package was delivered from a faraway place and it took three days to bring the package, one must wait only one day corresponding to the time which he traveled on the day of *Shabbos*. [The *Biur Halacha* (325:8 s.v. *Mutar*) cites a difference of opinions whether we calculate the nighttime since in general people do not travel at night.]

If so, in our case it would seem that before benefiting from the package on *Matzai Shabbos* one must wait the time which was taken to deliver the package. *Matnas Avraham* (p. 424) wonders that this certainly does not seem to be the custom as sometimes a package can be delivered from a faraway place and would require a person to wait an entire day before benefiting from the package, yet this is not the accepted practice? Aside from the leniencies which we will soon discuss to permit benefiting from the package on *Shabbos*, perhaps there are additional reasons to permit using the package immediately after *Shabbos*: Firstly, the deliveryman typically does not deliver one package alone but previously delivered a package to a nearby house, if so the *melacha* of driving a car or *Hotza* was only from the nearby house to the house of the Jew which does not require a significant amount of time. Regarding the prohibition of *Techumin* there is an additional opinion (cited in *Shulchan Aruch* 325:8) who holds that there is never a requirement to wait the time of *k’dei sha’yashu* and can perhaps be combined to the opinion of the *Shulchan Aruch* here who holds that by a *Kablan* we entirely permit benefiting from the object.

Additionally, the *Shulchan Aruch* (325:7) cites a dispute as to whether we apply *k’dei sha’yashu* in a situation where it is a *safek* whether there is a violation of *Amira l’Akum* (see *Mishna Berura* 325:33 regarding how we rule). Nevertheless, in this case where there are several reasons to be lenient and many *sefeikos*, there is room to be lenient regarding the timeframe of *k’dei sha’yashu* and permit using the object immediately after *Shabbos*.

¹⁵ *Shmiras Shabbos k’Hilchaso* (31:24, n. 71,72)

¹⁶ *Ibid*

¹⁷ *Ibid*

¹⁸ 252:4 s.v. *she’ha’aino Yehudi*

¹⁹ *Hilchisa d’Malkisa* p. 176, n. 49

²⁰ *Matnas Avraham* (p. 425) writes this leniency as well.

²¹ Although there is a possibility that the previous delivery was made to a distant home which the deliveryman could not have made this delivery by foot, nevertheless, since it is a doubt, one may be lenient (*ibid*).

²² Shaar HaTzion 325:13

²³ See Chapter Twenty-Three for an elaboration of which cities are a *Reshus ha'Rabbim d'Oraisa* and which are a *Reshus ha'Rabbim d'Rabannan*.

²⁴ Matnas Avraham (ibid). The Mishna Berura (397:1) explains that according to all opinions it is prohibited only *mid'Rabannan* to leave the *Techum* of 2,000 *amos*. However, according to some *poskim*, leaving the *Techum* of 12 *mil* is prohibited *mid'Oraisa*, while others hold that even the *Techum* of 12 *mil* is prohibited only *mid'Rabanan*. The Rema (404:1) seems to indicate that we follow the stringent opinion that 12 *mil* is prohibited *mid'Oraisa*. The Mishna Berura (404:7) writes that the Shulchan Aruch seems to hold this way as well; but the Vilna Gaon rules that even the *Techum* of 12 *mil* is prohibited only *mid'Rabanan*. If so, in our case, even if the package was brought from outside the *Techum* of 12 *mil*, since the package was delivered by a non-Jew who is a *Kablan*, one may rely on the opinions that only a Rabbinical prohibition was performed. [The Mishna Berura (325:41) writes that even according to the opinion that *Techum* is prohibited *mid'Oraisa*, it is still more lenient than the other prohibitions since it is not stated explicitly in the Torah.

²⁵ Hilchisa d'Malkisa p. 176, n. 49

On the other hand, if one's only *Shabbos* clothing are in the luggage one may benefit from the clothing on *Shabbos* since the Rema (252:4) writes that if one has no other garment for *Shabbos*, he may be lenient and benefit from the melacha which was performed on *Shabbos* (Biur Halacha 252:4 s.v. *she'tzarich*).

²⁶ Pp. 225-226

²⁷ 515:26

²⁸ Ibid

²⁹ See fn. 11 earlier

³⁰ 307:56

³¹ 31:22

³² If the package contains both *muktza* and non-*muktza* objects, the Shulchan Aruch (310:8) writes that the *Bosis* receives the *halachic* status of the object which is of greater value. Therefore, if the items in the package which are *muktza* are of greater value, the box which holds the item becomes *muktza* as well.

³³ 308:30. However, the Chazon Ish (47:12) rules that one may only kick a *Muktza* object somewhat inadvertently as he is walking but may not kick it outright.

³⁴ Shulchan Aruch 311:8

³⁵ 497:3

³⁶ Sha'ar HaTzion 497:10

³⁷ In truth the Mishna Berura (497:7) cites another reason why *safek muktza* is prohibited based on the principle of *davar she'yeish bo matirim*, which means that something which we will become permitted in the future one may not be lenient to use in the state of a *safek*, and since the potential *muktza* object will become permissible after *Shabbos* one must wait to use it in an entirely permissible manner. However, this reason may not apply in our case based on the Tzlach (Beitzta 4a; Nodeh b'Yehuda E.H. 38). Still, Rabbi Akiva Eiger (on Magen Avraham 308:17) does not agree with the ruling of the Tzlach [the Biur Halacha 308:7 s.v. *mi'bod yom* seems to side with Rabbi Akiva Eiger]. Additionally, the Sha'ar HaTzion (ibid) rules that one should be stringent and prohibited *safek muktza* even when the reason of *davar she'yeish bo matirim* does not apply (unless the object will be ruined if one waits to use it after *Shabbos*).

³⁸ Orchos *Shabbos* (19:395)

³⁹ 308:1

⁴⁰ Mishna Berura 308:7

⁴¹ Orchos *Shabbos* 19:105

⁴² Teshuvos in back of Tiltulei *Muktza* (Rabbi Yisroel Pinchas Bodner); *Shmiras Shabbos* k'Hilchaso 20:23; Shulchan Shlomo 301:1,7; *Nishmas Shabbos* (3-2:142) rules this way as well and adds that this is true even if he decided on *Shabbos* to return the item (see Orchos *Shabbos* 19:378)

⁴³ Hilchisa d'Malkisa p. 176, n. 48 applies this ruling to packages which were received on *Shabbos*.

⁴⁴ *Nishmas Shabbos*, ibid

⁴⁵ *Nishmas Shabbos*, ibid

⁴⁶ Shemos 16:29

⁴⁷ The *Nishmas Shabbos* (Bungalow Colonies, p. 163) writes that "The Rishonim write that the reason behind the prohibition of *Techumin* is so that people do not travel on *Shabbos* and take trips, rather they should stay home and be available to serve Hashem and learn Torah on the holy day of *Shabbos*."

Bris Kehunas Olam (from the Magid of Mezritch; *Mamar Shabbos*, 1) since the Torah was hidden for 2,000 years before it was given, and it was then given on the day of *Shabbos*. [Therefore, on the day of *Shabbos* we remain within the 2,000 *amos/years* where the Torah was hidden.] As the Gemara states "Hakadosh Baruch Hu said, I have a great gift in my hidden treasurehouse and *Shabbos* is its name." [Meaning on *Shabbos* we are able to transcend to this hidden place where the Torah was hidden for 2,000 years and this is where we remain on *Shabbos*.]"

⁴⁸ Rambam (Pirush HaMishna, Yoma 6:4)

⁴⁹ In truth there is a dispute whether the measurement of 12 *mil* is indeed *mid'Oraisa* or *mid'Rabannan* (cited in Mishna Berura 397:1). According to the opinions who rule that even the 12 *mil* is only *mid'Rabanan* the verse which states that "one may not leave his place on the day of *Shabbos*" is referring to the prohibition of carrying on *Shabbos* (Mishna Berura, ibid). Regarding how we rule on this dispute, see fn. 24 above.

⁵⁰ 397:3

⁵¹ Mishna Berura 401:4

⁵² Shulchan Aruch 401:1

⁵³ 405:1

⁵⁴ Mishna Berura 401:6

⁵⁵ 396:1

⁵⁶ Shemos 16:29

⁵⁷ Mishna Berura 397:2

⁵⁸ Mishna Berura 401:6

⁵⁹ 401:1

⁶⁰ 325:44

⁶¹ Rav Yisroel Dovid Harfenes (Kuntres on Bungalow Colonies, p. 183)

⁶² 118:18

⁶³ The Biur Halacha (340:13 s.v. *Ni'yar*) explains that although the envelope is being destroyed and is an act of *Mekalkel* (a destructive act), since one gains access to the letter is considered a productive act and is prohibited *mid'Oraisa*. See Biur Halacha (340:14 s.v. *v'Lo*) where he discusses whether the melacha d'Oraisa of *Koreiya* must be specifically with intention to sew or any act of constructive tearing is prohibited *mid'Oraisa*. Clearly the *Pri Chadash* holds that any tearing which is constructive is prohibited *mid'Oraisa* even though one has no intention to sew it afterwards (*Nishmas Shabbos* 7:226). The Biur Halacha (340:13 s.v. *Ni'yar*) continues to explain that this can be prohibited *mid'Oraisa* even when the letter is in a separate envelope (according to the opinion of Rashi)

⁶⁴ End of Teshuva 39

⁶⁵ 340:41

⁶⁶ The Biur Halacha (340:13 s.v. *Ni'yar*)

⁶⁷ The Biur Halacha (ibid) explains that the *Chacham Tzvi* holds that it is not prohibited *mid'Oraisa* since it is a *melacha she'aino tzricha l'gufo* [since the act of fixing was not in the 'guf' of the letter but in the envelope] (see Chayei Adam, 29). See Biur Halacha (ibid) where he discusses this and writes that even when the letter is in a separate envelope it is considered d'Oraisa (according to the opinion of Rashi) since it is 'fixing' even when the fixing occurs in a different place than the tearing occurred, and one should be stringent unless there is a great need. However, *Nishmas Shabbos* (7:227) writes that this seems to be an excessive stringency.

⁶⁸ Sheilas Yavetz 2: end of 140

⁶⁹ 340:17

⁷⁰ *Nishmas Shabbos* 7:282. *Nishmas Shabbos* (ibid) writes that accordingly the *Pri Chadash* would need to be discussing where one opened the envelope by tearing the glued flaps.

⁷¹ 61:2

⁷² Igros Moshe (1:122:8) argues that this reasoning does not apply regarding a letter since it (generally) cannot be considered a true '*Shabbos* need.' However, regarding our discussion of a package which arrives on *Shabbos* that contains an object which one wishes to use on *Shabbos* (e.g., clothing) even Rav Moshe could agree that it is considered a '*Shabbos* need' and the package may be opened in a destructive manner.

⁷³ Machazeh Eliyahu 1:70:16

⁷⁴ 314:13; see also Even Yisroel (7:16) where Rav Yisroel Yaakov Fischer uses the leniency of *Mustakey* (a weak or flimsy package).

⁷⁵ Pituchei Chosem p. 276. However, this argument may only be true if the leniency for opening the envelope is based on *Chosolos*, which are containers which are subordinate to the food it contains, but if the leniency is based on *Mustakey* (see previous note) then this leniency may apply to non-food items as well so long as the envelope is flimsy such as an envelope (see Pituchei Chosem p. 243).

⁷⁶ This may explain why Rav Moshe Feinstein (Igros Moshe, ibid, *anaf* 8) seems to prohibit opening an envelope on *Shabbos* and does not seem to apply the leniency of *Chosolos* (which he discusses in *anaf* 9) since a letter is not a food item.

⁷⁷ Pituchei Chosem, ibid

⁷⁸ Biur Halacha (340:13 s.v. *Ni'yar*)

⁷⁹ 7:282

⁸⁰ 4:34

⁸¹ It is notable to point out that the third leniency of the *Tehila l'David* (that of *Chosolos*) may not apply to opening packages on *Shabbos*. Although one generally does not reuse an envelope and is immediately discarded after it is used, it is common to reuse the boxes or shipping packages and thus they may not attain the status of a *Chosel*.