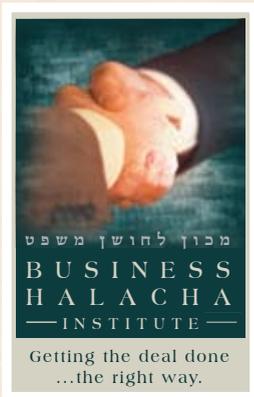


WHAT TO DO WHEN YOU FIND MONEY IN A VENDING MACHINE

By Rabbi Tzvi Price



Did you ever find money in a vending machine? What did you do? Some people feel that it's their lucky day and they take the money. Others see it as an opportunity to fulfill the *mitzvah* of *hashavas aveidah* and they go to great lengths to find the money's owner. Still others do a little bit of both – sometimes taking the money and sometimes returning it. If asked, it's likely that they would be hard-pressed to explain the set of rules they use to decide what to do when. The fact is that few people really know what *Halacha* requires of them in this matter.

Therefore, a *halachic* treatment of vending machines would not be complete without presenting a clear, authoritative guide to the *halachos* which pertain to finding money in a vending machine. We asked the Business Halacha Institute (BHI)¹, an institute dedicated to increasing the study and awareness of Jewish monetary law, to present for our Halachically Speaking readership these complex *halachos* in a clear and user-friendly way. They did a great job!

The guide was prepared by Rabbi Tzvi Price, a senior member of the BHI faculty, and has been reviewed by the dean of BHI, Rabbi Chaim Kohn, *shlit"á*, a noted Dayan. We're confident that after learning this guide you'll know what to do the next time you find money in a vending machine.

	IF...	THEN...
1	If you came to the machine and found money in the coin return slot or an item (e.g. a gumball, bag of chips, etc....) in the dispensing compartment...	In scenarios #1 and #2 you may keep the money and/or item(s) and in scenario #3 you may gain from the money registered in the machine. However, see the Explanations to Scenarios for the possible exception to this rule when the vending machine services a relatively small and private group of <i>frum</i> people (e.g., a <i>frum</i> , private office, a <i>yeshiva</i> or <i>shul</i> , etc.)
2	The machine is not broken, but when you pressed the coin return button money came out, or you pressed a dispensing button and product came out... OR The machine is not broken, but when you inserted money into the machine, you received your item plus more change than you were supposed to get...	
3	You come to a machine and you find money registered on the screen of the machine...	

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הלכות
בכל יום
מובטח
לו שהוא
בן עולם
הבא...
(עדה ע"ג)

4	<p>The machine is broken (i.e. it keeps giving out coins when you press the coin return, or the product when you press the vending button)...</p> <p>OR</p> <p>You pay for one item and two items come out or too much change comes out due to a malfunction of the machine...</p>	<p>In all circumstances, you may not continue to take more money or product from the machine since that would be considered stealing.</p> <p>The laws of <i>hashavas aveidah</i> apply to the money and/or items that already have been dispensed.</p> <p>Even if you cannot identify the owner of the machine in order to return to him the money or product that has already come out of the machine, you may still use the money or the product, but see 'Explanation to Scenario #4' for further details.</p>
5	<p>You lost money in a machine and you bang the machine to get it out and more money comes out into the coin return than you had put in...</p>	<p>You may keep the extra money. (This doesn't happen too often with the new machines since they are engineered differently than the earlier ones. In any case, one should not mishandle a vending machine since doing so may cause damage to the machine.)</p>
6	<p>You find money on the floor next to the machine...</p>	<p>You may keep the money.</p>
7	<p>You lost your money in a machine...</p>	<p>If you plan on asking for your money back from the owner, then you should do so within a short period of time so as not to forget about the debt.</p> <p>If you do not plan on asking within a short period of time, then it would be best to forgive the debt that the owner has to you and to verbally state your <i>mechila</i>.</p>

EXPLANATIONS TO SCENARIOS

Explanation to Scenario #1:

We will first discuss the case of money in the coin return slot. We can assume that the money was left there by the previous customer. In most of today's machines, the money deposited into the machine goes directly into a non-retrievable compartment. Any money which is dispensed by the machine through the coin return comes from a different compartment and is not the same money that was deposited by the customer. Therefore, in order for the customer to be considered the owner of the money that was deposited into the slot by the machine, he must make a new *kinyan* on the coin(s).

However, the previous customer did not

make a *kinyan* on the money¹. Therefore, technically it does not belong to him. There is a general argument among the *Gedolei Acharonim*² in a case in which a person repays a loan by placing the money in a specified location upon the directive of the lender, and the situation is such that the lender cannot make a *kinyan* on the money. Rabbi Akiva Eiger is of the opinion that the borrower has effectively relinquished ownership of the money and the money is ownerless. The Nesivos Hamishpat disagrees and considers the money to be still owned by the borrower. Their argument has a direct bearing on our case.

Furthermore, in our case of vending machines the owner³ of the machine wants



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his machine upon payment to automatically dispense money into an unguarded, public place. Therefore, he is in effect *mafkir*⁴ the money, making it an *aveida mida'as*⁵. Therefore, with regard to vending machines even the Nesivos Hamishpat would agree that the money dispensed by the machine is ownerless.

However, if the vending machine services a relatively small and private group of *frum* people (e.g., a *frum*, private office, a *yeshiva* or *shul*, etc...) then the money is not being dispensed into a public place. Additionally, it may be the case that the owner of the machine is well-known to everyone who uses the machine. Therefore, the vending machine owner may not view the money that was dispensed by the machine to be 'as good as gone.' In such a situation, it would be proper to ask the owner of the machine what his policy is about money found in the coin return. However, even in this scenario, if *b'dieved* you had taken the money with the intention to own it, you may keep it.⁶

The *halacha* regarding an item such as a bag of chips or a gumball left by the previous customer in the dispensing compartment follows the same basic logic. However, see footnote #6 that explains that taking the item is permitted *l'chatchila* even in vending machines found in *frum*, private locations⁷.

Explanation to Scenario #2:

In these scenarios, we can assume that the previous customer had deposited some money into the machine and then left without buying anything and without retrieving his money from the machine. The second customer inadvertently used the first customer's money to buy an item from the machine or to make the machine dispense different money from the coin return. As we explained in scenario #1, the money placed in the machine by the

previous customer is irretrievable as it falls into a compartment which is separate from the compartment that houses the money for the coin return. Any money or product that will be dispensed to the second customer by the machine due to the first customer's money will not belong to the previous customer since he did not make a *kinyan* on any specific item or on any specific coins. He is simply owed the money by the owner of the machine.

It is reasonable to assume that the owner of the machine does not automatically relinquish his ownership of an object dispensed from his machine except to the customer who deposited the money and has the rightful claim to an item from the machine. Therefore, in this situation the argument between the *Gedolei Acharonim* discussed in scenario #1 does not apply because nothing was dispensed upon the order of the previous customer. The only rationale to allow the second customer to keep the money and/or item(s) that have come out of the machine is the argument that the owner of the machine knows that his merchandise and his coins will automatically be dispensed into an unguarded, public area (as has been explained in scenario #1). As discussed above in the explanation to scenario #1, this rationale may not apply in a *yeshiva*, *shul*, or private, *frum* office setting. In that situation, one should ask the owner of the machine what his policy is regarding the machine⁸.

Explanation to Scenario #3:

This scenario is very similar to scenario #2, except that in this scenario the second customer realized before he pressed any buttons that the first customer had left money in the machine. This scenario follows the same *halachic* rationale as in scenario #2⁹.

In a *yeshiva, shul*, or private, *frum* office setting where *aveida mida'as* may not apply the question would arise whether one would be allowed to use *l'chatchila* the money that is already in the machine to purchase an item. There is a very good rationale to say that the owner of the machine certainly wants that the machine should be used and that people should continue to buy things from the machine. Therefore, the owner wants the person to use the money in the machine to purchase the item; at least that way the machine returns to its normal working order. Obviously, putting the extra money back in the machine would not do anything to solve the problem. Therefore, you are allowed to use the money that is already registered in the machine. Afterwards, you should ask the owner of the machine whether he wants you to pay the full price for the item.

Explanation to Scenario #4:

In this scenario, the owner of the machine is experiencing a loss of which he is not aware and which is very uncommon¹⁰. The lost items are subject to the laws of *hashavas aveida*. The *mitzvah* of *hashavas aveida* applies to cases where the owner of the machine is a *Yehudi*. However, when one can make a *Kiddush Hashem*, one should return the money to an *Akum* as well. If one cannot determine who owns the machine, then *rov*¹¹ determines ownership status.

In this scenario, the rule of *yiush shelo mida'as* will apply because the owner does not know of his loss. An attempt should be made to locate the owner of the machine in order to return the money and/or item(s)¹². If the owner cannot be located, then the standard procedure is to take the object to keep, but to record the item, its value, and any other pertinent details in a register which is kept safe until *Eliyahu Hanavi* tells

us to whom the object belongs¹³.

Explanation to Scenario #5:

As has been mentioned, this scenario only occurs in older machines which keep the money in abeyance until the item has been dispensed. In those machines, there was likelihood that the coins would get stuck in the mechanism. However, in the new machines, the coins are directly deposited into a non-retrievable compartment. In any case, one should not mishandle a vending machine since doing so may cause damage to the machine.

The explanation of the *halacha* is as follows. The money that was stuck in the machine is considered a lost object which has *yiush*. The owner of the machine has not acquired the coins by means of *kinyan chatzer*¹⁴.

Explanation to Scenario #6:

The money does not have a *siman*, and there is *yiush mida'as* because “*adam mimashmaish b'kiso kol sha'ah*.”¹⁵

Explanation to Scenario #7:

Often, a person who loses his money in a vending machine will have in mind that when he'll have a chance he will ask for the money back if he knows who owns the machine. However, after some time he will forget about the owed money. Sometimes, a person will not want to be *mochel* the owner of the machine even though he doesn't know who the owner is and doesn't plan on finding out. In both instances, the owner is put into a difficult situation of owing money but not knowing anything about it. Therefore, it is best to ask for the money within a short period of time so as not to forget, and if you do not plan on asking for the money back, you should say out loud that you are being *mochel* the money.



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(Endnotes)

1. Kinyan kesef cannot acquire coins. Ch.M. 203:4-7
2. See Rabbi Akiva Eiger, Ch.M. 120:1, and Nesivos Hamishpat, 123:1 and see in the new edition of the Nesivos, the Melo'ai Mishpat footnote 72 that discusses this at length and cites the Nesivos Hamishpat, 194:7 to explain the Nesivos's shita in 123:1. See also Toras Gitin, Siman 75. Also see Imrei Binah, Gevivos Chov, Siman 27.
3. Often, vending machines are owned by one party and rented out to another party who actually operates the machine and profits from it. In this article, the term "owner" refers to the party that actually operates the machine.
4. This is the opinion of HaRav Chaim Kohn, Shlit"a. Others have compared this case to a case of yiush, see Bava Metziah 22b "... hani t'marei d'zikah heichi achlinan l'hu..." which demonstrates that a person can have a 'standing yiush' for losses that he knows will inevitably happen though he will not have specific knowledge of any particular one of the losses.
5. See Ch.M. 261:4 and Shach s.k. 3. Also, Ketzos Hachoshen s.k. 1 and Nesivos s.k.1.
6. Since once the money is in his hands, he is *muchzak* and the principle of *kim li* would allow him to rely on the opinion of Rabbi Akiva Eiger.
7. As opposed to coins found in the coin return slot, there is the possibility that in the case of an item found in the dispensing compartment a kinyan kesef is made on the item by the customer (according to halacha, a kinyan kesef cannot be made on coins, but it can be made on other items). Although kinyan kesef usually is not legally binding, in our case of vending machines there is an opinion that kinyan kesef may act to transfer ownership. See Ch.M. Siman 198:1 that states that kinyan kesef is not a legally binding kinyan, but see Aruch Hashulchan 198:4 that states that if the item will not be under the seller's jurisdiction, then kinyan kesef will be binding, also see Sh"ut Machne Chaim, chelek 2, siman 31. However, see Chidushei HaRim, siman 195, s.k. 5, and Sha'ar Hamishpat, 195 who argue.

If a kinyan kesef would apply in the vending machine case then the item would be considered to be owned by the customer and it would be seen as an *aveida mida'as*. The customer certainly must have realized that he did not take the item out of the machine. One has the right to assume that he left it there knowingly. In cases where the customer left a small item such as a gumball or a candy in the vending slot because he was not aware that it had been dispensed by the machine, there would be an issue of *yiush shelo mida'as*. However, normally those items are of insignificant value, *pachos mishavah pruta*, and are exempt from the laws of *hashavas aveida*. The owner of the machine cannot reclaim ownership of the money or item through *kinyan chatzer* because the dispensing compartment is a *chatzer sheino mishtameres* (see Sh"ut Lehoros Nossan, chelek 8, simanim 116-120 and Beis Yitzchak, Orach Chaim, Siman 201, os 3).

Thus, there are two halachically recognized rationales to permit the taking of an item found in the dispensing compartment even in a situation in which a machine is located in a private, *frum* location; the first is the opinion of Rabbi Akiva Eiger cited above in footnote #2, and secondly, this opinion of the Aruch Hashulchan. These two separate arguments create a *sfek-sfeka l'hatir*. HaRav Chaim Kohn, shlit"a, rules that in cases in which the actual item being dispensed by the machine is not being displayed to the customer (as is the case with soda machines) the inserted money does not activate a kinyan kesef on the item that he will eventually receive. Rather, it only serves to obligate the vendor to supply the item. Consequently, the item is not owned by the buyer until he actually takes it into his hands.
8. In this situation, unlike in scenario #1, one should ask the owner even after having taken the money or product since the opinion of Rabbi Akiva Eiger does not apply here.
9. Even in this case the concept of *aveida mida'as* applies since the machine is purposely set-up by the owner to allow anyone to take the item by pressing the button.
10. Thus, as opposed to the previous scenarios, *aveida mida'as* or "t'marei d'zikah" do not apply in this case.
11. Ch.M. 259 and Bava Metziah 24a, Tosfos, *divrei hamaschil* "ki ka'amar Rabbi Shimon"
12. One should keep in mind that the mitzvah of *hashavas aveida* only requires a person to return an item which is more than a *shava pruta* (roughly a nickel). Furthermore, costs incurred by the finder in delivering the lost item to the owner are the responsibility of the owner. Therefore, one would not be required to send fifty cents by mail to the person who lost it since the expenses incurred (envelope, postage stamp) make the actual gain to the owner less than a *shava pruta*.
13. See *Hashavas Aveida K'halacha*, perek 5, halacha 4.
14. See Sh"ut Lehoros Nossan, chelek 8, simanim 116-120, for a lengthy discussion of this case.
15. Ch.M. 260:5

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