



# SHERRY CASKS

*A Halachic Perspective*

Rabbi Akiva Niehaus

# SHERRY CASKS

*A Halachic Perspective*

*A Comprehensive Overview of the  
Process of Creating Scotch  
and its Implications in Halacha*

Rabbi Akiva Niehaus  
Chicago Community Kollel

Reviewed by Rabbi Dovid Zucker, *Rosh Kollel*

*Tammuz 5770 / June 2010*

Copyright © 2010  
Rabbi Akiva Niehaus  
6611 N. California Ave.  
Chicago, IL 60645  
773-338-0849

Questions and Comments:  
(773)338-0849  
[sherrycasks@gmail.com](mailto:sherrycasks@gmail.com)

# TABLE OF CONTENTS

I. THE PROCESS OF CREATING SCOTCH.....	5
II. SOME BACKGROUND OF THE USE OF CASKS.....	9
III. THE HALACHIC ISSUES .....	11
A) <i>Bitul</i> of <i>Stam Yeinam</i> in Scotch	
a. Does <i>stam yeinam</i> require <i>bitul</i> when mixed with Scotch?	
b. Is <i>bitul</i> required against the <i>klipah</i> or the entire <i>kli</i> ?	
c. Is <i>sheish</i> or <i>shishim</i> required for <i>bitul</i> of <i>stam yeinam</i> ?	
B) Potential Limitations to <i>Bitul</i>	
a. Is there a problem of <i>avida l'tamam</i> (added for taste purposes)?	
b. Is there an issue of <i>ikro kach</i> (an integral ingredient)?	
c. Is there a problem of <i>chazusa</i> (coloring)?	
d. Is Scotch prohibited based on <i>bitul issur l'chatchila</i> (intentional nullification)?	
IV. ESTABLISHING THE FACTS .....	23
V. CONCLUSION.....	25
VI. GLOSSARY.....	29

*Special thank you to Rabbi Yaakov Galster, Rabbi Yeruchom Levovitz, Rabbi Aaron Rokach, and Rabbi Dovid Rokach for their invaluable assistance in preparation of this article.*

# SHERRY CASKS: A HALACHIC PERSPECTIVE

## *A Comprehensive Overview of the Process of Creating Scotch and its Implications in Halacha*

Among the many types of alcoholic beverages that one may encounter at a *simcha*, one will inevitably find a bottle of Scotch whisky. Scotch has been produced in Scotland for hundreds of years, and there are currently many brands and varieties available. The connoisseur may have his preferred Single Malt Scotch, but the average person will sample whatever varieties he may see. As most Scotch manufacturers do not have *Kashrus* supervision for their products, much attention has recently been directed to the halachic status of Scotch. Let us research the process of creating Scotch and discover if any halachic issues arise.

### I. THE PROCESS OF CREATING SCOTCH

According to the Scotch Whisky Order of 1990 (United Kingdom, Ministry of Agriculture, Fisheries and Food, 30th of April 1990), in order to be called Scotch Whisky, the spirit: (a) must be distilled at a Scottish distillery from water and **malted barley**, to which only other whole grains may be added, have been processed at that distillery into a **mash**, converted to a fermentable substrate only by endogenous enzyme systems, and **fermented** only by the addition of yeast; (b) must be **distilled** to an alcoholic strength of less than 94.8% by volume so that it retains the flavor of the raw materials used in its production; (c) must be **matured** in Scotland in oak casks for no less than three years; (d) must not contain any added substance other than water and caramel **coloring**; and (e) may not be **bottled** at less than 40% alcohol by volume. Let us explain these terms.

**MALTED BARLEY:** Malted Barley refers to barley which has been

allowed to reach the point of germination. First, the barley is alternately soaked and dried in “steeps” for about three days; once the grain has absorbed enough water and oxygen, it is dumped on the malting floor, and spread out to a depth of 4-6 inches. On the malting floor, the barley starts to warm up and germinate. Over the course of a week or so, the barley is turned about twice a day, with windows being used to adjust the temperature. The turning serves to both moderate the temperature and disentangle the rootlets as the barley starts growing. During this process, important enzymes within the seed are activated, begin to reproduce and turn the more complex starches into simpler starches and sugars.

Once the barley root is about as long as the barley seed, the process is halted. The barley is loaded into a kiln where it is heated in order to dry it. In years past, peat fires were used to dry the barley; now, oil or coal is often used instead, with some peat thrown on the fire to provide the “traditional” peat (phenol) character to the malted barley when desired. Drying time depends on which heating method was used: with peat fire only, it might take 2-3 days; with oil heat only, it can be done in less than half the time. Today, there are very few traditional floor maltings; most of the distilleries use large communal drum or box maltings.

**MASHING AND FERMENTATION:** The dried malt is ground into coarse flour called “grist.” This is mixed with hot water in a large vessel called a mash tun where the grist is allowed to steep. This process is referred to as “mashing,” and the mixture is referred to as “mash.” In the course of mashing, enzymes that were developed during the malting process are allowed to convert the barley starch into sugar, producing a sugary liquid known as “wort.” The mash tun is generally a large stainless steel or cast iron vessel which can hold from 4-12 tons of grain and upwards of 40,000 liters of water. The grain is added first, and then water is added in 3 or 4 batches (known as washes). The first wash is usually about 64-70° C, and extracts the important enzymes and some sugars from the grain as it soaks through the barley. The wash then runs out of fine holes in the bottom of the tun, where it emerges as a liquid called wort. Tuns generally have some sort of moving arms that

swirl through the mash, to speed the process along. The second wash is generally hotter, in the range of 75-85° C, and extracts more of the remaining sugars. The third (and fourth) wash may be slightly hotter, and is generally allowed to cool in order to be reused as the first wash of the following cycle.

The wort is then transferred to another large vessel called a “washback” where it is cooled (washbacks vary widely in size, with some as large as 60,000 liters). Washbacks are where the process gets more exciting; yeast is added to the wash, and fermentation begins - sometimes violently. The resulting liquid, now at about 5–8% alcohol by volume, is called “wash” and is very similar to a rudimentary beer.

**DISTILLATION:** Distillation, a process performed with a still, is used to increase the alcohol content of the wash and to remove undesired impurities such as methanol. All Scotch malt whisky distilleries distill their product at least twice. The liquid is heated to the boiling point of alcohol, which is lower than the boiling point of water. The alcohol evaporates and travels to the top of the still, through the “lyne arm” and into a condenser - where it is cooled and reverts to liquid. This liquid has an alcohol content of about 20% and is called “low wine.” The low wine is distilled a second time and the distillation is divided into three “cuts.” The first liquid, or cut, of the distillation contains about 74-75% alcohol and is called “foreshots.” This cut is generally quite toxic due to the presence of the low boiling point alcohol methanol. This is generally saved for further distillation. It is the “middle cut” that the stillman is looking for, which will be placed in casks for maturation. At this stage, the substance produced is called “new make.” Its alcohol content can be anywhere from 63%–72%. The third cut, with a 60-62% alcohol content, is called the “feints” and is generally quite weak. This is also saved for further distillation.

**MATURATION:** Once distilled, the “new make spirit” is diluted with local water to about 63-65% alcoholic content and is placed into used oak casks for the maturation process.<sup>1</sup> The aging process results in

---

1 Because used casks are usually the barrel of choice, the barrels are “dumped” –

evaporation, so each year that the Scotch remains in the cask causes a 0.5–2.0% loss of volume as well as a reduction in alcohol. The distillate must age for at least three years in Scotland to be called Scotch whisky, although most single malts are offered at a minimum of eight years of age.

**COLOR:** The color of Scotch whisky is determined by the type of cask used to age the whisky. Although all whisky is matured in oak casks, the barrels are expensive, and whisky manufacturers have historically re-used barrels previously used to store other liquors such as sherry, cognac, bourbon, rum, or beer. Whisky stored in ex-sherry casks is usually darker or more amber in color, while whisky aged in ex-bourbon casks is usually a golden-yellow/honey color. The addition of legal “spirit caramel” is sometimes used to darken an otherwise lightly colored whisky.

**BOTTLING:** With single malts, the now properly aged spirit may be “vatted,” or “married,” (mixed) with other single malts (sometimes of different ages) from the same distillery. The purpose of this is to assure a uniform taste under a specific label. The whisky is generally diluted to a bottling strength of between 40% and 46% alcohol content. Occasionally, distillers will release a “Cask Strength” edition, which is not diluted and will usually have an alcohol content of 50–60%. (based on [www.uisgebeatha.org](http://www.uisgebeatha.org))<sup>2</sup>

To summarize, according to Scottish law, Scotch may only contain water, barley (or other grain), yeast and caramel coloring, all of which do not pose any *Kashrus* issues.<sup>3</sup> The only source of concern is that

---

emptied of their contents – or rinsed before use (based on an email conversation with Kevin Erskine, from *TheScotchBlog.com*). It’s quite possible, however, that a few liters of liquid (perhaps wine from previous use) may remain inside (based on an email from Rabbi Simcha Smolenski).

2 Since every distillery has its own formula and production style, a number of details are presented in general terms.

3 The manufacturer’s fear of Government discovery and potential fines prevent the addition of any additional ingredients; this fear (*mirsas*) carries weight in *halacha* as



the maturation may have taken place in previously used wine casks, thus presenting an issue of *stam yeinam* (as explained below). Much has been written regarding the permissibility of Scotch due to the fact that many high-quality distilleries currently mature their products in casks that previously held *stam yeinam* (Sherry or other wine). Review of the relevant *Poskim* will clarify if the prohibition of *stam yeinam* is applicable.

## II. SOME BACKGROUND ON THE USE OF CASKS

In days of old, Scotch manufacturers used any type of barrel that they could get their hands on. New barrels were generally not used; the sharp tannins found in the wood would ruin the delicate flavor of Scotch. Scotch manufacturers needed to find used casks, and the vast majority of available used casks were Sherry casks. The reason for this is that Spanish wine manufacturers used to ship their Sherry wine in the cask to England for bottling, because shipping bottled wine was cumbersome and expensive. As a result, there was an overabundance of wine casks hanging around in England with no particular use for them. The Scotch producers were quite pleased to buy up the supply of wine barrels, getting them at a discounted price for their Scotch maturation.

This changed in the 1970's<sup>4</sup> when the Spanish wine manufacturers decided to bottle their wine in Spain before shipping to England.<sup>5</sup> As a result, there was a shortage of wine barrels and the Scotch manufacturers needed to find a different source of barrels. The perfect suppliers turned out to be American bourbon producers. According to American law, bourbon must be produced in new barrels. The bourbon manufacturers had plenty of unneeded used barrels and they were glad to sell them to Scotch producers for a cheap rate.

---

well. (See similar concept in *Igros Moshe*, *YD I siman 47*.)

4 Due to the great secrecy prevalent in the Scotch industry, dates relating to industry events are estimated.

5 The reason for this change is unclear. Some suggest that a new requirement was enacted that wine must be bottled in the country of origin.

In the 1990's Scotch drinkers sensed that something about their Scotch was different; it just didn't have the same flavor as it used to. At this point, Scotch producers realized that the Sherry casks might actually have been contributing to the superior flavor of the original Scotch and decided to revert back to wine casks. The problem, however, was that Sherry casks were now very expensive (Sherry casks can cost ten times as much as bourbon casks), and shipping them to Scotland was also very expensive.

Some distillers decided that the superior taste was well worth the expense and returned to maturation in Sherry casks (passing on the added cost to the consumer, of course). Other distillers, wishing to save the expense of maturing Scotch for many years in relatively expensive Sherry casks, continued to mature their Scotch in the much-cheaper bourbon casks, then transferred the already-mature Scotch to Sherry casks for 6 months to 2 years in order to gain some of the benefit of those barrels. This is called "Sherry finish." Some distillers disassemble the casks before shipping them to Scotland in order to reduce their shipping costs, but others ship them to Scotland whole (in which case, the casks may still have some wine inside). According to Oxford Wine Online, the casks are so important that some distillers (such as *Macallan*) now construct their own casks and lease them to sherry producers before reclaiming them for whisky maturation.<sup>6</sup> Some distillers have recently started to treat the casks themselves: they take fresh casks, fill them with wine (and even steam them before doing so to ensure that the casks fully absorb the wine) and then put the finished Scotch inside.<sup>7</sup>

---

6 "When the availability of casks became a problem in 1976 the company (*Macallan*) began to buy its own new wood in Spain and have it seasoned in the *bodegas* of Jerez for four years before shipping it and filling it with whisky."

7 As heard from Rabbi Simcha Smolenski. It is of interest to note that some distillers char the casks before use, i.e., they burn out the inside of the casks with fire, scrape off the burnt part, and then steam the barrel for a while. This may be considered a form of *libun*, which would be relevant for the issues discussed below, but many (if not most) distillers do not char their Sherry casks. According to [whiskeywise.com](http://www.whiskeywise.com/whiskey-barrels.html) (<http://www.whiskeywise.com/whiskey-barrels.html>), it is quite unusual to char Sherry casks: "Sherry casks are only toasted and not charred." The website goes on to quote Dave Robertson who doesn't believe anyone would char fresh sherry casks unless the sherry

### III. THE HALACHIC ISSUES

A potential problem raised by the use of Sherry casks to produce Scotch Whisky is that the Sherry absorbed in these casks is almost certain to be *stam yeinam*.<sup>8</sup> When a non-kosher liquid rests in a vessel for twenty-four hours, the walls of the vessel absorb non-kosher *blios* (absorptions) through a process known as *kavush* (soaking). A kosher liquid which subsequently rests in the vessel for 24 hours absorbs the non-kosher *blios*, potentially rendering it forbidden. Accordingly, Sherry casks, having stored non-kosher wine for a time period longer than 24 hours, contain *blios* of *stam yeinam*. When these casks are subsequently used to mature Scotch, *blios* of *stam yeinam* mix into the Scotch, creating a potential *Kashrus* concern. At first glance, this issue seems to be clearly discussed in the *Shulchan Aruch*.

The *Shulchan Aruch* and *Rama* (*Yoreh Deah* 137:1) write that if wine is stored in a barrel previously used for *yayin nesech*, the wine is forbidden unless the wine has a volume of *shishim* (60 times) relative to the *yayin nesech*. If water, beer, or any liquid other than wine is stored in a wine barrel, that liquid is permitted (provided that the barrel was clean) because these liquids are *pogem* (ruin) the taste (*taam*) of the wine. (*ibid.* 137:4) The source for this *halacha* is a *Gemara* in *Avodah Zara* (33b) where Ravina allowed Rav Chiya to store beer in a non-kosher wine barrel. The *Poskim* (see *Taz ad loc.*) explain that storage of beer is allowed since it ruins the wine flavor; as such, any liquid which ruins wine may be stored in such a barrel (as opposed to wine which may not be stored in a wine barrel since it enhances the non-kosher wine). Thus, since Scotch is not wine, it would seem to be an open-and-shut case that Sherry casks are permitted by the *Shulchan Aruch*. However, different guidelines applicable to Scotch tend to complicate the issue, as explained below.

---

cask does not smell “right,” in which case they might either char the cask, or may simply reject it.

8 *Yayin nesech* refers to wine used by a gentile for idolatrous purposes; *stam yeinam* refers to wine handled by a gentile even without such intentions. *Chazal* prohibited *stam yeinam* in order to discourage intermarriage. Any mention of *yayin nesech* by the *Poskim* discussed in this article refers to *stam yeinam* as well.

## A) *Bitul of Stam Yeinam in Scotch*

If a non-kosher food item becomes mixed into kosher food, the mixture is forbidden unless: (a) the non-kosher ingredient is ruined (*pagum*) when mixed in to the mixture, or (b) the kosher ingredients are of substantially greater volume than the non-kosher ingredient, causing it to be nullified (*batul*). In subsection a. we will clarify if wine is “ruined” when mixed with Scotch; in subsections b-c we will clarify the amount of absorptions (*blios*) that must be nullified and the volume of Scotch necessary to nullify them.

### a. Does *stam yeinam* require *bitul* when mixed with Scotch?

At first glance it would appear that since Scotch is clearly a different beverage than wine, its halachic status should be similar to the non-wine liquids described above. However, this is not so clear. As explained above, the reason that liquids (other than wine) do not become forbidden when stored in a wine barrel is that these liquids ruin the taste of wine. So, the question becomes whether wine is in fact ruined when mixed with Scotch.

The *Noda B'Yehuda* (*tinyana YD siman 58*) writes that whiskey (*yayin saraf*) is *pogem* wine like other liquids, but elsewhere (*ibid. siman 67*) he writes that it is impossible to ascertain if whiskey is *pogem* wine or not. The *Perach Mateh Aharon* (1:57) also writes that whiskey is *pogem* wine. However, the *Magen Avrohom* (451:40) writes that whiskey enhances the flavor of wine. It appears that the *Poskim* are unsure of the relationship between whiskey and wine.

Presumably, the mere fact that many distillers go out of their way to use Sherry casks as opposed to the substantially cheaper bourbon casks indicates that they specifically want the *blios* (absorption) of wine, and do not feel that it is ruined when mixed with Scotch.<sup>9</sup> Therefore, it

---

<sup>9</sup> Even those distilleries that don't want the wine flavor *per se*, just a new type of flavor, still specifically use these casks, so it would be hard to say that the wine flavor is ruined when mixed with Scotch - otherwise wine barrels would never be used. According to Harav Shlomo Miller *shlita*, the fact that Scotch distillers specifically use wine casks to mature Scotch is not necessarily contraindicated by the *Gemara's* allowance to store beer in a non-kosher wine barrel. Although the wine flavor (*taam*)

would seem that Scotch in wine barrels is comparable to wine stored in wine barrels, thus requiring nullification in order to be permissible. This is also the opinion of Rav Yitzchok Weiss (*Minchas Yitzchok* II 28:3).

### **b. Is *bitul* required against the *klipah* or the entire *kli*?**

In order to ascertain whether wine *blios* (absorptions) in the Sherry casks are *batul* in Scotch, it is necessary to clarify how much forbidden wine remains in the wine barrel, and subsequently mixes into the Scotch. Although the wine barrels are presumably emptied before Scotch is poured in, some wine is absorbed in the walls of the barrel. How much wine remains in the walls? If a forbidden liquid is cooked in a kosher pot, the *blios* are assumed to fill the entire thickness of the walls of the pot, thus requiring *bitul* against the entire volume of the walls. However, in the case of *kavush* (where a forbidden liquid sits in a vessel for more than 24 hours without cooking) which generally has a similar halachic status to cooking, the *halacha* may be different regarding this point. The *Shach* (98:13), quoting the *Toras Chatas* and the *Issur V'heter Ha'aruch*, is of the opinion that *kavush* is similar to cooking and affects the entire vessel, but the *Taz* (105:1) argues that only a *klipah* (the “peel” – a thin layer) is affected. The *Pri Megadim* (*ad loc.*) and the *Chochmas Adam* (57:11) both follow the opinion of the *Shach* that the entire vessel is considered to contain forbidden *blios*.

When it comes to *kavush* involving *yayin nesech*, the *Shulchan Aruch* (135:13) clearly states that *yayin nesech* only affects the *klipah* of a vessel.<sup>10</sup> This seems to be in accordance with the position of the

---

contributed by the wine is indeed *pogem* Scotch (just like it is ruined when mixed with beer – as explained by the *Poskim*), nonetheless, it is possible that Scotch distillers specifically use wine barrels to allow the Scotch to absorb the wine's *fragrance*, and according to *halacha*, fragrance added by a non-kosher ingredient is insignificant (*reicha lav milsa* – *Shach* 108:14). Accordingly, the non-kosher wine *blios* would not adversely affect the halachic status of the Scotch. (See footnote 31.)

10 One contemporary *Posek* has suggested that modern-day wine barrels are more porous than the times of *Chazal* and *blios* are therefore absorbed through the entire thickness of the walls according to all opinions. He argues that we can see this from the fact that the outside wall of the barrels are sometimes stained red, indicating that the wine has seeped through. However, many *Poskim* strongly disagree with this notion and

*Taz*, that *kavush* only affects the *klipah*. How is this to be reconciled with the position of the *Shach* and other *Poskim* who are of the opinion that *kavush* generally affects the entire vessel? The *Shach* (135:33) writes that the leniency of the *Shulchan Aruch* applies only where one is uncertain if the cask held wine or if the wine was stored for a full 24 hours. However, if one knows with certainty that the cask held wine for 24 hours then the entire thickness of the cask is assumed to contain prohibited *blios*, similar to the general rule of *kavush*.<sup>11</sup>

The *Chacham Tzvi* (*siman* 75) and the *Machne Ephraim* (*Hil' Ma'achalos Asuros* 11:15, quoting his son) argue with the *Shach* and maintain that even if *yayin nesech* was stored in a barrel for many days only the *klipah* is prohibited.<sup>12</sup>

In light of this controversy, we must determine which view the *halacha* follows. The *Chochmas Adam* (81:11) rules according to the *Shach* that if *yayin nesech* was stored in the cask for 24 hours then the whole vessel is assumed to contain prohibited *blios*. He concludes that “*Itzorech gadol*” (in case of great need) one can rely on the *Poskim* that consider only a *klipah* to be absorbed. Furthermore, the *Bais Meir* (on the *Chok Yaakov OC* 451:58) offers a proof to the *Shach's* view from the *Mordechai* (*Pesachim siman* 567).

Generally speaking, in a dispute of this nature, the *halacha* would follow the opinion of the *Shach* and the *Chochmas Adam* that if a wine cask held forbidden wine for more than 24 hours then the entire vessel becomes prohibited.<sup>13</sup> Accordingly, nullification through *bitul*

feel that that the nature of barrels has not changed from the times of *Chazal*. Although the outside walls may be stained, the *blios* at that point are not strong enough to be considered *issur*. Therefore, only a *klipah* is affected as stated in the *Shulchan Aruch*.

11 Although the *Shach* subsequently writes that this *halacha* is *tzaruch iyun*, nevertheless, he repeats this *halacha* in 137:9, indicating clearly that this is his position. (He also writes that this *halacha* applies to *stam yeinam* as well.) See also *PM"G* (*M"Z* 87:1 towards the end – ויש שם ט"ס, וצ"ל צידד שם [לאסור אף] בין נסך – and the *Noda B'Yehuda* (*ibid.* 67) who quote the *Shach* as being stringent in this matter.

12 Although these *Poskim* agree that *kavush* normally affects the entire vessel, *Chazal* were lenient in the case of *yayin nesech*, since its prohibition is only Rabbinical (*PM"G* *ibid.* See also *Issur V'heter Ha'aruch* 2:8.).

13 This is also the opinion of the *Imrei Aish* (*YD siman* 44).

*b'shishim* must be measured relative to the entire thickness of the wine barrel.<sup>14 15</sup>

### c. Is *sheish* or *shishim* required for *bitul* of *stam yeinam*?

Now that we've clarified that *bitul* is necessary against the volume of the entire thickness of the walls of the vessel, it is necessary to determine if *bitul b'shishim* (60 times the volume of wine) is required to nullify the wine *blios* or only *bitul b'sheish* (six times). The *Shulchan Aruch* (134:5) writes that *yayin nesech* mixed with water is *batul b'sheish* (as opposed to *yayin nesech* mixed with other wine which requires *bitul b'shishim* – *Shulchan Aruch* 134:2). The *Shach* (s.k. 21) quotes the *Issur V'heter* that wine is only *batul b'sheish* when mixed in water, but if it is mixed with other wine or other foods (which enhances the wine), then *yayin nesech* would need to be *batul b'shishim*. It is unclear, however, what the *halacha* is when wine is mixed with Scotch; is Scotch comparable to water or wine and other foods?

The *Rama* (114:4) writes that one may not buy apple wine or other liquids from a gentile if it is customary to mix wine (which is cheaper

---

14 Generally speaking, non-kosher taste absorbed in the walls of a vessel becomes stale (*pagum*) after twenty-four hours go by (*aino ben yomo*). Wine, however, remains potent even after this time period has elapsed (*Rama* 137:1).

15 One may ask that the *Shach* appears to equate the *shaila* of *klipah* vs. *kli* with the question of whether the process of *milui v'iruy* is effective to *kasher a kli*; in other words, if the entire vessel is affected then *milui v'iruy* is not effective. This seems to be contradicted in *Hilchos Pesach* (451:21) where it states that one may do *milui v'iruy* on a barrel used for *sheichar* (*chometz*) even if the *sheichar* was stored in the barrel for many days (as pointed out by the *Mishna Brurah*, *ad loc.*). So it would seem that if, in fact, *milui v'iruy* is effective on the *chometz* barrel, it must be that only a *klipah* was affected even though the barrel held *chometz* for many days. This would appear to contradict the *Shach*. However, one can answer that the requirement to do *milui v'iruy* in the above situation is only *l'chatchila* (the optimum course of action); *b'dieved (ex-post-facto)*, the *Rama* states that if one put wine in the barrel without *milui v'iruy* then the wine is permitted. Since the obligation to do *milui v'iruy* is only *l'chatchila*, this *halacha* does not prove that only a *klipah* was affected; perhaps the whole vessel was affected and *milui v'iruy* is only required as an added benefit. Therefore, there is no proof against the *Shach* from this *halacha*.

Regarding the stringency of the *Shach* with regards to *milui v'iruy*, the *Shach* earlier (135:13) seems to contradict himself – see *Noda B'Yehuda* (*YD Tinyana siman* 58, at the end) and *Atzei Livona* (gloss to *Rama* 135:9).

than that drink) into the drink, unless one is certain that the wine is *batul b'shishim*. The *Taz* (s.k. 4) asks that since wine is *batul b'sheish* in other liquids, as the *Shulchan Aruch* clearly states in 134:5, why does the *Rama* require *bitul b'shishim*? He therefore concludes that the *Rama* is simply quoting the words of the *Mordechai* who holds that wine always requires *bitul b'shishim*, but since the *halacha* follows the opinion that wine is *batul b'sheish* in other liquids, one need only ascertain that there is *sheish* of the apple wine or other drink relative to the *yayin nesech*.

The *Nekudas Hakesef* defends the *Rama* and says that wine is only *batul b'sheish* when mixed in water because water ruins (is *pogem*) the wine; if the wine is mixed with any other liquid then *shishim* is required. He maintains that this is what the *Issur V'heter* had in mind when writing that wine is *batul b'sheish* only when it falls in water, as opposed to any other liquid.

Accordingly, *stam yeinam* mixed with other liquids that do not spoil the wine requires *bitul b'shishim* according to the *Nekudas Hakesef*, and only *sheish* according to the *Taz*. Many *Poskim* side with the *Taz*, including the *Pri Chadash* (YD 114:10), *Chochmas Adam* (66:15), and *Magen Avroham* (204:16).<sup>16</sup> This is also the opinion of Rav Moshe (*Igros Moshe* YD I *siman* 62),<sup>17</sup> but he concludes that a *baal nefesh* (a scrupulous person) should be stringent to require *bitul b'shishim* in order to accommodate the position of the *Shach*.

Based on the above, most *Poskim* rule that wine mixed into Scotch is rendered permissible through *bitul b'sheish*, but according to Rav Moshe, a *baal nefesh* should require *shishim*.<sup>18</sup>

---

16 Although the *Magen Avrohom* holds like the *Nekudas Hakesef* that other liquids require *shishim*, he writes that wine nowadays is weak, thus sufficing with *bitul b'sheish*.

17 Rav Moshe writes that it is quite possible that the *Nekudas Hakesef* requires *shishim* only when wine is mixed with non-sharp liquids, but if wine is mixed with a sharp liquid, like whisky, then perhaps only *sheish* is required. He writes this to avoid a seeming contradiction to what the *Magen Avrohom* (202:3) writes in the name of the *Shach*. The *Minchas Yitzchok* (II 28:4) also feels that wine is nullified in sharp liquids *b'sheish*.

18 It is interesting to note that in *Hilchos Brachos* (202:1) the *Rama* writes that if wine



## B) Potential Limitations to *Bitul*

Since any forbidden wine mixed into Scotch requires nullification, as discussed above, it is necessary to determine if the *blios* of Sherry wine are susceptible to nullification. Various situations are discussed in *halacha* which prevent *bitul* from taking effect. These considerations will be discussed below.

### a. *Avida L'taamah* (added for taste purposes)

One important limitation to the rule of *bitul* is *avida l'taamah* (added for taste purposes). The *Rama* (98:8) writes that even a minute amount of forbidden spices prohibit kosher food into which it has become mixed. Although non-kosher food is generally nullified when mixed into a kosher food whose volume is substantially greater, spices can not be nullified because their flavor can be detected even in a large mixture and therefore retain their non-kosher identity. In order to clarify if wine absorptions in Scotch is considered *avida l'taamah*, it is necessary to determine why Scotch producers have a preference for Sherry casks.

There is no clear consensus as to the exact reason why Scotch manufacturers prefer to use wine casks for maturation. One significant reason is to add color to the generally light-colored Scotch.<sup>19</sup> Additionally, it is quite likely that the manufacturers want the wine flavor to enhance the Scotch, as explained in the background section above. This may be especially true with regards to “finishes.” As explained above, many distilleries (and the number is increasing

---

and beer are mixed together, the *bracha* on this mixture follows the majority ingredient; if the majority is beer then the *bracha* is *shehakol*. How does this *halacha* reconcile itself with the *halacha* found in *Yoreh Deah* that wine is *batul* in other liquids only if there is six or 60 parts against the wine? The *Shaar Hatziyun* (202:14) explains that the guidelines for *brachos* are quite different than those in *Hilchos Yayin Nesech*. To nullify *yayin nesech* one needs to obliterate the wine's identity - this can be accomplished when there are six or 60 parts against the wine; regarding *hilchos brachos*, however, the main guideline is *ikur v'tafel* – the main ingredient decides the identity of the mixture, and this is based on the majority ingredient.

19 The Scotch Whisky Order of 1990 allowed for the addition of caramel coloring to rectify this problem.

steadily) transfer fully matured Scotch to casks previously used for wine. This is called “finishing.” Many argue that the main purpose of finishing is to absorb the wine flavor, thus considered *avida l'taamah* (added for taste purposes) which can never be nullified.

However, it is fairly safe to assume that the distillers are not interested in the actual flavor of wine – after all, they are producing Scotch, not wine. Rather, they want the unique flavor which is created by the blend of Scotch with the wine casks. According to Keith Cruickshank, Master Distiller of *Benromach* (quoted in *From wine barrels, out pours Scotch*, by Charles Perry, *LA Times*, Nov. 8, 2006), by using various wood-finishes for aging and finishing, one is not flavoring the whisky but achieving “a complementation of elements, a strong merge.” Since one cannot actually taste the wine flavor, but only a new blend of flavors, this would not be comparable to spices where one can taste the actual forbidden spice.

Additionally, some maintain that distillers are not interested in the wine flavor at all; they only want the flavor of the wood. *Glenlivet's* Ian Logan (*LA Times ibid.*) says: “We’re not interested in what’s been in the barrel but in the wood itself.”<sup>20</sup> Since the actual flavor of wine is undesirable and indiscernible, this is unlike forbidden spices which can be discerned and, as such, are not considered *avida l'taamah*.

However, even if the distillers are specifically interested in the wine flavor (as the makers of *Glenmorangie*, for example, claim) there are additional grounds to argue that *avida l'taamah* should not prohibit Scotch at all because wine that is *batul b'sheish* loses its status as wine, and is treated as *kiyuha* (“acid”) instead. This idea can be found in *Igros*

---

20 According to Narciso Fernandez Iturraspe, owner of *Tevasa Cooperage*, it isn't only the sherry seasoning that makes the barrels ideal for aging single malts. The wood itself plays a large part in imparting special flavors to the whisky. Sherry barrels are made from *Quercus Robur*, a Spanish oak that is felled when it reaches 60 to 70 years of age and contains approximately 10 times more tannin than does the 30- to 40-year-old *Quercus Alba*, or American White Oak, which is used to make bourbon barrels. Research has shown the tannins in the wood act as a catalyst that aids oxidization during the maturation period and hence is highly desirable to malt producers. (source: *Barrels of fun? Using sherry casks to age Scotch is a complicated process*, by Gary Regan, June 18, 2001. [findarticles.com](http://findarticles.com))

*Moshe* (YD I *siman* 63), where Rav Moshe responds to an argument posed by Rav Teitz, that wine added to whiskey should not be nullified because it was added for flavor. Rav Moshe maintains that wine which is *batul b'sheish* is referred to as *kiyuha*; even wine added for flavor can not cause the Scotch to be prohibited since it is treated as "acid."<sup>21</sup> Rav Moshe proves this concept from various sources, including *Tosfos* (*Chulin* 25b *d.h. Hamitamed*) who write that diluted wine is called *kiyuha* and is not considered "*taam gamur*." This indicates that even though the "*taam yayin*" can still be tasted, it nevertheless loses its status as "wine," even though the intent of the person who created the mixture was to add wine flavor. Based on this concept, it would certainly seem that wine flavor transferred from wine casks into Scotch should be able to be nullified regardless of the fact that some distilleries are truly interested in the wine flavor.

The issue of *avida l'taamah* is also addressed by Rav Weiss. He argues (*Minchas Yitzchok* II 28:5-7) that if the actual wine flavor can be detected then it can never be nullified. If the taste can not be detected then it can be permitted based on the principle *zeh v'zeh garam* (*ibid.* *s.k.* 16-18). The rationale for this is that many factors are involved in the making of Scotch, including the malted barley, water, wood flavor, peat and Sherry flavoring. Since the overall flavor is affected by many factors, the particular contribution of wine is not considered *avida l'taamah*.

It would appear that most experts agree that although the wine affects the overall flavor, the actual taste of wine cannot be distinguished, as the *Minchas Yitzchok* himself (*s.k.* 21) acknowledges. Therefore, the prohibition of *stam yeinam* would not apply to Scotch even though it is *avida l'taamah*.

However, this rationale is difficult to understand. The distinctive flavor of Scotch matured in Sherry casks cannot be achieved without the addition of forbidden Sherry flavor. The concept of *zeh v'zeh garam*, however, is applicable only where the particular flavor could have been achieved with the other kosher ingredients had they been

---

21 "וא"כ מה לנו אם בכוונה ניתן מצד טעם הקיזוהא – הא עכ"פ לא ניתן לטעם יין שזה ליכא במציאות, וטעם הקיזוהא לא נחשב להאסר"

present in larger quantities. Rav Weiss himself grapples with this issue in a later volume (VII 27:4) and writes that *zeh v'zeh garam* is not applicable to Sherry casks. Since the distinctive Scotch flavor could not have been attained solely with the other kosher ingredients, the concept of *zeh v'zeh garam* does not apply.

To summarize: With regard to the concern of *avida l'taamah* it is questionable if the actual flavor of wine is discernable and desired. Accordingly, its identity is not preserved and is therefore susceptible to nullification. It is also debatable whether one can invoke the principle of *zeh v'zeh garam*. Furthermore, according to Rav Moshe there is no concern of *avida l'taamah* due to the fact that *stam yeinam* is no longer considered wine when nullified in six parts.

#### **b. *Ikro Kach* (an integral ingredient)**

The *Shulchan Aruch* (134:13), quoting the *Tshuvos HaRashba* (III *siman* 214), rules that one may not drink any liquid of a gentile if it is customary to add (non-kosher) wine to it. The *Rashba* clarifies that the drink is forbidden even if there is enough kosher liquid to nullify the wine. The reason for this is that any liquid which is an integral ingredient of a mixture defines the final product, in this case causing its forbidden status (*Minchas Yitzchok* II 28:12, based on the *Machatzis Hashekel* 447:45 towards the end).<sup>22</sup> Accordingly, it would seem that Scotch containing absorption of Sherry wine should be forbidden.

However, it is important to note that the *Noda B'Yehuda* (*Tinyana YD* 56) rules that since many *Poskim* argue with the *Rashba*, namely the *Rambam* and *Ri Migash*, one may be lenient and permit the liquid mixture.

Furthermore, Rav Weiss (*ibid.* 28:18), based on the *Machatzis Hashekel* mentioned above, maintains that this prohibition does not apply in a scenario of *zeh v'zeh garam*. Since the final taste cannot be achieved without other permissible ingredients, the forbidden substance can not define the entire mixture. Therefore, since the unique taste of Scotch is only achieved with a combination of various ingredients, the

---

22 See *Minchas Yitzchok* (*ibid.*) who explains the difference between this prohibition and *avida l'taamah*.

wine ingredient would not cause the Scotch to be prohibited.

Rav Moshe Feinstein (*YD I siman* 63) seems to have a different view on this *halacha*. After quoting the *Shulchan Aruch* (*ibid.*) that one may not drink liquid of a gentile if it is customary to add wine to it, he notes that the *Rama* (*siman* 114, *seifim* 4, 6) disagrees and rules that the liquid may be used if the wine is nullified.<sup>23</sup> Rav Moshe maintains that although the *halacha* follows the *Rama* that the liquid may be consumed if the wine is nullified, it is advisable that a *baal nefesh* abstain from drinking such a liquid in order to accommodate the position of the *Rashba*.<sup>24</sup>

### c. *Chazusa* (coloring)

The *Rama* (102:1) rules that if a forbidden item adds color to a mixture, the item cannot be nullified. Accordingly, since one of the primary functions of Sherry casks is to add color to the light-colored Scotch, the wine should not be *batul*.

However, the *Minchas Yitzchok* (II 28:19) quotes the *Pri Chadash* (102:5) that *Chazal* were not concerned about coloring when dealing with an item which is only Rabbinically forbidden, which includes the prohibition of *stam yeinam*. Furthermore, since the color is affected by many other factors, including the barrel and caramel color, this would be considered *zeh v'zeh garam* and would not be forbidden.

---

23 However, Rav Weiss (*ibid. s.k.* 12-13) maintains, based on an apparent contradiction in the *Shulchan Aruch*, that the lenient position of the *Rama* applies only when the non-kosher ingredient does not enhance the mixture, but if it was added to improve the mixture then the mixture is forbidden (unless it is a scenario of *zeh v'zeh garam*).

24 It is important to realize that Rav Moshe was referring to a scenario where wine was poured *into* whiskey, as opposed to Scotch which is simply matured *in* wine casks. One may argue that Rav Moshe's *chumra* applies only to his scenario where wine was actually poured into whiskey; accordingly, a *baal nefesh* should be concerned with the *Rashba's* opinion that an integral ingredient causes the entire liquid to be forbidden. With regard to Scotch, however, wine is *never* poured into the barrel (it is actually illegal to do so); rather, the Scotch absorbs the *blios* of wine through *kavush*. Since wine is not an *added* ingredient to Scotch, perhaps the *Rashba* would agree that the standard rules of *bitul* apply and even a *baal nefesh* need not be concerned with the *Rashba's* *chumra*.

#### **d. Bitul Issur L'chatchila (intentional nullification)**

Another potential issue of concern is *bitul issur l'chatchila*. It is forbidden to add even a minute amount of Rabbinically forbidden non-kosher ingredient to kosher food, even though it is an amount that would be nullified (*Shulchan Aruch YD* 99:6). If it was intentionally added, *Chazal* imposed a penalty and prohibited the food to the one who mixed it in and to the person for whom it was added (*ibid.* 99:5). This prohibition is referred to as *bitul issur l'chatchila*. What is the *halacha* if forbidden matter was added intentionally by a commercial manufacturer - is the product forbidden for the consumer? Rabbi Akiva Eiger (gloss to *Shulchan Aruch ibid.*) quotes the *Rivash* that it is forbidden for the customers because it is considered as if the manufacturer mixed in the forbidden item specifically for the customer. He notes that the *Taz* (s.k. 10) permits the item to the purchasers because it was not mixed with any particular individual in mind. Accordingly, it would appear that the addition of Sherry wine is considered *bitul issur l'chatchila* according to the *Rivash*, but not according to the *Taz*.

However, Rav Moshe Feinstein (*Igros Moshe YD I siman* 62) writes that since Scotch is mainly marketed to gentiles and not to Jews, it is considered as if the addition of wine was done for them. As such, there would be no problem even according to the *Rivash*.

He reasons further (*ibid. siman* 63) that even though the manufacturer created additional Scotch to accommodate the Jewish market, there can not be a penalty imposed upon the Scotch because the Scotch manufacturer did not violate any prohibition by adding the wine. Furthermore, many *Poskim* side with the *Taz* that there is no prohibition for the consumer. Additionally, since nowadays wine of gentiles has the status of *stam yeinam*, from which one is permitted to benefit (as opposed to the days of old when wine of gentiles had the status of *yayin nesech*, and it was forbidden to benefit from it), it must be that no real concern exists that the wine was used for idolatrous purposes. The prohibition must be solely to avoid intermarriage, and is therefore considered like a prohibition that has no direct source in the Torah (*ain lo shoresh min hatorah*). Accordingly, this would fall under the opinion of some *Poskim* that one may intentionally nullify an item if the source of its prohibition is entirely Rabbinical (*Tosfos Pesachim*

30a). Lastly, the *Rambam* rules that one may nullify *any* food that is only Rabbinically prohibited. Based on all of these reasons, Rav Moshe concludes that whiskey containing wine would not be prohibited because of *bitul issur l'chatchila*.

Rav Yitzchok Weiss (*Minchas Yitzchok* II 28:20) provides an additional reason that *bitul issur l'chatchila* does not apply to Scotch. The *Maharsham* (III *siman* 234) writes that the motivation behind the penalty against one who intentionally nullifies was *Chazal's* concern that one may add a large amount of forbidden food, and nullification would no longer be effective. As such, the penalty cannot possibly apply to our scenario because one would certainly avoid adding a large amount of wine to Scotch; doing so would ruin the Scotch.<sup>25</sup>

To summarize: regarding Scotch which is matured in barrels from which it absorbs *stam yeinam*, it appears that the wine must be nullified through *bitul b'sheish*. It further appears that nullification is possible and there is no problem of *avida l'taamah* according to Rav Moshe, no concern (*m'ikur hadin*) of *ikro kach*, no concern of *chazusa*, and no problem of *bitul issur l'chatchila*.

#### IV. ESTABLISHING THE FACTS: DO SHERRY CASKS CONTAIN SHEISH AGAINST THE STAM YEINAM?

Now that we have determined that in order to nullify the wine *blios* in Sherry casks, there must be six times as much Scotch as the amount of wine absorbed in the casks, it is crucial to determine if that volume is generally present. This requires an evaluation of the volume of liquid absorbed in the walls of a Scotch barrel vs. the volume of the contents of the barrel.<sup>26</sup> The wine barrels that are commonly used

---

25 In addition, one can argue that the penalty against *bitul issur l'chatchila* applies only to one who mixes a forbidden item *into* kosher food. In our scenario, however, wine is not being added into the Scotch; our issue is only the absorption of wine *blios*. Accordingly, this may not be considered an act of *mevatel issur l'chatchila*.

26 If there is actual wine inside the cask, *e.g.*, if the casks were shipped to Scotland with wine actually sloshing around inside, the volume required for *bitul* would be measured relative to this wine as well.

nowadays are Sherry casks (called “butts”) which generally contain 500 liters. In order to conclude that the wine is *batul b’sheish* one must ascertain that the volume of the walls of the barrel is not more than 83.33 liters, or 16.67% of the volume of the contents. Studying the dimensions of a standard 500 liter barrel one discovers that the walls can contain 20% of the contents, which means that there would not be enough Scotch to be *mevatel* the *blios* of the entire thickness of the walls *b’sheish*. (Although one would intuitively take the wood mass into consideration when calculating how much wine is absorbed, for purposes of *halacha* we measure the *blios* contained in the walls as if the walls were hollow and full of *blios*. Since it is impossible to ascertain the precise volume of non-kosher taste absorbed in the walls, we must consider the walls to be completely imbued with non-kosher taste. *Shulchan Aruch* 98:4.<sup>27</sup>)

This calculation for the volume of the walls of a standard barrel

---

27 A novel approach suggested by the *Netziv* and Rav Moshe Feinstein may salvage the issue of Sherry casks. The *Netziv* (*Maishiv Davar* II *siman* 23) and Rav Moshe (*Igros Moshe* YD I *siman* 41) write that although the *halacha* is that we always require 60 times relative to a piece of *issur* even if it does not appear to have decreased in size (e.g., if a *k’zayis* of *niveila* falls into soup one needs to have 60 *k’zeisim* relative to the entire *k’zayis* even if the *k’zayis* of *issur* is still intact), the *halacha* is different with regard to liquids. A liquid can only flavor when it itself is absorbed; if the liquid remains at its original volume then one does not need 60 times relative to the liquid (e.g., if one cooks 10 *k’zeisim* of pork brine in a kosher pot and, after cooking it, discovers that 8 *k’zeisim* remain, one needs 60 times only against 2 *k’zeisim*). The rationale for this distinction is that when it comes to solids, it is possible to separate the *taam* from the *mamash*, as opposed to liquids where it is impossible to do so.

Accordingly, since the walls of a barrel do not absorb more than 5% of the liquid contents, one would require the proportion of *bitul* only relative to this minute amount, which is certainly present.

However, many *Poskim* argue on this *psak* and feel that the proportion of *bitul* required is relative to all the liquid that was in the pot, and that no distinction is made between solids and liquids. This is quite apparent from the words of the *Rama* (92:8): אִם הָיָה חֵלֶב בְּמַחֲבַת (ו) בְּעֵינַיִן ס’ בַּתְּבִשִׁיל שְׁבַקְדִירָה גַּד הַחֵלֶב שֶׁבְּמַחֲבַת – If one places a pan of milk under a pot of meat inside the oven, the volume of *shishim* is required relative to the milk, including the milk remaining in the pot. The *Badei Hashulchan* (92:146 and *biurim d.h. mah* & 92:8 *biurim d.h. u’v’inan*) cites many *Poskim* (including the *Chavos Yair*, *Kreisi U’Pleisi*, and the *Chavas Daas*) that feel that the proportion of *shishim* is required against all of the liquid and therefore concludes that this leniency is *tzaruch iyun*.



was made using a barrel calculator (<http://www.cleavebooks.co.uk/scol/calbarr.htm>) to figure the volume of a barrel using dimensions of a 500L barrel offered by *Artisan Barrels* (a private wine-barrel manufacturer). The inside dimensions for a 500L barrel are: Height= 104.6 cm, Head Diameter= 72.6 cm, Barrel Center Diameter= 79.6 cm. The outside dimensions are: Height= 110 cm, Head Diameter= 78 cm, Barrel Center Diameter= 85 cm. The barrel calculator indicates that the volume of liquid contained inside this barrel is 483L (fairly close to the stated volume), while the volume of the entire barrel is 582L.<sup>28</sup> Accordingly, it appears that the walls can hold 99L, which is 20% of the contents, and would not be *batul b'sheish*.<sup>29</sup>

[It should be noted that these calculations were done with the dimensions of a standard 500L wine barrel; if maturation is done with different size barrels, the calculations may differ, possibly changing the *halacha*.]

## V. CONCLUSION

In conclusion, Scotch matured in Sherry casks seems to be very problematic due to the *blios* of *stam yeinam* located in the entire thickness of the barrel walls. In a standard barrel, it appears that there is not sufficient volume of Scotch for these *blios* to be *batul b'sheish*.

If one wishes to be lenient on Sherry casks he would have to rely on a combination of many *kulos*: 1) Rav Moshe's *heter* that there is no problem of *avida l'taamah*, 2) that there is no concern of *ikro kach*, 3)

---

28 The calculator uses the dimensions of a barrel and considers the stave thickness to be paper-thin. By subtracting the volume of a slightly smaller barrel (using the interior dimensions) from the volume of the larger barrel (using the outside dimensions), one can ascertain the volume of the walls.

It should be noted that the standard formula to calculate the volume of a cylinder ( $V = \pi r^2 h$ ) can not be used to calculate the volume of a barrel due to the fact that the side walls bulge outward. The barrel calculator takes this into consideration by using the standard shape of barrels.

29 According to a *Posek* familiar with Sherry casks, the ratio of the inside volume of Scotch barrels to the walls is 4.25 to 1. This ratio would certainly not allow the *blios* to be *batel b'sheish*.

that there is no concern of *bitul issur l'chatchila*, 4) the *Taz's* position that wine is *batul b'sheish* in Scotch, and 5) the *Chacham Tzvi* that holds that it is sufficient to have *bitul* against the *klipah*.<sup>30</sup>

Many people maintain that Scotch matured or finished in Sherry casks is permitted *m'ikur hadin* based on Rav Moshe Feinstein's *heter* that the *stam yeinam* is *batul b'sheish*. It is of vital importance to realize, however, that he was referring to a scenario where wine (less than 2½%) was poured *into* whiskey, and thus they were quite sure that the wine was indeed nullified. The concern with Scotch is that it is matured *in* wine casks. Although one might think that Scotch is *more* lenient since it is only absorbed wine (*blios*) - not actual wine (*bi'en*), it may be more stringent due to the opinion of the *Shach* and *Chochmas Adam* that the volume of *blios* is measured by the entire thickness of the walls.<sup>31</sup>

---

30 A *baal nefesh*, though, must be concerned that the wine is not *batul b'shishim* and that the addition of wine is considered *ikro kach*, not susceptible to nullification (Rav Moshe Feinstein, quoted above, Sec. A:c, B:b. See above, footnote 24).

31 In a conversation with the author, Harav Shlomo Miller *shlita* suggested that Sherry-matured Scotch is permitted *m'ikur hadin* due to a combination of factors: 1) It is quite possible that wine is ruined when mixed with Scotch (see above, footnote 9). 2) As mentioned in Section I, after Scotch has fully matured it is generally diluted to a bottling strength of between 40-46% alcohol content. Accordingly, even if wine *blios* truly require *bitul b'sheish*, this addition of water, together with the Scotch itself, is enough to nullify the wine *b'sheish*. (Although the principle of *chaticha na'asis neveila* generally disallows the addition of kosher liquid to recalculate the original ratio, the Rama 92:4 rules leniently when dealing with a liquid mixture – *lach b'lach*. Even though the Rama is lenient only *b'hefsed gadol* – there is room to be lenient when combined with another leniency: The Rashba (Toras Habayis IV:1, pg. 14) is of the opinion that wine which is *batul b'sheish* is not subject to the limitations of *chaticha na'asis neveila*. This combination of leniencies will allow one to be lenient even in the absence of a great loss.) However, this leniency only applies to Scotch which is diluted after the maturation in the Sherry cask is complete; Scotch which is diluted before being placed in a Sherry cask would not have this leniency. According to a *Posek* familiar with the subject, “finishes” are diluted to bottling strength before being placed in a Sherry cask. Consequently, “finishes” would not be subject to this leniency. This point requires further clarification. 3) We find that *Chazal* prohibited the wine of a Jew which came into contact with a gentile because he may have had intent for idolatrous purposes. Additionally, *Chazal* prohibited wine produced by a gentile even if it was not touched by a gentile so as to discourage intermarriage (see *Har Tzvi*, *YD siman* 111). Wine produced nowadays in a commercial setting can be assumed to have avoided

It is important to note that the problem of Sherry-casks generally applies only to Scotch that says clearly on the label that it was matured in Sherry (or other wine) casks, “double-matured,” or “Sherry finish.” If the label makes no mention of Sherry casks, a doubt exists if such casks were used. As such, the dictum *safek d’rabbanan l’hakel* (when in doubt regarding a Rabbinical prohibition, one may be lenient) applies (*Igros Moshe YD I siman 62*). Furthermore, if there is no mention of Sherry on the label then one can assume that it was *not* matured in Sherry casks. Since Sherry cask maturation is a great marketing gimmick, distillers are sure to advertise the use of Sherry casks (and charge more accordingly). However, as time goes on, more and more distilleries are starting to use finishes, and it is becoming difficult to find high-quality Single-Malt Scotch that has been matured solely in non-wine casks.

Additionally, this entire discussion refers only to Single Malt Whisky. Blended Scotch Whisky (e.g., *Grant’s, Johnnie Walker*) is generally not a problem. According to *scotchwhisky.net*, a blended Scotch whisky may contain a combination of whiskies from over 40 or 50 different malt and grain distilleries. As such, even if whisky from Sherry casks were blended in, it is likely a small amount of the entire blend, lending itself to *bitul*. Additionally, the finished product is only 20% of the bottle (the rest is 20% grain neutral alcohol and 60% water) so any minute amount of Sherry-matured Scotch is *batul*. Further, if the label

---

direct contact with a gentile because the entire process is mechanical. (According to the *Chazon Ish*, touching the exterior of a vessel containing wine is not considered direct contact.) Since such wine is only forbidden by the latter prohibition, it’s possible that it is *batul b’rov* (nullified in a mixture which contains a majority of kosher food). The *Shach* (112:23) and many other *Poskim* are of the opinion that *bishul akum* (food cooked by a gentile) is *batul b’rov* when mixed into kosher food. Although non-kosher food generally requires nullification *b’shishim*, food which *Chazal* prohibited solely to discourage intermarriage (such as *bishul akum*) is nullified *b’rov*. One can argue that since commercially-produced Sherry wine is prohibited nowadays solely to discourage intermarriage, it is also *batul b’rov*, similar to *bishul akum*, and *sheish* is not required. (According to *halacha*, *stam yeinam* is nullified only with *sheish* or *shishim*, but perhaps one may be lenient when combined with the factors mentioned above.) Based on the above factors, Scotch matured in Sherry casks is permitted *m’ikur hadin*.

makes no mention of Sherry casks then a doubt exists if such casks were used, as mentioned above.

Some varieties of Scotch that recently appeared on the market were matured in Rum casks (e.g., *Glenfiddich* 21). Research shows that Rum is produced from distilled sugar and molasses, so there is no halachic concern of *stam yeinam*.

Another Single Malt Scotch that recently appeared on the market, *Bruichladdich* 18 yrs. old, distilled in 1989, was matured in bourbon casks and additionally matured in “Kosher wine casks from Carmel Winery, Israel.” It is unclear if this company is trying to avoid the problematic maturation in Sherry casks by using kosher wine barrels or is just trying to create a unique marketing gimmick. It would appear that the issue of *stam yeinam* was indeed avoided, because the *blios* of kosher wine presumably do not become *stam yeinam* when gentiles handle the wine cask.

## VI. GLOSSARY

*Ain mivatlim issur l'chatchila*: one may not intentionally nullify forbidden foods. There is a difference of opinion among the *Rishonim* if this prohibition is Biblical or Rabbinical (see *Beis Yosef YD 99*). One who intentionally causes *bitul* of non-kosher food may not partake of the food. Others may eat from the mixture unless it was specifically nullified on their behalf.

*Avidah l'taamah*: “added for taste purposes” – non-kosher food that is generally used to flavor mixtures (e.g., spices) retains its potency even when added to a large mixture and therefore can not be nullified.

*Bi'en*: “actual” - referring to tangible substance of non-kosher food which is mixed into kosher food (as opposed to “*blios*”).

*Bitul b'sheish*: “nullified in six” – when *yayin nesech* or *stam yeinam* becomes mixed into kosher liquid six times its volume, the non-kosher wine becomes nullified.

*Bitul b'shishim*: “nullified in sixty” – when non-kosher liquid becomes mixed into kosher liquid sixty times its volume, the non-kosher liquid becomes nullified.

*Bitul issur l'chatchila*: see “*Ain mivatlim issur l'chatchila*”

*Blios*: “absorptions” – the absorption of non-kosher food without tangible food substance (as opposed to “*bi'en*”). E.g., non-kosher wine which sits in a barrel for 24 hours will impart *blios* into the walls of the barrel. These *blios* retain the capacity to enter subsequent batches of wine, potentially rendering them forbidden.

*Chazusa*: “color” – non-kosher food that adds color to a mixture retains its identity and can not be nullified.

*Distillation*: the process of purifying a liquid by successive evaporation and condensation

*Foreshots*: Also known as the head of the distillation or heads. The first cut of the output from the Low Wines or Spirit Still. This liquid is returned back to the Low Wines and Feints Charger for re-distillation as part of the next batch.

*Kavush*: if non-kosher liquid soaks in a kosher pot for twenty-four hours, the vessel absorbs non-kosher *blios*.

*Klipah* (or *kdei klipah*): “an amount sufficient to be peeled” – When kosher and non-kosher items come in contact under certain circumstances, only minimal *blios* are transferred. In these situations only the least amount that can be removed in one piece from the surface of the food or vessel must be discarded.

*Libun*: a form of *kashering*; a non-kosher vessel is exposed to intense fire, thereby burning out the *blios*.

Lyne arm: The part of a pot still extending from the top of the neck down to the Worm Tub or Condenser (sometimes called the lye pipe or swan neck). There is considerable variation in its design and distilleries will vigorously defend their own design as having a unique contribution to their final product.

Mash: crushed malt or grain meal steeped and stirred in hot water to produce wort.

*Milui v'iruy*: “filling and pouring” – a form of *kashering* applicable to certain non-kosher vessels; a non-kosher vessel is filled with water, allowed to rest for 24 hours, and then emptied. The process is repeated three times.

*Pagum* or *pogem*: “ruined” or “ruins” – non-kosher food that becomes ruined when mixed with kosher food, which will generally not forbid the mixture.

Peat: an accumulation of partially decayed vegetation matter.

Steep: a vessel in which the mixture of unmalted whole barley and regularly-changed, fresh water is left to soak prior to the soaked grain being spread on the Floor Maltings to germinate (or, as a verb, the action of soaking the barley in water).

Still: a utensil in which the heat of the fire is applied directly to the pot containing the mash.

*Stam Yeinam*: the wine of a gentile, even if not used for idolatry; prohibited by *Chazal* to avoid social interaction which could lead to intermarriage.

Wash: The low-strength beer product of fermentation in the Washback which is used in the Wash Still for the first stage of distillation. Typically, the wash is at about 8% alcohol by volume (abv). Sometimes known as the brew or (in the US) beer.

Washback: The Washback is a vessel, traditionally made of Oregon Pine, in which the wort and yeast are left to ferment into a wash. It is sometimes

### 31 / Sherry Casks: A Halachic Perspective

called a fermenter.

**Wort:** An infusion of malt which is in the act of fermentation; the sweet infusion of malt, which ferments and forms beer. Note: Wort consists essentially of a dilute solution of sugar, which by fermentation produces alcohol and carbon dioxide.

**Yayin nesech:** wine used for idol worship. One may not derive any benefit from this wine.

**Zeh v'zeh garam:** “this and this caused it” – a forbidden food will not prohibit a mixture if the flavor (or taste) that it provides could have otherwise been attained from permissible food in the mixture had it been present in a larger quantity.