**Payment of Bonus Act, 1965**

As per this act, employer, employing 20 or more employees at any day of financial year is bound to pay bonus provided wages of employee should be below or equal to Rs 10,000/- per month. Every employee should get minimum of 8.33% of wages, capped at Rs 3500/-, even if there is loss and maximum of 20% of wages, capped at Rs 3500/-, in an accounting year. [Download Payment of Bonus Act 1965.](http://hrsuccesstalk.com/forum/Thread-Bare-Act-Payment-of-Bonus-1965-India)

**Q  : Who are eligible for Bonus?**

Every employee whether on probation, part time, contractual, permanent, supervisor or manager whose wage is less than or equal to Rs 10000/- and has completed 30 days in an accounting year is eligible for bonus. Apprentice under Apprentice act are not eligible.

**Q: On which salary components Bonus is calculated?**

Bonus is calculated on Basic and DA.

**Q :  Do a start up organization need to pay bonus?**

In the first five accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, bonus shall be payable only in respect of the accounting year in which the employer derives profit from such establishment and such bonus shall be calculated in accordance with the provisions of this act in relation to that year but the concept of set off and set on will not apply.

**Q : When should a new unit be considered as separate unit for the purpose of taking Bonus exemption for new establishment.**

As per Supreme Court judgement, any unit where Profit and Loss account and Balance sheet are maintained separately should be considered as separate establishment.

**Q : What is the concept of set on and set off.**

(1) Where for any accounting year, the allocable surplus exceeds the amount of maximum bonus payable to the employees in the establishment, then, the excess shall, subject to a limit of 20% of the total salary or wage of the employees employed in the establishment in that accounting year, be carried forward for being set on in the succeeding accounting year and so on up to and inclusive of the fourth accounting year to be utilized for the purpose of payment of bonus.

(2) Where for any accounting year, there is no available surplus or the allocable surplus in respect of that year falls short of the amount of minimum bonus payable to the employees in the establishment, and there is no amount of sufficient amount carried forward and set on which could be utilized for the purpose of payment of the minimum bonus, then, such minimum amount or the deficiency, as the case may be, shall be carried forward for being set off in the succeeding accounting year and so on up to and inclusive of the fourth accounting year.

Where in any accounting year any amount has been carried forward and set on or set off under this section, then, in calculating bonus for the succeeding accounting year, the amount of set on or set off carried forward from the earliest accounting year shall first be taken into account.

**Example:**
In the Example, the total amount of bonus equal to 8.33 per cent of the annual salary or wage payable to all the employees is assumed to be Rs. 1,04,167. Accordingly, the maximum bonus to which all the employees are entitled to the paid (twenty per cent of the annual salary or wage of all the employees) would be Rs. 2,50,000.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Year | Amount equal to sixty per cent, or sixty seven per cent, as the case may be, or available surplus allocable as bonus  | Amount payable as bonus | Set on or set off of the year carried forward | Total set on or set off Carried forward |
| (1) | (2) | (3) | (4) | (5) |
|  | Rs. | Rs. | Rs. | Rs.  of       (year ) |
| 1. | 1,04,167 | 1.04,167\*\* | Nil | NIl |
| 2. | 6.35,000 | 2,50,000\* | Set on 2,50,000\* | Set  on            2,50,000\*       (2) |
| 3. | 2,20,000 | 2,50,000\* (inclusive of 30,000 from year –2) | Nil | Set  on           (2)2,20,000 |
| 4. | 3,75,000 | 2,50,000\* | Set on 1,25,000\* | Set  on           2,20,000         (2)1,25,000         (4) |
| 5. | 1,40,000 | 2,50,000\*(inclusive of 1,10,000 from year-2) | Nil | Set  on            (2)1,10,0001,25,000         (4) |
| 6. | 3,10,000 | 2,50,000\* | Set on 60,000 | Set on Nil+                 (2)1,25,00           (4)  60,000          (6) |
| 7. | 1,00,000 | 2,50,000\*(inclusive of 1,25,000 from year–4 and 25,000 from year-6) | Nil | Set on35,000            (6) |
| 8. | Nil (due to loss) | 1,04,167\*\*(inclusive of 35,000 from year -6) | Set off 69,167 | Set off 69,167            (8) |
| 9. | 10,000 | 1,04,167\*\* | Set off 94,167 | Set off 69,167            (8)94,167            (9) |
| 10. | 2,15,000 | 1,04,167\*\*(after setting of 69,167 from year-8 and 41,666 from year-9) | Nil | Set off 52,501            (9) |

**Notes-**

\* Maximum.

+ The balance of Rs. 1,10,000 set on from year-2 lapses.

\*\* Minimum

**Q : What is the time limit to pay bonus?**

Bonus should be paid within 8 months from end of financial year.

**Q : Can Bonus be paid on monthly basis?**

Many company follow the practise of paying bonus on monthly basis, some pay minimum 8.33% of Rs 3500 i.e Rs 292/- or some 20% of Rs 3500/- i.e Rs 700/- per month.

They do it for achieving following purpose:

* In hand salary of employee will increase as we are paying statutory bonus up front on monthly basis.
* Company liability of bonus payment is taken care of.

Now the question is whether this is a right practise or not? If you go out to find out answer of this question you will get two opinions as follows:

1. Yes, we can do this as there is no mention in the act that we can not pay it on monthly basis.
2. No, we can not do this. How can company calculate percentage of bonus to be paid in the starting of financial year? Also when you pay any money on monthly basis it becomes part of your salary which means statutory bonus is yet to be paid. ESI will also be deducted on such payments.

If you ask me, I would not recommend to pay bonus on monthly basis as it can create problem in future and employer pay need to pay statutory bonus again.

**Q : What are the circumstances when an employee is not eligible for bonus?**

An employee shall be disqualified from receiving bonus under this Act, if he is dismissed from service for --

(a) fraud; or

(b) riotous or violent behaviour while on the premises of the establishment; or

(c) theft, misappropriation or sabotage of any property of the establishment.

**Q : Which institutions are exempted from payment of bonus?**

Hospitals, Social welfare institutions, Chambers of the Commerce , Indian Red Cross society or other institutions of a like nature, universities and educational institutions.

**Q: How working days of an employee calculated for computing bonus?**

**Computation of number of working days.—**An employee shall be deemed to have worked in an establishment in any accounting year also on the days on which--

(a) he has been laid off under an agreement;

(b) he has been on leave with salary or wage;

(c) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(d) the employee has been on maternity leave with salary or wage, during the accounting year.

**Q : Can interim bonus paid to employee be adjusted against statutory bonus payout?**

When:

(a)    an employer has paid any puja bonus or other customary bonus to an employee; or

(b) an employer has paid a part of the bonus payable under this Act to an employee before the date on which such bonus becomes payable.

then, the employer shall  be entitled to deduct the amount of bonus so paid from the amount of bonus payable by him to the employee under this Act in respect of that accounting year and the employee shall be entitled to receive only the balance.

**Q: Can an organization pay different percentage of bonus to different set of employees?**

No, bonus percentage should be same for every employee who is eligible under the act. No discrimination.