



# RAMA UNIVERSITY

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## **FACULTY OF COMMERCE & MANAGEMENT**

**COURSE: MBA 3<sup>rd</sup> SEMESTER**

**SUBJECT: LABOUR LEGISLATIONS**

**SUBJECT CODE: MBAHR01**

**LECTURE: 20**

**NAME OF FACULTY: DR. H. L. BHASKAR**

# Lecture-20



**Social Security Legislations: Payment of Wages Act, 1936; Minimum Wages Act, 1948; Payment of Bonus Act, 1965; The Workmen's Compensation Act, 1923; The Employee State Insurance Act, 1948; Employees' Provident Fund and Miscellaneous Provisions Act, 1952; Maternity Benefit Act, 1961**

## **Payment of Bonus Act, 1965**

### **Core of the The Payment of Bonus Act, 1965**

**Eligibility:** any employee who draws salary or wage up to Rs. 21,000 is eligible for claiming bonus

**Bonus calculation purpose:** according to the 2015 Amendment, Ceiling amount ( maximum limit ) of Rs. 7000 is considered as wage or salary for calculation of bonus.

**percentage for Calculation of bonus:** 8.33% minimum or 20% maximum.

## **The Payment of Bonus Act, 1965**

The Payment of Bonus Act, 1965 is the principal act for the payment of bonus to the employees which was formed with an objective for rewarding employees for their good work for the organization. It is a step forward to share the prosperity of the establishment reflected by the profits earned by the contributions made by capital, management and labour with the employees.

### **Objective**

1. To improve statutory liability to pay bonus [reward for good work] in case of profits or losses.
2. To prescribe formula for calculating bonus
3. To prescribe Minimum & Maximum percentage bonus
4. To provide of set off/set on mechanism
5. To provide redressal mechanism

**Calculation of bonus with respect to certain employees. [Sec 12](2015 amendment)**

Where the salary or wage of an employee exceeds Rs.7,000/- per mensem, the bonus payable to such employee under Sec.10, or as the case may be, under Sec.11, shall be calculated as if his salary or wage were Rs.7,000/- per mensem.

**2. Definitions.**

**Section**

**(1) "accounting year"** means-

(i) in relation to a corporation, the year ending on the day on which the books and accounts of the corporation are to be closed and balanced;

(ii) in relation to a company, the period in respect of which any profit and loss account of the company laid before it in annual general meeting is made up, whether that period is a year or not;

(iii) in any other case-

(a) the year commencing on the 1st day of April; or

(b) if the accounts of an establishment maintained by the employer thereof are closed and balanced on any day other than the 31st day of March, then, at the option of the employer, the year ending on the day on which its accounts are so closed and balanced

**(4) "allocable surplus"** means-

(a) in relation to an employer, being a company (other than a banking company)] which has not made the arrangements prescribed under the Income-tax Act for the declaration and payment within India of the dividends payable out of its profits in accordance with the provisions of section 194 of that Act, 67% of the available surplus in an accounting year;

(b) in any other case, 60% of such available surplus;

**(11) "corporation"** means any body corporate established by or under any Central, Provincial or State Act but does not include a company or a co-operative society;

**(12) "direct tax"** means-

(a) any tax chargeable under-

(i) the Income-tax Act;

(ii) the Super Profits Tax Act, 1963 (14 of 1963);

(iii) the Companies (Profits) Surtax Act, 1964 (7 of 1964);

(iv) the agricultural income-tax law; and

(b) any other tax which, having regard to its nature or incidence, may be declared by the Central Government, by notification in the Official Gazette, to be a direct tax for the purposes of this

Act;

## *The Payment of Bonus (Amendment) Bill, 2015*

**Section 2 (13) "employee"** means any person (other than an apprentice) employed on a salary or wage not exceeding 21,000/- rupees per month in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied; (2007 amendment)

**[Employees eligible for bonus:** The Act mandates payment of bonus to employees' whose salary or wage is up to Rs 21,000 per month.]

**For calculation purposes** Rs.7,000 per month maximum will be taken even if an employee is drawing up to Rs.7,000 per month. (Sec. 12)

**(15) "establishment in private sector"** means any establishment other than an establishment in public sector;

**(16) "establishment in public sector"** means an establishment owned, controlled or managed by-

(a) a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);

(b) a corporation in which not less than forty per cent of its capital is held (whether singly or taken together) by-

(i) the Government; or

(ii) the Reserve Bank of India; or

(iii) a corporation owned by the Government or the Reserve Bank of India;

## **Payment of Bonus Act not to apply to certain classes of employees. [Section 32]**

- Life Insurance Corporation ,
- The Indian Red Cross Society or any other institution of a like nature,
- Universities and other educational institutions ,
- Institutions (including hospitals, chambers of commerce and society welfare institutions) established not for purposes of profit,
- Employees employed through contractors on building operations,
- Employees employed by the Reserve Bank of India,
- The Industrial Finance Corporation of India,

- Financial Corporations,
- the National Bank for Agriculture and Rural Development,
- the Unit Trust of India,
- the Industrial Development Bank of India,

## Eligibility for bonus. [Sec 8] (2007 amendment)

An employee will be entitled only when he has worked for 30 working days in that year.

## Calculation of bonus with respect to certain employees. [Sec 12] (2015 amendment)

Where the salary or wage of an employee exceeds Rs.7,000/- per mensem, the bonus payable to such employee under Sec.10, or as the case may be, under Sec.11, shall be calculated as if his salary or wage were Rs.7,000/- per mensem.

The Government has decided to enhance the eligibility limit for payment of bonus 3500/- per month

## Disqualification for bonus. [Sec 9]

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

- Fraud; or (b) Riotous or violent behaviour while on the premises of the establishment; or
- Theft, misappropriation or sabotage of any property of the establishment.

## Payment of minimum bonus. [Sec 10]

- Bonus should be paid along with the salary
- Every year, every employer shall be bound to pay bonus to every employee.
- a minimum bonus which shall be 8.33% cent of the salary or wage earned by the employee during the accounting year or 100/- rupees, whichever is higher.
- Bonus shall be payable in case of profits or losses in the accounting year.

In *Jalan Trading Co. v. Mill Mazdoor Sabha* (AIR 1967 SC 691), the Supreme Court observed that the power of Parliament to fix minimum bonus cannot be questioned, because the object of the Act is to make an equitable distribution of surplus profits between the three factors of production. It flows from jurisdiction over industrial and labour disputes, welfare of labour. The legislation is therefore neither a fraud on the Constitution nor is colourable exercise of power.

In *M/s. J.K. Acrylics v. Union of India* (1997 (2) LLJ 608.), the Court held that where the Payment of Bonus Amendment Act, 1995, replacing the Amendment Ordinance of 1993 was challenged on the ground that it cannot have retrospective operation, the employer has no right to say that his liability to pay bonus cannot be retrospectively enlarged.

In *J.K. Chemicals v. Govt, of Maharashtra* (1997 (3) Supp. LLJ 578.), the Court observed that the obligation to pay compulsory minimum bonus is subject to the claim for exemption under Section 36 of the Act. However, the payment of compulsory minimum bonus cannot be avoided merely because there was loss in the concerned accounting year. The expression “financial position of the establishment” in Section 36 is comprehensive to include loss suffered by the establishment and various other factors, the totality of which would picture the economic conditions of the establishment.

In *Midhani Workers and Staff Union v. Mishradhatu Nigam Ltd., Hyderabad*, it was held that a writ of mandamus will be issued compelling performance of a statutory duty. Section 10 of the Act, imposes a statutory duty in respondent industry to pay minimum bonus to its workmen irrespective of the allocable surplus.

### ***Section 36 - Power of exemption of bonus payment by government***

In certain circumstances payment of minimum bonus can be exempted by the appropriate government by taking consideration into relevant circumstances of concern factory or establishment which is in losses. Payment of bonus exemption by the appropriate government may be given for a certain period only.

*In Phoenix Mills v State of Maharashtra, it was held that where the mill applied for exemption under section 36 and the minister refused such exemption without taking into account relevant factors, such order is not a proper order.*

Here are the relevant factors may be, the reasons for occurrence of losses to company, reasons and ingenuity in consecutive occurrence of losses, the reasons must be justifiable, there should not be intention to avoid payment of bonus by creating fake losses (mens rea).

### **Payment of Maximum Bonus [Sec 11]**

1. In case the allocable surplus amount [Section 2(4)] exceeds the minimum bonus (8.33%) payable amount to employees, the employer is bound to pay extra percentage of bonus.
2. But maximum of 20% of bonus is payable to the every employee on the wage or salary earned during the year.

### **Proportionate, reduction in bonus in certain cases [Sec 13]**

Where an employee has not worked for all the working days in an accounting year, the minimum bonus of one hundred rupees or, as the case may be, of sixty rupees, if such bonus is higher than

8.33 per cent. of his salary or wage for the days he has worked in that accounting year, shall be proportionately reduced.

### **Computation of number of working days. [Sec 14]**

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
- (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.

## **CALCULATIONS FOR BONUS PAYMENT**

### **Computation of gross profits [Sec 4].**

There are few differences in computation of gross profits in case of banking company and other than banking companies. For accurate computation of the gross profits in case of banking companies refer to First schedule and for other companies but not banking companies refer to Second schedule. But over view for computation of gross profits is mentioned below

Net profit (P&L a/c) +Add following items

- Income tax
- provision for: Bonus to employees, Depreciation, Direct taxes,
- Bonus paid to employees in respect of previous accounting years
- The amount, if any, paid to, or provided for payment to, an approved gratuity fund
- The amount actually paid to employees on their retirement or on termination of their employment for any reason
- Donations
- annuity due
- Capital expenditure (other than capital expenditure on scientific research
- capital losses
- capital losses (other than losses on sale) of Capital assets on which depreciation has been allowed for income-tax or agricultural income-tax).
- Losses of, or expenditure relating to, any business situated outside India.

## **Deduct**

- (a) Capital receipts and capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax or agricultural income-tax).
- (b) Profits of, and receipts relating to, any business situated outside India.



(c) Income of foreign concerns from investments outside India.

(d) Expenditure or losses (if any) debited directly to reserves, other than -

i. Capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for income-tax or agricultural income-tax) ;

ii. Losses of any business situated outside India.

(e) In the case of foreign concerns proportionate administrative (over head) expenses of Head Office allocable to Indian business.

(f) Refund of any direct tax paid for previous accounting years and excess provision, if any, of previous accounting years relating to bonus, depreciation, taxation or development rebate or development allowance, if written back.

### **Computation of Available surplus [Section 5]**

**Available surplus** = gross profit [derived as per First Schedule or Second Schedule of this act] – (minus) Depreciation, investment allowance or development allowance [Section 6] - (minus) direct taxes payable [Section 7] - (minus) further sums as are specified in respect of the employer in the Third Schedule of this act consist of dividend payable (preference shares), reserves and % of paid up equity share capital [investment].

### **Allocable surplus [sec 2 (4)]**

Allocable surplus= 67% of the available surplus (other than banking companies) or 60% of the available surplus (banking companies and companies linked with abroad)

Payment of bonus calculated on the allocable surplus which is derived by the above calculation

### **Set-On and Set-Off Of Allocable Surplus [Sec 15]**

#### **Set-On (In case of huge profits,)**

Excess allocable surplus remain after paying the maximum bonus of 20% on the wage or salary of the employee, Should be carried forward to the next following year to be utilized for the purpose of payment of bonus in case of the shortage of the allocable surplus or losses occur. This is called as Set-On

#### **Set-Off (in case of losses occur)**

When there are no profits (available surplus or allocable surplus) or the amount falls short or deficiency for payment of minimum bonus to employees 8.33%, such deficiency amount should be adjusted to the current accounting year from the Set-On amount which was carried forward in case of excess allocable surplus in the previous year. This is called as Set-Off.

*Illustration:*

- In this Schedule, 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,
- Maximum bonus to which all the employees are entitled to be paid (20% 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, of a available surplus allocable as bonus	Amount payable as bonus	Set on or set off the year carried forward	Total set on or set off Carried Forward	
	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 2,20,000	(2)
4.	3,75,000	2,50,000*	Set on 1,25,000	Set on 2,20,000 1,25,000	(2) (4)
5.	1,40,000	2,50,000* (inclusive of 1,10,000 from year-2)	Nil	Set on 1,10,000 1,25,000	(2) (4)
6.	3,10,000	2,50,000*	Nil	Set on Nil + 1,25,000 60,000	(2) (4) (6)
7.	1,00,000	2,50,000* (Inclusive of 1,25,000 from year-4 and 25,000 from year-6)	Nil	Set on 35,000	(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 94, 1267	(8) (9)
10.	2,15,000	1,04,167** (after setting off 69, 167 from year-8 and 41,666 from year-9)	Nil	Set off 52,501	(9)

Notes: \* Maximum

\*\* Minimum

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

### **Special provisions [Sec 16]**

- In case of new establishments up to 5 years, employees' bonus is payable only in case of profits only but not in losses by the management or employer.
- Condition that the Profits are remaining amounts after deducting expenses, depreciation and taxes.

### **Deduction of certain amounts from bonus payable. [sec 18]**

Employee is found guilty of misconduct causing financial loss to the employer, then, it shall, be lawful for the employer to deduct the amount of loss from the amount of bonus payable by him to the employee under this Act in respect of that accounting year only and the employee shall be entitled to receive the balance, if any.

### **Time limit for payment. [Sec 19]**

- Bonus should be paid within a period of 8 months from the close of the accounting year.
- Maximum extended period for payment of bonus is 2 years, but with the permission of the government only

### **Recovery of bonus due from an employer [Sec 21]**

- If any amount is due to employee as bonus from his employer, he can write and apply to the government for the recovery of the bonus from the employer.
- application shall be made within one year from the date on which the money became due to the employee from the employer

### **Reference of dispute under this Act. [Sec 22]**

Where any dispute arises between an employer and his employees with respect to the bonus payable under this Act such dispute shall be deemed to be an industrial dispute within the meaning of the Industrial Dispute Act, 1947. All disputes shall be referred to the Labour courts

or the industrial tribunals

**Maintenance of registers, records, etc. [Section 26]**

Every employer shall prepare and maintain such registers, records and other documents in such form and in such manner as may be prescribed.

**Inspectors. [Sec 27]**

The Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purpose of this Act and may define the limits within which they shall exercise jurisdiction.

**Powers;**

- Inspector can any reasonable time can enter in the premises and inspect or examine the records, accounts, books, registers and any other documents.
- Employer is having duty to furnish any information asked by the inspector.

**Offences and Penalties [Sec 28 & 29]**

- For contravention of the provisions of the Act or rules the penalty is imprisonment upto 6 months or fine up to Rs.1000, or both.
- In case of offences by companies, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

**Special provision with respect to payment of bonus linked with production or productivity. [Section 31A]**

Any agreements made between the employee and employer regarding the nonpayment of bonus is not valid. If any such agreement is made in between the employer and employee, government permission is needed.

Employees are not entitled receive bonus excess than 20% of their wage or salaries

**FIRST SCHEDULE**

[See section 4(a)]

**COMPUTATION OF GROSS PROFITS in the case of a banking company**

Accounting year ending.....

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
1	2	3	4	5
1.	Net Profit as shown in the profit and loss Account after making usual and necessary provisions			
2.	Add back provision for: <ol style="list-style-type: none"> <li>1. Bonus to employees</li> <li>2. Depreciation</li> <li>3. Development Rebate Reserve</li> </ol> (If, and to the extent, charged to Profit and Loss Account) <ol style="list-style-type: none"> <li>4. Any other reserves.</li> </ol> (If, and to the extent, charged to Profit and Loss Account)           Total of item No.			
Rs.				
3.	Add back also: <p>(a) Bonus paid to employees in respect of previous accounting years.</p> (If, and to the extent, charged to Profit and Loss Account) <p>(b) The amount debited in respect of gratuity paid or payable to employees in excess of the aggregate of -</p> <ol style="list-style-type: none"> <li>1. The amount, if any, paid to, or provided for payment to, an approved gratuity fund ; and</li> <li>2. The amount actually paid to employees on their retirement or on termination of their employment for any reason.</li> </ol> <p>(c) Donations in excess of the amount admissible for</p>			

	<p>income-tax.</p> <p>(d) Capital expenditure (other than capital expenditure on scientific research which is allowed to as a deduction under any law for the time being in force relating to direct taxes) and capital losses (other than losses on sale of capital assets on which depreciation has been allowed for income-tax).</p> <p>(If, and to the extent, charged to Profit and Loss Account)</p> <p>(e) Any amount certified by the Reserve Bank of India in terms of sub-section (2) of Sec.34-A the Regulation Act, 1949 (10 of 1949)</p> <p>(f) Losses of, or expenditure relating to any business situated outside India.</p>			
Total of Item No.3 Rs.				
4.	<p>Add also income, profits or gains (if any) credited directly to published or disclosed reserves, other than -</p> <p>(i) Capital receipts and capital profits (including profits on the sale of capital assets on which depreciation has not been allowed for income-tax);</p> <p>(ii) Profits of and receipts relating to, any business situated outside India ;</p> <p>(iii) Income of foreign banking companies from investments outside India.</p>			
Net total Item No.4 Rs.				
5.	Total of Item Nos. 1,2,3 and 4.			
Rs.				
6.	<p>Deduct :</p> <p>(If, and to the extent, credited to Profit and Loss Account)</p> <p>(a) Capital receipts and capital profits (other than profits on the sale of assets) on which depreciation has been allowed for income-tax.</p> <p>(b) Profits of, and receipts relating to any business</p>			

	<p>situated outside India.</p> <p>(c) Income of foreign banking companies from investments outside India.</p> <p>(d) Expenditure or losses (if any) debited directly to published or disclosed reserves, other than -</p> <ol style="list-style-type: none"> <li>1. Capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for income-tax);</li> <li>2. Losses of any business situated outside India.</li> </ol> <p>(e) In the case of foreign banking companies proportionate administrative (overhead) expenses of Head Office allocable to Indian business.</p> <p>(If, and to the extent, credited to Profit and Loss Account)</p> <p>(f) Refund of any excess direct tax paid for previous accounting years, relating to bonus, depreciation, or development rebate, if written back.</p> <p>(If, and to the extent, credited to Profit and Loss Account)</p> <p>(g) Cash subsidy, if any, given by the Government or by any body corporate established by any law for the time being in force or by any other agency through budgetary grants, whether given directly or through any agency for specified purposes and the proceeds of which are reserved for such purposes.</p> <p>(If, and to the extent, credited to Profit and Loss Account)</p>			
Total of Item No.6 Rs.				
7.	Gross Profits for purposes of bonus			
(Item No.5 minus Item No.6) Rs.				

Explanation - In sub-item (b) of item 3, "approved gratuity fund" has the same meaning assigned to it in Cl. (5) of Sec.2 of the Income-tax Act.

**SECOND SCHEDULE**

See section 4(b)]

**COMPUTATION OF GROSS PROFITS in the case of a other than banking company**

Accounting Year ending.....

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
1.	Net Profit as per Profits and Loss Account.			
2.	Add back provision for : <ol style="list-style-type: none"> <li>1. Bonus to employees.</li> <li>2. Depreciation.</li> <li>3. Direct taxes, including the provision (if any) for previous accounting years. (If, and to the extent, charged to Profit and Loss Account.)</li> <li>4. Development rebate/Investment allowance/Development allowance reserve.] (If, and to the extent, charged to Profit and Loss Account.)</li> <li>5. Any other reserves</li> </ol>			
Total of Item No.2 Rs.				
3.	Add back also: (If, and to the extent, charged to Profit and Loss Account.) (a) Bonus paid to employees in respect of previous accounting years. [(aa) The amount debited in respect of gratuity paid or payable to employees in excess of the aggregate of - <ol style="list-style-type: none"> <li>1. The amount, if any, paid to, or provided for payment to, an approved gratuity fund ; and</li> <li>2. The amount actually paid to employees on their retirement or on termination of their employment for any reason.]</li> </ol> (b) Donations in excess of the amount admissible for income-tax. (c) Any annuity due, or commuted value of any annuity paid, under the provisions of Sec. 280-D of the Income-tax Act during the accounting year. (d) Capital expenditure (other than capital expenditure on scientific research which is allowed as deduction under any law for the time being in force relating to direct taxes) and capital losses (other than losses on sale) of Capital assets on which depreciation has been allowed for income-tax or agricultural income-tax).			



	(e) Losses of, or expenditure relating to, any business situated outside India.			
Total of Item No.3				
4.	<p>Add also Income, profits or gains (if any) credited directly to reserves, other than -</p> <ol style="list-style-type: none"> <li>1. Capital receipts and capital profits including profits on the sale of capital assets on which depreciation has not been allowed for income-tax or agricultural income-tax ;</li> <li>2. Profits of, and receipts relating to, any business situated outside India ;</li> <li>3. Income of foreign concerns from investments outside India.</li> </ol>			
Net total of Item No.4				
5.	Total of Item Nos. 1,2,3 and 4.			
6.	<p>Deduct :</p> <p>(a) Capital receipts and capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax or agricultural income-tax).</p> <p>(b) Profits of, and receipts relating to, any business situated outside India.</p> <p>(c) Income of foreign concerns from investments outside India.</p> <p>(d) Expenditure or losses (if any) debited directly to reserves, other than -</p> <ol style="list-style-type: none"> <li>1. Capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for income-tax or agricultural income-tax) ;</li> <li>2. Losses of any business situated outside India.</li> </ol> <p>(e) In the case of foreign concerns proportionate administrative (over head) expenses of Head Office allocable to Indian business. (In the proportion of Indian Gross Profit (Item No.7) to Total World Gross Profit (as per Consolidated Profit and Loss Account, adjusted as in Item No.2 above only).</p> <p>(f) Refund of any direct tax paid for previous accounting years and excess provision, if any, of previous accounting years relating to bonus,</p>			

	depreciation, taxation or development rebate or development allowance, if written back. (Ins. by s 26. (w.e.f. 25 <sup>th</sup> September, 1975) (g) [(Note: Subs. by Act 23 of 1976) Cash subsidy, if any, given by the Government or by body corporate established by any law for the time being in force or by any other agency for specified purposes and the proceeds of which are reserved for such purposes.]			
Total of Item No.6 Rs.				
7.	Gross Profits for purposes of bonus (item No.5 minus Item No.6)			
Rs.				

**Explanation** - In sub-item (aa) of Item 3, "approved gratuity fund" has the same meaning assigned to it in Cl. (5) of Sec.2 of the Income-tax Act.

### THIRD SCHEDULE

(See section 6(d))

Item No.	Category of employer	Further sums to be deducted
(1)		(3)
1.	Company, other than a banking company]	<ol style="list-style-type: none"> <li>1. The dividends payable on its preference share capital for the accounting year calculated at the actual rate at which such dividends are payable];</li> <li>2. 8.5 percent of its paid-up equity share capital as at the commencement of the accounting year ;</li> <li>3. 6 percent of its reserves shown in its balance-sheet as at the commencement of the accounting year, including any profit carried forward from the previous accounting year :</li> </ol> <p>Provided that where the employer is a foreign company within the meaning of Sec.591 of the Companies Act, 1956 (1 of 1956) the total amount to be deducted under this Item shall be 8.5 per cent on the aggregate of the value of the net fixed assets and the current assets of the company in India after deducting the amount of its current liabilities (other than any amount shown as payable by the company to its</p>

		Head Office whether towards any advance made by the Head Office or otherwise or any interest paid by the Company to its Head Office) in India.
2.	Banking company	<ol style="list-style-type: none"> <li>1. The Dividends payable on its preference share capital for the accounting year calculated at the rate at which such dividends are payable ;</li> <li>2. 7.5 per cent of its paid-up equity share of capital as at the commencement of the accounting year ;</li> <li>3. 5 per cent of its reserves shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year ;</li> <li>4. Any sum which, in respect of the accounting year, is transferred by it- <ol style="list-style-type: none"> <li>1. To a reserve fund under sub-section (1) of Sec.17 of the banking Regulation Act, 1949 (10 of 1949) ; or</li> <li>2. To any reserves in India in pursuance of any direction or advice given by the Reserve Bank of India,</li> </ol> </li> </ol> <p>Whichever is higher :</p> <p>Provided that where the banking company is foreign company within the meaning of Sec.591 of the Companies Act, 1956 (1 of 1956), the amount to be deducted under this item shall be the aggregate of -</p> <ol style="list-style-type: none"> <li>1. The dividends payable to its preference shareholders for the accounting year at the rate at which such dividends are payable on such amount as bears the same proportion to its total preference share capital as its total working funds in India bear to its total world working funds ;</li> <li>2. 7.5 per cent, of such amount as bears the same proportion to its total paid-up equity share capital as its total working funds in India bear to its total working funds ;</li> </ol>

		<ol style="list-style-type: none"> <li>3. 5 per cent of such amount as bears the same proportion to its total disclosed reserves as its total working funds in India bear to its total working funds ;</li> <li>4. any sum which, in respect of the accounting year, is deposited by it with the Reserve Bank of India under sub-clause (ii) of Cl. (b) of sub-section (2) of Sec.11 of the Banking Regulation Act, 1949 (10of 1949), not exceeding the amount required under the aforesaid provision to be so deposited.]</li> </ol>
3.	Corporation	<ol style="list-style-type: none"> <li>1. 8.5 per cent of its paid-up capital as at the commencement of the accounting year ;</li> <li>2. 6 per cent of its reserves, if any, shown in its balance-sheet as at commencement of the accounting year including any profits carried forward from the previous accounting year.</li> </ol>
4.	Co-operative-society	<ol style="list-style-type: none"> <li>1. 8.5 per cent, of the capital invested by such society in its establishment from its books of accounts at the commencement of the accounting year ;</li> <li>2. Such sum as has been carried forward in respect of the accounting year to reserve fund under any law relating to co-operative societies for the time being in force.</li> </ol>
5.	Any other employer not failing under any of the aforesaid categories.	<p>8.5 per cent, of the capital invested by him in his establishment as evidenced from his books of accounts at the commencement of the accounting year ;</p> <p>Provided that where such employer is a person to whom Chapter XXII-A of the Income-tax Act applies the annuity deposit payable by him under the provisions of that chapter during the accounting year shall also be deducted :</p> <p>Provided further that where such employer is a firm, an amount equal to 25 per cent, of the gross profits derived by it from the establishment in respect of the accounting year</p>

		<p>after deducting depreciation in accordance with the provisions of Cl. (a) of Sec.6 by way of remuneration to all the partners taking part in the conduct of business of establishment shall also be deducted, where oral or written, provides for the payment of remuneration to any such partner, and -</p> <ol style="list-style-type: none"> <li>1. The total remuneration payable to all such partners is less than the said 25 per cent, the amount payable, subject to a maximum of forty-eight thousand rupees to each such partner ; or</li> <li>2. The total remuneration payable to all such partners is higher than the said 25 percent. Such percentage, or a sum calculated at the rate of forty-eight thousand rupees to each such partner, whichever is less. Shall be deducted under this proviso :</li> </ol> <p>Provided also that where such employer is an individual or a Hindu undivided family, -</p> <ol style="list-style-type: none"> <li>1. An amount equal to 25 per cent of the gross profits derived by such employer from the establishment in respect of the accounting year after deducting depreciation in accordance with the provisions of Cl. (a) of Sec.6, or</li> <li>2. Forth-eight thousand rupees whichever is less, by way of remuneration to such employer, shall also be deducted.</li> </ol>
6.	Any employer failing under Item No.1 or Item No.3 or Item No.4 or Item No.5 and being a licensee within the meaning or the Electricity (Supply) Act, 1948 (54 of (1948).	In addition the sums deductible under any of the aforesaid Items, such sums as are required to be appropriated by the licensee in respect of the accounting year to a reserve under the Sixth Schedule to that Act shall also be deducted.

**Explanation** - The expression "reserves" occurring in column (3) against Item Nos. 1 (iii), 2 (ii), and 3 (ii)] shall not include any amount set apart for the purpose of -

- (i) Payment of any direct tax which, according to the balance-sheet, would be payable.
- (ii) Meeting any depreciation admissible in accordance with the provisions of Clause (a) of Sec.6 ;

(iii) Payment of dividends which have been declared but shall include -

(a) Any amount, over and above the amount referred to in Clause Of payment of any direct tax;  
and

(b) Any amount set apart for meeting any depreciation in excess of the amount admissible in accordance with the provisions of Clause (a) of Sec.6]