



Nepal's Bonus Regime

Essential Guide to Bonus Laws

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Overview:

Every business enterprise in Nepal which has made a profit in a fiscal year must allocate and distribute bonuses to its employee. The bonus is to be distributed out of the net profit made by the enterprise. This obligation is outlined in the **Bonus Act, 1974 (2030)**. Such a legal requirement set out for enterprises which make profit in a fiscal year leads to some practical inquiries. This Legal Guide serves as an attempt to address such practical questions with reference to the legal provisions.

A. Basic Framework

1. What are the laws governing the regime of Bonus in Nepal?

- i. The laws that govern the bonus are Bonus Act, 1974 (2030) [the "**Bonus Act**"], and Bonus Rules, 1983 (2039) [the "**Bonus Rules**"] [collectively the "**Bonus Laws**"].
- ii. The other relevant regulations include:
 - a) Labor Act, 2017 (2074) [the "**Labor Act**"]; and Labor Rules, 2018 (2075) [the "**Labor Rules**"] [collectively the "**Labor Laws**"].
 - b) Contribution Based Social Security Act, 2017 (2074) [the "**SSF Act**"].
 - c) Electricity Act, 2049 (1992) [the "**Electricity Act**"]; and Electricity Rules, 2050 (1993) [the "**Electricity Rules**"] [collectively the "**Electricity Laws**"] [In case of Hydropower Companies].
 - d) Some Nepal Laws Amendment Act, 2075 (2018) [the "**Nepal Laws Amendment Act**"].

2. What is the nature of "Bonus" to be distributed as per the Bonus Act? Is an employee entitled to bonus based on their performance?

- i. The Bonus Act has mandated the distribution of bonus as a compulsory requirement on part of any Enterprise which makes a profit. The rationale for the development of Bonus Laws emanates from the idea that the employees as a part of a profitable enterprise should also be entitled to a part of such profits. Accordingly, the consideration of performance of an employee is not a determinant basis for the eligibility of an employee to bonus in Nepal.
- ii. The Bonus Act has set out the rules of determination of receivable bonus by each employee. Among other factors including the number of working days of an employee, the amount receivable by each employee as Bonus is largely determined by their current remuneration structure, and not by their performance. Although the Bonus Act stipulates rules on the basis of which an Employee may not be eligible for the full entitlement of receivable bonus amount on account of

disciplinary reasons, the entitlement of Bonus for a particular employee is not strictly based on the performance of the employees. This is further substantiated by the fact that the Bonus Act does not provide any scope for the distribution of additional Bonus to employees with outstanding performance.

- iii. In short, distribution of “Bonus” as per the Bonus Act has the nature of “Statutory Entitlement” on part of the Employees just by virtue of their employment and fulfillment of certain eligibility criteria such as number of working days and nature of employment. On the other hand, it is a “Statutory Obligation” on part of an Enterprise making annual net profit to distribute Bonus to all eligible employees.

3. Can an Enterprise make its own rules determining eligibility criteria of Bonus for each employee based on their performance?

No. The Bonus Laws have determined a set of rules regarding eligibility criteria for employees regarding entitlement to bonus. The scope for flexibility in determining its own set of rules regarding eligibility based on performance or other considerations has not been provided for in the Bonus Laws.

4. Can the Enterprise make rules regarding separate quantum of bonus to be provided to different employees based on their performance?

Again, the simple answer is, no. As the requirement of distribution of Bonus is a statutory obligation and the Bonus Laws specifically provide for the method of calculation of bonus to each employee without providing any further scope for separate rules to be made by the enterprises, the quantum of bonus receivable by each employee should also be determined and distributed according the rules set out in the Bonus Laws.

B. Applicability of Bonus Laws

5. What kinds of “Enterprises” should distribute bonus?

- i. The Bonus Act [Section 5] maintains that all enterprises making profit in any fiscal year should distribute bonus. In order to determine the nature of businesses/entities which is required to distribute bonus, the definition of the “Enterprise” should be examined.
- ii. The Bonus Act has referred to the provision of the Labor Act to define the “Enterprise” on which the requirement of distributing bonus is applicable. Accordingly, Labor Act [Section 2(j)] defines an “Enterprise” as any company, private firm, partnership firm, cooperative organization or association or other organization which is established in

accordance with the laws. Such enterprise may have been established with the objective to carry on industry, business or service, with or **without profit motive**.

- iii. Therefore, the requirement to distribute bonus is **applicable to all kinds of enterprises** regardless of their specific form such as a Company, partnership firm, co-operative or otherwise. However, there are certain exceptions and conditions of applicability to certain enterprises which shall be discussed in this Guide.

6. Does that mean that all enterprises should distribute bonus, and are they required to distribute bonus in the same manner? Are there any exceptions?

No. While the term “Enterprise” may seem broad, there are certain enterprises that need not distribute bonus. Similarly, the rules regarding distribution of bonus are different in case of certain enterprises for which special conditions have been set out in laws. The table below illustrates the provisions regarding the applicability and scope of bonus obligations to different types of enterprises:

Categories	Enterprises	Applicability	Particulars / Special Conditions
Profit-Motive Enterprises	Private Companies, Public Companies, Co-operatives, Partnership Firms (in general)	Applicable.	-
	Banking and Financial Institutions	Applicable.	-
	Insurance Companies	Applicable.	
	Outsourcing Companies	Applicable.	The salary and benefits of an outsourced employee needs to be covered by the Outsourcing Enterprise as per the Labor Act.
	Companies engaged in survey, generation and/or transmission of hydropower projects	Applicable with special conditions.	In accordance with the Electricity Act and Regulations; only 2% of the net profit to be allocated /provisioned for distribution of bonus.
	Government owned entities (such as NTA, Nepal Oil Corporation etc.)	Applicable if certain conditions are fulfilled; Special conditions set out if applicable.	Applicable only if the following conditions are met: <ul style="list-style-type: none"> a. Amount allocated as expenses in accrual basis should be paid within the next year. b. Determination of the contingent liability of each fiscal year and deposit of such

			<p>amount in a separate account should be made,</p> <p>c. If any loan is taken from the Government of Nepal (GON) or from any other entities with the GON as guarantor, then the amount specified in the Payment Schedule of such Loan Agreement should have been paid out.</p> <p>Separate provisions regarding amount to be provisioned (5% of net profit in general), compliance requirements, approval process etc. have been set out.</p>
Non-Profit Motive Enterprises	Profit not distributing Companies	Not applicable.	There seems to be inconsistency in laws in this matter. Although the Bonus Laws do not differentiate between the profit distributing and not-distributing companies, the Companies Act, 2063 (2006) has restricted Profit Not-distributing Companies to distribute profits in any manner including bonus. In practice, such companies have not been distributing bonus as they are required to use any of the "profits" only to further their institutional objective(s).
	NGOs, INGOs	Not applicable.	Although the Bonus Laws do not differentiate between profit or not for profit organizations regarding applicability, the NGOs and INGOs are required to be operated for welfare motives only as per the Social Welfare Council...
	Government owned entities with an objective to promote specific sectors	Not applicable.	-
Others	Liaison Office	Not applicable.	As the Liaison Office of the Foreign Company cannot undertake business activities in Nepal, there will be no question of making profit and consequently distributing bonus in Nepal.

C. Key Rules regarding Allocation and Distribution

7. What amount should be allocated from the net profit to be distributed as bonus?

As a general rule, an enterprise should allocate **10%** of its net profit of the fiscal year as reflected in its annual audit for bonus. Exceptionally, hydropower companies, are required to allocate **2%** of their net profit. Similarly, there are specific provisions for government owned enterprises as well.

8. How is net profit calculated for the purpose of distributing bonus?

The net profit for the purpose of distribution of bonus is determined by deducting the expenses with the total income of the enterprise in the relevant fiscal year. To explain further, the net profit for the purpose of bonus cannot be calculated by characterizing the amount of bonus as expense for the purpose of income tax.

For example: An enterprise 'A' generates an income of One Crore by deducting all the expenses (such as staff payment, administrative costs, etc.) for the fiscal year 2079/80. As such, the enterprise would be required to allocate 10% of One Crore, i.e., NPR One Million as distributable bonus. Please note that it cannot characterize NPR One Million as its expense and allocate 10% bonus from the resulting profit amount, i.e., NPR Nine Million.

9. Is the income of the branches or sub-branches of an Enterprise taken-into account in order to determine the profitability of an Enterprise, and the calculation of distributable bonus?

Yes. Pursuant to Section 3 of the Bonus Act, the income of the branches or sub-branches of an Enterprise should be taken into consideration for the purpose of calculating bonus of an Enterprise. This raises a question whether the Employees of a branch office are also entitled to the bonus from the profit derived by all branches and head offices of an Enterprise. Although the Bonus Laws have not made an express provision in this regard, the provision of Section 3 implies that they are entitled to the bonus with the inclusion of income of the enterprise in its totality.

D. Rules regarding Eligibility of Bonus for Employees

10. Who is bonus distributed to?

Bonus is distributed to all the employees of the enterprise who are eligible to obtain bonus.

11. Are all Employees eligible for Bonus?

No. Bonus Laws set out the eligibility criteria for an Employee to be entitled for bonus. Therefore, only the Employee(s) who satisfy such requirement are eligible.

12. What are the criteria for an employee to be eligible for bonus?

The eligibility of an employee for bonus is determined based on the number of working days of an employee for the particular fiscal year, the nature of employment, disciplinary record, etc.

The following table illustrates an overall picture of these criteria and conditions that should be factored in while determining eligibility of an employee for bonus:

Particulars	Description	Remarks
Eligibility	Employee who has worked in an enterprise for half of the working period in a fiscal year.	Following period is also calculated as working period: <ul style="list-style-type: none"> • An employee who is kept under reserve (layoff) under any contract or under Section 15 of the Labor Act 2017 (2074); • An employee who is on paid salary leave (vacation); • An employee who has been disabled due to accident occurred during the employment term or in course of employment.
Non-eligibility	Casual or Shift Employee, or,	-
	Employees who are subject to disciplinary action or dismissed from service for: <ol style="list-style-type: none"> a) theft of the Company's property or damage to such property, b) illegal strike or abetment to other for such strike, and, c) riots or breaching of discipline. 	But even such employee will be entitled to bonus for the period they have worked prior to being subjected to disciplinary action.
Special Condition	Rule 8 of the Bonus Rules maintains that the	It is important to note that if there is a dispute relating to whether a person is a contractual employee or a

<p>for Contractual Employees</p>	<p>Contractual Employees shall be entitled to receive bonus only if such entitlement is provided for in the Employment Agreement.</p>	<p>regular employee, the Labor Office may determine the nature of employment pursuant to Rule 2 of the Labor Rules on the basis of the following:</p> <ul style="list-style-type: none"> a) when the time of the Contractual Employment is fixed; whether the work in which the Employee is hired in Contractual Employment is to be continued after the lapse of such time, or if such continuation is required, whether such position needs to be immediately fulfilled by another employee, b) if the time of employment is not fixed in the Contract, whether the Employee has worked regularly for a period more than 1 year or not.
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13. Should bonus be distributed to Outsourced Employees?

The answer is, no. The Bonus Laws do not specifically state about the outsourced employees.

According to the Chapter on 'Outsourcing' of the Labor Act, the obligation to provide remuneration and other benefits remains on the outsourcing company. However, the enterprise hiring and outsourced employee needs to ensure that the outsourcing company has been providing the remuneration and benefits as per the labor laws.

14. Should bonus be distributed to the Chief Executive Officer and high-level managerial employees of the Company?

The eligibility of bonus for CEOs or high-level managerial employees depends on the provisions of the Employment Agreement entered with such employees. Rule 9 of Bonus Rules provide that the employees in contractual employment are only eligible if their Employment Contract makes the provision for eligibility of bonus. CEOs or other high level managerial employees should also be distributed bonus if such provision is made in the Employment Contract. However, if their Employment Contract does not provide for bonus provision, they may not be entitled to bonus.

15. Sub-section (2) of Section 91 of the Companies Act enables a Company to grant a reward to the directors who work full time for the Company with a sum not exceeding 3 % of the annual net profit to encourage them by adopting a special

resolution in the General Meeting. Is it different to the obligation to distribute bonus? Is there a restriction for dual-distribution?

- Firstly, it should be noted that the provision of reward made in the Companies Act is not a compulsory obligation. The Company may choose to provide such additional benefits as incentives to the working directors at its discretion.
- Secondly, it is different to the obligation of bonus, and there is no restriction for dual distribution. However, the amount allocated for bonus cannot be used to provide such additional incentives. The amount for bonus is the entitlement of all the eligible employees and it should be distributed to all employees proportionately (as described in the Chapter D below). The Company should distribute bonus to the working directors if their Employment Agreement makes the provision for it. Additionally, the Company may grant such extra rewards/incentives from the net profit which is not allocated as bonus.

16. Can a provision be made for the distribution of bonus in higher rate to the directors or the persons hired through a Management Service Agreement or similar arrangements? No. The distribution of bonus should be done proportionately to all eligible employees regardless of their position on the basis of the rules described hereinafter.

E. Calculation of Distributable Bonus

Method of provisioning total bonus amount, and eligibility criteria, there are a few more factors to be considered for calculating the bonus entitlement of each employee. For example, a question may arise about which part of the “Salary” of an employee should be considered for calculating their entitlement of bonus. Similarly, the Bonus Act provides for a maximum bonus amount receivable by an employee, provides for conditions in which the bonus amount can be deducted etc., which could influence the calculation of distributable bonus to each employee. This Chapter makes an overall assessment as to such additional factors as well to provide a step-by-step outline for the calculation of distributable bonus to each eligible employee.

17. What part of the salary is considered as the basis for computation of bonus? Is the salary for over-time included for distribution of Bonus?

Bonus Act does not expressly provide whether the Basic Salary or the full salary should be the basis for calculation of bonus receivable by each employee. Section 2(e) of the Bonus Act uses the term “Salary or Wages” and has no mention of “Basic Remuneration” as opposed to the Labor Act. However, the Proviso of Section 2(e) has maintained that the term “Salary or Wages” shall not include any other payment such

as electricity, food, medical allowances, etc. Therefore, it can be inferred that the Bonus is to be distributed from the Basic Remuneration subject to the fulfillment of the processes described herein. Furthermore, the salary provided to the employees as overtime salary need not be taken into account for computing bonus.

18. Is there any maximum limit to how much an employee can obtain as bonus annually?

Yes. The following table outlines the ceiling on percentage of bonus to be received by an employee in a fiscal year as per the Bonus Act.

Salary or Wage Amount	Not exceeding
Maximum Bonus Amount	
Up to twice of basic salary amount as determined by the GON	Amount equivalent to salary or wage of 8 months
More than double of basic salary	Amount equivalent to salary or wage of 6 months
Minimum Bonus Amount	
<p>The bonus amount of Bracket 2 employee above should not be less than the employee of Bracket 1 subject to availability of allocated bonus amount.</p> <p>For example: Mr. A, an employee of XYZ Pvt. Ltd. earns NPR 16,000 basic remuneration per month. This amount is not more than double the minimum remuneration fixed by the GON. Therefore, up to NPR 128,000 (In words: One Hundred Twenty Thousand Nepalese Rupees), which is equivalent to 8 months of his salary could only be distributed to Mr. A.</p> <p>Now, let us consider that Mr. B has a monthly income of NPR 20,000/- as his basic salary, which is more than twice the minimum basic salary determined by the GON. It appears from the above ceiling that he would only be entitled to a maximum of 120,000/- (In words: Two Hundred Forty Thousand Nepalese Rupees), which is equivalent to six months of his monthly salary. In such a condition, Mr. B would be entitled to NPR. 128,000/- bonus amount despite his bonus ceiling being NPR. 120,000.</p>	

19. Is there a minimum requirement of bonus amount prescribed as the entitlement of an employee?

No. As a general rule, the Bonus Act does not specify the minimum amount of bonus to be provided to a specific employee, meaning that the allocated bonus amount is distributed proportionately to the extent that the Bonus Ceiling of each employee is exhausted subject to the applicable deductions as described in *paragraph 20* below.

The “Minimum Bonus Amount” referred to in the preceding paragraph (*paragraph 18*) is an exception pertaining to a specific situation as described therein.

20. Are there any factors that could result in the deduction of bonus amount receivable by a particular employee?

Yes. The following factors could result in such deduction:

- i) If an employee has not worked for the total working days in a fiscal year, bonus amount should be deducted proportionately for the number of days of absenteeism. However, such deduction cannot be made for the days when: a) an employee who is kept under reserve (layoff) under any contract or under Section 15 of the Labor Act 2017 (2074); b) an employee is on paid salary leave (vacation), and c) an employee had been disabled due to accident occurred during the employment term or in course of employment.
- ii) Furthermore, bonus amount can be deducted proportionately for the days in which an employee has not worked by carrying out an unlawful strike in the Company.

21. How is bonus to be distributed to each employee calculated?

Bonus to be distributed to each employee can be calculated through the following steps:

Steps	Description
Step 1: Provisioning of total distributable bonus	Firstly, the total bonus distributable by the Enterprise to all its eligible employees should be calculated. Please refer to <i>para. 15/Chapter C</i> above to determine the net profit to provision total distributable bonus.
Step 2: Determination of Employees eligible for Bonus	Secondly, the employees eligible for bonus should be determined within the parameters as discussed in <i>Chapter D</i> above.
Step 3: Calculation of Bonus Percentage:	The calculation of bonus amount receivable by an employee is done based on the percentage of their total basic salary. Such percentage is applicable to all employees in a similar manner. The Bonus Act has mandated that the Bonus amount of each employee be computed by multiplying the total amount provisioned for distribution of bonus to 100 and the resulting amount will be divided by the total salary or wages received by all the employees receiving the bonus ¹ . The amount deducted will be the percentage of bonus of the respective employee. <u>Formula for Bonus Percentage:</u> Bonus Percentage = (Total Bonus Amount Provisioned / Total of the basic salary received by all eligible employees in the fiscal year) * 100
Step 4: Calculation of Bonus of each Employee	After the calculation of bonus percentage, the actual amount of bonus receivable by each employee is calculated from the total basic salary received by an employee in the fiscal year at the rate of such percentage. Bonus of an employee = Bonus percentage * total basic salary received by such employee.
Step 5: Determination of Final Bonus Amount of each employee subject to applicable	Subject to the applicable deductions from the amount calculated as per Step 4 accounting for absenteeism in working days and illegal strike (See <i>para. 26</i> above), the final bonus amount receivable by an employee is calculated.

¹ I&P Note: It is important to note that the determination of eligible employees is to be done before the computation of bonus percentage.

deduction such as absenteeism	
Step 6: Applicable Bonus Ceiling for each employee	After the calculation of bonus receivable by each employee by following the preceding steps, it should be noted whether such amount exceeds the maximum threshold of bonus that may be receivable by such employee. Please refer to <i>para. 24</i> above for provision on applicable bonus ceiling. If the bonus amount of an employee exceeds such bonus ceiling, then such employee is entitled only to the maximum amount of bonus as per such ceiling.
Step 7: Distribution after tax deduction	After the computation of the final bonus amount (within the applicable ceiling) receivable by each employee, the bonus amount is distributed by withholding applicable taxes as per the Income Tax Act, 2058.

F. Provisions regarding Residual Bonus

22. What is Residual Bonus?

Since the bonus laws have made the provision regarding the maximum amount of bonus receivable by an employee, the total amount provisioned for bonus may not be distributed to any employee due to the exhaustion of bonus ceiling of all employees. In such case, the amount provisioned for bonus is undistributed, which is herein termed as Residual Bonus amount for convenience.

23. What should you do about the bonus that has been provisioned but cannot be distributed due to the ceiling of bonus of all employees being exhausted?

The residual bonus amount should be deposited in the Enterprise Level Employee Welfare Fund (EWF) and National Welfare Fund. 70% of the residual bonus amount is to be deposited to the EWF [*Rule 84(1) of Labor Rules*], while the remaining 30% is to be deposited in the NWF.

24. What are EWF and NWF?

- i. EWF is an enterprise level fund which is operated by the Labor Relation Committee². The Enterprise is required to operate a separate bank account for the purpose of depositing such residual amount in the EWF.

² **I&P Note:** Labor Relation Committee is required to be formed in an enterprise with more than 10 employees as per Section 111 of Labor Act. The provisions regarding its formation, operation and composition are provided in Section 111 of Labor Act, and Rule 64 of the Labor Rules respectively.

- ii. NWF is a national level fund operated by the Government of Nepal. The residual bonus amount deposited to the fund is transferred by the Government of Nepal to Social Security Fund as per Section 26 (2)(d) of SSF Act.

25. How should the residual bonus amount deposited in the EWF be used?

The employees are the ultimate beneficiary of the amount collected to the EWF. Pursuant to *Rule 84 (4)* of Labor Rules, it is to be utilized for the medical, educational, development and entertainment purpose of all types of employees in the Company. *Rule 84(5)* of the Labor Rules has provision that in case of retrenchment of all employees or if the enterprise goes into liquidation, the amount collected in the EWF should be distributed to all employees who have been working one year prior to the liquidation. The Labor Relation Committee is responsible for managing the funds of the EWF pursuant to Rule 84(5) of the Labor Rules. Accordingly, the enterprise is required to deposit such amount in a separate account and operate such fund through a Labor Relation Committee for the stated purpose.

26. Should the residual bonus amount to be deposited in the enterprise level EWF be maintained in a separate bank account?

No, a separate bank account is not required to be prepared to deposit the residual amount. Out of the residual bonus amount, 70 % of the amount shall be deposited in the welfare fund and the remaining 30% of the amount is to be deposited with the National Level Welfare Fund established by the government.

27. Can the provisioned bonus amount be directly deposited in the NWF and EWF proportionately instead of distributing it to the Employees?

No. Firstly, the amount provisioned as Bonus is required to be distributed in cash to the extent that the applicable ceiling of all eligible employees. This is because of two main reasons: a) the construction of the obligation to distribute bonus is absolute in the Bonus Laws and the requirement to deposit the residual amount to EWF and NWF is an ancillary/conditional obligation subject to exhaustion of all employee's bonus ceiling, and b) the nature of entitlements and benefits arising out of a direct bonus payment and contribution to the EWF and/or NWF is different. The bonus amount is direct entitlement of the respective eligible employees in the form of cash, while the benefits from the residual bonus deposited in a separate account is used within the scope of the law for the benefit of all employees as the Labor Relation Committee deems fit.

G. Compliance Requirements on Enterprises

28. What is the timeline for distributing bonus?

The bonus amount is required to be distributed within 8 months of end of a fiscal year. The Fiscal Year in Nepal generally commences from July 16 and ends on July 15 of the next year.

29. Is there any timeline for depositing residual bonus to the NWF and EWF?

The Bonus Laws set out the following timelines in this regard.

Fund	Legal Provision	Timeline
NWF	Section 9 of Bonus Act and Rule 12 and 12A of Bonus Rules	<ul style="list-style-type: none"> Bonus Act requires bonus to be distributed within 8 months of the end of every fiscal year. Such details regarding the distribution of bonus are required to be submitted to the Labor Office within 7 days of distribution of bonus to the employees respectively. Similarly, Bonus Rules states that an institution is required to contribute 30% of the residual bonus amount to NWF within 1 month of distribution of bonus.
EWF	-	<ul style="list-style-type: none"> No specific provision reflects the exact timeline regarding the deposit of residual bonus amount to EWF. Thus, it is understood that the timeline of the NWF reflects the timeline to deposit the residual bonus amount in the EWF as well. As such, within 1 month of distribution of bonus, residual bonus amount is required to be contributed to NWF and EWF respectively.

30. What are the reporting obligations of the Company regarding bonus?

The management of each Enterprise shall have to submit details in the form of the format as prescribed to the Labor Office within seven days from the date of completion of bonus distribution.

H. Consequences for Breach of Bonus Obligations

31. What are the possible consequences if the Company making annual profit does not distribute bonus?

If the Company (enterprise) making annual profit does not distribute the bonus amount at all or does not do so within the 8 months of the relevant fiscal year, the following litigation and regulatory risks may arise:

- a) Claim from Employees:** The employee may raise the dispute concerning the bonus amount pursuant to Section 16 of Bonus Act along with the applicable interests. In such a case, negotiation for dispute settlement is carried out in the Labor Office between the Company and its concerned employee(s). In the event of failure of negotiations, the Labor Office makes a decision regarding the dispute. The unsatisfied party may appeal to the Labor Court within 35 days of such decision.
- b) Fines:** The Labor Department may impose a fine of NRs. 5,000/- as per Section 20 of the Bonus Act if the provisions of the Act are not complied with. Such fine is imposed upon the Manager/ Managing Director of the Company. Accordingly, an order can be issued to comply with the obligations.
- c) Tax Implications:** Non-compliance with the timeline could have tax implications. If the amount of bonus is not distributed within the timeline, then the tax offices may not allow the deduction of bonus amount as expenses pursuant to Section 13 of the Income Tax Act. Furthermore, the Company is required to submit withholding tax returns from the bonus amount distributed to the Employees after provisioning such amount. Such TDS liability as well as the fines, fees and interests accrued thereon may be imposed which may result in significant financial risks.

32. What happens if the Company does not deposit residual bonus to EWF and NWF?

- i. Specific provisions regarding consequences arising out of the non-contribution of the residual bonus amount to the EWF or NWF has not been made in Bonus or Labor Laws. However, the Labor Laws and Bonus Laws collectively empower the Labor Office or the Labor Department to give necessary orders for unfair labor practice and impose fine of NRs. 5000 respectively. The Enterprises are bound to comply with such order.
- ii. In the event, any employees or labor union legally challenges the failure of Company to deposit the Residual Bonus to the EWF; the Court may order the Company to deposit such Residual Bonus to the EWF. Further, there is a possibility that the court might also order the Company to contribute such amount along with interest. The usual rate of interest that is judicially imposed is 10% p.a.

I. Taxation on Bonus

33. How should the bonus distributed to each employee be taxed?

The bonus amount distributed to each employee should be included in the income from employment of the concerned employee and tax should be deducted in the form

of TDS (Tax Deduction at Source) from the respective employee's salary based on the tax bracket they fall on as per their annual income.

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