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1. Is "Available Surplus" the same as "Allocable Surplus" under the Payment of Bonus Act, 1965?

No, **"Available Surplus"** and **"Allocable Surplus"** are not the same under the Payment of Bonus Act, 1965. They represent different stages in the calculation process used to determine the bonus that an employer must pay to employees. Here's the distinction:

1. Available Surplus:

- **Definition**: It is the surplus left after deducting certain prior charges from the gross profits of the company.
- **How it's calculated**:
  - First, the employer calculates gross profits as per Section 4 of the Act.
  - Then, deductions such as depreciation, taxes, and other items listed in Section 6 are subtracted from the gross profits.
  - The remaining balance after these deductions is termed the Available Surplus.

2. Allocable Surplus:

- **Definition**: It is a portion of the Available Surplus that is specifically set aside for paying bonuses to employees.
- **How it's calculated**:
  - A certain percentage of the Available Surplus becomes the Allocable Surplus.
  - According to Section 2(4) of the Act:
    - **For companies (other than banking companies)** that do not declare dividends in India (as per Section 194 of the Income-tax Act), **67%** of the available surplus is treated as allocable surplus.
    - **For all other companies or employers**, the allocable surplus is, **60%** of the available surplus.

3. Example:

Step 1: Calculate Gross Profits. Let's assume the gross profits of a company for a particular accounting year are ₹10,00,000**.**

Step 2: Deduct Prior Charges (Section 6 deductions) from the gross profits, the company needs to deduct prior charges such as:

- **Depreciation**: ₹1,00,000
- **Taxes**: ₹2,00,000
- **Other eligible deductions (e.g., direct tax)**: ₹50,000
- **Total deductions** = ₹1,00,000 + ₹2,00,000 + ₹50,000 = **₹3,50,000**

Step 3: Calculate Available Surplus now, we subtract the prior charges from the gross profits:

Available Surplus = Gross Profits – Total Deductions
Available Surplus = ₹10,00,000 – ₹3,50,000
Available Surplus = **₹6,50,000**

Step 4: Calculate Allocable Surplus now, which is a portion of the available surplus. For companies (other than banking companies) that do not declare dividends, the allocable surplus is **67%** of the available surplus.

Allocable Surplus = 67% of ₹6,50,000
Allocable Surplus = **₹4,35,500**

Step 5: Bonus Distribution

- The allocable surplus of ₹4,35,500 is the amount available for bonus distribution to employees.
- If the **minimum bonus** (as per Section 10) is lower than the allocable surplus, the company can distribute a proportionate bonus up to **20% of the employees' wages** (maximum bonus as per Section 11).

If the allocable surplus exceeds the minimum bonus amount, the employer will distribute the bonus based on the salary or wage earned, subject to a maximum limit of **20%** of the salary.

Recap of Key Numbers:

- **Gross Profits**: ₹10,00,000
- **Prior Charges**: ₹3,50,000
- **Available Surplus**: ₹6,50,000

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- **Allocable Surplus**: ₹4,35,500 (67% of ₹6,50,000)

Conclusion:

- The **Available Surplus** is the total surplus after prior charges are deducted from the gross profits.
- The **Allocable Surplus** is a percentage of the available surplus 67% or 60%) and is used to determine the bonus payout to employees.

2. Explain the concept of "Set on" and "Set off" under the Payment of Bonus Act, 1965, and how it ensures fair bonus distribution across financial years?

The section 15 of the Payment of Bonus Act, 1965 lays down the framework for managing the **excess allocable surplus** and **deficiencies** in the payment of bonuses across different accounting years. It addresses scenarios where the bonus exceeds or falls short of the statutory requirements, ensuring that employees receive fair bonus over the time. Let's break it down in detail:

Sub-section (1): Set on of Allocable Surplus

- **What it says**: If in any accounting year, the allocable surplus exceeds the maximum bonus payable to employees (as defined in Section 11), the excess amount will be carried forward for the next year(s) for the purpose of payment of bonus in the manner illustrated in the Fourth Schedule of the Act.
- **Limit**: The carry forward is capped at **20% of the total salary or wages (Basic + DA)** of the employees employed in that accounting year.
- **Time limit**: This excess can be carried forward and used in future years for up to **four consecutive years**. If the surplus isn't used within this period, it expires.
- **Utilization**: The carried forward surplus will be used in subsequent years to pay bonuses, even when the establishment does not generate enough surplus in those years.

  Example:

  - Company X has an allocable surplus of ₹15 lakh in year 1.
  - The maximum bonus payable to employees is ₹10 lakh.
  - The excess surplus of ₹5 lakh can be carried forward to future years (up to 4 years).
  - Suppose in year 2, the allocable surplus is ₹7 lakh, but the maximum bonus payable is ₹9 lakh. The company can use ₹2 lakh from the carried forward surplus from year 1 to pay the bonus.

Sub-section (2): Set off of Allocable Surplus

- **What it says**: If in any accounting year, there is **no surplus** or the **allocable surplus** is **less than the minimum bonus** payable (as defined in Section 10), the **deficiency** will be carried forward to the next year(s).
- **Utilization**: The deficiency is carried forward and offset against any surplus in subsequent years to meet the **minimum bonus** requirement. Again, this can be carried forward for up to **four consecutive years**.

  Example:

  - In year 1, Company X has an allocable surplus of ₹4 lakh.
  - The minimum bonus payable to employees is ₹6 lakh.
  - The deficiency of ₹2 lakh will be carried forward to year 2.
  - In year 2, if the allocable surplus is ₹7 lakh, the company will first use ₹2 lakh to cover the previous year's deficiency, and the remaining ₹5 lakh will be available for year 2's bonus.

Sub-section (3): Principle of Set on and Set off

- **What it says**: This sub-section states that the **principle of set on and set off** as illustrated in the **Fourth Schedule** applies to **all other cases** not covered by sub-sections (1) and (2). This means that in any year, regardless of whether there is excess or deficiency, the Fourth Schedule provides the mechanism for calculating and adjusting bonuses.

  Key Points:

  - **Set on**: If surplus exceeds the maximum bonus, the excess is carried forward.
  - **Set off**: If surplus falls short of the minimum bonus, the deficiency is carried forward.
  - The Fourth Schedule contains the specific rules and calculations for applying set on and set off.

Sub-section (4): Priority in Set on/Set off Calculations

- **What it says**: If amounts have been carried forward as **set on** or **set off**, in calculating the bonus for the next accounting year, the amount from the **earliest accounting year** is taken into account first.

  Example:

  - Suppose Company X has the following carried forward amounts:

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- Year 1: ₹1 lakh (set on)
- Year 2: ₹2 lakh (set on)

- In year 3, Company X needs to pay a bonus, and the allocable surplus is insufficient.
- The company will first use the set on amount from **year 1** (₹1 lakh) before using any set on from **year 2** (₹2 lakh).

The Fourth Schedule of the Payment of Bonus Act, 1965:

Let's consider a simplified example for a company with fluctuating profits and bonus calculations over 5 years:

Year	Amount Equal to 60%/67% of Available Surplus (Rs.)	Amount Payable as Bonus (Rs.)	Set-on or Set-off of the Year Carried Forward (Rs.)	Total Set-on or Set-off Carried Forward (Rs.)
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*
3	2,20,000	2,50,000* (including 30,000 from Year-2)	Nil	Set-on 2,20,000
4	3,75,000	2,50,000*	Set-on 1,25,000	Set-on 2,20,000 + 1,25,000 = 3,45,000
5	1,40,000	2,50,000* (including 1,10,000 from Year-2)	Nil	Set-on 1,10,000 + 1,25,000 = 2,35,000
6	3,10,000	2,50,000*	Set-on 60,000	Set-on 60,000 + 1,25,000 = 1,85,000
7	1,00,000	2,50,000* (including 1,25,000 from Year-4 and 25,000 from Year-6)	Nil	Set-on 35,000
8	Nil (due to loss)	1,04,167# (including 35,000 from Year-6)	Set-off 69,167	Set-off 69,167

9	10,000	1,04,167#	Set-off 94,167	Set-off 69,167 + 94,167 = 1,63,334
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

Notes: #: Minimum bonus payable (8.33%). | *: Maximum bonus payable (20%). | **Set-on/Set-off**: Amounts that are carried forward to balance bonus payments across multiple years.

1. **Year 1**:
   - The company pays the minimum bonus of 8.33% of the total salary (₹1,04,167).
   - No surplus or deficit, so nothing is carried forward.
2. **Year 2**:
   - The company has a large surplus, so it pays the maximum bonus of ₹2,50,000 (20%).
   - The remaining ₹2,50,000 is set-on and carried forward.
3. **Year 3**:
   - The company has enough to pay the maximum bonus of ₹2,50,000, but part of it includes ₹30,000 from Year-2.
   - No surplus is carried forward this year, but the total set-on balance is ₹2,20,000.
4. **Year 4**:
   - The company again pays the maximum bonus and has a surplus of ₹1,25,000, which is set-on.
   - The set-on carried forward from previous years now totals ₹3,45,000 (₹2,20,000 + ₹1,25,000).
5. **Year 5**:
   - The maximum bonus is paid again, using ₹1,10,000 from Year-2.
   - The remaining set-on balance is now ₹2,35,000.
6. **Year 6**:

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- Maximum bonus paid with an additional surplus of ₹60,000 set-on.
- The total set-on carried forward is now ₹1,85,000.

7. **Year 7**:
   - Maximum bonus paid again, utilizing ₹1,25,000 from Year-4 and ₹25,000 from Year-6.
   - Only ₹35,000 of set-on is left to carry forward.
8. **Year 8**:
   - The company makes a loss, so it can only pay the minimum bonus (₹1,04,167), which includes ₹35,000 from Year-6.
   - A set-off of ₹69,167 is carried forward (since there's a deficit).
9. **Year 9**:
   - The company pays the minimum bonus (₹1,04,167), and another deficit is carried forward as set-off, totalling ₹1,63,334.
10. **Year 10**:
    - The company pays the minimum bonus, reducing the set-off balance by using parts from Year-8 and Year-9.
    - The remaining set-off carried forward is ₹52,501.

Summary:

- **Set on** allows carrying forward surplus bonus amounts up to 20% of total salaries/wages, to be used in subsequent years.
- **Set off** allows carrying forward deficiencies when the allocable surplus falls short of the minimum bonus, also for up to four years.
- The principle ensures fair bonus distribution across good and bad financial years.

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