TAX PLANNING PRACTICES AND ITS SIGNIFICANCE TO NEPALESE COMMERCIAL BANKS

Submitted by

Ram Prasad Kalathoki

Shankar Dev Campus

T.U. Registration No: - 7-1-55-555-2000

Exam Roll No: - 9390

Class Roll No: - 2113/063

A Thesis Submitted to

Office of the Dean

Faculty of Management

Tribhuvan University

In the Partial Fulfillment of the Requirement for the Degree of Master in Business Studies (MBS)

Putalisadak , Kathmandu

Septmber, 2010

RECOMMENDATION

This is to certify that the thesis

Submitted by:

Ram Prasad Kalathoki

Entitled:

TAX PLANNING PRACTICES AND ITS SIGNIFICANCE TO NEPALESE COMMERCIAL BANKS

has been prepared as approved by this Department in the prescribed format of faculty of Management. This thesis is forwarded for examination.

Prof. Dr. Kamal Deep Dhakal	Prof. Bishweshor Man Shrestha	Prof. Dr. Kamal Deep Dhakal
Supervisor	(Head, Research Department)	(Campus Chief)

Romakant Bhattarai
Supervisor

VIVA – VOCE SHEET

We have conducted the viva-voce examination of the thesis

Submitted by:

Ram Prasad Kalathoki

Entitled:

TAX PLANNING PRACTICES AND ITS SIGNIFICANCE TO NEPALESE COMMERCIAL BANKS

and found the thesis to be original work of the student and written according to the prescribed format. We recommend the thesis to be accepted as partial fulfillment of the requirements for the degree of **Master of Business Studies (MBS)**

Viva-Voce Committee

Head, Research Department --

Member (Thesis Supervisor) --

Member (Thesis Supervisor) --

Member (External Expert) --

DECLARATION

I hereby declare that the work reported in this thesis entitled "**A Proposal on Tax Planning Practices and its Significance to Nepalese Commercial Banks**" submitted to the Shanker Dev Campus, Tribhuvan University, is my original work. It is done in the form of partial fulfillment of the requirements for the Master of Business Studies (MBS) under the supervision and guidance of Prof. Dr. Kamal Deep Dhakal, and Rama Kant Bhattrai Lecturer of Shanker Dev Campus.

September, 2010

____

Ram Prasad Kalathoki

Researcher

ACKNOWLEDGEMENTS

The completion of the present study is a result of help and support of several hands. Therefore, I would like to express my heartfelt gratitude to all those respondents for their support and help.

I would express my sincere gratitude to my respected teacher Prof. Dr. Kamal Deep Dhakal and Rama Kant Bhattrai Lecturer for his through guidance and insightful ideas. This research would not have been possible with out the help.

I would like to express my sincere thanks to Dr. Kamal Deep Dhakal, Head, Shanker Dev Campus, Prof. Bishweshor Man Shrestha, Head of Research Department. Administration Officers of Shanker Dev Campus and all my respected teachers of Shanker Dev Campus for their suggestion and cooperation which enable me to finalize this thesis.

I am also indebted to all library staffs of Central library, T.U., Kirtipur, CEDA Library and my special thanks also goes to Ramesh Thapa who helped me for writing this thesis.

Ram Prasad Kalathoki

TABLE OF CONTENTS

Page No.

LIST OF TABLES

LIST OF FIGURES

ABBREVIATIONS

A.D.	Anno Domini (after the birth of Jesus Christ)
BOT	Build Operate and Transfer
BS	Bikram Sambat
CBIL	Citizens Bank International Limited
DDC	District Development Committee
EAT	Earning After Tax
EBIT	Earning Before Interest and Taxes
EBT	Earning Before Taxes
FIFO	First-In-First-Out
HBL	Himalayan Bank Limited
http	Hypertext transfer protocol
ICT	Information and Communication Technology
IEA	Industrial Enterprise Act
IRD	Inland Revenue Department
IRS	Inland Revenue Service
ITA	Income Tax Act
ITP	Information Technology Park
KBL	Kumari Bank Limited
LBL	Laxmi Bank Limited
LIFO	Last –In-First-Out
MBL	Machhapuchchhre Bank Limited
NABIL	Nabil Bank Limited
NBL	Nepal Bank Limited
n.d.	Not available of published date
NIBL	Nepal Investment Bank Limited
PCC	Pollution Control Cost
PV	Present Value
Pvt. Ltd.	Private Limited
RBB	Rastriya Banijya Bank

R&D	Research and Development
ROE	Return on Equity
S	Abbreviation for Section/s
SCBNL	Standard Chartered Bank Nepal Limited
S.N.	Serial Numbers
US	United States
VAT	Value Added Tax
VDC	Village Development Committee
WAN	Wide Area Network
www	World Wide Web

CHAPTER - I

INTRODUCTION

1.2 Background of the Study

Nepal is said to be an agriculture based country, service sector business are up rising. Among service sector business, commercial banks are those branches of the services sector, which are earning good profit and paying heavy tax to the nation. Commercial banks are the backbone of developing as well as growing industries. Commercial banks collect saving and investments of the economy and reinvest them in productive sectors i.e. where the fund is in need. They perform various kind of banking functions such as accepting deposit, advancing loans, credit creation, general utility services and agency functions. They provide short-term loans, medium term loans and long-term loans to trade and industries. They also operate off balance sheet functions such as issuing guarantee, bonds, letter of credit, etc. thus, the two essential functions of commercial bank may best be summarized as the borrowing and lending of money. They pool together the savings of the community and arrange for their productive use or we can say it works as a broker and a dealer in money thus, banks are essential sector of business activity, which are established to promote the economy in aggregate.

Nepal has been facing political instability, conflict and other problem that hinder economy growth, yet the commercial banks are spreading their branches and most of banks are earning good profit and contributing strong tax revenue to the nation. Now twenty-five commercial banks are in operations. The Nepalese commercial banks are innovating new product and technology to provide quality service to their customer. Besides this, banks are practicing new management tools, standard accounting system and other responsibility creation system to obtain higher profit. They want to maintain good growth rate in their business and obviously profit too. And question comes, are they practicing corporate tax planning to increase their net profit? Tax planning is the art and science of planning the company's operations in such a way as to attract the minimum liability to tax with the help of various concessions, allowances and relief's provided for in the tax laws. As such, the basic purpose of corporate tax planning is to reduce or postpone the overall tax burden in the present and foreseeable future. Tax planning is a discipline and an attitude towards solving the corporate problems in a methodical way from a long run point of view. Hence, the significance of tax planning is extremely higher to reduce the overall tax burden. If tax planning is managed properly, banks can reduce their overall tax burden and can give a good hike in profit.

The research study is related with tax planning practices and its significance to the Nepalese commercial banks. The study focuses on whether the Nepalese banks are using adequate tax planning tools or not and how much attention they are giving to tax planning to increase their net profit. The study will mainly focus on ten commercial banks namely: Nepal Bank Limited (NBL), Rastriya Banijya Bank Limited (RBB), Standard Chartered Bank Nepal Limited (SCBNL), Nepal Investment Bank Limited (NIBL), Nabil Bank Limited (NABIL), Kumari Bank Limited (KBL), Bank of Kathmandu Limited (BOK), Laxmi Bank Limited (LBL), Citizens Bank International Limited (CBIL), and Machhapuchhere Bank Limited (MBL).

1.2 Relevance of Tax Planning to Commercial Banks

In simple terminology, tax is a liability to pay the amount to the government. It is a compulsory contribution on the government revenue from the taxpayers according to law. "Tax are general contributions of wealth levied upon persons, natural or corporate, to defray expenses incurred in conferring common benefits upon the residents of the state" (Bhattrai and Koirala; 2003: 23). "Tax planning may be legitimate provided it is within framework of law. Colorable devices can not be part of tax planning and it is wrong to encourage or entertain the belief that it is honorable to avoid payment of tax by resorting to dubious method" Hence, banks can't avoid tax but can minimize it., with proper planning of it. The Nepalese banks are donating thousands of money for philanthropic purposes. They are using distinct capital structures. They are opening their branches all over the Nepal including remote areas. The Nepalese banks' these type of activities show the clear picture that they can practice tax planning on capital structure, location selection, timing of activities., R&D expenditure planning, Pollution control cost planning, Repair and maintenance planning and other relevant part of tax planning. As it is understood that tax is unavoidable expenditure but it can be reduced with proper planning of it. Banks can manage tax in every activity. Tax planning can increase the net profit.

There are many other core factors that actually increases organization' profit, yet tax planning is also a crucial technique to increase profit in this throat cut competition. Despite all this argument, tax planning has remained most important factor to increase bank's net profit. It plays vital role for every decision-making.

The more profit organizations earn, the more tax they have to pay to the nation. Hence, most of the tax liabilities of organizations are determined by their profit or income of the relevant fiscal year. Nowadays, banking industries are earning more profit in the Nepalese market.

1.3 Brief Introduction of Sampled Commercial Banks

Regarding the origin of bank in Nepal, goldsmiths and merchants were the ancient bankers in Nepal. Till 18th century, it was not formed officially. In 1933 BS then Prime Minister Ranadip Singh took the first step towards the institutional development of the banking in Nepal by establishing “Tejrath Adda”. Tejrath Adda provided loan to the Government employee in low rates of interest, but did not collect deposit from public. As it was focused with in the valley only, the Prime Minister Chandra Shamsher in 1957 BS undertook an initiative in expansion of setting up branches outside the valley. Banking in true sense was first established in Nepal on 30th Kartik 1994 in BS named as Nepal Bank Limited. Central bank was established in 2013 BS for development of banking sector and to help the Government to formulate monetary policies. Since then, it has been functioning as the Government bank. In 2022 BS Rastriya Banijya Bank, the second commercial bank was established. Nepal being an agricultural based country, Agriculture Development Bank was established in 2024 BS. After His Majesty's Government allowed operating a bank in a joint venture, the first joint venture bank in the country, Nepal Arab Bank Limited was established in 2041 BS. This has proved to be a milestone in banking sector in Nepal. Similarly, other commercial banks have been established in joint venture with foreign banks. Now there are twenty-five commercial banks till the date of this research, which was just twenty till 2006/07. Now the commercial banks are scattered all over the nation. Banks has been opened in form of governmental, joint venture and non joint venture form.

After the restoration of democracy in Nepal there has been tremendous development in banking sector. It has played important role in the economic development of the country. After the introduction of Development Bank Act 2052, many development banks have been opened in the various parts in Nepal. Since the numbers of banks are increasing, Nepal Rastriya Bank is conducting a study whether or not any other banks are required in the country. the sample has been taken so as to represent all type of commercial banks. The sample commercial banks are as follows.

1.3.1 Nepal Bank Ltd.

The oldest bank of Nepal, Nepal Bank Limited was established on 1994 B.S. Kartik 30, Monday (November 15, 1937) NBL's authorized capital was Rs. 10 million & issued capital Rs. 2.5 million of which paid-up capital was Rs. 842 thousand with 10 shareholders. Now the bank has Rs.380383000 paid up capital. It is the first bank of Nepal to establish under the principle of Joint venture (joint venture between govt. & general public). The vision statement of the bank is "To remain the leading financial institution of the country. It has 98 branches excluding head office in the nation. The shareholder composition of the bank is as follows:

- The Government of Nepal has 40.49% shares.
- 'A' Class Financial Institutions have 4.92% shares.
- NRB Licensed Financial Institutions have 3.42% shares.
- Other institutions have 0.52% shares.
- General Public has 49.94% shares.
- Others have 0.71% shares.

Source: (www.nepalbank.com)

1.3.2 Rastriya Banijya Bank Ltd.

Another government owned bank in the Nepalese market is Rastra Banijya Bank. During this dissertation, this bank is also running by outsider foreign management. This bank was established in 10 Magh, 2022 B.S. on the ground of “Commercial Bank Act” 2021 B.S. This bank played a great role to uplift the agricultural, industrial and commercial sector of the country since its establishment. This is the largest commercial bank among all twenty-five commercial bank in Nepal. It has 117 branches scattered all over the countryside. This bank has highest amount of deposit as well as granted highest amount of loan till this study and has also tested foreign management, so this bank is important sample for this study.

Source: (www.rbb.com.np)

1.3.3 Standard Chartered Bank Ltd.

Earlier known as Nepal Grindlays Bank Ltd Came into existence in 1987 as a joint venture between ANZ Grindlays and Nepal Bank Ltd. it started its business with Rs 30 million paid up capital. After Acquiring of the ANZ operation in the region by the standard chartered, it has become a subsidiary of SC Grindlays, which holds 50% of shareholdings in the bank. Now from the

date July 2001, it has named as Standard Chartered Bank Ltd., after take over by Standard Charter (Jha, 2003). Now, Standard Chartered Bank has 50% shares, NBL has 33% shares and the Nepalese Public has 17% shares in this bank.
Source: (www.standardcahartered.com)

1.3.4 Nabil Bank Ltd.

Nepal Arab Bank Ltd. the first joint venture commercial bank was established in 1984, Dubai Bank Ltd. was the initial foreign joint venture partner with 50% equity investment. Later on, the shares owned by Dubai Bank Ltd were transferred to Emirates Bank International Ltd. Again Emirates Bank International Ltd Dubai sold its entire 50% equity holding to National Bank Ltd. Bangladesh. At present National Bank Ltd Bangladesh is managing the bank in accordance with the technical services agreement signed between it (NBL) and the bank on June 1995 (Financial Statement, 1997/98:9) Now National Bank Ltd. Bangladesh has 50% share, Nepal Industrial Development Corporation has 10% shares, Rastriya Beema Sansthan has 9.66% shares, Nepal Stock Exchange has 0.34% shares and the Nepalese Public has 30% shares.
Source: (www.nabilbank.com)

1.3.5 Nepal Investment Bank Ltd.

Nepal Investment Bank Ltd, previously Nepal Indosuez Bank Ltd, was established in 1986 as a joint venture between the Nepalese and French partners. The French partner (holding 50% of the capital) was Credit Agricole Indosuez, a subsidiary of one of the largest banking groups in the world.

With the decision of Credit Agricole Indosuez to divest, a group of companies comprising of bankers, professionals, industrialists, and businessmen, in April 2002, acquired 50% of the holdings of Credit Agricole Indosuez in Nepal Indosuez Bank. The name of bank was changed to Nepal Investment Bank Ltd.

upon approval of the bank's Annual General Meeting, Nepal Rastra Bank and Company Registrar's Office.

The shareholding structure comprises of:

- A group of companies holding 50% of the capital.
- Rastriya Banijya Bank holding 15% of the capital.
- Rastriya Beema Sansthan holding 15% of the capital.
- The general public holding 20% of the capital.

Source: (www.nibl.com.np)

1.3.6 Laxmi Bank Ltd.

Laxmi Bank was incorporated in April 2002 as a commercial bank. The current shareholding constitutes of promoters holding 55.42%, Citizen Investment Trust holding 9.02 percent and the general public holding 35.56 percent. Promoters represent Nepal's leading business families with diversified business interests. The Bank's shares are listed and actively traded in the Nepalese Stock Exchange.

Source: (www.laxmibank.com)

1.3.7 Kumari Bank Ltd.

Kumari Bank Limited, came into existence as the fifteenth commercial bank of Nepal by starting its banking operations from Chaitra 21, 2057 B.S (April 03, 2001) with an objective of providing competitive and modern banking services in the Nepalese financial market. The bank has paid up capital of Rs. 750 million, of which 70 % is contributed from promoters and remaining from public.

KBL has been providing wide-range of modern banking services through 9 points of representations located in various urban and semi urban part of the country, 5 outside and 4 inside the valley. The bank is pioneer in providing some of the latest lucrative banking services like E-Banking and SMS banking services in Nepal. The bank always focus on building sound technology driven internal system to cater the changing needs of the customers that enhance high comfort and value. The adoption of modern Globus Software, developed by Temenos NV, Switzerland and arrangement of centralized data base system enables customer to make highly secured transactions in any branch regardless of having account with particular branch. Similarly the bank has been providing 365 days banking facilities, extended banking hours till 7 PM in the evening, utility bill payment services, inward and outward remittance services, and various other banking services.

Visa Electron Debit Card, which is accessible in entire VISA linked ATMs (including 11 own ATMs) and POS (Point of Sale) terminals both in Nepal and India, has also added convenience to the customers. The bank has been able to get recognition as an innovative and fast growing institution striving to enhance customer value and satisfaction by backing transparent business practice, professional management, corporate governance and total quality management as the organizational mission.

The key focus of the bank is always center on serving unfulfilled needs of all classes of customers located in various parts of the country by offering modern and competitive banking products and services in their door step. The bank always prioritizes the priorities of the valued customers.
Soruce: Annual Report 2065/66.

1.3.8 Bank of Kathmandu Ltd.

Bank of Kathmandu Limited has become a prominent name in the Nepalese banking sector. It has put in conscious efforts to glorify our corporate slogan; “We make your life easier”.

BOK started its operation in March 1995 with the objective to stimulate the Nepalese economy and take it to newer heights. BOK also aims to facilitate the nation's economy and to become more competitive globally. The vision of the bank is "To become a significant contributor to the economic development of

Nepal by distinguishing the bank as an efficient, competitive, safe and top quality financial institution." BOK's IT infrastructure has been designed, to facilitate, internal and customer convenience. Nationwide, all the branches are connected to the central database via Wide Area Network (WAN) powered by Finacle, state-of-the-art banking application software supported by hardware like SUN Fire V880 RISC server, VSAT etc. Internally, BOK relies on Information & Communication Technology (ICT), for a quick, reliable, efficient system. Banking operations are powered by Finacle, which is listed among the top 40 companies that have reshaped the global economy as per the Wired Magazine (www.bok.com.np).

1.3.9 Citizens Bank International Ltd.

Citizens Bank International Ltd is located at Sharada Sadan, Kamaladi, Kathmandu. It is promoted by eminent personalities/business and industrial houses and reputed individuals having high social standing. It is managed by a team of experienced bankers and professionals. The bank's corporate vision is "To be the leading bank known for its service excellence in the region." The bank has two Billion authorized capital and 560 million paid up capital.

Source: (www.ctznbank.com)

1.3.10 Machhapuchchhre Bank Ltd.

Machhapuchchhre Bank Limited was registered in 1998 as the first regional commercial bank to start banking business from the western region of Nepal with its head office in Pokhara. It has paid up capital of above 820 million rupees.

It is the pioneer in introducing the latest technology in the banking industry in the country. It is the first bank to introduce centralized banking software named Globus Banking System developed by Temenos NV, Switzerland. Currently it is using the latest version of Globus, referred as T-24 Banking System. The bank aims to serve the people of both the urban and rural areas.

Source: (www.machbank.com)

1.4 Statement of Problem

Banking and financial sectors are the backbone of whole country. Different types of banks operating their financial activities and contributing the national economy of the country. In Nepal, twenty-five commercial banks are operating at present. The commercial banks are categorized into two types as public sector commercial banks and private sector commercial bank. Private sector commercial bank also categorized into two parts as joint venture and domestic commercial bank. Although these banks are committed to provide services, their major aims are to get profit so far.

Profit is a must part for any kinds of business firm without profit business society cannot be existed. Like the other business sectors, banking sector also cannot survive and operate without profit but the Profit does not just happen. It is to be well managed and planned. There are many types of expenditures that reduce the profit. Costs may or may not be certain, but one of the certain expenditure or liability is tax. Every organization must pay tax to the government according to the prescribed law. Hence, tax expenditure should be properly managed to earn higher profit. So there is significance of tax planning in every organization. Now it can be concluded that tax-planning practices is a subject matter of research in Nepal.

In a banking sector a question may arise "do the commercial banks of Nepal practice tax planning tools and technique in their financial and other decisions? To find out the correct answer of this question, it is felt that there should be serious studies on tax planning practices of commercial banks in Nepal. In addition to this, the research will try to find the answers to the following questions;

- Are the Nepalese commercial banks practicing tax planning?
- At what level are they practicing tax planning if they are practicing?
- How do they perceive the tax planning?
- Is tax planning significance to the Nepalese commercial banks?

1.5 Objectives of the Study

The main objective of the research is to examine/ the tax planning practices by commercial bank in Nepal. The major objectives are as follows.

a. To find out tax planning practices in the Nepalese commercial banks.

b. To identify the areas of tax planning that the banks are practicing on.

c. To find out difficulties that the banks are facing while practicing tax planning.

d. To suggest and make recommendations on the basis of major findings.

1.6 Significance of the Study

This research will provides information relating to practice of tax planning tools and techniques used in commercial banks of Nepal. It will analysis the actual practices implemented by the banks and its significance to them. It is beneficial for those people who are directly or indirectly related with tax and tax planning field.

The purposed study will be significance in the following ways:

- It will examine tax planning tools and technique followed by commercial banks in Nepal.
- It will explain the level of tax planning practices in the Nepalese commercial banks.
- It will provide vital information regarding the problems faced by the commercial banks while tax planning.
- It is useful to concerned company, investor, policy maker, manager, and researcher of taxation.
- It will provide literature to the researchers who want to commence further research in this field.

1.7 Limitations of the Study

The study will be done for the partial fulfillment of master of business studies. The study will be conducted within certain limitation and constraints. Some of them are:

- This research focuses on tax planning tools and technique practiced by selected commercial in Nepal only. So the finding might not be used to other sectors.
- This study mainly focuses the practice of some important tax planning tools and technique.
- Data constraints are common phenomenon in the study. The study will be based on primary data to avoid bias but still it may be bias to some extent.
- The study will be based on the response and the data available from banking officials.

1.8 Organization of the Study

The Study is organized in the following five chapters:

1. Chapter 1: Introduction

It deals with introduction of the main topic of the study like general background, profile of sample bank, statement of the problem, objectives and significance with limitation of the study and other introductory framework.

2. Chapter 2: Review of Literature

It deals with the review of available relevant studies. It includes the conceptual review and review of the related books, journals and the published and unpublished research works as well as thesis. It also includes the investment policy of commercial bank.

3. Chapter 3: Research Methodology

It deals with methodology of the study i.e. research carried out in this size and shape. For this purpose various financial tool and statistical tool are defined which will be used for the analysis of the presented data.

4. Chapter 4: Presentation and Analysis of Data

It deals with the presentation and analysis of all the relevant collected data. Analysis is done as per described in chapter 3. This chapter is the heart of the study.

5. Chapter 5: Summary, Conclusion and Recommendations

It contains the summary of the study, the major findings, conclusion recommendation and suggestion on the basis of the study.

CHAPTER II

CONCEPTUAL FRAMEWORK AND REVIEW OF LITERATURE

Review of literature is the study of past research studies and relevant materials. It is the advancement of existing knowledge and in depth study of the subject materials. Review of literature means reviewing research studies and other relevant proposition in the related area of the study so that all the past studies, their conclusion and deficiencies may be known and further research can be conducted. It is an integral and mandatory process in research work.

2.1 Evolution of Commercial Banks in Nepal

Nepal does not have a long history on the development of the banking sector it all started with the Tejarat Adda established in 1876 by the Rana Prime minister Ranodeep Singh, which used to provide loans to the civil servants and to the general public by pledging gold and silver. However, it did not accept deposits from general public.

In Nepal, organized banking system is a relatively recent phenomenon. The process was started with establishment of Nepal Bank Ltd in 1994 B.S. (1937 A. D.). This is the first financial institution of the nation. Rastriya Banijya Bank founded in 2022 B.S. (1966 A. D.) as the second commercial bank of the country. With the advent of new commercial bank policies, foreigners have been encouraged to invest in Nepal, which in turn has led to the establishment of the joint venture companies among which banks have gained a wide popularity. In this context, three of the most dramatic reforms were carried out in the 1980s which allows the foreign banks to operate as joint ventures this deliberated policy of Nepal Government to allow establishment of joint venture banks in Nepal is basically targeted to encourage the local traditionally run commercial banks to enhance their banking capacity through competition, efficiency, modernization, mechanization and prompt customer service.

The foreign commercial banks, with full fledged banking functions in Nepal have been established under company act 2031 B.S.(1974 A.D.) and operate under the commercial bank act 2031 B. S.(1974 A. D.).

Accordingly they have joint venture agreement between the Nepalese promoters and their respective parents banks, each supplying minimum forty percent and maximum fifty percent of the total investment (except for Himalayan Bank Ltd which has only 20 % share of Habib Bank Limited), the local investment has been shared by institutions, both financial and non financial and individual investors. Nepal Arab Bank Ltd was established in 2041 B. S. (1984 A.D.) as first joint venture bank in Nepal as a result of the government's policies in the financial sector. The advent of the liberalization policy of the government in the early 1990s brought in many joint venture banks to the Himalayan Kingdom. One can list down certain changes made in the country, which have significantly revolution on the financial landscape. Some of them are listed as follows:

- Liberalization of exchange control.
- Gradual privatization of state owned enterprises.
- Opening up of commercial and investment banking for private sectors.
- Establishment of the large number of the companies-both local and international and financial institutions like banks, finance companies, insurance companies etc.
- Development of capital market and stock exchange.
- Auctioning of government securities.
- Market based rate of return and
- Other liberal banking regulation (Vaidya, 2001:152).

2.2 Present Scenario of Commercial Banks in Nepal

The Banking industry is continuously evolving with introduction of new service delivery channels, new products, and adoption of sophisticated technologies. The advancement in the information technology and the conducive global environment has fastened the pace of evolution of this industry too. With the adoption of sophisticated technologies, the dimension of banking and financial services has widened a lot. At present there are twenty-five no. of commercial banks. (NRB Banking and Financial Statistic, No 48, 2008) As such, the banks are now equipped new and innovative service delivery channels offering a number of products on the fore. The banks now have more opportunities, but these are undoubtedly attached with plenty of risks. In light of the rapidly changing scenario, the conventional supervisory tools, techniques and methodology that may have been adequate over a decade ago are unable to meet the supervisory objectives for today's larger, more complex banks.

2.3 Review of Theoretical Concept of Tax and Tax Planning

The concept of tax and tax planning has been defined by various authors in different ways. The subject matter of it is very vague. For the conceptual foundation, review of theoretical concept of tax and tax planning has been made.

2.3.1 Concept of Tax

In simple terminology, tax liability to pay an amount to the government. It is a compulsory contribution on the government revenue from the taxpayers according to law.

Tax originally denoted to assess an amount to be levied; the notion of imposing such a levy is a secondary development. The word comes passing through old French 'taxer' from Latin 'taxare' a derivative of 'tangere' of English. The taxare was derived form Medieval Latin noun 'taxa' which means an allotted piece of work or task, which passed into English through Anglo-Norman 'tasque' as task

"Taxes are general contributions of wealth levied upon persons, natural or corporate, to defray expense incurred in conferring common benefits upon the residents of the state" (Bhattrai and Koirala, 2004:34).

After the great depression of 90's, the function of government has been increased considerably for smooth functioning of the government has got various sources of revenue. Among the various sources of revenue of government the most important is tax. Generally tax is defined as compulsory payment to the government. Everybody on whom it is imposed should pay tax. He is punished in case of evasion. The taxpayer does not get liquid pro quo or equivalent benefit, from the government for paying tax. According to Seligman, tax refers "A compulsory contribution from a person to the government to defray expenses incurred in common interest of all without reference to special benefit conferred."

A tax is a liability imposed upon the tax assesses who may be an individual, a group of individuals, or other legal entity. It is a liability to pay an amount on account of the fact that the tax assesses has income of a minimum amount and from certain specified sources; they carry on certain economic activities, which have been chosen for taxation. A good tax system should run in harmony with important national objectives. The dynamism of the system is more relevant for a developing economy where the structure and rate of taxes have to be constantly reviewed. A tax system should be equitable as between different taxpayers.

"A tax has a long history. According to Manu, taxes should be laid as per the shrastras"(Seligman, 1969: 18). We can get the reference of tax in shanti parba of Mahabharata where Yudhister gets education about different political activities from Bhisma. Here, Bhisma said just a person desirous of getting milk never obtains the same by cutting udders of his cow, so a kingdom inflected by improper devices or irregular practices never yield any profit for the kingdom. We find similar openions in Pachantantra. In history, tax has caused many events that are of immense importance for the people of modern world. Whether it is a case of Corn Law imposed in England or the slogan rose as "no taxation without representation" in independence movement of USA, it is the tax that was the root item. Taxation caused the French Revolution of 1789, Boston Tea Party in USA and took the life of Charles I in England in 1748.

2.3.2 Concept of Corporate Tax

Nepal currently levies four different types of income taxes. They are individual income tax, corporate income tax, house rent tax and interest tax, of these taxes, corporate tax are levied on corporate body. A Corporation is a separate entity from its shareholders on both legal and economic grounds. It is a separate entity from its shareholders on both legal and economic grounds. It is separate legal entities form its shareholders since it can sue and be sued in its own name. Furthermore, it holds properties in its own name and its shareholders have limited liability in respect of its debts (Ministry of Finance Department of Economics Affairs; 1955:42). A corporation is also a separate economic entity. It has authority to take decision on various matters including the distribution of its profits to its shareholders that exercise only a remote control over the earning of corporate income. Since corporation is a separate entity from its shareholders, the profit obtained by the former is different from the income of the later. Accordingly, it is standard international practice to levy tax on corporate profit. Corporate income tax is also justified on the following grounds:

- Easy to collect.
- The dominant role of corporations in business life.
- Ownership and control rest on different persons, particularly, in the case of large companies.
- The burden of corporate income tax sometime is borne not by the owners of the company but by the suppliers, consumers or employees of the company depending upon market conditions.

Nepal levies corporate income tax on government corporations, public and private limited companies and partnership firms.

A corporate body is a legal organization that is voluntarily created, organized, or chartered under law. It is an artificial person,, which can own property, execute contacts, raise debts and generate profits. Therefore a corporate tax is a tax levies on corporate to unincorporated enterprises. It is the tax on capital income that accrues in the form of profit and originates in the corporate sector (Mussgrave, Richard A. and Mussgrave, Peggy B; 1989: 98). The corporate tax is the branch of the income tax introduced in 1797 in one Dutch Batavian Republic and in 1799 in England. Although Nepal has a long history of taxation, corporate tax was introduced only in 1960 when the Business Profits and Remuneration Tax Act, 196 was enacted. In the beginning it was not differentiated form personal income tax. The finance Acts of 1960 to 1964 prescribed the same tax rates with progressivism and exemption limit to all companies, private firms, individuals and families. From the financial year 1965/66, tax exemption given to companies similar to personal taxpayers was withdrawn.

The rate of corporate tax was very low when it was introduced. It was increased during the great world wars when the state imposed higher tax rates because of its easiness in taping the revenues (Goode, Richard; 1951: p.29). Although, corporate tax has been an inseparable factor of the modern world of taxation, there is no unanimous view about its existence. Different economists, tax experts and businessmen have different opinions regarding its theory of existence, base of taxing, shifting and incidence and methods of taxation. They differ in their opinion related to the impact of corporate taxation on investment. In these days, different issues have been raised in relation to the impact of inflation on business community due to corporate tax. Besides this, debates have been continuing regarding the usefulness of different types of tax incentives, rate of tax, treatment of risk and past accumulated losses, inventory valuation technique and capital gain taxation (Kandel, 2004: 110).

2.3.3 Theoretical Framework of Tax Planning

Planning is an important feature of all business enterprises whether big or small, old or new, private of public. The need for having a formal planning system in a company arises from the necessity of management to conduct the operations of the company efficiently and effectively. Corporate planning is necessary for the survival and growth of a company. Penning regards corporate planning as "A formal and systematic managerial process organized by responsibility, time and information to ensure that operational planning, project planning and strategic planning are carried out regularly to future of an enterprises (Bosil, W Denning 1971: 71). Operation planning refers to the future planning of existing operations in existing market with existing customers. Project planning includes the general appraisal and working out the details of an action (project) outside the scope of existing operations. Strategic planning is the process of formulating long –run objectives and deciding on the resources for achieving them. Corporate Planning, thus, includes operational planning, project planning and strategic planning. Tax consideration is required to be given in each of these panning areas in order to minimize tax liability. A brief description of these planning areas is as under:

1. Strategic Planning

Strategic Planning is the process of formulating long-term objectives and deciding on the resources for attaining them. Determination of corporate objectives and goals is the starting point of the process. The objective may represent a set of goals to be achieved and the task for which a company exists. Formulation of strategies and policies aims at attaining the corporate objectives and goals. A company can't and should not set for itself a goal of maximizing profits in utter disregard of tax concessions, companies not only reduce their tax liability, but also maximize profit after tax. Strategic planning relates to the strategic decisions such as choice of business, location of company, selection of organizational form, selection of product, merger, selection of sources of capital, selection of the method of production, etc. special tax benefits available under the Income Tax Act and Industrial Enterprises Act for the business falling under "priority Industrially backward areas, or amalgamating a good unit into a bad unit cannot and should not be overlooked. Tax planning in strategic decisions not only benefits the company in minimizing its tax liability, but it also contributes to the accomplishment of social and economic objectives behind forming of such tax provisions by the government.

2. Project Planning

Project planning is the performance, appraisal and working out of details of an action outside the scope of existing operations. Such an action is capable of an independent analysis and control. e.g. new investment in plant and machinery, for making additions, modernization or renovation. Various ongoing project of a business are directly or indirectly related with the corporate objectives, goals and strategic. When a company is considering project program of any area of project planning, it becomes necessary to consider tax factor. Taxation law invites companies to avail of the benefits and concessions provided within the framework of existing rules and regulations. For instance, while deciding about projects involving new investment in fixed assets, tax concessions/allowances such as investment allowance, depreciation allowance, rehabilitation allowance, tax holiday, etc, must be considered.

In this way, there should be consideration of tax planning whether it is corporate planning or operational planning.

2.3.4 Techniques of Minimizing Tax Liability

Basically, there are four ways of minimizing the tax liability, viz. tax evasion, tax avoidance, tax delinquency and tax planning.

1. Tax Evasion

Tax evasion involves hiding income illegally or concealing the particulars of income or a particular source or sources of income or manipulating the accounts to overstate expenditures and other outgoings and understate incomes with a view to reducing profit and thus the taxable income. Tax evasion is, therefore, illegal, unethical, and uneconomic as well. It is done through different ways like non reporting income, underreporting of income, making fraudulent changes in account books, maintaining multiple sets of accounts, operating business transactions under different names, opening bank account in dummy name, over –reporting of expenses, fragmentation of income, transfer pricing etc.

"Tax evasion is an action by which the taxpayer tries to escape legal obligations by fraudulent means. This might involve simply failing to report income or trying to create excess deductions. This category can also be broken down into two subcategories:

(A) Evasion of tax on income that is legally earned; and,

(B) Evasion of tax on income that arises from an illegal activity such as trafficking in narcotics.

An example of tax fraud would be the formation of sales companies that appear to deal only with unrelated parties, but in fact deal with related parties, hiding the fact that one owns a particular tax haven corporation. These tax haven corporations are also used to hide corporate receipts or slush funds (Techniques of Tax Planning, 2008, www.lectlaw.com)

Tax evasion is unethical, illegal and uneconomic activity also. It is unethical because the activity of not paying tax is against moral ethics. It is illegal because the law does not permit to evade the tax. In the same way, it is uneconomic because it promotes black money i. e. underground economy in a country. Such types of activities do not promoter healthy economic system in the country.

Basically, there are three types of effects of tax evasion in the economy, i.e. less or revenue to the state, redistribution of income which affects the efficiency of resource allocation in the economy and creating wrong statistics leading to errors in the government policies. Tax factors include tax rate, tax base, tax structure, penalty and possibility of applying penalty if evasion is detected. Mainly, tax factors are more concerned with the tax evasion on income from legal activities. There are several types of tax evasion-unilateral (taxpayer himself), bilateral (from the connivance or assistance of government official), trilateral (form the collusion of tax officers, tax auditors and taxpayer) and multilateral (all parties from government to taxpayer). In a work of tax evasion, it is very difficult to choose between businessmen, professional, a person in service, or a politician who is not a tax evader.

1. Tax Avoidance

As regards tax avoidance, it is the art of dodging tax without actually breaking the law. It is a method of reducing tax liability by taking advantages of certain loopholes in the tax laws. Wheat craft analyses tax avoidance as a transaction, which would not be adopted if the tax saving elements were absent. Therefore, tax avoidance involves (a) a transaction entered into avoid tax and with full legal backing, and (b) a transaction which the legislature would not intend to encourage (www.lectlaw.com 1989). It is often very difficult for an individual to determine whether a particular transaction is tax avoidance or tax evasion. The terms are not at all well defined and the law governing new transaction forms is variable and imprecise. When the IRD encounters unfamiliar transaction, it attempts to rule on these actions under existing laws - created with different circumstances in mind. The result is confusion with this year's tax shelter becoming next year's unlawful abuse. Plus there are the many grey areas.

The following are the criteria used by English and Indian court to find out tax avoidance.

- Use of colorable devices.
- Twisting of facts.
- Taking only strict spirit of law and suppressing the legislative intend.

Tax avoidance is the reduction of tax liability through the manipulation of existing law. It is legally permissible but unethical. Section 35 of the Income

Tax Act 2058 has defined tax avoidance as any means or arrangement, one of the main purposes of which is the avoidance or reduction of tax liability.

2. Tax Planning

Tax planning is the art and science of planning the company's operations in such a way as to attract the minimum liability to tax with the help of various concessions, allowances and relief's provided for in the tax laws. As such, the basic purpose of corporate tax planning is to reduce or postpone the overall tax burden in the present and foreseeable future. Tax planning is a discipline and an attitude towards solving the corporate problems in a methodical way from a long-run point of view. The correct approach in regard to tax planning has been formulated by Rangnath Mishra, a supreme court Justice of India, in the case of M. C. Dowell (Supra) in the following words; tax planning may be legitimate provided it is within the framework of law. Colorable devices cannot be part of tax planning and it is wrong to encourage or entertain the belief that it is honorable to avoid the payment of tax by resorting to dubious methods. It is the obligation of every citizen to pay tax honestly without resorting to subterfuges (Pandey 1995: 195-96).

Tax planning requires intelligent and well thought out strategy to reduce or postpone tax liability in the present and foreseeable future with stress on being honest, responsible and trustworthy citizen. Indian Supreme Court judge Ranga Nath Mishra on the case Mc Dowell and company Vs CTO says, "Tax planning may be legitimate provided it is within framework of law. Colorable devices can’t be part of tax planning and it is wrong to encourage or entertain the belief that it is honorable to avoid payment of tax by resorting to dubious method (Kandel, 2004: 96)

Systematic analysis of differing tax options aimed at the minimization of tax liability in current and future tax periods. Whether to file jointly or separately, the timing of a sale of an asset, ascertaining over how many years to withdraw retirement funds, when to receive income, when to pay expenditures, the timing and amounts of gifts to be made, and Estate Planning are examples of tax planning. Tax Software can be used for tax planning purposes.

Tax planning involves conceiving of and implementing various strategies in order to minimize the amount of taxes paid for a given period. For a small business, minimizing the tax liability can provide more money for expenses, investment, or growth. In this way, tax planning can be a source of working capital. According to The Entrepreneur Magazine Small Business Advisor, two basic rules apply to tax planning. First, a small business should never incur additional expenses only to gain a tax deduction. While purchasing necessary equipment prior to the end of the tax year can be a valuable tax planning strategy, making unnecessary purchases is not recommended. Second, a small business should always attempt to defer taxes when possible. Deferring taxes enables the business to use that money interest-free, and sometimes even earn interest on it, until the next time taxes are due.

Experts recommend that entrepreneurs and small business owners conduct formal tax planning sessions in the middle of each tax year. This approach will give them time to apply their strategies to the current year as well as allow them to get a jump on the following year. It is important for small business owners to maintain a personal awareness of tax planning issues in order to save money. Even if they employ a professional bookkeeper or accountant, small business owners should keep careful tabs on their own tax preparation in order to take advantage of all possible opportunities for deductions and tax savings. "Whether or not you enlist the aid of an outsider, you should understand the basic provisions of the tax code," Albert B. Ellentuck wrote in the *Laventhol and Horwath Small Business Tax Planning Guide.* "Just as you would not turn over the management of your money to another person, you should not blindly allow someone else to take complete charge of your tax paying responsibilities." In addition, as Frederick W. Dailey wrote in his book *Tax Savvy for Small Business,* "Tax knowledge has powerful profit potential.

Knowing what the tax law has to offer can give you a far better bottom line than your competitors who don't bother to learn (www.answers.com).

Hence, tax planning is very crucial to increase net profit decreasing the tax liability. It is a scientific planning of company operations. It is economic, legal, and ethical activity, it is the use of various incentives, concessions, allowances, rebates etc. and it is an activity related to future. It has the objectives of:

- Reduction of tax liability.
- Minimization of litigation.
- Productive investment.
- Healthy growth of the economy and
- Economic stability.

2.3.5 General Areas of Tax Planning

There are several general areas of tax planning that apply to all sorts of businesses. These areas include the choice of accounting and inventory-valuation methods, the timing of equipment purchases, the spreading of business income among family members, and the selection of tax-favored benefit plans and investments. There are also some areas of tax planning that are specific to certain business forms—i.e., sole proprietorships, partnerships. Some of the general tax planning strategies is described below:

2.3.5.1 Accounting Method

Accounting methods refer to the basic rules and guidelines under which businesses keep their financial records and prepare their financial reports. There are two main accounting methods used for record-keeping: the cash basis and the accrual basis. Small business owners must decide which method to use depending on the legal form of the business, its sales volume, whether it extends credit to customers, and the tax requirements set forth by the Internal Revenue Department (IRD). The choice of accounting method is an issue in tax planning, as it can affect the amount of taxes owed by a small business in a given year.

Accounting records prepared using the cash basis recognizes income and expenses according to real-time cash flow. Income is recorded upon receipt of funds, rather than based upon when it is actually earned, and expenses are recorded as they are paid, rather than as they are actually incurred. Under this accounting method, therefore, it is possible to defer taxable income by delaying billing so that payment is not received in the current year. Likewise, it is possible to accelerate expenses by paying them as soon as the bills are received, in advance of the due date. The cash method is simpler than the accrual method, it provides a more accurate picture of cash flow, and income is not subject to taxation until the money is actually received.

In contrast, the accrual basis makes a greater effort to recognize income and expenses in the period to which they apply, regardless of whether or not money has changed hands. Under this system, revenue is recorded when it is earned, rather than when payment is received, and expenses recorded when they are incurred, rather than when payment is made. The main advantage of the accrual method is that it provides a more accurate picture of how a business is performing over the long-term than the cash method. The main disadvantages are that it is more complex than the cash basis, and that income taxes may be owed on revenue before payment is actually received. However, the accrual basis may yield favorable tax results for companies that have few receivables and large current liabilities.

Under generally accepted accounting principles (GAAP), the accrual basis of accounting is required for all businesses that handle inventory, from small retailers to large manufacturers, though there are exceptions for farming businesses and qualified personal service corporations—such as doctors, lawyers, accountants, and consultants. Other businesses generally can decide which accounting method to use based on the relative tax savings it provides.

2.3.5.2 Inventory Valuation Method

The method a small business chooses for inventory valuation can also lead to substantial tax savings. Inventory valuation is important because businesses are required to reduce the amount they deduct for inventory purchases over the course of a year by the amount remaining in inventory at the end of the year. For example, a business that purchased Rs10, 000 in inventory during the year but had Rs 6,000 remaining in inventory at the end of the year could only count Rs 4,000 as an expense for inventory purchases, even though the actual cash outlay was much larger. Valuing the remaining inventory differently could increase the amount deducted from income and thus reduce the amount of tax owed by the business.

The tax law provides two possible methods for inventory valuation: the first-in, first-out method (FIFO); and the last-in, first-out method (LIFO). As the names suggest, these inventory methods differ in the assumption they make about the way items are sold from inventory. FIFO assumes that the items purchased the earliest are the first to be removed from inventory, while LIFO assumes that the items purchased most recently are the first to be removed from inventory. In this way, FIFO values the remaining inventory at the most current cost, while LIFO values the remaining inventory at the earliest cost paid that year.

LIFO is generally the preferred inventory valuation method during times of rising costs. It places a lower value on the remaining inventory and a higher value on the cost of goods sold, thus reducing income and taxes. On the other hand, FIFO is generally preferred during periods of deflation or in industries where inventory can tend to lose its value rapidly, such as high technology. In Nepal, there is no practice of switching inventory valuation method but in western and European countries, companies are allowed to file Form 970 and switch from FIFO to LIFO at any time to take advantage of tax savings. However, they must then either wait ten years or get permission from the Internal Revenue Service (IRS) to switch back to FIFO. (www.answers.com)

2.3.5.3 Equipment Purchase

In Nepal, companies are allowed to charge depreciation according to Income Tax Act, if they purchase fixed asset during the fiscal year. But in UK, according to Internal Revenue Code, businesses are allowed to deduct a total of $18,000 in equipment purchases during the year in which the purchases are made. Any purchases above this amount must be depreciated over several future tax periods.(http://www.answer.com/topic/tax-incentive). It is often advantageous for small as well as large business to use this tax incentive to increase their deductions for business expenses, thus reducing their taxable income and their tax liability. Necessary equipment purchases up to the limit can be timed at year end and still be fully deductible for the year.

2.3.5.4 Wages Paid to Family Members

Self-employed persons can also reduce their tax burden by paying wages to a spouse or to dependent children. Income Tax Act has allowed doing the same. it also helps to decrease the taxes. For example in US, wages paid to children under the age of 18 are not subject to FICA (Social Security and Medicare) taxes.

It is important to note, however, that the child or spouse must actually work for the business and that the wages must be reasonable for the work performed.

2.3.5.5 Benefits Plans and Investments

Tax planning also applies to various types of employee benefits that can provide a business with tax deductions, such as contributions to life insurance, health insurance, or retirement plans. As an added bonus, many such benefit programs are not considered taxable income for employees. Finally, tax planning applies to various types of investments that can shift tax liability to future periods, such as treasury bills, bank certificates, savings bonds, and deferred annuities. Companies can avoid paying taxes during the current period for income that is reinvested in such tax-deferred instruments.

2.4 Scope of Tax Planning Under Income Tax Act, 2058

Businessperson performs two types of activities related to investment. One affects for the long time and other affects for the short time only. The first type is related to strategic planning and the second one to operational planning. Both of these activities have implications on tax related matters. Some of the provisions of the Income Tax Act 2002 which can be considered as the avenues of tax planning in both the long run planning are as follows:

2.4.1Selection of Business

The rate of corporate income tax for manufacturing sector is 20%, for financial sector 30 percent and for other sectors 25 percent. This means, there are difference in tax rates applicable to different sectors of the economy. The differences are created to promote the manufacturing sector of the economy and thus to created employment to the people. But equally important is the fact that this difference induces tax planning. Other things remaining the same, in investor selects manufacturing sector because the tax rate applicable to this sector I low. In the same way, as per the sec 11 of the act, the agriculture business conducted individually I n out of tax net, the cooperatives situated in rural areas are tax-free. Even the dividend distributed by such organizations is out of the scope of taxation. That means, an investor can save money by investing in above stated agriculture sector or cooperative business. Such saving of tax is neither illegal nor unethical. It was found from one survey that 90 percent of the business firms consider tax factor while selecting the line of business. Karna B. Poudyal, Corporate Tax Planning in Nepal (1998) as per the section 15 of the Industrial Enterprise Act 2049, there is provision to return to the taxpayer the value added tax paid by the units that export their products or sell them to export promotion houses, by that export their products or sell them to export promotion houses, by the units earning foreign exchange. Logically, investors select these types of enterprises. Obviously, business type pays vital role in tax planning. There are many types of business: cottage industries, agro-based business, co-operatives community based, and build operate and transfer (BOT) business. Here are the some business type, their tax rates and tax exemption.

- **Domestic Industry:** Income derived from domestic industry is exempted from payment of income tax. The domestic industry signifies production intensive industry of labor, traditional, skill relating to art and culture and raw material mobilization of the local level excluding dyeing, carpet, pashmina and wool cloth production used by more than five-kilowatt motor power. However, this provision of exemption applies only to them, which have been already taken tax-exempt certificate before Shrawan 1, 2063(KC, 2007:36).

- **Agriculture Business:** For income tax purposes, income derived by a landlord, holding the land within the ceiling prescribed in Land Relating Act, 2021 from and agriculture business is exempt form income tax. However, income from an agriculture business received by a registered firm, or partnership or company or a corporate body, or through the land above the holding ceiling as prescribed in the Land Relating Act, 2021 is taxable income.

- **Agriculture Business (Land Owned by Trust):** For income tax purposes, income derived by a trust from an agriculture business from land owned by trust is exempt from payment of income tax.

- **Co-Operatives Business:** Income derived by cooperative societies, registered under Cooperative Act, 1991 (2048) from business mainly based on agriculture and forest products such as sericulture and silk production, horticulture and fruit processing, animal husbandry, diary industries, poultry farming, fishery, tea gardening and processing, coffee farming and processing, horticulture and herb processing, vegetable seeds farming, bee-keeping, honey production, rubber farming, floriculture and forestry related business such as lease-hold forestry, agro-forestry, cold storage established for the storage of vegetables and business of agricultural seeds, insecticide, fertilizer and agricultural tools (other than machine operated) as well as income derived by rural community based saving and credit cooperatives are also exempt from tax.

- **Community Based Saving and Credit Co-operative Business:** Income of a community based saving and credit co-operative operated in rural areas is exempted from payment of tax.

- **Financial Institutions:** Entities having sources in Nepal and that have business related to banking, or financial institution or general insurance businesses are taxed at the rate of 30 percent.

- **Petroleum Business:** Entities, which deal with petroleum business as per Nepal Petroleum Act 2040 in an income year, are taxed at the rate of 30 percent.

2.4.2. Nature of the Business

Certain business is preferentially treated as regards to income tax rates. For example, firms related to hydropower, road, bridge, tunnel, ropeway, flying bridge, trolley bus should pay 20 percent tax where as firms in petroleum industry and financial business should pay 30 percent tax. There are differences also in loss recovery period. It covers seven years for build, operate and transfer (BOT) projects and four years for others. Furthermore, carry back facility is also given to banking and insurance business. Thus, from the point of view of tax rates and loss recovery periods, certain types of business are given special facility giving the inducement for tax planning.

2.4.3. Planning of Organizational Structure

Proprietorship firms get exemption facility of Rs. 115,000 if the owner is an individual and Rs 140,000 if the owner has a family. But a company or a partnership organization does not get this exemption. Progressive tax rate is applicable to proprietorship firm but a fixed tax rate is applicable to a company. A company's profits are taxed twice (i.e. once from the profit of the company and then from the dividend received by the individual shareholder) whereas proprietorship does not have to pay such double taxation. In addition, individual owners of vehicles that are for the hire have to pay a nominal income tax (Rs. 15,500 for truck/bus, Rs 1,200 for car/jeep etc per year) which is full and final irrespective of the actual income. All these discriminations encourage selection of proprietorship form of business organization.

2.4.4 Physical Location Selection

The provision under the Income Tax Act 2058 and Industrial Enterprise Act 2049 as regards to location of business help in tax planning. For example, in remote area, an individual can avail of remote area allowance of up to Rs 30000. Business established in remote, undeveloped and under developed area should pay only 70 percent, 75 percent and 80 percent of the normally applicable tax rate. The scope of planning is enhanced due to provision of applying different amounts of taxes to firms situated on different types of cities also. Business having up to Rs 1.20 million as annual transaction or Rs 120000 as income should pay only Rs 2 thousand as tax if situated in a metropolitan city. Business of the some nature in sub-metropolitan city should pay Rs 1500 and in a municipality only Rs 1000 (annex 1 to the Act). Income Tax Act 2002 varies tax rates according to location of development. Thus, there are possibilities of tax planning as to business location. The tax rates differ according to its location of the country. Here are the provisions of tax rate according to Income Tax Act 2002 for various locations.

2.4.4.1Economically and Back Development Region

Income Tax Act 2002 classifies economically back development region into three categories: least developed, undeveloped and underdeveloped region. These are taxed at following rates in an income year.

1. Least Developed Areas

Special industries operated by entities or an individual in least developed areas are taxed at the following rates:

Table 2.1

Tax Rate for Least Developed Areas

Persons	Base of Tax	Tax rate
Entity	Taxable Income	14 %(70% of the normal rate i.e. 20%)
Natural Person	Taxable Base	▪ First Rs. 85000 @ 10.5% (70% of the rate 15%) ▪ In Balance Rs. @ 14% (70% of the rate 20%)

2. Undeveloped Areas

Special industries operated by entities or an individual in undeveloped areas are taxed at the following rates:

Table 2.2

Tax Rate for Undeveloped Areas

Persons	Base of Tax	Tax Rate
Entity	Taxable Income	▪ 15 % (75% of the rate 20%)
Natural Person	Taxable income	▪ First Rs 85,000 @ 11.25 % (75% of the rate 15%) ▪ In balance Rs. @ 15% (75% of the rate 20%)

3. Underdeveloped Areas

Special industries operated by entities or an individual in underdeveloped areas are taxed at the following rates.

Table 2.3

Tax Rate for Underdeveloped Areas

Persons	Tax base	Tax Rate
Entity	Taxable Income	▪ 16 % (80% of the rate 20%)
Natural Person	Taxable Base	▪ First Rs 85,000 @ 12% (80% of the rate 15%) ▪ In balance Rs. @ 16% (80% of the rate 20%)

4. Industries Established in Remote Areas

Income derived by industries established in remote area is exempted for the period of 10 income years commencing from and including the year in which the operation commenced.

5. Industries Established in Special Economic Zone

Income derived by industries established inn special economic zone is exempted for the period of 5 income years commencing form and including the year which the operation commenced and after the completion of the exempted 5 income years they are taxed at the rate of 50 percent of the rate otherwise applicable to the income of that year.

6. Information Technology Intensive Industry Established in Information Technology Park (ITP)

An industry if based on information technology industry and has established within ITP prescribed by the Government of Nepal, the tax is levied at the rate of 75 percent of the rate otherwise applicable to the income of that year.

2.4.5 Merger

There are certain techniques that help in minimizing the tax by way of merger of a firm with another. Due to the scope of tax planning through merger, the businesspersons consider status of the firm before merging. One of the techniques is merging of a non-manufacturing unit into a manufacturing (e.g. a firm related to trading) unit. According to Income Tax Act, 2058, trading business has the liability of paying 25 percent as corporate tax whereas a manufacturing firm should pay only 20 percent. Thus, by integrating non-industrial and industrial units, a firm can save some furthermore, merging of loss-making unit. The provision of loss recovery period given by the new Income Tax Act can be helpful in minimizing the tax liability of such firm.

2.4.6. Capital Structure Planning

We know there are three source of capital, viz. share capital, debenture or loan and retained earnings. The rewards for share capital, debenture or loan and retained earnings are dividend, interest and capital gain respectively. In Nepal, the tax rates applicable to return on each of these sources of capital are different. Interest is taxed at 6 percent but dividend is taxed 5 percent. In case of capital gain, the tax rate is 10 percent for gain on the sale of non-business chargeable assets whereas the profit from the sale of other asset is taxed at normal rate i.e. 20 percent, 30 percent and 25 percent for manufacturing firms, financial firms and others respectively. This means, tax rates on the return on new capital and loan are lower than the tax rate on retention. Accordingly, interest to a business organization is a deductible expense (Sec. 14) but dividend and capital gain are not. Naturally, this means more favorable treatment to debenture or loan than to the new capital and retained earnings. This obviously creates the scope of tax planning employing more loan than new share capital and retained earnings. Since income tax act, 2002 also has favored debt; making interest a tax-deductible expense, the firm can plan tax by utilizing more debenture or loan than other forms of capital. In the Nepalese context, it was found that 76% of the executive preferred increase in debt in the capital structure with every increase in the tax rate (Poudyal, 1998: 112), through from another survey conducted by the author of this article, it was found that the average debt equity ratio in the Nepalese business is only 40:60. Normally the discount provided while issuing share capital is capital expenditure and it can be written off only as depreciation. This also induces firms to resort to loan or debenture route to save on the tax.

2.4.7 Employment Decision

Other things remaining the same, the selection of the method of production has impact on the amount of tax to be paid. If a unit is labor intensive and employs more than 600 persons, it should pay only 80 percent of tax that should by unit not having 600 employees. That means the firm can plan to save tax by employing more than 600 employees in its factory.

2.4.8 Planning for Make or Buy Decision

There are two methods of acquiring fixed assets of a firm: leasing and buying. If assets are purchased, the firm gets depreciation facility as per the Income Tax Act as it is taken as capital expenditure. If the asset is leased, the rent is taken as revenue expenditure and is allowed to deduct as expense. If fixed asset is purchased through borrowing, the interest on capital can be deducted as expenditure. While 100 percent of the rent on leased asset is allowed in each year as expenditure, this is not so in case of the outlay made the procurement of a machine, in which case only depreciation is allowed. Therefore, leasing is beneficial than buying machine. But, in case of building, buying is more advantages than the construction, if depreciation is allowed for the combined cost (i.e. both for land and building). In construction, depreciation is allowed only on building not on land. Accordingly, between constructing a building and leasing it, the latter is more beneficial option because it will make the firm able to claim the entire rent of land and building as expenditure. If a road or hospital is to be constructed by a company, it would better to donate the fund to central or local government and make them construct the road or hospital since this entire among can be written off as expenditure under donation head itself in the year of donation remaining within the limit of donation. If the firm itself constructs the road, it can be deducted by way of depreciation, which writes off only one part of the expenditure in a year. It means decrease in the present value.

2.4.9 Repair & Improvement Cost (S/16)

There are two types of expenditures, i.e., capital expenditure and revenue expenditure. Capital expenditure is taken as fixed assets creation and is authorized to have depreciation claim only in future. The expenditure that increased the longevity, capacity or price of the asset is included within capital expenditure. On the other hand, revenue expenditure is treated as current expenditure and is allowed to be debited in profit and loss account in the current year. Contrary to this universally accepted principle, Income Tax Act, 2058 has treated all the repair expenditure (whether capital or revenue) uniformly. As per the Act, if the repair expenditure is not more than seven percent of the depreciation base of the concerned pool of assets, it is allowed as expenditure in the year of occurrence. If the amount spent on repair is more than 7% of the depreciation base of the concerned pool of assets. Considering the provision given in the Act, the taxpayer can plan his expenditure on repair and maintenance.

2.4.10 Loss Recovery

Loss from foreign source investment can be recovered form gain form foreign source investment. Loss related to nontaxable source can be recovered form income from nontaxable source. Loss from foreign source business can be recovered from foreign gain form investment and business. Loss from investment in Nepal can be recovered from gain on investment in Nepal and foreign country. Loss from the business in Nepal can be covered from gain on business and investment in Nepal and foreign source. Loss can be recovered from the profit of the next 4 years but it is 7 years for infrastructure project. Carry back to insurance and banking business up to 5 years was also the provision of the tax act, but now this provision has been removed. All these mean that the investor can plan to recover the losses by minimizing the tax liability as far as possible.

2.4.11 Planning for Pollution Control Cost (S/17)

Pollution control expenditure is another area where management can legally save tax. Here, it should be noted that only up to 50% of adjusted taxable income (before deducting pollution control device expense; research and development expenses and donation expenses) can be claimed as expenditure.

That means, pollution control expense I n excess of 50 percent of adjusted taxable income can be capitalized and written off as depreciation in future.

2.4.12 Planning for R&D Cost (S/18)

Research is very important to a firm to sustain in the market. That is why tax law treats research and development expenses as allowable expenditure. Income Tax Act, 2058 too has made this provision but in somewhat miserly way. Only up to 50% of adjusted taxable income can be taken as regular expenditure on R&D of the investment year. The remaining amount should be carried forward and written off in future as depreciation related to research and development expenditure.

2.4.13 Others

Besides those stated above, there are other provisions in the tax law, which also help in minimizing tax liability of a person. For example, in case of individual, there are provisions of remote area allowance, meal and Tiffin expenses, contribution to retirement fund in case of remote area retirement fund, medical tax credit, prerequisites like residence facility and vehicle facility etc., which can be managed to reduce the tax liability.

2.5 Review of Historical Background of Taxation in Nepal

In early days, tribe rulers, community head etc collected taxes. For communal services rendered and as a contribution to communal resources for times of emergencies, the taxes were in the forms of cattle, food grains, animal's skin and labors etc. The ancient Hindu tax system was based o the theory like such as the after of the earth goes in the sky form the heat of the sum and latter it rains again on the earth. Law had fixed taxes and scales had been embodied in the scared common law. The consequences that, whatever the form of government, the matter of taxation were not an object of ruler's caprice (Encyclopedia International, 1975:117) in these days, the people were eager to pay tax because they thought not paying the tax was great sin. Even those practicing authorities in the forest as living by gearing corn from the fields pay one sixth of it to the king.

Ancient Athens used to derive its revenue from taxes like customs, sales and poll tax on aliens and slaves. One who was taxed and failed to pay was guilty of a capital offense. Emperor Augusts introduced land and inheritance tax. Julius Caesar was the first ruler to collect tax through government institutions. At the time of Julius Caesar he levied on percent sales tax.

In ancient Nepal, land tax was the main source of revenue. In "Licchhavi" period, there was three type of taxes levied on the people, 'Bhaga' (tax on agriculture) in that period. There was tax for purification of caste by priest and even cremation tax, which was extracted I n gold by the ruler of Bajhang, in far western Nepal. In ancient Nepal, tax was collected in goods and services. Anyway, all above facts show there was tax system.

After the unification of Nepal, the main sources of revenue were land tax, customs export of wood materials, birds, animals etc and fines. Taxed amount was allocated to royal palace expenses, for peace, security and construction works, for the salary and allowances of the local employees; the tax was collected on the basis of 'Istihar' and 'Sanad Sawal'.

There was no hard and fast rule relating to taxation in the age of Rana Regime. People of those days were familiar merely with the primitive type of taxation like Sarva Chandrayani (Six Paisa per house payable annually to the Bada Guruji i.e. chief spiritual teacher), Goda Dhuwa Chuwawom (Twenty Five Paisa payable per head by government employees to His Majesty's Treasure in times of marriage and coming of age ceremony of members of the royal family), Darshan Bhet (Three percent of annual pay of employees, above the rank of junior clerk payable to government treasury annually but not exceeding Rs. 50 and Rs 55 from officers having Rs 500 or above as annual pay respectively), a royalty (Rs one per government employee payable to His Highness Shree Tin Maharaja and the Commander-in Chief after Pajani i. e.

general screening of the years). Besides other duties and service charges like customs duties, excise duties, royalties and other charges on forest products as well as land tax.

2.6 Review of Texts and Articles

The meaning and zest of tax planning has already been mentioned on different sections of this thesis as per the nature and its requirements. It is a weapon that helps to reduce the taxpayer's liabilities by proper use of different provisions made in Income Tax Acts, Laws and Rules. And the various tax experts and writers in their own ways have defined the same word “Tax Planning”. Most of them agree to the taxpayer of what tax planning is but some of them extremely disagree. Some of their opinions have been presented here as they have written in their texts, journals and other articles.

K.C. (2007) wrote in his book ***Tax Laws and Tax Planning: Theory and Practice***," Taxes are only one of the many factors which people and organizations consider when making decisions. In some cases, taxes are a dominant factor; in others, tax considerations play a minor part. Good decision makers generally seek to manage taxes on every transaction. One way to measure how well a firm is managing its taxes is to look at its effective income tax rates. A firm's effective tax rate is the sum of total taxes paid by the firm, dividend by its (before-tax) net income. Thus, every people or organization always wants to reduce this share of tax from his income by either making planning or without tax planning. Tax planning is the device to reduce tax liabilities to increment after tax earning but other than this is taken into account as crime to reduce tax liabilities". KC has recommended the following tax minimization strategies.

a. Tax Minimization Strategies Related to Income:

Under this strategy, KC has suggested to avoid income recognition because the Act has made provisions that allow various types of income to be excluded form the taxable base for example compensate employees with non-taxable fringe benefits, make a sale of land and a private building less than Rs 10 million, postpone recognition of income to a low-bracket year, pay family member to work in the family business etc.

b. Tax Minimization Strategies Related to Deductions:

Tax liabilities may be reduced through planning of proper deductions. For this purpose, KC has suggested to maximize deductible amounts and accelerate recognition of deductions to achieve tax deferral.

c. Tax minimization strategies related to Tax Rates

Tax minimization strategies should consider tax rates. Considering other factors of benefit, income should be deferred to take advantages. For this purpose, KC has suggested to shift net income from high-bracket years to low-bracket years, shift net income form High-bracket taxpayers to low-bracket taxpayers, shift net income from high-tax jurisdictions to low-tax jurisdictions, control the character of income and deductions, avoid double taxation, submit income statement in timely manner to get tax credit, tax credit from maximizing costs etc.

Poudyal (1998) has written in his ***Corporate Tax Planning in Nepal***," Tax Planning is not only planning the basic structure of the business and industry but also the planning of its various projects from time to time and its day-to-day activities so as to acquire the maximum benefits under the provisions of the existing laws of the state. Tax Planning should not be mistaken for tax avoidance and tax evasion because the latter are clearly against the law or the spirit of the law. Tax Planning and its penetrating discrimination are bounded on all sides by the rigidity of the law and the effective consideration for them."

Further Poudyal says Tax Planning is the art and science of planning the company's operations in such a way as to attract the minimum liability to tax with the help of various concessions, allowances and relieves provided for in the tax laws. As such, the basic purpose of corporate tax planning is to reduce or postpone the overall tax burden in the present and foreseeable future. Tax planning is a discipline and an attitude towards solving the corporate problems in a methodical way from a long-run point of view.

Tax Planning requires intelligent and well thought out strategy to reduce or postpone tax liability in the present and foreseeable future with stress on being honest, responsible and trustworthy citizen.

A company should aim at not only maximizing profits but also maximizing after tax profits. Tax Planning is to be done in advance with a view to minimizing the payment of tax within the framework of tax laws. Tax Planning presupposes a thorough knowledge of tax laws so that the best alternative choice may be thought of in order to attract least tax liability. Tax Planning is the method through which taxpayer makes use of all the concessions including exemptions, deductions and allowances under tax laws and pays the minimum possible tax.

According to Supreme Court of India**,** Tax Planning may be legitimate provided, if it is within the framework of law. Colorable devices cannot be part of tax planning and it is wrong to encourage or entertain the belief that it is honorable to avoid the payment of tax by restoring to dubious methods"(Adhikari, 2060: 135).

And according to Goenka," It is scientific planning of the company's operation in such a way as to attract minimum liability to tax or postponement of the liability of the subsequent period by availing of various incentives, concessions, allowances, rebates and relieves provided for in the context of existing laws."

Kandel (2001) has written in his book ***Corporate Taxation***, "The word Tax Planning is made from the combination of two words tax and planning. Tax means compulsory payment to the government and planning means taking decisions about the future by choosing the decision while conducting its business activities. That means every business organization uses to plan as regards to its future activities. Such future activities may be of short term, medium term or long tern and operational or strategic. If tax factor is considered while planning the business activities of an organization, it is tax planning."

Further Kandel adds the purpose of enhancing the investment environment in a country; the government provides different types of facilities to the business organizations. Such facilities include reduction in tax rate, providing tax holidays, investment allowance, depreciation facilities etc. Tax planning means the use of all those facilities given by the government to reduce the tax liability. In other words, tax planning is the scientific planning of the companies operations in such a way as to attract minimum liabilities availing of various incentives, allowances, and rebates and relieves. It is not only the planning of infrastructure of the business and industries but also the planning of its various projects from time to time and day-to-day activities so as to acquire the maximum facility as per the existing law of the country. In short, it is a judicious use of tax incentives provided by the government.

Bhattrai and Koirala (2004) wrote a book named ***Tax Laws and Tax Planning.*** According to them," Tax Planning is the planning of future activities that affect tax with an objective of reducing tax liability. The tax law provides certain concessions, rebates and allowances to taxpayers in order to enhance a healthy environment in the country. Tax Planning is to take full advantages of those facilities. It can be defined as an arrangement of one's financial and economic affairs by taking complete legitimate benefit of all deductions, exemptions, allowances and rebates so that tax liability reduces to minimum. Thus all such arrangements by which the tax laws are fully compiled and which meet legal obligations are tax planning. Tax Planning does not take form of "colorable devices" and has no intention to deceit the legal spirit behind the tax law."

Tax Planning may be legitimate provided it is within the framework of law. Colorable devices can't be a part of tax planning and it is wrong to encourage or entertain the belief that it is honorable to avoid the payment of tax by restoring to dubious method. It is the obligation of every citizen to pay taxes honestly without restoring to excuses.

Tax Planning is thus defined as a scheme whereby the taxpayer makes use of all the concessions available to him under tax law and pays the minimum possible tax. It implies full compliance of all tax laws and meeting the tax obligations. The focus is on taking full advantage of all the tax exemptions, rebates, deductions and allowances to minimize the tax liability. It is legal, ethical and economic. It is a legitimate device of minimizing tax burden. Tax Planning is avoiding tax by availing of various relieves and concessions provided within the four corners of tax law.

2.7 Review of Related Previous Studies

The precious research studies related to tax planning practice in the Nepalese context has been found rarely. However, many research studies have been made in the area of taxation in the Nepalese contest. These researches also cover some of the aspects of tax planning so that the same researches related to tax planning has been taken into consideration for the review of literature. Out of these research studies some selected researches have been submitted as a review.

Poudyal (1998) studied about 'Corporate Tax Planning in Nepal' in his Phd. research. He has focused his study to examine and study the practice of corporate tax planning in Nepal. Some major findings and recommendations pointed by him are as follows.

- Tax incentives in the form of tax concessions, exemptions and deductions have been an important feature of the Nepalese corporate tax system.

- Like other developing nations, Income Tax Act and Industrial Enterprises Act of Nepal also offer certain common incentives like tax holiday, extra –shift and initial depreciation allowance, tax exemption on income from export business, tax concessions to companies located in industrially backward areas and so on.
- The Nepalese companies in general consider tax factor while making strategic decisions such as capital structure, selection of the line nature of business, location of the company, form of business organization, amalgamation/mergers etc

Kandel (2000) studied on 'Corporate Tax System and Investment Behavior in Nepal' in his Ph D research. Kandel has pointed out various findings; some of them are as follow:

- The effective tax rates for debt financed project are almost negative whereas the same for equity financed projects are positive and for more higher than the debt financed one.
- The effective corporate tax rate goes on increasing whenever the corporate body moves from debt financing to equity financing. In contrast, the effective personal tax rate increases with the move of the firm from equity financing to debt financing. The main reasons of happening so are the interest and dividend.
- There is room for improvement regarding selection of depreciation rates, stock valuation method, treatment of inflation, treatment of preliminary expenses, developing economic life of assets, selection of incentive system and so forth to make the Nepalese tax system sound.

Karki (2004) has conducted research entitled 'Tax Planning practices in the Nepalese Listed Companies' He has focused his study to examine and study the practice of tax planning tools used by the Nepalese listed companies. He has also selected three commercial banks in his sample. The major findings of the thesis are as follows:

- 96.67% companies practice the tool of capital structure. 79.17% companies practice the tool of acquisition of fixed asset. 54.17% are practicing tool of location of industrial set up and timing of activities. 50% are practicing Research & Development decision and employment decision.
- Most companies want to obtain their capital structure from equity only or debt plus equity.
- Position of tax planning is very weak.
- Companies wants to pay tax within the provision of ITA 2058 and IEA 049 but they don't want to dispute for concessions, allowances, incentives, rebates with tax officer, which is the problems they usually face.

Karkee (2005) has conducted a research on the topic “Tax Planning in the Nepalese Organizations". He had mainly focused his study on application of tax planning in the Nepalese organizations. He pointed out various findings; some of them are as follow:

- There is no uniformity in the perception of tax planning definition.
- There is less practice of planning of tax in Nepal. The entrepreneurs, managers, experts do believe in tax avoidance and evasion than tax planning.
- Banks or financial organizations, hotels and airline companies evade their payable tax.
- The researchers agree with them that there is less chances of tax planning in Nepal, especially under Income Tax Act 2058.

2.8 Research Gap

Some research of Tax planning can be found but most of them have followed the same trend and presentation as previous thesis has been done. Some of them have been done on all the listed companies of the Nepal. But no thesis or research has been done on the Nepalese Commercial bank since banking sector is the only one sector which is getting more profit in the Nepalese market and paying heavy tax to the government. Some researcher has included the banking sector in their research but their numbers of sample commercial banks are very small hence, there must be the research regarding the tax planning practices in banking industries. Today the world has become modernized and the information technology has also been advanced drastically so there is a lot of difference in the modern banking system which results in the better outcome in the management and improvement in the data's. There has been the gap of time which differentiates the research before and after. Till the date, the number of commercial banks has already been twenty five. Likewise many changes and effort have been placed in this thesis to get the exact outcome of the today's scenario of tax planning in the Nepalese banking industries and its various aspects.

CHAPTER III

RESEARCH METHODOLOGY

Research is essentially a systematic inquiry seeking facts through objectives verifiable methods in order to discover the relationship among them and deduce from them broad principles or laws. It is a method of defining and refining problems, formulating hypothesis or suggested solution, collecting, organizing and evaluating data, making decision and making conclusions. "Research is the process of a systematic and in-depth study or search of any particular topic, subject, or area of investigation backed by the collection, compilation, presentation, and interpretation of relevant details or data. It is a careful search or inquiry into any subject matter, which is an endeavor to discover or find out valuable facts which will be useful for further application or utilization. Research methodology depends on the various aspects of the research project. The size of the project, the objectives of the project, importance of the project, time frame of the project, impact of the project in the various aspects of the human life etc. are the variables that determines the research methodology of the particulars project.

"Research methodology refers to the various sequential steps to adopt by a researcher in studying a problem with certain objectives in view"(Kothari, 1990).

In other words, Research Methodology describes the methods and proves applied in the entire aspect of the study.

3.1 Research Design

"A Research Design is the arrangement of conditions for collection and analysis of data in a manner that aims to combine relevance to the research purpose with economy in procedure"(Kothari, 1990).

Research Design is the plan, structure and strategy of investigations conceived so as to obtain to research questions and to control variances. It is the arrangement of the conditions for collection and analysis of data. A research design is the specification of methods and procedures for acquiring the information needed. It is the overall operational pattern of framework, of the project that stipulates what information is to be collected form, which sources by what procedures. If it is good design, it will ensure that the information obtained is relevant to the research questions.

3.2 Sources of Data

Most of the data used in this research are primary data. Questionnaires have been distributed among various personnel of the various banks for primary data. Besides this, secondary data has been also used in various forms.

3.3 Population and Sampling

All the commercial banks in Nepal have been considered as the total population (N), out of them, ten commercial banks that becomes 40% of the total population has been taken as sample (n) for this research. The sample has been taken as that the sample will represent the total population perfectly. The total population has been shown below.

Table 3.1: List of the Nepalese Commercial Banks

S. N.	Name of Banks	Head Offices
1.	Nepal Bank Ltd	Kathmandu
2.	Rastriya Banijya Bank Ltd	Kathmandu
3.	Agricultural Development Bank Ltd	Kathmandu
4.	Nabil Bank Ltd	Kathmandu
5.	Nepal Investment Bank Ltd	Kathmandu
6.	Standard Chartered Bank Nepal Ltd	Kathmandu
7.	Himalayan Bank Ltd	Kathmandu
8.	Everest Bank Ltd	Kathmandu
9.	Nepal SBI Bank Ltd	Durbarmarg
10.	Nepal Bangladesh Bank Ltd	Kathmandu
11.	Bank Of Kathmandu Ltd	Kathmandu
12.	Nepal Credit & Commerce Bank Ltd	Siddharthanagar
13.	Nepal Industrial & Commercial Bank Ltd	Biratnagar
14.	Lumbini Bank Limited	Narayangadh
15.	Kumari Bank Ltd	Putalisadak
16.	Machhapuchchhre Bank Ltd	Pokhara
17.	Laxmi Bank Ltd	Birgunj
18.	Siddhartha Bank Ltd	Kamaladi
19.	Citizens Bank Ltd	Kamaladi
20.	Global Bank Ltd	Birgunj
21.	Prime Commercial Bank Ltd	Kathmandu
22.	Sunrise Bank Ltd	Kathamndu
23.	Bank of Asia Ltd	Kathmandu
24.	NMB Bank Ltd	Kathmandu
25.	Development Credit Bank Ltd	Kathmandu

(Source: www.nrb.org.np)

And the sample banks for the research are as follows:

- Two Oldest Commercial Banks

1. Nepal Bank Ltd
2. Rastriya Banijya Bank Ltd

- Three Joint Venture Banks

1. Standard Chartered Bank Ltd
2. Nepal Investment Bank Ltd
3. Nabil Bank Ltd

- Five Non-joint Venture Commercial Banks

1. Kumari Bank Ltd
2. Bank of Kathmandu Ltd
3. Laxmi Bank Ltd
4. Citizens Bank International Ltd
5. Machhapuchhere Bank Ltd

Hence, the total population of bank is twenty five (N=25) and the total no of sample banks becomes Ten (n=10). Here my sample is forty percent.

3.4 Data Gathering Procedure

As mentioned above, the study is based on primary data only but some secondary data has been also used on the relevant matter. The data has been collected by developing a scheduled questionnaire and distributing it to banking officials.

3.5 Data Processing and Analyzing Procedure

Data collected from questionnaire was in raw form. Firstly, they have been classified into related categorized then after it has been tabulated, re-tabulated and presented into graph in the required format. Some of the financial and statistical tools will be used on need basis.

CHAPTER IV

PRESENTATION AND ANALYSIS OF DATA

Various experts and writers have defined the word tax planning as a weapon that helps to reduce the taxpayer's tax burden. It is not a taxpayer's machine that neither reduces the tax liability nor helps to reduce tax amount directly. It depends upon the degree that how much a tax planner deciphers and knows the tax acts, laws and rules and their appropriate uses. There are many provisions made in Income Tax Acts, Rules and Laws (both in Income Tax Act 2031 and 2058) that can be helpful to a planer to minimize his tax amount.

The basic objective of the study is to examine the present practice of tax planning tools in the Nepalese commercial banks and to identify the relevance of the tax planning. This chapter presents the analysis and interpretation of data. The responses were collected from the concerned authorities of selected commercial banks. For the purpose of data presentation and analysis, this chapter has been broken-down in three steps-introduction of heading, planning procedure and presentation & analysis of the responses. In introduction, the meaning and provisions provided under that heading have been presented. In tax planning producer, tax minimization ways and techniques have been presented. And in presentation and analysis, the degree of implementation of respective headings in Nepalese contexts has been presented.

To meet the objectives, all the commercial banks have been taken as target population. Banks are categorized in three group namely governmental bank, joint venture bank and non joint venture bank. Total ten commercial banks have been selected as sample from each three category. Stratified sampling with proportionate allocation of 40% (i. e. 10 banks) was made for the study.

Questionnaires are distributed to ten sample commercial banks. Besides questionnaires, discussions are also made with respondents to get more information about the tax present practice of tax planning.

Raw data are properly processed, tabulated and analyzed. They are presented into different tables. Tables are developed based on question asked; open-ended questions are arranged in a descriptive way.

4.1 Location of Business

Location is yet another important strategic decision of any business unit. An ideally located firm gets the maximum benefits-both physical and financial. The various important factors which should be considered while deciding the location of a firm are infrastructure facilities, nearness to the product market, availability of raw materials and labor force, tax benefits etc.

Location of business represents the place where the main body of the organization is placed. It indicates the set up place of any manufacturing or service organization. All the places in a country are not equally developed or do not have all required infrastructure facilities. There is a need of lot of things to run a business. But all the facilities may not available at one pace in each part of the nation. The entrepreneurs choose well-facilitated places to start their business that encourages present regional imbalanced development. So, the government has to encourage to entrepreneurs to set-up their business in under or undeveloped or remote areas by granting some special facilities.

There are some provisions made by the government under Income Tax Act, 2002 considering this factor. Under this Act, manufacturing industries operated in remote areas, undeveloped areas and under developed areas can enjoy 30 percent, 25 percent and 20 percent tax rebate respectively. It means those industries established in remote, undeveloped and under developed areas have to pay only 14 percent, 15 percent and 16 percent tax on their income respectively.

Similarly the Income Tax Act 2031 had also some provisions regarding this topic. Under that Act, industries other than cigarette, bidi, alcohol and beer, established in remote, undeveloped, under developed and relatively developed areas are granted a tax rebate of 60 percent, 50 percent, 20 percent and 10 percent of the income tax and 35 percent, 25 percent, 15 percent and 10 percent of excise duty respectively (Industrial Enterprise Act, 2049, Sec-15). In addition, a further tax holiday of 2 years in addition to normal tax holiday period of 5 years is granted to manufacturing, energy-based, agro-based and forest-based industries (other than tobacco & alcohol based industries) utilizing 90 percent or more local raw materials whether that is included or not in Annex-4 of the Industrial Enterprise Act.

An important step by the Government was the extensive industrial survey of Nepal and subsequent classification of all the 75 districts of the country into five regions namely remote areas, undeveloped areas, underdeveloped areas, relatively developed areas and developed areas.

Under the Industrial Enterprise Act 1992, tax rebates ranging from 10 percent to 60 percent are given to different category of districts. Out of 75 districts, 22 districts (29.3 percent) are grouped under remote areas. Manufacturing units set-up in these areas are entitled to 60 percent tax rebate. There are 13 districts (17.3 percent) falling under undeveloped areas, which gets 20 percent tax rebate, while 9 districts (12 percent) belong to relatively developed areas, which get 10 percent, tax rebate. The remaining 12 districts (16 percent) are industrially developed districts that are not entitled to get any tax rebate. In addition to income tax rebate, exemption is also granted in respect of excise duty to units belonging to these areas at the rate of 35 percent, 25 percent, 15 percent, 10 percent and zero percent respectively.

S/15(f) of the Industrial Enterprise Act 1992 further states that if the annex of the classification of areas is changed as a consequence of which an industrial unit is deprived of granted rebate, the unit shall be entitled to such rebate up to a period of five years form the date of such change.

4.1.1 Tax Planning Procedure

The whole territory in Nepal is divided into four broad groups, by the Income Tax Act 2002, for the income tax purpose-Remote areas, undeveloped areas, Under-developed areas and Developed areas. Similarly, the Income Tax Act 2031 had categorized all the regions into five groups-Remote areas, undeveloped areas, under-developed areas, relatively developed areas and Developed areas. No tax rebates are allowed to the organizations in developed areas but some percentage of rebates for other regions according to their nature. Remote areas are facilitated more percentage rebate and relatively lower to the undeveloped, under developed and relatively developed areas. The Income Tax Act 2058 grants 30 percent, 25 percent and 20 percent rebate to the organizations established in remote, undeveloped and under-developed areas respectively. Such rebate under Income Tax Act 2031 was 35 percent, 25 percent, 20 percent and 10 percent for remote, undeveloped, under-developed and relatively developed areas respectively.

But the entrepreneurs, investors, managers have to decide the place before the commencement of the business. This is pro transaction decision also known as strategic planning. And it is hard to calculate the profit before the commencement of businesses in different areas. It is not possible to change its place after once it sets up its plant and premises. So, all the decision should be made before the commencement of the business.

4.1.2 Presentation and Analysis

The following question regarding location of business has been asked to the sample bank officials. Only eight banks have provided their responses. The question, its responses and its analysis have been presented below.

Asked Question: Is bank also considered for the purpose of tax planning in your bank?

Table 4.1

Banks Considering Location of Business for the Purpose of Tax Planning

S.N.	Name of Banks	Frequencies		
		Yes	No	No. Responding
1.	NBL	-	1	-
2.	RBB	1	-	-
3.	SCBNL	-	1	-
4.	NIBL	-	1	-
5.	NABIL	1	-	-
6.	KBL	1	-	-
7.	BOK	-	-	1
8.	LBL	1	-	-
9.	CBIL	-	1	-
10.	MBL	-	-	1
Total		4	4	-
Percent		40	40	20

Source: Field Survey, 2010.

The Income Tax Act, 2002 has provided tax rebate for different locations. But the Act has not provided any tax rebate for banking and financial institutions. Regarding the above queries, only eight banks have provided their responses. Among them four banks responded that they are considering location of business and next four banks responded that they are not considering location of business for the purpose of tax planning. This type of banks' responses shows that they are not familiar about tax rebate provided by the Act for the different locations. It shows that Nepalese banks are not aware about the provision that location tax rebate is only for manufacturing companies not for the financial institutions.

4.2 Timing of Activities

This is a broad concept that consists every activity under where tax can be panned. This timing of activities is substitution of operational tax planning and only related to expenses that occurs while operating business. All those scopes such a pollution control expenses, research and development expenses, depreciation expenses, donation expenses etc can be studied under timing of activities

Every corporate body has to make tax planning in respect of different financial activities and programs in order to enjoy more tax saving benefits by reducing its tax liability. These activities can be planned and carried-out in a suitable time or period. Capital investment, sale of depreciable and no-depreciable assets at profit or loss, investment on pollution control devices, research and development activities, issue of share and debenture at par, premium or discount, redemption of preference share and debentures, payment of dividends, receipt and payment of loans, staff welfare expenses etc are sort of activities to be planned in a year to minimize tax burden maximizing the claim of expenses. This is planning of future expenses in a business that saves maximum amount of tax.

4.2.1 Tax Planning Procedure

Timing of Activities denotes the planning of different activities in time frame in such a way as to obtain maximum tax facility from such expenditure. This is a way for scheduling business expenses so that the payable tax can be minimized. But there are some ways to do so. First of all, the loss on business should be recovered because it can be recovered within certain time limit of 4 or 7 years etc. (Under Income Tax Act, 2002). If the loss is not recovered within the time bound, it cannot be carried furthermore and there is not any alternative relief to the loss holder.

After the recovery of loss, the allowable large amount of expenses is preferred to deduct. Here the allowable large limit of expenses represents research and development expenses, and pollution control expenses. The allowable limit for research and development expenses and pollution control expenses is 50 percent of net profit. And it is better to claim these expenses when there is maximum profit.

4.2.3 Presentation and Analysis

The following question regarding timing of activities has been asked to the sample bank officials. Among them, only seven banks have provided their responses. The question, its responses and its analysis have been presented below.

Asked Question: Is Timing of Activities Decision considered for the purpose of tax planning in your organization?

Table 4.2

Banks Considering Timing of Activities Decision for the Purpose of Tax Planning

S.N.	Name of Banks	Frequencies		
		Yes	No	No. Responding
1.	NBL	1	-	-
2.	RBB	1	-	-
3.	SCBNL	-	-	1
4.	NIBL	1	-	-
5.	NABIL	-	1	-
6.	KBL	1	-	-
7.	BOK	1	-	-
8.	LBL	1	-	-
9.	CBIL	-	-	1
10.	MBL	-	-	1
Total		6	1	-
Percent		60	10	30

Source: Field Survey, 2010.

There are only six banks curtailing their tax burden through time value of money. This is sixty percent of total responses. Only eight banks gave their responses upon this question. Three banks CBIL, MBL and SCBNL are silent on this matter. It shows that they are not practicing it or they are not familiar with these tools. Actually timing of activities is very important tool for tax planning but it is very tough to practice. Hence most of Nepalese commercial banks are not practicing it. The study shows that only sixty percent banks are considering timing of activities for the purpose of tax planning, forty percent banks are unfamiliar with this tools and remaining ten percent banks are not considering it as tax planning tools. In fact all the banks do plan of their daily financial affairs, make plans for a penny to expend, maximize their taxable profit by limiting or expanding their expenses. They set their financial transactions in timely manner to increase the profit. But it could not be understood that why they respond that they do not consider timing of activities as a tool to minimize tax. It might be the vagueness or unfamiliarity with the term "Timing of Activities.

4.3 Time Value of Money

According to Peterson and Lewis, "The time value of money refers to the fact that a rupee received in the future is not worth a rupee today." It means, the rupee to be received in future is less important than a rupee at present because a rupee of today can be invested and due to interest factor becomes more than a rupee after one year. E.g. - If we invest Rs 1on zero years at the interest rate of 10 percent, it becomes Rs. 1.10 in one year. Here, Rs. 1 presents value of Rs. 1.10 to be received after one year.

For the meaningful comparison of cash flows at different periods of time they should be converted into a same point of time or should be expressed in common denominator that is interest factor. There are two methods of making such transformation-compounding and discounting.

How tax can be planned under time value of money? This question may arise confusion because the Income Tax Act does not have such headings. But if we perceive what actually the tax planning is, then it really helps us. Tax planning simply means curtail on tax burden, but in depth it is also to get maximum ATP. This is the indirect way of planning to maximize after tax profit.

A person, who is required to file a return of income under S/ 96, may file an application to the department by the due date for filing the return, requesting extension of time limit to file return of income. If the department finds the causes are treasonable, it may extend the time limit. The Department shall furnish the decision on the application to the person, institution in writing (Income Tax Act, 2002, S/ 98-1).

The Department may grant extensions of time limit to file return of income under sub-S/ 1 at one time or more than one time but the total period of extensions shall not exceed there months (Income Tax Act, 2002, S/ 98-2).

If any person fails to file the return within the 35 days of the assessment order, the tax officer can extend additional 9 months period to file his return if the causes are reasonable on his written appeal. But the assessee has to pay interest of 3 percent, 5 percent and 7 percent for additional period of three months, six months and nine months respectively. Hence, tax planning can be practiced with the help of timing value of money decision just deferring tax burden.

4.3.1 Tax Planning Procedure

As the researcher has already mentioned, time value of money itself does not reduce the tax liability. It enhances the financial strength of an organization suggesting delay on payments. One has to pay all this debt and obligations on deadline. One can pay his debt tax liability at the end of 3^{rd} month by writing an application to the Department to extend its filing date. Similarly, he can submit excess VAT collected at 15^{th} day after the end of month (deadline of submission date) and also, to exploit the benefits from this heading, one has to claim all the deductions earlier and as much as he/she can because a rupee worth more today than tomorrow.

4.3.3 Presentation and Analysis

The following question regarding time value of money has been asked to the sample bank officials. Nine banks have provided their responses on the question. The question, its responses and its analysis have been presented below.

Asked Question: Is Time Value of Money decision considered for the purpose of tax planning in your organization?

Table 4.3

Banks Considering Time Value of Money for the Purpose of Tax Planning

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	1	
2.	RBB	1	
3.	SCBNL	1	
4.	NIBL	1	
5.	NABIL	1	
6.	KBL	1	
7.	BOK	1	
8.	LBL	-	-
9.	CBIL	1	
10.	MBL	1	
Total		9	0
Percent		90	10

Source: Field Survey, 2010.

Only nine banks responded on this question. LBL remained silent upon this question. Among sample banks ninety percent banks consider time value of money for the purpose of tax planning. It shows that Nepalese commercial banks are aware about the importance of time value of money for the purpose of tax planning. Even all the tools above presented and this time value of money is closely bound to the tax planning, most of the respondents disagree on timing of activities and leasing or buying but agree on time value of money. These entire three financial tools do help to maximize one's ATP by the help of making expensed or acquiring funds at right time.

4.4 Tax Planning Procedure

As per the Act provides an especial facility to the organizations of 10 percent tax rebate on the levied tax that provide direct employment to 600 or more

Nepalese citizens whole the 365 days in a year. This provision is not viable to those small-scale organizations; only large scale of labor-intensive organizations can enjoy this facility. To reduce the tax burden, an organization has to recruit more employee(s) under this provision. One may wonder and arise question that how the payment can be curtailed by paying more to the employees. The following example can be given to tranquil such queries.

An organization having 599 employees announces its profit for the fiscal year 2007/08 is Rs 10000000. The corporate tax rate applicable for the organization for that FY is 20 percent. Then the organization has to pay Rs 20000 as income tax from the business profit. If the organization recruits an employee paying Rs 5000 per month at the beginning, it can save Rs. 140000 (10 percent of 2000000 minus 600000 that are paid for the new recruitment) from the trap of tax. Even more than one employee can be recruited for this purpose considering the cost does not exceed tax saving. Such speculation also can be done in the loss, if the organization foresees its recovery of losses in forthcoming years.

4.4.1 Presentation and Analysis

The following question regarding number of employees has been asked to the sample bank officials. Among them only nine banks has provided their responses. The question, its responses and its analysis have been presented below.

Asked Question: Is No. of employee decision considered for the purpose of tax planning in your organization?

Table 4.4

Banks Considering No. of Employee Decision for the Purpose of Tax Planning

S.N.	Name of Banks	Frequencies		
		Yes	No	No. Responding
1.	NBL	-	1	-
2.	RBB	1		-
3.	SCBNL	-	1	-
4.	NIBL	1		-
5.	NABIL	1		-
6.	KBL	1		-
7.	BOK	1		-
8.	LBL	1		-
9.	CBIL	-	1	-
10.	MBL	-	-	1
Total		6	3	1
Percent		60	30	10

Source: Field Survey, 2010

Under Income Tax Act, 2002 special industries providing direct employment to 600 or more Nepalese citizens in whole year can enjoy 10 percent rebate on levied tax to them. But this type of rebate is not for banks or financial institutions. But sixty percent sample banks are saying that they are practicing it. They are RBB, NIBL, NABIL, KBL, BOK and LBL. It means most of the Nepalese commercial banks are not familiar about the provisions regarding no of employees. Among sample banks, MBL remains silent upon this question.

4.5 Depreciation

Depreciation is the amount that curtails the original value on asset for its use. It is clearly explained as deductible amount while calculating assessable income from business and investment. But there are some limits made in Income Tax Acts regarding depreciation as described before. The taxpayer has to choose one among many alternatives because he cannot enjoy all the facilities at once.

Different depreciation rate is levied on the assets purchased on different time. Whole depreciation is deductible if that asset is purchased within the end of Poush, Two-third portion of depreciation is allowable if that is purchased after end of Poush and within end of Chaitra, and only One-third portion of depreciation is deductible if that is purchased after end of Chaitra.

So the taxpayer has to make a decision, which one does he prefers, first, second or third slab of depreciation rate? It is the most important option to plan one's t ax within the depreciation head. Of course one can save a handsome amount f tax but he has to make a decision very sincerely, E.g.-If an entrepreneur thinks to purchase a Tata Mobile worth of Rs. 15000 on 15 Magh, why shouldn't he purchase that before? If he purchases that vehicle within 30th Poush, he can reduce Rs. 300000 as depreciation expense; otherwise he can deduct only Rs. 200000 as depreciation expense for the purchase of Magh. If he purchases early, he can reduce the tax liability by Rs. 75000 (Here special fee and it's multi-dimensional affects are ignored and taken the flat rate of tax for an entity) otherwise he saves only Rs. 50000 from tax liability. Here tax saving due to purchase on Paush than in Magh is Rs. 25000 (Rs. 75000-50000). One can arise a question that we may get that allowance next year, but a businessperson has to know one thing that the same money worth more today than in future.

On the behalf of infrastructure projects that should be transferred to the Government of Nepal and electricity production and transmission; all the scraps on plant and machinery can be deducted as expenses at the time of their replacement. Moreover, all the book values of assets can be deducted as expenses at the time of its ownership transfer to the Government of Nepal. Special industries are entitled to reduce an additional one-third depreciation on prescribed rate of depreciation as per on S/ 3(1) of the same Schedule. (Income Tax Act, 2002, S/3-2, Schedule 2)

Moreover," if their remains less than Rs 2000 after the deduction of depreciation from its concerned pool, the whole sum can be deducted as additional depreciation expenses." (Income Tax Act, 2002, S/2-6, Schedule 2)

4.5.1 Tax Planning Procedure:

From al the explanations presented above, we can come to a conclusion that there are lots of provisions made regarding depreciation and an organization has to make a correct decision for what to do. And a rational entrepreneur, manager gives priority to the ATP and ROI/ROE while selecting an option. The time slab for depreciation base is most valuable thing to plan the reduction on tax. To claim the higher amount of depreciation as deductible expenses, one has to purchase that asset at early. One can borrow the sum to invest on asset if there are not sufficient funds because interest expenses are also deductible expenses for income tax calculation and the ROE would be high in debt financing than the equity financing only.

4.5.2 Presentation and Analysis

The following question regarding depreciation has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Question: Is Depreciation Decision considered for the purpose of tax planning in your organization?

Table 4.5

Banks Considering Depreciation Decision for the Purpose of Tax Planning

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	1	-
2.	RBB	1	-
3.	SCBNL	1	-
4.	NIBL	1	-
5.	NABIL	1	-
6.	KBL	1	-
7.	BOK	1	-
8.	LBL	1	-
9.	CBIL	1	-
10.	MBL	1	-
Total		10	0

Source: Field Survey, 2010.

The survey shows that, 100 percent sample banks are considering Depreciation Decision for the purpose of tax planning. Every sample bank is deducting their depreciation as per the provisions lies on Income Tax Act, 2002. They are using depreciation as a crucial tool of tax planning. Besides this, they are conscious about the impact of depreciation on every decision they made for the minimization of tax burden during any fiscal year.

4.6 Leasing and Buying

The assets of one organization can be purchased in two ways-leases or outright purchase. Leasing or outright purchase can be made by borrowed fund or won capital. When an asset is acquired by paying all its value, it is known as buying. The whole worth of that stuff should be paid for such deal. When the same goods is hired on lease, it has to pay some installments for that leasehold property. The payment made for rent can be made at the beginning or end of a period.

If that asset is leased, the taxpayer can claim for the rent, repair and maintenance expenses and management fees. If it is purchased, there is the facility of depreciation and repair and maintenance. If borrowed funds are used to purchase that asset, the interest paid n borrowed fund can be deducted as business expenses.

And the tax can be planned while making decision regarding leasing or buying. There are many more advantages in leasing like-there does not require any initial capital, no risk of obsolescence, tax saving on lease rent, less restriction, quick service, risk of investment can be transferred to the lender, lower maintenance cost etc. But there are also some disadvantages for leasing. It is expensive. It has less salvage value, less investment tax credit, less tax saving on depreciation and difficulties in getting approval asset's repair and improvement if required etc.

4.6.1 Tax Planning Procedure

It is mostly depends upon the nature of assets, funds available at the time of its requirement, maintenance and handling expenses and estimated returns from those purchase. E.g., if a piece of land is required for organizational set-up, it is better to purchase that rather than to take in lease. If a land is required to excavate for mines, it is better to take in lease. Again, if a 'C' grade contractor needs a caterpillar, it is better to hire that heavy machine because the acquirement and maintenance cost of that machine is out of his caliber, but the same equipment is essential to purchase for an 'A' class contractor. The rent paid at the beginning cost more than its payment at the end of a period. Whatever the approaches are taken to make decisions regarding leasing or buying the PV of payment is considered. The individual acquirement costs and its returns should be made at the time of making a decision. The alternative, which has maximum return in PV, is selected.

4.6.2 Presentation and Analysis

The following question regarding leasing or buying has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Asked Question: Which of the following methods does your bank use while purchasing fixed assets?

Table 4.6

Methods Preferred by Nepalese Commercial Banks while Purchasing Fixed Assets.

S.N.	Name of Banks	Frequencies	
		Leasing	Buying
1.	NBL	-	1
2.	RBB	-	1
3.	SCBNL	1	-
4.	NIBL	-	1
5.	NABIL	1	
6.	KBL	-	1
7.	BOK	-	1
8.	LBL	-	1
9.	CBIL	1	-
10.	MBL	1	-
Total		4	6
Percent		40	60

Source: Field Survey, 2010.

The table shows that six banks prefer buying options while purchasing fixes assets whereas four banks prefer leasing options. It means that sixty percent commercial banks prefer to buy fixed assets and use depreciation facility for the purpose of tax planning. And forty percent banks prefer leasing options and deduct lease expenses from their profit and loss account. Most of Nepalese commercial banks hesitate to pay the lease amount but have courage to pay whatever the sum they have to expend to get any tools or machines. Normally banks have sufficient funds for the investment in fixed assets hence; they prefer to buy their needful assets than to hire or to take in lease.

4.7 Research and Development Cost

Research and development cost means cost incurred by a person for the purpose of developing the person's business and improving business products or process. For the purpose of calculating a person's income form business, there shall be deducted research and development expenses to the extend incurred by the person during the year, in conducting the business. But the limit should not exceed 50 percent of taxable income before deducting research and development cost. Any excess expenses shall be capitalized and depreciated accordingly.

4.7.1 Tax Planning Procedure

As provided by the Income Tax Act 2002, S/ 18, all the Research and Development expenses incurred to conduct a business are deductible given that the amount of such expenses should not exceed 50 percent of the net profit before Research and Development expenses, deducting all other costs. Allowable limit of this type of expense depend upon the amount of profit. And it is crystal clear that when there is large amount of profit, the allowable limit would be high and if there were small amount of profit, the allowable limit would be low. The Income Tax Act, 2002 also provides that the unrecoverable amount of Research and Development expenses can be added on the depreciation base amount of poll 'D' of assets on next year. It means, though the act does not allow deducting a large sum of amount at the time of less profit, it allows to deduct all actual costs on installment as depreciation expenses.

So it is suggested to install or incur Research and Development expenses in the year when there is huge sum of profit. And also suggested to incur such expenses at the end of the fiscal year because it is easier to estimate the accurate profit at the end than it was predicted at the beginning. Such expenses can be deferred to some extend if there is not chances of generating profits in the business. If there comes any necessity to conduct such expenses and there is less or no profits, whole expenses can be segregated in a manner that the allowable limit would be high (See appendix-2). And remaining unrecoverable amount can be added in the depreciation base amount of poll 'D' of assets. The anti avoidance rules of S/ 35 in Income Tax Act 2002 does not interrogate for segregation of expenses but only the segregation of income and there is not any other acts or rules to stop the segregation of expenses.

4.7.3 Presentation and Analysis

The following question regarding research and development cost has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Question: Has your bank incurred any expensed in Research and Development expenses?

Table 4.7

Expenses Made by Nepalese Commercial Banks in R & D.

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	-	1
2.	RBB	-	1
3.	SCBNL	1	-
4.	NIBL	1	-
5.	NABIL	1	-
6.	KBL	-	1
7.	BOK	-	1
8.	LBL	1	-
9.	CBIL	-	1
10.	MBL	-	1
Total		4	6
Percent		40	60

Source: Field Survey, 2010.

The above table explains that Nepalese commercial banks are not incurring expenses in Research and Development. Among ten sample banks, four banks have incurred in R & D expenses and remaining six banks have not incurred any expenses in R & D. Hence, most of banks are not getting chance to claim for R&D expenses. Only SCBNL, NIBL, NABIL and LBL have incurred expenses in R & D. According to them, they are also considering their profit while making any expenses in R & D. Hence, it can be said that those forty percent banks that have incurred R & D expense, are also practicing provisions of R & D for the purpose of tax planning. Obviously those sixty percent banks, which have not incurred any expenses in R & D, may practice it when they will start to expend in R & D.

4.8 Capital Structures

So far the choice is concerned; companies prefer to go in for debt financing, as the interest paid on debt is a tax-deductible expense, whereas dividend on equity capital is not deductible at the time of computing taxable income. "Chad Leacher, who conducted detailed survey of the tax system in Columbia, Republic of Korea, Mexico and Thailand express deep concern about the possible adverse impact on corporate financial structure arising out of discriminatory treatment of equity vis-à-vis debt. His observation were as follows: a) Debt capital produces tax deducting in the form of interest payments, a privilege equity capital is not entitled to (b) Because of the interest deductibility, corporations can lower their tax liabilities by raising the debt equity ration. (c) Equity financing, therefore, represents an inferior method of fund raising"

The funds can be fulfilled through various sources like short-term debt, medium-term debt, long term debt, ordinary share, preference share etc. The short-term funds are needed particularly to arrange current assets. Long-term funds are needed to replace the existing capital goods or to expand the existing capacity etc. The decision regarding what proportion of these sources to be used is capital structure decision. Borrowing short-term debt is more risky and medium-term and long-term debts are more costly. For the purpose of calculating taxable income the taxpayer can deduct all interest expenses that are paid for the debts. Issuing shares are not costlier as the debts are because the organization has not to curtail its income as interest if it issues shares instead of borrowing debts. But from the financial point of view, the structure having a certain percentage of debt amounts is more preferable. Because the ROE is greater on such mixed capital structure that the fund collected through issuing shares only.

Since the objective of the firm is regarded as the maximization of value, the capital structure should be made so as to maximize value. Such structure is called optimal capital structure. According to Schall and Haley-"The optimal best capital structure is the set of proportions that maximize the total value of the firm." The optimal/sound capital structure refers to the appropriate combination of debt and equity capital. Such combination or ratio should be determined so as to maximizing the value of the firm or minimizing the cost of capital.

The whole financing can be divided into two prominent parts: Equity Financing and Debt Financing.

- **Equity Financing:** when the fund is arising from issuing shares or required fund collected from shareholders/ owners, it is known as share capital. It can be divided in two parts-Ordinary share financing and preference share financing. This is organization's liability to the shareholders.

- **Debt Financing:** The funds arise by borrowing form outsiders other than the shareholders/owners to finance a business in debt financing. The borrowed debt can be categorized into many sub headings such as short-term, medium-term and long-term debt. Similarly it also can be divided as secure and insecure debt.

4.8.1 Tax Planning Procedure

Many of the investors do not know about the rational capital structure decision. They fear to borrow and more interested to finance their own capital that cause fund insufficiency to operate a business.

The entire life of a business depends upon the financing decision, so one has to measure all the pros and cons of every alternative model of capital structure. It is not that much though to identify a most suitable structure when the market and interest risks are known. Always, the high ROE capital structure is preferred. This following example can help to make a decision on capital structure.

A firm needs Rs. 2000000 and it has two alternatives-financing whole fund raising equity shares; or taking 50 percent debt Rs 1000000 and remaining 100000 from shares. The corporate tax rate is 25 percent and expected EBIT for the year is 20 percent on total investment. Which alternative should the firm prefer?

Table 4.8

EAT in Different Capital Structure

Particulars	Equity Financing	Equity + Debt financing
EBIT	400000	400000
Less: Interest	--------------------------	100000
EBT	400000	300000
Less: Tax @25%	100000	75000
EAT	300000	225000
Share holders' equity	200000	100000
ROE	15%	22.5%

Here, the ROE (EAT/share holders' equity) represents the percentage of the earning on investment made by the shareholders. And the example expressed above shows that the planning per share on equity and debt financing is more than the equity financing only. So, the investor, manager, entrepreneur should take the decision of mixed capital structure hereon.

From the example presented above, we can come to a conclusion that the mixed capital structure is more profitable to an investor form each point of view, risk and return. To get the benefits from this heading, one must e well known of the financing affairs. And the market risks and returns must be analyzed in accurate figure.

4.8.3 Presentation and Analysis

The following question regarding capital structure has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Asked Question-1: Is Capital Structure decision considered for the purpose of tax planning in your organization?

Table 4.9

Banks Considering Capital Structure Decision for the Purpose of Tax Planning

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	1	-
2.	RBB	-	1
3.	SCBNL	1	-
4.	NIBL	-	1
5.	NABIL	1	-
6.	KBL	1	-
7.	BOK	1	-
8.	LBL	1	-
9.	CBIL	1	-
10.	MBL	1	-
Total		8	2
Percent		80	20

Source: Field Survey, 2010.

Above table shows that only eight commercial banks are considering Capital structure decision for the purpose of tax planning. And remaining two banks are not practicing capital structure decision as tax planning tools. As the table shows that RBB and NIBL are not considering capital structure as tax planning tools. Table shows that eighty percent banks in Nepal are practicing capital structure decision for the purpose of tax planning, but only six banks among sampled banks have long-term debt in their capital structure. They are SCBNL, NABIL, NIBL, BOK, KBL, and LBL. It means that only 60 percent banks are practicing capital structure decision in reality.

Table 4.10

Preferred Capital Structures by Nepalese Commercial Banks

S.N.	Name of Bank	Options and Frequencies		
		Equity only	Debt only	Both equity + debt
1.	NBL	-	-	1
2.	RBB	-	-	1
3.	SCBNL	-	-	1
4.	NIBL	-	-	1
5.	NABIL	-	-	1
6.	KBL	-	-	1
7.	BOK	-	-	1
8.	LBL	-	-	1
9.	CBIL	-	-	1
10.	MBL	-	-	1
Total		0	0	10
Percent		-	-	100

Source: Field Survey, 2010.

Table gives clear-cut picture that each and every sampled bank prefers debt plus equity capital structure for the minimization of tax. It shows that Nepalese commercial banks are aware about the importance of debt in capital structure for the purpose of tax planning, though only six banks among sample commercial banks have debt in their capital structure. They are SCBNL, NABIL, NIBL, BOK, KBL, and LBL. It means that they have some practical difficulties for the addition of debt in their capital structure. Hence, we might conclude that Nepalese commercial banks prefer equity plus debt capital structure but they are not practicing it.

4.9 Avoiding the Penalties

There are many categories where the penal can levied such as; charge for failure to maintain documentation or file statement or return of income, interest for understating estimated tax payable by installment, interest for failure to pay tax, charge for making false or misleading statements etc in ITA, 2002. Similarly there are also provisions of offence and punishment for failure to pay tax, making false or misleading statement etc.

- **Charge for Failure to Maintain Documentation or File Statements or Return of Income**

"A person who fails to file a return of income for an income year as required by sub-S/ (1) of S/ 95 and 96 of Income Tax Act 2002, shall be liable to pay a charge for each month and part of month at the rate of 0.1 percent per annum of the person's assessable income without any deductions and including all amounts required to be included in calculating the person's income for the year or Rs. 1000, whichever is greater" (Income Tax Act, 2002 S/117)

Similarly, "a withholding person who fails to file a statement shall be liable to pay a charge for each month and part of month for a period, form the due date to file the statement to the date of its filing at the rate of 1.5 percent per annum on the amount of tax"(Income Tax Act, 2002, S/-117).

- **Interest for Failure to Pay Tax**

A person, who fails to pay tax within which the tax is payable, is liable to pay interest for each month and part of month for which any of the tax is outstanding calculate by applying the standard interest rate to the amount outstanding (Income Tax Act, 2002, S/119-1).

- **Charges for Making False or Misleading Statements**

"Where the statement is happened to be false or misleading by mistake without knowingly or recklessly, fifty percent of the amount of tax reduced should be charged." (Income Tax Act, 2002, S/120-1)

"Where the statement is made false or misleading knowingly, hundred percent charges should be levied on the tax amount reduced by that reason" (Income Tax Act, 2002, S/120-2)

- **Punishment for Failure to Pay Tax:**

"A person who does not submit the tax amount within the due date without any reasonable cause, liable to pay a fine Rs. 5000 to Rs 3000 or imprisonment of one month to three months, or both" (Income Tax Act, 2002, S/123).

- **Punishment for Making False or Misleading Statement:**

"A false or misleading statement by reason of concealing or omitting particular matter form a statement by the person shall be punished by a fine of Rs. 40000 to Rs 160000 or an imprisonment of six months to two years, or both" (Income Tax Act, 2002, S/124).

4.9.1 Tax Planning Procedure

Tax planning is the benefits that can be taken from tax acts and rules, and even the exploitation of loopholes thereon. But it does not mean to break the laws, acts and rules. Breaking the law is crime and should be punished according the nature of crime. Under Income Tax Act, 2002 a person may have to pay minimum Rs. 1000 to maximum Rs. 240000 as fine and minimum one month to maximum three year's imprisonment for the different crime he does. The penal amount cost nothing for large organizations but the imprisonment of head person, management leader may sink the whole organization. We can take an example of Michael Khodorovski of Yukos Company in Russia. As he was imprisoned, the Yukos gradually looses its value and finally it has to sell its mainstream. Again, as an article published on FOBS magazine, Khodorovski's personal loss for the year 2004 was 13000 million dollars. So it is better to avoid penal and not to take any risk.

4.9.2 Presentation and Analysis

The following question regarding avoiding the penalties has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Asked Question: Does your bank consider avoiding penalties for the proper tax planning?

Table 4.11

Banks that Avoid Penalties for the Purpose of Tax Planning

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	1	-
2.	RBB	1	-
3.	SCBNL	1	-
4.	NIBL	1	-
5.	NABIL	1	-
6.	KBL	1	-
7.	BOK	1	-
8.	LBL	-	1
9.	CBIL	1	-
10.	MBL	1	-
Total		9	1
Percent		90	10

Source: Field Survey, 2010.

Most of the respondents are aware of the penal that can be levied for the malfunctioning. The responses shows 90 percent banks avoid the penal as much as they can. They always try to avoid penalties to reduce tax burden, but LBL is not considering avoiding penalties for the proper tax planning. It is obviously true that tax paid amount without penalties will reduce tax burden. The ITA, 2002 has prescribed heavy penalties plus interest on delay submission of tax hence, Nepalese banks prefer to submit tax burden in time to skip from the penalties. It

4.10 Pollution Control Cost

Pollution control costs mean costs incurred by a person with respect to a process for the purpose of controlling pollution or in other way protesting or sustaining the environment. For the purpose of calculating a person's income from business, there shall be deducted all pollutions control expenses incurred during the income year for conducting the business. But the deductible amount should not exceed 50 percent of taxable income before deducting pollution control cost. If there are any excess expenses, then such excess expenses shall be capitalized (added to cost of respective depreciable assets) and shall be depreciated accordingly. Under Economic Act, 2051, any industry installs pollution control device can deduct the whole expenses in 2 equal installments. But it should be certified by the technician and recommended by the department of industry. This provision is kept alike in Economic Act 2052, 2053, 2054, and 2055. The Income Tax Act, 2031 also had this provision. The allowable limit under the ITA 2031 was also 50 percent of taxable income before adjusting this expense.

4.10.1 Tax Planning Procedure

"All pollution control cost or any equipment installment charge of this nature are deductible at the time of calculating taxable income form business. But the expenses of such nature shod not exceed the 50 percent of net income excluding pollution control cost and including all other expenses" (Income Tax Act, 2002, S/17).

The allowable limit of pollution control expense also depends upon the amount of profit as a Research and Development expense depends. As a result of such dependency, large sum can be deducted when there is large profit and only small portion is allowed at the time of less profit. Same as R & D expenses, all unrecoverable amounts of pollution control expenses are added to the deprecation base of poll "D" of assets on next year. And all unrecoverable expenses on pollution control will be reduced as depreciation expenses at the rate of 15 percent thereafter. It may take a long time to recover but fully deductible expenses. Due to the PV of cash flows, the early recovery of expenses is far better than it will be unknown future. That's why it is suggested that to incur or install pollution control equipment in the year when there is large amount of profit. And also suggested to segregate the expenses to deduct a large portion of expenses for its necessary installment or sudden occurrence in the period when there is less profit or loss. Such unfavorable condition may arise due to regulatory policy of the government. In such conditions, the organization can incomplete the project and left some portion of its incomplete work for next fiscal year that helps to segregate the costs of one plant into two different fiscal year and no doubt that the allowable limit would be high because the profit would be high on which this expense depends.

4.10.3 Presentation and Analysis

The following question regarding pollution control cost has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Asked Question: Has your bank incurred any expensed in Pollution and Control Cost?

Table 4.12

Expenses Made by Nepalese Commercial Bank in PCC

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	-	1
2.	RBB	-	1
3.	SCBNL	1	-
4.	NIBL	-	-
5.	NABIL	-	1
6.	KBL	-	1
7.	BOK	-	1
8.	LBL	-	1
9.	CBIL	-	1
10.	MBL	-	1
Total		1	9
Percent		10	90

Source: Field Survey, 2010.

As the table shows that only one bank among ten sample banks has spent in Pollution Control cost. That bank is SCBNL. It is spending expenses in sanitation and other pollution control costs. In the scenario of Nepalese commercial banks only SCBNL is incurring expense in pollution control cost. Hence the research shows that only SCBNL can practice it for the purpose of tax planning. According to the responses of the authorities of SCBNL, they are not considering their profit to determine PC cost for the purpose of tax planning because it is for corporate social responsibility. Hence, only one bank, which is spending in PC, is not considering bank's profit to determine the amount of PC that should be expended during one fiscal year.

4.11 Repair and Improvement Cost

"All expenses in respect of repair or improvement are deductible if that is owned and used by the person for earning income form business or investment.

However, the allowable limit is 7 percent of depreciation base amount of the respective pool of depreciable assets. Any excess expenses will be added to the depreciation base amount for next year." (Income Tax Act, 2002, S/16)

Under S/12 (1-b) of Income Tax Act 2031, such expenses were also deductible item. Such repairs should be made for the purpose of keeping an asset in running or preventing from being damaged. When such repairs result an increase in the value, life or working capacity of that asset or change their basic structure, the expenses incurred to expand such capacity were not allowed to deduct as repair or maintenance expenses, but would be added in the cost of concerned fixed asset and depreciated as per the rate applicable for the respective pool. Sometimes replacement and renewal of existing plants becomes essential in order to enables its strength to meet the competing demands of new era in modern technology. At that time, huge sum of investment is required to replace the existing pants and machinery.

4.11.1 Tax Planning Procedure

The tax could be reduced by the proper planning on renewal or replacement under the Income Tax Act 2031(with help of IEA, 1992) only which are not allowed by the Income Tax Act, 2002. The tax planner only can reduce up to the 7% on its depreciable base amount of respective pool as repair and maintenance expenses as provided in Income Tax Act, 2002. Since the depreciation base amount would be greater, more repair and maintenance expenses can be reduced for earlier purchase of an asset. And it is all where the tax can be planned through the Income Tax Act, 2002.

4.11.3 Presentation and Analysis

The following question regarding repair and maintenance cost has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Asked Question: Do you consider asset's depreciation base while incurring any expenses in Repair and Improvement?

Table 4.13
Banks Considering Asset's Depreciation Base for the Purpose of Tax Planning

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	1	-
2.	RBB	1	-
3.	SCBNL	1	-
4.	NIBL	1	-
5.	NABIL	1	-
6.	KBL	1	-
7.	BOK	1	-
8.	LBL	1	-
9.	CBIL	1	-
10.	MBL	1	-
Total		10	0
Percent		100	-

Source: Field Survey, 2010.

The above table shows good sign for the practice of tax planning, as every bank among sample banks are considering depreciation base while incurring any expenses in Repair and Improvement. It shows that Nepalese commercial banks are aware about the provisions regarding Repair and Improvement cost. There are more chances of exploiting this facility by making unnecessary expenses in Repair and Improvement expenses.

4.12 Recovery of Losses

The profit is return for the risk bearing capacity of an investor. There are different types of risks that the investor has to bear. But we can see two dominate risks for the investor, viz. break-even (zero profit) risk and investment (sinking the fund) risk. Every organization is established with its profit maximization objectives but here is an equal chance of getting risk as well. Al those risks lead an organization to the losses, which discourage the investor to invest. And that redundancy to invest has a cyclical effect on a nation's economy. The government charges some amount as tax to the investors who earn profits. It (the govt.) enjoys the profit that one earns. So, the government has a duty to share its losses too. That is why the government provides some especial provisions for those losses.

According to **Kandel (2006)** 'The loss of the investor can be recovered in two ways- they are full loss offsetting and partial loss off settings. Full loss offsetting means recovering full value of loss by the government. Full loss offsetting can be done by two ways- firstly, by refunding total value of loss by the government and secondly, by allowing to recovering the loss with interest when there is profit in the business.'

The full loss recovery system is not in use these days. It is impracticable to reimburse full loss because it curtails the managerial expertise. Investors neglect the business and also challenge the threats beyond their caliber because losses are compensated by the government. That is why the government follows partial loss offsetting of the investment. The Government of Nepal is also following the partial loss offsetting. The Income Tax Act 2002 has made some provisions regarding offsetting and carrying the loss other that the year occurs.

Business loss in Nepal can be set-off from investment income only either that is earned in the country or in abroad.

Loss of foreign source investment can be recovered form the gain of foreign source investment of the same country. The loss of capital nature can be set off form capital income only. Loss from foreign sources business can be recovered from foreign source gain on investment and business of the same country only. Loss from special industry and other business enjoying special tax rate can be recovered from the same business. Now the Income Tax Act has provisions of only carry forward of losses. The act has already removed the provisions regarding carry back of losses.

4.12.1 Carry Forward of Loss

The Income Tax Act, 2058 allows the investor to set off both intra head and inter head losses from his business and investment to subsequent four years for ordinary business/investment. Loss of last seven years is deductible form income from public infra-structure projects to be transferred to government and electricity house construction, production and transmission projects.

Under Income Tax Act, 2031, only three-year loss of intra head was allowed to carry forward.

4.12.1.1 Tax Planning Procedure

A loss occurs when the expenditure exceeds incomes. All the losses in a business are deductible from its income in subsequent years. One should know that the Acts and Rules properly while recovering the losses from earnings. A domestic business loss can be recovered from any earnings of business and investment in the country and foreign source income. Foreign business loss can be recovered from foreign business and investment income. Domestic investment can be recovered from domestic and foreign investment income. And foreign investment loss can be recovered from foreign investment only. Whatever the provisions of recovery made (intra or intro heading recovery of loss), the recovery period does not exceed four years after the loss happens. But the loss of special industries such as public infrastructure operate and transfer to the Government of Nepal and electricity projects that are involved in building power station, generating and transmitting electricity etc can be recovered within seven years.

4.12.1.2 Presentation and Analysis

The following question regarding carry forward of loss has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Table 4.14

Banks Considering Carry Forward of Loss for the Purpose of tax Planning

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	1	-
2.	RBB	1	-
3.	SCBNL	1	-
4.	NIBL	1	-
5.	NABIL	1	-
6.	KBL	1	-
7.	BOK	1	-
8.	LBL	1	-
9.	CIBL	1	-
10.	MBL	1	-
Total		10	0
Percent		100	-

Source: Field Survey, 2010.

Above table shows that total sampled commercial banks are aware about the carry forward of loss. And for the purpose of tax planning they may consider carry forward of loss as a tax planning tools. It is clear from above table that hundred percentage commercial banks are able to forward their losses, if they bear losses, for the purpose of tax planning. Now it might conclude that Nepalese commercial banks are considering carry forward of loss for the purpose of tax planning.

4.13 Presentation and Analysis of Major Responses from Questionnaires

To find out the actual tax planning practice, some major opinions have been taken from the respondents. This has been done to identify the difficulties in applying tax planning tools and such suggestions for the application of such tools. Some important questionnaires are presented here which were asked to the concerned authorities of sample banks. Their responses have been presented below on the basis of asked questions.

Nepalese banks are expanding their branches day by day for the competition that will arise in the days to come. The question regarding their preferences while launching new branches has been asked to find out their actual preference to tax planning. Their responses and respective ranks have been presented in Table 4.15.

Table 4.15

Preferred Priorities Options by Nepalese Banks While Launching New Branches

S.N.	Name of Bank	Options				
		Infrastructure facilities such as transportation, communication, power, well security	Access to high deposit collection	Access to high investment opportunity.	Availability of adequate labor in the location of the business	Tax incentives provided by the tax laws.
		Ranks				
1.	NBL	5	1	2	3	4
2.	RBB	4	1	3	2	5
3.	SCBNL	1	2	3	4	5
4.	NIBL	1	2	4	3	5
5.	NABIL	5	1	3	2	4
6.	KBL	5	1	2	3	4
7.	BOK	4	1	2	3	5
8.	LBL	1	2	3	5	4
9.	CBIL	1	2	3	4	5
10	MBL	1	2	3	4	5

Source: Field Survey, 2010

The question has been asked regarding the priority sector they are seeking while launching new branches. All sample banks have provided their responses. Among them most of them are saying that they give high priority to "Infrastructure facilities such as transportation, communication, power, well security". Among them fifty percent banks give first priority to well infrastructure. After that they prefer "Access to high deposit collection", "Access to high investment opportunity" and so one. But most of them give last priority to "Tax incentives". It shows that they are not implementing good tax planning practice.

- **Asked Question: Does your bank consider reducing tax liability while making any decision?**

Nine bank officials gave their responses in aforementioned question. Their responses have been presented in table 4.16.

Table 4.16

Banks that Consider on Reducing Tax Liability While Making Any Decision

S.N.	Name of Banks	Frequencies		
		Yes	No	Non Respondents
1.	NBL	1	-	-
2.	RBB	1	-	-
3.	SCBNL	-	1	-
4.	NIBL	1	-	-
5.	NABIL	-	-	1
6.	KBL	1	-	-
7.	BOK	1	-	-
8.	LBL	1	-	-
9.	CBIL	1	-	-
10.	MBL	1	-	-
Total		8	1	1
Percent		80	20	10

Source: Field Survey, 2010.

The bank or financial institutions have to make many decisions in daily basis for the operation of the organization. The decisions are analyzed in each and every aspect to find out the profitability of specific decision. The decision, which gives more profit to the bank, is selected and others are dropped. The question has been asked to the concerned authorities of the bank whether they consider reducing tax liability while making any decision or not. Only nine sample banks have provided their responses. The response form NABIL bank could not get. Among them ninety percent banks are considering tax element while making any decision and ten percent are not considering it. It shows that there is majority of banks for the practice of tax reduction while making their decision.

- **Asked Question: Does your bank use any tax planning software to reduce tax liability?**

All of ten bank officials provided their responses in aforementioned question. The actual responses have been presented in the following table.

Table 4.17

Nepalese Banks Using Tax Planning Software

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	-	1
2.	RBB	-	1
3.	SCBNL	1	-
4.	NIBL	-	1
5.	NABIL	1	-
6.	KBL	-	1
7.	BOK	-	1
8.	LBL	-	1
9.	CBIL	-	1
10.	MBL	-	1
Total		2	8
Percent		20	80

Source: Field Survey, 2010.

The development of information technology has been hiked. Most of multinational banks are now using sophisticated software for proper tax planning. Such type of software simplifies tax-planning procedure. But above table shows, only twenty percent banks among sample banks are using tax-planning software. But in reality the software they are using is completely banking software where only some feature of tax planning tools can be found. For example, NABIL is using Finacle for tax planning but in fact it is not completely tax planning software. Hence, it might conclude that Nepalese banks are not using any complete software for tax planning.

- **Asked Question: Who does assess the taxable income in your organization?**

All of sample bank officials have provided their responses in aforementioned question too. The responses have been presented below.

Table 4.18

Designation of Nepalese Bank Officials who Asses Taxable Income

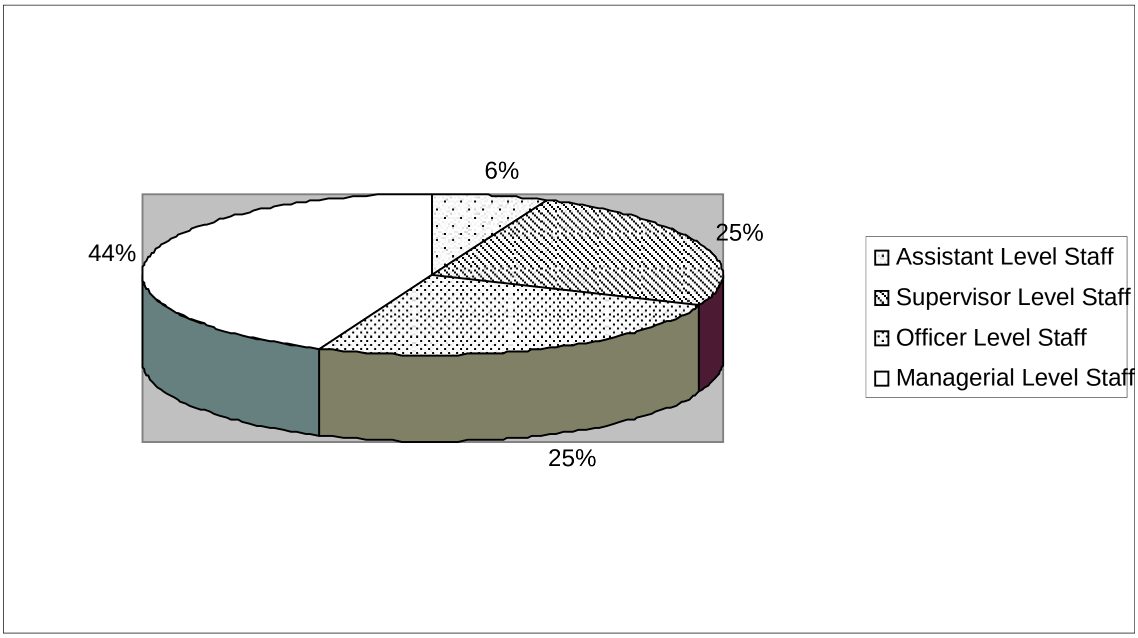
SN	Name of banks	Options and Frequencies			
		Assistant level staff	Supervisor level staff	Officer level staff	Managerial level staff
1.	NBL	-	-	-	1
2.	RBB	-	-	-	1
3.	SCBNL	-	1	1	1
4.	NIBL	1	1	1	1
5.	NABIL	-	-	1	1
6.	KBL	-	-	1	-
7.	BOK	-	1		-
8.	LBL	-	-	-	1
9.	CBIL	-	-	-	1
10.	MBL	-	1	-	-
Total		1	4	4	7
Percent		6	25	25	44

Source: Field Survey, 2010.

There is scarcity of human resources for tax planning in Nepalese market. In Nepalese banking industry, most of banks have separate tax department or account department for the computation of total taxable income and other tax related activities. As table shows most of banks have higher designation than assistant level staff for the assessment of taxable income in their banks. Among sample banks, seventy percent banks have managerial level staffs in tax department who assess taxable income. But in SCBNL and NIBL have a mix team of assistant, supervisor, officer and managerial level staff for the same. It shows that Nepalese banks have already built a separate department for the management of tax panning. The above situation can be clearly shown in the following figure.

Figure 4.1

Level of Staff Involved in Tax Planning in the Nepalese Banks



Source: Field Survey, 2010.

- **Asked Question: There are many difficulties in tax planning as given below, are you facing these difficulties?**

There are many difficulties that the Nepalese banks are facing while practicing tax planning. Mainly there is lack of clear cut knowledge of existing tax rules and regulations among banking officials. Besides this, there are much more ambiguities in tax laws that are very difficult to understand. Banking authorities are also facing difficulties due to the rapid changes in provisions regarding tax rules and regulations. The above question has been asked to the concerned bank officials to find out the actual difficulties they are facing. All of them have provided their responses. The responses have been presented in Table 4.19.

The table shows that most of banks are facing "Ambiguities in income tax acts, rules, and laws" and "High penalty or wrong assessment" problem. This survey shows that ninety percent sample banks are facing problem related to high penalty or wrong assessment and eighty percent are also facing ambiguities in income tax laws. Some banks even don't hesitate to say that taking advantages of loopholes in tax laws are easier than tax planning.

Table 4.19

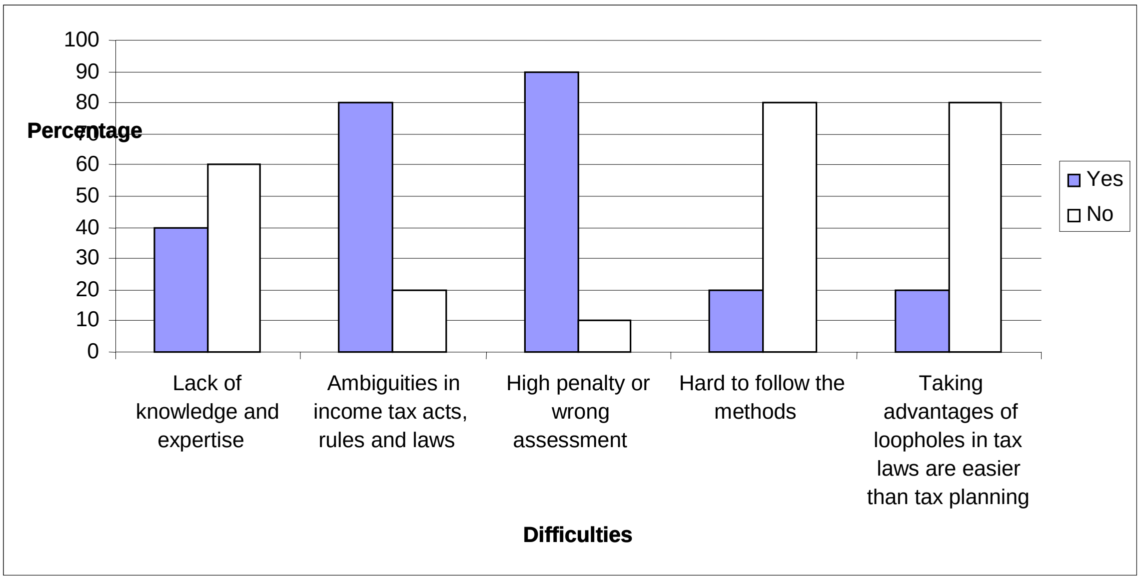
Difficulties Faced by Nepalese Bank While Practicing Tax Planning

S.N.	Name of Banks	Options				
		Taking advantages of loopholes in tax laws are easier than tax planning	Ambiguit-ies in income tax acts, rules and laws	High penalty or wrong assessm-ent	Hard to follow the methods	Lack of knowle-dge and expertis-e
		Responses(Y for 'Yes' and N for 'No')				
1.	NBL	Y	Y	N	N	N
2.	RBB	Y	Y	N	N	N
3.	SCBNL	Y	Y	Y	Y	Y
4.	NIBL	Y	Y	N	N	Y
5.	NABIL	N	Y	Y	N	N
6.	KBL	Y	Y	N	N	N
7.	BOK	Y	Y	N	Y	N
8.	LBL	N	N	N	N	Y
9.	CBIL	Y	Y	N	N	Y
10	MBL	Y	Y	N	N	N

Source: Field Survey, 2010

Even reputed banks like SCBNL and BOK agree on "Taking advantages of loopholes in tax laws are easier than tax planning". The percentage analysis for the difficulties faced by Nepalese commercial banks while practicing tax planning has been shown in figure 4.4. Here, the X-axis has shown the difficulties faced by banks and Y-axis has shown percentage for respective difficulties.

Figure 4.2
Difficulties Faced by Nepalese Banks for Tax Planning



Source: Field Survey, 2010.

- **Asked Question: Does your bank practice on benefits, concessions, rebates etc provided by Income Tax Act 2058 to minimize tax?**

The bank should be efficient to search benefits, concessions, rebate in tax related laws so that they can utilize their scare resources to minimize tax burden. The above table shows that ninety percent banks practice on benefits, concessions, rebates etc provided by Income Tax Act, 2002 to minimize tax where as only one bank that represents ten percent of total sample banks is not practicing on benefits, concession, rebates etc. It is a good trend for future tax planning practices in Nepalese banking industries.

All sample banks has provided their responses in this question too. The responses have been presented in the table below.

Table 4.20
Nepalese Banks Practicing on Benefits, Concessions, Rebates etc as Stated in Income Tax Act, 2002.

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	1	-
2.	RBB	1	-
3.	SCBNL	1	-
4.	NIBL	1	-
5.	NABIL	1	-
6.	KBL	1	-
7.	BOK	1	-
8.	LBL	1	-
9.	CBIL	-	1
10.	MBL	1	-
Total		9	1
Percent		90	10

Source: Field Survey, 2010.

- **Asked Question: What approximate percentage of profit has been gained due to well practice of tax planning in your bank?**

Well practiced tax planning obviously can increase bank's profit. The opinion has been also taken regarding the profit percentage that can increased with the help of proper tax planning.

Table 4.21

Percentage of Profit Earned by Nepalese Banks Due to Well Practice of Tax Planning

S.N.	Name of banks	Options and Frequencies			
		1-3 percent	3-5 percent	More than 5 percent	Other %
1.	NBL	-	-	-	1(<1%)
2.	RBB	1	-	-	-
3.	SCNBL	1	-	-	-
4.	NIBL	-	1	-	-

5.	NABIL	-	-	-	-
6.	KBL	-	-	-	1(<1%)
7.	BOK	1	-	-	
8.	LBL	-	1	-	-
9.	CBIL	1	-	-	-
10.	MBL	-	-	-	-
Total		4	2	-	2

Source: Field Survey, 2010.

The opinions regarding contribution of profit by proper tax planning form bank authorities has been taken. Among sample banks only eight banks have provided their responses. As table shows, four bank says that 1-3 percentage of total profit can be gained from well practice of tax planning, further two banks say that 3-5 percentage of total profit can be gained from well practice of tax planning and other two banks add that less than one percentage of total profit can be gained due to well practice of tax planning. It shows that Nepalese banking professionals give high priority to tax planning for the enhancement of total profit.

- **Asked Question: Do you think that the Income Tax Act 2002 has provided sufficient grounds for the practice of tax planning in banking industries?**

The question regarding sufficiency of provisions made by tax laws has been also asked. The following table shows the responses of aforementioned question.

Table 4.22

Whether ITA, 2002 has Provided Sufficient Grounds to Nepalese Banks for the Practice of Tax Planning or Not?

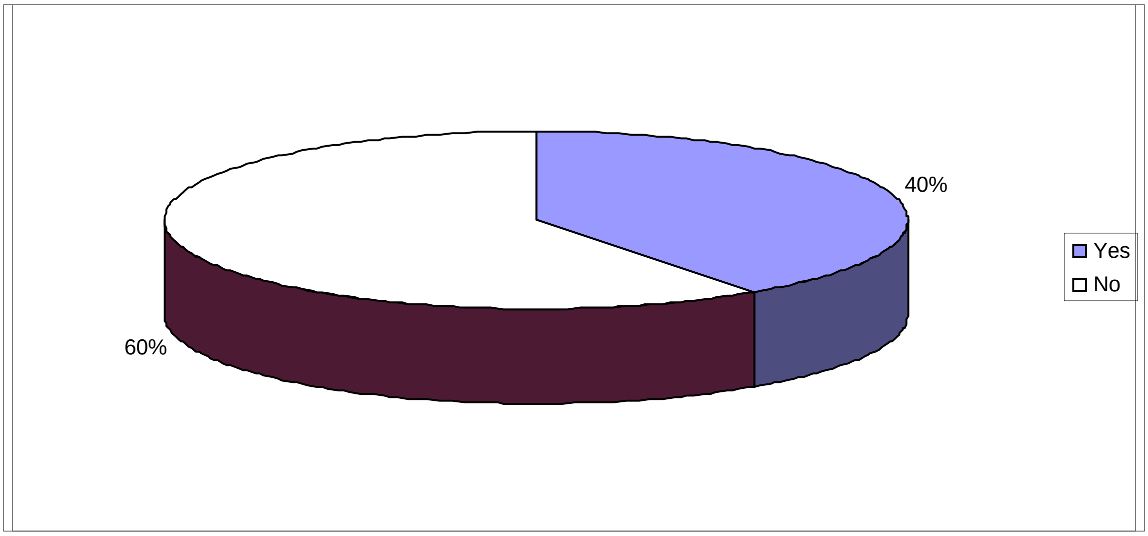
S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	-	1
2.	RBB	-	1
3.	SCBNL	1	-
4.	NIBL	1	-
5.	NABIL	1	-
6.	KBL	-	1
7.	BOK	-	1
8.	LBL	1	-
9.	CBIL	-	1
10.	MBL	-	1
Total		4	6
Percent		40	60

Source: Field Survey, 2010.

The Income Tax Act 2002 has provided many facilities for tax planning purpose to different industries. The Act has provided tax rebate locations for only special industries whereas it has provided 5 year carry back facility only to banking industries. The question regarding whether the act has provided sufficient grounds for the practice of t ax panning in banking industries or not has been asked. Among them sixty percent banks are not agree with the existing tax laws that it has provided sufficient grounds for the practice of tax planning in banking industries. But remaining forty percent banks are agree on that Income Tax Act, 2002 has provided sufficient grounds for the practice of tax planning in banking industries. The responses for the question have been shown in the following figure for the clear-cut picture.

Figure 4.3

Has Income Tax Act, 2002 Provided Sufficient Grounds for the Practice of Tax Planning?



Source: Field Survey, 2010.

- **Asked Question: Which of the following methods does your organization prefer to reduce the tax liability**?

The above question has been asked to find out their preferences for tax planning. All of them provided their responses. Their responses and their preferred methods for tax planning have been presented in Table 4.23.

Table 4.23

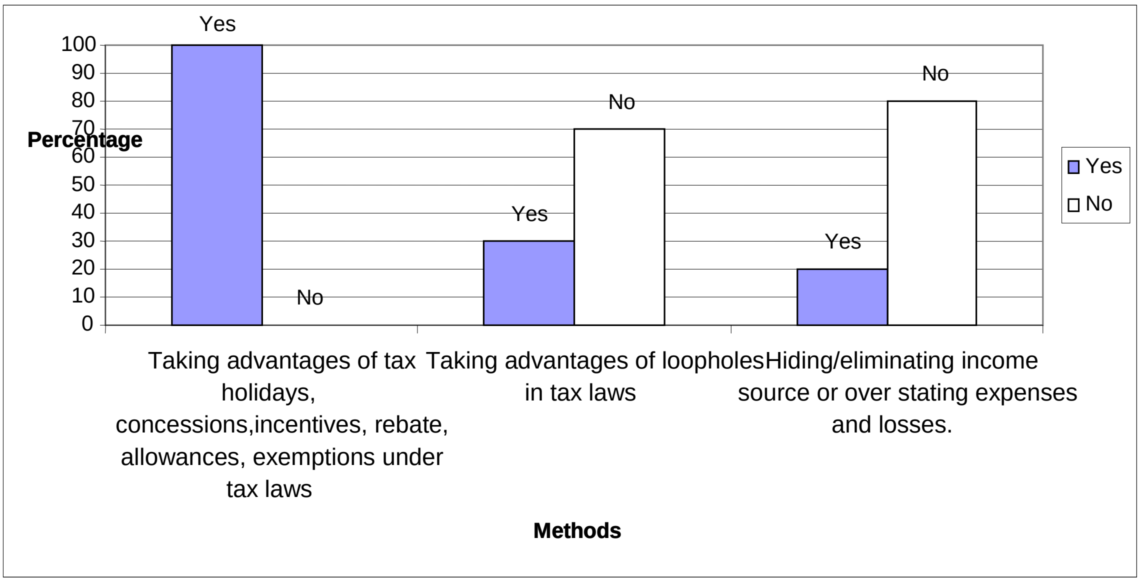
Methods Preferred by Nepalese Banks to Reduce Tax Liability

S.N.	Name of Banks	Options				
		Taking advantages of tax holidays, concessions, incentives, rebate, allowances, exemptions under tax laws	Taking advantages of loopholes in tax laws	Hiding/eliminating income source or over stating expenses And losses.	All of them	If other (please specify)
		Responses(Y for 'Yes' and N for 'No')				
1.	NBL	Y	N	N	N	-
2.	RBB	Y	N	N	N	-
3.	SCBNL	Y	Y	Y	N	-
4.	NIBL	Y	Y	Y	N	-
5.	NABIL	Y	N	N	N	-
6.	KBL	Y	N	N	N	-
7.	BOK	Y	Y	N	N	-
8.	LBL	Y	Y	N	N	-
9.	CBIL	Y	N	N	N	-
10	MBL	Y	N	N	N	-

Source: Field Survey, 2010

Above table shows that most of bank prefer first option for the reduction of tax burden. All sample banks gave positive priority for first option. It shows that Nepalese banks are moving toward good practice of tax planning. But some banks also prefer second and third option for the reduction of tax burden. As NIBL, SCBNL, BOK and LBL also prefer second and third option for the reduction of tax burden. It shows that there is also some existence of mal practice of tax planning in Nepalese banking industries. The gist of the above table can be easily understood from the figure below.

Figure 4.4
Preferred Methods by Nepalese Banks for the Reduction of Tax Burden



Source: Field Survey, 2010.

- **Asked Question: If your bank is practicing tax planning, at what level, tax planning tools and techniques has been practiced in your opinion?**

The above question regarding level of tax planning practices has been asked to find out the actual level of tax planning that they are practicing. The responses have been presented below.

Table 4.24
Practice Level of Tax Planning by Nepalese Commercial Banks

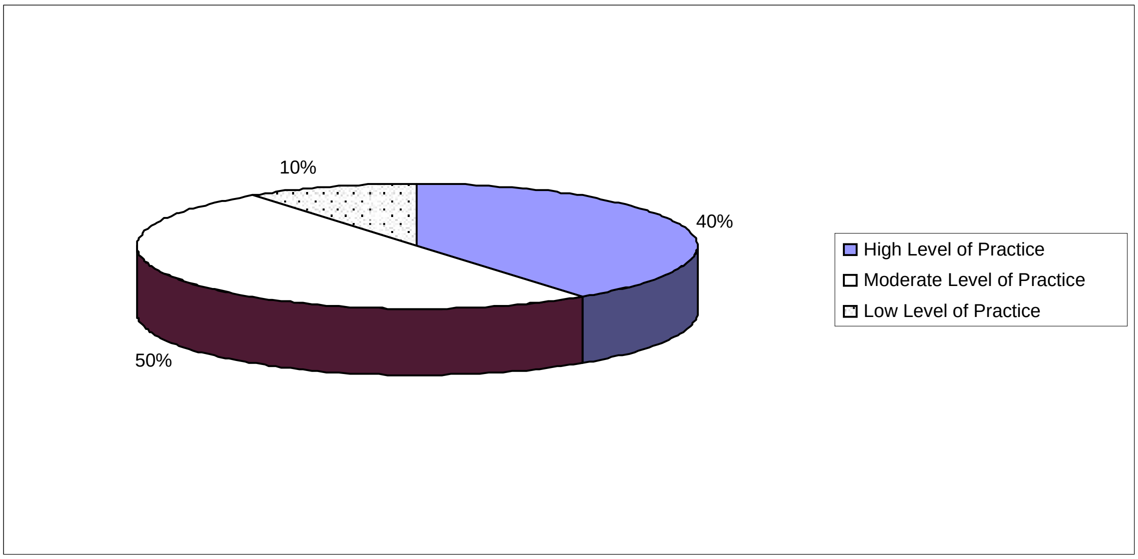
S.N.	Name of banks	Options and Frequencies		
		High level of practice	Moderate level of practice	Low level of practice
1.	NBL	-	1	-
2.	RBB	-	1	-
3.	SCBNL	1	-	-
4.	NIBL	-	1	-
5.	NABIL	1	-	-
6.	KBL	-	1	-
7.	BOK	1	-	-
8.	LBL	1	-	-
9.	CBIL	-	1	-
10.	MBL	-	-	1
Total		4	5	1
Percent		40	50	10

Source: Field Survey, 2010

The opinion regarding level of tax planning practices has been taken form authorities of each sample bank. As the table shows that among them forty percent banks say that they are practicing tax-planning tools at high level. Further, fifty percent banks agree that they are practicing tax-planning tools at moderate level and remaining ten percent banks says that they are practicing tax-planning tools at low level. But it is not blindly acceptable opinion because even those banks, which are not familiar about major tax planning tools such as carry back of loss, timing of activities, are saying that they have high level of tax planning practice. The below figure has tried to show the actual level of tax planning practices by Nepalese commercial banks, in their opinion.

Figure 4.5

Level of Tax Planning Practices by Nepalese Commercial Banks



Source: Field Survey, 2010.

4.14 Major Findings of the Study

On the basis of the comprehensive analysis of the data, the following findings have been detected.

1. As we have seen the tax planning procedure in data presentation and responses, regarding tax planning, we can say there still are some chances of planning of tax under Income Tax Act, 2002. But there is less practice of tax planning in Nepalese commercial banks. The tax

authorities of Nepalese commercial banks believe in tax avoidance and evasion than tax planning as we have seen in many articles published on daily and weekly papers in the fiscal year 2065/66. One can imagine the tax evasion trend in Nepal; if the reputed banks evade their payable tax, what would be the trend in small and medium scale organizations?

2. Based on the above analysis, it is observed that 100% banks consider carry forward of loss, only 40% banks consider location of business, 80% banks consider capital structure, 60% banks consider timing of activities, and 90% banks consider time value of money for the purpose of tax planning. Though some banks are not aware about timing of activities since they could not give any responses regarding it. Besides this, most of Nepalese commercial banks have not had any long-term debt in their capital structure but they still prefer equity plus debt option. It shows that there is lack of practice in this aspect.
3. Besides this, 100% banks are considering deprecation base while making decision on repair and improvement cost. Ninety percent banks prefer to avoid tax penalties for the reduction of tax burden. It also shows that Nepalese banks are practicing tax planning at different level.
4. Eighty percent banks prefer to consider their income to make donation decision. It also shows that they are aware about the provision made by ITA, 2000 regarding donation, R&D, PCC etc.
5. Only one percent banks are spending their expenses in PCC and only 40% banks are incurring their expensed in R&D. It shows that there is less opportunity for commercial banks to practice tax planning on PCC, R&D and so on.
6. Nepal is very poor country, but Nepalese banks are using world-class software for their banking transaction. Even twenty percent banks have tax planning features in their banking software.
7. As above data shows that 70% banks have managerial level staffs in their tax or account department for the assessment of total taxable

income and other tax related activities. It shows that Nepalese banks are handing over their tax planning procedure to managerial level staffs too.

8. Nepalese banks are also facing many problems for tax planning too. Eighty percent banks are facing "Ambiguities in income tax acts, rules and laws " and ninety percent banks are facing "High penalty or wrong assessment problem". Besides this twenty percent banks says that taking advantages of loopholes in tax laws are easier than tax planning.

9. Nepalese bankers are also positive towards tax planning. In their opinion, forty percent banks agree that 1 to 3 percent profit can be increased due to well practice of tax planning. Further, twenty percent banks agree that 3 to 5 percent profit can be earned due to high level of tax planning.

10. Tax Authorities of Nepalese commercial banks are strongly known of the tax acts and laws as per the responses say (except some cases where the respondents from some banks have replied as they are enjoying tax rebate in remote locations). In the responses, it seems all possible rebates; holidays and allowances are seen by the respective organizations, which are eligible to enjoy those facilities in Income Tax Act. Naturally the manufacturing organizations are allowed more rebates than financial institutions; still the banks are practicing tax planning.

11. But if we go for the implementation of their knowledge of tax planning in the subject matter, that they are very poor in practice. Implementation of the tax planning in the context of strategic planning is almost zero, a little bit in project planning and awful majorities in operational planning are in existence. Since the strategic planning is made at the zero years, it has been set-up by the management at that time and change in management cannot renew the strategic decisions as per the new managements' interest. Even their knowledge and experience won't help to reduce the tax liability in this condition.

12. In many books and articles related to finance, the researcher found that the debt plus equity capital structure as most approval decision. In

Nepalese banking industry, they don’t’ have long-term debt in their capital structure but they still prefer debt plus equity option for the reduction of tax burden. It shows that Nepalese bankers are capable for the practice of tax planning but they are not implementing their knowledge for it.

13. For the strategic planning, even there are many more tax planning options than operational and project planning, negligible Nepalese banks have been enjoying this facility. The strategic decisions have to make before or at the exact time of the organizational set-up, it cannot be changed frequently to get the benefits of tax acts and laws, which are changed, in very short duration.

14. Nepalese banks are practicing tax planning at procedural level. They are not practicing it professionally. They also agree on that Income Tax Act has not provided sufficient grounds for the practice of tax planning in banking industries. In their opinion regarding the level of practice, forty percent banks says that they are practicing tax planning at high level, fifty percent are practicing at moderate level and remaining ten percent banks are practicing at low level. Among high-level practitioner, most of them are joint venture banks.

CHAPTER V

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Summary

Tax planning is a process of taking maximum advantages and benefit form the facilities guaranteed in Income Tax Act. Tax planning is related to future activity of business organization. It is a technique of enjoying full benefits from all concessions, rebates and holidays provided by the government under the tax laws. It is a system of paying the minimum possible tax by the taxpayer.

The objectives of tax planning are reduction of tax liability, minimization of litigation, making productive investment, promoting healthy growth of economy and economic stability in a country. Tax planning entails changing structure of a business, project planning and planning day-to-day activities of a business organization.

Businesspersons use tax planning because it has a great importance in business organization. It helps in saving tax of a business that in turn enhances the profitability. In other words, it is the process of increasing the net worth of a business organization. Moreover, tax planning helps in avoiding unnecessary worries, tensions and administrative hassles.

It is a proper, safe, scientific, moral, legal and long-term device to maximize the after-tax profit by minimizing the tax liability of a taxpayer. It helps in exploiting al facilities allowed by the Income Tax Act.

Planning can be done for both short and long term. For example, planning on repair and improvement expenditure is short term/operational planning whereas selection of location and capital structure to run a business in long term/ strategic planning.

It is a new concept in Nepal. In abroad, it is also known as hard to minimize one's taxable amount, Nepalese tax experts are enjoying it.

The main objective of the present research is to examine the present practice of tax planning tools in Nepalese commercial banks and to identify the areas where the tax planning tools can be applied to strengthen the companies.

From the analysis it was found that tax planning tools such as capital structure decision, acquisition of fixed assets, location of industrial setup, research and development and time value of money are mostly practiced tools whereas practice of tools like pollution control decision, research and development and timing of activities are almost nil in the Nepalese banks. High cost may be the reason behind it.

It can be concluded as per the responses received and analyzed in Chapter-4, and discussion made with bank authorities that many of the respondents are known of the tax planning provisions in Tax Acts. Though they are aware of the S/s of Income Tax Act , they are unable to grab it.

To compare the tax planning between Income Tax Act 2031 and Income Tax Act 2002, there are many more rebates especially for strategic planning under Income Tax Act 2031, which are not in Income Tax Act 2002. But Income Tax Act 2002 facilitates more allowances for operational planning which are not allowed to pronounce as tax planning as bank authorities say.

If the researcher has to say in few words, though bankers are well known of tax Acts and rules yet there is less practices of tax planning in Nepalese banks as per the responses presented in Chapter-4. The main hindrances for their tax planning steps are the lack of tax planning idea, higher penal system and ambiguities due to technical and official terms used in Tax Act. Since the Tax Act has eliminated all the tax planning aspects and that is rarely to be found, there is higher degree of tax avoiding or evasion trend in Nepal. Even the experts and Act makers claim that the Income Tax Act 2002 has eliminated all the cons of its predecessor Tax Act 2031; it still has some loopholes like segregation of expenses which are not prohibited in Act and one can explain as per its interests and grab the benefits from. Hence, it can be easily said that Nepalese banks has started to practice tax planning but they are in infant stage.

5.4 Conclusion

Planning of tax is perceived by different persons with different meanings. Some of them perceived it as reduction of tax liability legitimately. But some of them perceived it as the loopholes of existing tax Act and Rules.

There are many more hurdles in Income Tax Act. But the most prominent, the terms mentioned there are not clear and ambiguous. It is also more volatile than the foreign Income Tax Acts and changed/amended in very short duration. This is shy there are less tax experts and less planning practices too.

There is also seen the less tax expertise due to the experts' negligence in Nepalese banks. Though they are acquainted to each S/ of Income Tax Act, they lack of its thorough knowledge. They are eager to give a glimpse over the Act for their vanity only. They want to show their omniscience and also able to say what is written on particular section of Income Tax Act but cannot say how it can be helpful to the beneficiary. They also do believe in tax evasion and avoidance than tax planning. They say tax evasion or avoidance is easier than tax planning. Here they have wrong perception of tax planning, avoidance and evasion. The bankers have knowledge of tax but less tax panning ideas, procedures especially under Income Tax Act. 2058.

This research shows only few percent Nepalese banks plan their tax with the help of tax planning scopes known as rebates, allowances, holidays etc. This is not the satisfactory result for a tax planner. Occurrence of such miserable result can be defined as lack of proper knowledge and expertise. The higher penal rate also reduced the tax planning practice. Besides this Nepalese banks are spreading their branches in remote areas where Income Tax Act, 2002 has provided tax rebate but it's not for banking industries. Hence they claim that they have not got sufficient grounds for proper tax planning.

The planning of tax can be done in three ways-strategic, project and operational planning. As per the rebates, holidays and allowances guaranteed in Income Tax Act 2002, there are more chances of planning of tax under strategic planning. There are also many more provisions for operational tax planning but very few planning aspects are available for project planning under this Income Tax Act, 2002. Many of the provisions made in Income Tax Act regarding strategic planning are worthless due to inconveniencies of exploiting those allowances.

But if we go for its implementations, operational planning is mostly used to reduce their tax liability in those organizations. Then project planning is enjoyed and very few strategic planning are in practice in Nepal.

On the behalf of the government, it has negative attitude to the tax planner and levied hard and huge penal for such practices. All the allowances that are guaranteed in the Income Tax Act can minimize the tax burden. But it can be done only by curtailing the taxable amount. For example-a juice company in Jumla can enjoy various facilities such as tax rate applicable to industrial body, rebates for remote area, facilities provided to agro based industries etc. But that organization cannot use its optimum capacity due to various deficiencies in those remote areas like transportation, power, market, manpower etc. It costs more to maintain them and it also has to bear the higher cost of delivery for its product to the final consumer. And in aggregate it has to bear loss due to many inconveniences in those areas that one gets from those rebates and allowances.

5.5 Recommendations

As we know Nepal has already taken the membership of WTO. In this global environment Nepalese banks should fit with the global environment. Managers should think in a global perspective.

1. The world is facing recession. Mainly the banking industries have been suffered from this global economic crisis. Hence, none can say that Nepalese banks are out of this economic risk. The crisis may also cover profitable banking business of Nepal. Hence Nepalese banker should think to wriggle out from this crisis. The bank should search new sources of income to increase or stabilize their profit. Nepalese banks are paying heavy tax to the government. If they have little bit time to think it out, they can also increase their profit or stabilize it with well planning of their taxes. So besides other ideas, banks should not forget tax panning for their long-term existence. Hence every bank should start to plan their taxes.

2. Balancing the payment of tax to the taxpayer and revenue collection of the government is a tough job. The higher tax rate is not a favorable one to collect more revenue to the government. But less payment of tax increases the deficit budget of the government. Both of these conditions create an unhealthy economy, which is unfavorable to both the government and the taxpayers. That is why the experts suggest to increase the tax bracket rather than to increase the tax rates.

3. The more business practices leads to sound economy, which is possible only when the businesspersons are encouraged for further business practices. But the businessmen are not interested to expand their business activities at the higher rate of tax on their income from business practices. But lowering the existing rate of tax is not in favor to the government.

4. To eliminate the gap between these two constraints at higher rate of tax, government has made some alternatives that encourage the business practice through some allowances, rebates, holidays etc. And the practice of exploiting or uses of such provisions are termed as tax

planning. Entrepreneurs, managers and experts are very seeking to use the tax-planning tool, but the government resists in as much as it can.

5. The experts are well known of the tax and have searched all possible pros and cons while making the tax acts, laws and rules. And even at the time of its amendment, they have rid the hurdles and shortcoming in previous acts.

6. Even in these conditions, the researcher dares to give some suggestions to both the government and taxpayers especially for banks. And they are all listed in numbering as follows.

7. The terms used in acts and rules must be in simple form rather than official terms those lead to ambiguities to the taxpayers. And there must be stability in Income Tax Act. It has not to be changed in short period.

8. Taxation, being hard and ambiguous phenomena and process of tax planning, one tries to evade or avoid the tax. It is due to lack of civic consciousness on the taxpayers. First of all the government has to initiate some steps to stop existing tax evasion/avoidance trend ignoring whatever it costs. Then its duty becomes to aware the taxpayers by organizing seminars and letting them know what actually the tax is and how it can be minimized with the help of guaranteed provisions made in Income Tax Act.

9. Interest expenses on debt are declared as deductible item in both Income Tax Act 2031 and 2058 if the debt is used to earn profit. But there is not any facility for raising funds through equity financing or retained earning. The dividend is not deductible expensed before paying the tax. There is double taxation for equity investment, corporate tax and dividend tax.

10. To promote the business practice, government has to allow the dividend paid on investment as deductible item while calculating taxable income.

But the percentage of dividend should not exceed the risk free interest rate of the market. It does not affect to the revenue collected through income tax to the government till allowable dividend rate equals to allowable interest rate to the debt.

11. The experts or tax planner must have a sound knowledge of finance and the financial tools. Time value of money is the most important thing to be noted for the tax planning purpose. If we come across to a decision that there is at least a little bit practice of tax planning and can be hoped of its implementation in full fledge in coming days, we also have to be sure that time value of money helps to reduce all possible burdens under different financial headings-time value of money itself, timing of activities, leasing or buying, research and development expenses, pollutions control cost, repair and improvement cost, value added tax, and depreciation etc.

12. S/ 35 of Income Tax Act 2058 resists all possible reduction on tax liability but government allows different tax rebates, holidays, allowances, concessions etc. On the one hand government encourages tax planner to minimize taxable income with the help of different provisions, but the very next time it restricts all tax reduction activities with the help of Sec. 35. It creates dilemma to the taxpayers and experts, and reduces tax-planning practices. Such type of dilemma can be found in many numbers in the Acts. Hence such dual aspects must be eliminated; either the government has to curtail all allowances, rebates etc. or it has to remove Anti-tax Avoidance Section. And it is better to take out second one to encourage tax-planning practices.

13. If the government is going to remove Anti-tax Avoidance Section and encourages taxpayers for tax planning practice, it is also to be liberal for the assessment of taxable income. As per the Act allows self-assessment of taxable income, there is also chances of wrong calculation. On such

miscalculation, it has to charge lower rate of interest and fines. But is does not mean that the malfunctioning that are done knowingly are also consider for lower penal. The investigation must be done thoroughly for such assessment and if there is not any fault and the calculation h as done unknowingly, the penal charged thereon must be curtailed than existing rate. Otherwise the existing penal system is appropriate for wrong assessment done knowingly because most of Nepalese banks are suffering with penalties and wrong assessment due to unknowingly mistake.

14. Government tries to collect more revenue levying higher tax rate or not allowing any rebates to the taxpayers. But the government alone is not to be blamed for its hardness to the taxpayers. The taxpayers themselves compelled the government to do this with their unethical and immoral behavior. And the taxpayers also want to minimize their tax liability both legitimately and illegitimately. Both these conditions (Illegitimate tax reduction practice and higher tax amount) are not in favor to the nation. So, there need an amiable cooperation between government and taxpayers in tax rates and practices.

15. The allowable limit of all expensed based on amount of profit before those expensed must be deducted as per the priority. Otherwise the actual allowable limit of that heading cannot be acquired (See appendix-2 for detail). There must be certainty which sort of expensed is deducted at first or which is at last. Otherwise the taxpayer can claim the higher amount of expenses at first and the tax official can calculate that amount at last. In such condition, one cannot say what is the actual amount is deductible, the amount calculated by the assesses or the tax official.

16. As the Income Tax Act, 2058 has levied banking industries at thirty percent tax bracket, which is higher than other industries. But the Act has not provided any special facilities or concessions to the bank for

example banks are spreading their branches in remote areas but they are not allowed to enjoy remote area tax rebate as special industries are getting it. Besides this, some of banks are giving direct employment to more than 600 Nepalese citizen but they are not allowed to have any tax rebate. The government should also play as a promotional role in this case.

17. Nepalese banks are investing most of their funds in urban areas. This type of investment policy has promoted centralized development. Hence, the government should come up with new tax rules to promote investment in rural areas. For example the government may give some percentage tax rebate or fixed allowances for those banks that have stretched their branches in remote areas and invested for the development of rural areas.

BIBLIOGRAPHY

Adhikari, Chabindra Mani (2060), ***Modern Taxation in Nepal.*** Kathmandu: Pairavi Publication.

Agrawal, Govinda Ram (1978), ***Resource Mobilization for Development; The Reforms of Income Tax in Nepal.*** Research Report Published by CEDA, Kathmandu, Nepal.

Agrawal, Govinda Ram (1978), ***Resource Mobilization for Development; The Reforms of Income Tax in Nepal.*** Research Report Published by CEDA, Kathmandu, Nepal.

Bhattarai, Ishwor & Koirala, G.P. (2061), ***Taxation in Nepal***. Kathmandu: Asmita Books Publishers & Distributors.

Bhattrai, Raj Kumar (2004), ***Effectiveness of Corporate Income Tax in Nepal***. An Unpublished Master Degree Thesis Submitted to the Central Department of Management, Tribhuvan University, Kritipur, Nepal.

Brainy Encyclopedia, ***Direct Tax.*** Retrieved on October 12, 2008 from http://www.braineyencyclopedia.com/

Hypertext Documents and World Wide Web

Institute of Chartered Accountants of Nepal (2004), ***The Nepal Accounts Vo-I.*** Kathmandu.

Institute of Chartered Accountants of Nepal (2004), ***The Nepal Accounts Vo-I.*** Kathmandu.

K. C., Jit Bahadur (2007), ***Tax Laws and Tax Planning: Theory and Practice.*** Kathmandu: Khanal Books & Stationery.

Kandel, Puspa Raj (2004). ***Corporate Tax System and Investment Behaviour in Nepal.*** A Research Study for Ph. D.

Kandel, Puspa Raj (2004). ***Corporate Tax System and Investment Behaviour in Nepal.*** A Research Study for Ph. D.

Karkee, Dhiraj (2005), ***Tax Planning in Nepalese Organizations***. An Unpublished Master Level Thesis Submitted to the Central Department of Management, Tribhuvan University, Kirtupur, Nepal.
Karkee, Dhiraj (2005), ***Tax Planning in Nepalese Organizations***. An Unpublished Master Level Thesis Submitted to the Central Department of Management, Tribhuvan University, Kirtupur, Nepal.
Karki, Jit Bahadur (2004), ***Tax Planning Practices in Nepalese Listed Companies.*** An Unpublished Master Level thesis Submitted to the Central Department of Management, Tribhuvan University, Kritipur, Nepal
Karki, Jit Bahadur (2004), ***Tax Planning Practices in Nepalese Listed Companies.*** An Unpublished Master Level thesis Submitted to the Central Department of Management, Tribhuvan University, Kritipur, Nepal
Kothari, C. R. (1990), ***Research Methodology and Technique***. New York: Miley Estern Ltd.

Musgrave, R. A. and Mustgrave, P.B., (1989), ***Public Finance in Theory and Practice***, 5th edition, Singapore; McGraw-Hill Book & Company.

Poudyal, K. Karna Beer. (1998), Corporate Tax Planning in Nepal. Kathmandu, Taleju Prakashan.

Poudyal, K. Karna Beer. (1998), ***Corporate Tax Planning in Nepal.*** Kathmandu, Taleju Prakashan.

Scope of Tax Planning (n. d.), Retrieved from http://www.answers.com/topic/tax-planning-in-accounting

Seligman, Edwin R. A. (1969), ***Essays in Taxation***. New York: Augustus M. Kelly Publishers

Sharma, Sagar (2004). ***Management Accounting Approaches in the Listed Companies of Nepal***. An Unpublished Master Level Thesis Submitted to the Central Department of Management, Tribhuvan University, Kirtipur, Nepal.

Sharma, Sagar (2004). ***Management Accounting Approaches in the Listed Companies of Nepal***. An Unpublished Master Level Thesis Submitted to the Central Department of Management, Tribhuvan University, Kirtipur, Nepal.

Shrestha M.P. (2002), ***Income Tax Act 2058: Effects to Banks and Financial Institutions***. Kathmandu: ACAN News Letter. Vol. 5.

Taxcentral (n.d.), ***History of Tax.*** Retrieved on October 1, 2008 from http://www.taxcentral.co.uk/taxcentral/default.asp

Techniques of Tax Planning, Retrieved on October 11, 2008 from http://www.lectlaw.com/filesh/bbg10.htm

Wolff, Harward K. and Pant, P. R. (1999), ***Social Science Research and Thesis Writing.*** Kathmandu: Buddha Academic Enterprises Pvt. Ltd.

APPENDIX-1

QUESTIONNAIRES

1. About the Organization and Respondent:
a) Name of the Organization:--
b) No of employees:--
c) Year of commencement of operation:--
d) Name of the respondent:---
e) Designation of the respondent:---

2. Are you familiar with tax planning?

a) Yes ☐ b. No ☐

3. Does your bank practice tax planning to reduce tax liability?

a) Yes ☐ b) No ☐

4. Do you really feel that proper tax planning can increase net profit after tax?

a) Yes ☐ b) No ☐

5. If your answer is yes, in both questions no 2 and 3, then what approximate percentage of profit has been gained due to well practice of tax planning in your bank?

a) 1-3 % ☐ b) 3-5 % ☐ c) More than 5 % ☐ d) Other %......

6. Does your organization consider reducing tax liability while making any decision?

a) Yes ☐ b) No ☐

7. Which of the following methods does your organization prefer to reduce the tax liability?

Methods	Yes	No
a) Taking advantages of tax holidays, concessions, incentives, rebate, allowances, exemptions under tax laws.	☐	☐
b) Taking advantages of loopholes in tax laws	☐	☐
c) Hiding/eliminating income source or over stating expenses and losses	☐	☐
d) All of above (a, b, c)	☐	☐

d) If other (please specify)
----

8. Does your bank use any tax planning software to reduce tax liability? If yes, please state the name of software.

a) Yes ☐ (name of software :…………………………….) b) No ☐

9. Does your bank consider tax rebate locations while launching new branches?

a) Yes ☐ b) No ☐

10. The following are some of the important factors considered while launching new branches of the bank. Please rank them in order of their importance.

Facilities	Rank
a) Infrastructure facilities such as transportation, communication, power, well security.	[ ]
b) Access to high deposit collection.	[ ]
c) Access to high investment opportunity.	[ ]
d) Availability of adequate labor in the location of the business	[ ]
e) Tax incentives provided by the tax laws.	[ ]

f) If other (please specify) --

11. Are the following points considered for the purpose of tax planning in your bank?

Scope	Yes	No
a) Capital structure	[ ]	[ ]
b) Acquisition of fixed assets	[ ]	[ ]
c) Repair and maintenance cost	[ ]	[ ]
d) Pollution and control cost	[ ]	[ ]
e) Research and development decision	[ ]	[ ]
f) Donation decision	[ ]	[ ]
g) Employment decision	[ ]	[ ]
h) Location of business or branches	[ ]	[ ]
j Number of employees	[ ]	[ ]
I) Timing of activity	[ ]	[ ]
j) Leasing or buying	[ ]	[ ]
k) Carry forward of losses	[ ]	[ ]
L) Carry backward of loss	[ ]	[ ]
M) Time value of money	[ ]	[ ]
N) Avoiding the penalties	[ ]	[ ]

12) Who does assess the taxable income in your organization?

Options	Yes	No
a) Assistant level staff	[ ]	[ ]
b) Supervisor level staff	[ ]	[ ]
c) Officer level staff	[ ]	[ ]
d) Managerial level staff	[ ]	[ ]

13. There are many difficulties in tax planning as given below, are you facing these difficulties?

Difficulties	Yes	No
a) Lack of knowledge and expertise	[ ]	[ ]
b) Ambiguities in income tax acts, rules and laws	[ ]	[ ]
c) High penalty or wrong assessment	[ ]	[ ]
d) Hard to follow the methods	[ ]	[ ]
e) Taking advantages of loopholes in tax laws are easier than tax planning	[ ]	[ ]
f) All of above (a, b, c, d)	[ ]	[ ]

f) If other (Please specify) --

14. Do you consider income while making "Donation Decision" to reduce tax as prescribed by the ITA 058?

a) Yes ☐ b) No ☐

15. Has your bank occurred any expenses in installing pollution control device?

a) Yes ☐ b) No ☐

16. If your bank has occurred expenses in installing pollution control device, do you consider bank's profit while computing the expenses of pollution control cost?

a) Yes ☐ b) No ☐

17. Which of the following methods does your bank use while purchasing fixed assets?

a) Leasing Option ☐ b) Buying options ☐

18. Has your bank incurred any expenses in Research and Development expenses?

a) Yes ☐ b) No ☐

19. If your answer is "Yes" in question no 20, do you consider bank's profit while incurred any expenses in R&D?

a) Yes ☐ b) No ☐

20. Does your bank have Long term debt in your capital structure?

a) Yes ☐ b) No ☐

21. Which of the following options does your bank prefers for capital structure to minimize tax?

a) Equity only ☐ b) Debt only ☐

c) Both (debt +equity) ☐

22. Does your bank practice "timing of Activities" to minimize tax liability?

a) Yes ☐ b) No ☐

23. Does your bank practice on benefits, concessions, rebates etc provided by ITA 2002 to minimize tax?

a) Yes ☐ b) No ☐

24. Do you think that the ITA 2058 has provided sufficient grounds for the practice of tax planning in banking industries?

a) Yes ☐ b) No ☐

25. If your bank is practicing tax planning, at what level, tax planning tools and techniques has been practiced in your opinion?

Options	Yes	No
a) High level of practice	[ ]	[ ]
b) Moderate level of practice	[ ]	[ ]
c) Low level of practice	[ ]	[ ]

26. Any suggestions and recommendations to the government for tax planning purpose?

APPENDIX-2

CALCULATION FOR ALLOWABLE LIMITS IN DIFFERENT HEADINGS

Profit and Loss A/C of an organization is as follows

Profit and Loss A/c

Expenses	Amount	Incomes	Amount
Pollution Control Cost	400000	Gross profit	1100000
R&D Costs	350000		
Donation (General)	50000		
Net Profit	300000		
	1100000		1100000

As per the provisions on Income Tax Act, the allowable limit depends upon the amount of net profit. The allowable limits for Pollution Control, R&D Costs and general donation are calculated accordingly:

For Pollution Control Costs (Expenses)

Net Profit after Pollution Control Costs	300000
Add: Pollution Control Costs	400000
Profit before Pollution Control Costs	700000
Maximum limit (50% of 700000)	**350000**
Actual Costs	400000
Allowable Limit (whichever is less)	350000

For Research & Development Costs (Expenses)

Net Profit after R & D Costs	300000
Add: R & D	350000
Profit before R & D Costs	650000
Maximum limit (50% of 650000)	325000
Actual Costs	350000
Allowable (Eligible) limit, whichever is less	325000

For Donation (General)

Net Profit after Donation	300000
Add: Donation (General)	50000
Profit before Donation	350000
Maximum limit (5% of 350000)	17500
Actual donation	50000
Allowable donation, whichever is less	17500

If we adjust the profit and loss A/C as per the allowable limits:

Adjusted P & L Account-1

Expenses	Amount	Incomes	Amount
Pollution Control Cost	350000	Gross profit	1100000
R&D Costs	325000		
Donation (General)	17500		
Net Profit	407500		
	1100000		1100000

If we calculate the following limit again considering the increase of net profit in adjusted P & L A/C

For Pollution Control Costs (Expenses)

Net Profit after Pollution Control Costs	407500
Add: Pollution Control Costs	350000
Profit before Pollution Control Costs	757500
Maximum limit (50% of 757500)	**378750**
Actual Costs	350000
Allowable Limit (whichever is less)	350000

For Research & Development Costs (Expenses)

Net Profit after R & D Costs	407500
Add: R & D	325000
Profit before R & D Costs	732500
Maximum limit (50% of 732500)	366250
Actual Costs	325000
Allowable (Eligible) limit, whichever is less	325000

For Donation (General)

Net Profit after Donation	407500
Add: Donation (General)	17500

Profit before Donation	425500
Maximum limit (5% of 42500)	21250
Actual donation	17500
Allowable donation, whichever is less	17500

Again if the P & L A/C is adjusted as per new allowable limits

Adjusted P & L Account-2

Expenses	Amount	Incomes	Amount
Pollution Control Cost	378750	Gross profit	1100000
R&D Costs	366250		
Donation (General)	21250		
Net Profit	**333750**		
	1100000		1100000

Again allowable limits are:

For Pollution Control Costs (Expenses)

Net Profit after Pollution Control Costs	333750
Add: Pollution Control Costs	378750
Profit before Pollution Control Costs	712500
Maximum limit (50% of 712500)	356250
Actual Costs	378750
Allowable Limit (whichever is less)	356250

For Research & Development Costs (Expenses)

Net Profit after R & D Costs	333750
Add: R & D	366250
Profit before R & D Costs	700000
Maximum limit (50% of 700000)	350000
Actual Costs	366250
Allowable (Eligible) limit, whichever is less	350000

For Donation (General)

Net Profit after Donation	333750
Add: Donation (General)	21250
Profit before Donation	355000
Maximum limit (5% of 355000)	17750
Actual donation	21250
Allowable donation, whichever is less	17750

Adjusted P & L Account-3

Expenses	Amount	Incomes	Amount
Pollution Control Cost	356250	Gross profit	1100000
R&D Costs	350000		
Donation (General)	17750		
Net Profit	**376000**		
	1100000		1100000

Again allowable limits:

For Pollution Control Costs (Expenses)

Net Profit after Pollution Control Costs	376000
Add: Pollution Control Costs	356250
Profit before Pollution Control Costs	732250
Maximum limit (50% of 73225)	366125
Actual Costs	356250
Allowable Limit (whichever is less)	356250

For Research & Development Costs (Expenses)

Net Profit after R & D Costs	376000
Add: R & D	350000
Profit before R & D Costs	726000
Maximum limit (50% of 726000)	363000
Actual Costs	350000
Allowable (Eligible) limit, whichever is less	350000

For Donation (General)

Net Profit after Donation	376000
Add: Donation (General)	17750
Profit before Donation	393750
Maximum limit (5% of 393750)	19687.50
Actual donation	17750
Allowable donation, whichever is less	17750

Adjusted P & L Account-4

Expenses	Amount	Incomes	Amount
Pollution Control Cost	366125	Gross profit	1100000
R&D Costs	363000		
Donation (General)	19687		
Net Profit	**351188**		
	1100000		1100000

Again allowable limits are:

For Pollution Control Costs (Expenses)

Net Profit after Pollution Control Costs	351188
Add: Pollution Control Costs	366125
Profit before Pollution Control Costs	717313
Maximum limit (50% of 717313)	358656.5
Actual Costs	366125
Allowable Limit (whichever is less)	358656.5

For Research & Development Costs (Expenses)

Net Profit after R & D Costs	351188
Add: R & D	363000
Profit before R & D Costs	714188
Maximum limit (50% of 714188)	357094
Actual Costs	363000
Allowable (Eligible) limit, whichever is less	357094

For Donation (General)

Net Profit after Donation	351188
Add: Donation (General)	19687
Profit before Donation	370875
Maximum limit (5% of 370875)	18534.75
Actual donation	19687
Allowable donation, whichever is less	18543.75

Adjusted P & L Account-5

Expenses	Amount	Incomes	Amount
Pollution Control Cost	358656	Gross profit	1100000
R&D Costs	357094		
Donation (General)	18544		
Net Profit	**365706**		
	1100000		1100000

If the same calculation is made again and again, it goes to infinite time without an exact figure. The actual allowable calculation cannot be acquired to solve it in a certain time because previous profit amount would be changed after the calculation of such allowable limits that are based on the percentage of profit. And again the new allowable limit of expenses changes the basic profit amount.

It is vague to understand the actual limit for pollution control, research and development, and donation expenses. Above presented calculation shows that if there is any excess amount spent in pollution control costs and also there is measurable amount spent on research and development costs, the allowable limits for such expenses would be less due to higher amount of claim for its deduction (higher the expensed = less in income).

But if the allowable limits are re-calculated again and again, we can find another base for calculating the allowable limit (cannot be claimed as the highest amount of limit because the more calculation, the huge amount of allowable limit can be achieved, but it is tiresome and time-taking job).