

# **CHAPTER - I**

## **INTRODUCTION**

### **1.1 General Background of the Study**

As Kautilya says, “the launching of all programs depends first and foremost on the treasury”, so every state needs resources or funds. Whether to pay salary to the government employees, to meet the growing public expenditure or to do the development activities, it is needed so the government has to manage huge amount of money called revenue. The sources of public funds or government revenue are of two types,

- a) External Source
- b) Internal Source

External source of revenue are grants and loan of foreign government or agencies such are uncertain, inconvenient and not good for healthy development of a nation, if there is heavy dependent on them. The experiences of developing countries show that there are negative results of increasing international aids and loans finance the public development activities. As a result their economic conditions have gone down day by day. The government imposes taxes on the people to repay the external debt, as a consequence of which the capacity of people to work and to save declines (Kandel, 2003).

Internal source of government revenue or public finance is own source within the nation. The main sources of such type of government revenue are administrative income, business income, mobilization of natural resources and taxation. The administrative source of income denotes the amount charged by the government for providing administrative services. Business income means the return received by the government for providing various goods and services to the people. All

these revenue are non-taxable revenue, the basic object of which is not to collect revenue but other things as to provide goods and services. The examples of such type of revenue are registration fees, fines and penalties, charges for postage, electricity, water, etc.

Tax simply means a liability to pay an amount to the government. It is a compulsory contribution to the national revenue from the taxpayers according to law.

“Tax is a compulsory contribution to public authorities to meet the general expenses of the government which have been incurred for the public good and without reference to special benefits” (Findlays Shirras, 1999: 5-7).

In today’s world there are hardly a few areas where tax shows no presence. It has become the matter to be known by everyone. An individual’s income is reduced by tax which affects his future savings. No one is out of the gift of tax. Tax has become an indispensable part of the business world. The government of the country requires sufficient revenues to carry out development plans, to handle day-to-day administration, to maintain peace and security and to launch other public welfare activities. In order to carry out such activities, the government collects revenues from various sources such as tax, revenue from public enterprises, special assessment, fees, fines, grants and assistance, etc. Among them, tax is the main source of government revenue.

In ancient time tax was collected from have and was utilized for the interests of those who have not but in modern age the purpose of tax has shifted from security to economic development. Tax is the main source financing government activities. In every country the largest part of government revenue is raised through taxation.

Tax may be imposed on person's consumption, income or wealth. Tax may be of different types, rates and natures; it may be direct and indirect tax.

Direct tax is a tax imposed to the person who actually pays it. Direct tax cannot be shifted while indirect tax can be shifted. Indirect tax is imposed to a person but paid wholly or partially by other person.

Income tax is direct tax and is superior to indirect tax like sales tax, excise duty, etc. because it is imposed on the basis of paying capacity of the taxpayers. People whose income is below the taxable rate are free from the incidence of income tax. Likewise income tax will also help to increase the consciousness of the people, because the people who have paid the income tax will be interested on the public expenditure. Though, they cannot expect direct benefit from their tax paid, they can observe the use of the collected fund from them in the form of income tax. It is helpful for generating the concept of social responsibility towards the nation and keeps the people vigilant to see that public money may not be misused. Great Britain is the first country in the world to introduce the modern income tax. It introduced income tax in 1799 to finance the war fought with France. USA introduced income tax in 1862 to finance the civil war. In India, while income tax in its modern form was adopted in 1860, several experiments were made from 1860 to 1866 and finally the systematic income tax legislation was enacted in 1886 (Bhattarai, 2005:7).

Although the taxes were collected in various forms in ancient era, the history of modern income tax is not very old in Nepal. The idea of introducing income tax in Nepal was originated in the early 1950s when a multi-party democratic political system was introduced. In 1951, the finance minister in his budget speech declared the intention of the government to levy an income tax.

Attempts were made to introduce income tax in subsequent years. In 1954, an income tax with Rs. 10,000 basic allowance and progressive taxes ranging from 5 to 25 % was proposed due to political instability, it could not be introduced until 1958.

The first elected government in 1959 finally introduced business profit and salaries Tax Act, 1960 in Nepal. At that time, income tax was levied only on business profit tax, the government replaced the prevailing tax Act by Income Tax Act 1974, Income Tax Act 1974(2031) was enacted. The act remunerated income sources into five groups (a) Agriculture (b) Industry (c) Remuneration (d) House and Compound Rents (e) Other Sources. However, agricultural income was kept outside the tax net except few years through Finance Acts. To enhance revenue mobilization through effective revenue collection procedure for the economic development of the nation, and to amend and integrate the laws relating to income tax, the parliament of Nepal enacted Income Tax Act, 2002(2058). This act has replaced Income Tax Act 1974(2031), which was amended for eight times and existed for a period of 28 years. HMG/Nepal framed Income Tax Rules, 2059 in 2059 to help clarifying the Act.

## **1.2 Tax Planning**

Tax planning is different from tax management in the sense that the latter means efficient, systematic and timely handling of tax matters to save time and talent and to avoid worry, tension, stringent penalty and prosecutions. Tax management covers maintenance of records and documents, filing of tax returns in time and preparing other tax related matters. It is an administrative work.

Businesspersons use tax planning because first, 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. Second, tax planning helps in

avoiding unnecessary worries, tension and administrative hassles. Third, it helps in proper use of government facilities.

HMG/Nepal is not positive as regards tax planning though it is not an illegal and immoral activity. Income Tax Act, 2002 has clearly stated that tax planning should be controlled as far as possible. The tax officials say, there are provisions Income Tax Act, 2002 to avoid the transfer of cost by multinational companies from a country of low tax rate to a country of high tax rate. They also advocate that the Act has made provisions for avoidance of income splitting between different taxpayers. The law does not have a provision of allowing to reduce dividend income. The Nepali tax authorities believe that the Act's provision granting tax office an unrestricted access to the information related to the taxpayer further guarantees that there will be no tax planning. But in reality there are plenty of avenues under this Act for tax planning as explained below (Dhakal, 2001):

### **Tax Planning Avenues**

Businessperson perform 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 and short run planning are as follows (Dhakal, 2001):

#### **I. Tax Planning under Strategic Expenditure**

- a. Selection of Business
- b. Selection of Product
- c. Selection of organizational form
- d. Selection of Location
- e. Merger

- f. Selection of the sources of capital
- g. Selection of the method of production (Sec. 11 sub-Sec. 3)

## **II. Tax Planning under Medium and Short Term**

- a. Make or buy decision
- b. Repair (Sec. 16)
- c. Loss recovery
- d. Pollution control (Sec. 17)
- e. R & D (Sec. 18)
- f. Depreciation (Sec. 19 and Annex 2 of the Act)
- g. Stock Valuation
- h. Donation (Sec. 12)
- i. Retention or Distribution
- j. Others

### **What is Tax Planning?**

Basically, there are four ways of minimizing the tax liability, via tax evasion, tax avoidance, tax delinquency and tax planning. Tax evasion means evasion of tax through illegal means. It is done through nonreporting of income, underreporting of income, making fraudulent changes in account books, maintaining multiple sets of accounts, operating bank account under different names, doing business in dummy names, over reporting of expenses, fragmenting of income, transfer pricing etc. As these are clearly unethical activities, tax evasion is unethical and illegal activity. Tax avoidance, in contrast, is saving taxes without breaking the law. It is using the loopholes of the tax law to tax-payers benefit. Thus it is not illegal, it is though unethical. From the point of view of a lawyer, tax evasion and tax avoidance are different because tax evasion is breaking the law but tax avoidance is reducing tax liability by using loopholes of the tax law. But from the viewpoint of an economist, they are the same, since they both mean reduction of

tax amount and awareness of one induces one to follow the other. In a developed country, where there are large organizations, educated tax payers, strict tax discipline and so on, there is prevalence of avoidance, elsewhere, evasion dominates the scene.

Another way of reducing tax liability is tax delinquency. The meaning of tax delinquency is delaying in paying the taxes.

Tax evasion, tax avoidance and tax delinquency are not legitimate methods of reducing the tax liability. That is why, a business organization should not follow these paths. Unlike these terms, tax planning is however a legal activity intended to save tax. It is the scientific planning of a company's operations using various incentives, concessions, allowances, rebates etc. provided by the government under the law. Tax planning is related to future activity of a business organization. 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 structures of a business, project planning and planning day to day activities of a business organization.

**Features of Tax Planning are:**

- ) It is the genuine use of facilities provided by a government,
- ) It enhances economic environment of a country,
- ) The objective of tax planning is to reduce tax liability,
- ) It is the use of expertise to exploit consciously provided facility, and
- ) It is related to future activities of a business organization

### **1.3 Statement of the Problem**

The main problem is about the theory and practice of tax planning .Tax planning is the new concept and it requires technical and critical mind to plan tax so that tax burden can be minimized by using all the weapons given by laws. As the planning of tax means reducing the tax liability by legal means in other words tax planning is genuine use of facilities provided in the tax laws. Instead of all these facilities provided the people also take the dishonest means to avoid the tax which are Tax Evasion and Tax Avoidance. People feel troublesome and they become dishonest to show all resources of income.

Although the country itself is providing legal ways of reducing tax burden then why the people are using the illegal and unethical ways to reduce their tax liability? This question points out towards the scope of tax planning under ITA, 2058 that there must be some kind of rules by using which the people can't save their earnings by saving tax liability. So, they are bound to use the illegal ways in order to reduce tax burden. This thing gives us a sign that there must be something missing in the Scope of Tax Planning under Income Tax Act, 2058 or the people are unaware of the scope of tax planning. This points out towards the uneducated groups or those who are educated but they don't have sufficient knowledge about tax planning and control. So instead of acquiring the legal ways of deducting the tax people are acquiring the illegal means to reduce the tax to be paid. There may be several reasons for the people to acquire illegal means of tax control unawareness, less education, dissatisfaction, etc. Here, in this thesis I have tried to find out the reasons for the illegal adaptation of tax by the people I hope this will make some difference in both public's and government's perception.

### **1.4 Objectives of the Study**

It would be helpful for providing the comprehensive information to the managers for strategic planning, project planning and operational planning not by the illegal

means but by the legal means and areas provided by the Income Tax act 2058 in Nepal. It will provide the complete knowledge about the areas provided by income tax act 2058 of Nepal for the tax planning so that all the reader will get the knowledge of how to reduce the tax of their firm by the facilities provided by the law. The study is, expected to benefit corporate planners, entrepreneurs, taxation authorities and academics. Moreover, so far as known to the researcher, no study on corporate tax planning has been conducted in Nepal as yet. The present study thus fills in this important gap. In Nepal there are various tax incentives including exemptions, deductions, rebates and allowances granted to tax payers under the provision of income tax act 2058 and industrial enterprises act 2049.

The basic objective of the study is to identify the scope/areas of Tax Planning under Income Tax Act, 2058. The other objectives are as follows:-

1. To find out how tax planning can help in the healthy growth of economy.
2. To study in what ways the tax payer are saving their earnings by reducing tax liability under Tax Planning.
3. To provide the suggestions for the effective planning.

### **1.5 Significances of the Study**

Tax planning is one of the most important functions of management. It is done in order to minimize tax liability or postpone the overall tax burden in the present and foreseeable future under the areas of strategic planning, project planning the operational planning. Tax planning is thus neither tax evasion nor tax avoidance; it is a device through which tax payers takes advantage of the various tax benefits, including exemptions and deductions under the provision of the existing tax laws. Moreover if tax benefit is not claimed by a company by the time of assessment, the same cannot be claimed in future and the benefit will be lost for ever.

Income Tax act, 2058 has reduced the scope of tax planning, to a great extent, by abolishing all the tax related provisions under Industrial Enterprise Act, 2049 and other respective Acts. The study is based on present situation and planning of Tax under ITA, 2058. So, it would be useful to tax experts, Businessman, Industrialists, Entrepreneurs and Government to know whether the Tax planning under ITA, 2058 is helping the country for its development and Businesses to rise. Similarly, the study would be also useful to students, teachers and other practitioners to take knowledge about the scope of tax planning in Nepal.

### **1.6 Research Methodology**

Research methodology is the way to solve about research problem systematically. Therefore, research methodology is the research method or technique to use through the entire study. In other words, research methodology is the process of arriving at the solution of the problem through planned and systematic dealing with the entire aspect of the study.

In order to achieve the objectives of the study the following research methodology has been followed:-

#### **➤ Research Design**

Legal environment of business refers to all the legal surroundings that affect the business activities. To achieve the objectives of the study Income Tax Act, Finance Act, Company Acts and other rules and regulations are made for the descriptive and analytical research. For an empirical research an opinion survey method has been conducted. The questionnaire includes whether the scope of Tax Planning under ITA, 2058 is helping the growth of industry, Increase the economic condition of the country and whether it is encouraging the industrialists to start industry even in rural areas of the country and some suggestions for the scope of Tax Planning under ITA, 2058 in Nepal.

### ➤ **Nature and Sources of Data**

Data needs in the study are collected both from secondary as well as primary sources.

### ➤ **Data Processing and Analysis Procedure**

The information from the primary as well as secondary sources of data is processed for the tabulation and analysis by using different types of statistical tools.

## **1.7 Limitations of the Study**

Having outlined the objectives, methodology and organization of the study we now briefly note its principal limitations which are as follows:

1. The present study is based purely on the aspects of the Income Tax Act, 2058 and Industrial enterprises Act, 2049 which grant various income tax incentives to the industrial units. The study thus relates to the analysis of corporate tax only. Other direct and indirect taxes have not been covered such as customs duty, excise duty, VAT, property tax, though an integrated view of corporate tax planning would perhaps lead to better decision. Other taxes have been executed because the scope of the study would have otherwise become difficult to manage. In fact, there can be separate study on these taxes.
2. Primary data has been collected from the Katmandu Valley only so it reflects the view of the metro city only. In most of the cases, the executives tried to avoid filling up the questionnaire or they left answering some questions therein. Consequently, this prohibited researcher to do an incisive analysis of certain aspects of corporate tax planning.
3. The results depend upon the answer given by respondents in primary data and reliability of secondary data.

The above limitations, no doubt, have some impact on quality of the study, but such impact will not affect usefulness of the study in a significant manner. In fact, this study would provide a base for further study in the area of knowing the scope of tax planning in the country.

### **1.8 Organization of the Study**

The study has been organized into six chapters each devoted to some aspects of the scope of tax planning in Nepal and they will be presented in the thesis in the following ways:-

Chapter-I	Introduction
Chapter-II	Review of Literature
Chapter-III	Research Methodology
Chapter-IV	Data Presentation & Analysis
Chapter-V	Summary, Conclusion & Recommendation

The rationale behind this kind of organization is to follow a simple research methodology approach. Contents of each chapter has been mentioned briefly as follows:-

#### **Chapter-I: Introduction**

It includes background of the study, statement of problem, objectives of the study, significance of the study, Research methodology and organization of study.

#### **Chapter-II: Review of Literature**

This chapter is devoted to theoretical analysis and brief review of related and pertinent literature available. It includes a discussion on the conceptual framework and review of the major studies.

### Chapter-III: Research Methodology

This chapter explains the research methodology applied for the solution of the research problem. This chapter deals with research design, sources of data, population and sample, data collection process and data presentation and analysis.

### Chapter- IV: Data Presentation and Analysis

This chapter deals with presentation and analysis of relevant data information using various analytical tools which are essential to analyze and interpret the results.

### Chapter-V: Summary, Conclusion and Recommendations

This chapter states summary, conclusion and recommendation of the study. This chapter presents the major findings and compares them with the theory and corresponding practice to the extent possible. It also offers several avenues for future research. The exhibits and bibliography are incorporated at the end of the study.

## **CHAPTER - II**

### **REVIEW OF LITERATURE**

#### **2.1 Conceptual Framework**

This chapter is devoted to the concept of related pattern of the study which would be fruitful to solve the research problem. This frame work would be helpful for gathering various knowledge and experiences. So, the conceptual framework contains following experiences and background.

#### **Reduction of Tax Liabilities**

One of the main objectives of tax planning is to save earnings by reducing tax liabilities. A tax payer by using various facilities provided in the tax law can minimize his tax burden.

There are different ways of reducing Tax liabilities. They are discussed below:-

#### **2.1.1 Tax Evasion**

Tax evasion simply means avoiding tax by adopting dishonest means. All methods by which tax liability is illegally avoided are termed as tax evasion. An assessed guilty of tax evasion may be punished under the relevant laws.

Tax evasion may involve;

- ) Stating an untrue statement knowingly.
- ) Submitting misleading documents.
- ) Suppression of facts.
- ) Not mentioning the proper account of income earned.
- ) Omission of material facts.
- ) Maintaining multiple sets of accounts.
- ) Operating business transaction under different names.

- ) Fragmentation on incomes.
- ) Over-reporting of expenses.
- ) Non-reporting or under reporting of incomes, etc.

Tax evasion is an unethical, illegal and uneconomic way of reducing tax liability.

Tax evasion can of different types some of them are as follows:

- ) Unilateral: It is evasion of tax by tax payer himself.
- ) Bilateral: It is evasion of tax with the assistance of tax officials.
- ) Trilateral: It is evasion of tax from the collusion of tax auditors and tax payers.
- ) Multilateral: It is evasion of tax from all parties involved from government to tax payers.

There are three types of effects of tax evasion in the economy. They are:

- ) Loss of revenue to the state.
- ) Redistribution of income which affects the efficiency of resource allocation in the economy.
- ) And creating statistics leading to error in government policies

### **2.1.2 Tax Avoidance**

Tax avoidance is taking advantage of the loopholes and lacunae in tax provisions. It is the art of dodging tax without breaking the law. It is an exercise where the assesses tries to take advantage of the loopholes of the laws and bypasses it. Tax avoidance is done on full legal backing which is against the intention of the tax law. Following are some of the criteria used to define tax avoidance:

- ) Use of colorable devices.
- ) Defeating the genuine spirit of law.
- ) Misrepresentation or twisting of facts.

- )] Taking only strict interpretation of law and suppressing the legislatives intent behind it

Income tax act, 2058 has defined Tax Avoidance scheme as any arrangement, one of the main purposes of which is the avoidance or reduction of tax liability to tax. For the purposes of determining liabilities to tax, the Act has provided the following rights to Inland Revenue Department (Section 35):

- a. The department may recharacterise an arrangement or part of an arrangement that is entered into or carried out as part of tax avoidance scheme.
- b. The Department may disregard an arrangement or part of a arrangement that does not have substantial economic effect.
- c. The Department may recharacterise an arrangement or part of an arrangement the form of which does not reflect its substance.

### **2.1.3 Tax Delinquency**

Tax delinquency is also one of the way of reducing tax liabilities. In this case the liability is reduced in present value by deferring the payment. Although tax delinquency means the failure to pay tax due to lack of sufficient fund, it also covers non-payment at the time of having fund. It is a temporary deceiving of tax in long term

### **2.1.4 Tax Planning**

Under tax planning, tax law provides certain concessions, rebates and allowances to tax payers in order to enhance a healthy environment in the country. For the purpose of enhancing the investment provides different types of facilities to the business organizations. Tax planning means use of all these facilities given by the laws to reduce the tax liability. It has the following objectives of :

- )] Reduction of tax liabilities
- )] Maximization of liabilities
- )] Productive and healthy investment

- ) Healthy growth of economy and
- ) Economic stability

### **2.1.5 Features of Tax Planning**

The features of tax planning can be explained as follows:

- ) It is future oriented. It is concerned with activities to be undertaken in future.
- ) It is legitimate device of minimizing tax burden. The legislature encourages using this device.
- ) It is legal, ethical and economic.
- ) It is genuine use of facilities provided in the tax laws.
- ) It establishes a good relationship between government and business community. It enhances a healthy environment in the country.

### **2.1.6 Tax Management**

In literature, there is another word named tax management that similar to tax planning. However, there are differences between tax planning and tax management. Tax management is the efficient systematic and timely handling of tax matters to save maximum amount of time, talent and treasure to avoid worry, tension, stringent penalty and prosecutions. It is maintenance of records and documents, filing of tax returns in time and performing other tax related duties.

### **2.1.7 Scope of Tax Planning under Income Tax Act, 2058**

Income Tax Act, 2058 has reduced the scope of tax planning to a great extent, by abolishing all the tax related provisions under Industrial Enterprise Act, 2049 and other respective Acts. The new Act has widened the tax base by bringing in all the incomes into tax bracket. Under this Act tax planning can be divided into two heads:

- ) Strategic or long term tax planning
- ) Operational or short term tax planning

## **A. Strategic or Long-Term Tax Planning**

Strategic tax planning is as for the longer period so it may not pay off immediately. As per ITA, 2058 areas for strategic or long term tax planning can be as follows:-

### **a. Selection of Business**

As per the Act, the rate of corporate income tax for manufacturing sector is 20 percent, for financial sector 30 percent and for other sectors 25 percent. This means, there are differences 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 create employment to the people. But equally important is the fact that this difference induces tax planning. Other things remaining the same, an investor selects manufacturing sector because the tax rate applicable to this sector is low. In the same way, as per the Sec. 11 of the Act, the agriculture business conducted individually is out of the tax net. Also the incomes of agriculture related cooperatives and saving and lending 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. Paudyal, 1998). As per the Section 15 of the Industrial Enterprise Act 2049, there is a 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 the units that produce intermediate goods to be used in producing exportable goods or by units earning foreign exchange. Logically, these types of enterprises are selected by investors.

### **b. Selection of Product**

As per the Income Tax Act, certain products are preferentially treated as regards to income tax rates. For example, firms related to hydropower, road, bridge, tunnel, rope way, 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 products are given special facility giving the inducement for tax planning.

### **c. Selection of Organizational Form**

Proprietorship firms get exemption facility of Rs. 65,000 if the owner is an individual and Rs. 85,000 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 a 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. 1500 for truck/bus, Rs. 1200 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.

### **d. Selection of Location**

The provisions 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. 30,000. 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 tax planning is enhanced due to provision of applying different amounts of taxes to firms situated in different types of cities also. Business having up to Rs. 1 million as annual transaction or Rs. 100,000 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. 1,500 and in a municipality only Rs. 1000 (Annex 1 to the Act).

#### **e. 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, a 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 into a profit-making unit is also beneficial from the point of tax saving since the profit of profit-making unit can be adjusted to the loss 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.

#### **f. Selection of the Sources of Capital**

We know there are three sources 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 at 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 assets 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, 2058, 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 Nepali context, it was found that 76 percent of the executives preferred increase in debt in the capital structure with every increase in the tax rate (Poudyal, 1998), though from another survey conducted by the author of this article, it is found that the average debt equity ratio in Nepali businesses is only 40:60.

Normally the discount provided while issuing debenture is tax deductible expense, but 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.

**g. Selection of the method of Production (Sec. 11 sub-Sec. 3)**

Other things remaining the same, also 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 be paid by unit not having 600 employees. That means the firm can plan to save tax by employing more than 600 employees in its factory.

## **B. Operational or Short-Term Tax Planning**

As per ITA, 2058 areas for operational or short term planning can be as follows:

### **a. 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 deducted 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 the leased asset is allowed in each year as expenditure, this is not so in case of the outlay made for 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 advantageous 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 be better to donate the fund to central or local government and make them construct the road or hospital since this entire amount 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, the expenditure can be recovered only in a distant future. Future recovery means decrease in the present value.

### **b. Repair and Improvement Cost (Sec. 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 increases 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 five 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 5 percent of the depreciation base, the excess amount is taken as capital expenditure and is added to the depreciation base of the concerned pool of assets. Considering this provision given in the Act, the taxpayer can plan his expenditure on repair and maintenance.

### **c. Loss Recovery**

- ) Loss from foreign source investment can be recovered from gain from foreign source investment.
- ) Loss related to nontaxable source can be recovered from income from nontaxable source.
- ) Loss from foreign source business can be recovered from foreign gain from investment and business.
- ) Loss from investment in Nepal can be recovered from gain on investment in Nepal and foreign country.
- ) Loss from business in Nepal can be recovered from gain on business and investment in Nepal and foreign source.

J Loss can be recovered from the profit of the next four years but it is 7 years for infrastructure project. Carry back to insurance and banking business up to 5 years is also the provision of the prevailing tax act. All these mean that the investor can plan to recover the losses by minimizing the tax liability as far as possible.

#### **d. Pollution Control (Sec. 17)**

Pollution control expenditure is another area where management can legally save tax. Here, it should be noted that as per the Income Tax Act, 2058 up to fifty percent of the 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 in excess of 50 percent of the taxable income can be capitalized and written off as depreciation in future.

#### **e. Research & Development (Sec. 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 percent of the 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.

#### **f. Depreciation (Sec. 19 and Annex 2 of the Act)**

Previously, the basis of depreciation was either the diminishing balance method or straight-line method. The Current Income Tax Act has however prescribed pool basis for depreciation. According to the Act, there are five groups of assets containing 'a', 'b', 'c', 'd' and 'e'. The rate of depreciation is 5% on 'a' group, 25% on 'b' group, 20% on 'c' group, 15% on 'd' group and cost/life to 'e' group. The amount of depreciation is calculated by multiplying depreciation base and

depreciation rate. If the remaining amount is less than Rs. 2000 in any group the whole amount is written off in the same year. In this context, it would be appropriate also to state that industries and infrastructure projects like road, bridge, tunnel, rope way, flying bridge, trolley bus, train, infrastructure projects under BOT to be transferred to HMG and power house construction, electricity production and transmission etc. get one third of the original rate of depreciation as additional facility (Sub-sec, 3 and 4 of Annex 2 and sub-sec. 2 of the Act). In contrast, the assets of other businesses do not get such facility.

#### **g. Stock Valuation**

The commonly used methods of stock valuation are FIFO and weighted average. FIFO method means issuing that stock at first which is purchased at first. Weighted average method on the other hand takes into account the average price of the stock balance on the date of issue. For the purpose of tax saving, FIFO method is less beneficial. Since the materials purchased at first is issued at first, the closing stock shows higher value (assuming a period of inflation) of closing stock creating high taxable profit to the business. Investor can save tax by adopting weighted average method in place of FIFO method of stock valuation.

#### **h. Donation (Sec. 12)**

A taxpayer can deduct the donation made to tax-exempt organization in any income year. The limit of such donation is actual amount donated or Rs. 100,000 or 5 percent of the net income before deducting such donation, pollution control expenditure and research and development expenditure. This is also one of the avenues of tax planning.

#### **i. Retention or Distribution**

"Retention" means not distributing the profit currently whereas "distribution" means payment of tax right now at the rate of 5 percent since there is a provision

of deducting tax at source if dividend is distributed. Retention means capital gain also. In case of capital gain, the tax rate is 10 percent. In the same way, in case of capital gain the tax payment is delayed until the date of the sale of the share. If there is distribution, the tax should be paid in the year of payment of dividend. This means, the firm can at least gain from the present value of the amount of tax that should be paid to the government if it retains the profit. Accordingly, if the dividend is paid to a company that holds more than 25% of the shares in the distributing company, the dividend tax should not to be paid (sec. 54 sub. sec. 3). That is, by selling more than 25 percent of the total shares to a company, a firm can save tax.

#### **j. 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 approved retirement fund, medical tax credit, perquisites like residence facility and vehicle facility etc. which can be managed to reduce the tax liability.

#### **2.1.8 Tax Reform in Developing Countries**

Beginning of the 1970's a number of developing countries tried to radically reform their tax systems. What can we learn from these experiences with tax reform? How can any lessons learned be made useful to other countries also on the road of tax reform? The World Bank has studied these questions for several years and found fruits of this research. The goal of Tax Reform project has been to obtain a better understanding of how developing countries can improve the performance of their tax systems. As the World Bank has become increasingly active in structural adjustment and other policy based on lending the developing countries, growing demands have been placed on it to suggest and sometimes the experience of eight

developing countries that have undergone and in some instances are still undergoing, significant and comprehensive tax reform. Equal attention has been given to the tax reform, how it is implemented and the substance or result of reform efforts. Throughout the focus is a practical rather than theoretical aspect of tax reform

### **2.1.9 Constraints on Tax Reform**

While tax reform debates are frequently fueled by several normative criteria, the actual reform measures that are adopted often reflect the existence of four binding constraints on the ability to choose new tax directions: political, international, technical and institutional. Political constraints come in a variety of shapes. In most developing economics certain sectors and activities enjoy a privileged tax status from political protection that is strong enough to resist any attempt at change. For example, in Colombia repeated efforts to include income from cattle rising in the income tax base have met with a singular lack of success. Other countries invariably have their own set of “sacred cows”.

Corporate tax design encounter different kinds of trade offs. Unless a developing country aliens its nominal corporate tax rate with those found in industrial countries large portion of its corporate tax base may be shifted to lower tax rate jurisdictions. At the other hand, efforts to stimulate investment by reducing nominal and effective tax rate may be frustrated by foreign tax credit mechanisms which translate host country tax relief into trial cash flow business tax may incur the risk of being deemed non-creditable in those capital- exporting countries that offer a foreign tax credit to their multinationals.

### **2.1.10 Process of Tax Reform**

It is one thing to device a model blueprint for tax reform, it is quite another to have it ready when the moment is ripe for reform and to apply it successfully. A number

of the country studies illuminate the important steps that should guide the reform process. It is important to have the appropriate policy measures “on the self” before the fiscal crisis strikes in order to forestall the adoption of ill advised tax reforms. Successful tax reform efforts also requires detailed knowledge of the defects of the current system, especially a sense of who pays taxes at his industry, firm and household level, as well as a feeling of how the distribution of tax burden would be affected by alternative tax measures that attempt to improve matters. Reforms are also more likely to be successfully adopted if local policy makers are actively involved in their design and implementation and reform results in the creation of a cadre of local tax experts who identify with, and assume responsibility for the success of the reform. While successful tax reform always invest in better tax administration, in the end reformed measured must be compatible with existing tax administration capacities and tax planning.

## **2.2 Review of Related Thesis**

Though there is not enough thesis relating to my title however I tried to match it out with different thesis from where I have taken references for the completion of my thesis. As the term Taxation is common in every thesis related with tax so they all helped me to much more extent for the completion of my thesis. Here I have tried to collect some more information throughout the following thesis:

Poudel, Karna Beer, Kshatry (Ph.D. Thesis, 1997) in his Ph.D thesis entitled “*Corporate Tax Planning in Nepal*” in his thesis has tried to make an overview and conclusion supporting to the objectives, research methodology, findings and suggestions as follows:

### **Objectives:**

- i. To examine the corporate tax structure in Nepal
- ii. To examine the implications of tax factor in selecting the best alternative strategy in different aspects of strategic planning.

- iii. To analyze impact of corporate tax on managerial decision relating to the different aspects of project planning.
- iv. To examine corporate tax planning in respect of organizational planning.
- v. To investigate tax planning practices being followed in respect of strategic planning, project planning and operational planning by Nepalese companies.
- vi. To offer suggestions for the improvement in corporate tax laws which have direct bearing on the corporate tax planning.

### **Scope and Methodology**

This study examines tax implementations in strategic planning, project planning and operational planning by companies in Nepal. The study also outlines tax planning practices in decisions relating to these aspects of corporate planning.

It is the study of corporate tax planning based on the information collected from 30 samples of manufacturing companies registered under companies Act, 1964 of Nepal. The sample companies include 14 government companies and 16 private sector public limited companies.

This study is based on primary and secondary data. Primary data has been collected mainly through questionnaire and personal interviews and secondary data related to fixed assets, depreciation, capital structure, profit, provision for taxes, etc. published by Nepal Stock Exchange Ltd., Annual reports of the Ministry of Finance, Department of Industries, Economic newspapers and journals.

### **Findings**

The selection of tax base is an important constituent of corporate tax structure. The different tax bases are gross assets, business expenditure, value added, cash flow

and book profit. Nepal has also followed book profit as the tax base for the purpose of corporate income tax.

Another important constituent of corporate tax structure is the tax rate. The corporate tax structure in Nepal has undergone a substantial change over the years. Prior to 1986-87, tax rate structure was same for both individual and companies. In 1986-87 the rate structure was separated and in the case of companies both government and private sector the progressive tax rate system was replaced by flat rate system. It was extended to private limited companies also in 1993-94. Another important feature of corporate tax in Nepal is the lowering down the tax rate from 60% to 67% (on taxable income above Rs. 130000) in 1982-83 to 23.33% (flat rate) in 1994-95. Further, there are different flat rates for different types of companies. Thus, while non- industrial companies are taxed at a flat rate of 33 % industrial companies are taxed at the rate of 28 %. Further, if a company is listed in Nepal Stock Exchange, the tax rate is reduced by 5 %. The government of Nepal has thus rationalized the corporate tax rate compatible with many other low tax-rate countries. In fact, Nepal has fallen in line with the general international trend of lowering down the corporate tax rate.

### **Suggestions**

The foregoing discussion shows that Nepalese companies in general have been taking advantage of the tax benefits in their strategic planning, project planning and operational planning decisions. However, there are still a number of companies which have failed to do so either because these companies did not have efficient tax planning system or because they were the loss making companies and therefore could not get the advantage of tax benefits. Besides, there are some tax provisions under Income Tax Act and Industrial Enterprises Act which require amendments. An attempt is therefore made here to offer some important suggestions which have emerged from this study.

These are as follows:-

1. Export oriented industrial companies should also be entitled to partial exemption of export earnings.
2. It is suggested that the tax payer should pay the unpaid tax with interest. Similarly, if the refund is to be paid to the tax payer it should also be paid with interest. If company loses the case, it is required to pay the amount of unpaid tax only.
3. It is recommended that there should be a separate tax section headed by a Tax Executive under the Finance Department particularly in large and medium companies to discharge all functions relating to tax management, including tax planning.
4. It is suggested that there should not be discrimination on the name of tax liability.

Lama, Niranjana (2009) in his thesis entitled “*A study on effectiveness of implementation aspect of Tax Planning in Nepal*” has made a deep study on Tax planning regarding its effective implementation. People in developing country like Nepal tend to greater propensity to evade taxes. Lack of proper measurement of tax assessment, Nepal is facing the problem of tax evasion. Because of this resources have not been mobilized efficiently and resource gap is increasing year by year in Nepal public finance. He has mentioned the following objectives and methodology for specific findings and recommendations.

### **Objectives**

- a) To study the concept of tax planning.
- b) To examine the use of tax planning in Nepalese organization.
- c) To examine the implementation of Tax planning
- d) To provide suggestion to Nepalese organization to use tax planning.

## **Methodology**

This study is concerned with the effective implantation of tax planning in Nepal, thus information concerning Tax planning as a whole is taken out for consideration to reflect the real phenomenon. The sample size was determined to 20 persons out of the total population. This sample of 20 persons was selected through different groups of persons from Manufacturing companies, Trading companies, Commercial banks and insurance companies.

## **Findings**

Following are the major findings of the study:

- a. The provision of best judgment assessment should be put to use in its true spirit.
- b. In addition to other financial and non-financial assistance, including incentives, to be provided by government and financial institution for the revival of sick industrial units.
- c. The tax payers should pay the unpaid tax along with interest, similarly if the refund is to be made the tax payers along with interest.
- d. Tax rebates to non-industrial company set up industrially backward areas.
- e. Different tax rates for Residential and Non- Residential companies.
- f. Every company should have separate Tax section in their company
- g. Need to change the tax administration system.

## **CHAPTER-III**

### **RESEARCH METHODOLOGY**

For the proper evaluation of the research problem, research methodology is very important to any researcher. Research methodology generalizes the way of solving the research problem thoroughly and systematically. Therefore, research methodology is used for the achievement of the objectives of the study.

This study is mainly concerned with the scope of tax planning in the country. Research methodology therefore is designed and implemented to study about the sources, causes and methods of the scope of tax planning. The structural analysis of government revenue, income tax, tax evasion, tax avoidance, exemption limits, concessions, rebates and tax payment behavior of tax payers. For the achievement of the objectives the research methodology has been designed including research design, population and sample, nature and sources of data and procedure of data collection and procedures of data presentation and analysis as follows:-

#### **3.1 Research Design**

Most of the data and information of the study were concerned with their opinion, experience and performance of the respondents. This study therefore, follows descriptive, analytical, true experimental and field study, research design in order to obtain the required information, data and opinion. Research design, thus is the overall frame work for the achievement of the goals and objectives of the research.

#### **3.2 Nature and Sources of Data**

Mainly the primary sources of data and information have been used in this research. In addition, secondary sources of data have rarely been used in some extent. Some important sources of the primary data are: opinion survey through

questionnaire and interview, review through the internet and by some general discussions with teachers and friends.

### **3.3 Population and Sample**

It is very difficult task to study about the universe. In other words, an individual can't study about the total population of the country. Sample study, therefore has been done through respondents of following nature of the profession in the table:

**Table 3.1**  
**List of Sample Respondents**

S.N	Nature of Profession	Number
1	Lecturers ( Lect )	10
2	Income Tax Officers ( Off )	10
3	Bankers (Ban)	10
4	Businessman ( BM )	10
	<b>Total</b>	<b>40</b>

### **3.4 Procedures of Data Collection**

A set of questionnaire related to the objectives of the study had been prepared for 40 respondents professionals. Some questionnaires were sent through postal service, some through e-mail and rest through direct visit to the professionals and as I have mentioned some are through general discussions with the professionals.

### **3.5 Procedures of Data Presentation and Analysis**

The result of each and every question out of the questionnaire was submitted respectively. Similarly they are ranked and planned in order by editing and coding. The views of the respondents about the questions were presented in respective order so that the analysis was fully based on the respondents. The cumulative result of each questions is described in the form of respondent's language as far as possible. The main priority is given to the highest support and decision of the

respondent. The supports of the respondents were collected in the numerical form as well as in the language form. Finally, the conclusion and suggestions of the study were presented in the summary.

## **CHAPTER- IV**

### **DATA PRESENTATION AND ANALYSIS**

This chapter deals with the data and information collected from the primary sources i.e., questionnaire, interview and field study. This chapter is the main body of the study, which answers the research problems for obtaining the specific goals of the research. It helps for summarizing the conclusion and findings of the research.

This chapter introduces the 40 sample units of different professionals relating to various sectors like education, business, banking and taxation. Here due to space Problem I pointed out my respondents in symbol as follows:-

<b><u>Respondents</u></b>	<b><u>Symbol Used in Table</u></b>
1) Lecturers	Lect
2) Income Tax Officers	Off
3) Bankers	Ban
4) Businessman	BM

#### **4.1 Sample Analysis Measurement**

The measurement deals with the result obtained from various sectors of the society. It explains about the view and specific conclusion of the professionals. The sample of 40 professionals was observed with the help of questionnaires and personal interviews for the following results.

##### **4.1.1 Tax Planning is being practiced in Nepal**

To know whether tax planning is regularly in practice in Nepal I asked this question to my respondents. The result has been presented in the following table:

**Table 4.1**  
**Tax Practicing in Nepal**

<b>Options</b>	<b>Lect</b>	<b>Off</b>	<b>Ban</b>	<b>BM</b>	<b>No. of Respondents</b>	<b>% of Respondents</b>
Yes	10	8	8	10	36	90
No	0	2	2	0	4	10
Total	10	10	10	10	40	100

*Source: Questionnaire*

From the table 4.1, it is observed that 90 % of the respondents believes that Tax Planning is being in practice in Nepal and 10 % of the respondents think that there is no tax planning in practice. Here, we can see that those who said tax planning is not practiced in Nepal they have pointed towards those sectors of population who are afraid from the term Tax itself so they even don't want to learn about the tax planning and anything relating to tax they only keep on finding short cut ways to get out of the habit of paying tax. We can't ignore the respondents who said that there is no tax planning is done in Nepal because some of them were tax officers themselves. And obviously tax officers knows more then anybody that what percent of people are planning tax and what percent are trying to avoid tax so we can't neglect their response. Anyway the happiest part is that there is 90% tax planning is done in Nepal which is quite effective for the country like Nepal where the education is still in growing stage only.

#### **4.1.2 Consideration of the term tax planning to reduce your Tax Liability**

To know whether tax planning is being considered by the respondents in the process of reducing their tax liability the following results are obtained:

**Table 4.2**

**Consideration of Tax Planning**

<b>Options</b>	<b>Lect</b>	<b>Off</b>	<b>Ban</b>	<b>BM</b>	<b>No. of Respondents</b>	<b>% of Respondents</b>
Yes	7	10	10	7	34	85
No	3	0	0	3	6	15
Total	10	10	10	10	40	100

*Source: Questionnaire*

From the above table we came to know that 85 % of the population (Approx) are considering the term tax planning in their business and profession in order to reduce tax liability and 15% of the population are not considering the term tax planning. When I tried to find out what are the reasons for that then mostly I found that all is because of the unawareness of the term Tax Planning . Some of them said that idea and concept of tax planning is not clear to them, some said hard to follow the method of tax planning and some said hat there is lack of qualified manpower in tax offices.

**4.1.3 Saving of Tax in Nepal through Illegal Ways**

**Table 4.3**

**Saving of Tax through Illegal Ways**

<b>Options</b>	<b>Lect</b>	<b>Off</b>	<b>Ban</b>	<b>BM</b>	<b>No. of Respondents</b>	<b>% of Respondents</b>
Yes	1	0	1	6	8	20
No	9	10	9	4	32	80
Total	10	10	10	10	40	100

*Source: Questionnaire*

From the above table we can see that 20% of the respondents think that tax planning in Nepal is done through illegal ways also and the remaining 80% of the

respondents think that tax planning is done through legal ways and effectively. When I went deep into the study to find out why the 20% of the population is planning tax through illegal ways then I came to know that all that is because of having less knowledge regarding the Scope of Tax Planning under ITA, 2058 in Nepal. So, I think we should provide adequate knowledge regarding scope of tax planning to all the general public in Nepal so that instead of running away from the term tax planning they will come to know the areas and scope of tax planning and will be eager to save their tax under the scope provided by the ITA 2058 in Nepal. Anyway the percentage gives us a little relief that only 20% think that tax planning is done through illegal ways even though we have to take into consideration that there are still people who does tax planning through illegal ways and to stop that we need to make them aware either making them know the scope of tax planning or making the law a little bit more flexible after knowing the exact factor why the person is planning tax through illegal ways. It might be different from person to person the reasons to plan tax so we have to use the right weapon to right person to make them plan their tax through legal ways.

#### **4.1.4 The Causes Responsible for Illegal Planning**

When I asked my respondents about how they can say that there is the planning done through illegal ways they said there are many reasons for that then I gave them some of the major reasons to rank them in order of most effective reason wise. Among the respondents as 8 of them said that they think tax planning in Nepal is done through illegal ways also so here are the reasons they have ranked them in order of mostly blamed by the tax payers for planning tax through illegal ways:

**Table 4.4**  
**Causes of Illegal Tax Planning**

S.No.	Responsible Causes for Illegal Tax Planning	Lect	Off	Ban	BM	Total	Ranks
1	Higher income tax rate	1	1	6	7	15	6
2	Tax administrative inefficiency	2	5	5	4	16	5
3	Widespread illegal business	6	10	3	5	24	1
4	High corruption in Nepal	3	2	4	5	14	7
5	Poor tax paying habit	7	5	3	6	21	2
6	Complicated Income Tax Law	6	6	3	3	18	3
7	Political indiscipline	1	3	8	5	17	4

*Source: Questionnaire*

More than 50% of the respondents pointed out widespread illegal business to be the no. 1 reason for illegal tax planning. As the people do illegal business so they have to plan tax through illegal ways because if they will plan tax legally of illegal business they will get caught and will be punished according to the law.

It is very clear that to stop tax planning to be done in illegal ways the widespread illegal business is to be stopped if not possible then try to control it by making the law a bit flexible in terms of tax planning. Government should discourage people from performing illegal business either by making them know how they can earn money through legal businesses or making the country force and law a bit more tight in terms of illegal business. And last but not the least is to make the people aware of the scope of tax planning because most of the people are not aware of the scope of tax planning and when they will come to know the exactly what are the Scope of Tax Planning provided by Income Tax Act, 2058 of Nepal. I think the illegal business will automatically start coming to the end.

Secondly the respondents ranked poor tax paying habit as another reason for illegal tax planning. In Nepal no one is paying tax thinking of the country that tax paying is their duty and they responsibility towards the country. Nobody have any kind of interest in paying tax to the country they all want to hide their income and are always trying to pay tax as less as possible. In Nepal there is no habit of paying regular taxes and fair tax. Although the people are paying tax but that is not because they are thinking about the country but only they are afraid that if tomorrow they will get caught they have to pay more tax then they are paying at present. This is only reason for paying tax in Nepal. So the government should not only force people to pay tax but also make them understand that the tax they pays goes directly or indirectly at last to them only through different means. Through the development of the country, through distribution of clothes and food to many kinds of victims, through different plans, etc. In these ways the habit of people to pay tax can be encouraged and they will get rid of poor tax paying habit.

Thirdly the respondents blamed complicated income tax law to be the reason for illegal tax planning. As the law of income tax of Nepal is made by different educated and efficient persons of Nepal but they have to consider the average people who are living in Nepal while making the law because there are tax payers who belongs to this category more. So the tax law is to be such that one can understand just by going thoroughly if they have to read it deeply or they have to take extra classes to know the taxation in Nepal then they will get frustrated and will try finding the loopholes or they will try to plan tax illegally. So the law of taxation should not be made that complicated it should be as simple as possible so that the people from any background can get it by once you speak to them or by once they will go through the books of taxation in Nepal.

Fourthly the respondents blamed political indiscipline as another factor influencing the illegal tax planning in Nepal. In Nepal there is no discipline

regarding politics, everyday there is going to something wrong in politics. Everyday the parties will be quarreling with each other regarding different topics it seems as they are not thinking about the country but only about themselves. They all are unknown about the things happening in the country generally with the people of the country as if they are satisfied or dissatisfied with the present situation. And the people as a result think that if the political leaders are not thinking about the country then why should we do, why should we pay the regular taxes, why should we only contribute to the country and as a result they will starts planning tax through illegal ways. So political indiscipline should be turned to discipline in order to plan tax in legal ways.

Fifthly the respondents blamed tax administrative inefficiency to be the reason of illegal tax planning. All the administration part of tax offices are inefficient. The officers in the tax offices does not perform their task effectively instead they demotivate the people who came to pay tax for the country by making them run here and there and the most tragedy part is that we go to tax office to pay the tax not to take money back from them. I think tax payers should get some kind of respect because they are one of the helping hands of the country, they are contributing to the economic sectors of the country and they are helping country to get developed. The tax administration should work efficiently if the country wants to stop tax planning to be done illegally because tax administration plays a vital role in making people pay tax legally. The officers of tax offices should be very much efficient to make people understand about the pros and cons of paying and not paying the tax then only people will starts paying tax legally instead of finding the tax payment through illegal ways.

The sixth rank have been given by the respondents to higher Income Tax rate for the cause of illegal tax planning. As it has been given the sixth rank it is clear that the respondents have given less emphasis to this cause. That means we can say

that the tax rate provided to the people and the firm of Nepal by Income Tax Act, 2058 is quite good enough. But still some part of it is somewhere high tax and somewhere dissatisfactory in terms of tax rate. The one part is that whether the firm is doing business or not it have to pay the minimum tax to the country is quite not satisfactory and the other part is why rebate is provided only to the factory located in remote areas why not also to the factory located in the municipality areas .

The last and seventh rank is given to high corruption in Nepal by the respondents as the cause of illegal tax planning. As this is the last cause ranked so we can say that it is just been ranked as it was there in the causes provided. No doubt there is corruption in Nepal but that is affecting in tax planning tax through illegal ways that much yes it is affecting but only to some extent. The reason is that all the money that comes from corruption of bribing can't be shown through legal tax planning so the people use the illegal ways of tax planning to make their black money as their white money. As we all know corruption is in every country but only one thing is to be made into consideration is that the corruption should not influence in the development to that extent as it will cause some influence definitely so we have to try our best to stop the corruption in every single way possible then only we will be stop the planning of tax through illegal ways.

#### **4.1.5 Saving earnings by reducing tax liability under long term Tax Planning**

When asked with the respondents that how they are saving their earnings by reducing tax under long term tax planning they gave their different reasons and taking into mind all those reasons I asked them to rank them in order of their ranks and the result is presented as below as simple table format:

**Table 4.5**  
**Reducing Tax under Long Term Tax Planning**

S.No	Ways of reducing tax under long term Tax Planning	Lect	Off	Ban	BM	Total	Ranks
1	By changing the nature of business	4	2	4	5	15	3
2	By changing the form of the organization	1	2	3	7	13	4
3	By changing the location of the industry	1	4	4	3	12	5
4	By making changes in the capital structure	4	3	5	6	18	2
5	By changing the size of the business	6	3	4	8	21	1
6	By merging the business	2	1	2	5	10	6

*Source: Questionnaire*

More than 50% of the respondents ranked by changing the size of the business as the no. 1 way of reducing tax under tax long term tax planning. Now here I am explaining how we can save by changing the business, in which size to operate the business depends on demand of products, availability of resources like funds, human resources, raw material, etc. selection of suitable size of business helps in tax planning as:

- ) Business firm with annual turnover up to Rs.12 lakhs and income up to Rs. 1 lakhs 20 thousands fall within presumptive taxation. They are required to pay Rs. 2000; Rs. 1500 and Rs. 1000 if they are located in metropolis/sub-metropolis, municipality and other areas respectively.
- ) A special industry employing 600 or more Nepalese citizens throughout each day of the year is required to pay only 90% of tax other wise applicable to its income( i.e. 90% of 20%=18%)

Secondly the respondents have ranked by making changes in the capital structure as the second way of reducing tax liability under long term tax planning. Capital required for conducting a business can be raised through issuing shares, debentures, borrowing loans or through retained earnings. ITA, 2058 has made different provisions for treatment of reward given to the providers of capital. For example:

- ) Interest is deductible in case of borrowed funds whereas dividend does not enjoy this benefit.
- ) Expenditure incurred while borrowing loan is an allowable expense.
- ) Raising funds through equity/preference shares or retained earnings are without strings and do not involve regular outflow of cash by way of interest.

A tax payer can minimize his tax liability by borrowing loan or issuing debentures than raising fund through other sources.

Thirdly the respondents have ranked by changing the nature of business as the third way of reducing tax liability under long term tax planning. No one can say that an entrepreneur takes decision about the nature of business one purposes to undertake based on tax considerations. However, tax benefits do weigh heavily while deciding about the business. Tax laws have imposed different tax rates to different business activities. An investor can minimize tax burden by choosing a business of low tax rate. For example:

- ) Special industry should pay tax at a flat rate of 20%
- ) Bank, finance companies, general insurance companies, etc should pay tax at a flat rate of 30%
- ) Other firms i.e., private limited, partnership firm should pay tax at a flat rate of 25%
- ) Agricultural incomes from unorganized sector is tax free

Similarly loss recovery period also differs as per the nature of the business. For example:

- ) Business organizations can carry losses for the coming 4 years
- ) In addition to carry forward provision, banks, financial institutions and general insurance business can carry backward of losses for the preceding five years.
- ) Similarly, loss of an entity conducting petroleum business under Nepal petroleum Act 2040 can be carried forward up to next 12 years.
- ) BOt /BOOT can carry losses for the coming 7 years

In the fourth rank the respondents have chosen by changing the form of organization as the way of reducing tax liability under long term tax planning. As we all know business organization can be organized in different forms: sole proprietorship, partnership and company. Form of organization is generally decided on the basis of size of funds required or the technical skill. Small size units can be started by proprietorship firms, partnership firm, etc. for bigger units company form of organization suits. ITA, 2058 has imposed different tax rates as well as has provided different facilities to different forms of business organizations. For example:

- ) Proprietorship firm can enjoy exemption facility and progressive tax rate is applied.
- ) Partnership and company do not get any exemptions. Tax is imposed at a flat rate.
- ) The owner of proprietorship firm is entitled to a medical tax credit up to Rs.750.

In the fifth rank the respondents have chosen by changing the location of the industry as the way of reducing tax liability under long term tax planning.

Industries are located at a place which has advantages of raw material, nearness of market, availability of human resources and other related non-tax factors. An investor can take benefit of it by establishing business in a suitable location. For example:

- ) Special industries established in remote, underdeveloped or under developed area should pay tax at 70%, 75% or 80% respectively of the rate otherwise applicable for the periods of ten income years.

ITA, 2058 has also a provision of remote area allowance up to Rs. 30,000 to an individual working in remote areas. For example:

- ) Individual working in remote area A, B, C, D and E can get an additional exemption of Rs.30,000, Rs. 24000, Rs. 18,000, Rs. 12000, Rs. 6000 respectively

Different taxes are applicable to different small scale businesses established in different parts of Nepal. For example:

- ) Business having annual transactions up to Rs. 12,00,000 and income of Rs. 1,20,000 should pay Rs. 2,000; Rs. 1,500 and Rs. 1,000 as tax if established in metropolitan/ sub-metropolitan cities, municipalities and anywhere else in Nepal respectively.

In the sixth rank the respondents have chosen by merging the business as the way of reducing tax liability under long term tax planning. Inclusion of non-industrial unit in industrial unit can also be helpful in minimizing tax. Industrial units (except liquors and tobacco) pay tax @ 20% whereas non-industrial units (i.e., trading company) pay tax @25%thus, merging of trading company in industrial company( forward integration ) reduces the tax liability. Similarly, merging of loss making units to profit making unit is also helpful in tax planning. Here, the losses of loss making unit can be adjusted with the profit of profit making units.

#### 4.1.6 Saving Earnings by Saving Tax under Short Term Tax Planning

When asked with the respondents that how they are saving their earnings by reducing tax under short term tax planning they gave their different reasons and taking into mind all those reasons I asked them to rank them in order of their ranks and the result is presented as below as simple table format:

**Table 4.6**  
**Reducing Tax under Short Term Tax Planning**

S.No.	Ways of Reducing Tax under Short Term Tax Planning	Lect	Off	Ban	BM	Total	Ranks
1	By taking care of everything while acquisition of assets	3	4	8	3	18	2
2	By taking care while deducting repair and maintenance cost	3	3	4	4	14	4
3	By considering pollution control cost	1	2	3	5	11	6
4	By considering research and development cost	2	3	4	3	12	5
5	By deducting donation	3	6	4	4	17	3
6	By taking care while making loss recovery	5	4	3	9	21	1

*Source: Questionnaire*

Above 50% of the respondents ranked by taking care while making loss recovery as the no. 1 ways of reducing tax under short term tax planning. As per the act, losses from the business can be forwarded up to coming four income years. In addition to carry forward of losses, banking and general insurance businesses can carry back their losses from preceding loan loss provision. As per the act, loss from investment cannot be carry backward or forward. While setting off losses, priority should be given to investment losses. If it is not recouped in the year of loss , it cannot be carried backward or forward. In this way, by properly setting priority, a taxpayer can adjust as much as losses as possible.

Second rank is given to by taking care of everything while acquisition of assets as the way of reducing tax liability under short term tax planning. A business firm can make tax planning while acquiring fixed assets needed for running its activities. There are mainly two ways of acquiring fixed assets leasing or buying. The issue to be considered is cash outflow, tax shield in respect of depreciation, interest payable or lease rent.

Third rank is given to by deducting donation as the way of reducing tax liability under short term tax planning. A donation given to tax exempt organization is allowed for deduction up to Rs. 100000 or 5% of adjusted taxable income. However in Nepal full or partial reduction for donation given to a work by notifying in Nepal gazette. This provision is available to only profit making entity. A tax payer can plan the amount of donation to minimize his tax burden.

Fourth rank is given to by taking care while deducting repair and maintenance cost as the way of reducing tax liability under short term tax planning. ITA, 2058 has allowed repair and maintenance cost up to 7% of depreciation basis. Taxpayers should plan these expenses in such a manner so that maximum deduction is possible. The unabsorbed repairs can be capitalized and depreciated from the next year.

Fifth rank is given to by considering research and development cost as another way of reducing tax liability under short term tax planning. Research and development (R & D) cost is allowed for deduction up to 50% of adjusted taxable business income. The access R & D cost is capitalized and depreciated under block D (see appendix) from the next year. The tax payer can minimize tax liability by spending on R & D.

Sixth and final rank is given to by considering pollution control cost as another way of reducing tax liability under short term tax planning. Like in R & D cost a deduction for pollution control cost is also provided up to 50% of the adjusted taxable business income. The excess pollution control cost is capitalized and depreciated under block D from the next year. The tax payer should claim these expenses as much as possible to reduce the tax liability.

#### 4.1.7 Existing rebate provided by Income Tax Act, 2058

To find out whether the tax rebate provided by the Nepalese law is satisfying the people of the country or not I asked the question providing them four options and the result obtained is presented below in a systematic table format:

**Table 4.7**  
**Satisfaction to the Rebate Provided**

<b>Options</b>	<b>Lect</b>	<b>Off</b>	<b>Ban</b>	<b>BM</b>	<b>No. of respondents</b>	<b>% of respondents</b>
It is o.k.	9	4	4	7	24	60
It should be reduced	1	3	2	2	8	20
It should be increased a little	-	3	4	1	8	20
I don't know	0	0	0	0	0	0
<b>Total</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>40</b>	<b>100</b>

*Source: Questionnaire*

60 % of the respondents said that the rebate is o.k. and in fact good in respect of the people and the country. They all think that the rebate provided is quite encouraging for the people. The rebate is provided by taking care of the people of the country of all the sectors and groups so quite fair and quite motivating for them to pay the tax in time and properly.

20% of the respondents think that it should be reduced. They said this taking care of the economy of the country , the only thing they mean to say is that if the tax rebate is reduced a little bit it will not make any difference to the tax payers and on the other hand that little reduced tax can help in the economic condition of the country a lot.

20 % of the remaining respondents think that it should be increased a little. These 20 % still think that the rebate provide is still not encouraging for the people of the country to be faithful to the country in terms of payment of tax planning and as a result they will try to find out the illegal ways of reducing tax liability. So if the country wants all the taxes from the public through legal tax planning then the government have to increased a little for the satisfaction of the public and in comparison to saving tax through illegal ways and increasing the rebate I think increasing the rebate seems to be more profitable for the country.

0% of the respondents gone to option 4 which is I don't know, this means all the respondents are aware of the rebate provide by the law.

#### **4.1.8 Charging less tax to the industries situated in remote areas**

To find out whether the tax charged to the industries situated in remote areas are quite good enough or not I asked my respondents giving them three options and the response I got is presented in the following table format :

**Table 4.8**  
**Charging less tax to industries in remote areas**

<b>Options</b>	<b>Lect</b>	<b>Off</b>	<b>Ban</b>	<b>BM</b>	<b>No. of respondents</b>	<b>% of respondents</b>
It is encouraging	9	6	7	10	32	80
It is worthless	0	0	0	0	0	0
Nobody is conscious towards that	1	4	3	0	8	20
<b>Total</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>40</b>	<b>100</b>

*Source: Questionnaire*

80 % of the respondents said that it is encouraging. The tax charged to the industries situated in remote areas are very much fair and it is quite encouraging for the public of the country as they face many difficulty when the industry will get situated in remote areas. So taking in consideration all those things the tax rate charged to those industries situated in remote areas are very much on the mark.

0 % of the respondents said that it is worthless. That means there is no complaint towards that, no doubt that the tax charged to industries situated in remote areas is very much fair.

20% of the respondents believes that nobody is conscious towards that. And the most surprising thing is that those 20 % are almost businessman that means really the people are not very conscious toward that. They are establishing factories and industries wherever they find comfortable for them. They are not surveying that whether establishing in this area is profitable through the means of tax or not they are only calculating the market and the consumption part they are not considering the taxation part for the establishment of their industry and factory. May be the people are unaware of tax planning or may be they think the rebate not quite satisfactory or may be they are planning to save tax through illegal tax planning, in any of those case the country needs to take some kind of action to make the people

know and use the rebate provided to them in the establishment of industry and factory in different parts of the country.

#### 4.1.9 Enjoyment of the loopholes of the Act

When I asked my respondents whether the loopholes present in the act is been considered by the people of Nepal then the response I got is presented in the below table:

**Table 4.9**  
**Enjoyment of loopholes by Tax Payers**

<b>Options</b>	<b>Lect</b>	<b>Off</b>	<b>Ban</b>	<b>BM</b>	<b>No. of Respondents</b>	<b>% of Respondents</b>
Yes	10	10	10	10	40	100
No	0	0	0	0	0	0
<b>Total</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>40</b>	<b>100</b>

*Source: Questionnaire*

100% of the respondents said that the loopholes is being enjoyed by the tax payers of the country. Now it is crystal clear that by enjoying the loopholes tax payers are saving their tax and it is also clear that there are a lot of loopholes in the Act. So, the conclusion is the government must revive the ITA , 2058 of Nepal so that the loopholes can be filled and the taxes which are going somewhere else through those loopholes can come to the treasure of the government. So I think the government should take action as fast as possible to collect the maximum amount of tax and is only be done by reviving the ITA , 2058.

#### 4.1.10 Methods used for Enjoying Loopholes

As 100 % of the respondents said that they think the tax payers are enjoying the loopholes of the Act so I again asked them which of the methods are being used then the respondents ranked the following methods in order of preference given by the tax payers for enjoying the loopholes of the Act:

**Table 4.10****Methods used for enjoying the Loopholes**

<b>S.No</b>	<b>Methods used by tax payers</b>	<b>Lect</b>	<b>Off</b>	<b>Ban</b>	<b>BM</b>	<b>Total</b>	<b>Rank</b>
1	Diverging income or assets to lower taxable entities	5	5	4	6	20	2
2	Paying salaries, benefits and interest to family members	5	6	4	4	19	3
3	Transferring income to wife or minor child	5	6	7	7	25	1
4	Forming trust and other philanthropic institution and taking unnecessary advantage	1	2	6	4	13	5
5	Transferring income and assets to non-resident	3	2	4	5	14	4

*Source: Questionnaire*

About 55% of the respondents ranked transferring income to wife or minor child as the no. 1 way used by tax payers for enjoyment of loopholes. Mr. A, having rendered service to another person Mr. B, is entitled to receive a sum of say Rs. 50,000/- from Mr. B. Mr. A other income is Rs. 200,000/-. Mr. A tells Mr. B to pay cheque of Rs. 50,000/- in the name of Mr. C instead of in the name of Mr. A. Mr. C deposits the cheque in his bank account and account for it as his income. But Mr. C has no other income and therefore pays no tax on that income of Rs. 50,000/-. By diverting the income to Mr. C, Mr. A has resorted to Tax Avoidance.

Second rank is given to diverging income or assets to lower taxable entities. This is done by the means that all the income is earned by higher taxable entities and in order to save tax at the last point of time when it is time to pay tax then all the incomes are transferred to lower taxable entities. Here, the government think that no matter what but the firm is paying tax anyhow but the problem is that the firm is saving tax to some high extent and is taking wrong advantage of the loopholes of the act.

Third rank is given to paying salaries, benefits and interest to family members. Some tax payers distribute the salaries and benefits among their family members in order to reduce their tax liability. This is fair enough in accordance in the terms of law but it is really one of the major means to avoid tax unethically.

Fourth rank is given to Transferring income and assets to non-resident. As the non-resident employed by Nepal government on terms of tax exemption are exempted from paying tax.

Fifth rank is given to forming trust and other philanthropic institution and taking unnecessary advantage. As the donation provided to trust and other philanthropic organization are deducted from income before tax reduction so people form by themselves such type of organization with the objective of saving tax through the loop holes provided by the Act.

#### **4.1.11 Tax planning helps in Productive Investment**

When asked with the respondents do they think that tax planning helps in productive investment then they responded towards my question with only two options which is presented as below in table format:

**Table 4.11**  
**Productive Investment helped by Tax Planning**

<b>Options</b>	<b>Lect</b>	<b>Off</b>	<b>Ban</b>	<b>BM</b>	<b>No. of Respondents</b>	<b>% of Respondents</b>
Yes	9	9	10	10	38	95
No	1	1	-	-	2	5
<b>Total</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>40</b>	<b>100</b>

*Source: Questionnaire*

95% of the respondents were positive towards the helping of tax planning in productive investment. They all said that of course tax planning helps in productive investment in the country and the developing country like Nepal is in need of a lot of productive investment so tax planning should be made very much effective in order to develop the country through productive investment. The tax laws offers large avenues for the productive investment of the earnings granting absolute or substantial reliefs from taxation. When earnings are invested in the avenues recognize by laws, they are not only relieved of the burnt of taxation but they are also converted into means of further earnings.

5% of the respondents still think that there is no connection between tax planning and productive investment. They think that even though there is no tax planning in the country then also no one can stop productive investment done in the country. In fact they think that there is no relation whether tax planning is done in what way in the country with the productive investment to be done in the country because tax planning is the minor part of a business the major part is the profit making rules. They all think that we should concentrate on increasing the profit not on reducing the expenses and of course tax planning is one of the expenses of the business.

#### **4.1.12 Healthy growth of economy through Tax Planning**

When I asked to my respondents their opinion regarding healthy growth of economy through tax planning then they answered through my three options provided which is presented in below table format:

**Table 4.12**

**Healthy growth of economy through Tax Planning**

<b>Options</b>	<b>Lect</b>	<b>Off</b>	<b>Ban</b>	<b>BM</b>	<b>No. of Respondents</b>	<b>% of Respondents</b>
It is possible	2	0	6	0	8	20
It is impossible	1	7	1	3	12	30
It can help to some extent	7	3	3	7	20	50
<b>Total</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>40</b>	<b>100</b>

*Source: Questionnaire*

Only 20% of the respondents said that yes healthy growth of economy is possible through tax planning. It means that the respondents are not very sure of the phrase “Healthy growth of economy through Tax Planning”. The tax laws grant various concession and reliefs to uplift the backward sectors of the economy. As a result, the economy of the country will bust up.

30% of the respondents pointed out that healthy growth of economy is impossible through tax planning. They said that tax planning is just a minor part of the business businessman really don't care about the corporate social responsibility they know only one thing and that is profit nothing else. Already said they don't want to increase profit by minimizing the expenses. For the growth of economy only backward part is not enough the main part is the metro areas and there is not very good planning of tax for the industry situated in metro areas of the country. Every industry should get rebate is the main point of the respondents here.

50% of the respondents opinion is that healthy growth of economy is helped to some extent through tax planning. There is one saying that “ It is better to have something then to have nothing”, same one is for tax planning ,at least some planning is done which will obviously going to help the country to grow

economically healthy. If there will be no tax planning then there will be nothing but yes there is tax planning is being done and that is helping at least to some extent in the healthy growth of the economy of the country. And this is the same opinion of the most of the respondents.

#### **4.1.13 Providing Tax Rebate to Industries Situated in Remote Areas Only**

When asked with the respondents regarding the rebates provided to the industries situated in remote areas only then they responded in following ways with the two option provided to them:

**Table 4.13**  
**Providing Rebate to Industries of Remote Areas**

<b>Options</b>	<b>Lect</b>	<b>Off</b>	<b>Ban</b>	<b>BM</b>	<b>No. of Respondents</b>	<b>% of Respondents</b>
It is fair enough	10	10	10	0	30	75
It is not fair every industries should get rebates	0	0	0	10	10	25
<b>Total</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>40</b>	<b>100</b>

*Source: Questionnaire*

75 % of the respondent said that it is fair enough. All the respondent in this group are job holders and professional related with no business. They thought from the point of view of their profession and came to the conclusion that the rebate is fair enough. The law also have provided maximum rebate to the industries of remote areas which is definitely encouraging them to do business in a better way. genuinely the rebate rates are very much effective for those industries as the law have taken into consideration of all the difficult factors and problems that those industry will face and is facing having being located in remote areas.

25% of the respondents said that it is not fair every industry should get rebate. The respondents belonging to this 25% are businessman and they thought from the

view point of their business thinking that one day they will also establish their industry in metro area and they will not get rebate at that time. So these all respondents want that the rebate should also be given to the industry situated in metro areas as these industry also contribute in the economic sector of the country. Otherwise as a result these industry will be bound to plan tax through illegal ways and the harm is finally to the economic condition of the country. The industry will anyhow reduce their tax to be paid so here is the only question to the government whether it is going to give them rebate and take the credit or is not going to give them rebate and make the industry to plan the taxation in illegal ways.

#### 4.1.14 Problems in Tax Planning Practice in Nepal

When asked with the respondents whether they think that there are problems in tax planning in Nepal then they answered on my given three options in the following ways:

**Table 4.14**  
**Problems in Tax Planning**

<b>Options</b>	<b>Lect</b>	<b>Off</b>	<b>Ban</b>	<b>BM</b>	<b>No. of Respondents</b>	<b>% of Respondents</b>
Yes a lot	3	3	0	2	8	20
No there is not	0	0	0	0	0	0
Need to be change/revive the policies a little	7	7	10	8	32	80
<b>Total</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>40</b>	<b>100</b>

*Source: Questionnaire*

20% of the respondents think that yes there are a lot of problems in tax planning practice in Nepal. They said that no one knows what is tax planning, how it is done and all they are only paying tax in different ways. Some of them are paying tax through legal ways only, some are through illegal ways and some of them uses the both ways being little bit concerns towards the tax. Nobody is even interested to know about tax planning going through in the country they say that who is going to study all those and who is going to appoint a separate staff for that tax

policy only as the rebate we will get will be less than the salary of the staff appointed. So the conclusion is that the awareness of the people is to be made in order to solve the problems in tax planning practice in Nepal.

0% of the respondents said there is not any problem in tax planning practice in Nepal. It points out that there is no one who is totally unaware of the tax planning practice in Nepal excluding the uneducated groups.

80% of the respondents said that the policies need to be changed/revived a little to make the planning problem less. This is pointing out towards those group of respondents who do take care of the subject tax planning in their business as a result they pointed out that it need to be revived to solve the remaining problems. They also says that there is problem in tax planning but they not only says that there are problem but also added that if it will get revived it will be all right and will be free from the problem to some extent.

#### **4.1.15 Making the Tax Planning More Effective**

When I asked with the respondents that what should be done to make the tax planning more effective then they all answered in their different points and I put on all those points and told them to rank in order of preferences to be done then they all ranked the ways to improve tax planning. All those are presented in the following table:

**Table 4.15**  
**Making Tax Planning More Effective**

S.No.	Things should be done for making tax planning effective	Lect	Off	Ban	BM	Total	Ranks
1	Increase the rebate rate a bit more	4	2	3	6	15	4
2	Rebate should also be given to industries located in municipality areas	1	3	4	5	13	5
3	To provide knowledge to the people about tax planning	2	3	5	6	16	3
4	To encourage the tax payers to pay regular taxes	5	4	7	7	23	1
5	Building awareness about tax planning	4	3	5	8	20	2

*Source: Questionnaire*

60% of the respondents ranked **to encourage the tax payers to pay regular taxes** as the no. 1 thing to be done in order to make tax planning more effective. I too agree with this point and this is the first thing to be done in order to get a proper tax planning. All the tax payers are need to be encouraged to pay tax ,they are need to be motivated, they are need to be promoted and they are need to be marketed also. Tax payers can be motivated by making them loyal towards the country, this can be done by saying them exactly why and how the country need them and their attention to get developed and to compete with the other countries . Tax payers can be promoted by making them famous through the newspaper and magazine making the heading as the habit of their paying tax regularly and with proper tax planning. They are need to be marketed by publishing their firm in tax paying magazine as one of the properly paying tax company. These all things will really encourages tax payers to pay regular tax and seeing these all other people will also starts paying regular tax to get these types of attention and as a result we can make the tax planning more effective and that is our main concern.

Second priority is given to building awareness about tax planning. This can be only done by the government when every sector will act properly and the tax officers will feel their responsibility towards the country that a big responsibility is given to them and they have to come up with the expectation of the country. Unless and until the tax offices will starts some kind of knowledge gaining and information providing program for the tax payers of the country and for even to the non-tax payers then only the tax planning of the country can be made effective otherwise it is very much difficult to change the in-effective tax planning to effective tax planning. Awareness is the most necessary thing which will make the people to know their responsibility towards the country and the use of tax planning need to be done effectively to develop any country. unless and until the public will get aware of the fact that tax is one of the major thing to the country and can help the country to very much extent for the development they will never bent towards the tem effective tax planning, so the main point is to create awareness to the people regarding tax so that the planning of tax can be done more effectively.

Third rank is given to provide knowledge to the people about tax planning. Only awareness is the half part of it the full part will be when they will have the complete knowledge about tax planning. For complete knowledge all the people can't go to colleges and take the class of taxation they need to taught through some kind of tricky and practical ways then only understand the term tax more clearly and I think that will be more effective. Certainly everyone can't understand the book and the teachers language so they are need to be teaches through some kind of unique means in order to provide them knowledge about tax planning. And this responsibility should be taken by the tax offices and government then only people will be aware of the term tax otherwise they will be in the dark and will go on cheating tax through different illegal means to reduce tax to be paid as a result finally it will be affecting the economic condition of the country.

Fourth rank is given to increase the rebate rate a bit more. Some people still think that the rebate rate provided by ITA, 2058 of Nepal is not satisfactory. They still are demanding for the increment in rebate rate provided to increase a bit more. Now the government should survey about this that how much percentage of the people are demanding the increment in rebate and from which category of population they belongs. If they belong from the category of high tax payers then that should be implemented as fast as possible and as much as possible. And if they are from the lower earnings and lower tax payers then there is no need to get worried these people keep on saying these things because they don't have enough knowledge about tax and more then that economic situation of the country. So survey is must and the government must take action regarding any kind of tax dissatisfaction of the people mainly of those who pays a huge amount of tax and who contribute a lot in terms of economic condition to the country. So if the large number of population is demanding for the increment in rebate percentage then government must listen to them carefully if only the country wants that tax planning is to be done effectively.

Fifth and the last rank is given to rebate should also be given to industries located in municipality areas. As this is the last ranked options so the first priority should be given to above four but we can't ignore this one also as the respondents also pointed out towards this options. This is only one thing that the people having industries in metro areas are saying that it is not fair enough to provide rebate only to the industry located in remote areas they should also get rebate . And I too think they are right to some extent, as they contribute in equal or in more manners in the development so partiality should not be done with them. They also agree that if not fully partial rebate can be given to them having the establishment of industry in the metro areas. They are demanding to the government not to be partial regarding industrial set up they want the government to see every industry through one eye. The government have to take in consideration that all the industries are

their children which are going to help it in every way they can so as the mother is not partial towards one of her children in the same way government should also not be partial toward the industry and its set up.

## **CHAPTER - V**

### **SUMMARY, CONCLUSION & RECOMMENDATIONS**

#### **5.1 Summary**

This point includes main preference of the study in brief. Indeed, the attitude, suggestions, views and comments of the respondents from various sectors have been presented into specific terms so that the conclusion and finding would be obtained from the best suggestions.

Of course not 100% of the population is practicing tax in their business they are certain present of people who are still trying to find out the shortcut and easy method to pay the minimum tax as far as possible. Anyway as the more people think that practice of tax is done in Nepal so it is quite a relief for the country believing the major portion of the respondents.

Again of course not 100% but more then 80% of the respondents believes that the they are using the term tax planning in order to reduce tax liability. So we don't have to worry about this the percent will keep on increasing as the days will pass on and as the education will keep on spreading all over the country.

No according to my survey there is very less people who are planning their tax by the illegal ways in fact the number is equal to no. so, it is the relief to the government that they don't have to exercise a lot to reduce the percent of people performing illegal tax planning. in fact we don't have to wok a lot of them we just have make a little bit of knowledge giving program and they will definitely going to be with us regarding tax planning through legal ways .

Almost 50% of the respondents agree with the fact that illegal tax planning is being done due to the widespread illegal business. As illegal business can't show their black money to the government they try to hide it through illegal tax planning and almost they are successful too. Similarly poor tax paying habit, complicated income tax law, political indiscipline, tax administrative in efficiency and higher income tax rate are respectively ranked as the causes responsible for illegal tax planning.

More than 40% of the respondents pointed out that by changing the size of business they are reducing their tax liability under long term tax planning changing nature means changing the capital, hiring more employees, and all. Similarly, by making changes in the capital structure, changing nature of business, changing the form of organization and by changing location of the industry are other ways used to save tax liability under long term tax planning.

About 40% of the respondents said that they reduce tax under short term tax planning by taking care while making loss recovery. When should be carrying forwarded and when should be benefit on carry backward are the terms to be taken into consideration under loss recovery. In this way by proper setting a tax payer can adjust as much loss as possible. Similarly, by taking care of everything while acquisition of assets, by deducting donation, by taking care while deducting repair and maintenance cost, by considering research and development cost and by considering pollution control cost are the other ways ranked respectively in further ranks.

More than 60% of the respondents think that the rebate provided as per the act is quite o.k. they also added that in fact the rebate are quite encouraging for the people to pay the tax according to the law. And 20% of the respondents thought

the rebate should be reduced to some extent and the remaining 20% of the respondents said that the rebate should be increased a bit in order to motivate the people of the country. In this way a mixed response came out from the respondents.

When the question is asked regarding less tax to industries situated in remote areas then more than 80% of the respondents totally agreed with the fact and they said that it is quite encouraging for the people who are establishing industries in remote areas because they have to face a lot of difficulty over there. And the remaining respondents said that nobody is conscious towards that as no one takes tax policy while establishing any kind of industries.

This is the most amazing question in my questionnaire because I got the 100% respondents saying yes to my question that whether the tax payers are enjoying the loopholes of the act. All the respondents are sure of the answer they have given so I think the government must have to do something regarding this otherwise all the money which have to come into the country's treasure will go somewhere else.

About 55% of the respondents said that they enjoy the loopholes of the Act by transferring income to wife or minor child. Here, by transferring income to wife and child they reduce their profit and as a result they have to pay less tax, in this way they can easily save tax through this big loop hole. Similarly diverging income or assets to lower taxable entities, paying salary, benefits and interest to family members, transferring income and assets to non-residents and forming trust and other philanthropic institution and taking unnecessary advantage are ranked respectively.

95% of the respondents agreed with the fact that tax planning can help in productive investment. The tax laws offer large avenues for the productive

investment of the earnings granting absolute or substantial reliefs from taxation. Remaining 5% think that there is no connection between tax planning and productive investment and I think that these 5% respondents have either less knowledge regarding tax or regarding productive investment because we all know that tax planning is helping in productive investment since long time in different countries.

Among the respondents 20% of them said that it is possible for tax planning to help in healthy growth of economy. The tax laws grant various concession and reliefs to uplift the backward sectors of the economy. As a result, the economy of the country will bust up. Similarly, 30% of the respondent pointed out that it is impossible for tax planning to help in healthy growth of economy and the remaining 50% of the respondent's opinion is that tax planning can help to some extent in healthy growth of economy.

Here when asked with the respondents are they satisfied if rebate is provided to industries situated in remote areas only, 75% of them said that it is fair enough as taking into consideration of all the difficult factors and problems that those industry will face and is facing having being located in remote areas. Similarly remaining 25% of the respondents think that it is very much unfair every industry should get rebate. These all respondents want that the rebate should also be given to the industry situated in metro areas as these industry also contribute in the economic sector of the country. Otherwise as a result this industry will be bound to plan tax through illegal ways and the harm is finally to the economic condition of the country.

Among the respondents 20% of the respondents think that yes there are a lot of problems in tax planning practice in Nepal. They said that no one knows what is tax planning, how it is done and all they are only paying tax in different ways .

Similarly, 0% of the respondents said there is not any problem in tax planning practice in Nepal and 80% of the respondents said that the policies need to be changed/revived a little to make the tax planning problem less.

Among the respondents when asked to rank the different ways of making tax planning more effective then 60% of them ranked to encourage the tax payer to pay regular taxes in the no. 1 rank. All the tax payers are need to be encouraged to pay tax ,they are need to be motivated , they are need to be promoted and they are need to be marketed also.

Secondly priority is given to building awareness about tax planning. Awareness is the most necessary thing which will make the people to know their responsibility towards the country and the use of tax planning need to be done effectively to develop any country. So the main point is to create awareness to the people regarding tax so that the planning of tax can be done more effectively.

Third rank is given to provide knowledge to the people about tax planning. Only awareness is the half part of it the full part will be when they will have the complete knowledge about tax planning. For complete knowledge all the people can't go to colleges and take the class of taxation they need to taught through some kind of tricky and practical ways then only understand the term tax more clearly and I think that will be more effective.

Fourth rank is given to increase the rebate rate a bit more. Some people still think that the rebate rate provided by ITA, 2058 of Nepal is not satisfactory. They still are demanding for the increment in rebate rate provided to increase a bit more . If the large number of population is demanding for the increment in rebate percentage then government must listen to them carefully if only the country wants that tax planning is to be done effectively.

Fifth and the last rank is given to rebate should also be given to industries located in municipality areas. As this is the last ranked options so the first priority should be given to above four but we can't ignore this one also as the respondents also pointed out towards this options. They are demanding to the government not to be partial regarding industrial set up they want the government to see every industry through one eye. They also agree that if not fully partial rebate can be given to them having the establishment of industry in the metro areas.

## **5.2 Conclusion**

Finally, it can be explained that no respondent stats their weakness. All of the respondents said that are always in favor of the tax law. They always support the norms of the tax law. Most of the respondents said that the government has provided various facilities to them on the law but the government has not been able to implement that system of the law in practical life. The government has made strict punishment for those who violates the tax law but there is less moral support and subsidies for those who respected the law. The government always looks them as a means of revenue collection. But the government has not helped on their operating problem, strategic problem and existing problem. They said that the government is idle in their problems but active for charging tax.

In fact, there was discrimination of the government to look after and behave the large and small scale industries. They explained that tax evasion and tax avoidance are made by the tax payers on the support of tax administrators. Even tax administrators do not pay their duties and responsibilities equally. As a result, the norms of the tax law also take advantage of the loopholes and tax evasion behavior of the tax payers. There is not correct implementation of the tax law in practice for those who makes the tax law violated and ignore it for the personal interest. Similarly due to lack of timely administration there is imbalance in the system of tax law.

Indeed, we can say that tax concessions, rebates, subsidies, allowances, etc have given priorities to remote, underdeveloped and undeveloped areas. But only such facilities can not promote the industries in those areas until there is infrastructural development like road, bridge, communication, water supply, electricity, market, labor, technology, etc. Few years back government has not made any development program as a result the condition of the industries were going to be worse but now it is quite good. So, the main point is unless there will be balanced development, such tax facilities can not make stable tax revenue or increase tax revenue or control tax evasion behavior of tax payer.

In addition there is increasing habit of tax evasion in some taxpayers but the tax administrators do not control such behavior. They also participate for the benefit of such evasion. So they make individual discrimination for tax evasion. Because of the negligence and support the tax evasion behavior is increasing. It means that there is vast gap between theory and practice. Some tax payers search for loopholes of the tax law and take advantage of them. This is legal but unethical which also affect the revenue of the government. This means that tax payer try to reduce tax liabilities at any cost.

On the other hand, as income tax is administered directly by Inland Revenue Department so it is responsible for the implementation and administration of the Act. Nepal government is the highest authority of the tax administration. The act has empowered Nepal government to establish tax offices of the department and prescribe their jurisdiction by Nepal Gazette to facilitate the department in fulfilling its responsibilities. Thus we can say that the rules and regulation of tax administration are very systematic in theory but incomplete in practice. By establishing many more tax offices, the government has increased over staffing and expenses. So, over staffing should be controlled and there should regular

supervision of every staff for their duties. It means that every transaction should be transparent.

Similarly, the act has provided tax planning facilities to avoid illegal and unethical behavior of the tax payers. But the tax payers feel the difficulty to complete the criteria of tax planning. They have not been able to get moral support of the public. They have to bear more expenses for labor, materials, transportation, fuel, go down, insurance and so on but could not price according to cost. It means that they are obliged to charge more cost which the general people could not afford. People strike for the high price of the product. But the government does not provide subsidies to reduce price. Because of poor condition of the company, they cannot earn more so that the tax planning cannot be effective in this condition. As a result, they are obliged for tax evasion and tax avoidance for the payment of less tax.

As the matter of fact tax law is not clear and special in terms of language, section, sub-section, etc. Such type of confusion makes puzzles to the tax payers. They had to call for the tax experts even for the general tax planning as a result extra cost will be added. They conclude that there should be good facilities of tax related training for every tax payers. Regular trainings help the tax payers to manage the taxes using the various facilities provided by the law. As a result, they are encouraged for tax planning at every aspect of their activities.

Likewise the tax payers with respect of paying tax is entitled to enjoy the right to get respectful behavior, right to receive tax related information as per prevailing laws, right to get the opportunity of submitting proof in favor in respect of tax matters, right to appoint lawyers or auditors for defense etc as per section 74 of the act. Even though the tax payers have not utilized such rights in a right way. Tax

payers still explained that such rights were not still enough for the proper knowledge and use of tax planning.

In respect of duties of tax payers, the act has not categorically specified the duties of the taxpayers. However to enjoy the rights as per the Act, they are required to fulfill some duties to register and get Permanent Account Number (PAN) to follow accounting method prescribed by Nepal Government, to pay tax within stipulated time and place, to pay tax in installments or deduct tax at source and so on. But the taxpayers try to fulfill their duties by the false matter of statement. Indeed, they want to be safe in the name of tax law by twisting the fact. So, the theoretical approach has not been applied in practical approach.

The government of Nepal has thus rationalize the corporate tax rate structure so much so that it is now compatible with many other low tax rate countries. In fact, Nepal has fallen in the line with the general international trend of lowering down the corporate tax rate and is the right step.

Tax incentive is yet another constituent of tax structure as it results in lowering down of the effective tax rate. Tax incentives may mean partial and complete exemption from one or a variety of taxes and special allowances, generally for a limited period of time. Like many other developing nations, various tax exemptions are provided in Nepal also under the ITA and industrial Enterprises Act with the view of promoting saving and investment in the country in the desired direction. These incentive include among others, tax holiday, extra shift allowances and initial depreciation in addition to normal depreciation allowance, tax exemption on income from export business, tax concession to companies located in industry backward areas, tax exemption of dividend income and so on.

In my study as I considered 40 respondents for my survey I got that among them those who are attached with the firm I mean doing business they responded very boldly regarding the weakness of the tax planning in Nepal but those who are not paying much tax such as professionals are not very much interested in going deep in order to plan tax and are less conscious regarding the pros and cons of scope of tax planning in Nepal. They all know that the tax planning can help in the betterment of the economic condition of the country but none of them are interested in planning tax because there is no point in taking in consideration the term tax planning as the government takes less actions regarding punishment and rewarding. Therefore we can say that it is the bad luck of the country that all its people are knowingly performing the illegal ways for tax planning and are blaming the government for not taking their opinion under consideration while making the tax laws.

Here during my study the main thing that I found out was that no person is satisfied with the theory and practice of Nepal government in the field of taxation. Even though the tax planning is being done in Nepal it is done through illegal ways also that means the tax payers are not satisfied with the rules and regulation regarding taxation in Nepal. The best thing is that in fact of these all the people are considering the term tax planning to reduce their tax liability to some extent. During my survey I also noted down one thing that all the educated person are aware of the term tax planning and they all know that tax planning can save tax liability and increase the earnings. They are mostly dissatisfied from the fact that rebate is only provided to the industries situated in the remote areas, they want that every industries should get rebate. And last but not the least sad thing about tax is that every tax payers are searching and enjoying the loopholes of the act in order to reduce tax liability. And for all these they are using different ways and methods which are completely legal as a matter of fact the economic condition of the country is not able to boost up.

In conclusion every respondents accepted that they are under the rules and regulation of the tax law. Similarly, they commented to the government's weak pints. They mentioned difficulties of tax Act and said that tax evasion was made by the support of the tax administrator. There was a vast difference in the treatment of large and small scale industries even for the same matter. Indeed, they accepted that there is vast gap between theory part and practical part of tax planning by the government of Nepal.

Finally, the specific results obtained by the deep study of the 40 sample professionals mainly of Kathmandu valley made on the title of study on the Scope of Tax Planning Under Income Tax Act 2058 in Nepal are as follows:

1. For any country to get developed it is very much necessary to develop its economic condition. Here to develop economic condition means there should be enough resources of income through which the country could collect royalty from the public and can use those funds in the field of development. Economic development is directly concern with the money matters, i.e., there should be enough money in the country so that it can boost its economy.

Government makes different plans and project for its economic development, it uses different resources for the collection of money among those different resources taxation is also one of the major means for the collection of money by the government of the country. In fact it is the one of the most easy and convenient resources but the only problem is that the government is not paying much attention to this major resource of economy for the country. As mentioned earlier no one is satisfied in the country regarding the tax rates and provision existing in the present Act. So, there is very much frustration is building up among the people which is resulting in the planning of tax through illegal ways. The conclusion for this is to encourage people by hearing them and try to bent or make flexible the Act so that everybody will be satisfied and

the next thing is that the government should give them knowledge regarding tax so that they will plan tax in proper way. As a result the fund collection of government will increase and that will have direct impact on the economy of the country.

Tax law is granting many concessions and reliefs to the industries situated in the remote and backward areas. The target of the country in providing these rebates and concessions is to promote and uplift the backward region of the country because for the development of the economy we all must start from the weak sectors of the country. And in fact it is helping a lot to promote and uplift the backwards areas as so many industries already established over there and so many are planning to get established. And when the industries will start there the people of those areas will be employed, they will get to know different things, they will get in touch with the other part of the country and as a result their standard of living will increase. This is what is the plan of the government to increase the standard of the people of backward areas and to encourage them to contribute in the economy of the country. Unless and until the people will get educated and unless they know the actual situation of the country they can't do anything even they have the capacity to do, so the first and the foremost thing of the government is to give them knowledge that how the fund provided by them come back to them indirectly only then the people will take interest in contributing towards the country. The tax laws grant various concession and reliefs to uplift the backward sectors of the economy. As a result, the economy of the country will boost up. In this way by planning the tax every country can grow their economic position, so the phrase, "Healthy Growth of Economy through Tax Planning" is absolutely right.

2. As we all know tax planning is the planning of future activities that affect tax with an objective of reducing tax liability. Tax planning is to take full

advantage of the facilities provided by the tax laws. Tax planning is defined as a scheme whereby the tax payers 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 tax liability. It is legal, ethical and economic. It is legitimate device of minimizing tax burden. Tax planning is avoiding tax by availing of various relief's and concessions provided within the four corners of tax law.

We know that, there was great scope of tax planning in most of the countries of the world during 1950's to 1980's. Developed countries provided investment allowance and accelerated depreciation, where as developing countries provided tax holidays for the purpose of promoting the investment. In Nepal, Industrial Enterprises Act, 2018 B.S., Industrial Enterprise Act, 2031, Industrial Enterprise Act, 2038 and Industrial Enterprise Act, 2049 provided many types of tax facilities to Industrial sector.

After 1990's the trend of tap system reversed. Now, there is fashion of reducing tax facilities provided to the industrial sector. "Low rate wide net" is the main slogan of the current taxation system. Income Tax Act, 2058 has reduce the scope of tax planning to a great extent by abolishing all the tax related provisions under Industrial Enterprise Act, 2049 and other respective Acts. The new Act has widened the tax base by bringing in all income into tax brackets.

As the term tax planning means saving earnings by reducing tax liability every people of the country are saving their earnings through different means under

tax planning. They are using different means under both long term and short term tax planning. The different ways under different terms are as follows:-

**I. Tax Planning under long term/ Strategic Expenditure:**

- a. Selection of Business
- b. Selection of Product
- c. Selection of organizational form
- d. Selection of Location
- e. Merger
- f. Selection of the sources of capital
- g. Selection of the method of production (Sec. 11 sub-Sec.3)

**II. Tax Planning under Medium and Short Term**

- a. Make or buy decision
- b. Repair (Sec. 16)
- c. Loss recovery
- d. Pollution control (Sec. 17)
- e. R & D (Sec. 18)
- f. Depreciation (Sec. 19 and Annex 2 of the Act)
- g. Stock Valuation
- h. Donation (Sec. 12)
- i. Retention or Distribution

**5.3 Recommendations**

By supporting the all summary and conclusion, we found that scope of tax planning is known by each and every people but the degree of scope depends upon the strategy and plan made by the people. People who earns a lot of income have to reduce their tax liability through different scope provided by the law as by reducing tax liability they can save a huge amount of their income but for those

who earns not enough money are not interested to plan for their tax as they will not be able to save a huge amount of money as a result they doesn't consider the term tax planning in their tax paying habit. There is not proper administration about the implementation of tax planning in Nepal. Only the rules and policies could not be enough for the collection of the correct tax revenues. There should be regular support and supervision of the government so that any problem seen at the time of implementation of tax planning could be easily solved. Indeed, there should be positive support of every aspect for the proper implementation of tax planning in Nepal. In conclusion tax planning has not been implemented according to the theory, practice lacks in many companies and people's tax planning behavior.

An attempt is therefore made here to offer some important suggestions which have merged from the above study. These study might be helpful for all those who are willing to know about tax planning, and what should be done in order to generate more tax from the people and firm of the country. Some of the important recommendation merged from this particular thesis are as follows:-

- 1) Tax rate should be reduced
- 2) Tax administrative should be made efficient
- 3) Illegal business should be controlled
- 4) Tax law should be made simple to understand
- 5) Loopholes should be filled
- 6) Every industry should be get rebate
- 7) Provide knowledge to people regarding tax planning
- 8) Tax payers have to be encouraged
- 9) Rebate rate should be increase a bit more

### **1) Tax Rate should be Reduced**

Tax rate provided by Income Tax Act, 2058 in Nepal is still not satisfactory. So, Taking that in consideration the law should be studied and examine one more time and try to deduct the rate as much as possible and it also be considered that there should not be much deduction in unwanted areas. So, considering the survey done in this thesis I suggest the government to reduce the tax rate where and how it is possible.

### **2) Tax administrative should be made Efficient**

he officers in the tax offices does not perform their task effectively instead they demotivate the people who came to pay tax for the country by making them run here and there and the most tragedy part is that we go to tax office to pay the tax not to take money back from them. I think tax payers should get some kind of respect because they are one of the helping hands of the country, they are contributing to the economic sectors of the country and they are helping country to get developed. The tax administration should work efficiently if the country wants to stop tax planning to be done illegally because tax administration plays a vital role in making people pay tax legally. The officers of tax offices should be very much efficient to make people understand about the pros and cons of paying and not paying the tax then only people will starts paying tax legally instead of finding the tax payment through illegal ways. So, the government must do something to make their tax administrative much more efficient.

### **3) Illegal business should be Controlled**

As the people does illegal business so they have to plan tax through illegal ways because if they will plan tax legally of illegal business they will get caught and will be punished according to the law. It is very clear that to stop tax planning to be done in illegal ways the widespread illegal business is to be stopped if not possible then try to control it by making the law a bit flexible in terms of tax

planning. Government should discourage people from performing illegal business either by making them know how they can earn money through legal businesses or making the country force and law a bit tighter in terms of illegal business. And last but not the least is to make the people aware of the scope of tax planning because most of the people are not aware of the scope of tax planning and when they will come to know the exactly what are the Scope of Tax Planning provided by Income Tax Act, 2058 of Nepal I think the illegal business will automatically starts coming to the end.

#### **4) Tax law should be made simple to Understand**

As the law of income tax of Nepal is made by different educated and efficient persons of Nepal but they have to consider the average people who are living in Nepal while making the law because there are tax payers who belongs to this category more .So the tax law is to be such that one can understand just by going thoroughly if they have to read it deeply or they have to take extra classes to know the taxation in Nepal then they will get frustrated and will try finding the loopholes or they will try to plan tax illegally. So the law of taxation should not be made that complicated it should be as simple as possible so that the people from any background can get it by once you speak to them or by once they will go through the books of taxation in Nepal.

#### **5) Loopholes should be Filled**

Each and every tax payers are enjoying a lot the loopholes present in the Act so now it s time for the government to fill those acts and make the Act loophole less. For that purpose the government has to provide a good rate in taxation, should know what the tax payers actually want and why they are so much eager in enjoying those loopholes which are present in the act. obviously the tax payers are doing these things because they want to reduce their tax liability so the

government have to give them other means to reduce their tax liability then no tax payer will concentrate on enjoying the loopholes.

#### **6) Every Industry Should Get Rebate**

This is only one thing that the people having industries in metro areas are saying that it is not fair enough to provide rebate only to the industry located in remote areas they should also get rebate . And I too think they are right to some extent, as they contribute in equal or in more manners in the development so partiality should not be done with them. They also agree that if not fully partial rebate can be given to them having the establishment of industry in the metro areas. They are demanding to the government not to be partial regarding industrial set up they want the government to see every industry through one eye. The government has to take in consideration that all the industries are their children which are going to help it in every way they can so as the mother is not partial towards one of her children in the same way government should also not be partial toward the industry and its set up.

#### **7) Provide knowledge to People Regarding Tax Planning**

Only awareness is the half part of it the full part will be when they will have the complete knowledge about tax planning. For complete knowledge all the people can't go to colleges and take the class of taxation they need to taught through some kind of tricky and practical ways then only understand the term tax more clearly and I think that will be more effective. Certainly everyone can't understand the book and the teachers language so they are need to be teaches through some kind of unique means in order to provide them knowledge about tax planning. And this responsibility should be taken by the tax offices and government then only people will be aware of the term tax otherwise they will be in the dark and will go on cheating tax through different illegal means to reduce tax to be paid as a result finally it will be affecting the economic condition of the country.

### **8) Tax payers have to be Encouraged**

All the tax payers are need to be encouraged to pay tax ,they are need to be motivated , they are need to be promoted and they are need to be marketed also. Tax payers can be motivated by making them loyal towards the country, this can be done by saying them exactly why and how the country need them and their attention to get developed and to compete with the other countries . Tax payers can be promoted by making them famous through the newspaper and magazine making the heading as the habit of their paying tax regularly and with proper tax planning. They are needed to be marketed by publishing their firm in tax paying magazine as one of the properly paying tax company. These all things will really encourages tax payers to pay regular tax and seeing these all other people will also starts paying regular tax to get these types of attention and as a result we can make the tax planning more effective and that is our main concern.

### **9) Rebate rate should be increased a Bit More**

Some people still think that the rebate rate provided by ITA, 2058 of Nepal is not satisfactory. They still are demanding for the increment in rebate rate provided to increase a bit more. Now the government should survey about this that how much percentage of the people are demanding the increment in rebate and from which category of population they belongs. If they belong from the category of high tax payers then that should be implemented as fast as possible and as much as possible. And if they are from the lower earnings and lower tax payers then there is no need to get worried these people keep on saying these things because they don't have enough knowledge about tax and more then that economic situation of the country. So survey is must and the government must take action regarding any kind of tax dissatisfaction of the people mainly of those who pays a huge amount of tax and who contribute a lot in terms of economic condition to the country. So if the large number of population is demanding for the increment in rebate

percentage then government must listen to them carefully if only the country wants that tax planning is to be done effectively.

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## QUESTIONNAIRE

Dear Sir/Madam,

This questionnaire is concerned with the research on “Scope of Tax Planning under Income Tax Act, 2058 in Nepal”. It would be very much appreciated if u could spend some of your valuable time for filling this questionnaire. Please either tick your answer or put in order of preference by ranking the options given from most to least if there are option more then four.

1. Do you believe that Tax Planning is being practiced in Nepal?

(A) Yes ( )      (B) No ( )

2. Are u considering the term tax planning to reduce your tax liability ?

(A) Yes ( )      (B) No ( )

3. Do you think Tax Planning in Nepal is done through Illegal ways only?

(A) Yes ( )      (B) No ( )

4. If yes, what are the causes do you think are responsible?

(A) Higher income tax rate ( )

(B) Tax administrative inefficiency ( )

- (C) Widespread illegal business ( )
- (D) High corruption in Nepal ( )
- (E) Poor tax paying habit ( )
- (F) Complicated income tax law ( )
- (G) Political indiscipline ( )

5. In what ways are you saving your earnings by reducing tax liability under long term tax planning

- (A) By changing the nature of the business ( )
- (B) By changing the form of organization ( )
- (C) By changing the location of the industry ( )
- (D) By making changes in the capital structure ( )
- (E) By changing the size of the business ( )
- (F) By merging the business ( )

6. In what ways are you saving your earnings by reducing tax liability under long term tax planning ?

- (A) By taking care of everything while acquisition of assets ( )
- (B) By taking care while deducting repair and improvement cost ( )
- (C) By considering pollution control cost ( )
- (D) By considering research and development cost ( )
- (E) By deducting donation ( )
- (F) By taking good care while making loss recovery ( )

7. Is existing rebate provided by Income Tax Act, 2058 satisfactory?

- (A) It is O.K

- (B) It should be reduced more
  - (C) It should be increased a little
  - (D) Don't know
8. What do you think about charging less tax to the industries situated in remote areas?
- (A) It is encouraging
  - (B) It is worthless
  - (C) Nobody is conscious toward that
9. Do you think that the tax payers are enjoying the loopholes of the Act?
- (A) Yes ( )                      (B) No ( )
10. If yes, which of the following methods are used?
- (A) Diverging income or assets to lower taxable entities ( )
  - (B) Paying salaries, benefits and interest to family members ( )
  - (C) Transferring income to wife or minor child ( )
  - (D) Forming trust and other philanthropic institution and taking unnecessary advantage ( )
  - (E) Transferring income and assets to non-resident ( )
11. Do you think tax planning helps in productive investment?
- (A) Yes ( )                      (B) No ( )
12. What is your opinion on, "Healthy growth of economy through Tax Planning"?
- (A) It is possible

- (B) It is impossible
- (C) It can help to some extent

13. What is your opinion on providing tax rebate to industries situated in remote areas?

- (A) It is fair enough
- (B) It is not fair every industries should get rebate

14. Do you think that there are problems in tax planning practice in Nepal ?

- (A) Yes, a lot
- (B) No, there is not
- (C) Need to be changed/revive the policies a little

15. In your opinion what should be done to make the tax planning more effective?

- (A) Increase the rebate rate a bit more (    )
- (B) Rebate should also be given to industries located in municipality areas (    )
- (C) To provide knowledge to the people about Tax Planning (    )
- (D) To encourage the tax payers to pay regular taxes (    )
- (E) Building awareness about Tax Planning (    )

Name of the respondent: - .....

Name of the company/office/firm: - .....

Position:- .....