

CHAPTER -I

INTRODUCTION

1.1 Background

The words 'tax planning' is the combination of two words 'tax' and 'planning'. Tax means compulsory contribution from a person to the government to defray expenses incurred in the common interest of all and planning is the process of deciding about where to go and how to get there in advance by choosing the best from different alternatives so as to obtain the best result in future. Every business organization uses to plan as regard to may be short term, long term or medium term. If tax factor is considered while planning the business activities of an organization, it is tax planning. In other words, tax planning is a branch of financial planning. It is to be done in advance with a view to minimizing or postponing the payment of tax within the framework of tax law. Moreover, it is a method of maximizing after tax profit considering the various tax benefits, including tax exemptions, deductions, concessions, rebate and relief permissible under the Act. In fact, tax planning analyses the effect of tax factor in a given case and helps to select an alternative which keeps the tax burden at minimum point by following legislative intentions.

Methods of tax planning depend upon the object sought to be achieved. Broadly speaking, tax planning may be short range or long range. In corporate level, tax planning includes operational planning, project planning and strategic planning. Operational planning refers to the future planning of existing operations in existing markets with existing customers to take immediate tax benefits under special circumstance. Project planning includes the generation, appraisal and working out the details of an action outside the scope of existing operations. Strategic

planning is the way of formulating long-run objectives and deciding on the resources for achieving them to take the tax advantages in the long time. However in the individual and family level short range tax planning may be the advantageous to reduce tax liability of their income.

There are three common methods of saving taxes viz. tax evasion, tax avoidance and tax planning. Tax evasion is the way of reducing tax liability by illegal means. Tax evasion includes hiding income or concealing the particulars of income or manipulating the accounts to overstate expenditure and other outgoings and understate incomes with a view to reducing profit and tax. Thus, tax evasion is illegal, unethical, and uneconomic as well. It is illegal because the law does not permit to evade the tax. It is unethical because the activity of not paying tax is against moral ethics. Similarly it is uneconomic because it promotes black money. So this device is highly risky to the tax evader. The tax evaders have to pay not only monetary penalty but also bear the risk of prosecution proceedings being launched against them.

Tax avoidance is a device which technically satisfies the requirement of the law but in fact it is not in accordance with the legislative intent. In addition tax avoidance is an attempt, to reduce incidence of tax by taking advantages of loopholes in tax laws. As regards tax avoidance, it is the art of dodging tax without actually breaking the law. Therefore tax avoidance is not durable and dependable because as a when the loopholes in tax law become public, the legislature steps in to plug them. Furthermore, it is a transaction entered into with full legal backing with the help of colourable devices, defeating the genuine spirit of law, twisting of facts, suppressing the legislative intent etc. Hence, it is also risk bearing because sometime the law may be amended with retrospective effect. Lastly, we can say that tax avoidance

is the reduction of tax liability through the manipulation of existing law. It is legally permissible but unethical.

Tax planning is neither 'tax avoidance' nor tax 'evasion'. For the purpose of enhancing investment environment in a country, the government provides different types of facilities to the business organization. Such facilities include reduction in tax rate, providing tax holiday, investment allowance, depreciation facilities etc. Tax planning means the scientific and systematic planning of such facilities so as to minimize tax liabilities or postponement of tax liability for the subsequent period. Tax planning is the planning of both the basic structure of the business and industry and its various projects from time to time in day to day activities for the maximization of benefits under the provision of present law of the nation. On the other hand, tax planning should not be missed for tax avoidance and tax evasion because they are clearly against the spirit of the law.

The correct approach in regard to tax planning has been formulated by Rangnath Mishra (Singh, 1993) a supreme court justice of India, in the case of M.C. Dowell in the following words: "Tax planning may be legitimate provided it is within the framework of law. Colourable devices can not be the part of tax planning and it is wrong to encourage or entertain the belief that it is honorable to avoid the payment of tax by resorting to dubious methods. It is the obligation of every citizen to pay tax honestly without resorting to subterfuges." In other words of Mishra, the legitimate device to reduce tax liability is tax planning.

Tax planning ensures not only accrual of tax benefits within the four corners of law but it also ensures that tax obligations are properly discharged to avoid penal provision. Besides, tax planning depends on the individual facts and circumstances of a case. A successful tax planning

possesses two attributes: the former is conformity with the current law and later is concerned with flexibility.

As a matter of fact indeed, a tax planner must have comprehensive knowledge of the tax laws, rules and notifications made thereupon, and the case laws that have developed on the statute. Under delegated legislation, the board may relax the rigours of the law or grant relief which is not there under the statute; the tax advisor must be aware of such benevolent circular/notification which is binding on the assessing authority. Besides, the tax planner must also possess requisite knowledge of the other branches of law, civil and personal, so that the tax planning scheme may not get defeated under the distributive social justice of jurisprudence where tax avoidance has been held unethical it causes loss of public revenue and adversely affects the economy of the country by introducing black money, causing inflation.

Whenever possible, a tax planning scheme must also be flexible, so that subsequent statutory changes may not nullify its success. Therefore, a tax planning scheme should be such as may provide suitable changes in view of the statutory amendments in the law. Flexibility is a practical concept and its introduction and utilization depends upon the circumstances of the case. Sometimes the flexibility may be of no avail. But wherever flexibility is permissible and possible, a tax planning scheme must be flexible, designed to avoid irretrievable situation. A successful tax planning scheme must envisage obtaining tax benefits by discharging statutory obligations so that fruits of tax planning may not be lost under the teeth of penal provisions.

1.2 Statement of the Problem

Tax policy of the government has its effects on production, consumption and distribution of national incomes as well as tax planning

of individuals and business. The tax planning concept was emerged to gain the high tax facilities provided by the income tax act 2031 and other rules in Nepal. Due to these facilities provided to industrial sector, there was the need of expert knowledge and tax research to find out the actual facilities provided and to act as per the law.

However, there are number of problems existing in tax planning in Nepal. On one hand, the income tax Act 2058 has challenged the scope of tax planning. So the scope of the planning is reduced to some extent in these days. Nepalese government also has changed its course and abolished most of the tax facilities provided by industrial enterprise acts. On the other hand, due to over influences of tax evasion and avoidance, most of the taxpayers have ignored tax planning. Source of income of government, as well as taxpayers is very low in Nepal. Hence, there is serious problem to balance the interest of both and to create the healthy and investing environment in the country.

Consequently, to overcome these problems, proper use and implementation of tax planning is indispensable. The tax planning reforms are urgent from both administrative and taxpayer level. The government of Nepal is not positive as regards to tax planning though it is not an illegal and immoral activity. Tax administration people take tax planning as the work not permitted by the law. People in developing nations tend to have greater propensity to avoid tax. This is so because the probability of being caught and consequences of it are not very serious.

This study has the serious problem that being a legal, ethical, economic and dignified way, why tax planning has not implemented in a proper and rapid way in Nepal. To discourage the other means of tax reducing and to encourage the healthy growth of economy tax planning reforms are essential. For the proper economic development of country,

the government should promote the tax planning and control over the other devices of reducing tax. In contrast the government of Nepal has reduced only the scope of tax planning but not implemented the effective control mechanism to discourage the tax evasion and tax avoidance. Therefore, the proper tax administration is also essential for smooth application of tax planning and its reform in the context of Nepal. Modernizing tax planning can be the major device to discourage the other devices. As a result, the effective mobilization of resources would be applicable. Some specific problems are as follows:

- a. Whether there is adequate scope of tax planning or not?
- b. What are the obstacles to reform tax planning?
- c. What is the degree of modernizing of tax planning in Nepal?
- d. What is the scope of tax planning in Nepal?
- e. Is there any lack of trained manpower for the application of tax planning?
- f. What is the situation of tax consciousness among general public?
- g. Whether there is carefully designed and integrated tax information system or not?

1.3 Objective and Importance of the Study

Tax planning is the art of minimizing or postponing the payment of tax through the help of facilities mentioned in the tax laws. Besides tax planning ensures not only accrual of tax benefits within the quarters of law but also it ensures that tax obligation is properly discharged to avoid penal provision. In addition tax planning is a branch of financial planning, through which taxpayer takes advantage of the various tax benefits, including exemptions and deductions. While involved in managerial decision making, whether at strategic planning level, project planning level or operational planning level, one needs to be fully conscious of the tax implications in depth. It is also worth mentioning that if a tax relief is not claimed by the time of assessment, the same

cannot be claimed in future and the benefits would be lost for ever. Under the provision of self assessment of income tax, the assessee can make tax plan for every business activities from its establishment, operation to the dissolution. If the entrepreneurs are aware about tax planning facilities then only the intentions of government such as the creation of business environment, balanced development of country, reduction of tax evasion and tax avoidance etc. are achieved. The main focus goes to the application and obstacles in the modernizing path of tax planning in Nepal. Moreover, this study compares the past as well as present trend of businessmen used to reduce the tax liability. Whether tax planning is moving in the path of reformation or not and at what degree is it improving. Furthermore, how much tax planning is succession to overcome the tax evasion and tax avoidance problems, if Nepal government is supporting in this path or not through different acts.

The study is thus, expected to benefit corporate planners, entrepreneurs, managers, taxation authorities, academic and so on. Moreover, so far as known to the researcher, no study on tax planning reforms in Nepal has been conducted yet present. The present study thus fills in this important gap. In view of the above, tax planning reform is considered to be essential. The specific objectives of the study are:

- i. To compare the past and present application of tax planning in Nepal so as to point out its degree of reform.
- ii. To examine all the obstacles and challenges which are breaking the modernization path of tax planning?
- iii. To examine the contribution of tax assessee as well as government and tax authorities for enhancing the tax planning.
- iv. To analyze tax planning practices followed by Nepalese business firms.

- v. To analyze the income tax act 2058 with past act 2031 to draw a conclusion of tax planning reform.
- vi. To highlight the applicability and scope of tax planning in Nepal.
- vii. To find result about the contribution of tax planning for the economic development of Nepal.
- viii. To offer suggestions for improving tax planning art in a dignified way.

1.4 Limitations of the Study

Every study cannot incorporate the subject matters of distinct scopes. In the same way this study has also the certain limitations which directly and indirectly affect the definite objective, methodology and organization of the study are:

1. This study is concerned about the modernization path of tax planning habit of tax assessee to reduce the tax liability by using the legislative device only.
2. This study is unable of planning all types of taxes in a particular basis. Therefore, reformation of tax planning of income tax only is highly pinpointed.
3. The study is highly from the point of view of assessee and a little bit from the point of view of tax authorities/administration.
4. Most chapters of this study except opinion survey are based on secondary data.
5. Due to the nature of study, it is mainly based on qualitative data rather than quantitative data.
6. There is not good business environment maintained in Nepal till now. So it is also the major problem to collect reliable and valid as well as published data. This study also can not escape from this limitation.

7. Lack of sufficient resources and time is another limitation of this study.
8. Tax planning is a critical art and requires advance and comprehensive knowledge of tax laws as well as others. Consequently this study includes the opinion of only 30 experts for primary data.
9. The study is held for the fulfillment of partial requirement of MBS and has to be conducted and submitted within the time period.

The above limitation, no doubt, has some direct and indirect impact on quality of the study; however such impact will not affect the usefulness of the study in a significant manner. Unquestionably, this study will open the door for further study in the area of tax planning.

1.5 Organization of the Study

The study has been organized into five chapters, each devoted to some aspects of modernizing and reforming of tax planning in Nepal. The five major chapters of this dissertation are as follows:

Chapter 1: Introduction

Chapter 2: Review of literature

Chapter 3: Research methodology

Chapter 4: Presentation and analysis of data

Chapter 5: Summary, conclusion and recommendation

Chapter I: It includes introduction of the study, statement of problem, objective of the study, rationale of the study, research methodology, and limitation of the study and organization of the study.

Chapter II: This chapter is devoted to historical as well as 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: This chapter deals with the research methodology applied for the solution of the research problem or statement. This chapter deals with research design, nature and sources of data, population and sample, data collection procedure, and data presentation and analysis.

Chapter IV: This chapter deals with processing, presentation and analysis of relevant data and statistics using various analytical tools which are indispensable to analyze and interpret the results.

Chapter V: This chapter states summary, conclusion and recommendation of the study founded. In addition, this chapter presents the major findings and compares between the past and present tax planning tendency and its magnitude of reformation. It offers recommendation to make it effective for the economic development of the nation. Furthermore, this chapter offers several avenues for future research.

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 framework would be helpful for gathering various knowledge and experiences. So, the conceptual framework contains following experiences and background:

Different Ways of Minimizing the Tax Liabilities

Most of the people don't wish to pay any more taxes than their obligations permit, legitimate and sometimes questionable tax minimization schemes or practices are adopted in order to reduce tax liability. People should pay some part of his saving to the government; it is painful to the tax payer. Due to this painfulness, some persons have compared income tax with the death or delivery of a child. Since it is painful; everyone wants to reduce tax liabilities as far as possible.

There are different ways of reducing tax liabilities. They are tax evasion, tax avoidance, tax delinquency and tax planning as discussed below:

2.1.1 Tax Evasion

It is the way of reducing tax by illegal means. "Action by which the tax payer which entails breaking the law and which more over can be shown to have been taken with the intention of escaping payment of tax,"(Goenka,1985) is regarded as tax evasion. Tax evasion is done through non-reporting of income, under reporting of income, making fraudulent changes in account books, maintaining multiple sets of accounts, over reporting of expenses etc.

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 wrong statistics leading to error in government policies.

2.1.2 Tax Avoidance

“Tax avoidance is the art of dodging tax without actually breaking the law”(Srinivas,1989). In other words, it is a transaction entered into with full legal backing. However such activities are of those kinds that the legislature does not want to encourage. The following are the criteria used by English Indian court to find out tax avoidance:

-) Use of colourable devices.
-) Defeating the genuine spirit of law.
-) Twisting of facts, taking only strict spirit of law and suppressing the legislative intent.

Sec 35 of Income Tax Act, 2058 has defined tax avoidance as any means or arrangement, one of the main purposes of which is the avoidance or reduction of tax liability. This act has made the provision against tax avoidance sec 35 of the act has given certain rights to Inland Revenue Department to Minimize tax avoidance.

2.1.3 Tax Delinquency

Tax delinquency is also one 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 the 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, government 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 objectives (Kadal, 2004) of:

-) Reducing of tax liabilities
-) Minimization of litigation.
-) Productive investment
-) Healthy investment
-) Healthy growth of the economy and
-) Economic stability.

2.1.5 Features of Tax Planning

The features (Bhattarai and Koirala,2004) of tax planning can be explained as follows:

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

2.1.6 Tax Incentives

The economic development of any country depends to a large extent on investment in the corporate sector. Corporate investment in its turn depends upon the ability and willingness of the investors to invest. The willingness to invest depends upon the after tax profitability of investment. While the ability to pay depends upon the availability of internal and external funds.

Tax incentive is becoming an integral part of the tax system for accelerating the pace of industrialization in the most of the developing countries. The incentives to invest arise from relaxation in normal taxation rules which curtail the tax burden and thus increase the profitability of a particular investment activity. Tax incentives involve cost in the form of loss of revenue to the government but at the same time it results in corporate saving and investments.

The necessity for offering tax incentives is felt basically for two reasons: Stretching the scope of tax beyond its revenue objective to achieve certain socio-economic ends and to mitigate the adverse impact of high taxation a corporate savings and investment activities. It is generally felt that tax incentives are valuable as an indirect stimulus to invest insofar as they enhance the investment climate of the country.

It is necessary that one should keep a view that the value of tax incentives which are generally deducted from the base of corporate tax. Thus, the base for corporate income would depend on the commercial profits plus partially and completely disallowed minus tax concessions or incentives. These incentives are: investment allowance, investment tax credit, development rebates, tax holiday, liberal carry back or carry forward of losses, investment grants, deduction of interest payment to

domestic or foreign creditors, development of backward regions, rehabilitation of industries and other incentives. These tax incentives have always been an important part of corporate tax system, because it is an important instrument in accelerating the pace of economic growth through mobilizing saving and investment, and its type, size and magnitude varies according to the needs and aspirations of the people. In order to provide greater coverage of tax incentives, the alternative use of fiscal concessions in the form of tax credit is also enjoyed by companies, which make their liabilities lower. The corporate tax rate structure of individual combined with tax rate structure which was assessed was separated in 1986-87. In the same year, the system of progressive tax rate was replaced by flat rate system making the computation of tax easier. Not only that, There was also substantial reducing in corporate tax rate which may now said to be internationally compatible. Such a rationalization in the corporate tax rate by Nepal government is a step in the right direction. On the whole, there had been rationalization of the corporate tax rate structure all over the world. Countries with high tax rate had tried to lower down the same with the passes of time. As a result, the wide gap in the tax rate that existed in 1976 narrowed down considerably by the year 1995. Nepal had fallen in line with the general international trend in the area of corporate tax. Tax incentives in the form of tax concessions, exemptions and deductions have been an important feature of the Nepalese corporate tax system. These incentives have been introduced from time to time to promote economic growth by mobilizing saving and tier investments according to plan priorities of Nepal. Tax act and industrial enterprises act of Nepal also offer certain common incentives like tax holiday, extra-shift and initial depression allowance, and tax exemption on income from export business tax concessions to companies located in industrially backward areas and so on.

2.1.7 Importance of Tax Planning

Tax is the payment of money by a person to the government. Because of the involvement of money in tax paying, it is a burden to the tax payer. So, each and every tax payer wants to reduce it. The reduced liability on the other hand, induces the people or investor to do the extra investment work. Due to this reason, government provides certain facilities to the public related to tax matters. It is also known that the use of such facilities by the people is tax planning. Tax planning has certain importance. They are:

- Tax planning saves tax and increases profitability.
- It avoids unnecessary worries, tensions and administrative hassles.
- It helps in using the facilities provided by the government and so on.

2.1.8 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 a performing other tax related duties.

2.1.9 Scope of Tax Planning Under Income Tax Act, 2058

We know that, there was great scope of tax planning in most of the countries of the world during 1950s to 1980s. 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 Enterprise Act, 2018 B.S. Industrial Enterprise Act 2031, Industrial Enterprise Act 2038 and Industrial

Enterprise Act, 2049 provide many types of tax facilities to industrial sector.

After 1990s the trend of tax system reversed. Now, there is fashion of reducing the 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 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 income into tax brackets. Under this Act, tax planning can be divided into two heads:

-) Strategic or long term tax planning, and
-) Operational or short –term tax planning.

A. Long Term/Strategic Tax Planning

The following can be the area of tax planning as per Income Tax Act. 2058 as regards long term planning:

1. Selection of Business

An entrepreneur can plan to minimize the tax by selecting those areas of business activities where the tax rate is minimized. As per Income Tax Act, 2058, different types of tax rates are applicable to different types of business activities. For example agricultural activities are tax-free. Business activities that are related to industrial sector except tobacco and alcohol, i.e. special industry should pay the tax at 20%. The business related to expert and construction of road, bridge, tunnel, ropeway, Sky Bridge, electricity generating and transmission etc. also should pay only 20 percent taxes. Business related to insurance, finance, and banking activity and petroleum industry, should pay 30% tax from their income. Other business except stated above, should pay 25% tax.

2. Selection of the Product

For the proper selection of the nature of the product, the investor should take care of benefits given by the government. The investor in hydropower generation, transmission or distribution and construction of infrastructure project should pay only 20% tax. Similarly, 30% tax for petroleum product. Industries related to tobacco and alcohol should pay tax at 25%. On the other hand, loss recovery period for BOT (Built and Transfer) and BOOT (Built, Own , Operate and Transfer) project is seven years with carry forward provision, whereas business organizations producing other products have the facilities of carrying forward of loss for four years.

3. Selection of the Form of Organization

There are three forms of business organization. They are proprietorship, partnership and company. Different types of tax facilities are provided to different forms of business organization. Proprietorship firms get exemption facility but a company and partnership do not. Progressive tax rate is applicable to proprietorship firm but fixed tax rate is applicable to a company. A company should pay double taxation to the government. I.e. one from the profit of a company and another from dividend received by in individual, whereas a partnership should not pay double taxation. Individual get medical facilities but companies do not. Individual should follow cash basis of accounting but a company should follow accrual system.

4. Selection of Location

As per income tax Act, 2058. Nepal is divided into four parts: Remote area, undeveloped area, under developed area and other area. Tax rate for underdeveloped area is 75% of ordinary rate, under developed area is 80% of the ordinary rate. These facilities are provided to special industries for ten years.

Similarly provisions of remote area allowance under income Tax Act 2058 are:

A class Area	Rs. 30000/-
B class Area	Rs. 24000/-
C class Area	Rs. 18000/-
D class Area	Rs. 12000/-
E class Area	Rs. 6000/-

The selection of the area can also be used for the purpose of tax planning in international context.

5. Selection of Sources of Capital

There are three sources of capital. They are share capital, debenture or loan and retained earnings. The rewards are dividend, interest and capital gain respectively. In Nepal, the tax rates applicable to each of this source of capital are different. Interest is taxed at 6% if loan is from natural person but dividend is taxed at 5% final withholding. In case of capital gain, tax rate is 10% for the gain on the disposal of non-business chargeable assets related to natural person where as the profit from the disposal of other assets is taxed at normal rate of profit. i.e. 20%, 30% and 25% for industrial firms, financial firms and other respectively. Accordingly, interest to a business organization is a deductible expense but dividend and capital gain are not. Since income Tax Act, 2058 also has favored debt, making interest deductible expenses; the firm can minimize tax by engaging more loans other forms of capital.

6. Size of Business

Size of business can also be used for the purpose of tax planning. If the business house are of those doing business of less than Rs 12,00,000 or has the annual income of less than Rs 1,20,000 the tax payer are within the area of presumptive taxation. According to Income Tax Act, 2058, such tax payer, should pay Rs, 2000 as taxation if the business is in

metropolitan or sub-metropolitan area. They should pay Rs 1,500 as tax if they are established in any municipality, area and Rs 1,000 if they are established in area other than metropolitan, sub-metropolitan and municipality. Furthermore, transporters should pay income tax for the income earned by vehicles at the rate of Rs 1,500 for bus, truck, minibus, minitruck etc. Rs 1200 for microbus, car, jeep, van etc. Rs 850 for three wheelers and auto-rickshaw and Rs 750 for power liter, tractor etc.

The number of employee can also be used for the purpose of tax planning, if one industry has more than 600 Nepalese employees, it should pay only 90% of ordinary rate (90% of 20).

7. Merging of Business

It is clear that according to Income Tax Act 2058, a trading business has the liability of paying 25% tax, where as an industrial firm should pay only 20% tax. The merging trading and industrial unit means vertical integration of a business. Thus, by integrating an industrial unit, a firm can save some percentage of the total tax to be paid to the government. The government has made this provision because merge helps for the healthy growth of enterprise. Furthermore, merging of loss-making unit to profit- making unit is also beneficial from the point of view of tax saving since the profit –making unit can adjusted to the loss of loss making unit.

B. Operational Planning or Short Term Tax Planning

1. Acquisition of Fixed Assets

Fixed assets like plant and machinery vehicle building etc. can be acquired by minimizing the tax liability with the help of tax planning. There are two alternatives to get fixed assets. They are buying and leasing. In case of purchasing, the organization can save tax by way of depreciation, where as in case of leasing, the tax can be saved by way of lease rent. If asset is purchased through borrowing, the interest on capital

can be deducted as expenditure. The organization should evaluate both of these alternatives while acquiring fixed assets.

2. Repair and Maintenance cost

According to Tax Act 2058, the business organization is allowed to deduct the repair and maintenance expenses from its income. However, there is limitation as regards to such expenditure. Only 7% of the depreciation base can be deducted as depreciation in one year. If the repair and maintenance cost is greater than 7% of the depreciation base, the excess of 7% can be capitalized and carried forward to next years. The organization can see tax implication in making repair and maintenance expenses also. In case of capitalized expenditure, there will be maintenance cost due to inflation factor. It means present value of future recovery will be less than the present value of present recovery.

3. Pollution Control Device

Income Tax Act, 2058 has allowed to deduct the expenses relating to purchasing or installing of pollution control device. However, there is limitation in this regard. Only 50% of the adjusted taxable profit can be deducted in one year and the remaining amount can be capitalized. Here adjusted taxable income means income before deducting donation, pollution control expenses and research and development expenses. While making such expenditure, it would be better to keep this within 50% of the adjusted taxable income.

4. Research and Development Expenses

According to Income Tax Act, 2058, research and development expenses are also calculated with the similar process. The limit of allowable expenditure is 50% of the adjusted taxable income and balance is capitalized. This is also helpful for tax planning.

As per Income Tax Act, 2058, cost of trading stock can be deducted. For the purpose of finding out of the value of closing stock cost price or market price whichever is less is allowed. For costing purpose, two methods are allowed by Income Tax Act, 2058. In case of cash accounting system, prime cost method should be adopted whereas in case of accrual accounting system, the absorption cost method is permitted. If cost of stock can not be determined, stock can be valued either in FIFO or Weighted Average Method. From tax angle, weighted average method is more beneficial as it produces higher profit and thereby decreases the tax liability.

5. Donation

A tax payer can deduct the donation made to tax-exempt organization of any income year. The limit of such donation should be actual amount donated or Rs one lakh or 5% of the adjusted taxable net profit notifying in Gazette, the government can allow unlimited amount of donation to certain institutions. As announced in finance ordinance, the donation made to Lumbini Development trust do not come within the limit of 5% up to Rs 50 lakhs can be contributed to there two trust can plan the amount of donation to minimize the tax burden.

6. Remuneration of Employee

There are still some more facilities given to employee by Income Tax Act, 2058, under which tax planning can be made. Such facilities are up to Rs 30,000 remote area allowance, meal and Tiffin expenses contribution to retirement fund, medical expenses or medical insurance cost of Rs 750, vehicle facility of up to 0.5% and house rent facility of 2% of the salary of the employees. If husband and wife of any person are employed, it will be beneficial to file separate return. But if only one person of the family is earning income, the joint return is beneficial.

2.1.10 Tax Planning for Various Types of Payments and Activities (Project Planning)

1. Remuneration

The corporate tax payers should pay careful attention while planning the remuneration of the employee. Tax planning in case of employee remuneration needs the study of tax law from both the point of views of employees and from the point of view of employer. Income Tax Act, 2058 has abolished most of the facilities provided by Income Tax Act, 2031. however, there are still some provisions which help to plan the tax in relation to remuneration. The following incomes are included in the remuneration of one employee.

- a) Payment of wages, salary, leave pay, overtime pay, fees, commissions, prizes, gifts, bonuses and other facilities.
- b) Payment of any personal allowance including cost of living, subsistence, rent, entertainment and transportation allowances.
- c) Payment providing any discharge or reimbursement of costs incurred by the individual or an associate of the individual.
- d) Payment for the agreement to any condition of the employment.
- e) Payment for the termination or loss of service or compulsory retirement;
- f) Retirement contributions including those paid by the employer to a recognized retirement fund in respect of the employee, and retirement payments.
- g) Other payments made in respect of the employment and
- h) Other amounts as perquisites and any gains due to changing in tax accounting required to be included.

From the view point of the employer, the following are the area where the tax planning can be made:

- a) The employer can provide facility either by providing residence to the employee or vehicle facility. However, the employer should consider that 2% of employee's remuneration as per sec 27 of the act and rule 13(2) of the Income Tax Rules should be included in taxable income. Accordingly, he can provide vehicle facility also to the employee by adding 0.5% of the remuneration of the employee to his taxable income.
Rule 21 of Income Tax Rule, 2059 says that the contribution limit to that retirement fund of a natural person in one financial year can be Rs 3 lakhs or one third of assessable income whichever is lower.
- b) An employee can save tax through increasing the magnitude of retirement contribution. Income Tax Rule, 2059 has allowed to deduct the remuneration from taxable income.
- c) The percent of net profit before tax can be given to the employees as bonus of the employees.
- d) If it is pension income of a resident person, 25% of Rs 80,000 in case of individual and Rs 100,000 plus 25% of Rs 100,000 in case of a couple.
- e) The employer provides the employee certain amounts of money where final with holding is made in place of regular amount of salary if the annual remuneration of the employee attracts 25% of the tax rate. The main reason of doing so is the less tax rate on with holding than on the regular amount of salary.

2. Self-Employment

Self-employment is to conduct earning activity without being engaged to any organized body. In being specific, self-employment denotes doing business on own behalf. It is also known as small scale business. Income Tax Act, 2058 has provided various facilities relating to an individual. A taxpayer as a self-employer can avail these facilities to

save his tax liability. Following are some area where self-employer can make tax planning.

3. Presumptive Taxation

Presumptive taxation is a system of taxation under which income tax is levied on average income in place of actual income. ITA, 2058 has made a provision of presumptive taxation for the small taxpayers whose annual turnover is up to Rs 12 lakhs and annual income is up to Rs 120,000 and who elects to apply this provision for the year. Such taxpayer is subjected to presumptive flat annual taxes. The rate to tax for individual conducting business in metropolitan or sub-metropolitan cities is Rs. 2000, in Municipalities Rs. 1500, and in anywhere in Nepal Rs. 1000. There is provision of presumptive taxation to those who earn income from operating vehicle also. The annual rates of income tax per vehicle are Rs. 1500 for minibus, mini truck, truck and bus, Rs. 1200 for car, jeep, van, and microbus, Rs 850 for three wheeler, auto rickshaw and tempo, in 750 for tractor and power tiller.

4. Exemption Limit and Progressive Tax Rate

According to Income Tax Act, 2058, proprietorship firms get exemption facility of Rs 1,00,000 if owner is individual and Rs 1,25,000 if the owner is couple. Progressive tax rate is applicable to proprietorship but fixed tax rate is applicable to a company. Further, progressive tax rate is lower than corporate tax rate.

5. Retirement Contribution

A self-employer can claim a reduction from his assessable income an amount Rs 300,000 or one third of his assessable income whichever is lower. This is available only if the contributions are made to an approved retirement fund.

6. Capital Structure

Capital structure is the contribution of different sources of capital. A company can be financed mainly by equity or debt capital or a combination of both. Source of financing affects tax liability of a taxpayer in different ways. For example, if debt financing is used, the company has to pay interest on loan, which is a deductible expense for income tax. ITA, 2058 has stated that the interest included during the year for the debt obligation of the person will be available for deduction to the extent that:

-) The borrowed money is used in that year
-) If the money is borrowed for purchase of an asset, that asset is used in that year.
-) In another case, the debt obligation is created in the production of income from business or investment.

Thus whatever be the amount of interest it is deductible in computation of taxable income.

On the other hand, if the company uses equity capital (either new issue or retained earning), the company has to pay dividend on equity capital, which is paid out of taxed profit and is no deductible for income tax. Dividend received by the shareholders is also subject to final tax at 5%. So, there is scope of tax planning regarding the choice of capital component.

7. Location of Industrial Set-up

As per Income Tax Act, 2058, there is scope of tax planning while selecting location of business also. For example, in remote area, an individual can avail up to Rs. 30,000 remote area allowance. Special industries established in remote, undeveloped, and underdeveloped area should pay only 70%, 75% and 80% of the statutory rate (sec 11 sub-secs

3) for 10 years. The divisions of different districts of Nepal as given in Industrial Enterprise Act, 2049 are discussed in earlier chapter.

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 10 lakhs transaction or Rs. one lakh income in metropolitan and sub-metropolitan city should pay only Rs. 2 thousand as tax. Business of the same nature in municipalities should pay Rs 1500 and business of the same nature in a VDC should pay Rs 1000 (Annex 1 of the Act).

8. Leasing or Buying

The assets of an organization can be purchased in two ways: lease or outright purchase. Leasing or outright purchase can be made by borrowing fund or own capital. If the assets are leased, the taxpayer can claim for the rent and management fees. If it is purchased, there is facility of depreciation. If borrowed funds are used, the interest to be paid can also be deducted. While making the decision regarding leasing or buying, tax planning can be done by considering these factors.

9. Timing of Activity

It is already discussed that a business organization uses to have three types of planning; strategic, operational and project planning. There are certain activities for which governments used to provide certain tax facilities. These facilities, according to Income Tax Act, 2058, are the provision of allowing deducting the pollution control device expenditure, repair and maintenance expenditure, depreciation, donation etc. Timing of activities denotes the planning of different activities in time frame in such a way as to obtain maximum tax facility from such expenditure. It includes the planning of future business expenditure in such a way under which maximum amount of tax way saving can be made. There are

certain factors which should be considered for the purpose of timing of activities. They are:

1. The main thing to be considered in this respect is the saving of tax. The tax planner should minimize tax payment as far as possible.
2. Loss should be recovered at first because it can be recovered only within certain duration. According to Income Tax Act, 2058; the time period to recover the loss is 4 years in ordinary case. If it is infrastructure of BOT/BOOT project, the loss recover period is 7 years.
3. after recovery of loss, research and development expenses and pollution control expenses should be recovered. The reason is 50% of adjusted taxable income can be recovered in the year of investment. The remaining balance also can be capitalized and recovered in next years.

2.1.11 Tax Reform in Developing Countries

Beginning of the 1970s, 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 to tax reform? The World Bank has studied these questions for several years now, and found the 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 lending in 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 process

of 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. He has said following views.

2.2.12 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 economies certain sectors and activities enjoy a privileged tax status from political protection that is strong enough to resist any attempt at change. In Colombia, for example, repeated efforts to include income from cattle raising 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 encounters different kind of tradeoffs. Unless a developing country aligns its nominal corporate tax rate with those found in industrial countries large portions of its corporate tax base may be shifted to lower tax rate jurisdictions. At the other extreme, efforts to stimulate investment by reducing nominal (and effective) tax rate may be frustrated by foreign tax credit mechanism 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.

2.1.13 Process of Tax Reform

It is one thing to devise 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, for example, to

have the appropriate policy measures “on the shelf” before a fiscal crisis strikes in order to forestall the adoption of ill advised tax reforms. Successful tax reform efforts also require 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 for how the distribution of tax burden would be affected by alternating 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 result 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 reforms always invest in better tax administration, in the end reformed measure must be compatible with existing tax administration capabilities and tax planning.

2.2 Review of Related Thesis

Though there are not enough theses relating to the title, I have tried to collect some more information throughout the following thesis.

Paudel, (1997) in his thesis “Corporate Tax Planning in Nepal” has tried to make an overview and conclusion supporting to the objectives, research methodology, findings and suggestions as follows:

I. Objectives

- 1) To examine the corporate tax structure in Nepal.
- 2) To examine the implications of tax factor in selecting the best alternative strategy in different aspects of strategic planning.
- 3) To analyze impact of corporate tax on managerial decision relating to the different aspects of project planning.
- 4) To examine corporate tax planning in respect of operational planning.

- 5) To investigate tax planning practices being followed in respect of strategic planning, project planning and operational planning by Nepalese companies.
- 6) To offer suggestions for improvement in corporate tax laws which have direct bearing on the corporate tax planning?

This study provides comprehensive information to managers for strategic planning; project planning and operational planning that would help to reduce tax liability within the legal framework. This study, thus expected to benefit corporate planners, entrepreneurs, managers, taxation authorities and the academics.

II. Scope and Methodology:

As started earlier, this study examines tax implication in strategic planning, project planning and operational planning by companies in Nepal. The study also outlines tax planning practices in decisions relating to these three 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. Secondary data relate 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.

III. 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. Government of

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 individuals and companies. In 1986-87, the rate structure was separated and in the case of companies (including government companies and public limited companies in the private sector), the progressive tax rate structure 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 of 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.

IV. 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, they 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 provision 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 taxpayer should pay the unpaid tax along with interest. Similarly, if the refunded is to be made to the taxpayer, it should also be paid along with interest. If company losses 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

Timsina, (1987) in his thesis “Tax Evasion in Nepal” has tried to explain about the tax evasion behaviour of taxpayers. People in developing countries like Nepal tend to greater propensity to evade taxes. Lack of proper measurement of tax assessment, Nepal is facing the problem tax evasion. Because of this, resources have not been mobilized efficiently and resource gap is increasing each year in Nepal Public Finance. He has mentioned the following objectives and methodology for specific findings and recommendations.

I. Objectives:

- a) To analyze the structure of income tax in Nepal.
- b) To examine the income tax evasion tendency in Nepal.
- c) To estimate the volume of income tax evasion in Nepal.
- d) To draw suggestion for the elimination of income tax evasion in Nepal.

II. Methodology:

This study is concerned with the tax evasion of income tax in Nepal. Thus information concerning income tax as a whole is taken out for consideration to reflect the real phenomenon. The sample size was determined to 50 persons out of the total population. This sample of 50 persons was selected through different groups of tax officer policymaker, tax lawyers and tax experts.

III. Findings:

Following are the major findings of the study:

1. There is a serious problem of financial resources gap in Nepalese economy. It was 41.69% during 1975/76 and increased to 53.35% during 1985/86. It needs to be controlled in time; otherwise it may create a greater problem in national economy.
2. The composition of tax and non-tax revenue is still less satisfactory in Nepal. There were 79.14% tax and 20.86% non tax contribution during 1985/86. More than 83% tax contribution is supposed to be appropriate here in Nepal.
3. Income tax evasion has a decreasing trend in Nepal. There was 107.39% income tax evasion in 1975/76 and reduced to 58.47% in 1979/80. In an average there is 54.70% income tax evasion in Nepal.

Karki, (2005) in his thesis "Tax Planning in Nepal" has tried to make an overview and conclusion supporting to the objective, research methodology, finding and suggestions as follows.

I. Objectives:

- 1) To analyze the existing problems of Income Tax Act, 2058, with respect to language, section, sub-section and tax administration, etc.
- 2) To study the concept of tax planning.
- 3) To examine the applicability of tax planning in Nepal.
- 4) To provide suggestions to Nepalese companies/business houses to use tax planning based on the above study.

II. Methodology:

This study is mainly concerned on the theory and practice of tax planning in the country. Research methodology, therefore is designed and implemented to study about the sources, causes and method of tax planning by considering the structural analysis of the government revenue, income tax, tax evasion, tax avoidance, exemption limits, concessions, rebates and tax payment behaviour of taxpayers. For the achievement of the objectives, the research methodology has been designed including 50 respondents.

III. Conclusion of the study:

- a) The government has provided various facilities to tax payers on the law but government has not been able to implement that system of the law in practical life.
- b) There is the provision of punishment but not respect who pays tax honestly.
- c) Government is active in charging tax but idle in taxpayers problems.
- d) Tax evasion and tax avoidance are made by the tax payers on the support of tax administrators.
- e) Tax payers feel the difficulties to complete the criteria of tax planning.

- f) Tax law is not clear and special in terms of language, section, and sub section.

Similarly, Agrawals study (1978) on, " Resource Mobilization for Development: The Reform of Income Tax in Nepal" analyzed the dysfunctional aspect of the Nepalese income tax system. In this respect, he found that inadequate planning of tax policies, lack of stability in tax policies, widespread discretionary power provided by the tax law to tax authorities, poor tax administration capability and lack of tax consciousness among the Nepalese people, were the major drawbacks of the Nepalese tax system.

In this respect, Agrawal noted: "Recent attempt at modernization of tax administration are the steps in the right direction. However such attempts have been only 'drops in the ocean' of mis-administered tax system. The revenue from income tax alone can be increased substantially by modernization and streamlining the tax administration" (Agrawal, 1978:242)

Agrawal's study (1984) on "Direct tax reform in Nepal" made the following suggestions regarding the administrative aspect (Agrawal, 1984, 2)

-) Effective taxpayer information system should be developed.
-) Political and undesirable pressures in tax administration should be minimized, that will help to improve tax administration capacity.
-) Income tax exemption limit should be tied-up with the cost of living index.
-) Income tax law and rules should be amended as a when needed to plug loopholes.
-) Grant tax incentives for the promotion of corporate sector.
-) Maintain up to date taxpayer register.

-) Reduce assessment delays.
-) Minimize tax evasion and avoidance
-) Better personal management

Khadka, (1994) in his study found that “Reform in tax administration may encompass reform in organization, personnel, training, administrative equipment and facilities. It is necessary to establish a system of internal tax audit and staff monitoring in order to make both tax officials and taxpayers more careful in fulfilling their job/duties and to discourage, collusion, delinquency and tax evasion” (Khadka, 1994: 222).

Another study by Khadka (1994) noted that weak tax administration, inadequate tax planning, imbalance and inadequate organizational pattern, predominance of low non-technical post, inadequate physical and other facilities, lack of adequate information system and lack of coherent tax policy were the main problem of tax administration in Nepal.

A study conducted by Harvard University (1997) on "Tax Reform in Nepal: A Comprehensive Review" made various recommendation for the betterment of taxation system of Nepal. In the study, a set of recommendations were made to streamline the tax administration. Broadening the tax base and lowering tax rates were the basis tenets of this study. Besides these, transparency, simplification of procedures and development of tax system based on actual traction value were also recommended. The study indicated that improvement in tax administration was very important aspect, for the reform of income tax system in Nepal (Harvard University, 1997:29).

Regarding income tax administration of Nepal this report painted out various current problems and issues such as lack of physical facilities in tax department, low level of salary of the staff, lack of appropriate

training for personal, corruption and non achievement of assigned revenue target, lengthy process of tax collection and ineffective collection procedure or process in place to collect areas. In addition, the lack of management information system, lack of public information and education, non-recognition of taxpayer's right, ineffective registration system, assessment mostly based on best judgments were also noticeable problem raised in this study. The study concluded:

“The government of Nepal does not have the option of doing nothing. Major changes must be made in order to make tax administration fair, efficient and effective. The hostility, harassment and corruption that currently exist between the tax office and the business community must end if Nepal is to have a modern tax system. The businesses want the system change and are willing to pay a reasonable tax but they want the system transparent and fair” (Harvard University, 1997:66).

For the reform of tax administration of Nepal the study presented various recommendations. The recommendations were divided into two categories, i.e. immediate reform and future reform. For immediate reform the study suggested elimination of annual registration/certificate procedure, avoidance of reassessment of self-assessed returns until the written guidelines have been established and placed, adoption of tax payers identification member (TPIN) system, permission to taxpayer's representative at the time of reassessment, and provision of rules, regulations procedure and information to tax payers.

For future reform the study presented the following major recommendations (Harvard University, 1997:67-71):

-) A comprehensive tax reform program should be undertaken that includes the tax law, penalty structure, organizational structure, computerization, and revenue authority and tax administration.

-) A revenue authority board should be established which should be responsible for overseeing all tax administration, including setting pay, recruitment, training, organizational structure, personnel management practices, facilities, computerization and overall management of tax system.
-) A comprehensive computerized management information system should be designed.
-) A program for systematically registered taxpayers, who are not now in the system, is needed to develop and implement.
-) Specific training course should be designed to train the professional staff in skills they need to perform their jobs.
-) The Finance Ministry should develop an integrity awareness program to discourage corruption.
-) All the forms that are in practice should be reviewed, revised, updated and simplified.
-) A review should be made of the organizational structure with particular emphasis on clearly defining organizational, responsibility and authority for the field and department.
-) The tax administrators must be paid closed to market remuneration.
-) Physical facilities both in the department and tax offices should be improved.
-) Special responsibility for collection of arrears, securing of delinquent returns and the registration of tax payers who are not in the net should be established.
-) A personal management system to evaluate tax officers and inspectors in their overall performance should be developed.
-) The rights of the taxpayers should be in written form and the tax department should make them available to the public.

Pokhrel's (1999) comments on Harvard University report were: "Income tax low and administration in Nepal is neither bad nor worse but is continuously improving. Hence, the completely good or completely bad can be seen only in the theory books. Laws and administration is an art. So even, the theory of public finance can not express the concept of completely good or bad to an art. It may be different based on the traditional, geo-politics and socio-economy of the evaluate country" (Pokhrel, 1999:179).

Pokhrel suggested strong commitment, fair and uniform imposition, tax education packages and manpower planning within the administration for improvement of tax administration and tax compliance, (Pokhrel, 1999)

Pradhan's study (2001) found that clear cut rules and regulations, effective tax administration, honest tax personnel and taxpayers were the essential factors for effectiveness of income tax collection. For the betterment of income tax administration, she suggested effective incentive, motivation and training to the tax personnel (Pradhan, 2001).

The Task Force Nepal (2003) focused on various problem of tax administration. Some of the major problems highlighted in the report were as follows:

-) Delay in administrative decision
-) Lack of long term plan and policy.
-) Lack of departmental coordination
-) Lack of expert at central level for continuous study, research and analysis of tax matters.
-) Lack of trained and skilled tax personnel.
-) Lack of information technology.
-) Lack of responsibility of tax personnel.

-) Lack of physical facilities.
-) Dominance of unskilled low level staffs etc.

For improvement of tax administration various measures were suggested in the report. To increase the public participation in taxation, the task force suggested:

-) Simple and transparent tax procedure.
-) Enforcement of reward and punishment system.
-) Enforcement of code of conduct of tax personnel.

Income Tax Act, 2002 (2058 B.S)

Tax policy is changed with the change in the economic policy of a country. Change in the world economic policy and advancement in information technology play a vast impact on the Nepalese economy too. Especially, after 1990s there is re-emergence of the liberalization, globalization and privatization systems that focus on the minimum intervention of the state in private economic matters. The 1950's concept of 'high incentive, high tax rate' is changed to the concept of 'low rate, wide net'. This trend in tax system is followed by most countries of the world. Nepal is also not an exception in this respect, and the Nepalese administrators and policy makers too have tried to change the tax policy of the country. Income Tax Act, 2002 is the result of this change (Kandel, 2003:12)

To avoid the defects of Income Tax Act. 1974(2031 B.S.), since 1st April, 2002(19th Chaitra 2058), Income Tax Act, 2002 has been introduced. It is the existing law related to the taxation of income. It consists of 143 sections divided in various 24 chapters. Income Tax Rules, 2002 (2059 B.S.) also has been framed under the provision of this act. Fiscal ordinance (Adhyadesh) of 2002 (2059 B.S.) and 2003 (2060 B.S.) and 2004 (2061 B.S.) have amended some of the provisions of this

act. It has many new provisions as compared to the previous Income Tax Act, 1974.

As given by the policy-makers, the objectives of this act are (See, Kandel, 2003:11):

- a) To bring all the income generating activities within tax net,
- b) To increase the base of tax,
- c) To bring all the income tax related provisions within one acts,
- d) To make income tax related provisions clear and transparent,
- e) To interlink the Nepalese tax system with tax systems of other countries,
- f) To make tax system base on account,
- g) To minimize tax avoidance and tax evasion,
- h) To make tax system compatible to modern economy,
- i) To reduce the scope of discretionary interpretation of the tax administration, thereby ensuring simplicity, uniformity and transparency,
- j) To separate administrative and judicial responsibilities,
- k) To define the power as well as authority of the tax administration,
- l) To distinguish taxpayer's violation of civil duties and criminal offences, and
- m) To further streamline the appeal system by making it mandatory for the taxpayers to file an objection with the Department of Taxation before appealing to the Revenue Tribunal.

In comparison to the previous acts, Income Tax Act, 2002 consists of the following distinct features (Mallik, 2003:26-30):

1. Integration of various acts:

Income Tax Act, 2002 has integrated all the provisions relating to income tax in it. Before introduction of this act, the various provisions of

income tax system of Nepal were governed by different acts. For the elimination of confusion, this act has abolished all tax-related provisions given in other acts and confined all income tax-related matters within this act.

2. Specification of tax rates:

Income Tax Act, 1974 had not dealt with tax rates applicable to different sources of income; it was only the procedural law. Financial Act of each year used to deal with the tax rate. However Income Tax Act, 2002 has embraced the tax rate applicable to all the three sources of income, i.e. business, employment and investment.

3. Deduction of all the related expenses:

This act has provided the facility to all the taxpayers to deduct all the related real expenses which are expended for earning an income.

4. Set off and carry forward of loss:

In this regard, Income Tax Act, 2002 is liberal than the previous act. The previous Income Tax Act, 1974 had made the provision of setting off and carrying forward of a business loss only for three years from the same source of income but Income Tax Act, 2002 has made a provision of inter-head adjustment for one year and intra-head adjustment of losses for four years to the ordinary form of business. In addition to this, for financial sector and long term contract, it has provided five years grace period for recovering the losses.

5. Classification and pooling of depreciable assets:

For the purpose of depreciation the previous act had categorized the assets in around three dozens and had given alternatives to taxpayers to select one of the depreciation methods between the two: straight line or diminishing balance. The existing act has specified only diminishing

balance method based on pool system and has categorized all the depreciable assets in five classes. Further, this act has made a provision of depreciation of intangible assets too.

6. Tax on capital gain:

There are no provisions of taxation on capital gain in income Tax Act, 1974, but Income Tax Act, 2002 has made a clear provision of capital gain tax. This act has tried to minimize tax evasion on capital gain because it has made a provision to tax on capital gain the basis of transaction rather than on the basis of payments.

7. International taxation:

The act has clearly defined the resident taxpayers and has made a provision of taxation on resident's global income. According to his act resident taxpayers have to pay income tax to Government of Nepal on their global income while non-residents taxpayers are taxed only on the those income while are generated in Nepal. The provisions introduced in this act related to international taxation, are transfer pricing, foreign tax credit, double taxation avoidance agreement, etc.

8. Provision of self-assessment of tax:

The act has fully adopted self-assessment of tax system. According to the act, taxpayers have to assess their income tax by themselves. In other words, the tax return submitted by the taxpayer is the final statement of tax assessment. In case of non-submission of tax return the tax paid in advance will be treated final tax as assessed by the taxpayers.

9. Stringent fine and penalty:

The act has divided the defaults into two categories: civil and criminal. The tax officer can levy only fees and interest under civil case,

whereas in case of criminal case only the court has a right to levy the penalties and imprisonment.

10. Medical tax credit:

This act has introduced the concept of medical tax credit for all the resident individual taxpayers. According to the act, every resident individual has a right to deduct the approved medical expenses within prescribed limit from his tax liability. There is also a provision of carrying forward of remaining balance of medical expenses in coming years for deduction.

11. Provision of Appeal:

There is a provision of administrative review in the act. A taxpayer can make request to the Director General of Inland Revenue Department for the review against the decision of tax officer/department. The appellant who is aggrieved by the decision as an objection can appeal to the Revenue Tribunal in accordance with the Revenue Tribunal Act.

12. Quantification, allocation and characterization of amounts:

The act has made the provision of quantification, allocation and characterization of amounts. In this respect the act has focused on quantification of amounts, quantification in rupees, allocation of indirect payment and joint ownership investment as well as characterization of compensation payment and payments under annuities, installment sales and finance lease.

13. Provision of withholding payments:

The act has implemented the system for final withholding payment and inclusion and credit for non-final withholding tax. According to the act, the withholding agent must provide a withholding certificate to a withholder.

14. Taxation on retirement payment:

Taxation on retirement payment is another feature of this act. As per the act, the income of an approved retirement fund is tax-free, but retirement payments received by an individual are taxable.

Income Tax Act, 2002 has integrated all the laws relating to income tax. The Act has divided all the sources of income into three categories, i.e. employment, business and investment. The Act has guaranteed the rights of taxpayers in respect of secrecy, respectful behaviour, receiving tax-related information and appointing lawyers and auditors for defense. Special incentive and rebate have been provided to the special industries by the Act.

CHAPTER -III

RESEARCH METHODOLOGY

For the proper evaluation of the research problem, research methodology is very essential 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.

To achieve the stated objectives of the study, both primary and secondary data were used. The study of income tax act, income tax rules, and finance act were made for the descriptive research, whereas an analytical research had been carried out in terms of tax planning areas which are to be reformed for generating government revenue, promoting investment climate and discouraging the tax evasion and tax avoidance activities in Nepal. For an empirical study, an opinion survey had been conducted. Structural analysis of tax planning reform has to be conducted to support the legal, moral and ethical activities i.e. tax planning and control over the illegal, immoral and unethical activities such as tax evasion and tax avoidance. This research methodology contains research design, population and data sample, nature and sources of data and procedure of data analysis.

3.1 Research Design

Most of the data and information of the study were concerned with the 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 framework 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, field visit, and mailing information of the respondents.

3.3 Population and Sample

This study is concerned with the prevailing problems in the tax planning that are to be corrected immediately in Nepal. Thus information concerning tax planning as a whole is taken out for consideration to reflect the real phenomenon. However, it is a very difficult task to study about the universe. In the case of opinion survey about tax planning reform, the sample size was determined to 50 persons out of the total population. This sample of 50 persons were selected through different groups of tax officer, policy maker, tax lawyers, tax experts, tax administrators and tax planners/payers.

In connection with empirical study, data were gathered by conducting a survey of structured opinion questionnaires responses. There were 22 different questions which were dispatched to 50 different persons. The opinion questionnaire and list of respondents, included in total sample, are given in appendix A and B.

The opinion questionnaire consisted of 7 pages and 22 questions. Out of them 6 questions were based on 'yes' or 'no' type answer, whereas 16 questions the respondents were asked to rank 1-10 choices. On a 1-10 scale, where 1 was the most important and 10 was the least important one of the choices was an open-ended, in other to provide flexibility and for seeking suggestions/ideas from respondents for the areas of tax planning

reform in administrative level as well as individual/corporate level. The questionnaire dealt with the following aspects.

1. Providing more grants and assistant to promote the investment environment.
2. Major problems incorporating in income tax planning.
3. Responsible factors for poor tax paying habit.
4. Suggestion for reducing tax evasion and avoidance through tax planning.
5. Reasons for widespread evasion of income tax.
6. Suggestions for educating taxpayers to increase their tax consciousness for voluntary compliance.
7. Major problems of income tax administration.
8. Essential factors for making tax administration effective in order to support tax planning behaviour.
9. Steps for improving tax collection system.
10. Issues that are against the tax planning in income tax act 2058.
11. Measures to make tax planning effective by removing barriers and difficulties.
12. Existence of high corruption in tax administration, that discourages tax planning.
13. Measures for minimizing corruption in tax administration.
14. Sufficiency of remuneration provided by the government to the tax personnel.
15. Sufficiency of training programmes being conducted by Revenue Administrative Training Center.
16. Problems of training programmes conducted by RATC.
17. Widespread discretionary power of tax officers.
18. Favourable self-assessment of income tax.
19. Favourable penalty on taxpayers who go against law.
20. Other suggestions for reform in income tax planning system.

3.3.1 Sampling Procedure

In other to benefit the study, 50 sample size form the Kathmandu valley was selected. Persons included in the total sample were selected by consultation with tax experts, tax officers, and professors of Tribhuvan University, and by the judgments of the researcher himself. The tax experts/policy maker were selected from ministry of finance, national planning commission, ministry of law and justice, office of the auditor general, tax reform commission, professors and readers of Tribhuvan University, reputed lawyers and chartered accountants and intellectuals who processed knowledge and ideas about income tax planning.

The administrators were selected from internal revenue department and from various field offices located in the Kathmandu valley. In the case of taxpayers, they were selected from various fields, i.e. bank, insurance company, industry, trade, finance company, communication and travel agency.

3.3.2 Sources of Secondary Data

The following are the sources of secondary data:

1. Various published and unpublished reports and records of Department of Inland Revenue and selected corporations.
2. Publication of central bureau of statistics, Nepal government and Tribhuvan University.
3. Published and unpublished reports, articles and dissertation on the concerned subject.
4. Published reports and seminar paper of CEDA.
5. Publication of international institutes such as UNO, WTO, World Bank etc.
6. Books related to income tax planning.
7. Books related to tax reform.

8. Publication of department of tax.
9. Other research works, books, reports and articles relevant to the topics.

The collected data through primary and secondary sources have been tabulated in different ways according to the requirement of this study.

3.4 Procedure of Analysis

The data in the completed questionnaire were tabulated for comparative purpose. The response received was analyzed with the help of simple percentage. 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 question was described in the form of respondent's language. The priority was given to the highest support and decision of the respondents. The support of the respondents was collected in the numerical form as well as in the language form. Finally, the conclusion and suggestions of the study was presented in summary.

CHAPTER -IV

DATA PRESENTATION AND ANALYSIS

This empirical study is based on an opinion questionnaire survey which was distributed to a total of 50 respondents from tax experts, policy makers, tax administrators, auditors and tax payers or accountants in order to know about their opinions regarding various aspects of tax planning behaviors and the areas for its reform. 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, concluding and finding of the research.

The questionnaire asked either for a yes/no response or asked to rank in order the ten choices provided for each of the questions on a 1-10 scale, where 1 was the most important and 10 was the least important choice. One of the choices was open ended; in order to provide flexibility to it. For analytical purpose the first preferred choice got ten points and the last preferred choice got one point. The choice with the highest score was ranked as the most important choice and one with the lowest score as the last choice. All the respondents ranked the open-ended 'others' as the least preferred choice and only a negligible number of them specified their opinions in that option.

4.1 Information about the Organization

Out of 30 sample companies, there were 6 insurance companies, 6 manufacturing companies, 5 financial companies and rest is trading companies. Tax planning is directly related to the private companies. So, most of the sample companies are taken from private sectors. These all companies were located in Kathmandu, Lalitpur, Bhaktpur, Pokhara and Baglung.

4.2 Introduction about the Respondents

Out of 50 respondents 25 were accountant 10 of them were policy makes from government offices, 5 of them were proprietors, 5 managers and rest 5 were auditors. Most of them had at least two years of experience in taxation field. This study focuses on tax planning reform to be done by the state level or policy making level as well as from private sectors for improving their tax behaviour towards planning of tax rather than tax evasion and tax avoidance. So 20 respondents are taken from government sectors and 30 from private sector to harmonize their problems regarding to the tax planning. They filled the questionnaire by personal contacts.

4.2.1 Knowledge about Tax Planning

Most of the respondents from policy makers were familiar to the term tax planning. From private sectors also they responded they were familiar to tax planning; however most of them thought that tax planning means the regular payment of tax to the government, not about how to reduce tax liability. The result has been presented in the following table.

Table 1: Knowledge about Tax Planning

S.N.	Options	No. of Respondents	Ranking position	% of Respondents
1	Yes	32	First	64
2	No	18	Second	36
Total		50	-	100

From the above table No. 1, 32 respondents or 64% of the respondents have some sort of knowledge about text planning. Twenty respondents from government office are very familiar towards the tax planning. it is found that the accountants or staffs in the large

organization are familiar about tax planning and they are also utilizing the facilities provided by the act as far as possible. They used to audit their statement internally and externally by the expert auditors. However, they said that there was the lack of incentives to make plan and tax incentives provided by government are highly used only in long term planning, such as structural planning, locational planning etc. of industry which are not highly applicable to existing companies. Regular change in tax law was the major problem to follow and apply the tax planning.

However, 36% of the respondents were unfamiliar about tax planning. Most of them were from small firm's specially trading sector. They understood that the tax planning was the regular payment of tax to the government without any cheating. They used to take some sort of facilities provided by government not in the form of tax planning. According to their view, they try to minimize tax liabilities by collecting benefits as less as possible from the customers. They express their views on the favour of customer satisfactions. Indeed, they said that they cheat the government but give benefits to the customers by charging low price.

4.2.2 Reasons for not Application of Tax Planning

The reasons why the respondents have not applied tax planning systematically, has been presented in the following table.

Table 2: Reasons for not Application of Tax Planning

S.N.	Options	No. of Respondents	Ranking position	% of result
1	It is hard to follow the method of tax planning	15	First	30
2	Concessions & rebates provide are not cleared.	14	Second	28
3	It is easy to follow tax evasion and tax avoidance than tax planning	11	Third	22
4	Lack of qualified manpower	10	Forth	20
5.	Other	-	-	-
Total		50	-	100

From the table no 2, it is observed that the main cause of not application of tax planning was due to the hardness to follow the method of tax planning. 30% respondents result has been obtained on it. 28% of respondents result was obtained in unclear concessions and rebates provide by the government. There was easy to follow tax evasion and tax avoidance rather than tax planning in Nepal was resulted 22%. Similarly, 20% causes was voted in lack of qualified manpower for the proper application of tax planning in their companies.

As a result obtained, tax planning was very hard process to follow to the ordinary people. It needs more updated knowledge about tax laws, rules and regulation. In addition, tax concessions rebate were not cleaned and very difficult to take benefits. It needs long-term vision by the expert. There was the lack of strong administration of tax so, some respondents felt easy to take advantage by using traditional ways i.e. tax evasion and tax avoidance rather than tax planning. Planning activity needs experts and qualified manpower; however, it was lacking in Nepal.

4.2.3 What factors should be considered to make tax planning practicable?

In their overall ranking about the factors that were to be considered has been presented in the following table. This problem is evaluated based on the ranking position and percentage basis.

Table 3: Factors to be Considered to Make Tax Planning Practicable

S.N.	Options	No. of respondents	Ranking position	Ranking %
1	Increasing administrative efficiency	6	fourth	12
2	Decreasing corruption practices	2	Sixth	4
3	Reforming tax structure	15	First	30
4	Simplifying income tax law	13	Second	26
5	Implementing one window policy for all allowances.	—	—	—
6	Covering all the loopholes in income tax law.	3	Fifth	6
7	Increasing tax-paying habit of the people.	—	—	—
8	Promoting the social value of taxpayers who pay the tax honestly.	9	Third	18
9	Penalizing tax evader and tax avoider	2	Six	4
10	Other		—	
Total		50		100

From the above table, it was observed that 30% respondents said that reforming tax structure was needed to make tax planning practicable. Reform in Income Tax Act, Reform in Income Tax Policies, Reform in Income Tax Law, Reform in Income Tax Administration, Reform in corporate were indispensable. The second preference was given for simplifying income tax law to make tax planning easy and effective. 26% of respondents suggested simplifying tax law to make tax planning practicable. Similarly 18% of respondents suggested to promote or enhance the social value of taxpayers who pay the tax are essential to support tax planning. Fourth position was obtained about to increase the administrative efficiency to promote tax-planning practices. Covering

loopholes and penalizing both were gained sixth position securing 4% each. And the other option did not get rank position by any respondents.

4.2.4 Do You Think that Tax Evasion and Tax Avoidance Practices are the Root Cause of not Applying Tax Planning?

Most of the tax payers do not like to apply the tax planning practices by appointing qualified and skilled manpower, until and unless the tax evasion and tax avoidance are completely controlled by the state. It is because of the easy methods to reduce tax liability more than that tax planning. Most of the small company is making their plan to reduce tax liability by using illegal, immoral, unethical means. About this matter, the following table has been presented as follows.

Table 4: Tax Evasion and Tax Avoidance are the Barriers to Apply Tax Planning

S.N.	Options	No. of Respondents	Ranking Position	% of Respondents
1	Yes	28	First	56
2	No	13	Second	26
3	No Idea	9	Third	18
Total		50	-	100

About the problem, whether tax planning activities is interested or not in the presence of tax evasion and tax avoidance situation. Among them, 56% of respondents presented their view about the very necessity of fully controlling of tax evasion & tax avoidance by using very effective methods. They further suggested that people or taxpayers were not motivated to use hard method to reduce nominal about of tax liability. In Nepal, there was a very low auditing and rechecking activities done by IRD or government. If the mistake was found, there was not any stick

punishment and they used to escape by using favourism, nepotism, bribe to tax officials and political power.

26% of respondents suggested that there were other factors responsible about the not application of tax planning like, lack of qualifications, frequent difficult to apply tax planning, uncleared rules and regulation, change of rules and regulations, administrative inefficiency etc. However, they agreed about tax evasion and tax avoidance habit could not change evader towards tax planning activities without they feel great challenges, for that the tax eraser and tax avoider, in one hand must be punished and the other, regular tax planner and tax payers should be rewarded in tax liability or in promoting social respect as per the nature of taxpayers.

18% of respondents were in confusing about this matte. They did not know about tax evasion, tax avoidance and tax planning very nicely. They only said that illegal, unethical immoral activities must be control over to florist the legal, moral and ethical activities.

4.2.5 What Should be Done to Reform Tax Planning?

Reformation of tax planning or modernization of it is not easy task. For that both taxpayers, and the government should be fully responsible towards each other. In other words, both parties should avoid their limitation and be honest and productive. There are many areas in which tax planning should be implemented and be effective. About the query of above, the following result of respondents has been presented as follows.

Table 5: Activities for Tax Planning Reform

S.N.	Options	No. of Respondents	Ranking Position	Ranking %
1.	Closing the loopholes in income tax law completely.	2	Sixth	4
2.	Providing education to taxpayers about tax planning tax evasion & tax avoidance.	1	Seventh	2
3.	Auditing, books of account by specified auditors.	3	Fifth	6
4.	Controlling to the establishment of illegal as well as unregistered business.	3	Fifth	6
5.	Reinforcing to the entire business unit about to maintain book of account based on double entry system.	14	First	28
6.	Simplified tax planning procedures.	7	Fourth	
7.	Reducing unnecessary documents needed for taking tax-planning procedures.	11	Second	22
8.	Promoting the cooperation between tax administration and taxpayers.			
9.	Provision of more incentives, rebate, allowances etc.	9	Third	18
10.	Other	-	-	-
Total		50		100

Out of 10 options about tax planning reform, 8 options received the respondent's response. However the degree or position of result was different as per the proximity of cause. From the above table no 5, 28% of respondents were in the suggestion about to reinforce to all the business

units to maintain their books of account based on double entry principle. Most of the small sizes of business organization did not maintain the financial record based on double entry system. they only appointed unskilled accountant to maintain books of account, as a result he/she did not maintain the record based on accounting equation.

22% of respondents replied about to reduce the unnecessary documents needed for taking tax-planning incentives. While taking the benefit of tax incentives, most of the taxpayers were irritated to present unnecessary documents as demanded by tax officers. They said it would be better to present only necessary document that are easy to record in the organization.

Similarly, 18% of respondents said that there should be the provision of more incentives, rebates, allowances etc. The facilities provided have been reducing continuously. It could be easily observed in income tax act 2058 B.S. and others. Tax planners were not motivated and not highly supported by new Act. They replied that it was due to the government policy "low rate wide net". They said, to make the tax planning reform, and to support the investment climate of the country, it was urgent for the provision of more incentives, rebates, allowances etc. fifth position was taken by two options.

Controlling to the illegal business and unregistered business totally and auditing the books of accounts of that legal and registered business time to time was urgent. in this regard 6% of respondents responded. Until and unless the legal, moral and ethical system would develop, tax-planning reform is not possible. In other words to make tax planning effective and most practicable, illegal business should be completely avoided and controlled as well as regular auditing system is essential.

7% respondents were in the view to simplify tax planning procedure to make it more effective and modern. There were more

problems and difficulties in the tax planning procedure and system in Nepal. Tax planning procedure was lengthily and as a result, most of the taxpayers used to adopt tax evasion and tax avoidance method to reduce their tax liability.

2 respondents or 4% respondents had suggested closing all the loopholes of tax law to check tax avoidance activities and drive them towards tax planning activities.

In seventh position, there was the option about providing education to taxpayer regarding tax evasion, tax avoidance, tax planning and their causes and effects.

4.2.6 Do You Believe that Tax Planning is being Shadowed by Tax Evasion and Tax Avoidance?

To know the cause and effects of tax evasion and tax avoidance activities for the effective tax planning practices, the result has been presented in the following table.

Table 6: Domination of Tax Evasion and Tax Avoidance on Tax Planning

S.N.	Options	No. of Respondents	Ranking Position	% of Respondents.
1.	Yes	37	First	74
2.	No	4	Third	8
3.	No Idea	9	Second	18
Total		50		100

From the above table no. 6, it is observed that 37 respondents out of 50 were with the above question that tax planning is being shadowed by tax evasion and tax avoidance practices. They were 74% respondents and focused for the control of tax evasion and tax avoidance activities

through government and moral, legal and ethical behaviour of taxpayers is to be established to make the tax planning activities more effective, ethical, and economic and so on.

In Nepal tax evasion and tax avoidance activities have not been seriously observed and controlled by the government. As a result, taxpayers would not be willing to adopt other methods to reduce tax liability rather than that tax evasion and tax avoidance. It is the human nature that, if the man is not in problem, he does not search best solution. It means if all the tax evasion activities would be strictly controlled and all the loopholes will be plucked, then tax payers will adopt tax planning activities eventually. Even the skilled accountant and taxpayers were not interested to make tax planning because organization had been taking more tax benefit by using false statements, showing low income and high cost etc.

8% of respondents replied their answer 'no'. They said, not application of tax planning was not by the cause of tax evasion and tax avoidance; rather it is due to other causes. They were; lack of knowledge, skills, difficult tax planning procedures, lack of incentives etc. Similarly 18% of respondents did not have any ideas about this concern.

4.2.7 What are the Factors Responsible for Poor Tax Planning Habit of Nepalese People?

About the question, why Nepalese organizations and people did not take tax-planning activity seriously and effectively; the following options have been presented as follows.

Table 7: Factors Responsible for Poor Tax Planning Habit of Nepalese People

S.N.	Options	No. of Respondents	Ranking position	% of respondents
1.	Lack of taxpayers education	18	First	36
2.	Complicated/Unstable Laws	16	Second	32
3.	Poor enforcement of penalties.	3	Fourth	6
4.	Unhelpful attitude of tax personnel.	2	Fifth	4
5.	Improper utilization of resources collected by government.	2	Fifth	4
6.	Lack of sufficient branches of tax office.	—	—	—
7.	Lack of more incentives to tax planning.	9	Third	18
8.	Others	—	—	—
Total		50		100

18 respondents focused to the option; lack of taxpayer education responsible for poor tax planning habit of Nepalese people. It was 36% and got the first position. Naturally tax planning is a science and art that requires more and more updated knowledge of a tax laws, financial acts, rules and regulations of the government. Very few number of people study about tax and they also take tax planning as very difficult to apply. Most of the small organizations, there were accountants just passed the intermediate level and they did know nothing about tax planning. In other words, they only know the illegal means to reduce tax liability, i.e. tax evasion. They could not take the avoidance of tax because they did not know the loopholes in Income Tax Act.

32% respondents felt tax law very completed and unstable. As a result, they were in very confusion in the language of tax and its genuine

sprite. In Income Tax Act 2058, there was very completed language which gives the dual meaning. If tax payers could not sure; then they felt boring to take advantages of tax planning. Similarly, tax laws were also changing and amending each year by financial Act; as a result, most of respondents were in confusion about what to do.

18% respondents said that the main cause of poor tax planning habit of Nepalese People is due to the lack of more incentives provided by the tax Act. Many incentives had been cutting by the government to follow the principle 'low rate and wide net'. Most of the taxpayers said that in Income Tax Act 2058 B.S. there were very less options where to apply tax planning as compared with Income Tax Act 2031 B.S. However, this facilities utilization is also very difficult and useful only for strategic tax planning. Generally, accountants were not permanent in the organization to adopt and implement strategic tax planning. So, tax planning is done within the incentives, allowances, rebates provided by the government. If the government is against these facilities, the way of reducing tax liability will be finished. Hence to promote and reform tax planning, various facilities should be provided by government as a positive reward to reduce the tax liability of honest taxpayers.

Poor enforcement of penalties to the tax evader and tax avoider was the main cause of poor utilization of tax planning concept which was supported by 3 respondents or 6% respondents. They said that if illegal activities would not be punished, then legal activities will also bend towards illegal. In other words there was not enforcement and immediate punishment to tax evader, so tax planning habit of Nepalese people could not develop.

Similarly, unhelpful behaviour of tax personnel and improper utilization of resources were the other simple causes that receipt 4% respondents support respectively. In one hand tax planners were not

supported and motivated by the tax officers. Against they were treated as tax evader through tax personnel. In some respects, Income Tax Act 2058 had made some provision too to control the tax planning.

On the other hand the collected amount was not effectively utilized by the government. As a result, more tax payers even honest tax payers were also dissatisfied to continue their behaviour.

4.2.8 In Your Experience, Does a Taxpayer Feel Difficulties in the Process of Income Tax Assessment

To overcome the above problem, the following result has been obtained as follows:

Table 8: Difficulties in the Process of Income Tax Assessment

S.N.	Options	No of respondents	Ranking position	% of respondent
1	Yes	14	Second	28
2	No	32	First	64
3	No idea	4	Third	8
Total		50	-	100

28% of the respondents did feel difficulties while assessing their amount of income and tax liability. They could not understand the documents that they had to fill themselves in a self assessment method.

64% respondents took the self assessment method as positive way. They said in self assessment they were able to utilize the advantages of concessions, rebates, relief, incentives and allowances provided by the tax law. These were the facilities they could follow under self assessment.

Similarly 8% respondents had no ideas about the difficulties in the process of income tax assessment.

4.2.9 What Types of Difficulties were Felt by Taxpayers While Assessing Income and Making Tax Plan?

The difficulties that were felt by tax payers while assessing income and making tax plan has been presented as follows:

Table 9: Tax Assessment, Tax Planning and Problems

S.N.	Options	No of respondent	Ranking Position	% of respondents
1	Complicated procedures	12	first	24
2	Unstable tax law, rules and regulations of government	5	Fifth	10
3	Consumes unnecessary time	1	Seventh	2
4	Lack of relevant tax information system	6	Forth	12
5	High expectation of taxable income by tax Personnel than reality	5	Fifth	10
6	Expectation of personal monetary benefit by tax personnel	8	Third	16
7	Need of unnecessary documents	9	Second	18
8	Poor record keeping system in tax offices			
9	Lack of cooperation of tax administration	4	Sixth	8
10	Others total	-	-	-
	Total	50	-	100

From the above table no 9, it is observed that the tax payers had faced so many problems while assessing their taxable income, tax liability and tax planning. Majority of them i.e. 24% respondents were bothered by complicated procedures that should be followed very strictly. Income tax in Nepal has faced serious problem of administrative and

legal deficiencies as well as adhocism and delay in tax assessment. Adhocism and undue delay in tax assessment procedure are the serious problems of income tax system of Nepal. These not only reduce the total revenue but also harass the taxpayers in the payment of tax. Moreover, tax paying habit is undeveloped and there is a lack of tax consciousness in the Nepalese public and voluntary compliance is also lacking.

18% respondents faced the problem of presenting unnecessary document while taking the benefit of tax planning. They felt difficulties to submit all the bills, vouchers report, documents separately of different facilities.

16% of respondents said that adhocism and undue delay in tax assessment procedure are the serious problems. Generally tax officers tried to increase their personal monetary benefit by using discretionary power more than necessary which has encouraged corruption practices in Nepalese tax system. Most of the tax personnel did not present their helpful behaviour and supportive legal behaviour to the tax payers. They used to make the procedure delay and tried to impress the tax payers in bad influence. Some time they encouraged to the tax payers for tax evasion and tax avoidance by taking illegal benefit.

Lack of relevant tax information system was also the major constraint of hindering tax assessment and tax planning. 12% respondents focused about this problem. There was not relevant and effective information system regarding the taxation in Nepal. All the tax payers wanted to be informed by the IRD office about the tax matters. Easy, effective and convenient information system is to be developed and free follow of information is essential. In the absent of this, most of the tax payers are compelled to pay fine, penalties unknowing.

However, information system has been modernizing due to the computerization process in Nepal. It should be managed very

systematically to provide the true information to tax payers and search about tax evader and tax avoider to take them in the streamline of tax planning.

Similarly lack of stable tax law, Act, rules and regulations were another problems faced by tax payers. 10% respondents stated their view about this concern. They said, Income Tax Act, Finance Act, rules, Provision etc had been changing time to time. As a result they felt it difficult because of the lack of updated knowledge or due to the dominance of old knowledge. Changing and amending was the regular phenomenon of Nepalese tax system. Regularly changing rules discouraged to the tax payers about to make plan.

Tax personnel of government wanted or expected high amount of tax is to pay by the tax payers. 10% respondents said that income level of Nepalese people was very low. As a result most of them were under tax exempted. Others, who had to pay tax; their tax liability was very low. However, tax personnel did not believe the real or true documents presented by tax payers. Moreover, they wanted to collect the more tax than reality. Hence, such type of behaviour discoursed to the legal and honest tax payers.

8% respondents replied there was the lack of cooperation between tax personnel and tax payers. Most of the tax personnel though tax planning activity equivalent to tax evasion and tax avoidance. They used to asked unnecessary questions to tax payers but not helped honestly.

4.2.10 How Would You Reduce Your Tax Liability?

About this problem only 4 options were provided and the answer received by the respondents has been presented in the following table:

Table 10: Methods of Reducing Tax Liability

S.N.	Options	No. of respondents	Ranking Position	% of respondents
1	By taking advantages of loopholes in tax law	8	Second	16
2	By availing tax concessions, incentives, allowances rebates and relieves provided by existing tax law	38	First	76
3	By over statement of expenses and under statement of incomes	4	Third	8
4	Any others	-	-	-
Total		50	-	100

From the above table No. 10, it is observed that 76 percent of the taxpayers used to minimize their tax liability by using legal, moral and ethical way i.e. tax planning. In each step of their work, they consider the value and chances of concession, incentives, allowances, rebates and relief because these are very much essential for the proper utilization and mobilization of resources and development. They were liable for their duties using these facilities. They said that they did not search any weak points in the tax law to take tax advantages. They were responsible for their long term duties. So they accepted to avail tax concessions, incentives, allowances, rebates and relief for reducing their tax liabilities. Respondents stated that tax planning activity should be promoted by the state as well as tax officers. They were also worried about the regular cut up of tax facilities; and informed to the government about to provide facilities in order to enhance investment climate as well as balance development.

8 % of total respondents said that they reduce tax liabilities by taking advantages of both loopholes and facilities provided in the tax law. They mean to say that loopholes are the weakness of the tax law which the government should avoid by proper tax administration. To take advantages of loopholes in the tax are not illegal. So, the taxpayers always try to do such work for reducing their tax burden. They used not only loopholes but also tax planning. Indeed, they do not search only loopholes in the tax law but in some cases where they get easily to take advantages of loopholes in the tax law.

8% of respondents said that due to the proper knowledge of tax laws, act, rules, they used to reduce their liabilities by overstating expenses and under stating incomes. They used two types of accounts: one for their own purpose and the other for tax purpose. Generally, small and loss making organizations used this method.

4.2.11 Where the Tax Concessions, Rebates, Relief Incentives Granted to the Taxpayer under the Existing Tax Law Adequate?

The result of tax exemption, rebates, deductions and concessions granted to the company under the existing law has been presented in the following table:

Table 11: The Tax Exemptions, Rebates, Deductions and Concessions Granted to the Company Under the Existing Tax Law Adequate or Not

S.N.	Options	No. of respondents	Ranking Position	% of respondents
1	Yes	28	First	56
2	No	18	Second	36
3	No idea	4	Third	8
Total		50		100

From the above table no. 11, 56 percent of respondents accept the tax exemptions, rebates, deductions and concessions granted to the company under the existing tax law are adequate. Only the important point of them is that they can feel more difficulties to understand the sections and subsections of the Act. It is very vast in language and they get confusion about it. Such types of facilities have made them successful in every step of their business lives. On the other hand, they can legally reduce their tax burden with the help of tax planning. They always claim the facilities provided by the Act, in different ways of project planning, operational planning and strategic planning. Though the company has been provided such facilities, they felt difficulties in planning their resources on the case of minimum tax liabilities.

36% of total respondents said that the tax exemptions, rebates, deductions, and concessions granted to the company under the existing law are not adequate because the amount of rebates, concessions etc. should be given in descending order according to time period. The newly established company should face various problems in strategic planning, project planning and operational planning. So, they must be provided maximum incentives, rebates, and concessions etc. in the beginning and reducing in the years to come. In addition, they said that only such types of facilities can not pay great role in the development of the company, they need security, moral support, technical support, financial support, feasibility development etc. by the government. They claimed that the government of Nepal has made systematic policy and laws the aristocratically but the practical is more difference. So such types of supportive activities should be maintained to make such exemption, rebates, deductions and concessions adequate. They also suggested that the amount of rebates, deductions, exemptions and concessions should be increased. Similarly the period of carry forward should be extended.

8% of the respondents stated that they were unknown about the tax exemptions, rebates, deduction and concessions granted to the company either adequate or not. They claimed that the more such facilities given the more they expect. So, they cannot limit these are adequate or not. It depends on the nature of the company. They are using such facilities for reducing their tax liabilities but they are undecided about adequate or not.

4.2.12 What other Facilities You Suggest to Reduce Tax Liabilities?

To know whether there were other facilities or not to reduce tax liability, a question of five options was asked. The real picture of the result has been presented in the following table.

Table 12: Facilities to Reduce Tax Liabilities

S.N.	Options	No. of respondents	Ranking Position	% of respondents
1	By increasing the amount of rebate, deduction, exemption and concession	5	Second	10
2	By increasing the period of carry forward	2	Third	4
3	By providing the facilities of carry backward to all organization	2	Third	4
4	All of the above	41	First	82
5	If any	-	-	-
Total		50		100

The above list indicates that the majority of respondents i.e. 82% respondents had chosen the option that all of the above. The above options were increasing tax concession, exemption, allowance and rebate, carry forward of losses and carry backward of losses. They claimed that, the government should provide the above facilities in a very systematic manner to motivate investor, to maintain good investment climate and

balance development of the country. They said that the government should maintain supportive activities to make such exemption, rebates, deductions and concessions adequate. They also suggested that the amount of rebates, deduction, exemptions, and allowances should be increased. Similarly, the period of carry forward should be extended. The period of carry backward to all the organization should be equally provided.

Only 10% respondents focused to the alternative to increase the tax facilities is essential by the government. They said that before 2058 B.S., there were more facilities provided to the taxpayers as compared with present. It is due to the government policy of low rate and wide net'. It means there were more facilities provided as well as the rate of tax were higher as compared with present. In modern time the rate of tax has been reducing but tax facilities have been cutting down gradually.

4% respondents focused to the option that to increase the period of carry forward of losses. For the large scale organization, they required many years to generate income, so the given period of carry forward should be extended.

Similarly, 4% respondents focused to the option of carry backward of losses. They said that all the organization should be given the opportunities of carry backward facilities.

4.2.13 Does Your Company Maintain Proper Books of Accounts?

In their overall ranking of the major problems of maintaining proper books of accounts, the following result has been presented as follows:

Table 13: Maintaining Proper Books of Accounts

S.N.	Options	No. of respondents	Ranking Position	% of respondents
1	Yes	50	First	100
2	No	-	-	-
Total		50		100

From the above table, it is observed that all the organizations or taxpayers maintained their books of accounts. Most of the large organizations record their financial transactions based on double entry book keeping system or based on accounting equations. This system is the most scientific, systematic and modern to keep the records properly. They use to record day to day income and expenditures in the prescribed format of the tax law. They use to submit profit and loss account, balance sheet, production related statement, cash flow and income statement which are declared by Inland Revenue Department.

None of the respondents rejected for the maintaining of proper books of account. However, a few small organizations can not maintain their books of account based on accounting principles. Some organizations used to prepare dual accounting system for tax evasion which harms all the organization. It must be controlled by timely administration and assessment.

4.2.14 What are the Reasons of Widespread Income Tax Evasion in Nepal?

In their overall ranking of the suggestions for the reasons of widespread evasion of income tax in Nepal has been presented as follows:

Table 14: Reasons of Widespread Evasion of Income Tax in Nepal

S.N.	Options	No. of respondents	Ranking Position	% of respondents
1	Loopholes in income tax law	-		-
2	Administrative inefficiency	4	Fifth	8
3	High corruption	18	First	36
4	Lack of effective fine and penalties	12	Second	24
5	Widespread illegal business activities	2	Sixth	4
6	Inadequate accounting, auditing and investigation system	7	Third	14
7	Complicated tax law	1	Seventh	2
8	High rate of tax	6	Fourth	12
9	Political instability	-	-	-
10	Others	-	-	-
Total		50	-	100

The above list indicates that the major cause of tax evasion was due to the high rate of corruption prevailing every sectors of Nepal. About this matter, 36 percent of respondents highlighted. They claimed that corruption culture was developed in most of the sectors of the economy. As a result, tax evasion had not done taxpayers themselves; rather it was done with the help of tax personnel by taxpayers. If corruption activity was done by tax personnel, at that system, the taxpayers are not responsible, honest, and moral toward paying the tax liability. Hence, to cut up the widespread evasion of tax, corruption activity should be avoided first.

24% of total respondents said that the main cause of tax evasion was due to the lack of effective fine and penalties. If the loss of fine and penalties is very high than the taxpayer would thing about the cause and

consequences of tax evasion. In addition they should be punished by using other methods, such as presenting the name in black list, taking in prison, not providing facilities etc. It is naturally true that if the amount of fine and penalties is less than the amount of tax evasion, then tax evasion would not be controlled.

14% of respondents stated that the existence of tax evasion is due to the cause of inadequate accounting, auditing and investigation system. The auditing system of the government is ineffective. In other words, those auditor to whom the organization wants to refer, he audits the books of accounts and prepares the statements on behalf of company. He/she makes or prepares the report as per the interest of taxpayers rather than Inland Revenue Department. Hence most of the tax evasion activities are done by the small organization with the help of auditors they appointed. On the other, IRD has not been able to check or investigate the books of accounts, bills, vouchers and other supportive documents whether they are correct or not.

12% of the respondents said that high tax evasion was due to the high rate of tax. The income level of Nepalese people and company is very low and the rate of tax is very high. As a result they have to pay more amounts if they become honest. To reduce such tax liability they choose the illegal way i.e. tax evasion. In Nepal, the rate of tax has been decreasing since the government adopted the policy 'low rate wide net'. They claimed that after reducing the rate of tax; taxpayers will be willing to pay the tax honestly, legally and morally. They suggested that the tax rate should only 10% and have to increase the coverage of tax to collect the required revenue.

8% of respondents said that tax evasion was due to the administrative inefficiency. Tax personals of government are not very interested to make the effective plans, policies and to implement them

very actively. They are concerned to come office and spent official time only; but not about how to collect the more and more tax. As a result taxpayers take the credit habit of tax personnels bad habit.

Similarly, 4% respondents said the high rate of tax evasion was due to the establishment of illegal and unregistered business. Mostly small trading houses are established without registered in IRD. They run one place for some time and then other places and do not pay tax.

Complicated tax law was the reason of tax evasion. 2% of respondents said that the tax act, section, sub-section, language, procedure of tax is complicated, so taxpayers would be motivated to choose the tax evasion activity.

4.2.15 How Tax Evasion Behaviour of Nepalese Taxpayers can be Avoided?

A question of six options was asked to the respondents. And they presented their view which has been shown as follows:

Table 15: Methods of Avoiding Tax Evasion and Promoting Tax Planning

S.N.	Options	No. of respondents	Ranking position	% of respondents
1	Educating taxpayers by training	12	First	24
2	Simplifying tax laws in terms of language, section, sub-section etc.	2	Sixth	4
3	Timely assessment of taxes	-		-
4	Incentives to regular taxpayers	3	Fifth	6
5	Fine and penalties	6	Fourth	12
6	Effective utilization of collected tax	2	Sixth	4
7	Exercising greater supervision over tax staffs	7	Third	14
8	Setting and monitoring tax collection target	9	Second	18
9	Sending regular reminder notice to taxpayers to pay taxes	2	Sixth	4
10	Adopting reasonable tax rates	7	Third	14
Total		50	-	100

The above list indicates that the first position was held by the options of conducting tax education programme to cultivate or nurture tax paying culture among taxpayers. 24 % of respondents said that the government has to provide education, training, to the taxpayers to make the taxpayers aware and more responsible to pay the tax honestly.

18% respondents said that there was necessary of setting and monitoring tax collection targets. They said that tax should be collected in systematic and scientific way. For that setting the tax standard and monitoring the collected amount with standard was essential to control the evasion activity. Self-assessment of tax is given and monitoring activity is nominal. As a result, tax evasion activity is growing.

Similarly, 14% respondents claimed that the low tax rate would be able to reduce tax evasion. The tax rate paid by them was very high. So they had to pay large amount as a tax liability if they paid it honestly. They suggested to reduce the tax rate at 10% and to increase the tax coverage and tax net.

Fine and penalties to the taxpayers who did not pay the tax was essential to make the tax system effective. 12% respondents focused on this option. They added if there was not establishment and implementation of effective reward and punishment system to honest and dishonest taxpayers, the honest ones would also be shifted towards dishonest taxpayers. So dishonest taxpayers should be immediately punished to streamline them in the mainstream of tax planning.

14% respondents said that there was the very need of supervision over tax staffs. They said tax evasion activity takes place by joining hands with tax personnel for personal benefit. The tax personnel should not given the sole authority and responsibility. It means there should be

the system of checking and rechecking to make the system effective and transparent. Most of tax personnel did not furnish their duties with the objective of taking extra-personal benefit. If all the staffs are honest and responsible to their duties, then tax evasion will be dramatically controlled.

6% respondents said that more incentives and rewards should be provided to the honest and regular taxpayers. They should be respected, rewarded in the society to be encouraged.

4% respondents focused for sending regular notice to the taxpayers to make them aware and honest for the purpose of reducing tax evasion. Regular enforcement was necessary through notice, letters, etc. for prompt payment and makes them liable.

4% respondents also focused for the effective utilization of collected tax by the state to make taxpayers more liable. If the collected amount would be corrupted them even the honest taxpayers would not pay tax. So they suggested that the tax collected must be utilized for social service and national development for controlling tax evasion.

4.2.16 What are Your Suggestions for Educating Taxpayers for Increasing Tax Consciousness for Voluntary Compliance?

In their overall ranking of the suggestions for educating taxpayers for increasing tax consciousness for voluntary compliance, has been presented as follows:

Table 16: Education to Taxpayers for Consciousness

S.N.	Options	No. of respondents	Ranking position	% of respondents
1	Providing incentives and recognition to taxpayers	2	Fifth	4
2	Operating more branches of tax office in different places	2	Fifth	4
3	Door-to-door campaigning with printed materials	8	Third	16
4	Effective enforcement of penalty	1	Sixth	2
5	Use of service of radio, TV, newspapers, cinema, hoarding board, posters etc.	15	First	30
6	Providing information desk and suggestion box in tax offices	6	Forth	12
7	Conducting seminars and interaction programmes	6	Forth	12
8	Introducing tax education in school curriculum	9	Second	18
9	Promotion of tax personnel based on performance	1	Sixth	2
10	Others	-	-	-
Total		50		100

In the above table No. 16, it is observed that 30% of respondents suggested to the use of radio, TV, cinema, hoarding boards, newspaper etc. for educating taxpayers for increasing tax consciousness for voluntary compliance. The above mass media could be fruitful to convey the message in broad area.

18% of respondents suggested in introducing the tax education in school curriculum for the purpose of developing experts and qualified manpower for the future.

16% respondents said about door to door campaigning with printed materials is essential for enhancing the taxpayers education about tax.

This method could very effective to educate or aware the people immediately.

12% of respondents suggested to maintain information desk and suggestion box in the tax offices to provide quick and updated information. In addition information system should be developed and should make it convenient to all the taxpayers.

Similarly, 12% respondents suggested for conducting seminars and interaction programmes to provide the information to the taxpayers. Along with training programme for both tax personnel and taxpayers have to provide time to time to make them more responsible and honest.

4% respondents focused for providing financial and technical incentives to the taxpayers. Government has to share the problems of taxpayers and organization because they pay the tax to the government. Moreover, taxpayers social and ego needs should also be addressed to motivate them to pay regular tax honestly.

4% respondents also focused for increasing the tax branches in every part of the country. Government has to set tax targets and establish branches as per those targets. It helps to aware, control the people as well as is convenient to the taxpayers.

2% respondents focused for promoting the tax personnel based on their performance. They should be satisfied by providing high salary, allowance, other benefits, career development opportunity etc. for controlling corruption and making them more responsible.

4.2.17 What are the Major Problems of Tax Administration to Support and Reform Tax Planning in Nepal?

About to find out the major problems of tax administration to support and reform tax planning in Nepal, answer of the respondents has been presented in the following table:

**Table 17: Problems of Tax Administration to Support and Reform
Tax Planning in Nepal**

S.N.	Options	No. of respondents	Ranking Position	% of respondents
1	Lack of training facilities to tax personnel	2	Sixth	4
2	Lack of experts in tax management	3	Fifth	6
3	Lack of sufficient incentives to taxpayers	2	Sixth	4
4	Misuse of power by tax administrators	2	Sixth	4
5	Political instability and change in tax law, act etc.	5	Fourth	10
6	Lack of the implementation of one service center policy	-	-	-
7	Weak tax administration	17	First	34
8	Low quality of life, social value, moral value of Nepalese people	11	Second	22
9	Lack of motivation to both tax personnel and taxpayers	8	Third	16
10	Others	-	-	-
Total		50		100

From the above table No. 17, the first problem of tax administration to support and reform tax planning was weak tax administration of Nepal government. Out of total respondents, 34 percent of them said that all the problems seen in taxation were due to the weak tax administration and management. The effectiveness of tax administration basically depends upon the quality of tax personnel. The tax administration was weak and traditional. There had been a mismatch between the quality of staff and the demand of the job. Turnover of the

personnel, which is generally not in the interest of the tax administration; was rather high. Transfer policy of personnel was not transparent. Some personnel were transferred on the basis of their interest and connection with the influential persons rather than the interest and requirements of the tax administration.

22% of respondents said that effective tax administration and tax planning was hampered due to the low quality of life, social value, moral value of Nepalese people. In one hand, due to the lack of physical facilities in the tax offices, the tax officers can hardly concentrate on their duties. They were paid low salary, from which it was very hard to manage even the minimum standard of living. There was no provision of special allowances, incentives or rewards for better performance. Due to low salary, they were compelled to look for other sources of income, that invites corruption. Corruption was the chronic disease of tax administration in Nepal. Due to the lack of integrity and honesty of tax personnel, the trend of corruption is in increasing trend. In the other hand the economic condition of taxpayers was so good. Most of them were not serious about the reduction of social value, moral value due to the cause of not paying tax honestly.

16% respondents said that there was no motivation activities provided to tax officers and taxpayers by the government. Lack of motivation caused lack of responsibility and honesty among tax officers and taxpayers. So to make tax administration effective, both tax personnel and taxpayers should be motivated by providing special allowances, incentives and rewards for better and honest performance.

10% of respondents highlighted the problem of political instability and regular change in the tax law, tax act etc. Moreover, they said that most of the organization could not run smoothly due to the political insurgency and instability. As a result, very few business firms were

running in profit and denied to pay the tax honestly and responsibly because of the lack of the responsibility of government.

6% respondents said that there was the lack of experts in tax management. As a result effective tax administration could not establish. They said it was urgent to develop the tax experts for making the tax management effective.

4% respondents said there was only poor training facility. It was not felt necessary to obtain specialized training on various aspects of taxation before taking up jobs. Personnel were directly posted to the field office after giving them small orientation classes. There was the lack of auditors, treaty negotiators and trained personnel on various aspects of taxation. Revenue Administration Training Center provides theoretical base short term training, however the importance of this center and the training has been undermined over the years. So the respondents said that there was the need for a specialized institute that organizes special training for tax officials.

Similarly, 4% respondents claimed to the tax personnel who misused their power while performing. The office personnel had given discretionary power by the Act. It would be helpful if it was effectively use; however it would be so dangerous when they used for personal benefit.

4.2.18 What are the Essential Factors for Making Tax Administration and Tax Planning Effective?

In their overall ranking of the essential factors for making tax administration and tax planning effective, the following result has been obtained as follows:

Table 18: Factors for Making Tax Administration and Tax Planning Effective

S.N.	Options	No. of respondents	Ranking Position	% of respondents
1	Proper training to tax personnel	7	Fourth	14
2	Better information system	6	Fifth	12
3	Simple tax laws	2	Seventh	4
4	Tax education to taxpayers	11	First	22
5	Better public relation by tax personnel	-	-	-
6	Effective reward and punishment system	10	Second	20
7	Identification and clear-cut advertisement about tax incentives	4	Sixth	8
8	Simple tax procedure	8	Third	16
9	Extra incentives and facilities to the honest and regular taxpayers	2	Seventh	4
10	Others	-	-	-
Total		50		100

From the above table No 18, it is observed that, in the Nepalese contest, tax education to the tax payers was necessary. About this factor 22% of respondents rank it as a first factor for making tax administration and tax planning effective. Only the educated and qualified people do make the activity of tax planning. Moreover, tax planning is the art and science to reduce the tax liability by the proper utilization of facilities provided by the Act. Respondents claimed that most of the tax payers were uneducated or they knew a very few about the tax law, tax planning etc. They suggested that tax education was indispensable for making tax administration and tax planning effective.

Second position was received by the option that effective reward and punishment system was urgent for making tax administration and tax planning effective. They added, fine and penalties to the tax payers, who did not pay the tax was essential to make the tax system effective. Moreover, if there is not establishment and implementation of effective reward and punishment system to honest and dishonest tax payers; the honest ones will also be shifted towards dishonest taxpayers. So dishonest taxpayer should be immediately punished to streamline them in the mainspring of tax planning.

16% of the respondents highlighted the option about simple tax procedure that was needed for making tax administration and tax planning effective. While paying tax and taking advantages of tax planning, the respondents had to follow very lengthy procedure which was very boring and irritating. They suggested, to make the tax administration and tax planning effective the very simple tax procedure should be established and developed.

14% respondents focused to provide the tax training to the tax personnel. Training was essential element to improve and Update the knowledge, skills and techniques of tax personnel. There was lack of an extensive training programme for tax officers. It was not felt necessary to obtain specialized training on various aspects of taxation before taking up jobs. Personnel were directly posted to the field office after giving them small orientation classes. There was lack of auditors, treaty negotiators, and trained personnel on various aspects of taxation. Opportunities for training abroad had rather been limited to tax personnel. So, there was a need for a specialized institute that organizes special training for tax officers.

12% respondents gave the first priority to the option of better information system for making tax administration and tax planning effective. They said, the data base information system was very limited in tax offices. Records maintained by tax offices regarding potential taxpayers and their economic activities were not adequate. There was the lack of information depository or data bank. Effective system of cross checking and investigating of returns was lacking. They suggested that such types of information related problems should be immediately solved. On other words, better information system should be developed for making tax administration and tax planning effective.

8% respondents said that most of the tax payers did not know the facilities or incentives provided by the tax law. So it was necessary to inform the tax payers about such incentives by using advertisement. Such type of advertisement or information would be the helper for making tax administration and tax planning effective. 4% respondents demanded to provide the extra benefits and facilities to the honest and regular tax payers. They should be supported by the state such as providing of security, moral support, technical support, financial support, feasibility development etc. To make them more active and responsible towards the government.

4.2.19 In your opinion, What Step Should be Taken to Improve Tax Collection and Tax Planning System?

To find the conclusion of the above problem regarding the steps that should be taken to improve tax collection and tax planning system, the following result has been obtained.

Table 19: Steps to be Taken to Improve Tax Collection and Tax Planning System

S.N.	Options	No of respondents	Ranking position	% of respondents
1	Conducting tax education programme to cultivate tax paying culture among tax payers	11	Second	22
2	Setting and monitoring tax collection targets	5	Forth	10
3	Making taxpayers aware of their rights, duties, and consequences of failure to comply with tax law	3	Fifth	6
4	Sending regular reminder notice to tax payers to pay taxes.	2	Sixth	4
5	Adopting reason be tax rates	6	Third	12
6	Establishing effective and efficient management information system to monitor collection operations	1	Seventh	2
7	Providing more incentives recognition and other support to tax payers.	21	First	42
8	Simplification tax laws in terms of language, section, subsection etc.	1	Seventh	2
9	Others	-	-	-
Total		50		100

The above list shows that most of the respondents have chosen the option of providing more incentives, and recognition and other support to tax payers for improving tax collection and tax planning system. 42% respondents ranked this as a most influential option. They said that by providing more incentives, rebates recognition and other support, tax

payers would be willing to pay the tax honestly. If they get the social recognition regarding of paying the tax, then they will feel proud and dignity of them. They would not want to down their proud and dignity by tax evasion and tax avoidance. Other support, such as providing security moral, support financial support, technical support, feasibility development, infrastructure development play the significant role to improve the collection as well as tax planning.

22% respondents focused for conducting tax education programme to cultivate tax paying culture among the people to improve tax collection and tax planning. In the context of Nepal; People were not very serious and honest to follow the rules and regulations of the government as well as the society. In other words, social value, moral value etc. of Nepalese people was very low. As a result, there was urgent of conducting tax education program to cultivate the tax paying culture among the taxpayers. It was also needed to make them move active, more interesting and enterprising etc.

12% respondents said that there was still high tax rate in Nepal. They suggested to follow the reasonable tax rate 20% to 30% tax rate existed in our country was very high. High tax rate leads to the tax evasion and tax avoidance activity. So, the tax rate should have to be decreased at 10% rate to improve tax collection and tax planning.

6% tax payers focused to make the taxpayers more aware of their rights, duties and the consequences of failure to comply with tax law for improving tax collections and tax planning system. If taxpayers knew the rights, duties and consequences of not discharging their duties, they would think and take tax very seriously.

4% respondents said there was the urgent to send the regular notice, letters, and information to the taxpayers who did late to pay the taxes.

Similarly 2% respondents focused on establishing efficient and effective management information system to monitor collection operation and 2% for the simplification of tax laws in terms of language, section, subsection etc for improving tax collection and tax planning.

4.2.20 Do You Think, Income Tax Act 2058 B.S. is Sufficient to Support Tax Planning?

To know the respondents response about whether Income Tax Act 2058 B.S. was sufficient or not to support tax planning: the following result based on 'Yes' 'No' answer was as follows:

Table 20 : Whether Income Tax Act 2058 B.S Was Sufficient or Not to Support Tax Planning

S.N.	Options	No of respondents	Ranking position	% of respondents
1	Yes	7	Third	14
2	No	32	First	64
3	No Ideas	11	Second	22
Total		50		100

Here, the above list indicates that majority of respondents said Income Tax Act 2058 was not sufficient to support tax planning activity of tax payers. Among all 64% respondents or tax planners were not satisfied about New Act. They said, the government has been cutting down the incentives, rebates, allowances after the establishment of policy "low rate wide net". In Nepal Industrial Enterprise Act 2018 B.S, Industrial Enterprise Act 2031, Industrial Enterprise Act 2038 and Industrial Enterprise Act 2049 provided many types of tax facilities to the industrial sector. Due to these facilities provided to industrial sector in Nepal and the world at large, there was the need of expert knowledge to

find out the actual facilities provided by the Act as per the law. It means there was great scope of tax planning at that time. However, the scope of tax planning has been reduced to some extent in these days under Income Tax Act 2058 B.S. Nepalese government has also changed its course and abolished most of the tax facilities provided by industrial enterprise acts. New Income Tax Act has been brought to increase the net of taxation.

However, 14% respondents said the Income Tax Act 2058 was sufficient to support tax planning. Still there were some avenues where tax experts can make tax planning. There are the options of selection of business, selection of the product, selection of the structure of organization, selection of location, sources of capital, size of business, selection of market, merging of business, acquisition of fixed assets, repair and improvement cost, pollution control device, R & D expenses, Donation, Leasing buying etc to make tax planning.

Among all the respondents 22% respondents select the option no ideas. They said that they unfamiliar with the Income Tax Act 2058 B.S. So, they do not know about the scope of tax planning under Income Tax Act 2058 B.S.

4.2.21 What are the Major Demerits of Income Tax Act 2058 B.S Regarding the Scope of Tax Planning?

To know the respondents response regarding the demerits or drawbacks of Income Tax Act 2058 B.S. for the effective application of tax planning has been presented as follows:

Table 21: Demerits of Income Tax Act 2058 B.S. Regarding Tax Planning

S.N	Options	No of respondents	Ranking Position	% of Respondents
1	High rate of tax	1	Fifth	2
2	Regular cut-up in incentives and rebates as compared with Income Tax Act 2031 B.S.	17	Second	34
3	Lack of covering the loop holes in tax law	4	Third	8
4	Lack of reducing discretionary power of tax officers	3	Forth	6
5	No clear cut provision to develop check and balance system	1	Fifth	2
6	Unclear rules, regulations, section and subsection to understand by tax payers	21	First	42
7	Not mentioning about the declaration of tax personnel property each year.	3	Forth	6
8	Others			
Total		50		120

Above table indicates the opinions of majority of tax respondents about the drawback or limitations of Income Tax Act 2058 B.S. Ambiguous and unclear rules, regulations as well as unnecessarily established sections, subsections are some of the hindrances in supporting tax planning. 42% of respondents supported that unclear rules, regulations, sections and subsections are the main issues for supporting tax planning. Supporting this view they obtained that New Income Tax

Act is very complex to understand not only to ordinary people but even to tax experts also. The level of language was tedious, unclear, and incomplete. Repeated by use of 'or' was, that leads the reader towards confusion. Tax planning is an art of dogging tax law and Tax act. However, the tax planners felt very confusion to apply the tax planning measures to reduce their tax liabilities.

The second limitation of Income Tax Act for hindering effective tax planning was regular cut up in incentives and rebates in new Income Tax Act. 34% respondents said that the New Income Tax Act 2058 B.s had narrowed down the scope of tax planning by abolishing the various facilities and rebates extended in the previous Act. They said that there was great scope of tax planning before the implementation of new Income tax Act. "Low rate and wide net" policy was adopted by the government. Hence Income Tax Act 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 income into tax brackets.

8% of the respondents said that New Income Tax Act 2058 B.S. could not suggest to plug all the loopholes prevailed in the previous Act. Due to this, taxpayers had been using these loopholes to reduce their tax liability rather than using tax planning. They suggested that if tax loopholes will be plugged completely, then after, the taxpayers would search positive or legal way of reducing tax liability.

6% respondents said that Income Tax Act 2058 B.S. had given the discretionary power to the tax personnel. By suing this power, they have not respect the taxpayer's loyalty. Sometime they used to increasing their personal benefit. Some of them took tax planning activities also as a tax avoidance and tax evasion.

Similarly 6% respondents suggested about the declaration of tax personnel property annually. It would reduce the tax Corruption and increase the tax planning activity.

2% of respondents said that the tax rate is high i.e. 20% to 30%. They have suggested that it should be brought down to 10% for the effective reform of tax planning in Nepal.

4.2.22 In Your Opinion, What are the Areas of Tax Planning Reform in Nepal

To Know the result of respondents concerning the areas that are to be reformed for effective tax planning, the following table has been presented based on the response of respondents.

Table 22: Areas of Tax Planning Reform in Nepal

S.N.	Options	No of respondents	Ranking	% of respondents
1	Reform in tax plans and policies	11	Third	22
2	Reform in tax law	6	Forth	12
3	Reform in tax administration	48	First	36
4	Reform in corporate structure/individual level.	15	Second	30
5	Others			
Total		50		100

36% of respondents said that there was the urgent of reforming tax administration in Nepal. They said that the tax administration in Nepal was very week. So, the remedial measures for reform in tax administration received from the respondents were Simplification of Income Tax Act need of cooperative attitude of tax personnel towards tax payers' 'comprehensive training to tax personnel 'fixation of tax collection targets' and strict monitoring of tax personnel etc. They further said that tax administration should be effective for the both promotional and regulation activities. Tax administration is a device that must compel the illegal, immoral, and unethical activities toward the legal, moral and ethical activities respectively.

The second position result was obtained for the reform in corporate level or individual level. Among all 30% of respondents gave priority to reform corporate tax structure for making tax planning effective and more functioning. For that they suggested 'the selection of tax base' 'tax rate' 'benefit of the incentives by utilizing strategic planning' 'project planning' and 'operational planning' as far as possible. Tax incentive was a very popular constituent of tax structure as it results in lowering down of the effective tax rate. Tax incentives may mean partial or complete exemption from one or a variety of taxes and special allowances, generally for a limited period of time. For that they have to establish tax planning section hiring by tax experts.

22% respondents focused on reform in tax plan and policies. They said that an effective commission task force should be appointed to take a long term comprehensive look at the tool taxation system, including the income tax, with specific terms of reference. In Nepal, the Revenue Division had been established in the Ministry of Finance largely to evolve revenue policies and Undertake similarly important tasks. However, the division did to have any provision to have permanent experts to conduct through studies, researches, analysis and so forth or extended suggestions regarding tax reform policies. In addition respondents suggested to develop the planned tax reform system with long term perspectives on the basis of studies, research and analysis.

6 respondents or 12% out of them highlighted the opinion of reform in tax law as an area for tax planning reform. They said, legislation should be for compliance, not for defaulters. Tax law must be simple, unambiguous and certain. The language, sections, subsections should be very clear. They claimed that the existing tax law did not grant more tax incentives for the promotion of corporate sector.

CHAPTER -V

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Summary and Conclusion

On the basis of this study the major **Summary and Conclusions** are summarized below:

Nepal is a least developed landlocked country. Her need for mobilizing additional resources has been growing. Poor tax administration has remained the major constraint for mobilizing additional resources from taxation in Nepal. Tax administration can not improve unless revenue administration as a whole is professionalized. Research and planning wing of ministry of finance must be strengthened to take a long term perspective taxation policies. At present tax policies have been formulated on an ad-hoc basis and this has not been healthy for the development of effective tax policies.

More support has been found that tax planning has been in application very little. They supported that tax planning has not been played effective role for reducing tax liabilities. Indeed, such facilities have been provided in remote, undeveloped and underdeveloped areas where industries are rarely in practices.

Tax incentives are another constituent of tax structure as it results in lowering down of the effective tax rate. Tax incentives may mean partial or 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 incentives are provided in Nepal as under the Income Tax Act and Industrial Enterprise Act with a view to promoting saving and investment in the country in desired direction these

incentives include tax holiday's tax concession on income from export business tax excision to companies located in industrially backward areas. In fact such facilities have been promoting the small industries in remote, underdeveloped undeveloped areas in the country. Indeed, most of the respondents explained that it is very complex to fulfill the criteria of tax planning practically. They can not compete with other company when they search for tax facilities.

Administrative issues are even more serious to reform in the areas in tax planning. The tax administration is traditional, weak and inefficient. It has not been able to implement the tax Acts and regulations properly; resulting in a big gap between the legal provision and their actual implementation. As a result, despite considerable reforms introduced in tax policies in recent year, tax planning practice is not highly increased and tax evasion and tax avoidance have not decreased a desired level also.

Majority of respondents said that there are not adequate tax exemption, rebates deductions and concessions under existing tax law. It is because of the new policy, 'Law rate and wide net' accepted by the country. It has made serious to the competent tax planners to apply tax planning for reducing tax liability.

The next problem in tax planning reform is the lack of education. It was necessary to have a minimum level of education on specified subjects in order to be eligible to appear in tax officer level entrance examination in the past. For example, the aspiring candidates had to have a graduate degree in commerce, economics, law or public administration. Unfortunately, this requirement has now been relaxed. This means that any one having a graduate degree in any subject can apply for a tax officer position. This means that tax officers who are selected will not

have a proper knowledge of the tax system, tax administration, tax laws, accounting and auditing if their basic education does not have elements of commerce, economic or law.

There is a lack of detailed introductory training program for the new entrants and refreshing training programs for the officials working in the tax administration. There is also lacking the training program to the tax payers to make them motivate and induce them towards the planning activity.

Tax administration does not have transparent policy regarding the transfer of staff political influence in transfer has been simply to much to bear. Generally, those who have connections to influential politicians or bureaucrats are posted to the so called attractive places.

The salary scale of tax personnel is very low. It is not possible to maintain a minimum standard of living with the existing salary level. There are also no other facilities and reward and punishment in the system. Promotion is based mainly on seniority and not on merit or efficiency. It is also very difficult to dismiss corrupt staff. Positive attitude and motivation among the most of the tax officials is lacking. Due to the lack of a service minded attitude, tax officials do not handle tax payer's problems seriously. There is a common feeling that the officials should not take any decision concerning cases where there are travail gray areas. There is a lack of adequate supervision and monitoring system. The officials are not punished for their wrong doings, and the code of conduct is not implemented effectively.

With respect to the possibility for modernizing of tax planning, all the respondents suggested many areas to be reformed from administrative as well as corporate level or by tax payers. The following are the existing

problems that has to be reformed to make tax planning effective and productive:

- i. Problem of tax evasion and avoidance.
- ii. Lack of adequate incentives, facilities, rebates, grants, deductions, allowances provided for tax planning.
- iii. Poor-record keeping system of tax payers.
- iv. Poor training opportunities to tax officers as well as tax payers.
- v. Lack of motivation in tax personnel.
- vi. Existence of corruption.
- vii. Inadequate of physical and other facilities.
- viii. Lack of adequate information system.
- ix. Instability of tax policy.
- x. Complicated tax law.
- xi. Poor tax payer's compliance.
- xii. Lack of tax education.
- xiii. Deficiencies in tax policies, laws and administration.
- xiv. Unwanted pressure from vested interest groups etc.

Most of the respondents kept their statement in the prescribed books of account for the effective and proper calculation of taxable income. This is system helped them for tax planning as well as uses to support to the government for collecting revenue. But, they claimed that the government has not been able to collect adequate revenue from the public according to the target due to weak tax administration.

All of the respondents explained that they used to pay tax regularly within the prescribed time limit, indeed, none of them liked to tell their week point. They used to submit tax in installment, advance and final withholding basis. On the other hand, they complained that the

government tries to collect tax only by various topics but does not make promotional activities for them.

There is urgent to educate taxpayers by training so that they can easily understand the concept and views of Tax Act. Then, they can preplan for tax planning by utilizing maximum facilities provided by the law. similarly, they suggested to the simplification of tax law in terms of language, section, subsection etc for the easy adjustment of tax liabilities.

With respect to the responsible factor for poor tax paying habit of the Nepalese people, the opinions of the responding group were disassociated. In ranking the opinion of the respondents together, lack of incentives the tax payers' 'lack of tax education' and complicated/unstable laws were found the corresponding first, second and third prioritized responsible factors for poor tax paying habit.

With respect to the difficulties faced by tax payers in the process of income tax assessment, they accepted that they were feeling some sort of difficulties in that process. While ranking the views of respondents, complicated procedure, expectation of personal monetary benefits by tax personnel and high expectation of taxable income by tax personnel than reality were the corresponding prioritized difficulties felt by the tax payers in the process of income tax assessment.

Regarding the wide-spread evasion of income tax, majority of the respondents accepted that there was wide-spread evasion of income tax in Nepal. While ranking together the views of all respondents of each group; 'ineffective use of fine and penalties high corruption and administrative inefficiency were the respective prioritized reasons for wide spread evasion of income tax.

In respect to the methods of tax evasion, the opinions of the respondents were 'submission of false statement /account/ documents', 'non maintenance of proper accounts' and 'non-disclosure of income from different sources' were found the respective prioritized methods of income tax evasion.

Concerning the complication of tax planning, respondents explained that they had been facing many problems of tax planning in their companies. They complained that the section and sub section of the act are not clear. The act has been written in vast and confusing language. Tax planning needs technical and critical mind. As a result, most of the tax payers are not able to take benefit of tax planning. Some are taking advantage of tax avoidance. There is not specific definition and rules of all types of deductible expenses, final withholding payments, advance tax etc.

With respect to the suggestion for educating taxpayers for increasing their tax consciousness for voluntary compliance, 'providing tax information desk service in tax officer: 'introducing tax education in school curriculum' and 'providing incentive and recognition to tax payers' were found the first second and third respective prioritized techniques to be implemented.

Many taxpayers had been taking undue advantage of the weak and corrupt tax administration. Tax evasion was common. Under valuation was rampant. Smuggling took place on a large scale. There was a lack of invoicing or proper invoicing. Businessmen kept two sets of accounts. Tax personnel focused stop gap measures to tackle the problem, which was often not in line with the principle of modern tax system and that lead to disputes, conflicts, instability and lack of confidence. The tax procedures were traditional, complex and not transparent. The audit

functions had been initiated but were very weak in functioning effectively. The tax administrative has not been able to make use of the information available through modern information technology.

There is a lack of long term strategy. Policy maker and managers are concerned with short term revenue gains, which may be counter productive from a long term perspective. The outlook is traditional with a short term focus on immediate revenue collection but not on the other functional targets that functions about higher revenue collection and tax planning reform in a sustainable manner.

With respect to the essential factors for making tax administration effective and to support tax planning respondents said establishment and implementation of effective reward and punishment system', 'tax education to tax payers' and 'simple tax law' and procedure were urgent to be implemented.

Concerning the steps to be taken to improve tax planning and reduce tax evasion and avoidance are 'conducting tax education programme to cultivate or nurture tax paying culture among taxpayers', 'establishing effective and efficient management information system to monitor the collection operation' and 'making tax payers aware of their rights, obligations and consequences of failure to comply with tax law' were found the respective prioritized steps to be taken to improve the tax planning.

Concerning the existence of corruption in tax administration and its impact on the planning; majority of respondents said that there was very corruption in tax administration. As a result tax evasion and tax avoidance activities were promoted by joining hands with tax personnel and tax planning will dominated. In ranking together the views of all the respondents, 'declaration of property of tax personnel each year', strong

action against corrupt personnel and 'development of check and balance system' were found the first, second and third privatized measures for minimizing corruption in tax offices.

With respect to the sufficiency of remuneration provided by the government to tax personnel, they agreed that remuneration was very low. In other hand, there was the lack of promotion of tax personnel job performance of, 'honesty' & merit and academic qualification' were found the first, second and third prioritized criteria for the promotion of tax personnel. In the absence of this tax personnel search illegal ways to exist in the society.

With respect to the widespread discriminatory powers of tax officers, almost all respondents agreed. The discriminatory power of tax personnel discourage the tax planners and lead them towards tax evasion and tax avoidance.

In Nepal, however, income tax efforts have been constrained by hasty formulated policies', 'ambiguous laws', 'poor coverage', 'establishing of illegal and unregistered business', 'poor enforcement as well as compliance', and 'bad image of tax administration'. Such activities have hindered for the effective utilization of tax planning. So, a comprehensive study for reform of income tax and planning has become necessary.

The challenges that has to be addressed by tax administration for tax planning reform in Nepal consist of:

- i. Providing more and more incentives and increasing tax coverage or tax net and decreasing tax rate.
- ii. Development of effective taxpayer information system.
- iii. Reduction in assessment delays.
- iv. Reduction in collection delinquency.

- v. Make the improvement of voluntary compliance of taxpayers.
- vi. Minimizing the problem of tax evasion and tax avoidance.
- vii. Effective personnel management.

Taxation of Nepal is ineffective in reducing the gap between rich and poor, mainly because of 'widespread tax evasion', 'poor tax coverage', 'defective expenditure programmes', 'inefficient tax administration' and 'poor tax consciousness'. To overcome such problems policy measures such as 'restrictions on illegal business', compulsory account keeping 'high penalties and fines', 'better coordination with custom, excise and other concerned department, punishment to corrupt personnel' are the important steps to have taken immediately.

With respect to other suggestions for tax planning reform: 'Reform in tax administration' simplification of Income Tax Act '2002', 'need of cooperative attitude of tax personnel towards tax payers,' 'comprehensive training to tax personnel', 'Fixation of tax collection target' and 'strict monitoring of tax personnel' were received from some of the respondents. In addition 'establishment of a tax college for long term training', 'supporting to the unhealthy business units by providing facilities' etc were other notable suggestions given by the respondents.

Since a good tax policy can not come about without good tax administration. It is very urgent to adopt many measures to reform the tax administration and tax planning in a drastic manner. Reform in tax administration leads to the tax planning reform also. It is also crucial to reform tax administration on all fronts, including the organizational structure, tax personnel system, tax incentive package, tax procedural

automation and the tax appear system, the tax administration should be friendly and service minded to the tax payers.

It can be explained that almost all respondents did not state their weakness. Most of the respondents said that they were always on the favor of tax law and support the norms of the tax law. They said the government was not able to implement the system of the law. The government has made strict punishment for those who violates the tax law but there is less moral support and subsidies provided for those who respect the tax law. The government always looks them as a means of revenue collection but not helped on their operating problems, strategic problems and existing problems. Respondents said that the government is idle in their problems but active for charging tax. Tax evasion and tax avoidance were made by the taxpayers on the support of tax administrators. Even tax administrators did not pay their duties and responsibilities equally. As a result, the above stated problems appeared.

5.2 Recommendations

The foregoing discussion shows that Nepalese companies in general have been taking advantage of 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: either these companies do not have efficient tax planning system or because they were the loss making companies and therefore, could not get the advantages of tax benefits. The degree of tax planning depends upon the strategy and plan made by the company. Large Scale Company can spend more in tax planning activities to be made by tax experts. Only the rules and policies could not be enough for the collection of correct tax revenue.

There should be regular supervision and support of the government, so that any problem seen at the time of implementation of tax planning could be easily solved.

There are so many areas that have to reform very immediately for the betterment of government as well as Tax payers. Tax planning is such an activity in which all administrative, legal as well as the individual efforts should be balanced. In Nepalese context, neither more government support nor individuals effort in tax planning is developed. Besides, there are some tax provision under Income Tax Act and Industrial Enterprises Act that are required to amend which required amendments. An attempt is, therefore, made here to offer some important suggestions which have emerged from study. They are as follows:

5.2.1 Reform in Income Tax Plans and Policies

The financial plans and policies of the government should be developed in such a way that promote the investment climate and tax planning activity and discourage the tax evasion and tax avoidance. The major tax planning scope under income tax plans and policies are recommended as follows:

1. Different tax rate for resident and non-resident companies: There should be a sort of discrimination in the tax rate to resident and non-resident taxpayers. It is recommended to develop the policy to support and motivate resident tax planner.
2. Tax Rebate to non-industrial company setup in industrially Backward areas: Tax plans and policies is to be developed to provide the tax planning facilities also to the non-industrial companies located industrially backward areas.

3. Tax incentives for Revival of sick units: Government tax plans and policies should immediately reform to enhance the revival of sick units providing fiscal, financial and technical incentives.
4. Research and planning: strengthen research and planning wing of ministry of finance and use various research institutions like CEDA for conducting research on tax planning matters is urgent.

5.2.2 Reform in Income Tax Law/Act

Legislation should be for compliance, not for defaulters. Tax must be simple, unambiguous and certain. It should support to the honest taxpayers and punish to the others. Tax planning activity is done under the provision of tax law. There is not very support to tax planning activity by tax personnel in Nepal. The following suggestions have been made for reform of income tax law and to support the tax planning:

- Simplify language of Income Tax Act 2002 B.S. for supporting tax planning activity.
- Grant more tax incentives for the promotion of corporate sector.
- Impose maximum penalty for non-maintenance of accounts.
- Minimize discretionary powers given to tax officers.

5.2.3 Reform in Income Tax Administration

Substantial improve in tax planning or tax planning reform can be effective by reforming income tax administration. The following suggestions for reform are:

- Increase income tax coverage by bringing affluent tax payers into tax net by using the means and techniques of:
- Maintain an up to date taxpayer registration.
- Strictly enforce the registration of non-resident and non-citizen taxpayers.

- Fix target to tax offices in terms of increasing the number of meaningful taxpayers.
- Strengthen co-ordination with other agencies and offices within the tax system.

Develop effective taxpayer information system by:

- Encouraging assessments on the basis of accounts and records.
- Encouraging intermediaries like professional accountants tax consultants and tax lawyers.
- Develop multiple sources of information as suggested.
- Develop integrated statistical record system.
- Make tax administration information conscious.
- Develop an effective system of information exchange among the tax offices.

Reduce assessment delays by:

- Strict penalties for delays in filling returns.
- Minimize discretionary power of tax officers.

Improve collection performance by:

- Setting and monitoring tax collection target in each office.
- Form enforcement of penalties.
- Simplifying collection procedures.
- Prompt refund of over payment of tax.
- Making tax payers aware of their rights, obligations and consequences of failure to comply with tax law.
- Exercising greater supervision over tax staffs.

Educate taxpayers for effective enforcement and better compliance by:

- Effective use of communication media. Start weekly radio program for taxpayer's education and provide tax tips in newspapers also.

- Prepare and distribute simple yet comprehensive guides for taxpayers.
- Include tax education in secondary school curriculum.
- Provide assistance service to taxpayers in tax offices.
- Encourage friendly and helpful behaviour of tax personnel and better public relations.
- Use taxpayers associations like chamber of commerce for educating taxpayers.
- Conduct research and surveys about taxpayers and their attitudes.
- Create favourable image of tax administration.

Minimize tax evasion and avoidance by:

- Plugging legal loopholes and effective enforcement of law.
- Effective control of corruption in tax personnel.
- Control of illegal business activities especially at open borders.
- Minimize outside interferences from influential persons.
- Make concerted efforts to bring evaders into taxation net.
- Given handsome rewards to informers.
- Establish intelligence information section in all tax offices.
- Establish effective co-ordination with other agencies.

Better personnel management by:

Tax administration must be 'humanized' by reforms. The suggestions for personnel reforms are:

- Evaluate personnel on the basis of predetermined objectives.
- Motivate tax personnel by a proper system of incentives.
- Minimize corruption in tax administration by using built-in check and balance, reduce discretionary power of tax officers, take action against corrupt persons, keep up to date record of income, property and other assets of tax personnel their family and near relatives, heavy publicity of corruption case etc.

Increase the tax paying habit of Nepalese people by:

- Providing more incentives and recognition programme to honest tax payers.
- Effective tax education programme should be launched.
- Developing cooperative attitude of tax personnel.
- Simplification of tax law, procedures and forms.

Development of Specialized Group:

The tax administration needs to be developed as a professional group. Modern taxes are implemented under the self-assessment system. Tax audit is very important for the success of the self-assessment system. It is, therefore, necessary to have a large number of tax officers who have a good knowledge of accounting and auditing. This means it should be made mandatory to have a basic degree on accounting, auditing and tax system in order to be eligible to apply for the position of tax officers.

Computerization

The tax administration should be automated in order to facilitate the day to day work of the tax administration, and also to minimize physical contact between tax payers and tax officials.

Priority/Focus

The tax administration needs to know its core functions and behave accordingly. The function of modern tax administration is to raise the level of voluntary compliance. It is necessary to identify all major activities of the tax administration itself while other ordinary works could be outsourced. This means that tax administration should control, design, analyze and schedule of every activity as per priority.

Code of Conduct and Taxpayers Rights:

The tax administration should perform efficiently and with integrity. Honesty needs to be maintained at all levels. It is necessary to 'put our house in order' so that tax officials can enforce tax law and

enhance compliance. Effective implement of a cord of conduct is urgent. It is also necessary to integrate taxpayers rights specified in different documents or acts and to take action accordingly.

Transfer of Personnel:

The transfer policy of the personnels should be transparent. It should be based on the interest and requirement of tax administration rather than the interest of personnel and pressure of influential persons.

5.2.4 Reform in Corporate Level

By supporting all the summary and conclusion, we found that tax planning is done by each and every company but the degree of tax planning depends upon the strategy and plan made by the company. Large scale of company can spend more in tax planning activities made by tax experts. 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 advantages of tax benefits. In practice, tax planning has not been used properly.

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. Each and every organization has great scope of tax planning to be grasped. For that, their system, structure, plans and policies should be developed as per the requirement of tax planning reform. The following points are recommended to all the organizations to take tax planning benefits:

1. Selection of business: Nepalese organizations or tax payers are not very familiar about which types of business organizations have to pay more tax moderate tax and which is tax exempted. So it is recommended to the investor and entrepreneur to think seriously while establishing a business.
2. Selection of location: Investors and business organizations should have to give more priority to establish their business in undeveloped area to take tax benefit as far as applicable. In other words, all the business units should not be centralized only in the developed area.
3. Selection of product: It is also recommended to select or to give more priority to those products that can take the tax benefit. Generally, product of basic utilities is requested to be produced than luxurious products.
4. Selection of the form of organization: Basically small proprietorship organization regarding basic utility services and those usages domestic inputs are highly recommended to be established to take more tax planning benefits.
5. Selection of sources of capital: Large amount of capital should be collected by issuing bond, debentures, loan etc than the share capital to take tax planning benefit. In other words, debt equity ratio should be high to promote the interest of shareholders by paying low tax.
6. Selection of market: More Priority should be given to the special industries established in special economic zone for enhancing export trade, information technology to gain more tax planning benefit.
7. Merging of business: It is recommended to establish industrial units rather than non-industrial units. In case of running business,

merging technique should also be taken into consideration to take tax benefit as far as possible.

8. Leasing and buying: It is also recommended to the investor and business firm to consider effective decision about buying or leasing the assets to take the high tax planning benefits.
9. Timing of activity: Tax planning should be done within the time frame. So it is suggested to take the maximum tax facilities by doing the expenditure within the valid time. Moreover, investor and business units should make schedule of future business expenditures with the objective of saving maximum amount of tax.
10. Others: There are many more activities recommended to be done by business organizations. First of all they have to develop up-to-date information intelligence system to supply the necessary data for tax planning whenever required. Secondly, they must develop their system, structure, competencies to grasp the tax planning advantages. They have to develop separate tax section headed by a tax executive under finance Department particularly in large and medium companies to discharge all functions relating tax management, including tax planning.

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APPENDIX- A

Dear Sir,

I have sent this questionnaire concerned with a research on income tax planning in Nepal: dealing especially areas for reform aspects. Your kind help and valuable suggestions are essential for completion of my dissertation of MBS. I would very much appreciate if you could spare some of your valuable time in filling it.

I also assure you that the information provided by you will be exclusively used for academic research purpose only and will be kept confidential. Looking forward for your valuable cooperation and support.

Thanks!

Research advisor

Prof. Dr. Kamal Deep Dhakal

Shanker Dev Campus

Yours sincerely

Raja Ram Rijal

QUESTIONNAIRE

Topic: Tax Planning in Nepal: Areas for Reform

(Please tick () any one from the answers }

1. Information about the company.
 - a. Name and address:
 - b. Nature of business:
 - c. Year of commencement:
2. Information about the respondent.
 - a. Position and nature of work:
 - b. Academic qualification:
 - c. Experience in taxation work:
- 3.1. Are you familiar with the term tax planning?
 - a. Yes [] b. No []
- i. If not, why have you not applied tax planning?
 - a. It is hard to follow the method of tax planning []
 - b. Concession and rebates provided are not cleared []
 - c. It is easy to follow tax evasion and tax avoidance than tax planning []
 - d. Lack of qualified manpower []
 - e. Any other reason (please specify).....
4. What factors should be considered to make the tax planning practicable?
 - a. Increasing administrative efficiency []
 - b. Decreasing corruption practices []
 - c. Reforming tax structure []
 - d. Simplifying income tax law []
 - e. Implementing one window policy for all allowances []
 - f. Covering all the loopholes in income tax law []
 - g. Penalizing to the tax evader and tax avoider []
 - h. Others (please specify).....

5. Do you think that tax evasion and tax avoidance practices are the root cause of not applying tax planning?
- a. Yes [] b. No []
6. If yes, what should be done to reform tax planning?
- a. Closing the loopholes in income tax laws completely []
- b. Providing education to taxpayers about tax planning, evasion and avoidance []
- c. Auditing books of accounts by specified auditors []
- d. Controlling to the establishment of illegal as well as unregistered business []
- e. Simplified tax paying procedures []
- f. Reinforcing to all the business units about to maintain books of account on double entry system basis []
- g. Reducing unnecessary documents needed for taking tax planning benefit. []
- h. Promoting the cooperation between tax administration & taxpayers []
7. Does your company avail of the maximum possible exemptions, concessions, rebates, allowances etc?
- a. Very little [] b. Moderate [] c. As much as possible []
8. Do you believe that tax planning is being misused as tax evasion and tax avoidance in Nepal?
- a. Yes [] b. No [] c. No idea []
9. What are the factors responsible for poor tax planning habit of Nepalese people (Please tick () any one from the answers)
- a. Lack of taxpayers education []
- b. Complicated/unstable laws []
- c. Poor enforcement of penalties []
- d. Unhelpful attitude of tax personnel []
- e. Lack of more incentive to taxpayers []
- f. Improper utilization of resources collected by government []
- g. Lack of sufficient branches of tax office []
- h. Others (pleas specify)

10. In your experience, does a taxpayer feel difficulties in the process of income tax assessment?

- a. Yes [] b. No [] c. No ideas []

11. If yes, what types of difficulties are felt?

- a. Complicated procedure []
- b. Unstable rules and regulations of the tax office []
- c. Consumes unnecessary time []
- d. Lack of relevant tax information system []
- e. High expectation of taxable income by tax personnel than reality []
- f. Expectation of personal monetary benefit by tax personnel []
- g. Need of unnecessary documents []
- h. Poor record keeping system in tax offices []
- i. Lack of cooperation of tax administration []
- j. Others (Please specify).....

11. How would you reduce your tax liability?

- a. By taking advantages of loopholes in tax law []
- b. By availing tax concessions, incentives, allowances, rebates and relief provided by existing tax laws []
- c. By over statement of expenses and understatement of incomes []
- d. Any other method (pleas specify).....

12. i. Are the tax exemptions, rebates deductions and concessions granted to the company under the existing tax law adequate?

- a. Yes [] b. No [] c. No ideas []

12.ii. If not, what other facilities you suggested to reduce tax liabilities?

- a. By increasing the amount of rebate, deduction, exemption and concession []
- b. By increasing the period of carry forward []
- c. By providing the facilities of carry backward to all organization []
- d. All of the above []
- e. If any (please specify)....

13. Do you agree with the following?

	Yes	No
a. Does your company deduct tax at source?	[]	[]
b. Does your company maintain proper books of accounts?	[]	[]
c. Whether income tax is paid by your company within the prescribed time limit?	[]	[]
d. Whether the provision relating to penalties and prosecutions are adequate?	[]	[]
e. Does your company take the facilities provided by law?	[]	[]

14. What are the reasons of widespread evasion of income tax in Nepal?

- a. Loopholes in income tax law []
- b. Administrative inefficiency []
- c. High corruption []
- d. Ineffective use of fine and penalties []
- e. Widespread illegal business activities []
- f. Inadequate accounting, auditing and investigation system []
- g. Complicated tax law []
- h. High rate of tax []
- i. Political instability []
- j. Others (please specify).....

15. How tax evasion behaviour of Nepalese taxpayers can be avoided?

- a. Educating taxpayers by training []
- b. Simplifying tax law in term of language, section, sub-section etc. []
- c. Timely assessment of taxes []
- d. More incentives to regular taxpayers []
- e. Fine and penalties []
- f. Effective utilization of collected tax []
- g. Exercising greater supervision over tax staffs []
- h. Adopting reasonable tax rates []

16. What are your suggestions for educating taxpayers for increasing tax consciousness for voluntary compliance? (Please tick () any one from the answers)

- a. Providing more incentives and recognition program to taxpayers []

- b. Operating more branches of tax office in different places []
- c. Door-to-door campaigning with printed materials []
- d. Effective enforcement of penalties []
- e. Using the service of radio, TV, newspapers, cinema, hoarding boards, posters etc. []
- f. Providing information desk service in tax offices []
- g. Conducting seminars and interaction programmes []
- h. Others (please specify).....

17. What are the major problems of tax administration to support and reform tax planning in Nepal?

- a. Lack of training facilities to the employees []
- b. Inadequate experts in tax management []
- c. Lack of sufficient incentives to taxpayers []
- d. Misuse of power by tax administrators []
- e. Political instability, modification and change in tax law, finance act etc. []
- f. Lack of the implementation of one service center policy []
- g. Low quality of life, social value and moral value of Nepalese people []
- h. Weak tax administration []
- i. Lack of motivation to tax personnel and tax payers []
- j. Others (please specify).....

18. What are the essential factors for making tax administration and tax planning effective in Nepal? (Please tick () any one from the answers }

- a. Proper training to tax personnel []
- b. Better information system []
- c. Simple tax laws []
- d. Simple tax procedures []
- e. Tax education to taxpayers []
- f. Better public relations by tax personnel []

- g. Establishment and implementation of effective reward and punishment system []
- h. Identification and clear-cut advertisement about tax incentives []
- i. Extra-incentives to the taxpayers who pays the tax honestly and regularly with time limit []
- j. Others (please specify).....

19. In your opinion, what steps should be taken to improve tax collection and tax planning system? (Please tick () any one from the answers }

- a. Conducting tax education programme to cultivate or nurture tax paying culture among taxpayers []
- b. Setting and monitoring tax collection targets []
- c. Making taxpayers aware of their rights, obligations, and consequences of failure to comply with tax laws []
- d. Sending regular reminder notice to taxpayers []
- e. Adopting reasonable tax rates []
- f. Establishing effective and efficient management information system to monitor collection operations []
- g. Providing more incentive, recognition and other support to taxpayers []
- h. Simplifying tax laws in terms of language, section sub-section etc. []
- i. Others (please specify).....

20. Do you think, income tax act 2058 B.S. is sufficient to support tax planning?

- a. Yes [] b. No [] c. No idea []

21. If not, what are the major demerit factors?
- a. High rate of tax []
 - b. Regular cut-up in incentives and rebates as compared with 2031 B.S. []
 - c. Lack of covering the loopholes in tax law []
 - d. Lack of reducing discretionary power of tax officers []
 - e. No clear cut provision to develop check and balance system []
 - f. Not mentioning about the declaration of property of tax personnel each year []
 - g. Unclear rules, regulations, section and sub-sections to understand by taxpayers []
 - h. Others (please specify)..
22. In your opinion, what are the areas of tax planning reform in Nepal?
- a. Reform in tax plans and policies []
 - b. Reform in tax laws []
 - c. Reform in tax administration []
 - d. Reform in corporate structure/individual level []

The end