

CHAPTER - I

INTRODUCTION

1.1 Back Ground of the Study

Economic development which is a continuous process is the prime concern of every nation of the world and Nepal is no exception. Government participation in the economic development has been increasing. The main objective of the modern government of any developing country is to improve living standard of its people through the development process. Government has to spend a lot of money to fulfill its responsibility towards its people. The responsibility may be either for security or for health or education or other developmental activities. In each country a lot of fund is spent by the public authority for the protection of common people and for the creation of various socio-economic infrastructures.

The word tax planning is made from combination of two word “tax” and “planning”. Tax means compulsory payment to the government and planning means taking decision about the future by choosing the best from different alternatives. Every business organization uses to plan as regards to may be short term and long of medium term. If tax factor is considered while planning the business activities of an organization, it is tax planning.

A tax is a compulsory levy and those who are taxed have to pay it without getting corresponding benefit of services or goods from the government. The taxpayer does not have any right to receive direct benefit from the tax paid. Due to this compulsory nature people have expressed different views in satirical ways about the taxation. Some say, “Nothing is certain in this world but death and taxes” while others say, “death means stopping to pay tax.” Here it should be noted that all compulsory payments are not taxes. For example, fines and fees are also

compulsory payments without having direct benefit to the payer but they are not tax because their objective is not to collect revenue but to curb certain types of offences. Secondly, tax payers can not receive any quid pro quo for payment of tax. The tax payer does not receive equivalent benefit from the government. A tax is not a price paid by one, for which he can claim goods and services. The charge of price for goods and services by public authority is not a tax. Thirdly, the tax is paid to the government for running it. Fourthly, in case of tax, the amount is spent for common interest of the people. The tax is collected from haves and basically, spent for the interest of have-nots in the society. Fifthly, a natural or an artificial person pays the tax (*Bhattarai, 2004:62*).

In conclusion. It can be said that a tax is a liability to pay an amount to the state. The basis for the payment is that the assesses have income of a minimum amount from certain specified source or that they own certain tangible or intangible property or that they carry on certain economic activities or they consume certain goods and service which have been chosen for taxation.

Planning is an important feature of all business organization. The formal planning system in a company arises from the necessity of management to conduct the operations of the company efficiently and effectively. Planning is necessary for the survival and growth of a company. Denning regards corporate planning as “ a formal and systematic managerial process organized by responsibility, time and information to ensure that operational planning, projects planning and strategic planning and carried out regularly to enable top management to direct and control the future enterprise”(Kandel, 2004:46). Operational planning refers to the future planning of existing operations in existing markets with existing customers. Projects planning includes the generation, appraisal and working out the details of an action outside the scope of existing operations. Similarly, strategic planning is the process of formulating long run objectives. Thus, corporate tax planning includes operational planning, project planning and strategic planning.

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 misused for the tax avoidance and tax evasion because they are clearly against the spirit of the law. In this way, we can say that tax planning is the art and science of planning the company's operations in such a way as to attract the minimum liability to tax with the help of various concessions, allowances and relief provided for in the tax laws. Indeed, the basic purpose of corporate tax planning is to reduce or postpone the overall tax burden in the present and foreseeable future.

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

To conclude, we can say that tax planning is a systematic and scientific planning of company operations. It is economic, legal and ethical activity, it ie use of various incentives, concessions, allowances, rabapes etc and it is an activity related to the future. There are three broad areas of corporate tax planning viz; strategic planning, project planning and operational planning. Tax consideration is required to be given in each of these planning areas in order to minimize tax liability. A brief description of these planning areas is as under:

Strategic Planning: is the process of formulating long term objectives and deciding on the resources for attaining them. Strategic planning relapse to the strategic decision such as a choice of business, location of the company, diversification of business, corporate restructure etc. tax planning is strategic decision not only benefits the company in minimizing tax liability, but also contributes to the accomplishment of social and economic objectives.

Project Planning: is the performance appraisal and working out of details of an action outside the scope of existing operations. When a company is considering a project or programme of any area of project planning, it is necessary to consider tax factor. Taxation law invites companies to avail of the benefits and concessions provided within the frame work of existing rules and regulations. For new investment in fixed assets; tax concession or allowances such as investment allowances depreciation allowances, rehabilitation allowances, tax holiday etc must be considered.

Operational Planning: is the future planning of existing operation. Before making the operatic decisions, tax implications must be carefully studied on the different aspect of operational planning, which includes among others, expenditures to be incurred on affecting repairs and renewals of plant and machinery, product promotion, short- term borrowings, personnel remuneration etc. the operational planning, strategic planning and project planning are carried out regularly to enable top management to direct and control the future of a business, These three components of corporate tax planning and necessary for the survival as well as the growth of a company. The basic purpose of corporate tax planning is to reduce or defer the overall tax burden in the present and foreseeable future (Kandel, 2003:35).

1.2 A Brief Overview of Nepal Electricity Authority

Nepal Electricity Authority (NEA) is one of the leading public enterprises functioning in public utility sector. It was named as “Bijuuli Adda” to operate and maintenance powerhouse, transmission lines and distributes electricity to public at the time. After the various diesel plants and hydro plants were constructed. As government department Electricity Department was established, Bijuli Adda was organized under Electricity Department in 2018 B.S as autonomous body Nepal Electricity Corporation (NEA Annual Report, 2065/066).

Function and Duties

As per Nepal Electricity Act, the function and duties of NEA will be as follow:-

To recommend the HMG to determine the long term and short term policy related to supply of electricity by generating, transmitting and distributing electricity pursuant to the prevailing law.

To prepare the plan for production, transmission and distribution system of electricity and other related works and to construct, conduct, preserve and promote the production lines and other related facility which are essential for implementation of the plan.

To coverage the production, transmission and distribution of electricity of adequate standard in the regions which are economically appropriate for the industrial and agriculture development and the facility of the people.

To conduct the necessary work relating to the production, transmission and distribution of electricity.

To make and cause to make arrangement for higher training and a study of view to prepare expert manpower relating to provide technical advice and consultancy relating to production, transmission and distribution of electricity.

To do and cause to do others works that is necessary for achievement of the objective of the authority.

Rights

The right of the authority is as follow:-

- To rise the loan from the foreign government or foreign institution and international institution.

- To raise loan from national institutions, bank or individuals
- To collect charge of electricity & services charge from the costumers.
- To sell and buy electricity to & from foreign country.
- To invest the amount, lying in the fund of authority.
- To check the authority consumption of electricity applied by the authority.
- To buy the electricity produced by the private sector.
- To conduct all work which see to "e inevitable and necessary for the fulfillment of works and duties of its own?

1.2.1 Introduction of DDC

Dairy development corporation (DDC) was established in BS 2026.(1996) under the corporation Act, 2021(1964). The main objective of the corporation are to provide guaranteed market and fair price to the rural milk producer and tm supply hygienic pasteurized milk and other standard dairy product to urban consumers. Prior to the establishment of the corporation a separate dairy development board was constituted to carry out the task of dairy development in Nepal in wider scale. The dairy development activity in Nepal started in Tusal village of Kavre district 2009 (1952) on the experimental basic with a small scale milk processing plant under the department of agriculture. In the year BS 2010\11 at the initiatives of dairy development board. The central plant was established and at started milk collection, processing and market activities from the year BS 014 (1957). The corporation is governed by the board of director formed by his majesty government of Nepal. Under the boar` of director the corporation has been revising its organizational structure according to the changing needs, at the central level are well as the regional level. The main objectives of this corporation is to provide due guaranteed market for the mile to rural farmer with fair price and to develop organized marketing system for the milk and milks product in urban area. As weld as to develop the organized milk collecting system to meet increasing demand of the pasteurized milk and milk products.

Historical Background of DDC

Nepal is least developed mountainous country. Private sector is not established for the development of industry & business. Before 2007 B.S the environment was also unfavorable to develop the industrial sector and the government had no vision about this matter. After democracy, 5 year passed keeping the nation in political inconsistency from in 2013 B.S the government has started 5 year developments plan which are also running now and the government has been operating the development works according to these plans.

A long with the starting of 5 years planned development, government has established various public enterprises in different sector for the economic development of Nepal. Now there are 43 PEs in Nepal. Among them DDC is one of the major PEs establishing under corporation act 2021 B.S. The dairy development activities in Nepal started in Tusal village of Kavre district along with the establishment of “center dairy plant” on the experimental basics with a small scale milk processing plant under the department of agriculture. In the year B.S. 2010 at the initiative of Dairy Development board, the “Central Dairy plan” was established.

The Dairy Development commission was formed in B.S 2012. In this way the demand of the milk and milk products has been increasing day by day, the dairy plant become necessary. The “Central Dairy Plan” which was established in B.S 2010.

At Bhotahity, due to the inadequacy of space this was sifted to Lainkhor in the year B.S 2013. The dairy Development commission was constitute to guide the dairy development section. At the time Swiss Association provided dairy expert for technical activities since then it have been started milk collection, processing and marketing activities.

The Dairy Development commission was converted into” Dairy Business Development Commission” in B.S. 2019. Ultimately in B.S.2026 sharawn 1, the DDG was established under the Corporation Act. B.S 2021 by the government in the “Third five Plan” DDC is totally owned by the government, but its performance is very measurable. As the result DDC is suffering from loans continuously. DDC is financing support by foreign grants and loan in interest such as World food program (WFP), New Zealand Government, Danish Government, and USAID etc.

DDC collect, refine & supplies milk products at a price in the entire nation level DDC was established undertaking the following objectives (*Annual Report, 2065/66*).

- To collect milk for the production of milk and dairy product in all national level.
- To supply the Pasteurized milk and milk product to all national level.
- To provided guaranteed market for milk in national level with reasonable price.
- To develop milk collection system & distribution channel to meet the increasing demand for pasteurized milk and milk products.
- To process the milk purchased from farmer and supply pure dairy product to the urban people.

Except the above objectives DDC was established for providing incentives to the farmer by collecting and preserving hygienic milk to the costumers. Milk is that type of food, which contains protein, carbohydrate, minerals & vitamins. For the reason milk and milk products are realize very important to keep the very healthy. Before establishment of DDC, there was no potential market to the farmer and livestock occupation was not getting any return to improve the economic condition of Nepalese farmer who are adopting this occupation.

Along with the establishment of DDC, a revolution was started in milk business in some few years. The DDC has tried to collect the milk at rural area to make milk easily available in urban area. Attempts to make milk occupation attractive, the DDC has expanded its branch in different parts in country such as Kathmandu, Biratnagar, Hetauda, Pokhara, Lumbini and so on.

Objectives of Public Enterprises

Public Enterprises are established to fulfill different requirements. Their basic goal is to serve people as well as to help to the nation to develop. It becomes very important to declare the motive of enterprises right from the establishment. After the declaration of objectives, it becomes easier to formulate the strategy and working policy of the enterprises. The objective of the public enterprises, therefore, is the most important factor to be taken into consideration. The objectives of the public enterprises are classified into the following groups:

Economics Objectives

- Accelerating the rate of economic growth
- Attaining the goals of planned economic development
- Regional and Balance development
- Mobilization of fund for future plans.
- Making available Essentials goods and services cheaply and adequately
- Acting as model entrepreneur
- Saving Foreign Exchange
- Maintaining the Economic stability
- Social objectives
- Prevent Monopolistic practices
- Generate Employment opportunities
- Reduction in Disparity of income

- Attaining Social justice and social welfare
- Avoiding the concentration of wealth and means of production in fewer hand.
- Making healthy and efficient enterprises

Political Objectives

- National defense policy.
- Political Ideology
- National Interest and welfare
- Political interest and purpose
- Importance of public Enterprises
- The importance of the establishment of public Enterprises lies in the services offered to the public sector. The following points can justify the importance of increasing establishment of the Enterprises;
- To accelerate the rate of economic growth
- To develop the fundamental infrastructures.
- To provide the public utilities
- To balance the regional development
- To supply the essential commodities.
- To create the model entrepreneur.
- To reduce the economic inequalities
- To check the inflationary Fund.
- To contribute to national fund.
- To strength the sick industries
- To prevent concentration of economic power.
- To strength the sick industries
- To initiate research and development activities
- To prevent concentration of economic power.

1.3 Statement of the Problem

Where there is money to be made, there is crime. It therefore follows that where there is obligation to pay taxes, there will always be people who will strive to void meeting their obligation. All other things being equal, the temptation to cheat increase as the amount to be gained from cheating also increases. Similarly, based on the assumption that most people do not wish to pay any more taxes than their obligation permit, legitimate and sometimes questionable tax minimization and schemes or practices are adopted in order to reduce tax liability. Tax planning is the new scientific concept and it requires technical and critical mind to plan tax so that tax burden can be minimized by using all the weapons given by the laws.

Due to over influence of tax evasion and avoidance, most of the organization has ignored tax planning. People feel troublesome and they become dishonest to show all resources of income. They search different loopholes for reduction of their tax burden. On the other hand, removing tax evasion seems to be equitable in the situation of Nepal. For this purpose the honest people should be rewarded and dishonest people should be panelized.

On the other hand Government of Nepal is not positive as regards too planning though it is not an illegal and immoral activity. Tax administration people take tax planning as the work not permitted by the law. In some respects, Income tax Act, 2058, has made some provisions too to control tax planning. People take tax planning as equivalent to tax avoidance or tax evasion.

So, the main problem is the practice of tax planning in Nepal though the government has been various facilities of emotions for the tax payers. In addition there is not proper evaluation of taxable incomes whether by government or by the tax payers. Therefore, the proper tax administration is also essential for smooth application of tax planning in the context of Nepal. As a result, the effective

mobilization of resources would be applicable. Poor recording system of income may be nil. Some specific problems are as follows:

- Relation between theory and practice of tax planning.
- Related to stable system of tax planning.
- Proper measurement of taxable income under tax planning.
- Systematic use of tax revenue by the government.
- Lack of trained manpower for the application of tax planning.

1.4 Objective of the Study

The main objective of the study is to gain an insight into the tax planning and give appropriate suggestions to use tax planning for Nepalese public corporations and reduce their tax liability within the legal framework. The main focus goes to the application and obstacles of tax planning in Nepal. It would be helpful for providing the comprehensive information to the managers for strategic planning, project planning and operational planning. As a result, it reduces tax liability within the legal framework. The specific objectives of the study are:

- a. To study the concept of tax planning.
- b. To analyzed the tax planning practices followed by Nepalese public corporations
- c. To examine the applicability of tax planning in Nepalese public corporation.
- d. To find the problems and obstacles in practice of tax planning.
- e. To provide suggestions for all to use tax planning.

1.5 Significance of the Study

Tax planning is one of the most important functions of management. It is done in order to minimize tax liability or postpone the overall tax burden in the present and foreseeable future under the area of strategic planning, project planning and operational planning. Tax planning is, thus, neither tax evasion nor tax avoidance;

instead it is a device through which tax payer takes advantage of the various tax benefits, including exemptions and deductions under the provision of the existing tax laws. Moreover, if tax benefit is not claimed by a company by the time of assessment, the same cannot be claimed in future and the benefit would be lost for ever.

Similarly, tax planning is a branch of financial planning. So, tax planning is considered to be essential. It is, therefore, important to study of tax planning theory and its corresponding practices in Nepal. Tax incentive is becoming an integral part of tax planning for accelerating the pace of industrialization in most of the developing countries tax incentives involve cost in the form of loss of revenue to the government but at the same time it results in increase in corporate savings and investments. Finally, it offers suggestions for improvement in corporate tax laws which have direct bearing on the corporate tax planning.

1.6 Limitation of the study

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

The present study is based on purely on aspects of the income tax Act, 2058 and Industrial Enterprises Act, 2049 which grant various income tax incentives to the industrial units. The study, thus relates to the analysis of corporate income tax only. Other direct and indirect taxes such as custom duty, excise, value added tax, property tax have not been covered, though an integrated view of corporate tax planning would perhaps lead to better decision. Other taxes have been executed because the scope of the study would have otherwise become difficult to manage. In fact there can be separate study on these taxes.

This study is mainly from the point of view of public corporations assesses and not from the point of view of income tax authorities, though it may indirectly help the

latter in formulation tax policies according to the priorities accorded by Government of Nepal.

The views of respondent are collect only from Kathmandu valley. The third limitation relates to the nature and availability of the data. As stated earlier, it is a pioneer study on tax planning in Nepalese public corporations; therefore the researcher will face a lot of problem in getting data particularly those relating to tax planning practices from the sample public corporations.

Further in our analysis we also use some accounting data published in the annual report of those companies. Needless to say that these accounting data have their limitations because of accounting concepts, convention, and the personnel judgment of accountants which introduces an element of arbitrariness in them however this could not be helped. The above limitations, no doubt have some impact on quality of the study, but such impact will not usefulness of the study in a significant manner. Infect, this study would provide a base for further study in the area of corporate tax planning in the country.

1.7 Organization of the Study

The study has been organized into five chapters:

Chapter-I: Introduction

It includes background of the study, statement of problem, objectives of the study, significance of the study, research format and limitation of study.

Chapter-II: Review of Literature

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

Chapter-III: Research Methodology

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

Chapter –IV: Data Presentation and Analysis

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

Chapter-V: Summary, Conclusion and Recommendation

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

CHAPTER – II

CONCEPTUAL FRAMEWORK AND REVIEW OF LITERATURE

2.1 Conceptual Framework

This chapter highlights on the literature that is available in this topics. It includes literatures regarding theories on the topic and review of the empirical evidences of previous studies, done. In this chapter various books, magazines, journals, research papers, unpublished thesis reports etc are reviewed.

The first part of this chapter describes about the theories of tax planning, second part is confined to review those literature carried out previously.

2.1.1 Different Ways of Minimizing the Tax Liability

A tax is a compulsory contribution by a person to the government without having any direct benefit for the payment. Being not shift able, direct tax is a burden to the tax payer. That means, in case of direct tax, a person paying the tax and bearing the burden of the tax is same. Income tax is one of the direct taxes. In case of income tax, the taxpayer should pay the tax amount from his income. Because, he should pay some part of his saving to the government, it is painful to the taxpayer. Due to this painfulness, some persons have compared income tax with the death or delivery of a child. Since it is painful, every one wants to reduce the tax liabilities as far as possible. The tax executive may reduce the tax-cost burden by keeping in mind the following four axioms.

Avoid the recognition of income under the frame work of the law. The recognition of income for tax purpose is avoided by mortgaging instead of selling any disposable property. For example, if any property is exchanged subject to

mortgages on it, instead of exchanging it for property plus cost, the money received in consideration for mortgaged property will not be included in total income for income tax purposes.

Increase the Deductible Expenses

The another axiom used for minimizing taxes is to increase the amount of deductible expenses from the total computed income. Depreciation policies, inventory valuation methods, larger benefits to the employees in non-taxable forms, financial planning, research and development programmers and insurance expenditure are some of the areas where the business executives can use their knowledge and experience in tax planning.

Reduce the Applicable Tax Rates

Applicable tax rates can be reduced by establishing multiple entities and paying out the gains in the form of capital gains instead of cash dividend to the shareholders. Similarly, the other method generally adopted for reducing the applicable. Whether tax is reduced at the company level or in the hands of shareholders, it is one and the same thing. Legally, whatever may be the position, but informally, there is no separate existence of the companies from its shareholders. The interests of the shareholders are the interests of the company.

Affect the Timings of Income and Expenditure

While choosing the financial year, due consideration should be given to the seasonal flections of the business activities and accounts should be adjusted accordingly. If, there is abnormal profit in the newly created company, efforts should be made to include offsetting period in other not to distort income or loss in the first assessment. If there is possibility of extraordinary gains, either in the preceding or succeeding years, the taxable income is a reduce by spreading the income, forward or backward by shifting the transactions, either at the end of the

preceding year or in the beginning of the succeeding year, as the case may be. Hence, the selection of the financial year is an important consideration from the view point of taxation. Once the period is selected, it cannot be changed without a prior permission of the income tax authorities.

Similarly, the transactions of expenditure can be adjusted. If there is possibility of extra-ordinary expenditures, either in the preceding or succeeding years, the taxable income can be reduced by spreading these expenditures forward or backward, by shifting the expenditures, either at the end of the preceding year or in the beginning of the succeeding year, as the case may be. The above discussion suggests the need for the proper allocation of income and expenditure for minimizing the tax liability (*Kandel, 2003:37*).

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

2.1.2 Tax Evasion

Tax evasion is the way of reducing tax liability by illegal means. “Action by the taxpayer which entails breaking the law and which moreover can be shown to have been taken with the intention of escaping payment of tax” is generally regarded as tax evasion. It is done through different ways.

- Non-reporting of income,
- Under reporting of income,
- Making fraudulent changes in account books,
- Maintaining multiple sets of accounts,
- Operating business transactions under different names,
- Opening bank account in dummy name,
- Over-reporting of expenses,

- Fragmentation of income,
- Transfer pricing etc.

“Tax evasion is a sin but tax reduction a pious duty towards the shareholders, consumers as well as the economy by which the companies are enabled to develop and complete successfully, not only in the national but also in the international markets. Under no circumstances, companies should design maligned policies to evade taxes. But, they would be shrinking from duties, if are not seeking ways to keep the tax cost at the minimum, under the frame work of national statutes. Management must consider the adoption of each and every fair method of reducing tax cost provided; these are not in conflict with the sound business practices, policies and precepts” (*Oza, 1972:83*).

Basically, the reasons of tax evasion can be divided into two – non-tax factors and tax factors. Non-tax factors include educational background, price policies of the government, government rules and regulations, public sector salaries, government’s expenditure policy and others. Tax factors include tax rate, tax base, tax structure, penalty system, probability of detection, magnitude of the strictness of penalty and possibility of applying penalty if evasion on income from legal activities, whereas non-tax factors are related with illegal activities.

Mainly, 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 errors in government policies. Tax evasion is a major problem to the government in developing countries. There are several types of tax evasion.

- Unilateral (taxpayer himself),
- Bilateral (with the connivance or assistance of government official),
- Trilateral (from the collusion of tax officers, tax auditors and tax payers),

- Multilateral (all parties from government to taxpayer).

In a word of tax evasion, it is very difficult to choose between businessmen, professional, a person in service, or a politician who is not a tax evader. If we tear the mask; the face looks alike. It means, more or less, all use to evade taxes.

2.1.3 Tax Avoidance

Tax avoidance is saving taxes without actually breaking the law. It is using the loopholes of the tax law. It is not illegal but unethical. “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 and Italian court to find out tax avoidance.

- Use of colorable devices,
- Defeating the genuine spirit of law,
- Twisting of facts,

Taking only strict spirit of law and suppressing the legislative intent. We can see following characteristics of a tax evasion:

- Basically, there is presence of an element of artificially or, to put this another way, the various arrangements involved in a scheme which do not have business or economic aims as their primary purpose;
- In some cases tax advisers sell ready-made avoidance, one term of the contract of sale being that the taxpayer keeps the facts secret for as long as possible. It is in the interest of the avoiders to keep the administration from learning about new schemes because official and public knowledge may be followed by legislation to counter that kind of avoidance;
- Tax avoidance often takes advantage of loopholes in the law or of applying

legal provisions for purposes for which they were not intended (e.g. provisions designed to encourage manufacturing of equipment being used for leasing of motor vehicles).

- 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 maximize tax avoidance.

In conclusion, we can say that tax avoidance is the reduction of tax liability through the manipulation of existing law. It is legally permissible but unethical.

2.1.4 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 by the taxpayer although he can not escape in the long term.

2.1.5 Tax Planning

Tax planning is also one of the ways of reducing the tax amount by the taxpayer. However, in contrast to tax evasion, tax avoidance and tax delinquency, it is legal, ethical and economic. The word tax planning is made from the combination of two words-taxes and planning. Tax means compulsory payment to the government and planning means taking decisions about the future by choosing the best from different alternatives. Every business organization has to make decision while conducting its business activities. That means every business organization uses to plan as regards to its future activities. Such future activities may be of short term,

medium term or long term and operational or strategic. If tax factor is considered while planning the business activities of an organization, it is tax planning.

In other words, tax planning is the scientific planning of the companies operations in such a way as to attract minimum liabilities of tax of various incentives, concessions, allowances, rebates and relieves. It is not only the planning of infrastructure of the business and industries but also the planning of its various projects from time to time and its day to day activities so as to acquire the maximum facility as per the existing law of the country. In short, it is a judicious use of tax incentives provided by the government. It is also defined as the exploitation of tax concessions in accordance with Parliament's intention. It has objectives of:

- Reduction of top liabilities,
- Maximization of liabilities,
- Productive investment,
- Healthy investment,
- Healthy growth of the economy and
- Economic stability

Features of Tax Planning

The features of tax planning can be stated as follows:

- It is a designed way of reducing tax liability.
- It is related to future activities.
- It is use of expertise to get conscious by given facilities.
- It is legal, ethical and economic.
- It is the genuine use of facilities provided in the income tax law.
- It establishes a good relationship between government and business community. It enhances a healthy environment in the country.

Importance of Tax Planning

We know that tax is the payment of money by person to the government. Because of the involvement of money in tax paying, it is a burden to the taxpayer. So each and every taxpayer wants to reduce it. The reduced liability, on the other hand, includes the people or investor to do the extra investment work. In case of individual also, the reduction of tax liability encourages to do extra work. Due to this reason, government provides certain facilities to the public related to tax matters. It is known that the use of such facilities by the people is tax planning. Tax planning has certain implications or importance. The major among them 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. There are subsidiary advantages also of tax planning. They can be:

- It helps in increasing working capital.
- It helps in analysis of risk.
- It helps in an increase of profit distribution.
- It creates easiness in day to day work.
- It enhances competitive abilities.
- It creates good business environment.

Tax Management

In tax literature, there is another word named tax management that is 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 the maximum amount of time, talent and treasure to avoid worry, tension, stringent penalty and prosecutions. It is maintenance of records and documents, filing of tax returns in time and performing other tax related duties (*Koirala and Bhattarai, 2004:40*).

Scope of Tax Planning Under Income Tax Act, 2058

We know that during 1950s to 1980s there was great scope of tax planning in most of the countries of the world. So many types of tax incentives provided such tax planning facilities. In this regard, developed countries provided investment allowance and accelerated depreciation, whereas developing countries provided tax holidays for the purpose of promoting the investment. Besides these, other types of tax facilities were also provided to the industrial sector in that period. 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 and to act as per the law. This necessity of tax expertise and tax research of that time introduced the concept of tax planning. It means there was great scope of tax planning at that time.

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 in the world. All over the world, the scope of tax 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. New income tax act has been brought to increase the net of taxation. The rate of taxation has been reduced to the lowest possible rate. In Nepal, the present tax rate is 20 to 30 percent in contrast to 60 to 65 percent during 1960s, 1970s, and first half of 1980s. That means, during these days, the scope of tax planning is reduced in Nepal too as in other countries of the world. However, still there are some avenues where the tax experts can make tax planning. For the purpose of easiness in discussion, such avenues can be divided into two parts:

- Long term or strategic tax planning
- Short term or operational tax planning

Long Term or Strategic Tax Planning

The following can be the areas of tax planning as per Income Tax Act, 2058 as regards long- term planning.

1. Selection of Business

An investor can plan to minimize the tax by selecting those areas of business activities where the tax rate is minimum. He can do this when he has the idea of establishing the business. 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 export and construction of infrastructure projects like construction of road, bridge, tunnel, rope way, sky bridge, electricity generating and transmission etc. also should pay only 20 percent tax. 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. This means a business organization can plan about tax before selecting the line of business.

2. Selection of the Product

Tax can be planned while selecting the product to be produced. The investor which invests in hydropower generation, transmission or distribution and construction of infrastructure project like the road, bridge, tunnel, rope way, flying bridge, trolley, train etc. should pay only 20% tax. Investors investing to produce petroleum product should pay 30% tax. Industries related to tobacco and alcohol should pay tax at 25%. As regards loss recovery period also there is scope of tax planning based on selection of product. Loss recovery period for BOT (Built Operate and Transfer) and BOOT (Built, Own, Operate and Transfer) project is seven years with carrying forward provision, whereas business organizations

producing other products have the facilities of carrying forward of loss for four years. Accordingly, banking activities and long term contract get carrying backward provision, whereas other activities do not get such facilities.

3. Selection of the form of Organization

We know, there are three forms of business organizations- proprietorship, partnership, and company. A firm can plan the tax while selecting the form of business organization because different types of tax facilities are provided to different forms of business organizations. 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 the dividend received by an individual, whereas a proprietorship should not pay double taxation. Individuals get medical facilities but companies do not. Individuals should follow cash basis of accounting but a company should follow accrual system. That means the companies have to face a difficult type of tax system than the individual or proprietorship. There are so many discriminations against the companies in favor of individual and proprietorship. Accordingly, Income Tax Act, 2058 favors favorably to co-operative institutions. As per the new act, the income of all the co-operatives based on rural areas and municipalities with lack of infrastructures are exempt from income tax. Agriculture and forestry related co-operatives based on their municipalities are also free from income tax liability. Saving and credit co-operatives established in develop municipality also are given tax credit of 50 percent of the tax liability.

4. Selection of Location

Tax planning can be used while selecting the location of the business. The industries established in backward areas get more facilities than the industries

established in developed ones. As per the Income Tax Act, 2058; Kingdom of Nepal is divided into four parts- Remote area, undeveloped area, under developed area and other areas. The tax rate applicable to the industries established in the remote area is 70% of the ordinary rate. Tax rate applicable to the industries established in undeveloped area is 75% of the ordinary rate. Accordingly, the tax rate applicable to the industries established in underdeveloped area is 80% of the ordinary rate. These facilities are provided to special industries for ten years.

There is provision of remote area allowance also to natural person according to Income Tax Act, 2058. The act provides up to Rs. 30,000 remote area allowance(A Class area- Rs.30,000, B Class area- Rs.24000, C Class area- Rs. 18000, D Class area- 12000 and E Class area- Rs 6000).

The selection of the area can also be used for the purpose of tax planning in international context. If the business is established in that country with which Kingdom of Nepal has double taxation avoidance agreement, the business house should pay tax one time only. The countries having double tax avoidance agreement are India, Pakistan, Sri- Lanka, Mauritius, Thailand, Austria, Norway, South Korea, and China. Accordingly, an investor can plan to investment in that country where the Income Tax rate is very small. Such countries in the world are Ireland, Argentina, Caribbean countries etc. Hong Kong has no income tax at all. Especially, multinational companies see the tax rates before establishing the main office.

5. Selection of Sources of Capital

We know, there are three sources of capital viz. share capital, debentures, or loan, and retained earnings. The reward for share capital, debentures or loan and retained earnings are dividend, interest and capital gain respectively. In Nepal, the tax rates applicable to each of these sources of capital are different. In is taxed at 6

percent if loan is from natural person but dividend is taxed at 5 percent final with holding. In case of capital gain, the tax rate is 10 percent for the gain on the disposal of non-business chargeable assets related to natural person where as the profit from the disposal of other asset is taxed at normal rate of profit, i.e. 20 percent, 30 percent and 25 percent respectively 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. Naturally, this means favorable treatment to debenture and loan. This favorable treatment to debenture, loan, obviously, creates the scope of tax planning employing more loan than share capital or retained earnings. Since, Income Tax Act, 2058 also has favored debt, making interest deductible expense; the firm can minimize tax by engaging more loan than other forms of capital. If the organization has to obtain the capital from borrowing, the expenditure in this respect is allowable expenditure since Income Tax Act, 2058 has not kept this type of expenditure under capital one.

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. 120,000, the taxpayers are within the area of presumptive taxation. According to Income Tax Act, 2058; such taxpayers should pay Rs. 2000 as taxation if the business is in metropolitan or sub-metropolitan area. They should pay Rs 1500 as tax if they are established in any municipality area and Rs. 1000 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. 1500 for bus, truck minibus, mini-truck etc. Rs. 1200 for micro bus, car, jeep, van etc. Rs. 850 for three- wheelers, auto-rickshaw and Rs. 750 for power tiller, 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 the ordinary tax rate ($90 / 100 \times 20 = 18\%$).

7. Merging of Business

There are certain techniques that help in minimizing the tax to be paid to the government by way of merger of a firm with another. One of these techniques, under merger is the inclusion on non-industrial unit into industrial unit. That means merging industrial and non- industrial unit. Non-industrial unit, in this respect, means firms that are related to trading. It is clear that according to Income Tax Act, 2058; a trading business has the liability of paying 25 percent tax, whereas an industrial unit means vertical integration of a business. Thus, by integrating non- industrial and 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 merger helps for the liability 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 of profit making unit can be adjusted to the loss of loss-making unit. The provision of loss recovery period given by the new income tax act can be helpful in minimizing the tax liability.

Short Term or Operational Tax Planning

1. Acquisition of Fixed Assets

Business organizations need different types of fixed assets for running business activities. Such assets may be plant and machinery, vehicle, building etc. The organization can plan to minimize the tax liabilities while acquiring the fixed assets. There are two alternatives to get fixed assets- one is buying and another is leasing. In case of purchasing, the organization can save tax by way of depreciation, whereas in case of leasing, the tax can be saved by way of lease rent. The organization should evaluate both these alternatives while acquiring the fixed assets. If a fixed asset is purchased through borrowing, the interest on capital can be deducted as expenditure.

Dealing with land and building is another avenue where the tax can be planned. If one organization purchases building with land without attributing the value to land separately, depreciation on the whole cost is possible at the rate of 5 percent. If building is constructed after purchasing the land or there is separation of value for land and building, the depreciation for building only can be claimed.

2. Repair and Improvement Cost

According to Income Tax Act, 2058, the business organization is allowed to deduct the repair and improvement expenses from its income. However, there is limitation as regards to such expenditure. Only 7% of the depreciation base can be deducted as repair and improvement cost 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. Here, note that while deriving the depreciation base, the capitalized repair and improvement expenditures can not be included as per Rule 7 of the Income Tax Rules, 2059.

The organization can see tax implication in making repair and improvement expenses also. In case of capitalized expenditure, there will be decrease in the recovery of repair and improvement 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 related 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 percent of the adjusted taxable income. Inflation factor reduces the

present value of future recovery future recovery in this case also.

4. Research and Development Expenses

As in the case of pollution control expenditure, research and development expenses also are allowed by Income Tax Act, 2058. The limit of allowable expenditure is 50% of the adjusted taxable income. If it is more than 50% of the adjusted taxable income, it can be capitalized. Because of the capitalization, the present value of expenditure is reduced and so the tax can be planned in making this expenditure also.

5. Stock Valuation System

Income Tax Act, 2058 has allowed deducting the cost for maintaining stock. For the purpose of finding out 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 the cost of stock can not be derived, FIFO or average cost method is allowed to use. In case of stock valuation also, the organization can see the tax implication. For example, FIFO method of valuation is more costly than the average cost method, if tax factor is considered. That means an organization following FIFO method should pay more tax than the organization following average cost method. So, it is better to use other methods of valuing the stock from the viewpoint of tax.

6. Donation

A taxpayer can deduct the donation made to tax- exempt organization in any income year. The limit of such donation should be actual amount donated or Rs. 1 lac or 5 percent of the adjusted taxable net profit. By notifying in Gazette, the Government can allow unlimited amount of donation to certain institutions. As

announced in Finance Ordinance, 2060; the donations made to Lumbini Development Trust and Pashupati Area Development trust do not come within limitation of 5 percent. Up to Rs. 50 lacs can be contributed to these two trusts without counting the limit of 5% or Rs. 100000 which ever is lower. Thus, donation is also one of the avenues of tax planning of the investor.

7. Retention or Distribution

Tax planning can be done while deciding to distribute the dividend or retain the money in the organization. If the distribution is made, the dividend tax rate is 5 %. If there is retention, the capital gain tax rate is 10%. Tax planning can be done while purchasing the share capital of a company. If investment is made in foreign company, the whole dividend should be added to the income. Instead, the dividend from the resident company is taxed only at 5 percent.

8. Remuneration of Employee

Income tax Act, 2058 has made taxable most of the allowances that were not taxable under Income Tax Act, 2031. However, there are still some facilities given to employees by the new act under which the tax planning can be made. Such facilities are up to Rs 30000/- remote area allowance, meal and Tiffin expenses, contribution to retirement fund, medical expenses or medical insurance cost of up to Rs. 750/-, Vehicle facility of up to 0.5 percent and house rent facility of 2% of the salary of the employees. The organization can see all these facilities while restructuring the remuneration 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.

2.2 Tax Planning for Various Types of Payments and Activities

2.2.1 Remuneration

Tax planning can be done while planning the remuneration of the employees. So,

the corporate taxpayers should pay careful attention while planning the remuneration of the employees. The tax planning in case of employees' remuneration needs the study of the tax law from both the point of views, i.e. from the point of view of employer and from the point of view of employees. On one side, the employer has to adopt steps to get eligible facilities to the maximum extent. On the other, the benefit that can be availed to the employee also should be evaluated so that they also do not find themselves in disadvantaged position. Income Tax Act, 2031 had so many provisions that were beneficial to the employees. 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. Payments of wages, salary, leave pay, overtime pay, fees, commissions, prizes, gifts, bonuses, and other facilities,

- Payments of any personal allowance including any cost of living, subsistence, rent, entertainment, and transportation, allowance.
- Payments providing any discharge or reimbursement of costs incurred by the individual or an associate of the individual,
- Payments for the agreement to any conditions of the employment,
- Payments for termination or loss of service or compulsory retirements,
- Retirements contributions including those paid by the employer to a recognized retirement fund in respect of the employee, and retirement payments.
- Other payments made in respect of the employment
- Other amounts as given in chapter 6 of the act, i.e. perquisites and any gains due to change in tax accounting required to be included.

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

The employer can provide facility either by providing residence to the employee or vehicle facility. However, the employer should consider that 2 percent of the employee's remuneration as 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 percent of the remuneration of the employee to his taxable income. Rule 21 of the Income Tax Rules, 2059 says that the contribution limit to the retirement fund of a natural person in one financial year can be Rs. 3 lac or one third of assessable income whichever is less.

If related to business and investment, the expenses made on training of employees except those providing degree or diploma is an allowable expense. Tiffin and meal expenses provided to all the employees equally by the employer irrespective of their official position are exempted from tax.

Ten percent of the net profit before tax can be given to the employees as bonus to the employees.

An employee can save tax through increasing the magnitude of retirement contribution. Income Tax Rules, 2059 has allowed to deduct the remuneration from taxable income. The extent of such facility as per Rule 21 of the rule is one third of assessable remuneration or Rs. 3 lac or actual whichever is less. Still now, it is the custom of the organizations that they provide only the provident fund facility where employer contributes 10 percent and employee contributes the same. Full capacity of the facility provided by the act is not utilized in this case.

According to section 50 of the Act, resident couple can select to file return jointly by having joint request for particular. If husband and wife both earn remuneration, the organization can advise the employees to file separate return. By doing so, they can save the tax getting higher amount of exemption limit because, in such case, they both get the exemption limit of Rs. 80,000. If they file joint return, they can avail only Rs. 100,000 as exemption. In contrast, if only the husband or wife is earning income, it would be better to file joint return.

The employer can provide 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 percent 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.

2.2.2 Self Employment

Self employment means conducting earning, activity without being engaged to any organized body. In being specific, self employment denotes doing business on own behalf. It can also be categorized as the small- scale business.

There is scope of tax planning in case of self- employment also. The self- employer can be dignified citizen of the country by having the tax planning. Self – employer can save tax by availing various facilities provided by the tax law. Different ways of saving the tax by self- employer can be as follows:

Presumptive taxation: Income Tax Act, 2058 has made a provision of presumptive tax to small taxpayers. The threshold for presumptive taxation is Rs 120,000 income or Rs 1200,000 turnover of the business. The amount of tax that should be paid by a taxpayer that comes under the presumptive limit for individuals conducting business in the Metropolitan or Sub-Metropolitans Cities is Rs 2,000

for individuals conducting business in Municipalities is Rs 1,500, and for individuals conducting business anywhere else other than stated above in Nepal is Rs 1,000. The self- employer can plan tax before establishing the business considering the above stated provisions. There is provision of presumptive taxation to those who earn income from operating vehicles 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 micro bus; Rs 850 for three wheeler, auto- rickshaw and tempo, Rs. 750 for tractor and power tiller.

Exemption Limit and Progressive Tax Rate

According to Income Tax Act 2058, proprietorship firms get exemption facility of Rs. 80,000/- if the owner is individual and Rs. 100,000/- if the owner is couple. Progressive tax rate is applicable to proprietorship but fixed tax rate is applicable to a company. Company should pay double taxation to the government, i.e. one from the profit of a company and another from the dividend received by an individual, whereas a proprietorship should not pay double taxation. Individuals get medical tax credit but companies do not. The facility of medical tax credit is Rs. 750 per year or 15 percent of approved medical expenditure or medical insurance whichever is less. A self- employer can use this facility to minimize the tax liability. He can establish individual firm in place of company or partnership.

Retirement fund facility: At the time of Income Tax Act, 2031; only the employed men used to get the retirement fund facility. Income Tax Act, 2058 has abolished this discrimination. Right now, self –employed person also can contribute up to one third of assessable income or Rs. 300,000 whichever is less for retirement fund.

2.2.3 Capital Structure

Basically, there are two sources of capital, namely, debt and equity. Equity source

can also be divided into two parts-retention and new issues. The combined form of all these sources of capital is called capital structure. A business organization uses to have a capital from particular sources as per the need and benefit.

Within present tax system, tax authorities use to treat different sources of capital differently. A debt capital is more favorable than the equity capital. The reason is, the interest paid is a deductible expense in profit and loss account. It means interest on debt reduces the tax to be paid to the government. As per the Income Tax Act, 2058, interest on debt is a deductible expense if the debt is used in activities related to earning of profit (Sec. 14). In contrast to the facilities provided to debt financing, the cost of equity, whether it is new issue or retained earning, does not get any facility. The dividend (cost of new equity) and capital gain (Cost of retention) are not the deductible expenses before paying the tax. They do not save tax. Other things remaining the same, the person using equity as the source of capital should pay more tax than the person using debt as capital. Due to this discrimination between the debt and the equity source of financing, there is scope of tax planning while thinking about raising the capital.

2.2.4 Depreciation System

Income Tax Act, 2058 has abolished the system of providing right to taxpayer for selecting the depreciation system. The new act has made the pool based diminishing balance method for structure, office equipment, vehicle and machinery mandatory. Accordingly, it has prescribed straight line system of depreciation for intangible assets. So, in comparison to Income Tax Act, 2031; there is limited scope of tax planning through depreciation planning. However, there is scope of reducing tax liability through proper planning of depreciation expenditure.

Income Tax Act, 2058 has kept certain provisions in Appendix 2 of the act as

regards the depreciation. As per the law, the assets classified for depreciable purpose are five—comprising building, structure, and similar works of a permanent nature in class ‘A’ , computers, data handling equipment, fixtures, office furniture, and office equipment in class ‘B’, automobiles, buses and minibuses in class ‘C’. Like wise, the assets included in class ‘D’ are construction and earth moving equipment, capitalized amount of research a development expenses and pollution control expenses as per Sec. 17 and any depreciable asset not included in another class. Maintenance and improvement expenditure capitalized in last year is also included in depreciation base. The assets categorized for class ‘E’ purpose are intangible one. For the purpose of deriving the amount of depreciation per year, Income Tax Act, 2058 has prescribed a formula based on pool system. The formula, according to the law, is $\text{depreciation amount} = \text{Depreciation base} \times \text{depreciation rate}$.

The depreciation rates applicable to each pool are: Class A, 5 percent; Class B, 25 percent; Class C, 20 percent; Class D, 15 percent and Class E, the cost divide by the useful life of the asset in the pool calculated at the time the asset is most recently acquired by the person and rounded down to the nearest half year. The Act has provided special depreciation facility to the special industries. According to the act, the additional facility provided by the act is 33.33 percent of the normal rate of depreciation. If the depreciation basis of a tangible asset at the end of an income year reduced by depreciation produces an amount that is less than Rs 2,000 additional depreciation of the pool is calculated as equal to that amount. Costs that are included in a person’s pool of depreciable assets are added to the depreciation basis of the relevant pool in two portions. The first portion is added at the time the asset is added to the pool or the cost is incurred, whichever is later, and the remaining portion of the cost is added during the next income year if the pool has not been dissolved. If the portion is to be added between the start of the income year and the end of Poush the whole is added; if the portion is to be added

between the beginning of Magh and the end of Chaitra, $\frac{2}{3}$ is added and if the portion is to be added between the beginning of Baisakh and the end of the income year; $\frac{1}{3}$ is added.

2.2.5 Location of Industrial Setup

As per the Income Tax Act, 2058, there is scope of tax planning while selecting location of the business also. The provisions under the Income Tax Act, 2058 and Industrial Enterprise Act, 2049 as regards to location of business help in tax planning. For example, in remote area, an individual can avail up to Rs. 30,000 remote area allowance. Special industries established in remote, underdeveloped and under- developed area should pay only 70 percent, 75 percent and 80 percent of the statutory rate (sec.11 sub-sec.3) for ten years.

The scope of tax planning is enhanced due to provision of applying different amounts of taxes to firms situated in different types of cities. Business having up to Rs. 12, 00,000 transactions or Rs. 120,000 income in metropolitan and sub-metropolitan city should pay only Rs. 2,000 as tax. Business of the same nature in municipalities should pay Rs. 1500 and business of the same nature in VDCs should pay Rs. 1000 (Annex 1 of the Act).

2.2.6 Leasing or Buying

The assets of one organization can be purchased in two ways- lease or outright purchase. Leasing or outright purchase can be made by borrowed 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 the facility of depreciation. If borrowed funds are used, the interest to be paid can also deducted. While making the decision regarding leasing or buying, the tax planning can be done by considering these factors.

2.2.7 Timing of Activities

It is already discussed that a business organization uses to have two types of planning- strategic and project day to day operations. There are certain activities for which governments use to provide certain tax facilities. These facilities, according to Income Tax Act, 2058 are the provision of allowing deducting the pollution control device expenditure, research and development expenditure, repair and maintenance expenditure, depreciation, donation etc. Timing 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 saving can be made. In other words, it is scheduling of future business expenditures with the objective of saving maximum amount of tax. There are certain factors which should be considered for the purpose of timing of activities. They are the main thing to be considered in this respect is the saving of tax. The tax planner should maximize tax payment as far as possible.

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 or BOT/BOOT/ project, the loss recovery period is 7 years. 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.

2.2.8 Tax Reform in Developing Countries

Beginning of the 1970s, a number of developing countries 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 there 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 I developing countries, growing demands have been placed on it to suggest, and 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 results of reform efforts. Throughout, the focus is a practical rather than theoretical aspect of tax reform. He has said following views.

2.2.9 Constraints on Tax Reform

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

Corporate tax design 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 mechanisms which translate host country tax relief into trial cash flow business tax

may incur the risk of being deemed non-creditable in those capital-exporting countries that offer a foreign tax credit to their multinationals.

2.2.10 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 on 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 effective by alternative tax measures that attempt to improve matters. Reforms are also more likely to be successfully adopted if local policy makers are actively involve in their design and implementation and reform results in the creation of the cadre of local tax exports 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 measures must be compatible with existing tax administration capacities and tax planning (*Koirala and Bhattarai, 2004:50*).

Review of Previous Studies

This section presents the review of the previous studies done so far conducted a study and their major findings. Though there is not enough thesis relating to the title, I have tried to collect some more information throughout the following thesis;

Oza (1972) presented an article "*Corporate Tax-Planning and Managerial Decisions*" which was published in "Indian Journal of Commerce" in 1972 A.D. In

the article, he analyzed various aspects of corporate tax planning and managerial decisions. He showed mainly about tax evasion and how tax executive reduce the tax-cost burden. His conclusion was No business should bear tax cost more than required by the law. But, due to ignorance about and complexities of the law there are a number of companies which are paying more than the required taxes. There are many cases as discussed in this paper where the management may help the company in minimizing the tax-cost. It is, therefore, suggested that the big companies should set up their own tax department for corporate tax planning purposes. The small companies should employ tax consultants to assist the management in forming policies tax-cost oriented. The tax executive should formulate the policies in such a way that it may be adopt able to future changes in tax payers situation and it should not expose the tax payers to the unbearable risks.

Timsina (1987) presented a dissertation named "*Income Tax Evasion in Nepal*" submitted to faculty of management. Tribhuvan University main objectives of his study.

- To examine the income tax evasion tendency in Nepal.
- To observe the general opinion about income tax evasion in Nepal.
- To estimate the volume of income tax evasion in Nepal.

Major Findings of his Study

On the basis of empirical analytical some major findings can be drawn which are summarized as given below:

- Income tax evasion tendency by remuneration tax payers is increasing in Nepal. During 1974/75, 68.01 percent remuneration tax payers had submitted their income statement. But in 1983/84, only 40.81 percent submitted their income statement. In an average, 44.24 percent remuneration tax payers have income tax evasion tendency in Nepal.
- There is a high income tax evasion tendency by business income tax payers

in Nepal. IN 1974/75 69.31 percent business tax payers and submitted their income tax statement but in 1983/84 this has been decreased to 64.18 percent. In an average, 38.88 percent business tax payers have tendency of income tax evasion in Nepal.

- The different methods of income tax evasion in Nepal are non-reporting of income from illegal business, non-maintenance of accounts, failure to submit income statement, non-reporting of family member's income, under reporting of income from different sources, re-registration businesses and failure to make deductions at sources.
- Income Tax evasion has a decreasing trend in Nepal. There was 107.39 percent income tax evasion in 1975/76 and reduced to 58.47 percent in 1979/80. In an average there is 54.70 percent income tax evasion in Nepal.

Recommendations:

Following suggestions are recommended for the minimization of income tax evasion on the basis of this study:

Income tax evasion can be controlled by efficient, honest, trained and effective tax administration. Some correction should be made in the 'Income Tax Act 1974' to minimize income tax evasion. Such as there should be compulsory provisions of maintenance of accounts, submitting income statement within the due date high penalty and fines should be made in the Income Tax Act 1974 to the income tax evader's. Proper tax education will help to minimize income tax evasion. The income tax rate slab should be reduced that will help to reduce evasion.

Pant (1996) presented a dissertation named "A Study on Income Tax management in Nepal." Main objectives of his research work:

- To review the income tax management in Nepal.
- To identify the problem of income tax management. Major findings of the study are summarized below:

Income tax is a suitable source of mobilizing internal resources. The major objectives of income tax are, to meet the revenue requirement of the government, promote distributive justice and promote private sector investment. Income tax system in Nepal is not efficient due to inefficient tax management, inadequate government policy and defective income tax act.

Income tax management in Nepal is not efficient enough due to lack of appropriate management system and serious managerial problems. Major problems which income tax management have been facing are, misuse of power by the tax administrators less consciousness of taxpayers, lack of motivated and trained employee, inadequate experts in tax management, increasing habit of tax decent non-maintenance of books of accounts, lengthy process of income tax assessment and lack of appropriate organizational structure.

Evasion of income tax is a major constraint of resource mobilization through income tax. Reasons for widespread evasion of income tax are, inefficient tax administration, wide spread practice of illegal business, reluctance to maintain accounts, poor tax morality, tax payer's compliance in Nepal.

A high degree of corruption is found in income tax administration in Nepal.

Recommendations:

On the basis of findings of the study the following recommendations are made:

Separate Department for income tax should be established, so that the specialization could be achieved in the matter of income tax. For monitoring the implementation of income tax laws, policies and programs, separate organization should be established under the Ministry of Finance.

Income tax assessment procedure must be improved by reduce assessment delays,

reduce the best judgment assessment as far as possible, push the self-assessment system, provide sufficient information to tax payers, create confidence between taxpayers and tax officers. Income tax evasion should be minimized by applying the following suggestions.

- Minimize illegal business activities.
- Increase the administrative efforts
- Enforce heavy fines and penalties.
- Enforce to maintain accounts.

Personnel management should be made more effective following recommendations are made:

- Tax administration should be staffed by tax experts.
- The financial benefits should be increased.
- Training opportunity should be made effective and regular.
- Reward and punishment system should be established.
- Proper placement should be made.
- Timely revision should be made in the matter of income tax policy.
- The system of changing income tax policy with the change of government should better be avoided and the income tax management should be kept aloof from politics.

Poudyal Khetry (1997) submitted the Ph.D. thesis entitled "*Corporate Tax Planning in Nepal*." This Thesis report was aimed to examine the implication of tax factors in strategic planning project planning and operational planning in Nepalese companies. He addressed that the tax planning should be considered while making corporate planning and so companies should set up separate tax section to get maximum benefit of provisions provided by tax law. However, tax assessment under the best judgment blocked the application of tax planning in corporate planning. He recommended that tax incentives should be given to non-

industrial companies too, and tax rate should be differentiated for resident and non-resident companies.

Kandel (2004) presented an article "*Theory of loss recovery and Income Tax Act 2002*" which was published in "The Nepalese Management Review" Volume XII No. 1, Central Department of Management, Tribhuvan University. Main focus of his article is description of conceptual framework about 'loss recovery' and provisions in New Income Tax Act 2002. He described loss recovery in difference income sources according to Income Tax Act 2002. They are: Recovery of loss from ordinary business, investment, foreign source income, special industry, banking and ordinary insurance business, long-term contract, the disposal of assets non-taxable income, Infrastructure and BOT projects and selection of the sources of income to offset the loss Income Tax Act, 2002 has liberal loss recovery provision in comparison to its predecessors. It has both the carry-forward and carry back work provision. This law has increased the carry forward duration in comparison to earlier tax laws. However, in comparison to carry-back ward facilities given in certain developed countries of the world and up to fifteen years or indefinite period/s carry-forward provision in other countries- Nepal's provision of carry-forwarding of loss for only for 4 subsequent years is nothing. The main weaknesses were denoted as short duration for intra-head carry-forwarding period and unnecessary inter-head adjustment facility.

Bhattarai and Koerala (2004) had published a book named "*in come Tax in Nepal with tax planning and VATI.*" In this book, he is based purely on aspects of Income Tax Act 1974 and industrial Enterprises Act 1982 and 1992 which grant various income tax incentives to the industrial units. He was related to the analysis of corporate income tax and it's planning only. He had described corporate tax planning in respect of strategic planning, project planning and operational planning from which some Nepalese companies in general have been

taking advantage of tax benefits. His book is very useful to know the idea about corporate tax planning.

Bhattarai and **Koirala** (2004) had published a book named "*Tax laws and Tax Planning*." They had explained the legal provisions relating to Income Tax Act, 2058 and Value Added Tax Act, 2052 with illustrative examples. they have reviewed and emphasized important concept in boxes entitled note to remember and key terms are given at the end of the chapter. This book is very useful to know the idea of Income Tax Act, 2058 and Value Added Tax Act 2052. It gives general ideas about tax planning.

Miss Rai (2004) presented a dissertation entitled "*An Analytical Study on Income Tax Act, 2058*" Main objectives of her research work: Major Findings of the study are summarized below:

Income Tax Act, 2058 has divided income into three heads as business income, investment income and employment income.

Income Tax Act has clearly mentioned the organizations, which are tax-free and is called exempt organization. Act has exempted a social, religious, educational or charitable organization of a public character registered without having profit motive.

Income tax administration in Nepal is not efficient enough due to its various weak points such as lack of trained employees, increased corruption, ambiguous provision etc.

Main problems and weakness of Nepalese tax administration are lack of trained employees, lack of cooperation in tax administration, lack of transparency and accountability and lack of motivation.

Tax consciousness in public is the essential of effective tax system. Tax consciousness among the people can be increased by educating them on a regular basis and clarifying their rights and duties in a specified terms. Other methods such as timely clarify over the issues not clear in the act by the Department, informing taxpayers through various media such as radio, T.V. newspaper about the tax policies etc. can be used.

Recommendations:

In the light of findings of the study, the following recommendations have been made:

- The income tax policy should be formulated so as to match with the economic policy of the country.
- Timely revision and adjustment should be made in the matter of income tax policy.
- The provision of fines, penalties and punishment should be made at a higher rate for income tax evaders. Micro level clarification should be given for the effective implementation of the act.

All the tax personnel should be given comprehensive training on various aspects of taxation on a regular basis. For this, a separate training section within tax dependent should be established.

Self assessment tax system should be encouraged for collecting income tax and motivating taxpayers in the payment of tax. It also reduces the administrative costs.

Tax consciousness is a must for a sound income tax system. It can be done through various media such as radio, T.V. and newspaper by informing taxpayers about the tax policies. Similarly, timely clarity over issues not clear in the act by

the department is an effective measure in increasing tax consciousness among the taxpayers.

Kandel (2005) presented a book named "*Tax law and Tax planning in Nepal*". He has also explained the legal provisions relating to Income Tax Act, 2058 and value Added Tax Act 2052 with illustrative examples. On the other hand, this book tried to explain about tax planning with separate chapter by which the interested person can be learned the concept of Tax Planning.

Karki (2005) has presented a dissertation entitled '*Theory and Practice of Tax Planning in Nepal*'. Main objectives of his study:

- To study the concept of tax planning.
- To examine the applicability of tax planning in Nepal.
- To analyze the tax planning practices followed by Nepalese companies.

Major findings are summarized below:

The concept of tax planning is technical, analytical, comparative and strategic to use in practical lives. So the performance of tax planning depends on the skill, knowledge and experience of the manpower. Most of the tax payers are using tax planning knowingly or unknowingly. They use the various alternatives for minimizing tax liability. In that process, they follow both legal and illegal sources on which they become safe from fines and penalties. He 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 company can spend more in tax planning activities made by tax experts. In fact, tax planning has not been used properly in practice. There is not proper administration about the implementation of tax planning in Nepal. Tax planning has not been implemented according theory in practice lack of co-operation of all the responsible parties.

Tax payers could not be able to explain the exact view of tax section, sub-section, heading etc. It was found that vast analysis of language has made them confused. Similarly, negligence of tax administrators has also brought problem in the correct decision of tax planning. Tax payers have accepted the application of tax planning in Nepal but they have not been regular for the proper utilization of tax planning. They have also accepted that tax planning reduces their tax liabilities and makes healthy growth of the economy. But they also complained of weak administration of tax officer. The trend of tax planning in Nepal is still in preliminary stage. It needs various improvements in terms of administration, training, criteria, simplicity and so on. Most of the tax payers have not been able to utilize the full phase of tax planning.

Recommendations:

Different tax rate for resident and non-resident companies.

- Tax rebates to non-industrial company setup in industrially backward areas.
- Provision of best judgment assessment in true spirit.
- Provision of interest on unpaid tax and refund.
- Separate tax section to be setup by companies.
- Tax incentives for revival of sick units.

CHAPTER - III

RESEARCH METHODOLOGY

Research methodology generalizes the way of solving the research problem systematically. Therefore, research methodology is used for the achievement of the objectives of the study.

It includes research design, nature of data, nature and gathering procedure of data, population and sample and data processing procedure. This study is mainly concentrated on the theory and practice of tax planning in Nepal. Research Methodology, therefore, is designed and implemented to study about the sources, causes and methods of tax planning.

3.1 Research Design

As per nature of study survey research design was followed with descriptive and analytical approach. Thus research design is the overall frame work for the achievement of the goals and objective of the research.

3.2 Source of Data

Mainly the source of primary data, secondary data and information has been used in this research. Some important sources of primary data are opinion survey through questionnaire, interview and discussions, field visit and mailing information of the respondents.

3.3 Population and Sample

The employee of N.E.A, D.D.C and some tax experts and tax administrators were considered as the target population and sample for the study. The respondents are

categorized into two groups on their nature. The tables below clearly describe target population, sample drawn below and sample percentage.

Table 3.1
List of Sample

Group	Respondents	Sample Size
A.	Employee of D.D.C	10
B.	Employee of N.E.A	10
	Total	20

Table 3.2
Sub-Group of Respondents

S.N	Group of respondent	Sample size	
1.	Employee of D.D.C	10	
	Finance head		2
	Charter accountant		2
	Deputy G.M		2
	Senior accountant		4
2.	Employee of N.E.A	10	
	General Manager		1
	Deputy G.M		3
	Finance head		2
	Accountant		4
	Total	20	

3.4 Procedures of Data Collection

As the study was based on both primary and secondary data information, was collected developing a scheduled questionnaire and distributing it to manager, Deputy manager, finance chief, senior and junior accountant that were available. Fourteen “tick marks” and one open end question were included in the questionnaire. A set of questionnaire related to the objectives of the study has been

prepared for 20 respondent companies each. Some questionnaires were sent through fax service, some through direct visit to the respondent companies. Similarly, some additional information was also collected through interview and personal meeting with the respondents. As well as annual report of the corporation.

3.5 Procedures of Data Presentation and Analysis

The information received in different aspects of income tax from primary data was first processed for tabulation then after descriptive analysis.

The results of each and every question out of the questionnaire were submitted respectively. Similarly, they were ranked and planned in order by editing and coding. The views of the respondents about the questions were presented in respective order so that the analysis was fully based on the respondents. The cumulative result of each question was described in the form of respondent language. For the purpose of analysis generally simple statistical tools have been used which are as follows:

- Tabulation,
- Simple percentage,

CHAPTER - IV

DATA PRESENTATION AND ANALYSIS

This chapter deals with the data and information collected from the primary sources i.e. questionnaire, interview and field study as well as secondary sources i.e. annual report of the corporation. This chapter is the main body of the study, which answer the research problems for obtaining the specific goals of the research. It helps for summarizing the conclusion and findings of the research. This chapter introduces the 20 sample units which includes the Employee of NEA and DDC (i.e. finance head chartered accountant accounting clerk Deputy GM etc) about the tax planning behavior.

4.1 Income Tax Payment of NEA and DDC

Income tax paid by NEA and DDC is presented in following table, which is not satisfactory. It was 3.52 million in 2060/061 and it is 0 million in 065/066 which is as under:

Table 4.1
Annual tax payment of DDC
(Rs in million)

Year	Income Tax payment	% increase
2059/060	0	0
060/061	3.5294	29.84
061/062	5.91271	50
062/063	2.38331	20.16
063/064	0	0
064/065	0	0
065/066	0	0
Total	11.82542	100

Sources: DDC Annual Report

Figure 4.1
Annual tax Payment of DDC

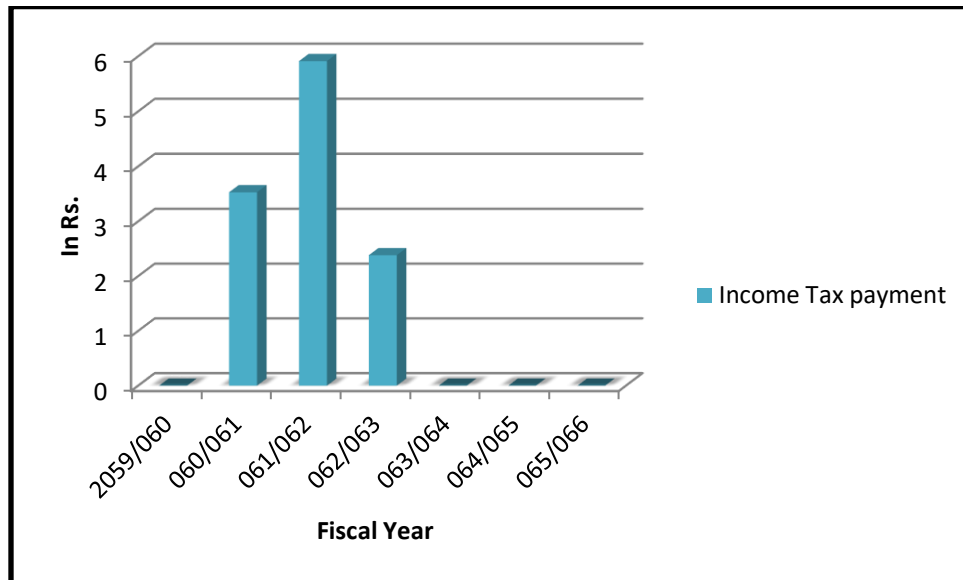


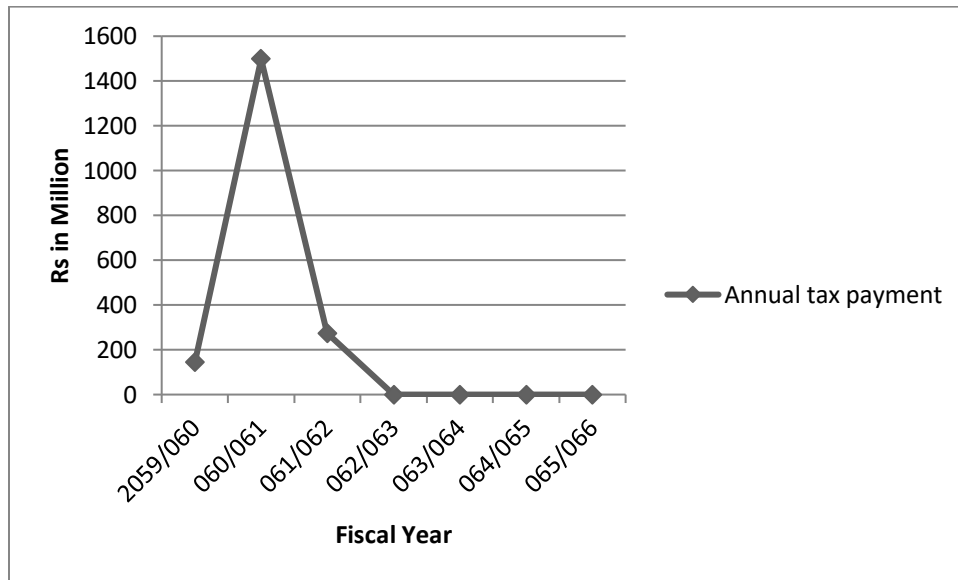
Table 4.2
Annual tax payment of NEA

(Rs in million)

Year	Annual tax payment	% increase
2059/060	143.3	7.48
060/061	1497.8	78.19
061/062	274.42	14.33
062/063	0	0
063/064	0	0
064/065	0	0
065/066	0	0
Total	1915.52	100

Sources: NEA Annual Report

Figure 4.2
Annual tax payment of NEA



The annual tax paid by the NEA and DDC is not satisfactory .Every year it is in decreasing trend. It is the main problem of the Nepalese public corporation.

4.2 Contribution of Tax Revenue and Non Tax Revenue in Total Revenue

National exchequer is the composition of tax revenue and non –tax revenue. Tax revenue has also direct tax and indirect taxes. Customs, excise duty, sales tax/ VAT and other miscellaneous are the main revenue items of indirect tax revenue. Direct tax, however, is the composition of income tax, land tax, property tax, interest tax and other direct taxes. Non tax revenue of the government is also important revenue source that includes different types of fees, shares, dividend, royalty and principal with interest from companies and corporations. Sale of fixed assets and mint are also components of non tax revenue. Table no 4.1 shows the comparison between tax revenue and non tax revenue collection.

Table 4.3

Contribution of Tax Revenue and Non tax revenue in Total Revenue

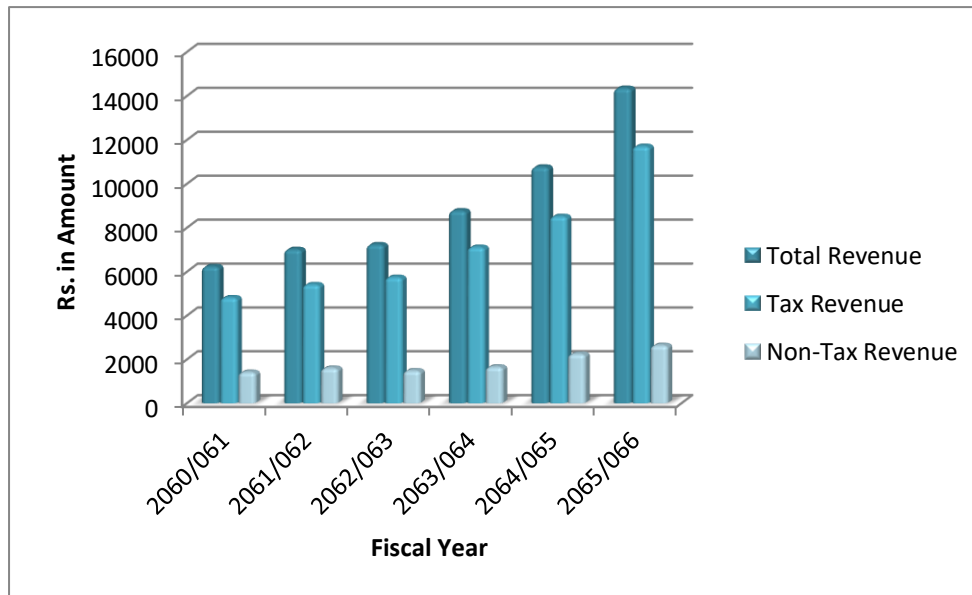
(Rs in Million)

Fiscal year	Total Revenue	Tax Revenue	%	Non-Tax Revenue	%
2060/061	6233.10	4817.30	77.28	1415.80	22.72
2061/062	7012.27	5410.47	77.15	1601.80	22.85
2062/063	7228.21	5743.04	79.45	1485.16	20.55
2063/064	8771.21	7112.7	81.09	1658.55	18.91
2064/065	10761.81	8515.55	79.12	2246.26	20.87
2065/066	14347.42	11705.16	81.58	2642.26	18.41
Average	-	-	79.27	-	20.71

Source: Quarterly economic bulletin (2008) No.3, NRB. And Economic Survey 2064/065 and 2065/066 MOF.

Figure 4.3

Contribution of Tax Revenue and Non Tax revenue in Total Revenue



As shown in table no 4.1 tax revenue contributed more than 75% in the total revenue realization. In the fiscal year 2060/061, It was 77.28%. In the fiscal year 2061/062 it was 77.15%. the ratio of non tax revenue collection in the fiscal year

2063/064 , 2064/065 and 2065/066 were 18.91% , 20.87% and 18.41% respectively which were relatively very low than tax revenue realization.

The analytical comparison thus showed that the tax revenue is contributing more than that of non tax revenue. Tax revenue decreased to 77.15% the lowest in the fiscal year 2061/2062, when the non tax revenue was realized 22.85% highest realization rate in the same fiscal year. This analysis also showed the average revenue collection through tax revenue contribution of tax revenue was 79.27% where as the contribution made by non tax revenue 20.71%. This interpretation is also understood through the given chart No. 4.1 which visualizes the same matter.

4.3 Income Tax Structure in Nepal.

Income tax is levied on net taxable income. This means that not all incomes accrued from sources brought in to the income tax net are taxable. Individual as well as organization having taxable income pay tax. Both are persons as mentioned by income Tax Act, 2002. The tax levied upon individual is known personal income tax whereas income tax levied to organization is called corporate Tax. The government, therefore, imposes income tax upon the person (individuals, firms and companies) earning taxable incomes without direct benefit to them.

Income tax Act, 2002 has clearly defined the related terms. It has defined the tax head for computation of tax liabilities. According to this law, three income headings including various receipts are mentioned as follows:

Income from Business

This head of income includes income and profit from industry, business, profession and from other business transactions, professional fees, service fees, sales proceeds of business stocks, amount received from disposal of business assets and liabilities, proceeds from disposal of depreciable assets, business gifts

receipts from business restriction and receipts of amount from directly related to business.

Income from Employment

This head of income includes various receipts. They are wages, salaries, allowances, fees, commission, award, gift, bonus and other facilities. The other facilities include additional payments for Dashain, housing facility, vehicle facility and telephone facility and so on. Similarly, dearness allowance, house rent, entertainment, transportation and cost of living expenses are also the remuneration incomes of employee. Besides these, receipts made in agreement of doing job and any receipts in retirement such as retirement contribution and other amount prescribed by income tax act are the subject of tax.

Income from Investment

The third head of income is investment income, which includes various income received by investing assets in any business sector. They are divided, interest, rent receipts, receipts from investment, insurance, gain from unrecognized retirement fund. It also includes proceeds from sale of non-business assets.

Capital gains from disposal of depreciable assets, gifts received in relation with investment, amount received in the acceptance of restriction of investment and others.

Thus taxable income is the composition of above mentioned various income sources. Income tax is divided into two types in broad sense *viz.* personal income tax and corporate income tax. Both have different income sources. Corporate tax is a composition of three tax payers. They are govt. enterprises, public limited company and private limited company. Individual income tax includes income tax

from remuneration, industries, trade and profession of individual. Besides these, rent and interest taxes are also included in income tax.

4.4 Role of Income tax in National Economy

Economic development of a country depends upon the structure of taxation. The tax structure of a country is constituted from its levels of taxation and rate of growth through changes in individual elements. Tax structure is very important for those countries whose government outlay increasing faster than tax revenue. The resource gap in Nepal is increasing so the need is urgent to mobilize additional resources from domestic sources. Income tax can take an important role in economic development of Nepal by mobilizing resources through domestic sources. It is looked upon as a powerful tool in the hands of government for raising the revenue. It is reliable tool to achieve the objectives of growth, equity and stabilization. Income taxes bridge the gap of disparity of income. It checks the inequality between high and low income groups imposing higher income tax to rich people and lower tax to the poor.

Income tax solves the problem of inflation, which is one of the great problems in the economic development of Nepal. Because of inflation, development activities cannot be performed according to budgeted revenue. It poses developmental raw material expensive and actual cost becomes higher than the budgeted cost (*Jha; 1984*).

The objectives of revenue collection is not only the finance growing expenditure, but to achieve other goals, like social justice, balance regional development and distributive motives etc. for this purpose, the direct tax basically income tax is assumed as best weapon. Income tax also considers the 'ability to pay'. Hence income tax is pushed up as the effective instrument for development, stability and equality in the developing countries.

The share of income tax to the GDP is very significant. It contributes only 3.03% to GDP in fiscal year 2001/2002. The no of taxpayers in the total population is also very low with respect to developed country. In U.S.A. 30 to 40 % people are under the portfolio of income tax and in UK 70 % of GDP are contributed by direct tax (A.R. Prest finance in Developed country, vikash publishing House, New Delhi).

4.5 Role of Income tax in Total Revenue

Table 4.2 shows that income tax contributed around 16.86% to total revenue, In fiscal year 2060/061 the total revenue Rs 6233.10 million and it was raised to Rs 9182.32 million in the fiscal year 2064/065. Total revenue increased 1.47 times during last 6 year's period, from Rs 6233.10 millions in fiscal year 2060/061 to Rs 14347.42 million in fiscal year 2065/066. Similarly income tax increases by 1.64 times in the same period from Rs. 1051.51 million to Rs 2909.74 Million. Average contribution rate of income tax to total revenue is 17.88 % during last 5 years.

Table 4.4
Income Tax / Total Revenue Ratio

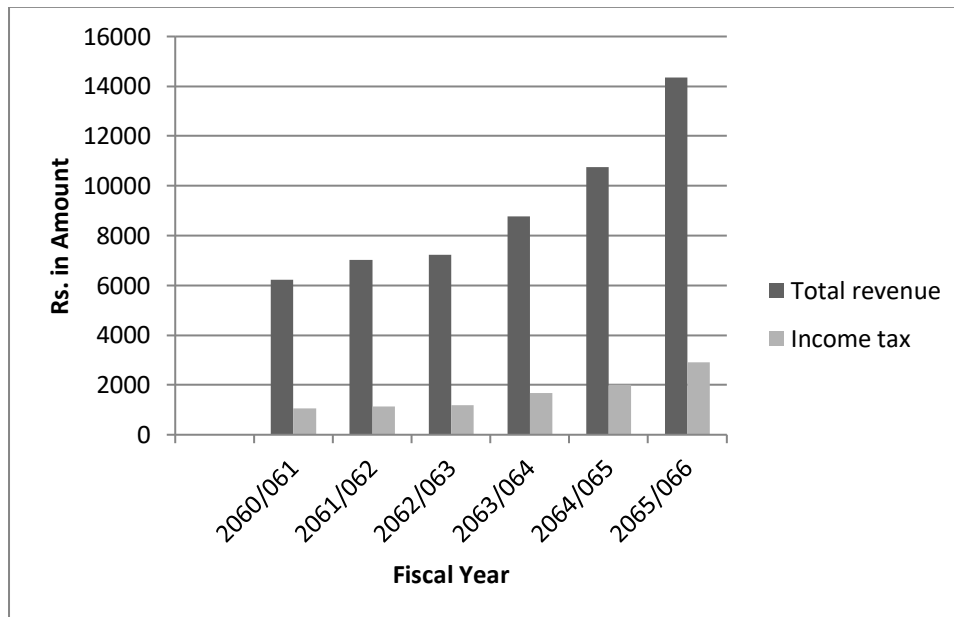
(Rs in Million)

Fiscal Year	Total revenue	Income tax	Income tax as% of Total Revenue
2060/061	6233.10	1051.51	16.86
2061/062	7012.27	1127.26	16.07
2062/063	7228.21	1178.70	16.30
2063/064	8771.21	1672.7	19.07
2064/065	10761.81	2014.70	18.72
2065/066	14347.42	2909.74	20.28
Average	-	-	17.88

Source: Economic survey of various year and budget speeches- Ministry of Finance, N G, Nepal, Annual report of various years, Inland Revenue Department Nepal.

It will be clear from following figure.

Figure 4.4
Income Tax / Total Revenue Ratio



Source: Table 4.2

4.6 Role of Income tax in Total tax Revenue

Table 4.3 shows the figure of income tax, and total tax during last 5 years. Income tax covers 21.94 % share of total tax revenue in an average. The contribution ratio of income tax to total tax is fluctuating it was 20.83%, 20.52%, 23.51%, 23.03% respectively in fiscal year 2061/062,2062/063, 2063/064, 2064/065, 2065/066.

Table 4.5
Role of Income Tax in Total Tax Revenue

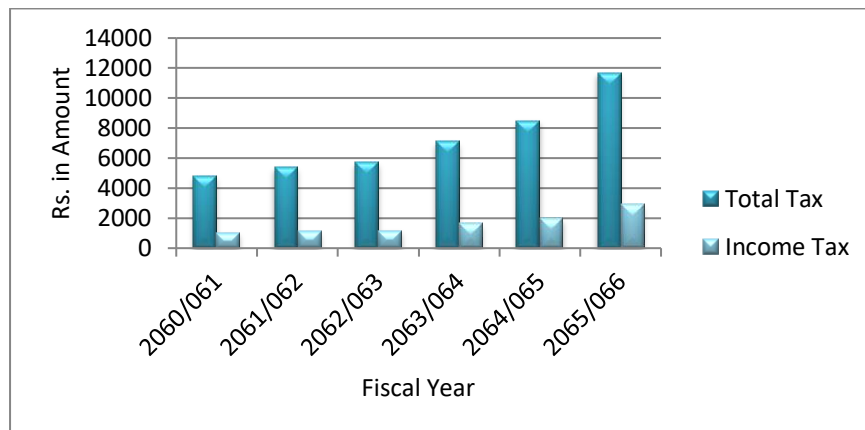
(Rs in million)

Fiscal Year	Total Tax	Income Tax	% of Income Tax
2060/061	4817.30	1051.51	21.81
2061/062	5410.47	1127.26	20.83
2062/063	5743.04	1178.70	20.52
2063/064	7112.7	1672.7	23.51
2064/065	8515.55	2014.70	23.65
2065/066	11705.19	2909.74	24.85
Average			22.52

Source: Economic survey of various year and budget speeches- Ministry of Finance, N G, Nepal, Annual report of various years, Inland Revenue Department Nepal.

Following figure clearly shows the above analysis:

Figure 4.5
Role of Income Tax in Total Tax Revenue



4.7 Contribution of Income tax and Total tax to GDP

The contribution of total tax revenue on GDP (gross Domestic product) is increasing and satisfactory. In 2060/061, the share of total tax revenue was only 9.62% of which was increasing to 10.52% in 2063/064 within the tax revenue, there is a significant role of indirect tax that contributes about three folds more than the direct tax was 6.16% and 1.29% respectively which have increased to 9.97% and 14.60% in 2065/0666.

The contribution of income tax on GDP is increasing gradually. It had contributed 2.10% in 2060/061, which was increasing to 3.63% in 2065/066, it was 2.055% in 2061/062. Within direct tax; income tax is in the leading role at now table 4.4 shows that the contribution of income tax and total tax to GDP.

Table 4.6
Contribution of Total tax and Income tax Revenue to GDP

(Rs. In Million)

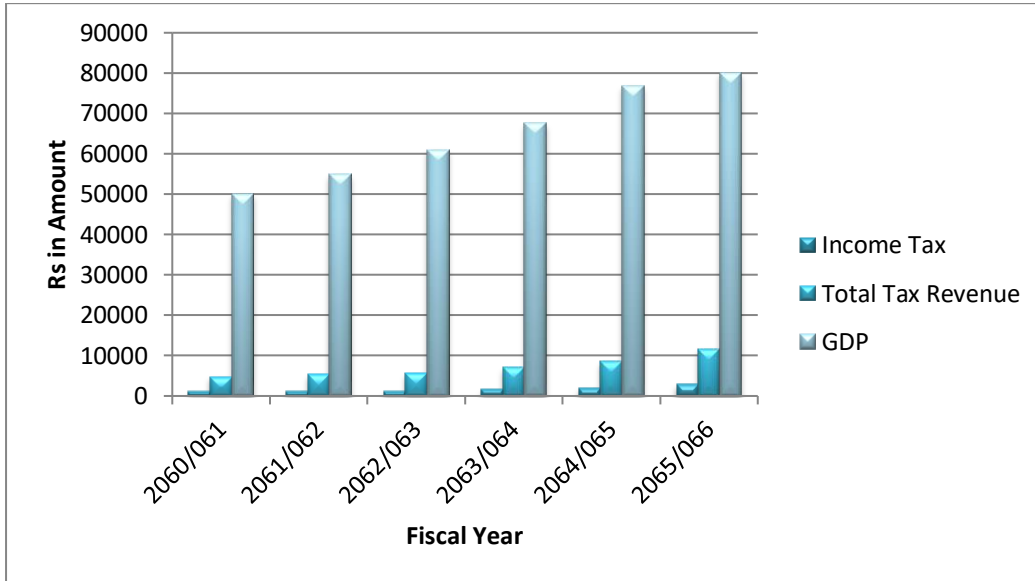
Fiscal Year	Income Tax	Total Tax Revenue	GDP	Income Tax as % of GDP	Total Tax as % of GDP
2060/061	1051.51	4817.30	50069.91	2.10	9.62
2061/062	1127.26	5410.47	54848.47	2.055	9.86
2062/063	1178.70	5743.04	61108.85	1.92	9.39
2063/064	1672.7	7112.7	67548.40	2.47	10.52
2064/065	2014.70	8515.55	76883.18	2.25	9.77
2065/066	2909.74	11705.19	80126.43	3.63	14.60

Source: Economic survey and budget speech of various years, MOF / NG

Following figure is prepared to clarify the above analysis.

Figure 4.6

Contribution of total tax and income tax revenue to GDP



Source: Table 4.4

4.8 Sample Analysis Measurement

This measurement deals with the results obtained from employee of NEA and DDC. It explains about the view and specific conclusion of the respondents. The samples are observed with the help of questionnaires and personal interview for the following results.

4.8.1 Information about the Company

For the purpose of collecting data I have visited the head office and branch office of the NEA and DDC all located in Katmandu. I found that the employee of this corporation is not sincere about the tax planning.

4.8.2 Information about the Respondents

There are 10 employee of NEA and 10 employee of DDC out of total respondents. I have include all types of employee like as some are finance head some are deputy GM some are chartered accountant and some are senior accountant and junior accountants. They filled the questionnaires by personal contacts. Some of the explained that the questionnaires by personal contacts. Some of them explained that the questionnaires were difficult to understand in English language. For the proper solution, I translate of the questionnaire in Nepali to make them understand. Some of them felt boring at the first visit. Some of them ignored to fill up the correct information. Most of them said that the questionnaires were very long and time consuming. So, I had to request to fill the questionnaire for the proper solution of the study.

4.8.3 Are you familiar with the term "Tax Planning"?

To know the familiarity of tax planning among the (respondents) a question was asked with them. The result has been presented in the following table.

Table 4.7
Familiarities with Tax Planning

Options	No. of Respondents	% of Respondents
Yes	12	60
No	8	40
Total	20	100

Source: Opinion Survey

From the table no 3, it is observed that 60% of the respondents have some knowledge about Tax planning whereas 40% are unknown. However they are utilizing the facilities provided by the Act knowledgeably or unknowledgeable. On the other hand, those respondents who are familiar with the concept of tax

planning replied that they utilized every benefits provided by the government in terms of tax planning. Mainly, the large industries used to follow tax planning. They used to audit their statements internally and externally by the expert auditors. They compared tax liabilities at every type of taxable works regarding the facilities given by the tax law. So, they are very careful about tax planning. Though there was system of tax planning. They are not completely utilizing the tax planning in some extent because of confusing tax laws.

40% of the total respondents have not understood about tax planning. They were in confusion that tax planning was proper utilization of revenue by the government. They used to take advantages of the facilities. Provided by current law partially lack proper knowledge about tax planning. So, they use some advantages as facilities given by the government but not as the form of tax planning. According to their view, it was found that they try to minimize tax liabilities by collecting benefits as less as possible from the customer. They expressed their views on the favors of the customer satisfactions. Indeed, they said that they cheat the government but give benefits to the customer by charging low price.

4.8.4 Reasons for not Applied with tax Planning Concept

In question why their company has not applied the reasons given by the respondents has been presented in the following table.

Table 4.8

Reason for not Applied with Tax Planning

S.N.	Reasons	No. of Respondents	% of Respondents
1.	Hard to follow the method of the tax planning	6	30
2	Idea and concept if tax planning are not clear	9	45
3	Easy to take advantages of loopholes in tax laws	2	10
4	Lack of qualified man power	3	15
5	Others	0	0
Total		20	100

Source: Opinion Survey

30% of the total respondents said that tax planning is very hard process to use determination of deductible expenses, chargeable to current year P/L a/c, are confusing jobs. Pollution Control Cost, Research and Development Cost are allowed for deduction at 50% of adjusted taxable business income. The excess Research and Development cost are capitalized and depreciated under Pool 'D' from next year.

Similarly, losses from business can be carried forward up to next four income years. In addition to carry forward of losses, banking and general insurance business can carry back their losses to proceeding five income years. Bank can avail this provision only if it does not maintain loan loss provision.

45% of the total respondents replied that idea and concept of tax planning are not clear. They said that Depreciable assets have been defined according to Pool 'A', 'B', 'C', 'D', 'E'. But there were other assets like Advertisement board, vehicles used

for constructions of public mature and capital nature which have not been clearly classified into different pools groups.

There are vast rules for carry forward and carry backward, timing of activities, donation, and pollution control cost and Research & Development cost in the current tax law. It means that the rules for tax planning are not clear & simplicity.

In the current tax law, Business assets mean an assets to the extent to which it is used in a business. However, the term does not include trading stock or a depreciable asset of a business. A piece of land used in business is an example of a business asset. The term itself suggests that only a business firm will have business assets. But it has not said about non-business asset clearly or assets used by non-business organization.

10% of the total respondents said that taxpayers take advantage of the loopholes. It is the art of dodging tax without actually breaking the law. Without resorting to illegal ways, they effect reduction in tax liability.

It means that there are various chances of colorable devices in the current tax law. It has made easy to defeat the genuine sprit of law, misrepresentation or twisting of facts and taking only strict interpretation of law and suppressing the legislatives intent behind it.

Loopholes in the tax law, thus, may be defined as any planning activity which is done under the legal privations but breaks the basic philosophy and sprit of the tax legislature. It is legally permissible but unethical.

15% of the total respondents showed their concern towards lacking of qualified manpower for tax planning. The reasons give by them clearly indicate that the provisions of tax law are instable or they are being changed according to

government policy. Lack of clear concept and stability of tax law, the qualified manpower cannot be developed. On the other hand, there is no certain idea among the experts about tax planning which made confusing to the available manpower. As a result, they attract towards either feel tax avoidance or tax evasion and not a tax planning. In the mean time, they feel great burden for them. They felt to rescue from this burden at any cos. So, tax planning was still in practice in our country lack of stable law, clear concept and qualified manpower. None of the respondent said about other reasons for not applying tax planning in the company.

4.8.5 To what Extent has tax Planning been Applied in your Corporation?

The result of application of tax planning in their corporation has been presented in the following table.

Table 4.9
Application of Tax Planning

Options	No. of Respondents	% of Respondents
Very little	8	40
Moderate	5	25
As much as possible	7	35
Total	20	100

Source: Opinion Survey

40% of the total respondents said that they have applied tax planning very little because they think that tax planning does not reduce the tax liability so much. They viewed that they have to adjust their expenses systematically to reduce tax liability under tax planning. But such adjustments of expenses were observed under suspension by the tax administrators. Some expenses had to be made even for tax planning. But they claimed that they needed to pay money either as expenses like donation or as tax. From the above analysis it is clear that the respondents do not know the true concept of tax planning. They have preferred tax avoidance to tax planning to reduce tax.

25% of the respondents replied that they applied tax planning in their company in an average. They claimed that they have not increased the expenses like donation, pollution control cost, research and development cost, life insurance, medical expenses etc. as tax reducing device. Rather they try to minimize their unnecessary expenses. They attempted to pay their tax payable to the government with out cheating. They want to make health growth of economy and stability of economy by paying taxes without violating 35% of the total respondents said that they apply tax planning as much as possible. They claim that tax planning is the facilities given to them by the government. So, they have taken the advantages of tax planning. They claimed that they usually assess their income/profit with tax reducing tools to know whether tax liability could be reduced by using such tools. If such types of expenses like medical expenses, life insurance premium, research and development cost, pollution control cost project planning, strategic planning and operational planning are helpful for reducing tax liabilities, they would utilize such expenses. They said that how much they could reduce their tax liabilities, they usually analyze and take the advantage of tax planning. On the other hand, they always analyze the way of tax planning in every step of operational planning, strategic planning, and project planning.

4.8.6 Does your Corporation avail of the Maximum Possible Exemption, Concessions, rebates etc?

To know the about the corporation to avail of the maximum possible exemption, concessions, rebates etc, the results have been presented in the following table.

Table 4.10
Availability of the maximum Possible Exemption, Concessions and Rebates etc

Options	No. of Respondents	% of Respondents
Yes	16	80
No	4	20
Total	20	100

Source: Opinion Survey

80% of the total respondents said that they take advantage of the maximum possible exemptions, concessions, rebates etc. because of clear concept and idea of tax planning. They do not take this subject matter as their main concern. Only tax exemption limit, rebates are their main concern. If they know well about the concessions, they take advantages. They said that they have to fulfill various criteria to take advantage of concessions, rebates etc. So only the point where they are able to fulfill their criteria easily, they take advantage of such concessions, rebates etc. Otherwise, they do not create false environment for obtaining such facilities.

They do not search loopholes but had followed according to the current tax laws. Sometimes they have to consider about such facilities for doing any operational, strategic and project work. But they do not work only for such facilities. They always work for the betterment of the customer satisfaction. For example, make or buy decision is not only for the tax purposes but also for the customer satisfaction. Similarly, project selection is depend upon the long term benefit but not for short term rebates, concessions etc. Indeed, such facilities are compared on the long term satisfaction of the company's life. Their all the responsible works should be guided on the comparative, study of the tax. They are profit motive organizations. So, they had to select the beneficial aspect on their lives. They think that either they have chances of concession, rebates and exemptions on the particular works. On the other aspect, they have to think how they could reduce tax liability. They explained that they can save maximum only when they take advantage of such facilities.

20% of selected total respondents replied that they do not avail of the maximum possible exemptions concessions and rebates etc. because they have lack of information about such provisions. But if they know such provisions they must

use. On the other hand some of them are using this very little even they do not know about it.

4.8.7 In your Opinion, is tax Planning Suitable for Minimizing tax Liability?

To know the suitability of tax planning for minimizing tax liability, the results have been presented in the following table.

Table 4.11
Suitability of Tax Planning for Minimizing Tax Liability

Alternatives	No. of Respondents	% of Respondents
Yes	11	55
No	9	45
Total	20	100

Source: Opinion Survey

55% of the total respondents accepted that tax planning was suitable for minimizing tax liability. They explained that concept and principal of tax planning is good but it depends on its practice in our country.

Tax planning is the future planning of operational, strategic and project planning. Every activity in the country can be compared on the name of tax liability. The tax law provides certain concession, rebates and allowances to tax payers in order to enhance a healthy environment in the country. But there is a great problem of applicability due to lack of adequate administration, training, perception on tax planning. This it is an arrangement of one's financial and economic affairs by taking complete legitimate belief of all dedications, exemptions, allowances, and rebates so that it minimizes the tax liability for the tax payers.

45% of the total respondents explained that the tax planning is not suitable for minimizing tax liability because most of the people have not understood the

concept and idea of tax planning. So, they are wrongly accepting tax planning. Tax planning has provided rebates, concession and deductions for different locations; industries etc. but only such facilities could not win the motivation of the respondents. They need good training, stable facilities, securities, and special supports of the government. So, it is very vast and critical to get such facilities by the tax payers. They have not got moral support for tax planning. First of all, the government should have fair administration in tax application so that tax payer would be obliged for compulsory payment of tax. Then, they think positively about tax planning. But tax payers are taking more advantage by cheating the government or tax evasion rather than tax planning. So, the government should increase positive perception about tax planning by clear concept and developing subsidiary facilities like infrastructure, security and moral support and hunching tax educate programs.

4.8.8 Is tax Planning being Applicable in your Corporation?

According to the selected respondents, the application of tax planning in Nepal has been presented in the following table:

Table 4.12
Application of Tax Planning in your Corporation

Application	No. of Respondents	% of Respondents
Yes	8	40
No	7	35
No idea	5	25
Total	20	100

Source: Opinion Survey

40% of the total respondents accepted that tax planning is being applicable in Nepal. Every taxpayer wants to minimize his/her tax liability by utilizing the maximum facilities of the tax law. Only the tax planning has been applicable for

obtaining such purpose. So, they try to make strategic planning, project planning and operational planning by considering the facilities of tax planning. Tax planning has reduced the over burden of the taxpayers. Those who have to pay maximum tax can take advantage of tax planning. Small earner groups do not think about tax planning because their earning is equal to or less than exemption limit.

35% of the total respondents told that tax planning is not being applicable in Nepal. Most of the taxpayers have not understood about tax planning because they think it has vast concept and idea. There are various criteria that should be fulfilled for tax planning. A taxpayer can not easily co-operate with this criteria. On the other hand, some taxpayers have habit of tax evasion and tax avoidance which they feel easy due to weak tax administration and loopholes of tax laws. For the proper application of tax planning, there should be stable, clear, reasonable and situational tax law. In addition, there should be proper administration about self-assessment and awareness about the term "Tax Planning". Actually, there is a great deviation between theory and practice of tax planning in Nepal.

Most of the respondents who have not familiar about tax planning also tick mark on the bracket of no. 25% of the total respondents said that they are unknown about tax planning either being applicable or not in Nepal. They mean to say that tax planning may be applicable in an average. But they can not be sure that tax planning was the solution of tax burden in Nepal. There may be various reasons about applicability and misused of tax planning in Nepal. They claimed they also feel some problem to apply tax planning because of dual meaning of some terms in take advantages of the given facilities only but never work against the motto of the tax law. They have not good knowledge about present Nepalese income tax act and rules.

4.8.9 Do you believe that tax planning is being misused as tax evasion and tax avoidance in Nepal?

The result of misuse of tax planning as tax evasion and tax avoidance in Nepal has been presented in the following table.

Table 4.13
Misuse of Tax Planning as Tax Evasion and Tax avoidance

Application	No. of Respondents	% of Respondents
<i>Yes</i>	5	25
No	14	70
No idea	1	5
Total	20	100

Source: Opinion Survey

25% of the total respondents said that tax planning is being misused as tax evasion and tax avoidance in Nepal. There is weak tax administration in Nepal so that tax payer can easily take advantages of the government. Most of the taxpayers always show either nil tax liability or less tax liability. There is not deep investigation about tax liability. As a result, they think about tax avoidance and tax evasion. On the other hand, the Tax Act has encouraged self-assessment so that they can take their real liabilities easily for less tax statement. They also complained that the facilities of tax planning have to be increased with moral support of the government. Similarly, only self-assessment should not be accepted for tax assessment. There should be regular investigation on every self-assessment.

70% of the total respondents said that tax planning is not being misused as tax evasion and tax avoidance in Nepal. Tax evasion and tax avoidance are another case of reducing tax liability. Rare taxpayers follow tax evasion because of heavy punishment by the government on tax evasion. So, they can not easily encourage themselves for tax evasion. On the other hand, tax avoidance is the taking

advantage of loopholes in the tax law. The government has to pay attention on the tax avoidance and improve the tax paying behavior of people. It can not be said that tax avoidance and tax evasion people do not follow tax planning. So, they apply tax planning and tax avoidance together because both are legal. Because of unclear concept, idea and heavy load of the tax, taxpayer try to take advantage of the loopholes and tax planning for reducing tax liability.

5% of the total respondent said that they have no any evidence and experience about tax planning of being misused as tax evasion and avoidance in Nepal. They claimed that they are regular and responsible for their tax liabilities. They do not try to take advantage of loopholes except tax planning. They do not analyze any other organization about their frauds and errors. They always believe on their own duties. They do not like to loose their dignity even for short term benefits. They have not got any research about misused of tax planning. Instead, they said that most of the tax payers are unable to file their tax liabilities by utilizing the benefits of tax planning. They need enough training and examples about tax planning.

4.8.10 How would you reduce your tax Liability?

The methods for reducing tax liability have been preferred by the respondents are shown in the following table.

Table 4.14
Strategies for Reducing Tax Liability

S.N	Strategies	No. of Respondents	% of Respondents
A	By taking advantage of loopholes	1	5
B	By availing tax concessions, incentives, allowances, rebates and relief provided by existing tax law.	19	95
C	By over statement of expenses and understatement of incomes	0	0
D	If any (please specify)	0	0
Total		20	100

Source: Opinion Survey

5% of the total respondent said that 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 advantage of the loopholes in the tax are not illegal. So, the taxpayers always try to do such work for reducing their tax burden. They use 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 advantage of loopholes in the tax law. Most of the time, they use facilities provided by the tax law in their practical assessment purpose of the tax liability.

95% of the respondents accepted that they reduce their tax liabilities by availing tax concessions, incentives, allowances, rebates and relief provided by existing tax law except two of them also added that they take advantage of loopholes in the tax law. In each step of their work, they consider the value and chances of concession, incentives, allowances, rebates and relief because these are very helpful for reducing their tax burden. They told that these facilities are very much essential for the proper utilization and mobilization of resources and development. They are

liable for their duties using these facilities. These all facilities have been made for equal opportunities in each part of the country. They claimed that they do not search any weak points in the tax law to take advantage. They are always responsible for their long term duties. So they accepted to avail tax concessions, incentives, allowances, rebates and relief for reducing their tax liabilities.

None of the respondents said that they reduce their tax liabilities by over statement of expenses and under statement of income. They said that such types of illegal and unethical work should not be accepted because they are responsible member for the government revenue. They should always pay their duties with fair statement by only taking advantage of tax planning facilities.

None of the respondents said about option no. (d) For other methods which can reduce tax liability. They said that they have no idea for it. As a whole, Most of the Nepalese taxpayers use loopholes of tax laws for minimizing tax burden.

4.8.11 Which Assessment do you use for Submitting the tax Liabilities?

The tools of assessment for submitting the tax liabilities have been presented in the following table.

Table 4.15

The Tools of Assessment for Submitting the Tax Liabilities

Assessments	No. of Respondents	% of Respondents
Self-assessment	20	100
Jeopardy assessment	0	0
Amended assessment	0	0
Total	20	100

Source: Opinion Survey

100% of the respondents accepted that they use self-assessment for submitting the tax liabilities because the Income Tax Act 2058 has focused the self assessment

system. Under this Act, every assessment is treated as self assessment. When they file a return of income for an income year, an assessment is treated as made on self-assessment. They always use to submit their tax liabilities by taking advantage of concessions, rebates, relief, incentives, and allowances provided by the tax law. These were the facilities they could follow under self-assessment. There are various levels of fine and penal lies for those who violate the rules of the tax law. So, they never take advantage of self-assessment.

None of the respondents said that they use jeopardy assessment for submitting the tax liabilities because this assessment is done under special circumstances according to Income Tax Act, 2058. They are:

- When the person becomes bankrupt, is wound-up or goes into liquidation.
- When the person is about to leave Nepal indefinitely.
- When the person is otherwise about to cease activity in Nepal or
- When the department otherwise considers it appropriate.

Where an assessment is made under jeopardy assessment with respect to a full income year, they would not file a return of income for the year. However with respect to part of an income year, the assessed person is still required to file a return of income for the year.

None of the respondents told that they use amended assessment for submitting tax liabilities because they are regular taxpayer and never cheat to the government. So, there is not any doubt that tax officials have to make amended assessment to adjust their liabilities to tax in such a manner as, according to the Department's best judgment. While amending an assessment, the Department is required to grant an opportunity in writing to produce proof, if any, in own favors wit respect to the assessment specifying the basis that leads to the amendment and giving time limit of 15 days.

4.8.12 How far are you Satisfied with the tax Planning in Respect Strategic Planning?

The result of satisfaction or dissatisfaction with tax planning in respect of strategic planning has been presented in the following table.

Table 4.16

The Result of Satisfaction or Dissatisfaction with the Tax Planning in Respect of Strategic Planning

Alternatives	No. of Respondents	% of Respondents
Satisfied	18	90
Dissatisfied	2	10
Total	20	100

Source: Opinion Survey

90% of the total respondents said that they are satisfied with the tax planning in respect of strategic planning because they always consider about their future activities so that they can easily be successful in their attempts. At every aspect they use to make such strategy so that they can minimize their tax liability. So, they claimed that they make strategy for the implementation of their policies and techniques that are related to reducing tax liabilities according to tax planning.

10% of the total respondents claimed that they are not satisfied with tax planning in respect of strategic planning because there are not enough facilities of tax planning in respect of strategic planning. Strategic planning is the process of determining the basic objectives of an organization and deciding the strategies and policies to achieve these objectives. It is the formulation of future direction aimed at relating the strategic advantages of a company to cope up with its environment.

4.8.13 How far are you satisfied with the tax planning in respect of project planning?

The results of satisfaction or dissatisfaction with tax planning in respect of project planning have been presented in the following table.

Table 4.17
The Result of Satisfaction or Dissatisfaction with the Tax Planning in Respect of Project Planning

Alternatives	No. of Respondents	% of Respondents
Satisfied	12	60
Dissatisfied	8	40
Total	20	100

Source: Opinion Survey

60% of the total respondents said that they are satisfied with the tax planning in respect of project planning. Because there are facilities of tax planning in respect of expansion and diversification of business, make or by decision, acquisition of fixed assets, disposal of fixed assets, modernization, replacement, repairs and renewal of existing assets and so on. They can compare at every decisional segments of the project planning. They can utilize these facilities for reducing their tax liabilities. On the other hand, they claimed that there should be transparent facilities and recognition of tax concept and idea.

40% of the total respondents accepted that they are not satisfied with the tax planning in respect of project planning because the maximum planning facilities have been provided only to the manufacturing company and sole business organization. But the other company and partnership organization can not utilize or enjoy such facilities. Similarly, interest is deductible in case of funds where as dividend does not enjoy this benefits. Individual working in remote area A, B, C,

D & E group has provision of remote area allowances. They mean to say that tax planning is not satisfied in respect of project planning.

4.8.14 How far are you Satisfied with the tax Planning in Respect of the Operational Planning?

The result of satisfaction or dissatisfaction with the tax planning in respect of the operational planning has been presented in the following table.

Table 4.18
The Result of Satisfaction or Dissatisfaction with the Tax Planning in Respect of the Operational Planning

Alternatives	No. of Respondents	% of Respondents
Satisfied	11	55
Dissatisfied	9	45
Total	20	100

Source: Opinion Survey

55% of the total respondent claimed that they are satisfied with the tax planning in respect of operational planning. Because the current tax law has provided the facilities on respect of choice of method of accounting, production decision, marketing decision, personnel revenue ration etc. They company can take such facilities as tax planning. For example, if husband wife, in personnel remuneration, have submitted their taxable income separately to get benefit of exemption limit. The company can decide about the location segment, carry forward of losses, remote area allowances, tax rebates etc for the purpose of operational planning.

45% of the total respondents expressed that they are not satisfied with the tax planning in respect of operational planning. Because the tax under developed,

undeveloped and remote area where the infrastructures are rare. So, only such facilities can not solve the problem of tax burden. Mainly in the Kathmandu Valley tax planning has not been considered as importance. They generally pay their tax with the same amount annually because they are maintaining their standard of operational planning.

4.8.15 How far are you Satisfied with the tax Planning in Respect of overall Planning?

The result of satisfaction or dissatisfaction with the tax planning in respect of overall planning has been presented in the following table.

Table 4.19
The Result of Satisfaction or Dissatisfaction with the Tax Planning in Respect of Strategic Planning

Alternatives	No. of Respondents	% of Respondents
Satisfied	16	80
Dissatisfied	4	20
Total	20	100

Source: Opinion Survey

80% of the total respondents explained that they are satisfied with the tax planning in respect of overall planning. Because they can utilize these facilities of tax planning given for operational planning, project planning, and strategic planning as overall planning. They can consider about the tax concession, rebates, deductions and exemption etc. in every field of their business lives. They accepted that such facilities have reduced their tax burden to the some extent. On the other hand, tax planning facilities have encouraged the new investors and industrialists to establish new ventures.

20% of the total respondents explained that they are not satisfied with the tax planning in respect of overall planning because they have to suffer from various

problems if they consider about minimizing tax liabilities under tax planning. They can not establish their reputation on the competitive age if there are weak operational planning, project planning and strategic planning on the name of minimizing tax liability. There are various facilities provided for undeveloped, underdeveloped and remote area to uplift the industries. But the reputed company can not get such facilities and can not select weaker section of the country for minimizing tax burden. They believe the more income is on higher risk.

4.8.16 Do you agree with the following?

4.8.16.1 Does your Corporation deduct tax at Source?

The result of tax deduction at source has been presented in the following table.

Table 4.20
The Result of Tax Deduction at Source

Options	No. of Respondents	% of Respondents
Yes	14	70
No	6	30
Total	20	100

Source: Opinion Survey.

70% of the total respondents said that they deduct tax at source because they have to pay dividends, interest on deposit, debenture, debt certificate, payment of rent to natural person, gain on investment insurance and unapproved retirement fund. Such types of payments should be compulsorily paid after tax at source as per Income Tax Act, 2058.

30% of the total respondents explained that they do not deduct tax at source because Tax at source is not required to be made on the following payment;

- Payment of interest to a resident bank or other resident financial institution.

- Payment made by an individual other than in conducting a business of payment of rent for the lease of a building.

4.8.16.2 Does your company maintain proper books of account?

The result of maintaining the proper books of account has been presented in the following table.

Table 4.21

The Result of Maintaining the Proper Books of Account

Options	No. of Respondents	% of Respondents
Yes	20	100
No	0	0
Total	20	100

Source: Opinion Survey

All of the respondents accepted that they maintain proper books of account. 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 the proper books of account. They suggested that there must be strict administration about maintaining proper books of account. Some organization used to prepare dual accounting system for tax evasion which harms all the organization. It must be controlled by timely administration and assessment.

4.8.16.3 Whether your Company is regular in filing income tax return in time?

The result of the company in filing income tax return in time has been presented in the following table.

Table 4.22

The Result of the Company in Filling Income Tax Return in Time

Options	No. of Respondents	% of Respondents
Yes	20	100
No	0	0
Total	20	100

Source: Opinion Survey

All of the respondents said that their company is regular in filing income tax return in time. They mean that they file their income tax statement within three month of fiscal year completion.

None of the respondents said that they are not regular in filing income tax return in time. They said that tax is compulsory duty on which they had to pay interest if they pay late. So, they state to submit income tax return in time for timely assessment.

4.8.16.4 Whether income tax is paid by Year Company within the prescribed time limit?

The results of payment of income tax within the prescribed time limit have been presented in the following table.

Table 4.23

The Result of the Payment of Income Tax within the prescribed Time Limit

Options	No. of Respondents	% of Respondents
Yes	20	100
No	0	0
Total	20	100

Source: Opinion Survey

All of the respondents said that they pay I income tax within the prescribed time limit. There are three installment payable by the end of Poush, Chaitra and Ashad.

None of the respondents said that they do not pay income tax within the prescribed time limit. The more they do late, the more burdens they have to face. Regular payment of tax liability within prescribed time limit was their duty.

4.8.16.5 Whether the provisions relating to penalties and prosecutions are adequate?

The result of provisions relating to penalties and prosecutions adequate or not has been presented in the following table.

Table 4.24

The Result of Provisions Relating to Penalties and Prosecutions Adequate or not

Options	No. of Respondents	% of Respondents
Yes	13	65
No	7	35
Total	20	100

Source: Opinion Survey

65% of the total respondents accepted that the provisions relating to penalties and prosecutions are adequate. In fact, the tax payers should not violate their duties. In case of their misbehavior, Income Tax Act, 2058 has made detailed penal provisions, which are divided into two parts: (I) Interest and penalties (II) offences.

For example, if any taxpayer was fail to pay tax (see 119), he/she must pay 15% p.a. for each month and part of a month on the amount of tax outstanding. Similarly, offence imposed by the court for failure to pay tax (see 123) was fine of Rs 5000 to Rs. 30,000 or imprisonment for one month to three months or both. Thus, they stated that the provisions relating to penalties and prosecution are adequate.

35% of the total respondents said that the provisions relating to penalties and prosecution are not adequate. They claimed that tax payers alone can not play the role of tax evasion and avoidance every time but there support of tax administrators, tax experts and other parties who were responsible to tax. So, there must be clear provision of penalties for each type of tax evasion and supporters. Due to weak tax administration, there is correct evaluation of tax assessment. On the other hand, there must be degree of penalties for every party according to amount, time, situation and forgiveness.

**4.8.17 How tax evasion behaviors of Nepalese taxpayers could be avoided?
Rank them in order of preference from most (1) to least (5) respectively**

The result of how Tax evasion behavior of Nepalese Tax payer could be avoided has been presented in the following table.

**Table 4.25
The result of how Tax evasion behavior of Nepalese Tax payer
could be avoided**

S. N.	Option	No. of Respondent	% of Respondent
1.	Educating taxpayers by training	12	60
2.	Simplifying tax laws in terms of language, section, sub-section etc.	3	15
3.	Timely assessment of taxes	2	10
4.	Incentives to regular tax payers	1	5
5.	Fines and penalties	1	5
	Total	20	100

Source: Opinion Survey

60% of the total respondents said that the most appropriate option is to educate taxpayers by training to avoid tax evasion behavior of them. They said that most of the taxpayers are not qualified about the systematic use of tax facilities

provided by tax law. Therefore, they try to tax evasion to minimize their tax burden. They have been given tax planning facilities by the tax law but they could not easily get knowledge about tax planning. They also said that there must be stable tax law and training to each taxpayer so that they can avoid their tax evasion behavior. Only the format and books of tax statement provided by Inland Revenue Department can not be enough for minimizing tax liability by using the facilities of tax planning. There must be training, seminar counseling etc about tax planning and tax management to each taxpayer by the government.

Secondly, 15% they told that tax evasion behavior of Nepalese taxpayers can be avoided by simplifying tax laws in terms of language, section, subsection etc. there is a great problem in tax law to understand about language, section, subsection etc. We can hardly get such section of fully independent or clear in single section, or reference. Most of the sections have been cumulatively explained saying part one of above section and sub-section etc. which made more confused to the learner. Sometimes one section may violate another section so that fact result can not be found. So, they complained about language and unclear section, sub-section, part etc. written in the Act.

Thirdly, 10% they said that tax evasion behavior of Nepalese taxpayers can be avoided by timely assessment of tax. They mean to say that there must be proper evaluation about self-assessment and their accounts by the tax administrators in a right time, similarly, tax administrators should observe the deviation of taxable income of the tax payers every year and reason of deviation. Such types of observation warn the taxpayers to submit the correct tax liability in a prescribed time limit.

Fourthly, 5% they said that tax evasion behavior of Nepalese taxpayers could be avoided by giving incentives to the regular taxpayers. It means that the regular

taxpayers feel of their great prestige and goodwill by the incentives so that others also felt their liability and avoid such evasion behavior. Incentives encourage them to accept the tax law and submit their correct tax liabilities.

Fifthly, 5% they said that tax evasion behavior of Nepalese tax payers can be avoided by fines and penalties in some extent. Fines and penalties warn them not to cheat about tax liability. They felt themselves to be under control so that they can submit their correct tax liability. Indeed, they give least priority to fines and penalties.

4.8.18 Do you have Complications in tax Planning in your Corporation?

Complication in tax planning in the company has been presented in the following table.

Table 4.29

Complication in Tax Planning in the Corporation

Options	No. of Respondents	% of Respondents
Yes	18	90
No	2	10
Total	20	100

Source: Opinion Survey

90% of the total respondents told that they have complications in tax planning in their companies. Because tax law was very confusing, controversies, difficult to understand, dual meaning, unclear section and sub-section which have brought a great problem in terms of tax planning. On the other hand, most of the taxpayers try to reduce tax liabilities both legally and illegally because of such problems. They also feel such problems in the tax law and can not be easily getting advantage of tax facilities like tax rebates, concessions, incentives etc. They do tax planning in the sections where they feel easy and legal. The tax law had provided various tax facilities to the taxpayers but such facilities have not been correctly

been correctly applied in their company. They did tax planning on which they found legal, fair and easy. Indeed, they can not be able to utilize the tax planning fully because of unclear idea and concepts.

10% of the total respondent explained that they do not have complications in tax planning in their companies. They mean that they try to utilize the tax planning facilities in the tax law. They explain the tax planning concept according to the norms of the tax law. They adjust such facilities like rebates, subsidies, deductions, timing of activities, location selection, exemption limit into systematic way so that tax liabilities will be minimum. They proved some confusion with logic and clarification while making tax planning. Though tax idea and concept are difficult to understand, they used to study thoroughly and do the same.

4.9 Major Findings of the Study

- The annual tax paid by the NEA and DDC is not satisfactory .Every year it is in decreasing trend. It is the main problem of the Nepalese public corporation.
- Most of the respondents have some knowledge about tax planning. Those respondents who are familiar with the concept of tax planning replied that they utilized every benefits provided by the government in terms of tax planning.
- Most of the respondents replied that idea and concept of tax planning are not clear.
- Most of the total respondents accepted that tax planning is suitable for minimizing tax liability. They explained that concept and principal of tax planning is good but it depends on its practice in our corporation.
- Most of the respondents replied that tax planning is being applicable in the corporations. They want to minimize tax liabilities by using the facilities provided by law.

- Most of the respondents said that tax planning is not being misused as tax evasion and tax avoidance in Nepal. Tax evasion and tax avoidance are another case of reducing tax liability..
- Most of the respondents accepted that they reduce their tax liabilities by availing tax concessions, incentives, allowances, rebates and relief provided by existing tax law.
- 100% of the respondents accepted that they use self-assessment for submitting the tax liabilities because the Income Tax Act 2058 has focused the self assessment system.
- Most of the total respondents explained that they are satisfied with the tax planning in respect of overall operational, strategic and project planning.
- Government revenue is the composition of external revenue and internal revenue. Internal revenue includes both tax and non tax revenue. Nepalese tax revenue is the composition of direct and indirect tax revenue. There is dominant role of indirect tax revenue in Nepalese tax revenue. Direct tax revenue is the composition of income tax, land tax, house and land registration tax and other tax. There is dominant share of income tax revenue in direct tax revenue. The contribution of income tax in 1980/81 was 5.95% of total revenue and in 2003/004 the contribution was 16.39% of total revenue. The contribution of income tax to government revenue is in increasing trend.
- The contribution of income tax to GDP is in increasing trend. It was 0.53% in the fiscal year 1980/81 and it was 3.03% in the fiscal year 2001/2002.
- Income tax is one of tax source that is potential and justifiable to increase. Education of taxation and morality in tax paying habit of taxpayers also help in maximizing realization of income tax. Corporate bodies also play important role in revenue collection to the government. Proper income tax management is the most to increase the tax revenue.

- In the structure of the direct tax revenue income tax has occupied the supreme position. Percentage contribution of income tax on direct tax revenue was 40.77% in fiscal year 1980/81 and it increased to 86.01% in the fiscal year 2002/2003.
- Overall contribution of income tax is in increasing trend, income tax revenue is playing a significant role of income tax in direct tax revenue because the share of income tax in direct tax revenue is increasing rapidly.

CHAPTER – V

SUMMARY, CONCLUSION AND RECOMMENDATION

5.1 Summary

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

Most of the respondents are tax payers representing the Nepalese Public corporations and some are senior, experienced and qualified tax experts and tax administrators but some of them have problem of English language, remuneration, and timely references of the expenditures and incomes to manage tax planning. The entire respondent is taken from Kathmandu Valley office only.

Indeed, they are not familiar with tax planning in 100%. They have to face problem of incomplete tax principle, law and concepts. They have been obliged to tax avoidance and evasion due to difficult ways of tax planning. So, they have not been able to utilize tax planning according to theory in practice.

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 practice.

Most of the respondents explained that tax planning has not been miscued as tax evasion and tax avoidance. Instead some taxpayers have used both tax planning and tax avoidance together because both are legal behaviors. Tax evasion has

rarely been applied in Nepal because there is strict punishment in the Act for those who takes part in tax evasion.

All of the respondents use self-assessment for submitting tax liabilities because the Act has encouraged them to submit their statement under self-assessment. Indeed this assessment has not been able to collect effective and correct tax revenue because most of the taxpayers pay stable tax liabilities though they have earned more profit every year. There is not proper application of Jeopardy assessment Amended assessment. So the trend of tax planning has been decreasing.

86% of the total respondents explained that the tax exemption, rebate, deductions and concession under existing tax are adequate. In fact, such facilities have promoted the small industries in remote, underdeveloped, undeveloped area in the country. 8% of them said that there is not proper use of tax exemption, rebates, deduction and concession as tax planning. There is not systematic administration of tax administrators too. So, the theory and practice of tax planning has created a distance between them and 6% of them have no idea about it. Indeed, most of the respondents explained that the theory of tax planning is excellent but no use in practice as it has to be.

Most of the respondents, i.e. 84% accepted that they are satisfied with tax planning in respect of strategic planning. They always consider tax facilities on their strategy and plan. 16% of the respondents, who said that they are not satisfied with tax planning in respect of strategic planning, mentioned that tax should not be linked with their strategy because strategy is designed on the comparative study of the competitors.

54% of the total respondents is satisfied with tax planning in respect of project planning. There are various facilities provided by the tax law in respect of lease or

purchase decision, acquisition of fixed assets and so on. Some of the respondents, i.e. 46%, rejected tax planning saying that they make project planning by the comparative study of market.

62% of the total respondents explained that they always consider on tax facilities at the time of operational planning. Indeed, there should be more facilities for newly established company. Similarly, 38% of them are not satisfied with tax planning in respect of operational planning. If they use insufficient tax facilities they can not develop their company. So, tax planning can not promote small industries. But large industries can take more advantage of tax planning in respect of operational planning.

Almost 74% of the respondents said that they are satisfied with tax planning in respect of overall planning theoretically but that is very vast to fulfill the criteria of tax planning practically. They can not compete with other company when they search for tax facilities. They said that they have to bear for tax facilities. They said that have to bear more risk for more success. Tax planning mainly helps for backward companies.

26% replied that they are not satisfied with tax planning in respect of overall planning. Indeed, there is not any relation between tax planning and overall planning. Tax is the secondary purpose of them.

Almost 75% of the respondents accepted that infrastructure facilities such as transportation, communication, power and water play most important role while deciding the location of the company, similarly, proximity to product materials, nears to product markets, tax incentives and availability of the adequate labours in the location of the industry. These all factors should be considered for the long life

of the industry. Co-ordinator of such factors can easily show the future of the company.

Almost all the respondents said that they deduct tax at source prescribed by the Act for final with holding payment and advance tax. But tax deduct at source is not required to be made on the payments made by an individual other than in considering a business or payment of rent for the lease of a building. Similarly, payment of interest to a resident bank or other resident financial institution, payment that are exempt from tax etc. should not deduct tax at source.

All of the respondents keep their statement in the prescribed books of accounts for the effective and proper calculation of taxable incomes. This system helps them for tax planning. They use to support to the government for collecting revenue. But they claim 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 use to pay tax regularly within the prescribed time limit. Indeed, none of them use to tell their weak point. They use 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.

58% of the total respondents said that the provision of penalties and prosecution of adequate. Some of them who said the fines, penalties and prosecution are not adequate mentioned to be weak administration and discrimination of treatment on the behalf tax evasion and avoidance.

Almost 75% of the respondents explained to educate taxpayers by training so that they can easily understand the concept and views of the Tax Act. Then, they pre-

plan for tax planning by utilizing maximum facilities provided by the law. Similarly, they suggested simplifying the tax law in terms of language, section, sub-section etc. for the easy adjustment of tax liabilities. Likewise, they stated timely assessment of taxes, incentive to regular taxpayers and fines and penalties to illegal taxpayer so that tax evasion behaviour can be avoided.

Almost 90% of the total respondents accepted that they give tax consideration for the important area of project planning. They explained they utilize tax facilities at the time of expansion and diversification of the business, make or buy decision, acquisition of fixed assets, disposal of fixed assets and modernization, replacement, repairs and renewal of existing assets.

Around 90% of the respondents agreed to take tax consideration on the important areas of operational planning such tax consideration helps to reduce tax liabilities. Choice of method of accounting, tax decision, marketing decision, personnel remuneration, avoidance of penal fines and prosecution etc. are the important area of operational planning.

Nearly 82% of the respondents explained that they have faced complication 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 taxpayers 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. Similarly, 18% of the respondents accepted that they have not fixed complication of tax planning in their companies because they use idea and suggestion of tax experts giving logic for the confusion and allocation of deductions.

5.2 Conclusion

The annual tax paid by the NEA and DDC is not satisfactory .Every year it is in decreasing trend. It is the main problem of the Nepalese public corporation. Tax planning is suitable for minimizing tax liability. It can be explained that no respondent states their weakness. All of the respondents said that they are always on the favor of tax law. They always support the norms of the tax law. Most of the respondents said that the government has provided various facilities to them on the law but the government has not been able to implement that system of the law in practical life. The government has made strict punishment for those who violates the tax law but there is less moral support and subsidies for those who respected the law. The government always looks them as the means of revenue collection. But the government has not helped on their operating problem, strategic problem but active for charging tax.

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

Indeed, we can say that tax concessions, rebates, subsidies, allowances etc have given priorities to remote, underdeveloped and undeveloped areas. But only such facilities can not promote the industries in those areas until there is infrastructural development like road, bridge, communication, water supply, electricity, market, labor, technology etc. From some years ago, there is not any development program

of the government. As a result, the condition of the industries is being poor. Unless there is balanced development, such facilities can not make stable revenue or increase tax revenue or control tax evasion behavior of the tax payers.

In additions, income tax is administered directly by Inland Revenue Department. It is responsible for the implementation and administration of the Act. Nepal Government is the highest authority of the tax administration. The Act has empowered Nepal Government to establish Tax Offices of the Department and prescribe their jurisdiction by notification in Nepal Gazette to facilitate the Department in fulfilling its responsibilities. Thus we can say that the rules and regulation of tax administration are vary systematic in theory but incomplete in practice. By establishing many more tax offices, the government has increased over staffing and expenses. So, over staffing should be controlled and there should regular supervision of every staff for their duties. It means that every transaction should be transparent.

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

Similarly, the Act has provided tax planning facilities to avoid illegal and unethical behavior of the taxpayers. But the taxpayers feel the difficulties to complete the criteria of the tax planning. They have not been able to get moral support of the public. They have to bear more expenses for labour, materials,

transportation, fuel, go down, insurance and so on but could not get the price according to cost. It means that they are obliged to charge more cost which the general people could not afford. People strike for the high price of the product. But the government does not provide subsidies to reduce price. Because of poor condition of the companies, they can not a result; they are obliged for tax evasion and tax avoidance for the payment of less tax.

As the matter of fact, tax law is not clear, and special for in terms of language, section, sub-section etc. Every section has been described by the presiding section and sub-section. Such type of confusion in tax law makes puzzle to the taxpayers. They had to call for the tax expert even for general tax planning. So, it adds cost. They conclude that there should be good facilities of tax related training for every taxpayer. Regular training helps the taxpayers to manage then taxes using the various facilities provided by the tax law. As a result, they are encouraged for tax planning at every aspect of their activities.

All of the company follow tax planning in respect of all the field of their activities like operational planning, strategic planning and project planning. Otherwise, they could not develop their lives. To plan in every stage of their movement is their consideration of earning more revenue. It means that they try to earn more revenue with less investment so that they could minimize tax liabilities such planning are in respect of lease or purchase, acquisition of fixed assets, disposal of fixed assets, production decision, marketing decision, avoidance of penal fines and prosecution etc. As a result, the taxpayers can determine the future achievements along with tax consideration. Indeed, all of their companies try to utilize the facilities provided the law. But such types of planning differ from company to company.

5.3 Recommendation

By supporting the all summary and conclusion, we found that tax planning is done by each and every Public Corporation 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. Similarly, tax planning has not been used properly in practice. There is not proper administration about the implementation of tax planning in Nepal. Only the rules and policies could not be enough for the collection of correct tax revenue. There should be regular support and supervision of the government so that any problem seen at the time of implementation of tax planning could be easily solved. Indeed, there should be positive support of every aspect for the proper implementation of tax planning in Nepal. In conclusion, tax planning has not been implemented according theory in practice lack of co-operative of all the responsible parties.

An attempt is, therefore made here to offer some important suggestions which have merged from the above study. These are as follows:

1. Tax Rebates to Non- industrial Company Setup in Industrially Backward Areas

However, tax rebate and additional allowances are available only in Income Tax Act, 2058. All tax related matters provided in different Acts have been removed from respective Acts. If industry is providing direct employment to 600 or more Nepalese citizens throughout the whole year, 90% of the applicable tax rate (20%) is applied for the year. The industry operating in remote, undeveloped and underdeveloped area will have to pay 70%, 75%, and 80% of the applicable tax rate (20%) respectively up to ten income years commencing from and including the year in which the operation commences. Thus, these rebates are not available to non-industrial unit's setup in these areas. From the point of view of equity, it is felt that the necessary amendments should be made in this section to enable all

companies, whether industrial or non-industrial to avail of the benefit of tax rebate and thus to accelerate the pace of industrialization in these regions.

2. Provision of Best Judgment Assessment in True Spirit

It is suggested that the provision of best judgment assessment should be put to use in its true spirit. During our study, it was reported that the provision of best judgment assessment is being misused by Tax Officers. The tax law provides for best judgment assessment only when a taxpayer does not submit returns or submits incorrect returns. Tax Officers generally, reject the returns on the ground that accounts are incomplete or incorrect but there may be correct account by twisting fact. Many a times, assessment is done on negotiation between the taxpayer and Tax Officer. Under such a situation the Tax Officer is even bribed in order to minimize tax liability. If, tax liability is decided by the agreement of two parties, the spirit of tax planning will not be of much use. Many companies may not use tax planning as they might intend to settle their future assessment through negotiation.

3. Provision of Interest on Unpaid Tax and Refund

Under income Tax Act, 2058 (Section 94), a taxpayer is required to pay tax by three installments i.e. 40%, 70% and 100% by the end of Poush, Chaitra and Ashad respectively. On the request of taxpayer, the Tax Officer can extend the payment period not exceeding three months in total as multiple extension (Section 98, ITA, 2058). Similarly, interest for failure to pay tax (Section, 119, ITA, 2058) is 15% p.a. for each month and part of a month on the amount of tax outstanding. Respectively, there is provision of fines and penalties for failure and misleading statement in ITA, 2058. Against these provisions, if a company appeals to the Revenue Tribunal or Department of Taxation, it avoids payment of even fee, not to talk if interest which is common practice. Many private enterprises abuse the

appeal system to defer tax payment for several years. If the company loses the case, it is required to pay the amount of unpaid tax only.

In order to minimize the misuse of the appeal system, it is suggested that the taxpayer should pay the unpaid tax along with interest, similarly, if the refund is to be made to the taxpayer along with interest.

4. Separate Tax Section to be Setup by Public Enterprises

We have found, during the course of our investigations that not even in a single company there was separate tax section or even a tax looked after by a Finance Officer/Account Officer along with his other financial/accounting functions. Considering the importance of tax planning, It is recommended that there should be a separate tax section headed by a Tax Executive under Finance Department particularly in large and medium companies to discharge all functions relating to tax management, including tax planning.

5. Tax Incentives for Revival of Sick Units

Our study has shown that in spite of the fact that industrial sickness is one of the serious problems before the government, very little has been done for the revival of sick units like carry forward and carry backward of losses. Its need being hardly stated that the revival of sick units require both fiscal and financial and financial incentives. Unfortunately, neither Income Tax Act nor Industrial Enterprises Act provides for any tax incentives for rehabilitations of sick units. This is in addition to other financial and non-financial assistance, including incentives, to be provided by the Government and Financial institutions for the revival of sick industrial unit.

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APPENDICES

Questionnaire

Dear Sir/Madam,

Would you please provide me necessary information for the following questionnaire in the partial fulfillment of master in business study (MBS) to conduct research work and submit to the university as the thesis?

I also assure you that the information supplied by you will be exclusively used for academic research purpose only.

Thank you.

Amit Phuyal

(Researcher)

Shanker Dev Campus

1. Information about respondent.

- a) Designation and nature of work
- b) Academic qualification
- c) Experience in taxation work: no of years--

2. Information about the Corporation..

- a) Name & Address
- b) Nature of business.....
- c) Year of Incorporation & commencement of operation.....

3. Are you familiar with the term “Tax Planning”?

- a) Yes ()
- b) No ()

4. Is tax planning being applicable in your corporation?

- a) Yes () b) No () c) No idea ()

5. To what extent tax planning has been applied in your Corporation?

- a) Very little ()
b) Moderate ()
c) As much As possible ()

6. If your Corporation has not applied tax planning ,please give reasons

- a) Hard to follow the method of tax planning,
b) Ideas and concepts of tax planning are not clear.
c) Easy to take advantages of loopholes in tax laws.
d) No hope of meeting long term objectives through tax planning.
e) Lack of qualified manpower.
f) Any other reason (please specify).....

7. In your opinion is the tax planning suitable for minimizing tax Liability?

- a) Yes ()
b) No ()

8. Which of the following methods do you like to prefer for reducing tax Liability?

- a) By taking advantage of loopholes in tax laws.
b) By suppression of sales, overstatement of expenses and understatement of income.
c) By availing tax concessions, incentives, allowances, rebates and relief provided by the existing tax law.
d) Any other method. (Please specify)

9. Do you believe that tax planning is being misused as tax evasion and tax avoidance?

- a) Yes () b) No ()

10. Does your Corporation avail of the maximum possible exemptions, concessions and rebates etc?

- a) Yes () b) No ()

11. How far are you satisfied with the tax planning in respect of the following?

Planning	Highly Satisfied	Satisfied	Dissatisfied	Highly dissatisfied
1. Strategic planning.				
2. Project planning				
3. Operational planning.				
4. Overall planning				

12. Do you agree with the following?

- a) Does your company deducted tax at source?
- b) Does your company maintain proper books of account?
- c) Whether your company is regular is filling income tax return in time?
- d) Whether income tax is paid by your company within the prescribed Time limit?
- e) Whether the provision relating to penalties and prosecutions are Adequate.

13. How tax evasion behavior of Nepalese taxpayer can be avoided?

- a) Educating tax payers by training ()
- b) Simplifying tax laws in terms of language, section, sub-section etc ()
- c) Timely assessment of taxes ()
- d) Incentives to regular tax payers ()
- e) Fines & penalties ()

14. Do you have complications in tax planning in your company?

- a) Yes () b) No ()

Questionnaire

Dear Sir,

Would you please provide me necessary information for the following questionnaire in the partial fulfillment of master in business study (MBS) to conduct research work and submit to the university as the thesis?

I also assure you that the information supplied by you will be exclusively used for academic research purpose only.

Amit Phuyal

(Researcher)

Shanker Dev Campus

Name of Respondent: (optional).....

Office:

1. Are you familiar with the term “Tax Planning”?

a) Yes () b) No ()

2. Is tax planning being applicable in your corporation?

a) Yes () b) No () c) No idea ()

3. To what extent has tax planning been applied in your corporation?

a) Very little () b) moderate () c) As much As possible ()

4. If your corporation has not applied tax planning ,please give reasons

- a) Hard to follow the method of tax planning,
- b) Ideas and concepts of tax planning are not clear.

10. How far are you satisfied with the tax planning in respect of the following?

Planning	Satisfied	Dissatisfied
1. Strategic planning.		
2. Project planning		
3. Operational planning.		
4. Overall planning		

11. Do you agree with the following?

- a) Does your company deducted tax at source?
- b) Does your company maintain proper books of account?
- c) Whether your company is regular is filling income tax return in time?
- d) Whether income tax is paid by your company within the prescribed time limit?
- e) Whether the provision relating to penalties and prosecutions are adequate.

12. How tax evasion behavior of Nepalese taxpayer can be avoided? Rank them respectively in order of preference from most (1) to least (5) .

- a) Educating tax payers by training ()
- b) Simplifying tax laws in terms of language, section, sub-section etc ()
- c) Timely assessment of taxes ()
- d) Incentives to regular tax payers ()
- e) Fines & penalties ()

13. Do you have complications in tax planning in your corporation?

- a) Yes ()
- b) No ()