

SCOPE OF TAX PLANNING UNDER INCOME TAX ACT 2058 IN NEPAL

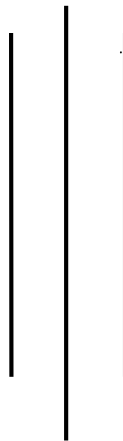
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RECOMMENDATION

This is to certify that the Thesis

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Entitled

Scope of Tax Planning Under Income Tax Act 2058 in Nepal

Has been Prepared as approved by this department in the prescribed format of the Faculty of Management this Thesis is forwarded for examination.

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DECLARATION

I hereby declare that the work reported in this thesis entitled **Scope of Tax Planning Under Income Tax Act 2058 in Nepal** with reference to 'Inland Revenue Department' and 'Inland Revenue Offices' submitted to office of the Dean, Faculty of Management, Tribhuvan University is my original work done in the form of partial fulfillment of the requirements of Master's of Business Studies (M.B.S.) under the guidance and supervision of Prof. Dr. Puspa Raj Kandel of Central Department of Management, T.U. Kirtipur, Kathmandu.

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TABLE OF CONTENTS

| | |
|-------------------|-----------------|
| Recommendation | I |
| Viva–Voce Sheet | II |
| Declaration | III |
| Acknowledgement | IV |
| Table of Contents | V |
| List of Tables | VI |
| List of Figures | VII |
| Abbreviations | VIII |
| | Page No. |

CHAPTER-ONE

INTRODUCTION

| | |
|-------------------------------------|----|
| 1.1 General Background of the Study | 1 |
| 1.2 Tax Planning | 5 |
| 1.2.1 Tax Planning Avenues | 6 |
| 1.2.2 Features of Tax Planning | 8 |
| 1.3 Statement of the Problem | 8 |
| 1.4 Objectives of the Study | 9 |
| 1.5 Significances of the Study | 10 |
| 1.6 Limitations of the Study | 11 |
| 1.7 Organization of the Study | 11 |

CHAPTER-TWO

CONCEPTUAL FRAMEWORK & REVIEW OF LITERATURE

| | |
|------------------------------|----|
| 2.1 Conceptual Framework | 13 |
| 2.1.1 Meaning of Taxation | 13 |
| 2.1.2 Objectives of Taxation | 14 |
| 2.1.3 Principle of Taxation | 15 |

| | |
|--|----|
| 2.1.4 Income Tax in International Context | 17 |
| 2.1.5 The History of Income Tax in Nepal | 18 |
| 2.1.6 The Features of Income Tax Act, 2058 (2002 A.D.) | 19 |
| 2.1.7 Tax Planning | 21 |
| 2.1.8 Scope of Tax Planning under Income Tax Act, 2058 | 22 |
| 2.1.8.1 Strategic or Long-Term Tax Planning | 23 |
| 2.1.8.2 Operational or Short-Term Tax Planning | 27 |
| 2.1.9 Tax Reform in Developing Countries | 34 |
| 2.1.10 Constraints on Tax Reform | 34 |
| 2.1.11 Process of Tax Reform | 35 |
| 2.2 Review of Previous Studies | 36 |
| 2.2.1 Review of Books | 36 |
| 2.2.2 Review of Journal and Articles | 37 |
| 2.2.3 Review of Thesis | 39 |
| 2.4 Research Gap | 44 |

CHAPTER-THREE

RESEARCH METHODOLOGY

| | |
|--|----|
| 3.1 Research Design | 45 |
| 3.2 Nature & Sources of Data | 45 |
| 3.3 Population & Sample | 46 |
| 3.4 Procedures of Data Collection | 46 |
| 3.5 Procedures of Data Presentation and Analysis | 46 |
| 3.6 Weight of Choice | 47 |

CHAPTER-FOUR

PRESENTATION & ANALYSIS OF DATA

| | |
|--|----|
| 4.1 Sample Analysis Measurement | 48 |
| 4.1.1 Tax Planning is being practiced in Nepal | 49 |

| | |
|---|----|
| 4.1.2 Consideration of the term tax planning to reduce Tax Liability | 50 |
| 4.1.3 Saving of Tax in Nepal through Illegal Ways | 51 |
| 4.1.4 The Causes Responsible for Illegal Planning | 53 |
| 4.1.5 Saving earnings by reducing tax liability under long term Tax Planning | 57 |
| 4.1.6 Saving Earnings by Saving Tax under Short Term Tax Planning | 61 |
| 4.1.7 Existing rebate provided by Income Tax Act, 2058 | 63 |
| 4.1.8 Charging less tax to the industries situated in remote areas | 65 |
| 4.1.9 Enjoyment of the loopholes of the Act | 67 |
| 4.1.10 Methods used for Enjoying Loopholes | 68 |
| 4.1.11 Tax planning helps in Productive Investment | 69 |
| 4.1.12 Healthy growth of economy through Tax Planning | 71 |
| 4.1.13 Providing Tax Rebate to Industries Situated in Remote Areas Only | 73 |
| 4.1.14 Problems in Tax Planning Practice in Nepal | 75 |
| 4.1.15 Making the Tax Planning More Effective | 77 |
| 4.2 Major Findings | 80 |

CHAPTER-FIVE

SUMMARY, CONCLUSION & RECOMMENDATION

| | |
|--------------------|----|
| 5.1 Summary | 83 |
| 5.2 Conclusion | 86 |
| 5.3 Recommendation | 87 |

BIBLIOGRAPHY

APPENDICES

LIST OF TABLES

| | Page No. |
|---|-----------------|
| Table: 2.1: Classification, Pooling and Rates of Depreciable Assets | 30 |
| Table: 3.1: List of Sample Respondents | 46 |
| Table: 4.1: Tax Practicing in Nepal | 49 |
| Table: 4.2: Consideration of Tax Planning | 50 |
| Table: 4.3: Saving of Tax through Illegal Ways | 51 |
| Table: 4.4: Saving of Tax through Illegal Ways | 53 |
| Table: 4.5: Reducing Tax under Long Term Tax Planning | 57 |
| Table: 4.6: Reducing Tax under Short Term Tax Planning | 61 |
| Table: 4.7: Satisfaction to the Rebate Provide | 63 |
| Table: 4.8: Satisfaction to the Rebate Provided | 65 |
| Table: 4.9: Enjoyment of Loopholes by Tax Payers | 67 |
| Table: 4.10: Methods of Used for Enjoying the Loopholes | 68 |
| Table: 4.11: Productive Investment Helped by Tax Planning | 70 |
| Table: 4.12: Healthy Growth of Economy through Tax Planning | 71 |
| Table: 4.13: Providing Rebate to Industries of Remote Areas | 73 |
| Table: 4.14: Problems in Tax Planning Practice in Nepal | 75 |
| Table: 4.15: Making Tax Planning More Effective | 77 |

LIST OF FIGURES

| | Page No. |
|---|-----------------|
| Figure: 1.1: Sources of Funds for the Government | 2 |
| Figure: 1.2: Types of Tax | 4 |
| Figure: 4.1: Tax Practicing in Nepal | 50 |
| Figure: 4.2: Consideration of Tax Planning | 51 |
| Figure: 4.3: Saving of Tax through Illegal Ways | 52 |
| Figure: 4.4: Satisfaction to the Rebate Provided | 64 |
| Figure: 4.5: Satisfaction to the Rebate Provided | 66 |
| Figure: 4.6: Productive Investment Helped by Tax Planning | 70 |
| Figure: 4.7: Healthy Growth of Economy through Tax Planning | 73 |
| Figure: 4.8: Providing Rebate to Industries of Remote Areas | 74 |
| Figure: 4.9: Problems in Tax Planning Practice in Nepal | 76 |

ABBREVIATIONS

| | |
|-------|---|
| % | Percentage |
| A.D | Anno Domini |
| B. S. | BikramSambat |
| | Ban Bankers |
| BM | Businessman |
| BOT | Build, Operate and Transfer |
| EPZ | Export Processing Zone |
| FY | Fiscal Year |
| GDP | Gross Domestic Product |
| ICAN | Institute of Chartered Accountants of Nepal |
| IRD | Inland Revenue Department |
| IRO | Internal Revenue Office |
| ITA | Income Tax Act |
| ITR | Income Tax Return |
| Lect | Lecturers |
| MBA | Masters' of Business Administration |
| MBS | Masters' of Business Studies |
| Misc. | Miscellaneous |
| MOF | Ministry of Finance |
| No. | Number |
| NRB | Nepal Rastra Bank |
| Off | Income Tax Officers |

| | |
|-------|--------------------------|
| PAN | Permanent Account Number |
| R&D | Research and Development |
| SDC | Shankar Dev Campus |
| SEZ | Special Economic Zone |
| T. U. | Tribhuvan University |
| TDS | Tax Deductible at Source |
| UN | United Nation |
| VAT | Value Added Tax |

CHAPTER ONE

INTRODUCTION

1.1 General Background of the Study

Every Government of a nation is responsible towards general public. Government has to launch various projects. Without economic development it is impossible to think the economic prosperity. So, government required huge amount of capital which is collected from tax. The main objective of any developing country like Nepal is to improve living standard of the people through the development process. Nepal is a landlocked and hilly country lying between two 'Asian Giants' India and China. Both of them are able to enjoy high economic growth in the world. However, Nepal has not been able to reap the benefit of synergic development impact of its neighbors. Nepal is an economical paradox in the sense that it is a rich country where poor people live. It is rich in natural and cultural beauties but the economic condition is far behind and the economy is predominantly based on agriculture. Large portion of population of population who live under the line of poverty are in village area. Economic growth of the country has not improved substantially over the time to overtake population growth.

In these days, prime concern of every nation of the world is to eliminate the poverty to reduce gap between rich and poor, to improve the living standard of the people, to obtain rapid economic development etc. Nepal is not exception to this over continuing process. To achieve these objectives, the government has more responsibilities. These responsibilities may be either to maintain peace and security or handle day to day administration, or health, or education, or other development and public welfare activities. To fulfill these activities the government collects funds from two sources: debts and revenues. The debt can be collected either from internal sources or from external sources. The debt collect within the country is known as internal debt while the debt collect from

outside the country is called external debt. The debt financing of the government is also known as deficit financing. The revenue of the government comes basically from two sources: tax and non tax. Non tax sources include different revenues like; gifts, grants, revenue from public enterprises, administrative revenues such as registration fees, fines and penalties. Tax sources include customs, excise duty, VAT, income tax etc. Among them tax is the main source of government revenue.

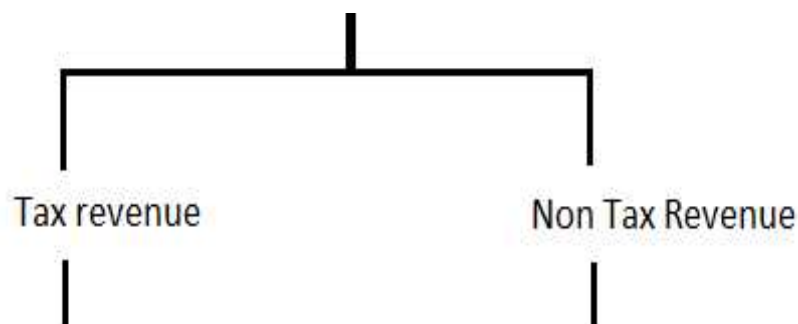
The Great Britain was the first country that introduced modern income tax in 1799 to collect revenue to finance Napoleonic war with France. In 1862, USA introduced income tax to finance the civil war. In India, modern income tax was adopted in 1860.

In Nepal, income tax was introduced in 1959. Both individuals and companies were taxed in similar way during the earlier period but later on companies were levied with flat rate and individuals with progressive rates.

Government collects revenue from two sources-non tax and tax revenue. The main objective of tax revenue is not to collect revenue but to provide goods and services to the people. The forms of non tax revenue are administrative incomes, revenue from public enterprises, grants and gifts etc.

Figure: 1.1

Sources of Fund for the government



- Income tax
- Excise duty, custom duty
- Grants and gifts
- Administrative income

- VAT

- Revenue from public enterprises

- Property Tax etc.

The government can collect revenue from taxable and non taxable sources. Tax is a key source for revenue generation and mobilization. Many economists and tax experts have defined taxation in different ways. In this respect, it would be better to take the definition given by Prof. Seligman. In his words, "Taxation is a compulsory contribution from a person to the government defrays the expenses incurred in the common interest of all without reference to special benefit conferred."

Similarly, Dalton explained tax as "A compulsory contribution imposed by a public authority irrespective of exact amount of services rendered to the taxpayers in return."

It is clear that tax is a compulsory levy and those who are taxed has to pay it without getting corresponding benefit to services or goods from the government. Governments have been able to generate revenue by setting revenue targets for the tax administration while not being very concerned about how these targets are achieved. Tax officials can not be blamed individually; any official joining tax administration will have to follow existing practice and procedures.

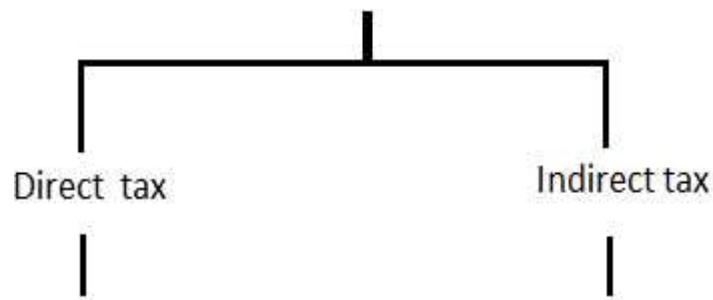
Over time, the administration system has become characterized by; a tax administration that works toward fulfilling revenue targets that are set well below the legal tax liabilities of the taxpayers, low salaries for tax officials, and the negotiation of tax payments between taxpayers and the tax administration. This has created a stable system in which government revenue targets are met, most taxpayers pay less than their legal tax liabilities, and tax officials make considerable income as a result of side payments, which arise from their negotiations with taxpayers. A great deal of uncertainty and administrative "congestion" are by-products of such a system.

Government Taxpayers do not have any right to receive direct benefit from the taxpaid. The taxpayer cannot receive equivalent benefit from the government. Government needs funds for its running. Therefore tax is paid to the government.

Amount collect through taxation is spent for common interest of the people and it is collected from natural and artificial person. Tax is separated in two types which can be shown as below.

Figure: 1.2

Types of Tax



- Income Tax
- Gift Tax
- Interest Tax
- Property tax
- Vehicle Tax
- House and land Tax
- Export and Import duty
- Excise Duty
- Sales tax
- Value added Tax
- Entertainment Tax
- Hotel Tax

According to the above diagram tax revenue comprises two types of taxes, direct and indirect tax. Direct taxes are more familiar and have a dominant role in the developed country as opposed to developing countries. Direct taxes are the means and tools of generating; saving and promoting capital formation includes

income tax, gifts tax, interest tax, vehicle tax, house and land tax etc. Whereas indirect tax has a dominant role in the whole tax structure of developing countries like Nepal. Earlier most of the revenue was raised from indirect tax because it is easier, less expensive and convenient method for implementation for a developing country's economy.

1.2 Tax Planning

Tax planning is different from tax management in the sense that the latter means efficient, systematic and timely handling of tax matters to save time and talent and to avoid worry, tension, stringent penalty and prosecutions.

Tax management covers maintenance of records and documents, filing of tax returns in time and preparing other tax related matters. It is an administrative work. Businesspersons use tax planning because first, it helps in saving tax of a business that in turn enhances the profitability. In other words, it is the process of increasing the net worth of a business organization. Second, tax planning helps in avoiding unnecessary worries, tension and administrative hassles. Third, it helps in proper use of government facilities.

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

1.2.1 Tax Planning Avenues

Businessperson performs two types of activities related to investment. One affects for the long time and other affects for the short time only. The first type is related to strategic planning and the second one to operational planning. Both of these activities have implications on tax related matters. Some of the provisions of the Income Tax Act 2002 which can be considered as the avenues of tax planning in both the long run and short run planning are as follows (Dhakal, 2001).

a. Tax Planning under Strategic Expenditure

-) Selection of Business
-) Selection of Product
-) Selection of organizational form
-) Selection of Location
-) Merger
-) Selection of the sources of capital
-) Selection of the method of production
-) **b. Tax Planning under Medium and Short Term**
-) Make or buy decision
-) Repair
-) Loss recovery
-) Pollution control
-) R & D
-) Depreciation
-) Stock Valuation
-) Donation
-) Retention or Distribution
-) Others

Basically, there are four ways of minimizing the tax liability, via tax evasion, tax avoidance, tax delinquency and tax planning. Tax evasion means evasion of tax through illegal means. It is done through no reporting of income, underreporting of income, making fraudulent changes in account books, maintaining multiple sets of accounts, operating bank account under different names, doing business in dummy names, over reporting of expenses, fragmenting of income, transfer pricing etc. As these are clearly unethical activities, tax evasion is unethical and illegal activity.

Tax avoidance, in contrast, is saving taxes without breaking the law. It is using the loopholes of the tax law to tax-payers benefit. Thus it is not illegal, it is though unethical. From the point of view of a lawyer, tax evasion and tax avoidance are different because tax evasion is breaking the law but tax avoidance is reducing tax liability by using loopholes of the tax law. But from the viewpoint of an economist, they are the same, since they both mean reduction of tax amount and awareness of one induces one to follow the other. In a developed country, where there are large organizations, educated tax payers, strict tax discipline and so on, there is prevalence of avoidance, elsewhere, evasion dominates the scene.

Another way of reducing tax liability is tax delinquency. The meaning of tax delinquency is delaying in paying the taxes. Tax evasion, tax avoidance and tax delinquency are not legitimate methods of reducing the tax liability. That is why, a business organization should not follow these paths.

Unlike these terms, tax planning is however a legal activity intended to save tax. It is the scientific planning of a company's operations using various incentives, concessions, allowances, rebates etc. provided by the government under the law. Tax planning is related to future activity of a business organization. The objectives of tax planning are reduction of tax liability, minimization of

litigation, making productive investment, promoting healthy growth of economy and economic stability in country. Tax planning entails changing structures of a business, project planning and planning day to day activities of a business organization.

1.2.2 Features of Tax Planning

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

1.3 Statement of the Problem

The main problem is about the theory and practice of tax planning. Tax planning is the new concept and it requires technical and critical mind to plan tax so that tax burden can be minimized by using all the weapons given by laws. As the planning of tax means reducing the tax liability by legal means in other words tax planning is genuine use of facilities provided in the tax laws. Instead of all these facilities provided the people also take the dishonest means to avoid the tax which are Tax Evasion and Tax Avoidance. People feel troublesome and they become dishonest to show all resources of income. Although the country itself is providing legal ways of reducing tax burden then why the people are using the illegal and unethical ways to reduce their tax liability? This question points out towards the scope of tax planning under ITA, 2058 that there must be some kind of rules by using which the people can not save their earnings by saving tax liability. So, they are bound to use the illegal ways in order to reduce tax burden.

This thing gives us a sign that there must be something missing in the Scope of Tax Planning under Income Tax Act, 2058 or the people are unaware of the

scope of taxplanning. This points out towards the uneducated groups or those who are educatedbut they don't have sufficient knowledge about tax planning and control. So instead ofacquiring the legal ways of deducting the tax people are acquiring the illegal means toreduce the tax to be paid. There may be several reasons for the people to acquireillegal means of tax control unawareness, less education, dissatisfaction, etc. Here, inthis thesis I have tried to find out the reasons for the illegal adaptation of tax by thepeople I hope this will make some difference in both public's and government's perception.

1.4 Objectives of the Study

The study is expected to benefit corporate planners, entrepreneurs, taxation authoritiesand academics. Moreover, so far as known to the researcher, no study on corporate taxplanning has been conducted in Nepal as yet. The present study thus fills in thisimportant gap. In Nepal there are various tax incentives including exemptions,deductions, rebates and allowances granted to tax payers under the provision ofincome tax act 2058 and industrial enterprises act 2049.

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

1. To find out how tax planning can help in the healthy growth of economy.
2. To study in what ways the tax payer are saving their earnings by reducing taxliability under Tax Planning.
3. To find out the illegal way of tax saving and responsible factor for illegal taxplanning in Nepal.
4. To provide the comprehensive information to the managers for strategicplanning, project planning and operational planning about the areas providedby the Income Tax Act 2058 in Nepal.
5. To provide the suggestions for the effective planning.

1.5 Significances of the Study

Tax planning is one of the most important functions of management. It is done in order to minimize tax liability or postpone the overall tax burden in the present and foreseeable future under the areas of strategic planning, project planning the operational planning. Tax planning is thus neither tax evasion nor tax avoidance; it is a device through which tax payers take advantage of the various tax benefits, including exemptions and deductions under the provision of the existing tax laws.

Moreover if tax benefit is not claimed by a company by the time of assessment, the same cannot be claimed in future and the benefit will be lost forever. Income Tax act, 2058 has reduced the scope of tax planning, to a great extent, by abolishing all the tax related provisions under Industrial Enterprise Act, 2049 and other respective Acts. The study is based on present situation and planning of Tax under ITA, 2058. So, it would be useful to tax experts, Businessman, Industrialists, Entrepreneurs and Government to know whether the Tax planning under ITA, 2058 is helping the country for its development and Businesses to rise. Similarly, the study would be also useful to students, teachers and other practitioners to take knowledge about the scope of tax planning in Nepal.

1.6 Limitations of the Study

This study is not free from certain limitations. The major limitations of the study are

As follows:

1. The present study is based purely on the aspects of the Income Tax Act, 2058 and Industrial enterprises Act, 2049 which grant various income tax incentives to the industrial units. The study thus relates to the analysis of corporate tax only.

2. This study does not cover other direct and indirect taxes such as customs duty, excise duty, VAT, property tax etc.
3. Primary data has been collected from the Katmandu Valley only so it reflects the view of the metro city only.
4. In most of the cases, the executives tried to avoid filling up the questionnaire or they left answering some questions therein. Consequently, this prohibited the researcher to do an incisive analysis of certain aspects of corporate tax planning.
5. The results depend upon the answer given by respondents in primary data and reliability of secondary data. The above limitations, no doubt, have some impact on quality of the study, but such impact will not affect usefulness of the study in a significant manner. In fact, this study would provide a base for further study in the area of knowing the scope of tax planning in the country.

1.7 Organization of the Study

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

Chapter - One: Introduction

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

Chapter - Two: Review of Literature

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

Chapter - Three: Research Methodology

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

Chapter - Four: Data Presentation and Analysis

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

Chapter - Five: Summary, Conclusion and Recommendations

The fifth chapter presents summary, conclusion and recommendations.

Similarly, at the front part of the study table of contents, recommendation sheet, viva voce sheet, acknowledgement, list of table and figure and abbreviation are presented and bibliography and appendices are presented at the end of the study.

CHAPTER – TWO
CONCEPTUAL FRAMEWORK AND
REVIEW OF LITERATURE

Literature review is an essential part of the studies. This Chapter basically highlights the conceptual framework of research, existing legal provisions and existing literature and work related to the present research being conducted with the view of finding out what had already been explained by the previous researchers and how the current research adds further benefits to the field of research. While conducting the research study, previous studies cannot be ignored, so that information would help to check the chances of duplication in the present study.

2.1 Conceptual Framework

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

2.1.1 Meaning of Taxation

The government of a country requires sufficient revenues to carry out development plans to handle day to day administration, to maintain peace and security and to launch other public welfare activities. In order to carry out such activities, the government collects revenues from various sources such as tax, revenues from public enterprises, special assessment, fees, fines, grants and assistance etc. Among them, tax is the main source of government revenue. Tax is a kind of money of which it is the legal duty of every citizen of a country to pay honestly. Many economists are of the view that the tax is a compulsory payment to the government by taxpayer without any expectation of some specified return.

Tax is compulsory contributions to public authorities to meet the general expenses of the government which have been incurred for the public good and without reference to special benefits. Tax is the main source of fund for the government.

Tax is a compulsory payment by the citizens to the government without the expectation of any personal benefits, which are redistributed, by the government in the nation in terms of public services, peace and security and development of infrastructure. In every country, the largest part

of the government revenue is raised through taxation. It is a tool of achieving maximum social and economic objective as laid down by the constitution of the nation. Taxation has been a very essential element of the government from the very beginning of the state system. In the early stage, the main objective of the taxation was to make the state sound in respect of resources. In modern days, the main objective is to maintain peace and security with economic development. But nowadays the taxation is a vital instrument of social and economic policy for the. Hence, the main function of taxation is that it ensures collective saving for the purpose of public investment and at the same time provides incentives for

Promoting private investment. Similarly, one of the famous economists delineates, "taxation is the charge levied by the state on the property or labor of the citizens, in order to provide for the public expenses". However, it is quite different from definition of the Encyclopedia. It is a

like a definition of tax though it shares some qualities, but not identical.

(K.C.,2009:4)

2.1.2 Objectives of Taxation

In modern days the main objective of taxation has been shifted from security perception to the economic development. The modern objective of taxation is not only to maintain peace and security but also to conduct development activities. We can enumerate the objective of taxation as follows.

-) To increase the revenue for a welfare state
-) To have equitable distribution of income and property
-) To increase the production of particular goods
-) To increase the employment, saving and investment
-) To prevent concentration of wealth in a few hands
-) To minimize regional disparity
-) To boost up the economy
-) To implement government policy and
-) To control the production of certain goods

From the above, we can conclude that the tax has the objectives of raising revenue to have resource mobilization, equal distribution of wealth and income in the society encouragement in production of certain products encouragement in employment, saving and investment, removal of regional imbalances and enforcement of government policy.

2.1.3 Principle of Taxation

As everything is based on certain principles, in the same way taxation also has some specific principle which helps to formulate appropriate tax policies.

According to Adam Smith, the father of economics has mentioned the following criteria, maxims or cannons of taxation in his book “the Wealth of Nations”

.1. **Cannon of Equality or Equity:** - The tax policy should be formulated considering the ability of public to pay taxes. For this higher tax is imposed on higher income or properties. This policy established the equitable

liability to the same income group. Thus the canon of equity says that the people should contribute to the government per the benefits that they get from the government.

2. **Canon of Certainty:** - Another quality of a tax system is the canon of Certainty. This canon says that a taxpayer should be informed about the rate, time and procedures of payment of tax. Furthermore, it fixes its target of revenue that comes from taxes.

3. **Canon of Convenience:** - Convenience is another quality of a good tax system. Common people do not have sufficient knowledge about the tax system nor do they have the capacity to hire the experts. That is why a tax system should be such that it can be easily understood and followed by ordinary people in the society.

4. **Canon of Economy:** - If the expenditure of collecting tax is more than or equal to the amount of tax, such a policy will not result in a surplus to the public revenues and will not be beneficial to the country. This good tax policy has the quality of economy, that the low cost of collecting tax should be maintained to the possible extent so as to minimize the difference between the amount that people take out of their pocket to pay tax and the amount that actually goes to the government treasury. Besides the above-stated canons of taxation given by Adam Smith, there are others too developed by other economists. These canons given by other economists are as follows:

5. **Canon of Productivity:** - The canon of productivity says that every tax system should be revenue productive. It means that there should be those taxes only which provide adequate revenue. Taxes that do not provide sufficient revenue should be withdrawn.

6. **Canon of Flexibility:** - Flexibility indicates two things. First, a tax system should have the characteristic of revenue elasticity. There should be

built-in tie-up between the economic activity of a country and revenue mobilization. Higher the economic activity, higher the revenue. Second, the tax system should be of that type which provides revenue as per the necessity of the situation. If there is need of higher revenue, the tax system should provide as per the needs.

7. Canon of Diversity: -Tax system not totally depends on one source of revenue. It is risky to the government to depend upon only one source. That means the sources of taxation should be diversified as far as possible. This principle says that tax should be levied on various stages and various sources. There should be multiple taxes in place of single tax. Similarly, a tax system should be of that type, the burden of which is diversified on the people of different walks of life.

8. Canon of Simplicity: -Simplicity means understandable. The tax system should be simple to understand and applicable in public life. A complex tax system creates unnecessary hassles. Simple tax system with higher tax rate induces the taxpayer to compliance.

9. Canon of Uniformity: -Uniformity in this context means uniformity in depreciation system, tax rate, stock valuation system, accounting method, dividend distribution system, accounting system, appeal and penalty system, method of payment of tax and time of the payment of tax.

2.1.4 Income Tax in International Context

Income Tax was first introduced in Great Britain in 1799 to finance wars with France. Only after 1980, it was accepted as a permanent tax. A United States of America, first federal income tax was imposed in 1982 to finance civil war expenditure. However it becomes a permanent only in 1913 after 16th amendment to U.S. constitution. In neighbor country India, first income tax was introduced in 1860. After introducing "Income tax Act 1886" in 1886, it was

imposed as a permanent. Italy adopted income tax in 1864, New Zealand in 1908, Australia in 1915 and in Canada in 1917. After First World War, the income tax became an important source of tax revenue in many developed countries. By 1939, it has become the most important source of revenue in most developed countries and had made appearance in a number of developing nations.

From the First World War decade, income tax shown as an important source of revenue in developed country. In the beginning of introducing time, it was generally levied at flat rate. Only after 1909, the principle of progression was introduced from the UK and New Zealand.

2.1.5 The History of Income Tax in Nepal

Nepalese tax system was based on Vedas, Smritis and Purans. Directives propounded by Menu, Yagnabalka, Chanakya etc. guided the taxation system. At that time, the principle of collecting tax from the people was imposition of tax without harming the activities of people.

Although there was tax system in Nepal in ancient time also, the concept of income tax was brought only by the first budget. The budget introduced in B.S. 2008(1951 A.D.) stated about the introduction of income tax system in Nepal. However, it was actually introduced only in B.S. 2017(1960 A.D.) when the Finance Act, 2016 and Business Profit and Remuneration Tax Act, 2017 were enacted. The marginal rate of taxation prescribed by these acts was 25 percent. Since, the income tax was imposed only on income from business profit and remuneration; the tax act could not cover all the source of income and so was replaced by the income Tax Act, 2019 in 2019 B.S.(1962 A.D). Income Tax Act, 2019 with 29 sections divided the heads of income into 9 parts covering business, profession and occupation, remuneration, house and land rent, cash and kind investment, agriculture, insurance business, agency business and other sources. The act was amended in 2029 extensively. However, considering

this act incapable of fulfilling the time was replaced in 2031 B.S. (1974 A.D) by another act.

As already stated, Income Tax Act, 2031 replaced Income Tax Act, 2017 in B.S. 2031(1974 A.D.). This act having 66 sections classified the sources of income into 5 heads namely

-) Agriculture,
-) Industry, Business, Profession or Vocation, Remuneration,
-) House Rent and
-) Other sources.

However, agriculture income was kept outside the tax net except few years through the finance Acts. This Act was amended for eight times and existed for a period of 28 years. To enhance revenue mobilization through effective revenue collection procedure for the economic development of the nation, and to amend and integrate the laws relating to income tax, the parliament of Nepal enacted Income Tax Act, 2058 (2002 A.D.). This Act became effective since Chaitra 19, 2058 (01, April 2002). The Act governs all income tax matters. Likewise, this Act is applicable throughout the kingdom of Nepal. It is also applicable to residents residing wherever outside Nepal.

2.1.6 The Features of Income Tax Act, 2058 (2002 A.D.)

Tax system is the sub-system of the total economy. Tax policy is changed with the change in the economic policy of the country. Change in world economic policy and advancement in information technology has a vast impact on Nepalese economy too. Small economies like Nepal have to adopt the economic policy followed by World Bank, International Monetary Fund, Asian Development Bank and other International Agencies. Especially after 1990s, there is re-emergence of the Liberalization, Globalization and Privatization system that focuses on the minimum intervention of the state on private

economic matters. Nepal also is not an exception in this respect and Nepalese administrators and policy makers too have tried to change the tax policy of the country, ITA, 2058 is the result of the change in all these matters. The following are the features of the ITA 2058.

1. All Tax related matters within one Act: - Before the introduction of ITA, 2058; there were almost one and half dozen acts related to income taxation. ITA, 2058 has abolished all tax-related laws given in other acts and embraced all income tax related matters within it.

2. Specification of Tax Rates: - Earlier, the tax act had not dealt with rates. Finance Act of each year used to deal with the rates. However, ITA, 2058 has embraced the tax rates applicable to all the sources of income.

3. Abolishing of Various Tax Related Concessions, Rebates and Exemptions:-

Most of the facilities provided by the government in past to taxpayers were used for tax evasion. ITA, 2058 has abolished most of the facilities given by earlier Acts and introduced a fair system of taxation.

4. Specification of Stock Valuation Methods: - ITA, 2031 was silent about the method of stock valuation for taxation purpose. However, ITA, 2058 has made a provision of valuing the stocks of goods for tax purpose.

5. Simplification of Depreciation Related Provisions: - ITA, 2031 had complicated provisions related to depreciations. The types of assets categorized for depreciation purpose were around 3 dozens. Different rates were allocated to different types of assets. However, ITA, 2058 has specified diminishing balance method based on pool system with only 5 categories of assets.

6. Tax on Capital Gains and Dividends: - ITA, 2031 had not the provisions of taxing capital gains and dividends. But ITA, 2058 in contrast has made

legal provisions of taxing these items. A rate of taxes for dividend is laid as 10 Percent whereas the capital gain is taxed ordinary income of business.

7. Liberal Loss Set off and Carry-Forward Provisions;- ITA, 2031 had made the provisions of setting off and carry forwarding of business losses only for three years from the same source of income. That is inter-head provision only. But ITA, 2058 has made provisions of inter-head adjustment for one year and intra-head adjustment for four years. For financial sector and long-term contract the provisions more liberal are providing the facility of recovering the losses from previous profit also.

8. Provision of International Taxation: - Due to closed economy concept, international taxation was not felt necessary and hence there was not such tax provision in ITA 2031. But now this concept is introduced in the credit, double taxation agreement etc.

9. Strict Fine and Penalty Provisions:- The fines and penalties for the defaulter in old Act were not as severe as in new tax Act. But ITA, 2058 has made the provision of fine and penalty more stringent.

10. Submission of Income Statement: - This Act has made a provision of relaxing the submission of income statement by a person who does not have taxable income or who has the income only from remuneration.

2.1.7 Tax Planning

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

) Reduction of tax liabilities

-) Maximization of liabilities
-) Productive and healthy investment
-) Healthy growth of economy and
-) Economic stability (Bhattarai&Koirala, 2061:31)
-) The features of tax planning can be explained as follows:
 -) It is future oriented. It is concerned with activities to be undertaken in future.
 -) It is legitimate device of minimizing tax burden. The legislature encourages using this device.
 -) It is legal, ethical and economic.
 -) It is genuine use of facilities provided in the tax laws. It establishes a good relationship between government and business community. It enhances a healthy environment in the country.

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

2.1.8 Scope of Tax Planning under Income Tax Act, 2058

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

1. Strategic or long term tax planning
2. Operational or short term tax planning

2.1.8.1 Strategic or Long-Term Tax Planning

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

a. **Selection of Business:-** As per the Act, the rate of corporate income tax for manufacturing sector is 20 percent, for financial sector 30 percent and for other sectors 25 percent. This means, there are differences in tax rates applicable to different sectors of the economy. The differences are created to promote the manufacturing sector of the economy and thus to create employment to the people. But equally important is the fact that this difference induces tax planning.

Other things remaining the same, an investor selects manufacturing sector because the tax rate applicable to this sector is low. In the same way, as per the Sec. 11 of the Act, the agriculture business conducted individually is out of the tax net. Also the incomes of agriculture related cooperatives and saving and lending cooperatives situated in rural areas are tax-free. Even the dividend distributed by such organizations is out of the scope of taxation. That means, an investor can save money by investing in above stated agriculture sector or cooperative business. Such saving of tax is neither illegal nor unethical. It was found from one survey that 90 percent of the business firms consider tax factor while selecting the line of business (Karna B. Paudyal, 1998). As per the Section 15 of the Industrial Enterprise Act 2049, there is provision to return to the taxpayer the value added tax paid by the units that export their products or sell them to export promotion houses, by the units that produce intermediate goods to be used in producing exportable goods or by units earning foreign exchange. Logically, these types of enterprises are selected by investors.

b. **Selection of Product:** - As per the Income Tax Act, certain products are preferentially treated as regards to income tax rates. For example, firms

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

c. **Selection of Organizational Form:-** Progressive tax rate is applicable to proprietorship firm but a fixed tax rate is applicable to a company. A

-) Company's profits are taxed twice (i.e. once from the profit of the company and then from the dividend received by the individual shareholder) whereas a proprietorship does not have to pay such double taxation.
-) Banks, Financial Institutions, General Insurance Business, Petroleum Business and cigarette & Beverage business should pay at 30 percent tax.
-) Enterprises accepted as industry by Industrial Enterprise Act (except alcohol & tobacco based units) should pay at 20 percent tax.
-) Enterprises, which construct and operate road, bridge, tunnel, ropeway, flying bridge, trolley bus, and tram, should pay at 20 percent tax.
-) Entities engaged in building and operating public infrastructure to be transferred to NG and export business should pay at 20 percent tax. Entities wholly engaged in power generation, transmission or distribution for an income year should pay at 20 percent tax.

In addition, individual owners of vehicles that are for the hire have to pay a nominal income tax (Rs. 1500 for truck/bus, Rs. 1200 for car/jeep etc per year) which is full and final irrespective of the actual income. All these discriminations encourage selection of proprietorship form of business organization.

d. **Selection of Location:-** The provisions under the Income Tax Act, 2058 and Industrial Enterprise Act, 2049 as regards to location of business help in taxplanning. For example,

-) Industries established in certain underdeveloped, remote and semi-developed areas are given rebates on income tax. The rebate may range from 50 - 25% of the applicable tax depending on the level of development of the district.
-) Ten years income tax holiday for Industries established in certain underdeveloped areas. (22 districts)
-) 5 years tax holiday for Industries established in Special Economic Zone (SEZ) or Export Processing Zone (EPZ) and 50 percent income rebate on the applicable tax rate after 5 years.
-) 10 years income tax holiday industries established in hilly region and prescribed special economic zone of mountain region and 50 percent income tax rebate on the applicable tax rate after 10 years.
-) Fifty percent income tax rebate in income of Foreign investor generated from industry established in special economic zone providing services such as foreign technology, management fee and royalty
-) For resident natural persons operating business in Metropolitan and Sub-Metropolitan areas should pay Rs 3,500 (per annum), Municipality areas should pay Rs 2,000 (per annum) and any other places should pay Rs 1,250 respectively.

All business related expenses are deductible from taxable income including expenses occurred to reduce pollution and minimize the adverse environment effects and research & development expenditure.

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

-) 50 percent reduction in applicable tax to employees in case of group retirement of employees due to merger.
-) No capital gain till two years which is paid to shareholder of the time of merger.
-) No tax on dividend till two years which is paid to share holder of the time of merger.
-) Notification of IRD should be.

f. **Selection of the Sources of Capital:** - We know there are three sources of capital, viz. share capital, debenture or loan and retained earnings. The rewards for share capital, debenture or loan and retained earnings are dividend, interest and capital gain respectively. In Nepal, the tax rates applicable to return on each of these sources of capital are different. Interest is taxed at 6 percent but dividend is taxed at 5 percent. In case of capital gain, the tax rate is 10 percent for gain on the sale of non-business chargeable assets whereas the profit from the sale of other assets is taxed at normal rate i.e., 20 percent, 30 percent and 25 percent for manufacturing firms, financial firms and others respectively.

This means, tax rates on the return on new capital and loan are lower than the tax rate on retention. Accordingly, interest to a business organization is a deductible expense (Sec.14) but dividend and capital gain are not. Naturally, this means more favorable treatment to debenture or loan than to the new capital and retained earnings. This obviously, creates the scope of tax planning employing more loan than new share capital and retained earnings. Since Income Tax Act, 2058, also has favored debt, making interest a tax deductible expense, the firm can plan tax by utilizing more debenture or loan than other forms of capital.

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

Normally the discount provided while issuing debenture is tax deductible expense, but discount provided while issuing share capital is capital expenditure and it can be written off only as depreciation. This also induces firms to resort to loan or debenture route to save on the tax.

2.1.8.2 Operational or Short-Term Tax Planning

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

a. **Lease or Buy Decision:** - There are two methods of acquiring fixed assets of a firm: leasing and buying. If assets are purchased, the firm gets depreciation facility as per the Income Tax Act as it is taken as capital expenditure. If the asset is leased, the rent is taken as revenue expenditure and is allowed to deduct as expense. If fixed asset is purchased through borrowing, the interest on capital can be deducted as expenditure.

While 100 percent of the rent on the leased asset is allowed in each year as expenditure, this is not so in case of the outlay made for the procurement of a machine, in which case only depreciation is allowed. Therefore, leasing is beneficial than buying machine. But in case of building, buying is more advantageous than the construction if depreciation is allowed for the combined cost (i.e. both for land and building). In construction, depreciation is allowed only on building not on land. Accordingly, between constructing a building and leasing it, the latter is more beneficial option because it will make the firm able to claim the entire rent of land and building as expenditure.

If a road or hospital is to be constructed by a company, it would be better to donate the fund to central or local government and make them construct the road or hospital since this entire amount can be written off as expenditure under donation head itself in the year of donation remaining within the limit of donation. If the firm itself constructs the road, it can be deducted by way of depreciation which writes off only one part of the expenditure in a year. It means, the expenditure can be recovered only in a distant future.

Future recovery means decrease in the present value.

b. Repair and Improvement Cost: -There are two types of expenditures, i.e., capital expenditure and revenue expenditure. Capital expenditure is taken as fixed assets creation and is authorized to have depreciation claim only in future. The expenditure that increases the longevity, capacity or price of the asset is included within capital expenditure. On the other hand, revenue expenditure is treated as current expenditure and is allowed to be debited in profit and loss account in the current year. Contrary to this universally accepted principle, Income Tax Act, 2058 has treated all the repair expenditure (whether capital or revenue) uniformly. As per the Act, if the repair expenditure is not more than five percent of the depreciation base of the concerned pool of assets, it is allowed as expenditure in the year of occurrence. If the amount spent

on repair is more than 7.1 percent of the depreciation base, the excess amount is taken as capital expenditure and is added to the depreciation base of the concerned pool of assets. Considering this provision given in the Act, the taxpayer can plan his expenditure on repair and maintenance.

c. Loss Recovery

-) Business loss can be carried forward up to 7 succeeding years from any source of income.
-) Investment losses can be forwarded up to 7 succeeding years from any investment income
-) Infrastructure development project and petroleum business can forward losses up to 12 succeeding years.
-) In case of long term contract, loss can be carried back as per the notice of the Internal Revenue Department

d. Pollution Control:- Pollution control expenditure is another area where management can legally save tax. Here, it should be noted that as per the Income Tax Act, 2058 up to fifty percent of the taxable income before deducting pollution control device expense, research and development expenses and donation expenses can be claimed as expenditure. That means, pollution control expense in excess of 50 percent of the taxable income can be capitalized and written off as depreciation in future.

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

f. Depreciation

-) Depreciation of depreciable assets owned and used by taxpayer during the year in the production of the taxpayer’s income (business or Investment) is deductible from taxable income.
-) Depreciation can be charged only in Diminishing Balance Method value of pool of assets basis.
-) One third additional rate of depreciation can be charged for manufacturing industry, export business and public infrastructure entities.

Table 2.1 Classification, Pooling and Rates of Depreciable Assets

| Class | Assets | Rates |
|--------------|--|------------------------|
| A | Building structure & similar work of permanent nature | 5 |
| B | Computer, data handling equipment, fixture, office furniture & office equipment | 25 |
| C | Automobiles, minibus & buses | 20 |
| D | Construction & earth moving equipment and depreciable assets not included in other class | 15 |
| E | Intangible assets others than class D depreciable assets | Divided on useful life |

Source: ITA 2058

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

h. Donation: - A taxpayer can deduct the donation made to tax-exempt organization in any income year. The limit of such donation is actual

amount donated or Rs. 100,000 or 5 percent of the net income before deducting such donation, pollution control expenditure and research and development expenditure. This is also one of the avenues of tax planning.

I. Retirement Contribution Fund:- Retirement contribution fund means a payment to a retirement for the provision or future provision payment.

Employment provident fund, gratuity fund, citizen investment trust are the common forms of retirement fund. Individual is allowed to reduce from his assessable income

) A sum of Rs. 300,000 or,

) 1/3 of assessable income or actual contribution (Whichever is Less)

j. Medical Tax Credit: - In case of approved medical expenses, medical tax credit is available to resident natural persons as deduction from tax liabilities. The limit prescribed is Rs. 750 or 15% of Approved medical expense or actual approved medical expense incurred whichever is lower. Any unutilized expenses can be carried forward to next year.

k. Foreign Tax Credit: - If foreign income is included in taxable income of a resident person, foreign tax credit for tax paid in foreign country in respect of that income. The foreign tax paid can either be deducted as expense or tax liability in Nepal can be reduced by such tax paid up to average rate of tax applicable in Nepal, depending on the option of tax payer.

l. Value Added Tax:- A firm whose annual turnover of goods and services is less than Rs. 2 million needs not be registered with the VAT office and collect VAT on sales. But they can register voluntarily.

) VAT is levied at a single rate of 13 percent. In certain cases, the rate may be zero and certain goods and services are exempted from VAT.

) Value Added Tax is collected at every (manufacturing, distribution, wholesale and retail) stage of selling goods and services.

-) Exports of taxable goods are zero rated.
-) A firm registered with the VAT Office may claim credit on tax paid on inputs/purchases.
-) VAT paid on inputs can be adjusted while collecting the VAT on finished products.
-) Industries that exported more than 80 percent of total sales in past twelve months and which have a minimum of twenty percent of value addition can import raw materials providing bank guarantee on account of the payable VAT.
-) Certain products such as primary food stuffs, primary agricultural products, and industrial machineries are exempted from VAT.

) VAT Exempted Goods and Services

- ✓ Basic Agricultural Products
- ✓ Goods of Basic needs
- ✓ Live animals, animal product ,animals feed and feed supplements
- ✓ Agricultural inputs
- ✓ Education services
- ✓ Transport service
- ✓ Health Services
- ✓ Raw materials for pharmaceutical industries
- ✓ Books, Newspapers and Publications
- ✓ Industrial machinery
- ✓ Cultural and Artistic goods and Services
- ✓ Specified personal & Professional Services
- ✓ Others goods and services such as postal service, financial &

insurance service, buying & selling of real estate.

Zero Rated goods and services

Goods exported or services provided abroad

Goods & Services imported by accredited diplomats

M. Retention or Distribution: - "Retention" means not distributing the profit currently whereas "distribution" means payment of tax right now at the rate of 5 percent since there is a provision of deducting tax at source if dividend is distributed. Retention means capital gain also. In case of capital gain, the tax rate is 10 percent. In the same way, in case of capital gain the tax payment is delayed until the date of the sale of the share. If there is distribution, the tax should be paid in the year of payment of dividend. This means, the firm can at least gain from the present value of the amount of tax that should be paid to the government if it retains the profit. Accordingly, if the dividend is paid to a company that holds more than 25% of the shares in the distributing company, the dividend tax should not be paid (sec. 54 sub. sec. 3). That is, by selling more than 25 percent of the total shares to a company, a firm can save tax.

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

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

policy based on lending the developing countries, growing demands have been placed on it to suggest and sometimes the experience of eight developing countries that have undergone and in some instances are still undergoing, significant and comprehensive tax reform. Equal attention has been given to the tax reform, how it is implemented and the substance or result of reform efforts. Throughout the focus is a practical rather than theoretical aspect of tax reform.

2.1.10 Constraints on Tax Reform While tax reform debates are frequently fueled by several normative criteria, the actual reform measures that are adopted often reflect the existence of four binding constraints on the ability to choose new tax directions: political, international, technical and institutional. Political constraints come in a variety of shapes. In most developing economies certain sectors and activities enjoy a privileged tax status from political protection that is strong enough to resist any attempt at change. For example, in Colombia repeated efforts to include income from cattle raising in the income tax base have met with a singular lack of success. Other countries invariably have their own set of “sacred cows”. A corporate tax design encounter different kind of trade offs. Unless a developing country aligns its nominal corporate tax rate with those found in industrial countries portion of its corporate tax base may be shifted to lower tax rate jurisdictions.

At the other hand, efforts to stimulate investment by reducing nominal and effective tax rate may be frustrated by foreign tax credit mechanisms which translate host country tax relief into a cash flow business tax may incur the risk of being deemed non-credit able in those capital-exporting countries that offer a foreign tax credit to their multinationals.

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

2.2 Review of Previous Studies

Income tax was imposed in Nepal by the first parliamentary Government in 1959. After that, various studies were made and researches are conducted by different individuals and institutions concerning with various aspects of this act such as the structure, role, productivity, legal and administrative framework etc. Some of books, reports and dissertations that are reviewed during this study are as follows.

2.2.1 Review of Books

Dhakal (2001) has written a book entitled, “*Income Tax and House and Compound Tax Law Practice*”. He has described the provision income tax in Nepal. This book described about income tax in Nepal, house and compound tax and VAT etc.

Adhikari (2003) discussed the “*legal provision of new Income tax Act, 2002*”. His book is analytical rather than informative. Writer has not included administrative aspect, role and structure of income tax in his book. The book has only focused on the legal aspect of the income tax. Agreement and protocol relating to avoidance of double taxation and prevention of fiscal evasion with respect to taxes in income between different countries had also in his book.

Aryal&Poudel (2008) wrote a book entitled, “*Taxation in Nepal*”. They explained about the income tax system in Nepal along with house and land tax and value added tax. The book has been designed based on the curriculum of B.B.S. It had been divided in to three parts. In the first part of the book introduction and development of income tax, capital and revenue nature expenses and income items, entity and retirement saving, dividend tax, computation of income from business, remuneration and investment have been explained with numerical and theoretical examples. House and land tax and value added tax have been explained in the second and third part respectively, the book also included proper bibliography and adequate appendix where various income tax, house rent and vat related forms, schedules and format had been described .

K.C (2009) wrote a book named “*Tax laws and Tax Planning: Theory and Practice*”. It includes calculation of tax liability of both individual and entity. It explicitly explains inclusions and exclusions from business and investment income, deduction allowed in calculation of taxable income, basic timing and accounting issues and characterization of income. This book explains proper tax payer responsible for reporting methods of taxation of income and need of compliance.

2.2.2 Review of Journal and Articles

Panta (2004) wrote an article entitled, “*Problem in Tax Administration and Their Remedies*” published in journal of finance and development „Rajaswa,

2004, April Vol.1. He had comprehensively explained about the problem and their remedies related with tax revenue and major types of practical problems and challenges, in tax administration. He had maintained in his article where showing limited amount of transaction showing low selling price, less of issuing in taking bills, lack of showing the real factory cost, commercial fraud, lack of co-operation in tax auditing, legal ambiguity and complicity in implementation and lack of co-ordination between inland revenue department and revenue investigation unit. Meanwhile, he had recommended some valuable suggestion to solve the problems and to overcome the challenges. They were statistical and information system should be properly managed, fixed norms and standards should be used to assess selling price and factory cost, the billing system should be made compulsory, co-ordination between Inland Revenue office with various entities of Nepal government, revenue investigation and its related unit should play the important role.

Sinha (2005) the Institute of Chartered Accountants of Nepal (ICAN) published a monthly journal on December 2005. Sinha presented an article named "*taxation-legal illegality*" he had described the taxpayer have been encouraged by the tax officials themselves to go courts over the complaints of their wrong doing because the authority is totally convinced that no immediately solution can be expected from the court of tribunal on short- span of time as long as they are in position, the Tribunal court reviews the decision of Inland Revenue Department's director.

New Business Age (2007), the new business age published news about taxpaying behaviors in Nepal and European countries. The news presented that 95% of taxpayer in European countries were willing to pay tax but in Nepal taxpayer want to hide their income and they did not pay tax as per rules and regulation.

Kandel (2009) criticized the “*ITA 2002 on several grounds*” Exemption of agriculture income from income tax, export duties levied on export, inequality between different capital earned income (i.e. tax on interest, dividend and capital gain withdrawal of the provision of exemption suddenly and no adjustment for inflation are the major issues he raised in his article. He further criticized the act for the provision of income tax from export as 0.5% of total export because it is not a good choice of income tax base. Lastly, he had recommended to mobilize additional domestic resources through taxation, tax structure should be redesigned in order to increase the role of direct tax; income tax should be reformed in Nepal etc.

2.2.3 Review of Thesis

Poudel (2000) in his thesis entitled “Corporate Tax Planning in Nepal” in his thesis has tried to make an overview and conclusion supporting to the objectives and major findings are as follows.

Objectives

-) To examine the corporate tax structure in Nepal
-) To examine the implications of tax factor in selecting the best alternative strategy in different aspects of strategic planning.
-) To analyze impact of corporate tax on managerial decision relating to the different aspects of project planning.
-) To examine corporate tax planning in respect of organizational planning.
-) To investigate tax planning practices being followed in respect of strategic planning, project planning and operational planning by Nepalese companies.
-) To offer suggestions for the improvement in corporate tax laws which have direct bearing on the corporate tax planning?

The selection of tax base is an important constituent of corporate tax structure. The different tax bases are gross assets, business expenditure, value added, cash flow and book profit. Nepal has also followed book profit as the tax base for the purpose of corporate income tax.

Another important constituent of corporate tax structure is the tax rate. The corporate tax structure in Nepal has undergone a substantial change over the years. Prior to 1986-87, tax rate structure was same for both individual and companies. In 1986-87 the rate structure was separated and in the case of companies both government and private sector the progressive tax rate system was replaced by flat rate system. It was extended to private limited companies

also in 1993-94. Another important feature of corporate tax in Nepal is the lowering down the tax rate from

60% to 67% (on taxable income above Rs. 130000) in 1982-83 to 23.33% (flat rate) in 1994-95. Further, there are different flat rates for different types of companies. Thus, while non-industrial companies are taxed at a flat rate of 33% industrial companies are taxed at the rate of 28%. Further, if a company is listed in Nepal Stock Exchange, the tax rate is reduced by 5%. The government of Nepal has thus rationalized the corporate tax rate compatible with many other low tax-rate countries. In fact, Nepal has fallen in line with the general international trend of lowering down the corporate tax rate.

Gupta (2006) also presented the thesis entitled, "*Corporate Tax System and Investment Behavior in Nepal*". He undertook the research work to find out the problems relating to corporate tax, which blocks the development of the private investments. The main objective of the study was to evaluate the corporate tax system in general. His main objective is to examine the sensitivity of certain policy like inflation, capital gain tax, dividend tax and interest tax etc. based on their impact on tax burden.

His major findings are as follows

-) He showed the relationship of private investment with average effective tax rate, marginal effective tax rate and tax incentives in Nepal.
-) He found that it's for debt financed project are almost negative i.e. -17% and positive for equity financed project and debt equity project by 27% and 19% respectively.
-) He had also found the impact of inflation. According to him, the statutory tax rate deduction had impact on private investments by 60% to 20%. In this regard,
-) He had showed the adjusted value 0.87 at 5% level of significance.

) He had concluded that the statutory tax rate was in moderate level under the financing between inflation rate and effective tax burden in Nepal was negative.

Pant (2007) had presented the thesis entitled, "A study on Income Tax Management in Nepal". His main objectives of research were to find out the share of income tax to government revenue.

His main objectives

-) To review the income tax system in Nepal,
-) To identify the problem of income tax management.
-) His research was best upon secondary as well as primary data. The primary data was collected within Kathmandu through interview, questionnaire etc. His major findings are as follows.
-) He had concluded that income was the major source of internal source mobilization, the income tax system was not efficient and income tax assessment was not efficient.
-) Evasion of income tax was major constraint for research mobilization.
-) He also added that corporate tax was found high and exemption limit was not sufficient.
-) Finally he had recommended that income tax net should be widened assessment procedure must be improved and income from agriculture and capital gain should be taxed.

Pradhan (2008) has conducted a thesis entitled "*Contribution of Income Tax on Total Revenue.*" His study was basically concerned with historical background, contribution of income tax to the public revenue.

His main objectives are as follows

-) Contribution of income tax to the public revenue,

-) Contribution of Nepal Telecommunication (NTC) to income tax, Effectiveness of income tax collection. Especially, her study had focused on the study on Nepal Telecommunication Corporation.
-) His major findings are as follows
 -) She had found the contribution of income tax from public enterprises in Nepal was not significant due to poor achievement, weakness in government's economic policy and deficiency in legislation. NTC had been contributing effectively to total tax revenue.
 -) Contribution of tax revenue on GDP of Nepal was lower than other SAARC countries except Bangladesh.
 -) Average contribution of income tax from NTC to total tax revenue, total income tax revenue and total government revenue were 2.37 percent, 15.60 and 1.93 percent in her study period. Her suggestions about income tax system were clear cut provisions, discretionary power of tax officers should be curtailed, assessment and collection provision, should be made clear and simple, provision of reward, prize, incentives should be introduced to encourage taxpayers to pay voluntarily, compulsory provision of auditing etc. for the improvement of income tax administration in Nepal.
 -) Promotion and reward to active efficient and honest tax payers, tax education to taxpayers, strict action against corruption, reduction of delays in tax assessment.

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

by year in Nepal public finance. He has mentioned the following objectives and methodology for specific findings and recommendations.

Objectives

-) To study the concept of tax planning.
-) To examine the use of tax planning in Nepalese organization.
-) To examine the implementation of Tax planning.
-) To provide suggestion to Nepalese organization to use tax planning.
-) Following are the major findings of the study:
-) The provision of best judgment assessment should be put to use in its true spirit.
-) In addition to other financial and non-financial assistance, including incentives, to be provided by government and financial institution for the revival of sick industrial units.
-) The tax payers should pay the unpaid tax along with interest, similarly if there fund is to be made the tax payers along with interest.
-) Tax rebates to non-industrial company set up industrially backward areas.
-) Different tax rates for Residential and Non- Residential companies.
-) Every company should have separate Tax section in their company
-) Need to change the tax administration system.

Adhikari (2011) conducted a study entitled “*A Study on Corporation Income Tax in*

-) *Nepal*”. The objectives of his study were;
-) To study and evaluate the status of income tax as major source of revenue,
-) To examine the Nepalese income tax structure,
-) To review and analyze the trend of income tax collection and tax revenue,
-) To identify the factors to increase taxpaying habit of income tax payer,

-) To evaluate the problems of income tax management and provide suggestions to the concerned on the basis of study findings.
-) He has found that;
 -) The share of tax revenue has always been greater than share of non-tax revenue. Similarly,
 -) The contribution of indirect tax has been always greater than direct tax revenue during the study period from 2003/04 to 2013/14
 -) Income tax is an important source of direct tax.
 -) Its structure of Nepal is the composition of tax from government sector, public sector, private corporate bodies and remuneration tax.

2.4 Research Gap

Research gap refers to the gap between previous research and this research. Many research studies have been conducted by the different students, experts and researcher about Scope of Tax Planning. There is gap between the present research and the previous researchers. The findings of the previous researches were mostly based on secondary data. Most of the previous researches did not disclose what kinds of tax planning strategies should be implemented in Nepalese environment. Thus to fill up those gap the current research is conducted. This research is a survey type of research.

is based on primary data. This research study is based on using current data which was not included in previous studies. So, this study will be fruitful to those interested person, parties, scholar, civil society, general public, businessmen and government for academically as well as policy prospective.

CHAPTER - THREE

RESEARCH METHODOLOGY

For the proper evaluation of the research problem, research methodology is very important to any researcher. Research methodology generalizes the way of solving the research problem thoroughly and systematically. Therefore, research methodology is used for the achievement of the objectives of the study. This study is mainly concerned with the scope of tax planning in the country. Research methodology therefore is designed and implemented to study about the sources, causes and methods of the scope of tax planning. The structural analysis of government revenue, income tax, tax evasion, tax avoidance, exemption limits, concessions, rebates and tax payment behavior of tax payers. For the achievement of the objectives the research methodology has been designed including research design, population and sample, nature and sources of data and procedure of data collection and procedures of data presentation and analysis as follows.

3.1 Research Design

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

3.2 Nature and Sources of Data

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

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

3.3 Population and Sample

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

Table: 3.1

List of Sample Respondents

| S.N | Nature of profession | Number |
|-----|----------------------|--------|
| 1 | Businessman | 10 |
| 2 | Income tax officer | 10 |
| 3 | Bankers | 10 |
| 4 | Lecturers | 10 |
| 5 | Total | 50 |

3.4 Procedures of Data Collection A set of questionnaire related to the objectives of the study had been prepared for 50 respondents' professionals. Some questionnaires were sent through postal service, some through e-mail and rest through direct visit to the professionals and as I have mentioned some are through general discussions with the professionals.

3.5 Procedures of Data Presentation and Analysis

The result of each and every question out of the questionnaire was submitted respectively. Similarly they are ranked and planned in order by editing

and coding. The views of the respondents about the questions were presented in respective orders so that the analysis was fully based on the respondents. The cumulative result of each question is described in the form of respondent's language as far as possible. The main priority is given to the highest support and decision of the respondent. The supports of the respondents were collected in the numerical form as well as in the language form. Finally, the conclusion and suggestions of the study were presented in the summary. Data are analyzed and interpreted using different types of statistical tools as given below:

-) Simple Percentage,
-) Simple Average,
-) Charts and Diagrams.

3.6 Weight of Choice

The respondents are requested either to rank their answer or to give yes/no response or to write their opinion. In the case of ranking the answer the scale varies from question to question. The scale is given according to the number of probable answer.

For example, if the probable answers are 5, the scale is given 1 to 5, where 1 stands for most important and 5 stands for least important. The total points get by each choice are converted into percentage of total points available to the all choice. The choice having higher percentage is ranked as most important and the choice having lowest percentage is ranked as least important.

CHAPTER - FOUR

PRESENTATION AND ANALYSIS OF DATA

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

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

Respondent Symbol Used in Table

| | |
|--------------------|------|
| Businessman | BM |
| Income tax officer | Off |
| Bankers | Ban |
| Lecturers | Lect |

4.1 Sample Analysis Measurement

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

4.1.1 Tax Planning is being practiced in Nepal

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

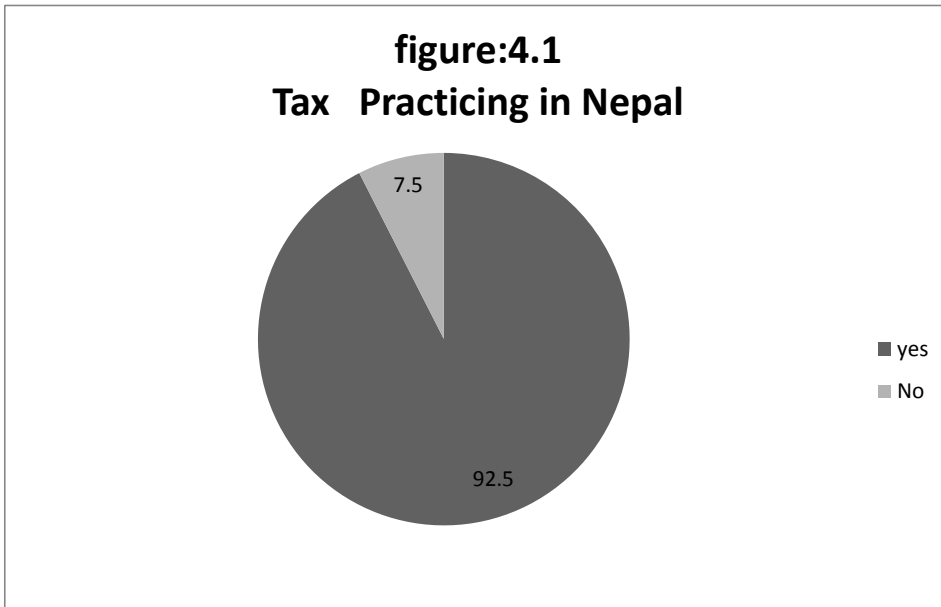
Table: 4.1

Tax Practicing in Nepal

| Options | Lect | Off | Ban | BM | NO.of Respondents | Percentage % |
|----------------|-------------|------------|------------|-----------|--------------------------|---------------------|
| Yes | 10 | 8 | 9 | 10 | 37 | 92.5 |
| No | 0 | 2 | 1 | 0 | 3 | 7.5 |
| Total | 10 | 10 | 10 | 10 | 40 | 100 |

Source: Field Survey 2014

From the table 4.1, it is observed that 92.5 % of the respondents believes that TaxPlanning is being in practice in Nepal and 7.5 % of the respondents think that there is no tax planning in practice. Here, we can see that those who said tax planning is not practiced in Nepal they have pointed towards those sectors of population who are afraid from the term Tax itself so they even don't want to learn about the tax planning and anything relating to tax they only keep on finding short cut ways to get out of the habit of paying tax. We cannot ignore the respondents who said that there is no tax planning is done in Nepal because some of them were tax officers themselves. And obviously tax officers know more than anybody that what percent of people are planning tax and what percent are trying to avoid tax so we cannot neglect their response. Anyway the happiest part is that there is 90% tax planning is done in Nepal is quite effective for the country like Nepal where the education is still in growing stage only.



4.1.2 Consideration of the term tax planning to reduce Tax Liability

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

Table: 4.2

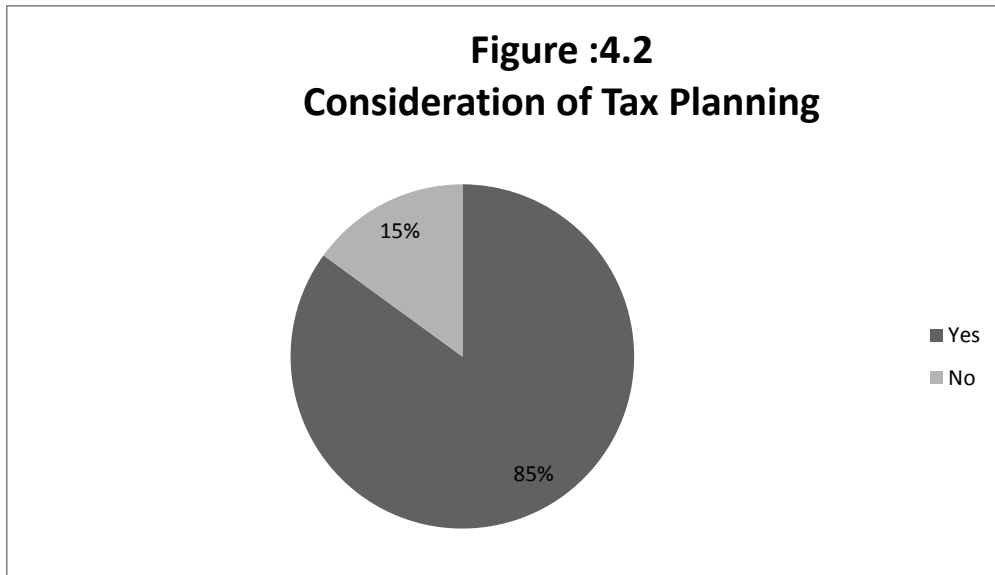
Consideration of Tax Planning

| Options | Lect | Off | Ban | BM | No of Respondents | Percentage % |
|---------|------|-----|-----|----|-------------------|--------------|
| yes | 7 | 10 | 10 | 7 | 34 | 85 |
| No | 3 | 0 | 0 | 3 | 6 | 15 |
| Total | 10 | 10 | 10 | 10 | 40 | 100 |

Source: Field Survey 2014

From the above table we came to know that 85 % of the population (Approx) are considering the term tax planning in their business and profession in order to reduce tax liability and 15% of the population are not considering the term tax planning. When I tried to find out what are the reasons for that then mostly I found that all is because of the unawareness of the term Tax Planning. Some of

them said that idea and concept of tax planning is not clear to them, some said hard to follow the method of tax planning and some said that there is lack of qualified manpower in tax offices.



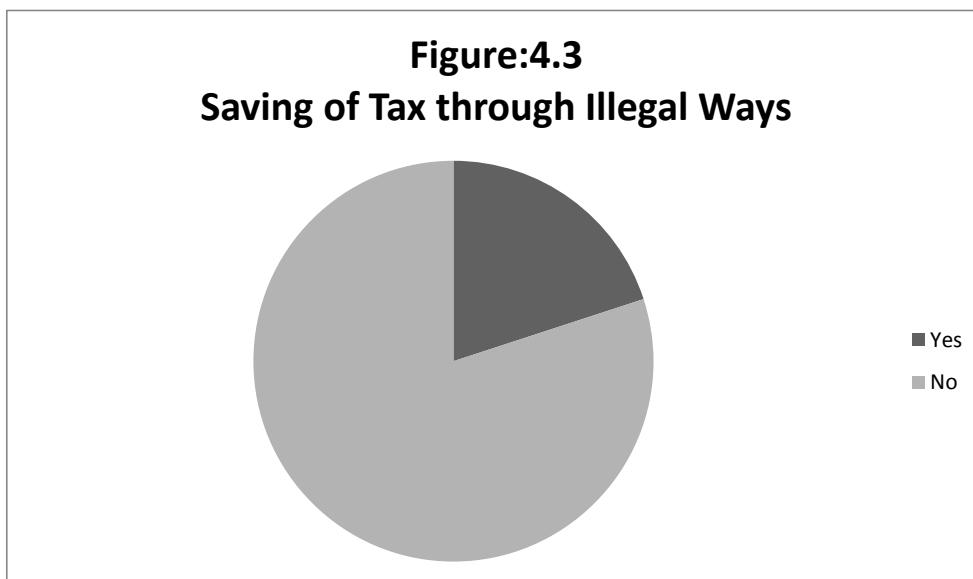
4.1.3 Saving of Tax in Nepal through Illegal Ways

Table: 4.3

Saving of Tax through Illegal Ways

| Options | Lect | Off | Ban | BM | No of Respondents | Percentage % |
|---------|------|-----|-----|----|-------------------|--------------|
| yes | 1 | 0 | 1 | 6 | 8 | 20 |
| No | 9 | 10 | 9 | 4 | 32 | 80 |
| Total | 10 | 10 | 10 | 10 | 40 | 100 |

Figure:4.3
Saving of Tax through Illegal Ways



From the above table we can see that 20% of the respondents think that tax planning in Nepal is done through illegal ways also and the remaining 80% of the respondents think that tax planning is done through legal ways and effectively. When I went deep into the study to find out why the 20% of the population is planning tax through illegal ways then I came to know that all that is because of having less knowledge regarding the Scope of Tax Planning under ITA, 2058 in Nepal. So, I think we should provide adequate knowledge regarding scope of tax planning to all the general public in Nepal so that instead of running away from the term tax planning they will come to know the areas and scope of tax planning and will be eager to save their tax under the scope provided by the ITA 2058 in Nepal. Anyway the percentage gives us a little relief that only 20% think that tax planning is done through illegal ways even though we have to take into consideration that there are still people who do tax planning through illegal ways and to stop that we need to make them aware either making them know the scope of tax planning or making the law a little bit more flexible after knowing the exact factor why the person is planning tax through illegal ways. It might be different from person to person the reasons

to plan tax so we have to use the right weapon to right person to make them plan their tax through legal ways.

4.1.4 The Causes Responsible for Illegal Planning

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

Table: 4.4

Saving of Tax through Illegal Ways

| S.N | Responsible Causes for Illegal Tax Planning | Lect | Off | Ban | BM | Total | Rank |
|------------|--|-------------|------------|------------|-----------|--------------|-------------|
| 1 | Higher income tax rate | 1 | 1 | 6 | 7 | 15 | 6 |
| 2 | Tax administrative efficiency | 2 | 5 | 5 | 4 | 16 | 5 |
| 3 | Widespread inefficiency | 6 | 10 | 3 | 5 | 24 | 1 |
| 4 | High corruption in Nepal | 3 | 2 | 4 | 5 | 14 | 7 |
| 5 | Poor taxpaying habit | 7 | 5 | 3 | 6 | 21 | 2 |
| 6 | Complicated Income Tax Law | 6 | 6 | 3 | 3 | 18 | 3 |
| 7 | Political indiscipline | 1 | 3 | 8 | 5 | 17 | 4 |

Source: Field Survey 2014

More than 50% of the respondents pointed out widespread illegal business to be the no. 1 reason for illegal tax planning. As the people do illegal business so

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

Secondly the respondents ranked poor taxpaying habit as another reason for illegal tax planning. In Nepal no one is paying tax thinking of the country that taxpaying is their duty and they responsibility towards the country. Nobody have any kind of interest in paying tax to the country they all want to hide their income and are always

Trying to pay tax as less as possible. In Nepal there is no habit of paying regular taxes and fair tax. Although the people are paying tax but that is not because they are thinking about the country but only they are afraid that if tomorrow they will get caught they have to pay more tax then they are paying at present. This is only reason for paying tax in Nepal. So the government should not only force people to pay tax but also make them understand that the tax they pays goes directly or indirectly at last to them only through different means. Through the development of the country, through distribution of clothes and food to many kinds of victims, through different plans, etc. In these ways the habit of people to pay tax can be encouraged and they will get rid of poor taxpaying habit.

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

Fourthly the respondents blamed political indiscipline as another factor influencing the illegal tax planning in Nepal. In Nepal there is no discipline regarding politics, everyday there is going to something wrong in politics. Every day the parties will be quarreling with each other regarding different topics it seems as they are not thinking about the country but only about themselves. They all are unknown about the things happening in the country generally with the people of the country as if they are satisfied or dissatisfied with the present situation. And the people as a result think that if the political leaders are not thinking about the country then why should we do, why we should pay the regular taxes, why should we only contribute to the country and as a result they will start planning tax through illegal ways. So political indiscipline should be turned to discipline in order to plan tax in legal ways. Fifthly the respondents blamed tax administrative inefficiency to be the reason for illegal tax planning. All the administration part of tax offices are inefficient. The officers in the tax offices do not perform their task effectively instead they demotivate the people who came to pay tax for the country by making them run here there and the most tragedy part is that we go to tax office to pay the tax not to take money back

from them. I think tax payers should get some kind of respect because they are one of the helping hands of the country, they are contributing to the economic sectors of the country and they are helping country to get developed. The tax administration should work efficiently if the country wants to stop tax planning to be done illegally because tax administration plays a vital role in making people pay tax legally. The officers of tax offices should be very much efficient to make people understand about the pros and cons of paying and not paying the tax then only people will start paying tax legally instead of finding the tax payment through illegal ways. The sixth rank has been given by the respondents to higher Income Tax rate for the cause of illegal tax planning. As it has been given the sixth rank it is clear that the respondents have given less emphasis to this cause. That means we can say that the tax rate provided to the people and the firm of Nepal by Income Tax Act, 2058 is quite good enough. But still some part of it is somewhere high tax and somewhere dissatisfactory in terms of tax rate. The one part is that whether the firm is doing business or not it has to pay the minimum tax to the country is quite not satisfactory and the other part is why rebate is provided only to the factory located in remote areas why not also to the factory located in the municipality areas. The last and seventh rank is given to high corruption in Nepal by the respondents as the cause of illegal tax planning. As this is the last cause ranked so we can say that it is just been ranked as it was there in the causes provided. No doubt there is corruption in Nepal but that is affecting in tax planning tax through illegal ways that much yes it is affecting but only to some extent. The reason is that all the money that comes from corruption of bribing can't be shown through legal tax planning so the people use the illegal ways of tax planning to make their black money as their white money. As we all know corruption is in every country but only one thing is to be made into consideration is that the corruption should not influence in the development to that extent as it will cause some influence

definitely so we have to try our best to stop the corruption in every single way possible then only we will be stop the planning of tax through illegal ways.

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

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

Table: 4.5

Reducing Tax Under Long Term Tax Planning

| S.N | Ways to reducing Tax Under Long Term Tax planning | Lect | Off | Ban | BM | Total | Rank |
|------------|--|-------------|------------|------------|-----------|--------------|-------------|
| 1 | By change the nature of business | 4 | 2 | 4 | 5 | 12 | 3 |
| 2 | By changing the form of the organization | 1 | 2 | 3 | 7 | 13 | 4 |
| 3 | By changing the location of the industry | 1 | 4 | 4 | 3 | 12 | 5 |
| 4 | BY making changes in the capital structure | 4 | 3 | 4 | 5 | 18 | 2 |
| 5 | By changing the size of business | 6 | 3 | 4 | 8 | 21 | 1 |
| 6 | Complicated Income Tax Law | 2 | 1 | 2 | 5 | 10 | 6 |

Source: Field Survey 2014

More than 50% of the respondents ranked by changing the size of the business as theno. 1 way of reducing tax under tax long term tax planning. Now here I am explaining how we can save by changing the business, in which size to operate the business depends on demand of products, availability of resources

like funds, human resources, raw material, etc. selection of suitable size of business helps in tax planning as;

Business firm with annual turnover up to Rs.20 lakhs and income up to Rs. 2 lakhs fall within presumptive taxation. They are required to pay Rs. 3500; Rs. 2000 and Rs.1250 if they are located in metropolis/sub- metropolis, municipality and other areas respectively.

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

-) Interest is deductible in case of borrowed funds whereas dividend does not enjoy this benefit.
-) Expenditure incurred while borrowing loan is an allowable expense.
-) Raising funds through equity/preference shares or retained earnings are without strings and do not involve regular outflow of cash by way of interest.
-) A tax payer can minimize his tax liability by borrowing loan or issuing debentures than raising fund through other sources.

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

For example:

-) Special industry should pay tax at a flat rate of 20%
-) Bank, finance companies, general insurance companies, etc should pay tax at a flat rate of 30%
-) Other firms i.e., private limited, partnership firm should pay tax at a flat rate of 25%
-) Agricultural incomes from unorganized sector is tax free
-) Similarly loss recovery period also differs as per the nature of the business. For example:
 -) Business organizations can carry losses for the coming 7 years.
 -) Similarly, loss of an entity conducting petroleum business under Nepal petroleum Act 2040 and infrastructure development project can be carried forward up to next 12 years.

BOT /BOOT can carry losses for the coming 7 years. In the fourth rank the respondents have chosen by changing the form of organization as the way of reducing tax liability under long term tax planning. As we all know business organization can be organized in different forms: sole proprietorship, partnership and company. Form of organization is generally decided on the basis of size of funds required or the technical skill. Small size units can be started by proprietorship firms, partnership firm, etc. for bigger units company form of organization suits. ITA, 2058 has imposed different tax rates as well as has provided different facilities to different forms of business organizations. For example: Proprietorship firm can enjoy exemption facility and progressive tax rate is applied.

-) Partnership and company do not get any exemptions. Tax is imposed at a flat rate.

-) Owner of proprietorship firm is entitled to a medical tax credit up to Rs.750.
-) In the fifth rank the respondents have chosen by changing the location of the industry as the way of reducing tax liability under long term tax planning. Industries are located at a place which has advantages of raw material, nearness of market, availability of human resources and other related non-tax factors. An investor can take benefit of it by establishing business in a suitable location. For example:
 -) Special industries established in remote, underdeveloped or under developed area should pay tax at 70%, 75% or 80% respectively of the rate otherwise applicable for the periods of ten income years.
 -) ITA, 2058 has also a provision of remote area allowance up to Rs. 30,000 to an individual working in remote areas. For example:
 -) Individual working in remote area A, B, C, D and E can get an additional exemption of Rs.30,000, Rs. 24000, Rs. 18,000, Rs. 12000, Rs. 6000 respectively. In the sixth rank the respondents have chosen by merging the business as the way of reducing tax liability under long term tax planning. Inclusion of non-industrial unit in industrial unit can also be helpful in minimizing tax. Industrial units (except liquors and tobacco) pay tax @ 20% whereas non-industrial units (i.e., trading company) pay tax @ 25% thus, merging of trading company in industrial company (forward integration) reduces the tax liability. Similarly, merging of loss making units to profit making unit is also helpful in tax planning. Here, the losses of loss making unit can be adjusted with the profit of profit making units.

4.1.6 Saving Earnings by Saving Tax under Short Term Tax Planning

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

Table: 4.6

Reducing Tax Under Short Term Tax Planning

| S.N | Ways to reducing Tax Under Short Term Tax planning | Lect | Off | Ban | BM | Total | Rank |
|-----|--|------|-----|-----|----|-------|------|
| 1 | By Take care everything while acquisition of assets | 3 | 4 | 8 | 3 | 18 | 2 |
| 2 | By taking care while deducting repair and maintenance cost | 3 | 3 | 4 | 4 | 14 | 4 |
| 3 | By consideration pollution control cost | 1 | 2 | 3 | 5 | 11 | 6 |
| 4 | By consideration research and development cost | 2 | 3 | 4 | 3 | 12 | 5 |
| 5 | By deducting donation | 3 | 4 | 4 | 4 | 17 | 3 |
| 6 | By taking care while making loss recovery | 5 | 6 | 3 | 9 | 21 | 1 |

Source: Field Survey 2014

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

properly setting priority, a taxpayer can adjust as much as losses as possible. Second rank is given to by taking care of everything while acquisition of assets as the way of reducing tax liability under short term tax planning.

A business firm can make tax planning while acquiring fixed assets needed for running its activities. There are mainly two ways of acquiring fixed assets leasing or buying. The issue to be considered is cash outflow, tax shield in respect of depreciation, interest payable or lease rent. Third rank is given to by deducting donation as the way of reducing tax liability under short term tax planning. A donation given to tax exempt organization is allowed for deduction up to Rs. 100000 or 5% of adjusted taxable income. However in Nepal full or partial reduction for donation given to a work by notifying in Nepal gazette. This provision is available to only profit making entity. A tax payer can plan the amount of donation to minimize his tax burden. Fourth rank is given to by taking care while deducting repair and maintenance cost as the way of reducing tax liability under short term tax planning. ITA, 2058 has allowed repair and maintenance cost up to 7% of depreciation basis. Taxpayers should plan these expenses in such a manner so that maximum deduction is possible. The unabsorbed repairs can be capitalized and depreciated from the next year.

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

the next year. The tax payer should claim these expenses as much as possible to reduce the tax liability.

4.1.7 Existing rebate provided by Income Tax Act, 2058

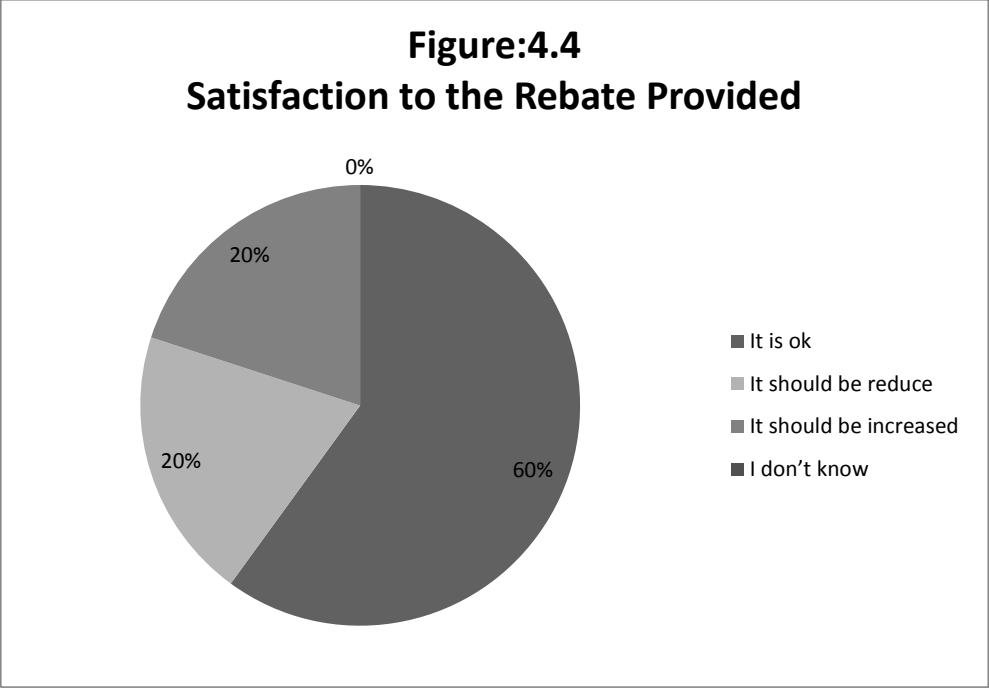
To find out whether the tax rebate provided by the Nepalese law is satisfying the people of the country or not I asked the question providing them four options and the result obtained is presented below in a systematic table format.

Table: 4.7

Satisfaction to the Rebate Provided

| Options | Lect | Off | Ban | Bm | NO.of Respondents | Percentages % |
|------------------------|-------------|------------|------------|-----------|--------------------------|----------------------|
| It is ok | 9 | 4 | 4 | 7 | 24 | 60 |
| It should be reduce | 1 | 3 | 2 | 2 | 8 | 20 |
| It should be increased | | 3 | 4 | 1 | 8 | 20 |
| I don't know | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 10 | 10 | 10 | 10 | 40 | 100 |

Sources: field survey 2014



60 % of the respondents said that the rebate is o.k. and in fact good in respect of the people and the country. They all think that the rebate provided is quite encouraging for the people. The rebate is provided by taking care of the people of the country of all the sectors and groups so quite fair and quite motivating for them to pay the tax in time and properly. 20% of the respondents think that it should be reduced. They said this taking care of the economy of the country, the only thing they mean to say is that if the tax rebate is reduced a little bit it will not make any difference to the tax payers and on the other hand that little reduced tax can help in the economic condition of the country a lot. 20 % of the remaining respondents think that it should be increased a little. These 20% still think that the rebate provided is still not encouraging for the people of the country to be faithful to the country in terms of payment of tax planning and as a result they will try to find out the illegal ways of reducing tax liability. So if the country wants all the taxes from the public through legal tax planning then the government have to increase a little for the satisfaction of the public and in comparison to saving tax through illegal ways and increasing the rebate I

think increasing the rebate seems to be more profitable for the country. 0% of the respondents gone to option 4 which is I don't know, this means all the respondents are aware of the rebate provided by the law.

4.1.8 Charging less tax to the industries situated in remote areas

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

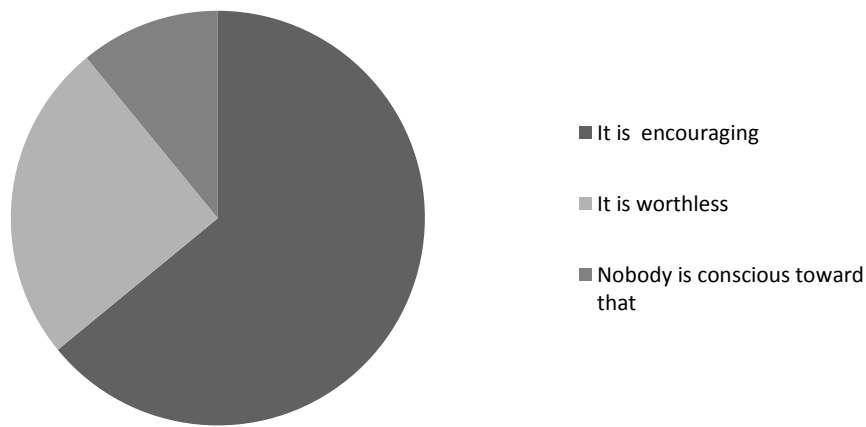
Table: 4.8

Satisfaction to the Rebate Provided

| Options | Lect | Off | Bn | BM | No of Respondents | Percentage % |
|---------------------------------|-------------|------------|-----------|-----------|--------------------------|---------------------|
| It is encouraging | 9 | 6 | 7 | 10 | 32 | 80 |
| It is worthless | 0 | 0 | 0 | 0 | 0 | 0 |
| Nobody is conscious toward that | 1 | 4 | 3 | 0 | 8 | 20 |
| Total | 10 | 10 | 10 | 10 | 40 | 100 |

Source: Field Survey 2014

Figure:4.5
Satisfaction to the Rebate Provided



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

80 % of the respondents said that it is worthless. That means there is no complaint towards that, no doubt that the tax charged to industries situated in remote areas is very much fair. 20% of the respondents believe that nobody is conscious towards that. And the most surprising thing is that those 20 % are almost businessmen that means really the people are not very conscious toward that. They are establishing factories and industries wherever they find comfortable for them. They are not surveying that whether establishing in this area is profitable through the means of tax or not they are only calculating the market and the consumption part they are not considering the taxation part for the establishment of their industry and factory. May be the people are unaware of tax planning or may be they think the rebate not quite satisfactory or maybe they are planning to save tax through illegal tax planning, in any of those case

the country needs to take some kind of action to make the people know and use the rebate provided to them in the establishment of industry and factory in different parts of the country.

4.1.9 Enjoyment of the loopholes of the Act

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

Table: 4.9

Enjoyment of Loopholes by Tax Payers

| Options | Lect | Off | Ban | BM | No of Respondents | Percentage % |
|---------|------|-----|-----|----|-------------------|--------------|
| yes | 9 | 6 | 7 | 10 | 32 | 100 |
| No | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 10 | 10 | 10 | 10 | 40 | 100 |

Source: Field Survey 2014

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

4.1.10 Methods used for Enjoying Loopholes

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

Table: 4.10

Methods of Used for Enjoying the Loopholes

| S.N | Method used by tax payers | Lect | Off | Ban | BM | Total | Rank |
|-----|--|------|-----|-----|----|-------|------|
| 1 | Diverging income or assets to lower taxable entities | 5 | 5 | 4 | 6 | 20 | 2 |
| 2 | Paying salaries, benefits and interest to family members | 5 | 6 | 4 | 4 | 19 | 3 |
| 3 | Transferring income to wife or minor child | 5 | 6 | 7 | 7 | 25 | 1 |
| 4 | Forming trust and other philanthropic institution and Taking unnecessary advantage | 1 | 2 | 6 | 4 | 13 | 5 |
| 5 | Transferring income and assets to non-resident | 3 | 2 | 4 | 5 | 14 | 4 |

Source: Field Survey 2014

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

Avoidance. Second rank is given to diverging income or assets to lower taxable entities. This is done by the means that all the income is earned by higher taxable entities and in order to save tax at the last point of time when it is time to pay tax then all the incomes are transferred to lower taxable entities. Here, the government thinks that no matter what but the firm is paying tax anyhow but the problem is that the firm is saving tax to some high extent and is taking wrong advantage of the loopholes of the act. Third rank is given to paying salaries, benefits and interest to family members. Some tax payers distribute the salaries and benefits among their family members in order to reduce their tax liability. This is fair enough in accordance in the terms of law but it is really one of the major means to avoid tax unethically. Fourth rank is given to Transferring income and assets to non-resident. As the non-resident employed by Nepal government on terms of tax exemption are exempted from paying tax.

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

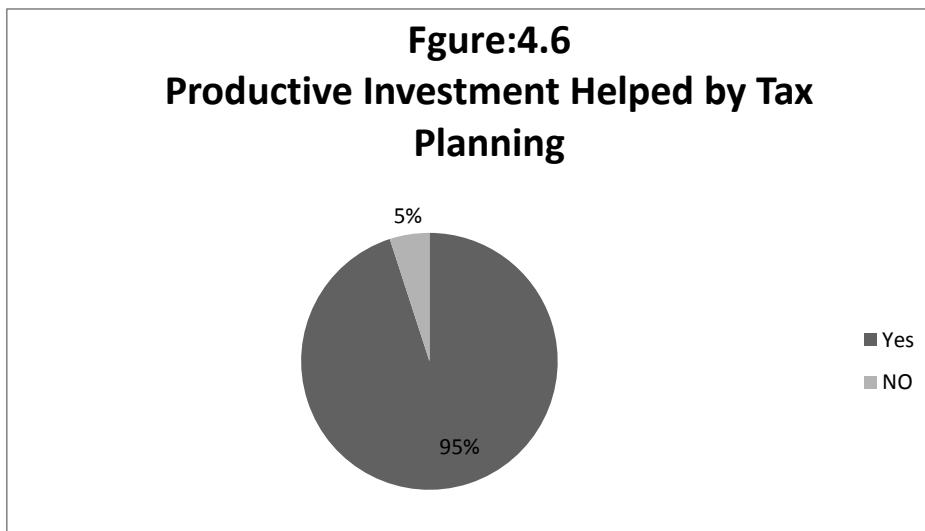
4.1.11 Tax planning helps in Productive Investment When asked with the respondents do they think that tax planning helps in productive investment then they responded towards my question with only two options which is presented as below in table format.

Table: 4.11

Productive Investment Helped by Tax Planning

| Options | Lect | Off | Ban | BM | No of Respondents | Percentage % |
|---------|------|-----|-----|----|-------------------|--------------|
| yes | 9 | 9 | 10 | 10 | 38 | 95 |
| No | 1 | 1 | 0 | 0 | 2 | 5 |
| Total | 10 | 10 | 10 | 10 | 40 | 100 |

Source: Field Survey 2014



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

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

4.1.12 Healthy growth of economy through Tax Planning

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

Table: 4. 12

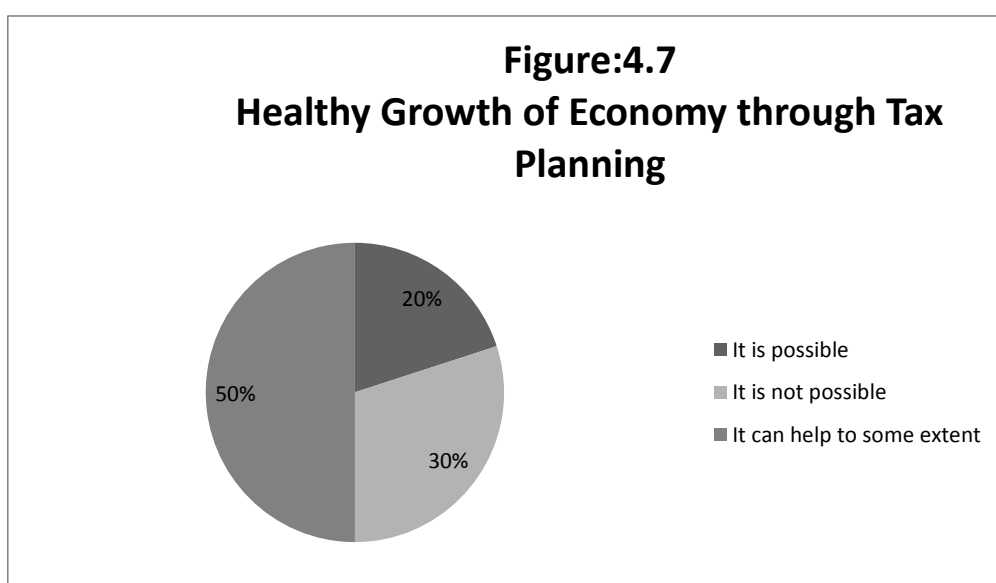
Healthy Growth of Economy through Tax Planning

| Options | Lect | Off | Bn | BM | No of Respondents | Percentage % |
|----------------------------|-------------|------------|-----------|-----------|--------------------------|---------------------|
| It is possible | 2 | 0 | 6 | 0 | 8 | 20 |
| It is not possible | 1 | 7 | 1 | 3 | 12 | 30 |
| It can help to some extent | 7 | 3 | 3 | 7 | 20 | 50 |
| Total | 10 | 10 | 10 | 10 | 40 | 100 |

Source: Field Survey 2014

Only 20% of the respondents said that yes healthy growth of economy is possible through tax planning. It means that the respondents are not very sure of the phrase "Healthy growth of economy through Tax Planning". The tax laws

grant various concession and reliefs to uplift the backward sectors of the economy. As a result, the economy of the country will bust up. 30% of the respondents pointed out that healthy growth of economy is impossible through tax planning. They said that tax planning is just a minor part of the business. Businessman really do not care about the corporate social responsibility they know only one thing and that is profit anything else. Already said they do not want to increase profit by minimizing the expenses. For the growth of economy only backward part is not enough the main part is the metro areas and there is not very good planning of tax for the industry situated in metro areas of the country. Every industry should get rebate is the main point of the respondents here. 50% of the respondents opinion is that healthy growth of economy is helped to some extent through tax planning. There is one saying that “It is better to have something than to have nothing”, same one is for tax planning, at least some planning is done which will obviously going to help the country to grow economically healthy. If there will be no tax planning then there will be nothing but yes there is tax planning is being done and that is helping at least to some extent in the healthy growth of the economy of the country. And this is the same opinion of the most of the respondents.



4.1.13 Providing Tax Rebate to Industries Situated in Remote Areas Only

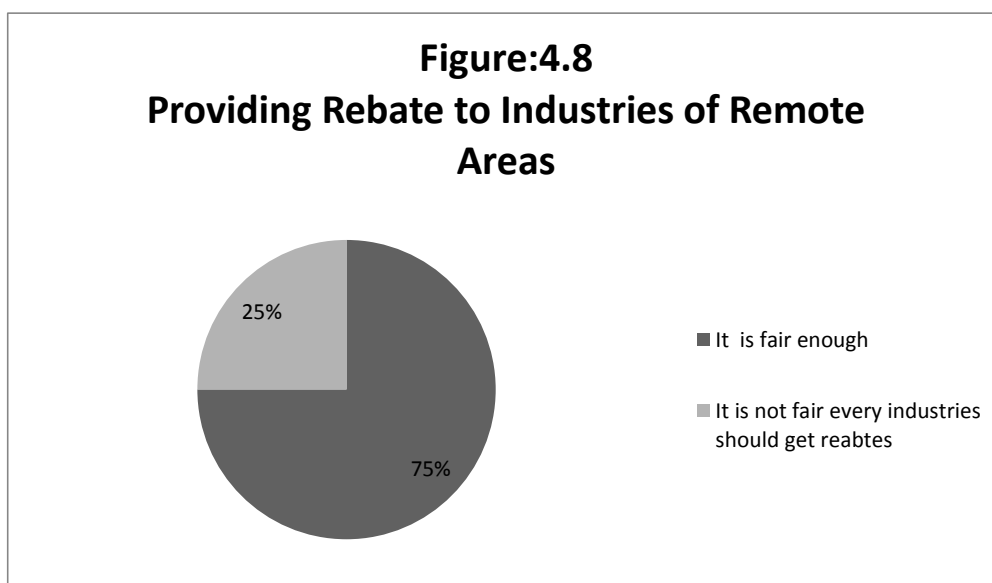
When asked with the respondents regarding the rebates provided to the industries situated in remote areas only then they responded in following ways with the two options provided to them.

Table: 4.13

Providing Rebate to Industries of Remote Areas

| Options | Lect | Off | Bn | BM | No of Respondents | Percentage % |
|--|------|-----|----|----|-------------------|--------------|
| It is fair enough | 10 | 10 | 10 | 0 | 30 | 75 |
| It is not fair every Industries should get rebates | 0 | 0 | 0 | 10 | 10 | 25 |
| Total | 10 | 10 | 10 | 10 | 40 | 100 |

Source: Field Survey 2014



75 % of the respondent said that it is fair enough. All the respondent in this group are job holders and professional related with no business. They thought from the point of view of their profession and came to the conclusion that the rebate is fair enough. The law also have provided maximum rebate to the

industries of remote areas which is\ definitely encouraging them to do business in a better way. genuinely the rebate rates are very much effective for those industries as the law have taken into consideration of all the difficult factors and problems that those industry will face and is facing having being located in remote areas.

25% of the respondents said that it is not fair every industry should get rebate. The respondents belonging to this 25% are businessman and they thought from the viewpoint of their business thinking that one day they will also establish their industry in metro area and they will not get rebate at that time. So these all respondents want that the rebate should also be given to the industry situated in metro areas as these industry also contribute in the economic sector of the country. Otherwise as a result this industry will be bound to plan tax through illegal ways and the harm is finally to the economic condition of the country. The industry will anyhow reduce their tax to be paid so here is the only question to the government whether it is going to give them rebate and take the credit or is not going to give them rebate and make the industry to plan the taxation in illegal ways.

4.1.14 Problems in Tax Planning Practice in Nepal

Providing Rebate to Industries of Remote Areas

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

Table: 4.14

Problems in Tax Planning Practice in Nepal

| Options | Lect | Off | BOM | BM | N0.of Respondent | Percentage % |
|----------------|-------------|------------|------------|-----------|-------------------------|---------------------|
| | | | | | | |

| | | | | | | |
|--|----|----|----|----|----|-----|
| Yes a lot | 3 | 3 | 0 | 2 | 8 | 20 |
| No there is not | 0 | 0 | 0 | 0 | 0 | 0 |
| Need to be change/review the policies a little | 7 | 7 | 10 | 8 | 32 | 80 |
| Total | 10 | 10 | 10 | 10 | 40 | 100 |

Source: Questionnaire

20% of the respondents think that yes there are a lot of problems in tax planning practice in Nepal. They said that no one knows what is tax planning, how it is done and all they are only paying tax in different ways. Some of them are paying tax through legal ways only, some are through illegal ways and some of them use the both ways being little bit concerns towards the tax. Nobody is even interested to know about tax planning going through in the country they say that who is going to study all those and who is going to appoint a separate staff for that tax policy only as the rebate we will get will be less than the salary of the staff appointed. So the conclusion is that the awareness of the people is to be made in order to solve the problems in tax planning practice in Nepal.

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

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

4.1.15 Making the Tax Planning More Effective

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

Table: 4.15
Making Tax Planning More Effective

| S.N | Things should be done for making tax planning effective | Lec | Off | BAN | BM | Total | Rank |
|-----|---|-----|-----|-----|----|-------|------|
| 1 | Increase the rebate rate a bit more | 4 | 2 | 3 | 6 | 15 | 4 |
| 2 | Rebate should also be given to industries located in municipality areas | 1 | 3 | 4 | 5 | 13 | 5 |
| 3 | To provide to the people about tax planning | 2 | 3 | 5 | 6 | 16 | 3 |
| 4 | To encourage the tax payers to pay regular taxes | 5 | 4 | 7 | 7 | 16 | 3 |
| 5 | Building awareness about tax planning | 4 | 3 | 5 | 8 | 20 | 2 |

Source: Field Survey 2014

60% of the respondents ranked to encourage the tax payers to pay regular taxes as the no. 1 thing to be done in order to make tax planning more effective. I too agree with this point and this is the first thing to be done in order to get a proper tax planning. All the tax payers are need to be encouraged to pay tax, they are need to be motivated, they are need to be promoted and they are need to be marketed also. Tax payers can be motivated by making them loyal towards the country, this can be done by saying them exactly why and how the country need them and their attention to get developed and to compete with the other countries. Tax payers can be promoted by making them famous through the newspaper and magazine making the heading as the habit of their paying tax regularly and

with proper tax planning. They are needed to be marketed by publishing their firm in tax paying magazine as one of the properly paying tax company. These all things will really encourage tax payers to pay regular tax and seeing these all other people will also start paying regular tax to get these types of attention and as a result we can make the tax planning more effective and that is our main concern. Second priority is given to building awareness about tax planning. This can be only done by the government when every sector will act properly and the tax officers will feel their responsibility towards the country that a big responsibility is given to them and they have to come up with the expectation of the country. Unless and until the tax offices will start some kind of knowledge gaining and information providing program for the tax payers of the country and for even to the non-tax payers then only the tax planning of the country can be made effective otherwise it is very much difficult to change the in-effective tax planning to effective tax planning. Awareness is the most necessary thing which will make the people to know their responsibility towards the

Country and the use of tax planning need to be done effectively to develop any country. Unless and until the public will get aware of the fact that tax is one of the major things to the country and can help the country to very much extent for the development they will never bend towards the term effective tax planning, so the main point is to create awareness to the people regarding tax so that the planning of tax can be done more effectively. Third rank is given to provide knowledge to the people about tax planning. Only awareness is the half part of it the full part will be when they will have the complete knowledge about tax planning. For complete knowledge all the people can not go to colleges and take the class of taxation they need to be taught through some kind of tricky and practical ways then only understand the term tax more clearly and I think that will be more effective. Certainly everyone can't understand the book and the teacher's language so they are needed to be taught through some kind of unique

means in order to provide them knowledge about tax planning. And this responsibility should be taken by the tax offices and government then only people will be aware of the term tax otherwise they will be in the dark and will go on cheating tax through different illegal means to reduce tax to be paid as a result finally it will be affecting the economic condition of the country. Fourth rank is given to increase the rebate rate a bit more. Some people still think that the rebate rate provided by ITA, 2058 of Nepal is not satisfactory. They still are demanding for the increment in rebate rate provided to increase a bit more. Now the government should survey about this that how much percentage of the people are demanding the increment in rebate and from which category of population they belong. If they belong from the category of high tax payers then that should be implemented as fast as possible and as much as possible. And if they are from the lower earnings and lower tax payers then there is no need to get worried these people keep on saying these things because they don't have enough knowledge about tax and more than that economic situation of the country. So survey is must and the government must take action regarding any kind of tax dissatisfaction of the people mainly of those who pay a huge amount of tax and who contribute a lot in terms of economic condition to the country. So if the large number of population is demanding for the increment in rebate percentage then government must listen to them carefully if only the country wants that tax planning is to be done effectively. Fifth and the last rank is given to rebate should also be given to industries located in municipality areas. As this is the last ranked options so the first priority should be given to above four but we can't ignore this one also as the respondents also pointed out towards this options. This is only one thing that the people having industries in metro areas are saying that it is not fair enough to provide rebate only to the industry located in remote areas they should also get rebate. And I too think they are right to some extent, as they contribute in equal or in more manners in the development so partiality should not be done with them. They also agree that if

not fully partial rebate can be given to them having the establishment of industry in the metro areas. They are demanding to the government not to be partial regarding industrial set up they want the government to see every industry through one eye. The government have to take in consideration that all the industries are their children which are going to help it in every way they can so as the mother is not partial towards one of her children in the same way government should also not be partial toward the industry and its set up.

4.2 Major Findings

The major findings of the study are as follows

-) 92.5 % of the respondents believes that Tax Planning is being in practice in Nepal and 7.5 % of the respondents think that there is no tax planning in practice.
-) 85 % of the population (Approx) are considering the term tax planning in their business and profession in order to reduce tax liability and 15% of the population are not considering the term tax planning.
-) 20% of the respondents think that tax planning in Nepal is done through illegal also and the remaining 80% of the respondents think that tax planning is done through legal ways and effectively.
-) More than 50% of the respondents pointed out widespread illegal business to be the no. 1 reason for illegal tax planning. Secondly the respondents ranked poor tax paying habit as another reason for illegal tax planning. Thirdly the respondents blamed complicated income tax law to be the reason for illegal tax planning. Fourthly the respondents blamed political indiscipline as another factor influencing the illegal tax planning in Nepal. Fifthly the respondents blamed tax administrative inefficiency to be the reason of illegal tax planning.
-) The sixth rank have been given by the respondents to higher Income Tax rate for the cause of illegal tax planning. The last and seventh rank is

given to high corruption in Nepal by the respondents as the cause of illegal tax planning. More than 50% of the respondents ranked by changing the size of the business as the no. 1 way of reducing tax under long term tax planning. Secondly the respondents have ranked by making changes in the capital structure as the second way of reducing tax liability under long term tax planning. Thirdly the respondents have ranked by changing the nature of business as the third way of reducing tax liability under long term tax planning. In the fourth rank the respondents have chosen by changing the form of organization as the way of reducing tax liability under long term tax planning. In the fifth rank the respondents have chosen by changing the location of the industry as the way of reducing tax liability under long term tax planning. In the sixth rank the respondents have chosen by merging the business as the way of reducing tax liability under long term tax planning.

) Above 50% of the respondents ranked by taking care while making loss recovery as the no.1 ways of reducing tax under short term tax planning. Second rank is given to by taking care of everything while acquisition of assets as the way of reducing tax liability under short term tax planning. Third rank is given to by deducting donation as the way of reducing tax liability under short tax planning. Fourth rank is given to by taking care while deducting repair and maintenance cost as the way of reducing tax liability under short term tax planning. Fifth rank is given to by considering research and development cost as another way of reducing tax liability under short term tax planning. Sixth and final rank is given to by considering pollution control cost as another way of reducing tax liability under short term tax planning.

) 60 % of the respondents said that the rebate is o.k. and in fact good in respect of the people and the country. 20% of the respondents think that it should be reduced. They said this taking care of the economy of the

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

) 80% of the respondents said that it is encouraging. The tax charged to the industries situated in remote areas are very much fair and it is quite encouraging for the public of the country as they face many difficulty when the industry will get situated in remote areas. So taking in consideration all those things the tax rate charged to those industries situated in remote areas are very much on the mark. 20% of the respondents believe that nobody is conscious towards that. And the most surprising thing is that those 20% are almost businessmen that means really the people are not very conscious toward that.

) 100% of the respondents said that the loopholes are being enjoyed by the taxpayers of the country. Now it is crystal clear that by enjoying the loopholes taxpayers are saving their tax and it is also clear that there are a lot of loopholes in the Act.

) About 55% of the respondents ranked transferring income to wife or minor child as the no. 1 way used by tax payers for enjoyment of loopholes. Second rank is given to diverging income or assets to lower taxable entities. Third rank is given to paying salaries, benefits and interest to family members. Fourth rank is given to Transferring income and assets to non-resident. Fifth rank is given to forming trust and other philanthropic institution and taking unnecessary advantage.

) 95% of the respondents were positive towards the helping of tax planning in productive investment and 5% of the respondents still think that there is no connection between tax planning and productive investment.

-) Only 20% of the respondents said that yes healthy growth of economy is possible through tax planning. 30% of the respondents pointed out that healthy growth of economy is impossible through tax planning and 50% of the respondents opinion is that healthy growth of economy is helped to some extent through tax planning.
-) 75 % of the respondent said that it is fair enough to providing rebate to industries of remote areas and only 25% of the respondents said that it is not fair every industry should get rebate.
-) 20% of the respondents think that there are a lot of problems in tax planning practice in Nepal. 80% of the respondents said that the policies need to be changed/revived a little to make the planning problem less.
-) 60% of the respondents ranked to encourage the tax payers to pay regular taxes as the no. 1 thing to be done in order to make tax planning more effective. Second priority is given to building awareness about tax planning. Third rank is given to provide knowledge to the people about tax planning. Fourth rank is given to increase the rebate rate a bit more. Fifth and the last rank is given to rebate should also be given to industries located in municipality areas.

CHAPTER –FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Summary

In developing countries like Nepal, lack of sufficient financial resources is the main constraint for national economic development. A lot of fund is required to meet the additional need suffering from capital shortage to accelerate the economic growth. The expenditure of Nepalese government is increasing year by year. To meet the additional capital requirements Nepalese government has been using external and internal resources. Internal resources are preferable for sustainable economic development. Nepal has been unable for proper mobilization of internal resources. Thus, fiscal deficit and resources gap of Nepal have been increasing every year. In Nepalese income tax system was introduced in 1959 (2016). The elected government levied the first income tax and so specific act was made to define and to treat income tax. Since then four income tax acts have been implemented. The present study entitled "Scope of Tax Planning under Income Tax Act 2058 In Nepal" is related to the income tax collection and its efficiency and increment in total collection after the implication of the act.

This study entitled "Scope of Tax Planning under Income Tax Act 2058 In Nepal" is concerned with the provisions and facilities and practice of tax planning in Nepal. This study covers the importance of income tax in government revenue, provisions and facilities i.e. concession rate, excess rate of depreciation facilities etc. for the industrial development, implementation of the act in manufacturing sectors and its impact and Practice of Tax Planning. The basic objective of the study is to identify the scope/areas of Tax Planning under Income Tax Act, 2058. The other objectives are as;

-) To find out how tax planning can help in the healthy growth of economy.
-) To study in what ways the tax payer are saving their earnings by reducing taxliability under Tax Planning.
-) To provide the complete knowledge about the areas provided by income tax act 2058 of Nepal for the tax planning.
-) To provide the comprehensive information to the managers for strategicplanning, project planning and operational planning not by the illegal means but by the legal means and areas provided by the Income Tax act 2058 in Nepal.

To fulfill these objectives the whole study is divided into five main chapters. The firstchapter includes background of the study, statement of problem, objectives of thestudy, significance of the study, limitation of the study and organization of study.

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

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

This fourth chapter deals with presentation and analysis of relevant data informationusing various analytical tools which are essential to analyze and interpret the results.The last chapter states summary, conclusion and

recommendation of the study. This chapter presents the major findings and compares them with the theory and corresponding practice to the extent possible. It also offers several avenues for future research.

5.2 Conclusion

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

In fact, there was discrimination of the government to look after and behave the large and small scale industries. They explained that tax evasion and tax avoidance are made by the tax payers on the support of tax administrators. Even tax administrators do not pay their duties and responsibilities equally. As a result, the norms of the tax law also take advantage of the loopholes and tax evasion behavior of the tax payers.

There is not correct implementation of the tax law in practice for those who make the tax law violated and ignore it for the personal interest. Similarly due to lack of timely administration there is imbalance in the system of tax law. Indeed, we can say that tax concessions, rebates, subsidies, allowances, etc have given priorities to remote, underdeveloped and undeveloped areas. But only such facilities

Cannot promote the industries in those areas until there is infrastructural development like road, bridge, communication, water supply, electricity, market, labor, technology, etc. Few years back government has not made any development program as a result the condition of the industries were going to be worse but now it is quite good. So, the main point is unless there will be balanced development, such tax facilities cannot make stable tax revenue or increase tax revenue or control tax evasion behavior of taxpayer.

5.3 Recommendations

By supporting the all summary and conclusion, we found that scope of tax planning is known by each and every people but the degree of scope depends upon the strategy and plan made by the people. People who earn a lot of income have to reduce their tax liability through different scope provided by the law as by reducing tax liability they can save a huge amount of their income but for those who earn not enough money are not interested to plan for their tax as they will not be able to save a huge amount of money as a result they don't consider the term tax planning in their tax paying habit. There is not proper administration about the implementation of tax planning in Nepal. Only the rules and policies could not be enough for the collection of the correct tax revenues. There should be regular support and supervision of the government so that any problem seen at the time of implementation of tax planning could be easily solved. Indeed, there should be positive support of every aspect for the proper implementation of tax planning in Nepal. In conclusion tax planning has not been implemented according to the theory, practice lacks in many companies and people's tax planning behavior.

An attempt is therefore made here to offer some important suggestions which have emerged from the above study. This study might be helpful for all those who are willing to know about tax planning, and what should be done in order to

generate more tax from the people and firms of the country. Some of the important recommendations merged from this particular thesis are as follows.

-) Illegal business should be controlled
-) Tax law should be made simple to understand
-) Loopholes should be filled
-) Every industry should be given a rebate
-) Provide knowledge to people regarding tax planning
-) Tax payers have to be encouraged
-) Rebate rate should be increased a bit more
-) Tax rate should be reduced
-) Tax administration should be made efficient

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APPENDIX

Questionnaire

Dear Sir/Madam,

This questionnaire is concerned with the research on “**Scope of Tax Planning under Income Tax Act, 2058 in Nepal**”. It would be very much appreciated if you

could spend some of your valuable time for filling this questionnaire. Please either

tick your answer or put in order of preference by ranking the options given from most

to least if there are option more then four.

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

a. Yes ()

b. No ()

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

a. Yes ()

b. No ()

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

a. Yes ()

b. No ()

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

a. Higher income tax rate ()

b. Tax administrative inefficiency ()

c. Widespread illegal business ()

d. High corruption in Nepal ()

e. Poor tax paying habit ()

f. Complicated income tax law ()

g. Political indiscipline ()

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

term tax planning

a. By changing the nature of the business ()

b. By changing the form of organization ()

c. By changing the location of the industry ()

d. By making changes in the capital structure ()

e. By changing the size of the business ()

f. By merging the business ()

6. In what ways are you saving your earnings by reducing tax liability under short

term tax planning ?

a. By taking care of everything while acquisition of assets ()

b. By taking care while deducting repair and improvement cost ()

c. By considering pollution control cost ()

d. By considering research and development cost ()

e. By deducting donation ()

f. By taking good care while making loss recovery ()

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

a. It is OK

b. It should be reduced more

c. It should be increased a little

d. Don't know

8. What do you think about charging less tax to the industries situated in remote areas?

a. It is encouraging

b. It is worthless

c. Nobody is conscious toward that

9. Do you think that the tax payers are enjoying the loopholes of the Act?

a. Yes ()

b. No ()

10. If yes, which of the following methods are used?

a. Diverging income or assets to lower taxable entities ()

b. Paying salaries, benefits and interest to family members ()

c. Transferring income to wife or minor child ()

d. Forming trust and other philanthropic institution and taking unnecessary advantage ()

e. Transferring income and assets to non-resident ()

11. Do you think tax planning helps in productive investment?

a. Yes ()

b. No ()

12. What is your opinion on, "Healthy growth of economy through Tax Planning"?

- a. It is possible
- b. It is impossible
- c. It can help to some extent

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

Areas?

- a. It is fair enough
- b. It is not fair every industry should get rebate

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

- a. Yes, a lot
- b. No, there is not
- c. Need to be changed/revive the policies a little

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

- a. Increase the rebate rate a bit more ()
- b. Rebate should also be given to industries located in municipality areas()
- c. To provide knowledge to the people about Tax Planning ()
- d. To encourage the tax payers to pay regular taxes ()
- e. Building awareness about Tax Planning ()

Name of the respondent: -

Name of the company/office/firm: -

.....Position:-

.....