

Chapter - 1

INTRODUCTION

1.1 General background

Nepal is a small developing country situated in south Asia. The Nepalese economy is poor due to different constraints. But Nepal has its own identity. It is rich in Natural resources. Geographical diversity and natural resources are the property of Nepalese economy. Nepal is being poor due to lack of industrial development and political instability. To raise the national economy we have to establish and run industry rapidly. By knowing this fact the government provides some facilities to the industry by guarantee in Act. In Nepal Income Tax Act 2058 provides some special provisions and facilities to the industry. The industry should adopt these facilities to get maximum return. Tax law provides certain concessions, relates and allowances to tax payers in order to enhance a healthy environment in the country. Tax planning means use of all facilities given by the laws to reduce the tax liability.

The word tax planning is made from the combination of two words 'Tax' and "Planning". Tax means compulsory payment to the government and planning means taking decisions about the future by choosing the best from different alternatives. Every business organization use to plan as regards to may be short term to plan as regards to may be short term or long term planning. If tax factor is considered while planning. If tax factor is considered while planning the business activities of an organization, it is called tax planning.

Planning is the process of settling goals and objectives and translating them in to activities and resources required for the accomplishment within a specified time horizon (Bajracharya Ojha, Goet and Sharma-2004).

Planning is an important feature of all business organization. Planning is necessary for the survival and growth of the company effectively and efficiently. "Planning is necessary for the survival and growth of the company. A formal and systematic managerial process organized by responsibility, time and information to ensure that operational planning, project planning, and strategic planning carried

out regularly to enable top management to direct and control the future enterprise. (Denning Basil, 1971)

Operational planning refers to the future planning of existing operations in existing markets with existing customers project planning includes the generation, appraisal and working out the details of an action outside the scope of existing operations similarly. Strategic planning is the process of formulating long run objectives. Thus corporate tax planning includes operational planning, project planning and strategic planning.

Tax planning is the planning of both the basic structure of the business and industry and its various projects from time to time in day to day activities for the maximization of benefits under the provision of present law of the nation. On the other hand tax planning should not be misused for tax avoidance and tax evasion because they are clearly against the spirit of law. In this way, we can say that tax planning is the art and science of planning the company's operations in such a way as to attract the minimum liability to tax with the help of various concessions, allowances and relief provided for in the tax laws. Indeed the basic purpose of corporate tax planning are to reduce or postpone the overall tax burden in the present and foreseeable future.

In conclusion we can say that tax planning is a systematic and scientific planning of a company operations. It is economic, legal and ethical activity. It is the use of various incentives concessions, allowances, rebates, etc and it is the activity related to the future. There are three board areas of corporate tax planning viz. strategic planning, project planning and operational planning. Tax consideration is required to be given in each of these planning areas is as follows:

Strategic Planning:

Strategic planning is the process of formulating long term objectives on the resources for attaining them. It is related to taking decisions about choice of business location of the company diversification of business, corporate tax structure etc. Tax planning is a strategic decisions it is not only benefit the

company in minimizing tax liability but also contributes to the accomplishment of social and economic objectives.

Project Planning:

Project planning is the performance appraisal and working out of details of an action outside the scope of existing operations such an action is capable of an investment in plant and machinery for making additions modernization or, renovation. Various on going projects of a business are directly or indirectly related with the corporate objectives goals and strategies. when a company is considering a project or programme of any area of project planning, it is necessary to such as investment allowance, Tax law invites companies to available of the benefits and concessions on allowances rehabilitation allowances tax holiday etc must be considered.

Operational planning:

Operational planning is the future planning of existing operation. A company must conclude several operations at given point of time. Before making the operational decisions, tax implication must be carefully situated on the different aspects of operational planning, which includes among others, expenditures to be incurred on affecting repairs and renewals of plant and machinery, product promotion, short term borrowings, personal remuneration etc.

The operational planning, project planning and strategic planning are carried out regularly to enable top management to direct & control the future of a business. These three components of tax planning is to reduces or defer the overall tax burden in the present and foreseeable future.

1.2 Statement of problem

Due to over influences of tax evasion and avoidance, most of the organization has ignored tax planning. People feel trouble some and they become dishonest to show all resources of income. They such different loopholes for the reduction of their tax burden on the other hand, removing tax evasion seems to be

equitable in the situation of Nepal for this purpose, the honest people should be award and dishonest people should be panelized.

The main problem of Nepalese economy is gap between theory and practice. Tax planning is new concept for the entrepreneurs. Nepal Government and government agencies are not serious about tax planning. The thinking of people about tax planning is same as tax evasion and tax avoidance. In conclusion, income tax Act provides various facilities but they are not application in practice. Entrepreneurs are not ready to implementing tax planning in practice. The specific problems in tax planning are as follows.

- a. Relation between theory and practice in tax planning.
- b. Problems related to stable system of tax planning.
- c. Problems in proper measurement of taxable income under tax planning.
- d. Problems of trained manpower for application in tax planning.

1.3 Objectives of the study

The main objective of this study is to find out the knowledge of entrepreneurs about tax planning system in Kathmandu Valley however the following specific objectives are set for the study.

1. To study the concept to tax planning.
2. To analyze the existing problem of income tax Act 2058.
3. To examine the applicability of tax planning in Nepal.
4. To analyze the tax planning practice followed by Nepalese companies.
5. To provide suggestions to Nepalese Companies to use tax planning based on above study.

1.4 Focus of the study.

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

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

This study analyses the tax planning provisions and practice of tax planning in Nepalese context. This study will provide clear idea and knowledge about the tax planning to these persons who are interested to know more about the tax planning, provisions and practice in Nepalese context. This study will focus on practical application of tax planning in Nepalese context. And this study will provide the suggestions and recommendations of different persons to make effectively tax planning techniques.

1.5 Research Methodology

Research methodology is the way to solve about research problem systematically (C.R. Kothri 1990) this study deals with the research design population and sample of data, data collection procedures and tools fro analysis.

Research Design

To conduct the research analytical and descriptive research approach will be adopted the primary data.

Population and sample

Banks, insurance companies, manufacturing companies and trading companies are the total population of this study out of them 12 Banks, 3 insurance companies, 15 manufacturing companies and 30 trading companies are the traded population for the study.

Sources of data

Primary data are collected with in the Kathmandu Valley.

Tools for analysis

To find out the actual result different statistical tools are used to analyses the information.

1.6 Limitation of the study

There are some limitations regarding this study which are as follows.

-) This study is base on availability of reliable data and sufficient literature.
-) This study is based on aspects of income tax Act 2058 and industrial enterprises act 2049.
-) This study is based on corporate tax planning.
-) This study is the point of view of company but not from the point of view of tax authorities.
-) This study based on Kathmandu Valley only.
-) Due to small sample size it may not fully present whole.
-) Limited entrepreneurs are consulted to collect primary data.

1.7 Organization of the study

This study will divide in to five chapters they are:

Introduction

The first chapter deals with background, statement of problem, focus of the study, objectives of the study, research mythology, limitations of the study and chapter scheme.

Literature review

The second chapter deals the review of related literatures and available studies written by different researcher.

Research Methodology

The third chapter "Research methodology" present the methodology used in this study. It deals with research design, nature and sources of data, data processing and methods of data analysis.

Presentation and analysis of data

The fourth chapter fulfills the objectives of the study by presenting the data and analyzing them with the helps of various tools.

Summary conclusion and recommendations

The fifth chapter summaries the whole study moreover it draws the summary conclusion and forwards the recommendation for the improvement of effective tax planning system in Nepal.

Chapter - 2

REVIEW OF LITERATURE

2.1 Meaning and concept of tax planning

Tax planning is the planning of future activities that affect tax with an objective of reducing tax liabilities. The tax law provides certain concessions rebates and allowances to tax payers in order to enhance a healthy environment in the country. Tax planning is to take full advantages of those facilities. Tax planning can be defined as an arrangement of one's financial and economic affairs by taking complete legitimate benefit of all deductions exemptions allowances and rebates, so tax liability reduce to minimum.

Tax planning may be legitimate provided it is within the framework of law. It takes advantages which is provided by law. A tax payer may reduce tax liability by getting rebate concession and allowances. Tax planning is thus defined as a scheme where by the tax payer makes tax law and pays the minimum possible tax. It implies full compliance of all tax laws and meeting the tax obligations. The focus is on taking full advantage of all the tax exemptions rebates deductions and allowances to minimize the tax liability. It is legal, ethical and economic. It is the legitimate device of minimizing tax burden. Tax planning is avoiding tax by availing of various rebates and concessions provided within the fair corners of tax law. (Bhattraï & Koirala).

2.2 Features of tax planning

The features of tax planning are as follows:

1. It is future oriented.
2. It is legitimate device of minimizing tax burden.
3. It is legal, ethical and economic.
4. It is the genuine use of facilities provided in the tax law.

5. It establishes good relationship between government and business community (Bhattraai and Koirala, 2062).

2.3 Different Ways of Minimizing the Tax Liabilities

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

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

2.3.1 Tax Evasion

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

Types of tax evasion

1. Unilater
2. Bilateral
3. Trilateral
4. Multilateral

2.3.2 Tax Avoidance

"Tax avoidance is the art of dodging tax without actually breaking the law. (Srinivas 1989)". In other words, it is a transaction entered into with full legal

backing. However such activities are of those kinds that the legislature does not want to encourage. The following are the criteria used by English Indian court to find out tax avoidance;

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

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

2.3.3 Tax Delinquency

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

2.3.4 Tax Planning

Under tax planning, tax law provides certain concessions, relates, and allowances to taxpayers 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 objectives of

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

2.4 Importance of Tax Planning

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

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

2.5 Tax Management

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

2.6 Scope of Tax Planning under Income Tax Act, 2058

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

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

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

2.6.1. Long Term/Strategic Tax Planning

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

2.6.1.1 Selection of Business

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

2.6.1.2 Selection of the Product

For the proper selection of the nature of the product, the investor should take care of benefits given by the government. The investor in hydropower generation, transmission or distribution and construction of infrastructure project should pay only 20% tax. Similarly, 30% tax for petroleum product. Industries related to tobacco and alcohol should pay tax at 25%. On the other hand, loss

recovery period for BOT (Built and Transfer) and BOOT (Built, Own, Operate and Transfer) project is seven years with carry forward provision, whereas business organizations producing other products have the facilities of carrying forward of loss for four years.

2.6.1.3 Selection of the form of Organization

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

2.6.1.4 Selection of Location.

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

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

A class Area Rs. 30,000/-

B class Area Rs. 24,000/-

C class Area Rs. 18,000/-

D class Area Rs. 12,000/-

E class Area Rs. 6,000/-

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

2.6.1.5 Selection of Sources of Capital

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

2.6.1.6 Size of Business

Size of business can also be used for the purpose of tax planning. If the business house are of those doing business of less than Rs. 12,00,000 or has the annual income of less than Rs. 1,20,000 tax payer are within the area of presumptive taxation. According to Income Tax Act, 2058, such tax payer, should pay Rs. 2,000 as taxation if the business is in metropolitan of sub-metropolitan area. They should pay Rs. 1,500 as tax if they are established in any municipality area and Rs. 1,000 if they are established in area other than metropolitan, sub-metropolitan and municipality. Furthermore, transporters should pay income tax for the income earned by vehicles at the rate of Rs. 1,500 for bus, turck, minibus, minitruck etc. Rs. 1200 for microbus, car, jeep, van etc. Rs. 850 for three wheelers and auto-rickshaw and Rs. 750 for power liter, tractor etc.

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

2.6.1.7 Merging of Business

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

2.6.2 Operational Planning or Short Term Tax Planning

2.6.2.1 Acquisition of Fixed Assets

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

2.6.2.2 Repair and Maintenance Cost

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

maintenance cost due to inflation factor. It means present value of future recovery will be less than the present value of present recovery.

2.6.2.3 Pollution Control Device

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

2.6.2.4 Research and Development Expenses

According to Income Tax Act, 2058, Research and Development expenses are also calculated with the similar process. The limit of allowable expenditure is 50% of the adjusted taxable income and balance is capitalized. This is also helpful or tax planning. Stock Valuation System as per Income Tax Act, 2058 cost of trading stock can be deducted. For the purpose of finding out the value of closing stock cost price or market price whichever is less is allowed. For costing purpose, two methods are allowed by Income Tax Act, 2058. In case of cash accounting system, prime cost method should be adopted whereas in case of accrual accounting system, the absorption cost method is permitted. If cost of stock can not be determined, stock can be valued either in FIFO or Weighted Average Method. From tax angle, weighted average method is more beneficial as it produces lever profit and thereby decreases the tax liability.

2.6.2.5 Donation

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

announced in finance ordinance, 2060, the donation made to Lumbini Development trust do not come within the limit of 5% upto Rs. 50 lakhs can be contributed to there two trusts. A tax can plan the amount of donation to minimize the tax burden.

2.6.2.6 Remuneration of Employee

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

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

2.6.3.1 Remuneration

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

- a) Payment of wages, salary, leave pay, overtime pay, fees, commissions, prizes, gifts, bonuses and other facilities:
- b) Payment of any personal allowance including and cost of living, subsistence, rent, entertainment and transportation allowances.

- c) Payment providing any discharge or reimbursement of costs incurred by the individual or an associate of the individual;
- d) Payment for the agreement to any conditions of the employment;
- e) Payment for the termination or loss of service or compulsory retirement;
- f) Retirement contributions including those paid by the employer to a recognized retirement fund in respect of the employee and retirement payments.
- g) Other payments made in respect of the employment and
- h) Other amounts as perquisites and any gains due to change in tax accounting required to be included.

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

- a) The employer can provide facility either by providing residence to the employee or vehicle facility. However, the employer should consider that 2% of employee's remuneration as per sec 27 of the act and rule 13 (2) of the Income Tax Rules should be included in taxable income. Accordingly, he can provide vehicle facility also to the employee by adding 0.5% of the remuneration of the employee to his taxable income.

Rule 21 of Income Tax Rule, 2059 says that the contribution limit to that retirement fund of a natural person in on financial year can be Rs. 3 lakhs or one third of assessable income whichever is lower.

- b) An employee can save tax through increasing the magnitude of retirement contribution. Income Tax Rule, 2059 has allowed to deduct the remuneration from taxable income.
- c) Ten percent of net profit before tax can be given to the employees as bonus of the employees.
- d) If it is pension income of a resident person, 25% of Rs. 80,000 in case of individual and Rs. 100,000 plus 25% of Rs. 100,000 in case of a couple.
- e) The employer or provide the employee certain amounts of money where final with holding is mad in place of regular amount of salary if the annual

remuneration of the employee attracts 25% of the tax rate. The main reason of doing so is the less tax rate on with holding than on the regular amount of salary.

2.6.3.2 Self-Employment

Self-employment is to conduct earning activity without being engaged to any organized body. In being specific, self-employment denotes doing business on own behalf. It is also known as small scale business. Income Tax Act, 2058 has provided various facilities relating to an individual. A taxpayer as a self-employer can avail these facilities to save his tax liability. Following are some of the area where self-employer can make tax planning.

2.6.3.3 Presumptive Taxation

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

2.6.3.4 Exemption Limit and Progressive Tax Rate

According to Income Tax Act, 2058, proprietorship firms get exemption facility of Rs. 80,000 if owner is individual and Rs. 100,000 if the owner is couple. Progressive tax rate is applicable to proprietorship but fixed tax rate is applicable to a company. Further, progressive tax rate is lower than corporate tax rate.

2.6.3.5 Retirement Contribution

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

2.6.3.6 Capital Structure

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

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

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

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

2.6.3.7 Location of Industrial Set-up

As per the Income Tax Act, 2058, there is scope of tax planning while selecting location of business also. For example, in remote area, an individual can avail up to Rs. 30,000 remote area allowance. Special industries established in

remote, undeveloped, and underdeveloped area should pay only 70%, 75% and 80% of the statutory rate (Sec 11 Sub- Sec. 3) for 10 years. The divisions of different districts of Nepal as given in Industrial Enterprise Act, 2049 are discussed in earlier chapter.

The scope of tax planning is enhanced due to provision of applying different amounts of taxes to firms situated in different types of cities also. Business having up to Rs. 10 lakhs transaction or Rs. one lakh income in Metropolitan city should pay only as 2 thousand as tax. Business of the same nature in sub-metropolitan city should pay Rs. 1500 and business of the same nature in a municipality should pay Rs. 1000 (Annex 1 of the Act).

2.6.3.8 Leasing or Buying

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

2.6.3.9 Timing of Activity

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

saving can be made. There are certain factors which should be considered for the purpose of timing of activities. There are:

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

2.7 Tax Reform in Developing Countries

Beginning of the 1970s, a number of developing countries tried to radically reform their tax systems. What can we learn from these experiences with tax reform? How can any lessons learned be made useful to other countries also on the road to tax reform? The World Bank has studied these questions for several years now, and found the fruits of this research. The goal of tax reform project has been to obtain a better understanding of how developing countries can improve the performance of their tax systems. As the world bank has become increasingly active in structural adjustment and other policy based lending in developing countries, growing demands have been placed on it to suggest, and sometimes the experience of eight developing countries that have undergone, and in some instances are still undergoing, significant and comprehensive tax reform. Equal attention has been given to the process of tax reform, how it is implemented, and the substance or results of reform efforts. Throughout, the focus is a practical rather than theoretical aspect of tax reform. He has said following views.

2.8 Constraints on Tax reform

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

Corporate tax design encounters different kind of tradeoffs. Unless a developing country aligns its nominal corporate tax rate with those found in industrial countries large portions of its corporate tax base may be shifted to lower tax rate jurisdictions. At the other extreme, efforts to stimulate investment by reducing nominal (and effective) tax rate may be frustrated by foreign tax credit mechanisms which translate host country tax relief into trial cash flow business tax may in our the risk of being deemed non-creditable in those capital-exporting countries that offer a foreign tax credit to their multinationals.

2.9 Process of Tax Reform

It is one thing to devise a model blueprint for tax reform, it is quite another to have it ready when the moment is ripe for reform and to apply it successfully. A number of the country studies illuminate the important steps that should guide the reform process. It is important, for example, to have the appropriate policy measures "on the shelf" before a fiscal crisis strikes in order to forestall the adoption of ill advised tax reforms. Successful tax reform efforts also require detailed knowledge of the defects of the current system, especially a sense of who pays taxes at his industry, firm, and household level, as well as feeling for 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 reforms always invest in better tax administration, in the end reformed measures must be compatible with existing tax administration capacities and tax planning.

2.10 Review Related Thesis

Though there is not enough thesis relating to the title, I have tried to collect some more information throughout the following thesis:

Corporate Tax Planning in Nepal (Ph.D. Thesis, 1997)

Poudel, Karna Beer, Kshatry in his thesis has tried to make an overview and conclusion supporting to the objectives, research methodology, findings and suggestions as follows:

I. Objectives:

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

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

II. Scope and Methodology:

As stated earlier, this study examines tax implications in strategic planning, project planning and operational planning by companies in Nepal. The study also outline tax planning practices in decisions relating to these three aspects of corporate planning.

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

III Findings

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

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

IV Suggestions

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

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

Tax Evasion in Nepal (Siwakoti C., 1987)

Siwakoti explained about the tax evasion behavior of taxpayers. People in developing countries like Nepal tend to greater propensity to evade taxes. Lack of proper measurement of tax assessment, Nepal is facing the problem tax evasion. Because of this, resources have not been mobilized efficiently and resource gap is increasing each year in Nepal Public Finance. He has mentioned the following objectives and methodology for specific findings and recommendations.

I Objectives

- i) To analyze the structure of income tax in Nepal.
- ii) To examine the income tax evasion tendency in Nepal.
- iii) To estimate the volume of income tax evasion in Nepal.
- iv) To draw suggestion for the elimination of income tax evasion in Nepal.

II Methodology

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

III Findings

Following are the major findings of the study:

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

Puspa Raj Kandel (March, 2000) has presented the P.h.d. thesis entitled "*corporate tax system and investment behavior in Nepal*". He undertook the reserve work to find out the problems relating to corporate tax which blocks the

development of private investments. The main objectives of his study were to evaluate the corporate tax system in general, to examine the sensitivity of certain policy like inflation, capital gain, dividend tax and interest tax tec. based on their impact on tax burden.

Kakari, Bidur (2005) in his thesis "*Theory and practice of Tax Planning in Nepal*" has tried to make an overview and conclusion supporting to the objectives, research methodology and findings as follows:

Objectives

- i. To analyze the existing problems of income Tax Act, 2058 with respect to language, section, training and administration.
- ii. To study the concept of tax planning.
- iii. To examine the application of tax planning in Nepal.
- iv. To study the gap between theory and practice of tax planning in Nepal.
- v. To analyze the tax planning practices followed by Nepalese companies.
- vi. To provide suggestions to Nepalese companies/ business houses to use tax planning based on the above study.

Methodology

This study is concerned with the tax planning in Nepal. It is the study of corporate tax planning based on the information collected from 20 trading companies and 20 production and fertilization companies. This study also includes 5 finance company and 5 insurance companies.

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

Findings

Following are the major findings of the study:

1. Existing nature of taxable revenue in Nepal has still been in poor condition. It means that Income Tax 2058 has not been able to collect enough revenue according to the plan made on theory.
2. In fact, the concept of tax planning is technical analytical comparative and strategic to use in practical lives. So, the performance of tax planning depends on the skill, knowledge and experience of the manpower.
3. Even though taxpayers have accepted the application of the planning in Nepal, the tax payers have not been regular for the proper utilization of tax planning.
4. There is a vast gap between theory and practice of tax planning in Nepal. No work could be implemented recording to plan and polices.
5. All of the company follow tax planning in respect of all the Field study of their activities like operational planning, strategic planning and project planning. Otherwise, they could not develop their lives.

Suggestions

Tax rate should be different for resident and non-resident companies like India, Germany, Belgium etc. and foreign companies are taxed at a higher rate than domestic companies.

1. Use of best judgment assessment (BTA) should be effective by tax officers.
2. Export oriented industrial companies should be entitled to partial exemption of export earning.
3. Tax rebates to Non-industrial companies' set-up in industrially background areas.

It is suggested that there should not be discrimination on the name of tax liability.

Rames Sigdal has presented a thesis entitled "*A study on Income Tax Management in Nepal*" in 2005. In his research work he has tried to identify the

current situation of income tax management in Nepal. he has analyzed the ratio of income tax to total revenue of Nepal. he further mentioned that the ratio of income tax to total revenue is not satisfactory. And he recommends that the administration should try to increase effective public participation to minimize the income tax evasion. According to him applying the following suggestions income tax evasion can be minimized.

-) Increase the administrative efforts.
-) Enforce heavy fines and penalties.
-) Enforce to maintain proper accounts.
-) Minimize illegal business activates.
-) Revenue department should also manage properly to carry out the spying activities to find out the income tax evader. It should be coordinated with special police force and revenue investigation center.

2.11 Research gap

Tax planning is the process of selecting good and objectives and translating them in to activities and resource required for the accomplishment within a specified time horizon. It plays important role in saving profit in an organization the tax planning practice is developing in our country. If tax planning is efftely use in practice it provides benefits to the tax payers as well as governments also. About the tax planning there are many research all of them finds the different contusions about the tax planning. This study is tries to find out the tax planning practice in Nepalese business organization. The different between this research and other is that this research is done actually in field survey and it tries to find out the actual result which its not found other research.

Chapter - 3

RESEARCH METHODOLOGY

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

This study is mainly concentrated on the practical application of tax planning in Kathmandu valley. Research methodology, therefore, is designed and implemented to study about the sources causes and methods of tax planning. The structural analysis of the government revenue, income tax, tax evasion, tax avoidance, exemption limits, concessions, rebates and tax payment behavior of the taxpayers. For the achievement of the objectives, the research methodology has been designed including research design, population and sample, nature and sources of data and procedures 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 the opinion, experience and performance of the respondents. This study, therefore, follows descriptive, analytical, true experimental and field study, research design in order to obtain the required information, data and opinion. Research design, thus, is the overall 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, field visit, and mailing information of the respondents.

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 universe. Sample study, therefore, has been done through 60 respondents of following nature of the companies in the table;

Table no. 3.1
List of Sample Companies

S.N.	Nature of companies	Number
1.	Banks	12
2.	Insurance companies	3
3.	Manufacturing Companies	15
4.	Trading companies	30
	Total	60

3.4 Procedures of Data Collection

A set of questionnaire related to the objectives of the study had been prepared for 60 respondent companies each. Some questionnaires were sent asked through direct visit and some through fax to the respondent companies. Similarly, some additional information was also collected through interview and personal meeting with the respondents.

3.5 Procedures of Data Presentation and Analysis

The result o each and every question out of the questionnaire was submitted respectively. Similarly, they were ranked and planned in order by editing and coding. The views of the respondents about the questions were presented in respective order so that the analysis was fully based on the respondents. The cumulative result of each question was described in the form of respondent

language. The main priority was 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 summary.

Chapter - 4

Date Presentation & Analysis

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

This chapter introduces the 60 sample units of government companies and private companies relating to various sectors like production, finance, investment trade and commerce about the tax planning behavior.

4.1 Sample Analysis Measurement

This measurement deals with the results obtained from various sectors of the companies. It explains about the view and specific conclusion of the companies. The samples of 60 companies were observed with the help of questionnaires and personal interview for the following results.

4.1.1 Information about the Company

Out of 60 sample companies, there were 12 banks, 3 insurance companies, 15 manufacturing companies and 30 trading companies. Most of them are private companies. Tax planning is then main subject matter of private companies because the government companies feel less responsibility about this matter. These all companies were located in Kathmandu, Bhaktapur and Lalitpur except some companies from Morang and Sunsari.

4.2 Empirical Studies

There have been various empirical studies the tax planning in Nepal. The tax planning is about the favour of business communities and government also encourages about it. So to get maximum benefit of business community and to

payment of less tax liability to the government the business organization should reduce their tax liabilities by using tax planning tools in practice. So to find out the tax planning practice in Nepalese context an empirical study is done to know the views of business community about tax planning on different aspect.

For the purpose of survey different questionnaire were prepared to know the opinion of the various persons of different field including of banks. Insurance companies manufacturing companies and trading companies. The sample for this survey is taken only from different field given in table below.

Table no. 4.1
Sample size of field survey

S.N.	Respondents	Sample size	Percentage
1.	Banks	12	20
2.	Insurance Co.	3	5
3.	Manufacturing Co.	15	25
4.	Trading Co.	30	50
	Total	60	100

Source : estimated figure.

Out of total respondents 40 respondents were accountants, 10 were proprietors 8 were managers and 2 of them were auditors most of them had at least three years of experiences in taxation field. They filled the questionnaires by personal accounts. Some of them explained that the questionnaires were difficult to understand in English language. For the proper solution I translate the questionnaire in Nepali language to make them understand. Some of them felt boring at the first visit, some of them ignored to fill up the correct information. Most of them said that the questionnaires were very long and time consuming so I had to request to fill the questionnaire for the proper solution of the study.

The result and interpretation of this survey is presenting below.

4.2.1 Familiar with tax planning

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

Table no. 4.2

Familiarities with tax planning

S.N.	Respondents	Yes		No		Total	
		No	%	No	%	No	%
1.	Banks	12	100	-	-	12	20
2.	Insurance	3	100	-	-	3	5
3.	Manufacturing Co.	12	80	3	20	15	25
4.	Trading Co.	24	80	6	20	30	50

Source: Field survey 2009.

From the field survey 100% respondents from banks and insurance companies have knowledge about tax planning where as 20% respondents of manufacturing companies and trading companies have no Idea about tax planning on the other hand those respondents who are familiar with the concept of tax planning replied that they utilized every benefits provided by the government in terms of tax planning. Mainly the large industries used to follow tax planning. They used to audit their statements internally and externally by the experts auditors. They compared tax liabilities at every type of taxable works regarding the facilities given by the tax law. So they are very careful about tax planning. Through there was system of tax planning they are not completely utilizing the tax planning in some extent because of confusing tax law.

20% of manufacturing companies and traders have not familiar about tax planning. They were in confusion that tax planning was proper utilization of revenue by the government. They use to take advantages of the facilities provided by current law partially lack proper knowledge about tax planning. So they use some advantages as facilities given by the government but not as the form of tax planning. According to their view, it was found that they tries to minimize tax liabilities by collecting benefits as less as possible from the customer. They express their views on the favour of customer satisfactions. Indeed they said that they cheat the government but benefits to the customer by charging law price.

4.2.2 Application of tax planning

This question is asked only those business men and companies who are familiar about the tax planning. The survey result is presented below.

Table no. 4.3
Application of tax planning

S.N.	Respondents	Yes		No		Total	
		No	%	No	%	No	%
1.	Banks	12	100	-	-	12	20
2.	Insurance Co.	3	100	-	-	3	50
3.	Manufacturing Co.	9	60	6	40	9	25
4.	Trading Co.	18	60	12	40	18	50

Source: Field survey 2009

From the above table, it is found that 100% respondents from bank and insurance companies are apply tax planning in practice. 60% manufacturing co. and trading companies are apply the tax planning in their organization. Out of them 40% manufacturing companies and trading companies are not apply the tax planning in their business organization. They said that different answers about not application of tax planning in their organization which is shown in next table. Those companies who are apply the tax planning in practice they are not fully use the tax planning tools which are provided by the Act, because of different difficulties. These difficulties are hard to follow the method of tax planning lack of proper knowledge about it lack of qualified manpower easy to take advantages of loopholes in tax laws etc.

4.2.3 Reasons for not application of tax planning

This question is asked all the respondents because those business organization who applied tax planning are not adequate apply in their organization

and who are not apply the tax planning why don't they apply. The result is presented in the following table.

Table no. 4.4

Reasons for not application of tax planning

S.N.	Reasons	Respondents	
		No	%
1.	Hard to follow the method of tax planning	18	30
2.	Idea and concept of tax planning are not clear	15	25
3.	It is easy to take advantages of loopholes in tax law	3	5
4.	Lack of qualified manpower	12	20
5.	Other reasons	12	20
	Total	60	100

Source: Field survey 2009

30% of the total respondents said that tax planning is very hard process to use deductible expenses chargeable to current year profit & loss account are confusing jobs.

25% of total respondent replied that idea and concept of tax planning are not clear. They said that depreciable assets have been defined according to pool A, B, C, D, E but there were other assets like advertisement board, vehicles used for construction to public natures and capital nature which have not been clearly classified in to different groups.

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

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

5% of total respondents of the total respondents says that tax payers take advantages of the loopholes. It is the art of doing tax without breaking the law. Without resorting to illegal ways, they effect reduction in tax liability.

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

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

20% of total respondents showed their concern towards lacking of qualified manpower for tax planning. The reason give by them clearly indicate that the provisions of tax law are instable or they are being changed according to government policy. Lack of clear concept and stability of tax law the qualified manpower cannot be developed on the other hand there is no certain idea among the experts about tax planning which made confusing to the available manpower.

20% respondent said that tax planning is not possible in practical field because of concern and non concern person plays the barrier role in tax planning political situation effects in the location decision of industrial set up lack of infrastructure developed the location decision is not better.

So tax planning was still in practice in our country. Lack of stable law clear concept and qualified manpower are problems in practical application of tax planning.

4.2.4 Extent of tax planning applied

To know the extent of tax planning in step among the respondents a question asked to what extent tax planning has been applied in your company. The result of application of tax planning has been presented in the following table.

Table no. 4.5
Application of tax planning

S.N.	Options Respondents	Very little		Moderate		As much as possible		Total	
		No	%	No	%	No	%	No	%
1.	Banks	-	-	6	50	6	50	12	20
2.	Insurance Co.	-	-	-	-	3	100	3	5
3.	Manufacturing Co.	5	33.33	5	33.33	5	33.33	15	25
4.	Trading Co.	9	30	9	30	12	40	30	50

Source: Field survey 2009

33.33% respondents manufacturing companies and 30% trading companies said that they have applied tax planning very little, because they viewed that they have to adjust their express systematically to reduce tax liability under tax planning. But such adjustments of express were observed under supervision by the tax administrators. Some express had to be made even for tax planning but they claimed that they need to pay money either as expenses like donation or as tax. From the above analysis it is clear that the respondents do not know the true concept of tax planning. They have preferred tax avoidance to tax planning to reduce tax.

50% respondents banks, 33.33% respondents from manufacturing companies and 30% respondents from trading companies view that they applied tax planning in an average. They claimed that they have not increased the expenses like donation, pollution control cost research and development cost life insurance, medical expanses etc as tax reducing device rather they try to minimize their unnecessary expenses. They attempted to pay their tax payable to the government

without cheating. They want to make health growth of economy and stability of economy by paying taxes without violating.

50% respondents banks, 100% respondents from insurance companies 33.33% respondents manufacturing companies and 40% respondents from trading companies said that they apply tax planning as much as possible. They claimed that tax planning is the facilities given to them by the government so they have taken the advantages of tax planning. They claimed that they usually assess their profit with tax reducing tools to know whether tax liability could be reduce by using such tools.

4.2.5 Availability of the maximum possible exemption, concessions and rebates

To find out the answer of does your company avail of the maximum possible exemptions concession and rebates etc? Question asked in different persons the result of the survey is shown in table below.

Table no. 4.6

Availiability of maximum possible exemption concessions, rebates etc

S.N.	Respondents	Very little		Moderate		As much as possible		Total	
		No	%	No	%	No	%	No	%
1.	Banks	-	-	6	50	6	50	12	20
2.	Insurance Co.	-	-	1	33.33	2	67.67	3	5
3.	Manufacturing Co.	3	20	6	40	6	40	15	25
4.	Trading Co.	6	20	12	40	12	40	30	50

Source: Field survey 2009

20% respondents from manufacturing company and trading company said that they take advantages of the maximum possible exempting concession rebates etc very little because of no clear concept and idea of tax planning.

50% from bank, 33.33% from insurance and 40% from manutace trading respondents said that their companies avail of modernate possible exemption concession, rebates etc. They do not search loopholes but had followed according to the current tax law. Sometimes they have to consider about such facilities for doing any operational strategic and project work. But they do not only for such facilities. They always work for the betterment of the customer satisfaction.

50% respondents from Banks, 67.67% respondents from insurance companies and 40% respondents from manufacturing companies focus to utilize all the possible concession rebates exemption etc. But they do not cheat the government because they are most. Their all the responsible work should be guided on the competitive study of the tax. They are profitable motive origination so they had to select the beneficial aspect on their lives.

4.2.6 Views about suitability of tax planning to reduce tax liability

To find out the opinion on suitability of tax planning for minimizing tax liability the question asked different groups the result and their interpretation is given in the following table.

Table no. 4.7

Suitability of tax planning for minimizing tax liability

S.N.	Respondent	Yes		No		Total	
		No	%	No	%	No	%
1.	Banks	12	100	-	-	12	20
2.	Insurance Co.	3	100	-	-	3	5
3.	Manufacturing Co.	10	67.67	5	33.33	15	25
4.	Trading Co.	20	67.67	10	33.33	30	50

Source: Field survey 2009

100% respondents from banks and insurance componies, viewed and 67.67% respondents viewed that tax planning is suitable for minimizing tax

liability. They explained that concept and principal of tax planning is good but it depends on in practice in our country.

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

33.33% of respondents from trading and manufacturing companies viewed that the tax planning is not suitable for minimizing tax liability because most of the people have not understood concept and idea about tax planning. So they are wrongly accepting tax planning. Tax planning has provided rebates concessions and deduction for different locations industry etc. but only such facilities could not win the motivation of the respondents. They need good training stable facilities, securities and special supports of the government. So it is very vast and critical to get such facilities by the tax payers. They have not got moral support for tax planning.

4.2.7 Views on applicability of tax planning in Nepal

To get the information about applicability of tax planning in Nepal, the question was asked among the different respondents. The result of findings is presented in the following tables.

Table no. 4.8

Applicability of tax planning in Nepal

S.N.	Respondents	Yes		No		No idea		Total	
		No	%	No	%	No	%	No	%
1.	Banks	12	100	-	-	-	-	12	20

2.	Insurance Co.	3	100	-	-	-	-	3	5
3.	Manufacturing Co.	6	40	6	40	3	20	15	25
4.	Trading Co.	12	40	15	50	3	10	30	50

Source: Field survey 2009

100% respondents from banks and insurance co. and 40% respondents from manufacturing companies and trading companies accepted the tax planning is being applicable in Nepal. Every tax payers wants to minimize his/ her tax liability by utilizing the maximum facilities of the tax law. Only the tax planning has been applicable obtaining such purpose. So they try to make strategic planning project planning and operational planning by considering the facilities of tax planning, tax planning has been reduced the over burden of the tax payers. Those who have to pay maximum tax can take advantage of tax planning. But small earner group do not think about tax planning because their earning is equal to or less than exemption limit.

40% respondents from manufacturing companies and 50% respondents from trading companies are told that tax planning is not being applicable in Nepal. Most of the taxpayers have not understood about tax planning because it has vast concept and idea. There are various eriteria that should be fulfilled for tax planning. A tax payer can not easily. Co-operate with this eriteria on the other hand some tax payers have habit of tax evasion and tax avoidance which they feel easy due to weak tax administration.

20% respondents from manufacturing companies and 10% respondents from trading companies said that they are unknown about tax planning. So they viewed that they are unknown about applicability of tax planning in Nepal.

4.2.8 Views on misuse of tax planning as tax evasion and tax avoidance.

To find out the opinion of misuse of tax planning as tax evasion and tax avoidance the question asked different groups the result of this question has been presented following.

Table no. 4.9

Misuse of tax planning as tax evasion and tax avoidance

S.N.	Respondents	Yes		No		No Idea		Total	
		No.	%	No	%	No	%	No	%
1.	Banks	6	50	6	50	-	-	12	20
2.	Insurance Co.	2	66.67	1	33.33	-	-	3	5
3.	Manufacturing Co.	5	20	10	40	10	40	15	25
4.	Trading Co.	10	33.33	10	33.33	10	33.33	30	50

Source: Field survey 2009

50% respondents from banks, 66.67% respondents from insurance co. 20% respondents from trading company and 33% respondents from manufacturing company told that tax planning is being misused as tax evasion and tax avoidance in Nepal. There is weak tax administration in Nepal so that tax payer can easily take advantages of the government. Most of the taxpayers always show either nil tax liability or less tax liability. There is not deep investigation about tax liability. As a result, they think about tax avoidance and tax evasion. On the other hand, the tax act has encouraged self-assessment so that they can take their real liabilities easily for less tax statement. They also complained that the facilities of tax planning have to be increased with moral support of the government. Similarly, only self-assessment should not be accepted for tax assessment. There should be regular investigation on every self assessment.

50% respondents from banks, 33.33% respondents from insurance companies 40% respondents from manufacturing company and 33.33% from trading company said that tax planning is not being misused as tax evasion and tax avoidance in Nepal. Tax evasion and tax avoidance are another case of reducing tax liability. Rare taxpayers follow tax evasion because of heavy punishment by the government on tax evasion. So, they can not easily encourage themselves for tax evasion. On the other hand, tax avoidance is the taking advantage of loopholes in the tax law. The government has to pay attention on the tax avoidance and improve the tax paying behavior of people. It can not be said that tax avoidance and tax evasion people do not follow tax planning. So, they apply tax planning and tax avoidance together because both are legal. Because of unclear concept, idea

and heavy load of the tax, taxpayer try to take advantage of the loopholes and tax planning for reducing tax liability.

40% responders from manufacturing company and 33.33% respondent from trading company said that they have no any evidence and experience about tax planning of being misused as tax evasion and avoidance in Nepal. They claimed that they are regular and responsible for their tax liabilities. They do not try to take advantage of loopholes except tax planning. They do not analyze any other organization about their frauds and errors. They always believe on their own duties. They do not like to loose their dignity even for short term benefits. They have not got any research about misused of tax planning. Instead, they said that most of the tax payers are unable to file their tax liabilities by utilizing the benefits of tax planning. They need enough training and examples about tax planning.

4.2.9 Views about reducing tax liability

The ways of reducing tax liability have been presented in the following table.

Table no. 4.10

Views on reducing tax liability

S.N.	Strategies	No. of Respondents	% of Respondents
1.	By taking advantage of loopholes	6	10
2.	By availing tax concessions, incentives, allowances, rebates and relief provided by existing tax law	54	90
3.	By over statement of expenses and understatement of incomes	0	0
4.	If any (please specify)	0	0
	Total	60	100

10% of the total respondents said that they reduce tax liabilities by taking advantages of both loopholes and facilities provided in the tax law. They mean to say that loopholes are the weakness of the tax law which the government should avoid by proper tax administration. To take advantage of the loopholes in the tax are not illegal. So, the taxpayers always try to do such work for reducing their tax burden. They use not only loopholes but also tax planning. Indeed, they do not search only loopholes in the tax law but in some cases where they get easily to take advantage of loopholes in the tax law. Most of the time, they use facilities provided by the tax law in their practical assessment purpose of the tax liability.

90% of the respondents accepted that they reduce their tax liabilities by availing tax concessions, incentives, allowances, rebates and relief provided by existing tax law except two of them also added that they take advantage of loopholes in the tax law. In each step of their work, they consider the value and chances of concession, incentives, allowances, rebates and relief because these are very helpful for reducing their tax burden. They told that these facilities are very much essential for the proper utilization and mobilization of resources and development. They are liable for their duties using these facilities. These all facilities have been made for equal opportunities in each part of the country. They claimed that they do not search any weak points in the tax law to take advantage. They are always responsible for their long term duties. So, they accepted to avail tax concessions, incentives, allowances, rebates and relief for reducing their tax liabilities.

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

4.2.10 Views on tools of assessment use for submitting tax liabilities.

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

Table no. 4.11

Views on tools of assessment use for submitting tax liabilities.

S.N.	Respondents	Self assessment		Jeopardy assessment		Amended assessment		Total	
		No	%	No	%	No	%	No	%
1.	Banks	12	100	-	-	-	-	12	20
2.	Insurance Co.	3	100	-	-	-	-	3	5
3.	Manufacturing Co.	15	100	-	-	-	-	15	25
4.	Trading Co.	30	100	-	-	-	-	30	50

Source: Field survey 2009

100% of the respondents accepted that they use self-assessment for submitting the tax liabilities because the income tax act 2058 has focused the self assessment system. Under this act, every assessment is treated as self assessment. When they file a return of income for an income year, an assessment is treated as made on self-assessment. They always use to submit their tax liabilities by taking advantage of concessions, rebates, relief, incentives, and allowances provided by the tax law. These were the facilities they could follow under self-assessment. There are various levels of fine and penal lies for those who violate the rules of the tax law. So, they never take advantage of self-assessment.

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

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

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

None of the respondents told that they use amended assessment for submitting tax liabilities because they are regular taxpayer and never cheat to the

government. So, there is not any doubt that tax officials have to make amended assessment to adjust their liabilities to tax in such a manner as, according to the Department's best judgment. While amending an assessment, the Department is required to grant an opportunity in writing to produce proof, if any, in own favour with respect to the assessment specifying the basis that leads to the amendment and giving a time limit of 15 days.

4.2.11 Views on about the tax exemptions, rebates, deductions and concessions granted under the existing tax law adequate

The result of the tax exemption, rebates, deductions and concessions granted to the company under the presented in the following table.

Table no. 4.12

View on the tax exemptions rebates deductions and concessions granted to the company under the existing tax law ade.quate or not.

S.N.	Respondents	Yes		No		No Idea		Total	
		No	%	No	%	No	%	No	%
1.	Banks	12	100	-	-	-	-	12	20
2.	Insurance Co.	3	100	-	-	-	-	3	5
3.	Manufacturing Co.	6	40	6	40	3	20	15	25
4.	Trading Co.	15	50	9	30	6	20	30	50

Source: Field survey 2009

100% respondents from banks and insurance company and 40% respondents from manufacturing company and 50% respondents from trading companies accept that the tax exemptions, rebates, deductions and concessions granted to the company under the existing tax law are adequate. Only the important point of them is that they can feel more difficulties to understand the sections and subsections of the act. It is very vast in language and they get

confusion about it. Such types of facilities have made them successful in every step of their business lives. On the other hand, they can legally reduce their tax burden with the help of tax planning. They always claim their facilities provided by the Act in different ways of project planning, operational planning and strategic planning. Though the company has been provided such facilities, they felt difficulties in planning their resources on the case of minimum tax liabilities.

40% respondents from manufacturing companies and 30% respondents from trading co. viewed that the tax exemptions, rebates, deductions and concessions granted to the company under the existing tax law are not adequate because the amount of rebates, concessions etc should be given in descending order according to time period. The newly established company should face various problems in strategic planning, project planning and operational planning. So, they must be provided maximum incentives, rebates, concessions etc in the beginning and reducing in the years to come. In addition, they said that only such types of facilities can not play a great role in the development of the company, they need security, moral support, technical support, financial support, feasibility development etc. by the government. They claimed that the government in Nepal has made systematic policy and laws aristocratically but the practical is more different. So, such types of supportive activities should be maintained to make such exemption, rebates, deductions and concessions adequate. They also suggested that the amount of rebate, deduction, exemption and concession should be increased. Similarly the period of carry forward should be extended. One respondent also added that the facilities of carry back ward to all the organization should be equally provided.

20% respondent from trading companies and manufacturing companies stated that they are unknown about the tax exemption, rebate, deduction and concession granted to the company either adequate or not. They claimed that the more such facilities given the more they expect. So, they can not limit these are adequate or not. It depends on the nature of the company. They are using such

facilities for reducing their tax liabilities but they are undecided about adequate or not.

4.2.12 Views on satisfaction of tax planning in respect of strategic planning

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

Table no. 4.13

Views on satisfaction of tax planning in respect of strategic planning

S.N.	Respondents	Satisfied		Dissatisfied		Total	
		No	%	No	%	No	%
1.	Banks	12	100	-	-	12	20
2.	Insurance Co.	3	100	-	-		
3.	Manufacturing Co.	9	60	6	40	15	25
4.	Trading Co.	18	60	12	40	30	50

Source: Field survey 2009

100% respondents from banks and insurance companies and 60% respondents from trading and manufacturing companies said that they are satisfied with the tax planning in respect of strategic planning because they always consider about their future activities so that they can easily be successful in their attempts. At every aspect they use to make such strategy so that they can minimize their tax liability. So, they claimed that they make strategy for the implementation of their policies and techniques that are related to reducing tax liabilities according to tax planning.

60% respondents from manufacturing and trading companies claimed that they are not satisfied with tax planning in respect of strategic planning because there are not enough facilities of tax planning in respect of strategic planning. Strategic planning is the process of determining the basic objectives of an

organization and deciding the strategies and policies to achieve these objectives. It is the formulation of future direction aimed at relating the strategic advantages of a company to cope up with its environment.

4.2.13 Views on satisfaction of tax planning with respect of project planning

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

Table no. 4.14

Views on satisfaction of tax planning with respect of project planning

S.N.	Respondents	Satisfied		Dissatisfied		Total	
		No	%	No	%	No	%
1.	Banks	9	75	3	25	12	20
2.	Insurance Co.	3	100	-	-	3	5
3.	Manufacturing Co.	9	60	6	40	15	25
4.	Trading Co.	18	60	12	40	30	50

Source: Field survey 2009

75% respondents from banks, 100% respondents from insurance companies and 60% respondents from manufacturing and trading companies said that they are satisfied with the tax planning in respect of project planning. Because there are facilities of tax planning in respect of expansion and diversification of business, make or by decision, acquisition of fixed assets, disposal of fixed assets, modernization, replacement, repairs and renewal of existing assets and so on. They can compare at every decisional segments of the project planning. They can utilize these facilities for reducing their tax liabilities. On the other hand, they claimed that there should be transparent facilities and recognition of tax concept and idea.

25% respondents from banks and 40% respondents from manufacturing companies and trading companies accepted that they are not satisfied with the tax planning in respect of project planning because the maximum planning facilities have been provided only to the manufacturing company and sole business organization. But the other company and partnership organization can not utilize or enjoy such facilities. Similarly, interest is deductible in case of funds where as

dividend does not enjoy this benefits. Individual working in remote area A, B, C and D group has provision of remote area allowances. They mean to say that tax planning is not satisfied in respect of project planning.

4.2.14 View on satisfaction of tax planning with respect of operational planning

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

Table no. 4.15

Views on satisfaction of tax planning with respect of operational planning

S.N.	Respondents	Satisfied		Dissatisfied		Total	
		No	%	No	%	No	%
1.	Banks	9	75	3	25	12	20
2.	Insurance Co.	3	100	-	-	3	5
3.	Manufacturing Co.	9	60	6	40	15	25
4.	Trading Co.	18	60	12	40	30	50

Source: Field survey 2009

75% respondents from banks, 100% respondents from insurance companies and 60% respondents from manufacturing and trading companies claimed that they are satisfied with the tax planning in respect of operational planning. Because the current tax law has provided the facilities on respect of choice of method of accounting, production decision, marketing decision, personnel revenue ration etc. The company can take such facilities as tax planning. For example, if husband and wife, in personnel remuneration, have submitted their taxable income separately to get benefit of exemption limit. The company can decide about the location segment, carry forward of losses, remote area allowances, tax rebates etc for the purpose of operational planning.

25% respondents from banks and 40% respondents from manufacturing and trading companies expressed that they are not satisfied with the tax planning in respect of operational planning. Because the tax under developed, undeveloped and remote area where the infrastructures are rare. So, only such facilities can not solve the problem of tax burden. Mainly in the Kathmandu Valley tax planning has

not been considered as importance. They generally pay their tax with the same amount annually because they are maintaining their standard of operational planning.

4.2.15 Views on satisfaction of tax planning with respect of overall planning

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

Table no. 4.16

Views on satisfaction of tax planning with respects of overall planning

S.N.	Respondents	Satisfied		Dissatisfied		Total	
		No	%	No	%	No	%
1.	Banks	9	75	3	25	12	20
2.	Insurance Co.	3	100	-	-	3	5
3.	Manufacturing Co.	9	60	6	40	15	25
4.	Trading Co.	18	60	12	40	30	50

Source: Field survey 2009

75% respondent from banks, 100% respondents from insurance companies and 60% respondents from manufacturing and trading companies explained that they are satisfied with the tax planning in respect of overall planning. Because they can utilize these facilities of tax planning given for operational planning project planning, and strategic planning as overall planning. They can consider about the tax concession, rebates, deductions and exemption etc. in every field of their business lives. They accepted that such facilities have reduced their tax burden to the some extent. On the other hand, tax planning facilities have encouraged the new investors and industrialists to establish new ventures.

25% respondents from banks and 40% respondents from trading and manufacturing companies explained that they are not satisfied with the tax planning in respect of overall planning because they have to suffer from various

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

4.2.16 Rank wise tax consideration

The following are some of the important factors which are considered while deciding the location of the company. Please rank than in order of their preference from most (1) to least (5) respectively

Number of respondents (24) for the following rank has been presented in the following table.

Table no. 4.17

Rank wise tax consideration of 20 respondents

S.N.	Important Considerations	Ranks
1.	Infrastructural facilities such as transportation, communication, power and water.	1
2.	Proximity to product materials	2
3.	Nearness to product markets	3
4.	Availability of labors in the location of the industry	4
5.	Tax incentives provided by the existing tax law	5

40% of the total respondents ranked the important factors which are considered while deciding the location of the company as above. They gave first priority to the facilities of infrastructure which are very essential for the establishment the business. Transportation, communication, power and water are the basic need of operation and extending marking network.

Second, they said that there must be proximity to product materials. These are the sources of final product. The company must think about the sources of raw material which showed the nature of production. Excellent materials make the excellent products which are excellent in the market. Most of the people believe on quality. Qualities of goods earn long term image or goodwill of the company.

Third, the company should observe the condition of the market whether the product get market or not. The place for selling the product also shows the future of the company. Market size, market attractiveness, market growth rate etc should be pre-observed by the company. Nearness of product market also determined the location of the company.

Fourth, the availability of manpower should also be observed. Without which the organization could not be operated. Therefore, the mobilization of all other resources is done by the manpower. The qualified manpower can produce goods and manage the company systematically and effectively. The company can handle research and development work also for the long term benefit of the company.

Finally, the company should consider about the tax incentives provided by the existing tax law. The company can reduce tax liability with the help of such incentives, rebates, concessions etc while deciding the location of the company. The company must not take tax liability as its major subject. It is their duty to be paid which helps the government for building infrastructures. So, the more income, the more tax will establish their image and moral support. Number of respondents [30] for the following rank has been presented in the following table.

Table no. 4.18

Rank wise tax considerations of thirty respondents

S.N.	Important Considerations	Ranks
1.	Infrastructural facilities such as transportation, communication, power and water.	1
2.	Proximity to product materials.	4

3.	Nearness to product markets.	5
4.	Availability of labors in the location of the industry	2
5.	Tax incentives provided by the existing tax law	3

50% of the respondents accepted that the first priority should be for infrastructural facilities such as transportation, communication, power and water in their planning for location segment.

Second, the claimed that there should be planning of labours availability in the location of the company. They can determine their performance by the quality of the labours.

Third, they explained that they must plan about tax incentives in that sector provided by the existing tax law. They can get more and more support for the upliftment of the remote, underdeveloped and undeveloped areas.

Fourth, they have to see the proximity of getting raw materials. They have to use qualitative material for quality product. What the facilities there are for obtaining raw materials is also their main subject matter.

Finally, they should also observe about their market and proximity to grow the market. It is also the main purpose of location selection of the company. Either the company was near the market area or not. Number of respondents [6] for the following rank has been presented in the following table.

Table no. 4.19

Rank wise tax considerations of ten respondents

S.N.	Important considerations	Ranks
1.	Infrastructural facilities such as transportation, communication, power and water.	3
2.	Proximity to product materials.	4
3.	Nearness to product markets.	5
4.	Availability of labors in the location of the industry	2
5.	Tax incentives provided by the existing tax law	1

10% of the total respondent explained that the first priority should be on tax incentives provided by the existing tax law which encourage for location selection. Tax incentives help for the development of backward areas.

Second, they mentioned about the adequate manpower in the location of the industry. The planning can be made on the basis of manpower. So, they should know about labour market for deciding the location of the company.

Third, they considered about the infrastructural facilities such as transportation, communication, power and water in deciding the location of the company. Generally, tax incentive areas are poor in infrastructures but there should be more and more moral and financial support of the government.

Fourth, they talked about proximity to product material. The condition of materials will decide about the location of the company, what the strength of local resources and future attempt. So, the cost of materials, quality of materials, quantify of materials etc should be observed.

Finally, they explained about the nearness to product markets. There should be deep study about market share, demand, growth rate, attractiveness, marketing policy, promotional activities etc for deciding the location of the company.

4.2.17 Views about tax deduct at sources

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

Table no. 4.20

Views about TDS

S.N.	Respondents	Yes		No		Total	
		No	%	No	%	No	%
1.	Banks	12	100	-	-	12	20
2.	Insurance Co.	3	100	-	-	3	5
3.	Manufacturing Co.	12	80	3	20	15	25

4.	Trading Co.	24	80	6	20	50	50
----	-------------	----	----	---	----	----	----

Source: Field survey 2009

100% respondents from banks and insurance companies and 80% respondents from manufacturing and trading companies said that they deduct tax at source because they have to pay dividends, interest on deposit, debenture, debt certificate, payment of rent to natural person, gain on investment insurance and unapproved retirement fund. Such types of payments should be compulsorily paid after tax at source as per income tax act, 2058.

20% respondents of manufacturing and trading company explained that they do not deduct tax at source because tax at source is not required to be made on the following payment;

-) Payment of interest to a resident bank or other resident financial institution.
-) Payment made by an individual other than in conducting a business of payment of rent for the lease of a building.

4.2.18 Views on maintaining proper books of account

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

Table no. 4.21

Views on maintaining proper books of accounts

S.N.	Respondents	Yes		No		Total	
		No	%	No	%	No	%
1.	Banks	12	100	-	-	12	20
2.	Insurance Co.	3	100	-	-	3	5
3.	Manufacturing Co.	15	100	-	-	15	25
4.	Trading Co.	30	100	-	-	30	50

Source: Field survey 2009

All of the respondents accepted that they maintain proper books of account. They use to record day to day income and expenditures in the prescribed format of

the tax law. They use to submit profit and loss account, Balance Sheet, production related statement, Cash Flow and Income Statement which are declared by Inland Revenue Department.

None of the respondents rejected the proper books of account. They suggested that there must be strict administration about maintaining proper books of account. Some organization used to prepare dual accounting system for tax evasion which harms all the organization. It must be controlled by timely administration and assessment.

4.2.19 Views on regular filing income tax return

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

Table no. 4.22

Views on regular filing income tax return

S.N.	Respondents	Yes		No		Total	
		No	%	No	%	No	%
1.	Banks	12	100	-	-	12	20
2.	Insurance Co.	3	100	-	-	3	5
3.	Manufacturing Co.	15	100	-	-	15	25
4.	Trading Co.	30	100	-	-	30	50

Source: Field survey 2009

All of the respondents said that their company is regular in filing income tax return in time. They mean that they file their income tax statement within three month of fiscal year completion. None of the respondents said that they are not regular in filing income tax return in time. They said that tax is compulsory duty on which they had to pay interest if they pay late. So, they state to submit income tax return in time for timely assessment.

4.2.20 Views on tax paid in time

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

Table no. 4.23

Views on tax paid in time

S.N.	Respondents	Yes		No		Total	
		No	%	No	%	No	%
1.	Banks	12	100	-	-	12	20
2.	Insurance Co.	3	100	-	-	3	5
3.	Manufacturing Co.	15	100	-	-	15	25
4.	Trading Co.	30	100	-	-	30	50

Source: Field survey 2009

100% of the respondents said that they pay I income tax within the prescribed time limit. There are three installment payable by the end of Poush, Chaitra and Ashad.

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

4.2.21 Views about penalties and prosecutions

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

Table no. 4.24

Views about adequate provisions relating to penalties and prosecutions

S.N.	Respondents	Yes		No		Total	
		No	%	No	%	No	%
1.	Banks	6	50	6	50	12	20
2.	Insurance Co.	2	67.67	1	33.33	3	5
3.	Manufacturing Co.	9	60	6	40	15	25
4.	Trading Co.	15	50	15	50	30	50

Source: Field survey 2009

50% respondents from banks 67.67% respondents from insurance companies 60% respondents from manufacturing companies and 50% respondents

from trading companies accepted that the provisions relating to penalties and prosecutions are adequate. In fact, the tax payers should not violate their duties. In case of their misbehavior, Income Tax Act, 2058 has made detailed penal provisions, which are divided into two parts: (i) interest and penalties (ii) offences.

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

50% respondent from banks 33.33% respondents from insurance companies 40% respondents from manufacturing companies and 50% respondents from trading companies said that the provisions relating to penalties and prosecution are not adequate. They claimed that tax payers alone can not play the role of tax evasion and avoidance every time but there support of tax administrators, tax experts and other parties who were responsible to tax. So, there must be clear provision of penalties for each types of tax evasion and supporters. Due to weak tax administration, there is correct evaluation of tax assessment. On the other hand, there must be degree of penalties for every party according to amount, time situation and forgiveness.

4.2.22 Avoidance of tax evasion behaviour

Number of respondents [42] for the following rank has been shown in the following table.

Table no. 4.25

Avoidance of Tax Evasion Behaviour of Nepalese Taxpayers

S.N.	Ways of avoiding tax evasion behavior	Ranks
1.	Educating taxpayers by training	[1]
2.	Simplifying tax laws in terms of language, section, sub-	[2]

	section etc.	
3.	Timely assessment of taxes	[3]
4.	Incentives to regular tax payers	[4]
5.	Fines and penalties	[5]

Source: Field survey 2009

70% of the total respondents explained about such rank. They gave first priority to educate taxpayers by training to avoid tax evasion behavior of them. They said that most of the taxpayers are not qualified about the systematic use of tax facilities provided by tax law. Therefore, they try to tax evasion to minimize their tax burden. They have been given tax planning facilities by the tax law but they could not easily get knowledge about tax planning. They also said that there must be stable tax law and training to each taxpayer so that they can avoid their tax evasion behavior. Only the format and books of tax statement provided by Inland Revenue Department can not be enough for minimizing tax liability by using the facilities of tax planning. There must be training, seminar counseling etc about tax planning and tax management to each taxpayer by the government.

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

Third, they said that tax evasion behavior of Nepalese taxpayers can be avoided by timely assessment of tax. They mean to say that there must be proper evaluation about self-assessment and their account by the tax administrators in a right time, similarly, tax administrators should observe the deviation of taxable income of the tax payers every year and reason of deviation. Such types of

observation warn the taxpayers to submit the correct tax liability in a prescribed time limit.

Fourth, they said that tax evasion behavior of Nepalese taxpayers could be avoided by giving incentives to the regular taxpayers. It means that the regular taxpayers feel of their great prestige and goodwill by the incentives so that others also felt their liability and avoid such evasion behaviour. Incentives encourage them to accept the tax law and submit their correct tax liabilities.

Fifthly, they said that tax evasion behavior of Nepalese tax payers can be avoided by fines and penalties in some extent. Fines and penalties warn them not to cheat about tax liability. They felt themselves to be under control so that they can submit their correct tax liability. Indeed they give least priority to fines and penalties. 12 respondents said the following ways.

Table no. 4.26

Avoidance of tax evasion behavior of Nepalese taxpayers

S.N.	Ways of avoiding tax evasion behavior	Rank
1.	Educating taxpayers by training	2
2.	Simplifying tax laws in terms of language, section, sub-section etc.	1
3.	Timely assessment of taxes	4
4.	Incentives to regular tax payers	3
5.	Fines and penalties	5

Source: Field survey 2009

30% of the total respondents said the above rank according to preference. They gave first priority to simplify tax laws in terms of language, section, sub-section, reference etc. There is not clear and easy view of tax law. All taxpayers can not understand the view of the law. Every section has been explained by the reference of another section which is difficult to link each other.

Second, they said to educate all the taxpayers by training so that they can be certain about such complex section and subsection. Training makes them clear about the tax confusion. There will be systematic and timely assessment of tax statement including tax planning if there is enough training to taxpayers by the tax administrator and resource person.

Third, they added to provide incentives to regular taxpayer so that they will be very happy to submit correct the liability in time. I need they will be in the hope of such incentives to increase their goodwill. So, incentives also pay main role for avoiding tax evasion.

Fourth, they suggested for the timely assessment of taxes to avoid tax evasion behavior, to know how the tax payers present and submit their tax liability. They are regular or not for submitting their tax liability. They submit correct statement their tax liability. They submit correct statement or artificial tax which must be observed time to time. Such types of timely assessment behavior may avoid tax evasion behavior in some extent.

Fifth, they also supported fines and penalties so that tax payers will afraid of evasion behavior. Fines and penalties are for discouraging evasion behavior. According to the nature of tax evasion, they are fined in a regular basis. They have been given tax planning facilities for reducing tax liability. So, fines and penalties discourage evasion and encourage tax planning. 6 respondents said following ways.

Table no. 4.27

Avoidance of tax evasion behavior of Nepalese taxpayers

S.N.	Ways of avoiding tax evasion behavior	Rank
1.	Educating taxpayers by training	2
2.	Simplifying tax laws in terms of language, section, sub-section etc.	1
3.	Timely assessment of taxes	4
4.	Incentives to regular tax payers	3

5.	Fines and penalties	5
----	---------------------	---

Source: Field survey 2009

10% of the total respondents also added that tax evasion behavior of taxpayers can be avoided by simplifying tax laws in terms of language, section, sub-section etc. because such problem of tax has made some taxpayers to violate the tax rules. If the law is simple to understand, they try to get legal ways for minimizing tax burden.

Second, they also supported for educating the tax payers. If every taxpayer is trained by tax administrators in terms of theory and practical aspect, they will easily accept the tax norms. Only the tax expert and qualified readers in tax have understood the law but general people feel more difficulties.

Third, they gave priority to timely assessment, such behavior makes easy for solving any problem occurred. So, the tax administration should support the demand and problem to solve for timely assessment so that tax evasion behavior can be solved.

Fourth, they demanded to provide incentives and other facilities to the regular taxpayers so that he/she would be encouraged for correct assessment in time.

Fifth, they also suggested charging fines and penalties. Otherwise the behavior of tax evasion can not be stopped. If there is any fearless to the taxpayers, they will try to avoid such negative or illegal behavior.

4.2.23 Views about project planning

There are some questions which are asked to the different respondents the answer is presented as the following.

a) *Do you consider tax at the time of expansion and diversification of the business?*

Tax consideration at the time of expansion and diversification of business has been presented in the following table.

Table no. 4.28

Tax consideration at the time of expansion and diversification of business

Options	No. of Respondents	% of Respondents
Yes	48	80
No	12	20
Total	60	100

Source: Field survey 2009

80% of the total respondents told that they use to consider tax at the time of expansion and diversification of the business. They consider tax rebate, concession, incentives etc. Such facilities also encourage them for the expansion and diversification of the business. So they plan of such facilitated area for the expansion of the business. They diversify small business into large scale business. As a result, they would develop economic stability in the country.

20% of the total respondents stated that they consider tax at the time of expansion and diversification of the business. They expand and diversify their business when they are financially strong. So, they do not afraid of paying tax, when they could increase their income.

b) Do you give tax consideration at the time of making or buying decision?

Tax consideration at the time of making or buying decision has been presented in the following table.

Table no. 4.29

Tax consideration at the time of making or buying decision

Options	No. of Respondents	% of Respondents
Yes	54	90
No	6	10
Total	60	100

Source: Field survey 2009

90% of the total respondents said that they give tax consideration at the time of making or buying decision. Through which way, they decrease their tax liabilities with the help of tax planning is their main concern. How long they can pay interest on their loan while making or buying. At that time they observe the tax planning facilities in both decisions.

10% of the total respondents said that they do not give tax consideration at the time of making of buying decision. They said that they have to pay taxes at any cost on both decisions. There is not so more differences on each decision. Wherever they get facilities, they have to face some difficulties like time limit or any agreement. So, they do not give so more tax consideration on both decisions but they give main priority to incomes.

c) Do you give tax consideration at the time of acquisition of fixed assets?

The consideration at the time of acquisition of fixed assets has been presented in the following table.

Table no. 4.30

Tax consideration at the time of acquisition of fixed assets

Options	No. of Respondents	% of Respondents
Yes	60	100
No	0	0
Total	60	100

Source: Field survey 2009

All of the respondents accepted that they give tax consideration at the time of acquisition of fixed assets. They can make tax planning while acquiring fixed assets needed for running their business activities. There are mainly two ways of acquiring fixed assets: leasing and buying. They issue to be considered is cash outflow, tax shield in respect of depreciation, interest payable or lease rent. If assets are acquired through leasing, annual rental change is allowed for deduction. If the assets are purchased, depreciation as well as interest on borrowed loan is

allowed for deduction. So, they said to evaluate both the options before making purchase decision of fixed assets.

None of the respondents said that they do not give tax consideration at the time of acquiring fixed assets. They said to be on the point of maximum incomes from less expenditure. As a result, their after tax incomes will be more.

d) Do you give tax consideration at the time of disposal of fixed assets?

Tax consideration at the time of disposal of fixed assets has been presented in the following table.

Table no. 4.31

Tax consideration at the time of disposal of fixed assets

Options	No. of Respondents	% of Respondents
Yes	48	80
No	12	20
Total	60	100

Source: Field survey 2009

80% of the total respondents explained that they give tax consideration at the time of disposal of fixed assets. They consider about depreciation and capital gain tax when they would sell at more than purchase price. But the Act has not made any specific provision regarding capital gain (loss). As a result, items of similar nature are treated differently. Capital gain except from disposal of business assets of an individual are not brought into tax bracket. In case of other tax payers, capital gains are not allowed for deduction. Such diverse treatment has arisen confusion. Income Tax Act, 2058 has avoided such confusion. The Act has treated depreciable assets, business assets and non-business chargeable assets as capital assets and non-business chargeable assets as capital assets and gains realized from disposal of such assets as capital gain.

20% of the total respondents said that they do not give tax consideration at the time of disposal of fixed assets. They said that they have to sell at less than purchase price which they reduce at the time of calculation of depreciation. They sell at which price they can get but tax consideration is not their main focus.

e) Do you give tax consideration at the time of modernization, replacement, repairs and renewal of existing assets?

Tax consideration at the time of modernization, replacement, repairs and renewal of existing assets has been presented in the following table.

Table no. 4.32

Tax consideration at the time of modernization, replacement, repairs and renewal of existing assets

Options	No. of Respondents	% of Respondents
Yes	54	90
No	6	10
Total	60	100

Source: Field survey 2009

90% of the total respondents said that they give tax consideration at the time of modernization, replacement, repairs and renewal of existing assets because tax facilities would help to reduce their tax liabilities. They can reduce 7% repairs and maintenance cost from their incomes. They search the ways of deductible expenses on the above activities.

10% of the total respondents said that they do not give tax consideration at the time of modernization, replacement, repairs and renewal of existing assets. These are their compulsory work. So, they are concerned only on 7% repairs but do not search other additional alternatives. They keep tax consideration as secondary purpose.

4.2.24 Views about operational planning.

There are some important questionnaire which are asked to the different respondents the answer is presented in the following tables.

a) *Do you give tax consideration at the time of choice of method of accounting?*

Tax consideration at the time of choice of method of accounting has been presented in the following table.

Table no. 4.33

Tax consideration at the time of choice of method of accounting

Options	No. of Respondents	% of Respondents
Yes	42	70
No	18	30
Total	60	100

Source: Field survey 2009

70% of the total respondents said that they give tax consideration at the time of choice of method of accounting. Income Tax Act, 2058 has specified the method of tax accounting in section 22. Subject to this Act, an individual or an entity should keep record of incomes and expenses according to generally accepted accounting principle (GAAP). An individual should record on cash-basis and entity should record on accrual basis. Although a company is required to account on an accrual basis, in respect of banking business the Department may accept accounting policy formulated by Nepal Rastra Bank in accordance with Nepal Rastra Bank Act, 2058 and other prevailing banking Acts.

30% of the total respondents said that they do not give tax consideration at the time of choice of method of accounting. They said that there are compulsory books prescribed by the Act for individual, partnership and company. Either fast or late they have to record tax liabilities in bothe method of accounting ie.e cash basis and accrual basis.

b) Do you give tax consideration at the time of production decision?

Tax consideration at the time of production decision has been presented in the following table.

Table no. 4.34
Tax consideration at the time of production decision

Options	No. of Respondents	% of Respondents
Yes	36	60
No	24	40
Total	60	100

Source: Field survey 2009

60% of the total respondents said that they would give tax consideration at the time of production decision. They try to utilize maximum resources on which they get tax consideration facilities, like remote area allowances, concessions, subsidies etc. on their production function. Manufacturing industry as categorized in section (3) of Industrial Enterprises Act 2049 has been said as special industry.

They mean to say that they minimize tax liabilities by tax planning in respect of production decision.

40% of the total respondents said that they do not give tax consideration at the time of production decision. Their main aim is to increase production and to extend their markets. They would search such markets where they earn maximum incomes. Tax liabilities are their secondary aim.

c) Do you give tax consideration at the time of marketing decision?

Tax consideration at the time of marketing decision has been presented in the following table.

Table no. 4.35
Tax consideration at the time of marketing decision

Options	No. of Respondents	% of Respondents
Yes	48	80

No	12	20
Total	60	100

Source: Field survey 2009

80% of the total respondents total that they give tax consideration at the time of marketing decision. They use to study about location segment in respect of tax planning. They consider tax incentives, deductions, rebates etc as much as possible at the time of marketing decision. They use to plan regarding tax planning for reducing tax liabilities.

20% of the total respondents explained that they do not give tax consideration at time of marketing decision. They mean that they use to take more risk for more gain. Tax facilitated area can not get more benefits for marketing. They use to plan for extending market into developed area for earning more.

d) Do you give tax consideration at the time of personal remuneration?

Tax consideration at the time of personal remuneration has been presented in the following table.

Table no. 4.36

Tax consideration at the time of personal remuneration

Options	No. of Respondents	% of Respondents
Yes	36	60
No	24	40
Total	60	100

Source: Field survey 2009

60% of the total respondents said that they give tax consideration at the time of personnel remuneration. Tax planning in respect of remuneration payment should be viewed from the point of view of employer as well as employee. In planning for employment income, a tax planner should employ this expenditure

scheme in such a way that benefited. The employer should see that whichever was spent on employees was allowed to be deducted while computing business income.

40% of the total respondents mentioned that they do not give tax consideration at the time of personnel remuneration. They mean tax they provided facilities to employees for receiving more remuneration but they do not take such remuneration as their tax reduction source.

e) Do you give tax consideration at the time of avoidance of penal fines and prosecution?

Tax consideration at the time of avoidance of penal fines and prosecution has been presented in the following table.

Table no. 4.37

Tax consideration at the time of avoidance of penal fines and prosecution

Options	No. of Respondents	% of Respondents
Yes	30	50
No	30	50
Total	60	100

Source: Field survey 2009

50% of the total respondents explained that they give tax consideration at the time of avoidance of penal fines and prosecution. They try to bear less tax incase of penal fines and prosecution. But they never try to do such behavior of fines and prosecution. They use to submit correct tax liablilty regularly.

50% of the total respondents mentioned that they give tax consideration at the time of avoiding penal fines and prosecutions. They mean to say that there are not any facilities for avoiding such penal fines and prosecution. So, they never make any tax consideration for such fines. Actually, they pay fines and penalties if they do any mistakes against the law.

4.2.25 Views about complication of tax planning

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

Table no. 4.38
Complication of tax planning in the company

Options	No. of Respondents	% of Respondents
Yes	48	80
No	12	20
Total	60	100

Source: Field survey 2009

80% of the total respondents told that they have complications in tax planning in their companies. Because tax law was very confusing, controversies, difficult to understand, dual meaning, unclear section and sub-section which have brought a great problem in terms of tax planning. On the other hand, most of the taxpayers try to reduce tax liabilities both legally and illegally because of such problems. They also feel such problems in the tax law and can not be easily getting advantage of tax facilities like tax rebates concessions, incentives etc. They do tax planning in the sections where they feel easy and legal. The tax law had provided various tax facilities to the taxpayers but such facilities have not been correctly been correctly applied in their company. They did tax planning on which they found legal, fair and easy. Indeed, they can not be able to utilize the tax planning fully because of unclear idea and concepts.

20% of the total respondent explained that they do not have complications in tax planning in their companies. They mean that they try to utilize the tax planning facilities in the tax law. They explain the tax planning concept according to the norms of the tax law. They adjust such facilities like rebales, subsidies, deductions, timing of activities, location, selection, exemption limit in to systematic way so that tax liabilities will be minimum. They proved some confusion with logic and clarification while making tax planning through tax idea

and concept are difficult to understand they use to study thoroughly and do the same.

4.3 Major findings of the study

On the basis of the data presentation and analysis some important findings can be drawn the major findings of tax planning are as follows:

-) Tax planning is the most important tools to reducing tax liabilities to the tax payers and more effective way of tax collection system of government. It is beneficial to the government business firm as well as community. So tax planning practice in Nepal is increasing day to day.
-) Nepal is developing countries financial institutions manufacturing organization and trading companies are not strong and fully developed but some of them are playing important role in the revenue collection as well as developing the countries mot of the business organizations are unknown about the proper tax planning.
-) Income tax act provides some benefits about tax planning but it is not use in practice properly.
-) In the field survey out of samples it is found that 20% respondents from manufacturing companies and trading companies are not familiar about ax planning.
-) 40% respondents from trading companies and manufacturing companies are not use of tax planning in practice other business organization who use tax planning are not use properly.
-) Out of total respondents 30% said that tax planning is very hard method and they are not use in practice properly. 15% respondents viewed the idea and concept of tax planning are not clear and some said that they are not use tax planning in practice lack of trained manpower.
-) In an average 60% respondents are use tax planning practice as much as possible other are use very little and modernate.

-) Income Tax Act 2058 provide some benefits about exemption, concession and rebates, in an average 50% business organization are taking such advantages.
-) More than 80% respondents viewed that tax planning is very suitable tools of reducing tax liabilities.
-) 100% respondents from banks and insurance companies and 40% respondents from trading companies and and manufacturing companies viewed applicable of tax planning is necessary in Nepal.
-) In an average 50% respondents said tax planning is misusing as tax evasion and tax avoidance.
-) 90% respondents viewed that they are reducing tax liabilities by taking advantages of exemption concession allowance, rebates, which are provided by tax laws.
-) 100% respondents accept, they are self assessment for submitting the tax liabilities.
-) 100% respondents from Banks and insurance companies and 60% respondents from manufacturing and trading companies satisfied tax planning in respect of strategic planning.
-) 75% respondents from banks 100% respondents from insurance company and 60% respondents from trading and manufacturing companies satisfied tax planning in respect of operational planning.
-) 100% respondents from banks and insurance companies and 80% respondents from manufacturing companies and trading companies viewed they deducted tax at source.
-) 100% respondents viewed they maintain her books of account properly and 100% respondents viewed they paid tax in time.
-) 75% respondents from banks, 100% respondents from insurance companies and 60% respondents from manufacturing and trading companies are satisfied in respect of overall tax planning.

-) 40% respondents ranked the infrastructural facilities is the first priority of locational decision and they ranked proximity of product material, nearness of product market, availability of labour and tax incentives in 2nd, 3rd, 4th and 5th priority in locational decision.
-) 50% respondents accept that the first priority should be for infrastructural facilities for locational decision and they ranked availability of labour tax incentives provided by the existing tax law, proximity to product materials and nearness of product market in second, third, fourth and fifth respectively in locational decision.
-) 10% of total respondents explained 1st priority should be on tax incentives provided by existing tax law facilities for locational decision and they ranked availability of labour, infrastructural facilities, proximity to materials and nearness of markets in second, third, fourth and fifth priority respectively in locational decision.

Chapter - 5

SUMMARY CONCLUSION AND RECOMMENDATIONS

5.1 Summary

Nepal is a small developing country situated in south Asia. The Nepalese economy is poor due to different constraints. But Nepal has its own identity. It is rich in Natural resources. Geographical diversity and natural resources are the property of Nepalese economy. Nepal is being poor due to lack of industrial development and political instability. To raise the national economy we have to establish and run industry rapidly. By knowing this fact the government provides some facilities to the industry by guarantee in Act. In Nepal Income Tax Act 2058 provides some special provisions and facilities to the industry. The industry should adopt these facilities to get maximum return. Tax law provides certain concessions, relates and allowances to tax payers in order to enhance a healthy environment in the country. Tax planning means use of all facilities given by the laws to reduce the tax liability.

The word tax planning is made from the combination of two words 'Tax' and 'Planning'. Tax means compulsory payment to the government and planning means taking decisions about the future by choosing the best from different alternatives. Every business organization use to plan as regards to may be short term to plan as regards to may be short term or long term planning. If tax factor is considered while planning. If tax factor is considered while planning the business activities of an organization, it is called tax planning.

Planning is the process of setting goals and objectives and translating them in to activities and resources required for the accomplishment within a specified time horizon.

Planning is an important feature of all business organization. Planning is necessary for the survival and growth of the company effectively and efficiently. 'Planning is necessary for the survival and growth of the company. A formal and systematic managerial process organized by responsibility, time and information to ensure that operational planning, project planning, and strategic planning carried out regularly to enable top management to direct and control the future enterprise.

Operational planning refers to the future planning of existing operations in existing markets with existing customers project planning includes the generation appraisal and working out the details of an action outside the scope of existing operations similarly. Strategic planning is the process of formulating long run objectives. Thus corporate tax planning includes operational planning project planning and strategic planning.

Tax planning is the planning of both the basic structure of the business and industry and its various projects from time to time in day to day activities for the maximization of benefits under the provision of present law of the nation. On the other hand tax planning should not be misused for tax avoidance and tax evasion because they are clearly against the sprit of law. In this way, we can say that tax planning is the art and science of planning the company's operations in such a way as to attract the minimum liability to tax with the help of various concessions, allowances and relief provided for in the tax laws. Indeed the basic purpose of

corporate tax planning is to reduce or postpone the overall tax burden in the present and foreseeable future.

In conclusion we can say that tax planning is a systematic and scientific planning of a company operations. It is economic, legal and ethical activity. It is the use of various incentives concessions, allowances, rebates, etc. and it is the activity related to the future. There are three board areas of corporate tax planning viz. strategic planning, project planning and operational planning.

In the field survey most of the respondents are senior and experienced and qualified in the related field.

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

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

Most of the respondents explained that tax planning has not been miscued as tax evasion and tax avoidance. Instead some taxpayers have used both tax planning and tax avoidance together because both are legal behavior. Tax evasion has rarely been applied in Nepal because there is strict punishment in the Act for those who takes part in tax evasion.

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

Most of the total respondents explained that the tax exemption, rebate, deductions and concession under existing tax are adequate. In fact, such facilities

have promoted the small industries in remote, underdeveloped undeveloped areas in the country. Small number of respondents said that there is not proper use of tax exemption, rebates, deduction and concession as tax planning. There is not systematic administration of tax administrators too. So, the theory and practice of tax planning has created a distance between them and some of them have no idea about it. Indeed, most of the respondents explained that the theory of tax planning is excellent but no use in practice as it has to be.

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

In an average of the total respondents is satisfied with tax planning in respect of project planning. There are various facilities provided by the tax law in respect of lease or purchase decision, acquisition of fixed assets and so on. some of the respondents, rejected tax planning saying that they make project planning by the comparative study of market.

More than 50% of the total respondents explained that they always consider on tax facilities at the time of operational planning. Indeed, there should be more facilities for newly established company. Similarly, some of them are not satisfied with tax planning in respect of operational planning. If they use insufficient tax facilities they can not develop their company. So, tax planning can not promote small industries. But large industries can take more advantage of tax planning in respect of operational planning.

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

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

Almost of the respondents accepted that infrastructural facilities such as transportation, communication, power and water play most important role while deciding the location of the company, similarly, proximity to product materials, nearness to product markets, tax incentives and availability of the adequate labours in the location of the industry. These all factors should be considered for the long life of the industry. Co-ordination of such factors can easily show the future of the company.

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

All of the respondents keep their statement in the prescribed books of accounts for the effective and proper calculation of taxable incomes. This system helps them for tax planning. They use to support to the government for collecting revenue. But they claim that the government has not been able to collect adequate revenue from the public according to the target due to weak tax administration.

All of the respondents explained that they use to pay tax regularly within the prescribed time limit. Indeed, none of them use to tell their weak point. They use to submit tax in installment, advance and final withholding basis. On the other hand, they complained that the government tries to collect tax only by various topics but does not make promotional activities for them.

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

Almost of the respondents explained to educate taxpayers by training so that they can easily understand the concept and views of the Tax Act. Then, they pre-plan for tax planning by utilizing maximum facilities provided by the law. Similarly, they suggested simplifying the tax law in terms of language, section, sub-section etc. for the easy adjustment of tax liabilities. Likewise, they stated timely assessment of taxes, incentive to regular taxpayers and fines and penalties to illegal taxpayer so that tax evasion behavior can be avoided.

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

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

Nearly 80% of the respondents explained that they have faced complication of tax planning in their companies. They complained that the section and sub-section of the Act are not clear. The Act has been written in vast and confusing language. Tax planning needs technical and critical mind. As a result, most of the taxpayers are not able to take benefit of tax planning. Some are taking advantage of tax avoidance. There is not specific definition and rules of all types of deductible expenses, final withholding payments, advance tax etc. Similarly, some of the respondents accepted that they have not fixed complication of tax planning in their companies because they use idea and suggestion of tax experts giving logic for the confusion and allocation of deductions.

5.2 Conclusion of the Study

Finally, it can be explained that no respondent states their weakness. All of the respondents said that they are always on the favour of tax law. They always

support the norms of the tax law. Most of the respondents said that the government has provided various facilities to them on the law but the government has not been able to implement that system of the law in practical life. The government has made strict punishment for those who violates the tax law but there is less moral support and subsidies for those who respected the law. The government always looks them as the means or 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 scale and small scale industries. They explained that tax evasion and tax avoidance are made by the taxpayer on the support of tax administrators. Even tax administrators do not pay their duties and responsibilities equally. As a result, the norms of the tax law also take advantage of loopholes and tax evasion behavior of the taxpayers. There is not correct implementation of the tax law in practice for those who makes the tax law violate and ignore it for the personal interest. Similarly, due to lack of timely tax administration, there is imbalance in the system of tax law.

We can say that tax concessions, rebates, subsidies, allowances etc have given priorities to remote, underdeveloped and undeveloped areas. But only such facilities can not promote the industries in those areas until there is infrastructural development like road, bridge, communication, water supply, electricity, market, labour, technology etc. From some years ago, there is not any development program of the government. As a result, the condition of the industries is being poor. Unless there is balanced development, such tax facilities can not make stable tax revenue or increase tax revenue or control tax evasion behavior of the tax payers.

In addition, income tax is administered directly by Inland Revenue Department. It is responsible for the implementation and administration of the Act. Nepal Government is the highest authority of the tax administration. The Act has empowered Nepal Government to establish Tax Offices of the Department and prescribe their jurisdiction by notification in Nepal Gazette to facilitate the

Department in fulfilling its responsibilities. Thus we can say that the rules and regulation of tax administration are vary systematic in theory but incomplete in practice. By establishing many more tax offices, the government has increased over staffing and expenses. So, over staffing should be controlled and there should regular supervision of every staff for their duties. It means that every transaction should be transparent.

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

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

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

taxes using the various facilities provided by the tax law. As a result, they are encouraged for tax planning at every aspect of their activities.

Likewise, the taxpayer with respect of paying tax is entitled to enjoy the right to get respectful behaviour, right to receive tax related information as per prevailing laws, right to get the opportunity of submitting proof in favour in respect of tax matters, right to appoint lawyers or auditors for defense etc as per section 74 of the Act. Even though, the taxpayers have not utilized such rights in a right way. Taxpayers still explained that such rights were not still enough for the proper knowledge, and use of tax planning.

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

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

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

companies located in industry backward areas, tax exemption of dividend income and so on.

Regarding the tax planning, of the 60 companies, as many as private companies considered tax factors while deciding the location, while no response was received from government companies. What is more revealing is that among the various factors of location, tax consideration ranked second, next only to infrastructure facilities, in the case of private sector companies. As against this, tax was considered the least important factor of location by government companies.

Management is required to consider tax implication while making strategic decisions relating to selection of nature of business, location of the company, residential status, change in the form of business organization, capital structure etc.

Section 15 and 16 of Industrial Enterprises Act 2049 provide for tax benefits to industrial only. These non-industrial units such as banking, insurance and trading companies are not entitled to any tax benefits. Even among industrial units, 100% tax exemptions are granted to those engaged in export activities as also to cottage industries. Industrial units including manufacturing, energy based, agro-based and forest based, and mining industries are also entitled to a number of tax concessions. Further, tax benefits are more to these industrial units as against tourism, service and construction industries.

In addition to its relevance in strategic planning, tax consideration is also required in project planning, i.e. in decision relation to expansion diversification of business, make or buy, acquisition of fixed asses, disposal of fixed assets, modernization, replacement, repairs and renewals, rehabilitation of sick units etc.

Operational planning related with planning of the routine operation. Strategic planning and project planning may not be of much use if tax implications routine business operations are concerned with short run business objectives and policies. It is related with the aspects like depreciation, marketing decisions, method of accounting and decisions relating to personnel remuneration, revaluation of assets and avoidance of penal fines and prosecutions, all of which are directly or indirectly influenced by tax provisions.

One of the important aspects of operational planning relates to depreciation which has direct bearing on the taxable income of a company. As pointed out earlier, rates of depreciation on diminishing balance on different types of assets have been prescribed under the Income Tax Rules. Thus, a company does not have opinion but to follow the prescribed rates. However, Industrial Enterprises Act provides for certain additional depreciation and deduction to industrial units with a view to promoting a faster industrial growth and capital formation in Nepal. For instance, additional one third of the normal rate of depreciation is added to the normal rate and as such the effective rate of allowable depreciation becomes higher. Similarly, Industrial Enterprises Act also provides for reduction up to 50% of the cost of investment by an industrial unit for controlling pollution. It needs being hardly stated that an industrial unit taking advantage of those provisions can reduce its tax liability.

As regards tax planning practices, all the 60 sample companies had reported that they used to consider tax factor at the time of planning in respect of operational planning, project planning and strategic planning.

Revaluation of asset at the end of each accounting year is not allowed. In addition, it is also not an established accounting practice in Nepal. However, revaluation of assets can be done if values of the assets have undergone permanent change. The difference between book value and current value of such asset is transferred to capital reserve account. Such a revaluation increases borrowing capacity of the firm, besides increase in annual depreciation which reduces the tax liability of the company. However, revaluation of assets is seldom done by Nepalese companies.

In conclusion, every company accepted that they were under the rules and regulation of the tax law. Similarly, they commented to the government's weak points. They mentioned difficulties of tax Act and said that tax evasion was made by the support of the tax administrator. There was vast difference in the treatment of large and small companies even for the same matter. They accepted that there was vast gap between theory and practice of tax planning.

Finally, the specific result obtained by the deep study of the sixty sample companies mainly of Kathmandu Valley made on the title of practical application of Tax Planning in Nepal are as follows:

- 1) Existing nature of taxable revenue in Nepal has still been in poor condition. It means that Income Tax Act, 2058 has not been able to collect enough revenue according to the plan made on theory. There are various obstacles of tax law and Act. It means that taxpayers could not be able to explain the exact view of tax section, sub-section, heading etc. It was found that vast analysis of language has made them confused. Similarly, negligence of tax administrators has also brought problem in the correct decision of tax planning. On the other hand, some taxpayers make expenses even for the purpose of reducing tax liabilities. They hardly disclose their tax liabilities to third parties except tax office.
- 2) In face, the concept o tax planning is technical, analytical, comparative and strategic to use in practical lies. So, the performance of tax planning depends on the skill, knowledge and experience of the manpower.

Most of the taxpayers are using planning knowingly or unknowingly. They use the various alternatives for minimizing tax liability. In that process, they follow both legal and illegal sources on which they become safe from fines and penalties. In addition, there are some companies which have failed to make efficient planning system. As a result, they are facing loss and therefore, could not get the advantage of tax benefits. On the other hand, they have lack of a qualified manpower for tax planning because of their financial strength. So, they are not able to prepare comparative plan in every step of business lives.

- 3) Even though taxpayers have accepted the application of the planning in Nepal, the taxpayers have not been regular for the proper utilization of tax planning. They have known that tax planning reduces their tax liabilities and makes healthy growth of the economy. But they also complained of weak administration of tax officers. As result, there is not fully application of tax planning. The taxpayers by nature try to reduce tax liabilities as much

as possible either by tax avoidance or tax planning or by linking relation to the tax personnel and so on. Some loopholes have also made tax planning unsuccessful to the some extent. Tax administrators observe the past behavior submitting the amount of tax of a company when self-assessment is submitted. As a result, the company tries to maintain the same level of tax though there is more tax liability. Such types of various factors have caused problem in tax planning to be fully applied in practice.

- 4) There is a vast gap between theory and practice of tax planning in Nepal. No work could be implemented rerecording to plan and polices. The main reason is the condition and instable regulation of the plan. The main responsible person does not obey the rules themselves. Tax is the main source of the government revenue which is being misused by the responsible person. In addition, there is not transparent system of such expenditure and income. Tax planning has been said as the facilities in a right way. Indeed, there must be strict administration in practice and there should be strict administration in practice and there should not be discrimination to each other for the same matter.

In fact, the trend of tax planning in Nepal is still in preliminary stage. It needs various improvements in terms of administration, training, criteria, simplicity and so on. Most of the taxpayers have not been able to utilize the full phase of tax planning. Because of some loopholes in the tax Act, some taxpayers are being lured to take advantage of such loopholes including tax planning facilities also. They also complained that tax planning facilities should be more flexible to small companies than large companies. They also mentioned that the tax rate should be less for small companies them large companies so that small companies also get chance to develop their strength. But most of the tax evasion and avoidance is done by large companies with the support of tax administrators.

- 5) All of the company follow tax planning in respect of all the field of their activities like operational planning, strategic planning and project planning. Otherwise, they could not develop their lives. To plan in every stage of their

movement is their considerations of earning more revenue. It means that they try to earn more revenue with less investment so that they could minimize tax liabilities such planning are in respect of lease or purchase, acquisition of fixed assets, disposal of fixed assets, production decision, marketing decision, avoidance of penal fines and prosecution etc. As a result, the taxpayers can determine the future achievements along with tax consideration. Indeed, all of the companies try to utilize the facilities provided the law. But such types of planning differ from company to company.

5.3 Recommendation

By supporting the all summary and conclusion, we found that tax planning is done by each and every company but the degree of tax planning depends upon the strategy, and plan made by the company. Large scale of company can spend more in tax planning activities made by tax experts. Similarly, tax planning has not been used properly in practice. There is not proper administration about the implementation of tax planning in Nepal. Only the rules and policies could not be enough for the collection of correct tax revenue. There should be regular support and supervision of the government so that any problem seen at the time of implementation of tax planning could be easily solved. Indeed, there should be positive support of every aspect for the proper implementation of tax planning in Nepal. In conclusion, tax planning has not been implemented according theory in practice lack of co-operation of all the responsible parties.

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

- 1) ***Different Tax Rate for Resident and Non-resident Companies:*** Under the existing Provisions of Income Tax Act, 2058, both resident and non-resident companies in Nepal are required to pay tax at the same flat rate. Thus, no distinction is made between domestic company and foreign company so far as tax rate is concerned. It may be noted that in many countries including India, Belgium, Germany, Indonesia and New Zealand,

foreign companies are taxed at a higher rate than domestic companies. We feel that in Nepal also tax rate should be higher, say 40% in the case of foreign companies as against 20-30% in case of domestic companies because of different in the scope and coverage of the taxable income of these two groups of companies. A domestic company pays tax on the worldwide income, while a foreign company is required to pay tax on income earned in Nepal only. So, tax rate should be higher than domestic companies.

- 2) ***Tax Rebates to Non-industrial Company Setup in Industrially Backward Areas:*** Earlier, tax rebate and additional allowances were available in different Act like Industrial Enterprises Act etc. However, now all tax rebate and additional allowances are available only in Income Tax Act, 2058. All tax related matters provided in different Acts have been removed from respective Acts. If industry is providing direct employment to 600 or more Nepalese citizens throughout the whole year, 90% of the applicable tax rate (20%) is applied for the year. The industry operating in remote, undeveloped and underdeveloped area will have to pay 70%, 75% and 80% of the applicable tax rate (20%) respectively up to ten income years commencing from and including the year in which the operation commences. Thus, these rebates are not available to non-industrial unit's setup in these areas. From the point of view of equity, it is felt that the necessary amendments should be made in this section to enable all companies, whether industrial or non-industrial, to avail of the benefit of tax rebate and thus to accelerate the pace of industrialization in these regions.
- 3) ***Provision of Best Judgment Assessment in True Spirit:*** It is suggested that the provision of best judgment assessment should be put to use in its true spirit. During our study, it was reported that the provision of best judgment assessment is being misused by Tax Officers. The tax law provides for best judgment assessment only when a taxpayer does not submit returns or submits incorrect returns. Tax Officers generally, reject the returns on the ground that accounts are incomplete or incorrect but there may be correct

account by twisting the fact. Many a times, assessment is done on negotiation between the taxpayer and Tax Officer. Under such a situation the Tax Officer is even bribed in order to minimize tax liability. If tax liability is decided by the agreement of two parties, the spirit of tax planning will not be of much use. Many companies may not use tax planning as they might intend to settle their future assessment through negotiation.

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

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

- 5) ***Separate Tax Section to be Setup by Companies:*** We have found, during the course of our investigations that not even in a single company there was a separate tax section or even a tax executive. In all sample companies, matters relating to tax were looked after by a Finance Officer / Account Officer along with his other financial / accounting functions. Considering the importance of tax planning, it is recommended that there should be a separate tax section headed by a Tax Executive under Finance Department

particularly in large and medium companies to discharge all functions relating to tax management, including tax planning.

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

REFERENCES

A. Books

- Agrawal, Dr. G.R. (1978), *Resource Mobilization for Development: The Reform in Income Tax in Nepal*, Kathmandu: CEDA.
- Agrawal, J. (2004), *Income Tax; Theory and Practice*, Kathmandu: Buddha Academic Publishers and Distributors.
- Amatya, K.B. (1965), *Nepal Ma Aayakar Byabastha*, Kathmandu: Anapuran Press, Ason.
- Bajracharya, Ojha, Goet, Sharma (2004), *Managerial accounting*, Kathmandu: Asmita Publication.
- Bhattarai, I. and Koirala, G.P. (2004), *Tax Laws and Tax Planning*, 1st Edition, Kathmandu: Dhaulagiri Books and Stationeries Putalisadak.
- Birds, R.M. (1992), *Improving Tax Administration in Developing Countries*, Washington D.C.: International Monetary Fund.
- C.R. Kothri, *Research Methodology: An Introduction, Research Methodology Methods and Techniques*, Second Edition, (Wishwa Prakashan, New Delhi, 1990).
- Denning Basil, W. (1971), *Corporate Planning: Selected Concepts*, McGraw, Hill Book Company (U.K.) Ltd. Quoted by Sukumar Bhattacharya, Mohinder No. Kaura (1979). 'Relevance of Corporate Tax Planning to Corporate Planning,' The Chartered Accountant.
- Dhakal, K. D. (2001), *Income Tax and House and Compound Tax Law and Practice with VAT Act, 2052*, Kathmandu: Kamal Prakashan.
- Goenka, Bharat Bhusan, (1985), *Corporate Tax Planning*, Shree Mahabir Book Depot, Delhi.
- Kandel, P.R. (2004), *Tax Law and Tax Planning in Nepal*, 2nd Edition, Kathmandu: Buddha Academic Publishers and Distributors Pvt. Ltd.

- Khadka, R.B. (2001), *Income Taxation in Nepal: Prospects and Retrospect's*, Kathmandu: Ratna Pustak Bhandar.
- Khadka, R.B. (1994), *Nepalese Taxation: A path for Reform*, Murburg: Murburg Consult for Self-Help Promotion.
- Marahatta, S.P. and Ananda P.K. (1970), *Fundamentals of Nepalese Income Tax: with up to Date Financial Directives and Regulations*, Kathmandu: Anapurna Press, Ason.
- Ojha, P.K. (1993), *Taxation Law*, Kathmandu: Pairavi Prakashan.
- Poudyal, K.B. (1998), *Corporate Tax Planning in Nepal*, Pokhara: Sita Poudyal, Simal Chaur.
- Poudyal, S.R. and Timilsina, P.P. (1990), *Income Tax in Nepal*, 2nd Edition, Kathmandu: Aathrai Enterprise.
- Poudyal, S.R. (1993), *Income Tax Law and practice*, Kathmandu: Aathrai Enterprise.
- Pradhanag, N.B. (1993), *Income Tax Law and Accounting*, 3rd Edition, Kathmandu: Ratna Pustak Bhandar.
- Prasad, B. (1999), *Income Tax, Law and practice including Central Sales Tax Act*, New Delhi: Wishwa Prakashan.
- Report of Revenue Consultation Committee*, chaired by Bhoj Raj Ghimire, MOF, HMG/N. 2001
- Srinivas, E.A. (1989), *Handbook of Corporate Tax Planning*, Tata McGrawhill Publishing Company Limited, New Delhi.
- T.N. Pandey *What is the Correct Approach to Tax planning?* The Economic Times, New Delhi, January 27, 1994.
- Tiwari, N.R. (1993), *Income Tax System in Nepal*, Kathmandu: Pairavi Prakashan.
- Vaish, M.C. and Agrawal, H.S. (1992), *Public Finance*, Wiley Estern Limited, India.
- Wolff, H.K. and Pant, P.R. (2002), *A Hand Book for Social Science Research and Thesis Writing*, 3rd Edition, Kathmandu: Buddha Academic Publishers and Distributors Pvt. Ltd.

B. Articles

- Amjad, Hussain M. (October, 1969), *Incentives for Promotion of Business and Industries under the Income Tax Act*, Taxation.
- Balasubramanian, R. (1989), *Corporate Tax Administration an Overview, The Chartered Accountant*, Vol. 37, No. 7.
- Basyal, T.R. (April, 2004), *Improving Macro Economic Management: Experiences and Lesson, Economic Review*, N.R.B.
- Bhargawa, P.K. (July, 1981), *The Indian Tax System: Need for Rationalization, Indian Journal of Economics*.
- Bhattarai, M. (1993), *Facilities provided by Industrial Enterprise Act 1992 An Analysis, Rajaswa*, year 13, vol. -2.
- Ghimire, B. (1993), *Principle of Direct Tax and Provision of Direct Tax, Rajaswa*, year 13, vol, - 2.
- Kandel, P.R. (2001), *Draft of Income Tax Act 2001; Critical analysis, Rajaswa*, year 21, vol. -1.
- Kandel, P.R. (2003), *Are Tax Incentives Useful? If So Which One?, Rajaswa*, year 23, vol. - 2.
- Khadka, Dr. R.B. (2001), *Taxation of Permanent Establishments, Rajaswa*, year 21, vol. - 1.
- Khadka, Dr. R.B. (Feb. 9, 2001), *A Review of Income Tax Rates, Spotlight*, p. 28.
- Mallik, V. (2001), *All Earnings Activities should be taxed, Rajaswa*, year 21, vol. - 1.
- Nepal, S.P. (July Sept., 2003), *Taxation of Income in Nepal, The Economic Journal of Nepal*, Vol. 26, No. 3, CEDECON - T.U.
- Thapa, Dr. G.B. (Dec. 2002), *Tax System and its Reform, Business Age*, Vol. 4, No. 12.
- Tiwari, N.R. (1985), *Direct Taxation in Nepal, Rajaswa* Year 5, No. 6.

C. Nepal government publications including NRB and IRD.

- Ministry of Finance, HMG/N. (2002), *Annual Report of Inland REvenue Department, 2001, 02*, Kathmandu: MOF.

Ministry of Finance, HMG/N. (2003), *Finance Act, 2003*, Kathmandu: MOF.

Ministry of Finance, HMG/N. (2004), *Finance Act, 2004*, Kathmandu: MOF.

Ministry of Law and Justice, HMG/N. (2001), *Income Tax Act, 2001*, Kathmandu: Ministry of Law and Justice.

Ministry of Industry, HMG/N. (1992), *Industrial Enterprise Act, 1992*, Kathmandu: Ministry of Industry.

Nepal Rastra Bank, (2004), *Main Economic Indicators, May June July - 2004*, Kathmandu: N.R.B. Research Department Statistics Division.

Nepal Rastra Bank, (2004), *Quarterly Economic Bulletin, Mid-April 2004-Mid-July 2004*, Kathmandu: N.R.B. Research Department Statistics Division.

Ministry of Finance HMG/N. (2004), *Economic Survey 2003, 04*, Kathmandu: MOF.

Nepal Rastra Bank, (2004), *Economic Report 2003, 04*, Kathmandu: NRB, Research Department.

D. Dissertations

Acharya, S. (1994), *Income Taxation in Nepal: A Study of its Structure, Productivity and Problems*, Unpublished Master's Thesis, Central Department of Economics, Tribhuvan University.

Baral, S. (1998), *Income Tax in Tax Structure of Nepal*, Unpublished Master's Thesis, (economics), T.U.

Bhandari, H.B. (1994), *Contribution of Income Tax to Economic Development of Nepal*. Unpublished M.A. Dissertation, T.U.

Bhattarai, R.K. (1997), *Effectiveness of Corporate Income Tax in Nepal*, Unpublished M.B.A. Dissertation, T.U.

Chamlagain, Binda Prasad (2008), *Public Awareness about VAT system in Nepal*, Unpublished M.B.S. Dissertation, Shanker Dev Campus, T.U.

Kadel, Puspa Raj, (2000), *Corporate Tax System and Investment Behaviour in Nepal*, An Unpublished Ph. D. Thesis, Department of Commerce Delhi School of Economics, University of Delhi.

- Lamsal, B.K. (2002), *A Study on Contribution of Income Tax on Government Revenue*, Unpublished Master thesis (MBS), T.U.
- Nepal, N. (1983), *A Study on Problems and Prospects of Income Tax in Nepal*, Unpublished M.A. Dissertation, T.U.
- Pandey, K.B. (1979), *An Analysis of Income Tax in Nepal*, unpublished Master's Thesis in Economics, T.U.
- Poudel, J. (2002), *Income Tax in Nepal: A Study of its Structure and Productivity*, Unpublished M.A. Dissertation, T.U.
- Poudyal, B. (1995), *A Study on Nepalese Tax Structure*, Unpublished Master's Thesis, T.U.
- Sharma, Sagar (2002), *Management Accounting Practices in the Listed Companies of Nepal*, An Unpublished Master Level Thesis, Shanker Dev Campus.
- Shrestha, B. (2001), *Revenue Collection from Income Tax in Nepal*, Unpublished Master Thesis in Economics, T.U.
- Siwakoti, C. (1987), *An Analytical Study of Tax Evasion in Nepal*, Unpublished Master's Thesis in M.B.A., T.U.
- Tripathy, D.R. (1995), *Income Tax System in Nepal and Some Area for Reform*, Unpublished Master's Thesis, Central Department of Economics, T.U.
- Tuladhar, G.K. (1979), *Role of Income Tax in the Mobilization of Resources in Nepal*, Unpublished Master's Thesis in Management, T.U.

Appendix - 1

"A study on practical application of tax planning in Nepal"

Questionnaire to the respondents:

General information:

Name and address of company:

Nature of business:

Establishment year:

Designation and nature of work of respondent:

Academic qualification of respondent:

Experience in taxation work:

1.
 - i) Are you familiar with the term tax planning?
 - a) Yes
 - b) No
 - ii) If yes have you applied tax planning in your organization?
 - a) Yes
 - b) No
 - iii) If not why have you not applied tax planning?
 - a) It is hard to follow the method of tax planning
 - b) Idea and concept of tax planning are not clear
 - c) It is easy to take advantages of loopholes in tax law
 - d) Lack of qualified manpower
 - e) Any other reasons (Please specify)
2. To what extent tax planning has been applied in your company?
 - a) Very little
 - b) Moderate
 - c) As much as possible
3. Does your company avail of the maximum possible exemptions concessions rebates etc.
 - a) Very little
 - b) Moderate
 - c) As much as possible
4. In your opinion is the tax planning suitable for minimizing tax liability
 - a) Yes
 - b) No
5. Is tax planning being applicable in Nepal?

d) Overall planning				
---------------------	--	--	--	--

11. The following are some of the important factors which are considered while deciding the location of the company. Please rank them in order of their preference from most 1 to least 6 respectively.

- i) Infrastructural facilities such as transportation communication, power & water
- ii) Proximity to product materials
- iii) Nearness to product markets
- iv) Availability of the adequate labours in the location of the industry
- v) Tax incentives provided by the existing tax law
- vi) Any other (Please specify)

12. Do you agree with the following things?

	Yes	No
a) Does your company deduct tax at source?	_____	_____
b) Does your company maintain proper books of account?	_____	_____
c) Whether income tax is paid by your company within the prescribed time limit?	_____	_____
d) Whether your company is regular in filing income tax return in time	_____	_____
e) Whether the provisions relating to penalties and prosecutions are adequate	_____	_____

13. Followings are the important areas of project planning. Please indicate whether tax consideration is given in these areas by the company?

	Yes	No
a) Expansion and diversification of the business	_____	_____
b) Make or by decisions	_____	_____
c) Acquisition of fixed assets	_____	_____
d) Disposal of fixed assets	_____	_____
e) Modernization replacement, repairs and renewal of existing assets	_____	_____
f) Any other areas (Please specify)	_____	_____

Appendix - 2
Tax to Entities

S.N.	Type	Tax Rate
1.	Bank, Financial Institution, General Insurance Company or entity established under Nepal Petroleum Act, 2040	30%
2.	Entity wholly operating as special industry	20%
3.	Special industry providing direct employment to 600 or more Nepalese citizens (0.9×20%)	18%
4.	Special Industry established in remote area (for 10 years from the years from the year of commencement) (0.7×20%)	14%
5.	Special Industry established undeveloped areas (for 10 years from the year of commencement) (0.75×20%)	15%
6.	Special industry established in underdeveloped area (for 10 years from the year of commencement) 0.80×20%)	16%
7.	Entity that has operated any road, bridge, tunnel, rope-way, flying bridge etc. constructed by entity.	20%
8.	Entity wholly engaged in the projects to build public infrastructure, own, operate and transfer it to government or entity engaged in power generation, transmission and distribution.	20%
9.	Entity that has operated any trolley bus or train	20%
10.	An entity that has earned income from export	20%
11.	Income of an estate of a deceased resident individual or trust of an incapacitated resident individual	Tax applicable to natural person
12.	Repatriated Income of a foreign permanent establishment of a non-residential person situated in Nepal	10%
13.	Taxable income of a non-resident person providing shipping, air transport or telecommunication services	5%

14.	For other entities not specified above	25%
-----	--	-----

Appendix - 3

Payment of Final Withholding or Advance Tax

Section	Types of payment	Rate of withholding tax	Final Advance
87	Remuneration	Normal rate	Advance Tax
88.3 & 92	Interest on deposit, debenture, debt certificate and government bond not related to business paid to natural person by bank, financial institution, entity issuing debentures or company quoted at stock exchange	6%	Final Tax
88.1	Payment for interest to other	15%	Advance Tax
88.1	Payment of natural resource, royalty, service fees.	15%	Advance Tax
88 & 92	Payment of rent to natural person (not related to business)	15%	Final Tax
88.1	Payment of rent to others	15%	Advance Tax
Finance ordinance 2059	Meeting allowance	15%	Final Tax
Finance ordinance 2059	Payment from HMG approved retirement fund (see. 65 (i) (h))	6%	Final Tax
88.1 & 92	Payment from approved retirement fund or installment basis	15%	Final Tax
88.1 & 92	Dividend from resident company	5%	Final Tax
88.1 & 92	Gain from resident company	10%	Final Tax
89	Payment of insurance premium or a contractual amount in excess of Rs. 50,000	1.5%	Advance Tax
Finance ordinance	Teaching not on regular basis, preparation of question paper, checking	15%	Final Tax

2060	of examination paper		
------	----------------------	--	--

Appendix - 4

Industrial Enterprise Act 2049 has Classified Districts into four categories. Out of which relevant classifications are presented here:

- 1. Remote Area:** Darchula, Bajhang, Bajura, Humla, Jumla, Mugu, Kalikot, Dolpa, Mustang, Manang, Solukhumbu, Sankhuwa Shara, Khotang, Bhojpur, Achham, Dailekh, Jajarkot, Rukum, Okhaldhunga, Mayagdi, Terathum and Ramechhap.
- 2. Underdeveloped Area:** Taplejung, Rolpa, Baitadi, Rasuwa, Gulmi, Parbat, Dadeldhura, Pyuthan, Doti, Salyan, Panchthar, Baglung and Sindhupalchok.
- 3. Underdeveloped Area:** Kailali, Surkhet, Arghakhanch, Palpa, Syanja, Dhading, Lamjung, Tanahun, Gorkha, Sindhli, Udayapur, Dhankuta, Illam, Kanchanpur, Bardiya, Dang, Nuwakot, Kabhrepalanchok and Dolakha.

Nepal government has specified following areas under remote area Group:

Group A: Manang, Kalikot, Mugu, Dolpa, Humla and Bajura

Group B: Taplejung (Dhunsa and Dlanchungola VDC), Sankhuasava (Chepuwa Hedangana, Kimthanka, Syasila, Balunga, Seemajor VDCs), Solukhumbu, Khunjung, Namche, Chaurikharka, VDCs) Dolakha (Gogar VDC), Rasuwa (Tmur VDC), Gorkha (Sirdiwas, Prok, Loha, Keroja, Chhekumpur, Manchu VDCs) Baglung (Bodang, Nisee, Hukam, Ranma, Maikot, Takasachhi VDCs), Mustang, Jumla, Bajhang, Doti (Above 900 ft. of Khapted Herbs Garden), Darchula.

Group C: Rukum, Jajarkot, Dailekh, Achham.

Group D: Taplejung (Other VDCs), Ghojpur, Terhathum, Sankhuwasava (Other VDCs), Khotang, Okhaldhunga, Solukhumbu (Other VDCs), Dhading (Gudathum, Lapa, Phoolkharka, Rigaun, Salyankot, Salyantar VDCs), Sindhupalanchok (Baramcho, Baruwa, Mautoda, Birta Gkolade, Gunsu, Guwa, Kiuwal, Listikot, Mahaukal, Pangtang, Phoolping Katti, Dhugapalkot, Timunthagal, Tinas, Dhyagal VDCs), Lamjung (Bahundanga, Mahendradoya, Shreekali, Katadhi, Thuls Bensi, Thakan Falika Devi VDCs), Dadeldhura, Baitadi.

Group E: Panchthar, Dhankuta, Ramechhap, Dolakha, Rasuwa (Other VDCs), Sindhupalchok (Other VDCs), Dhading (Other VDCS) Lamjung (Other VDCs), Gorkha (Other VDCs), Gulmi, Argakhachi, Parbat, Baglung (Other VDCs).

Appendix - 5

a) Depreciation on Assets

Block	Particulars of Assets	Rate of Depreciation
A.	Building, structure and similar works of a permanent nature	5%
B.	Computer, data processing equipments, furniture, fixture and office equipments	25%
C.	Automobiles, bus and mini bus	20%
D.	Construction and earth moving equipments, portion of pollution control cost and Research and Development cost any tangible assets not included in above blocks (plant and machinery etc)	15%
E.	Intangible assets other than not included in block 'D' (patent, design, software etc)	Rate in percent calculated as cost divided by the useful life of the assets in the pool at the time the asset is not recently acquired by the person and rounded down to the nearest half.

Source: Income tax Act - 2058.

b) Absorbed portion and unabsorbed portion of Depreciation:

Time	Absorbed portion	Unabsorbed portion
Shrawan First to Push End	3/3	Nil
Magh First to Chaitra End	2/3	1/3
Baishak First to Asad End	1/3	2/3

Source: Income tax Act - 2058