

SCOPE OF TAX PLANNING
UNDER INCOME TAX ACT 2058 IN NEPAL

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RECOMMENDATION

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CHAPTER I
INTRODUCTION

1.1 Background

Every Government of a nation is responsible towards general public. Economic development is the main responsibility of government and for that it has to launch various projects. Without economic development it is impossible to think the economic prosperity. But for wealth creation also money is needed. We know the popular financial statement, “money earns money”. Government also required huge amount of capital for economic development and the major source of government revenue is collected from tax. The main objective of any developing country like Nepal is to improve living standard of the people through the development process. Nepal is a landlocked and hilly country lying between two 'Asian Giants' India and China. Both of them are able to enjoy high economic growth in the world. However, Nepal has not been able to harvest the benefit of synergic development impact of its neighbors. Nepal is an economical paradox in the sense that it is a rich country where poor people live. It is rich in natural and cultural beauties but the economic condition is far behind and the economy is predominantly based on agriculture.

Large portion of population who live below the poverty line majority are found in village area. Economic growth of the country has not improved substantially if they concern only the major city and not able to decline below the poverty line population rate. In these days, prime concern of every nation of the world is to eliminate the poverty to reduce gap between rich and poor, to improve the living standard of the people, to obtain rapid economic development etc. Nepal also facing same problem that is many people's life style is below the poverty line. To achieve these objectives, the government has more responsibilities. At the same time government has several responsibilities such as to maintain peace and security, handle day to day administration, proper health facilities, proper education to everyone, infrastructure development and public welfare activities etc. To fulfill these activities the government collects funds from two sources. Those are debts and revenues.

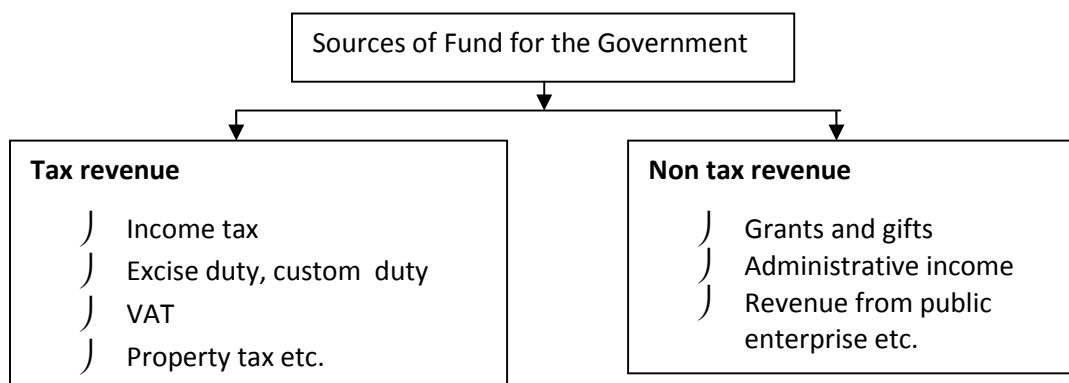
The debt can be collected either from internal or external sources. The debt collect within the country is known as internal debt while the debt collect from outside the country is

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

The Great Britain was the first country that introduced modern income tax in 1799 A.D. to collect revenue to finance Napoleonic war with France. In 1862 A.D., USA introduced income tax to finance the civil war. In India, modern income tax was adopted in 1860 A.D. In Nepal, income tax was introduced in 1959 A.D. Both individuals and companies were taxed in similar way during the earlier period but later on companies were levied with fact rate and individuals with progressive rates. Government collects revenue from two sources- non tax and tax revenue. In Nepalese economy amount of tax revenue is generally higher than that of non-tax revenue. In Nepal, the contribution of tax revenue used to be almost 80% and non-tax revenue almost 20% (Kandel, 2007). Source of fund for the government i.e. tax revenue and non-tax revenue are as below:

Figure: 1.1

Sources of Fund for the government



The government can collect revenue from taxable and non-taxable sources. *Source: Kandel, P.R. 2007, P.-* source for revenue generation and mobilization. Different person has defined taxation in different ways and as few definitions are as follows:

Tax is the compulsory contribution from a person to government to defray expenses incurred in the common interest of all without references to special benefit conferred (Robert, Seligman, 1904).

Taxes are general contribution of wealth levied upon persons, natural or corporate to defray expenses incurred in conferring common benefits upon the residents of the states (Plehn,

Bhandari & Koirala, 2061)

From the definition given above, it can be said that firstly a tax is compulsory levy and those who are taxed have to pay it without getting corresponding benefit of services or goods from the government. The Tax payer does not have any right to receive the direct benefit from the tax paid. Due to this compulsory nature, people have expressed different views in satirical ways about taxation. In this respect, some say, Nothing is certain in this world but death and taxes. Some say, Death and taxes are both certain.... but death are not annual. And while some say, Death means stopping to bay tax. Here, it should be noted that all compulsory payments without having direct benefit to the buyer but they are not taxes because the objective is not to collect revenue but to curb certain types of offences. Secondly, the tax payer cannot receive any quid pro quo for the payment of tax. The tax payer does not receive equivalent benefit from the government. A tax is not a price paid by one for which he can claim for goods and services. The charge of price for goods and services by public authority is not a tax. Thirdly, the tax is paid to the government for running it. Fourthly, the amount is spent for common interest of the people. The tax is collected form haves and basically, spent for the interest of have notes in the society. Fifthly, a natural or an artificial person pays the tax.

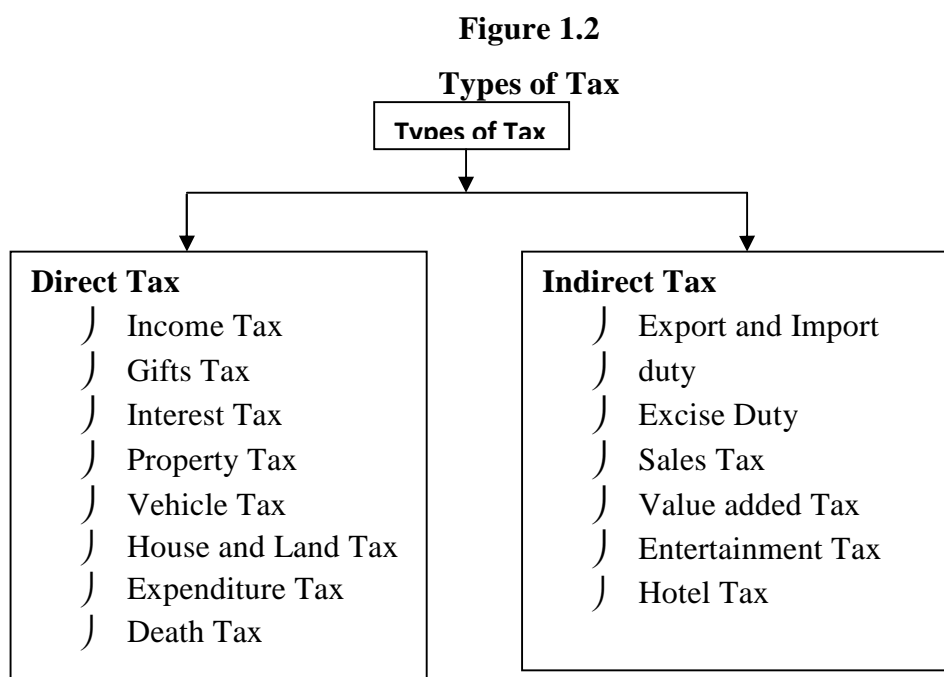
In conclusion, it can be said that a tax is a liability to pay an amount to the state on account of the facts that's the assesses have income of a minimum amount from certain specified sources or that they own certain tangible or intangible property or that they carry on certain economic activities or they consumes certain goods and services which have been chosen for taxation (Kandel, 2004).

Governments have been able to generate revenue by setting revenue targets for the tax administration while not being very concerned about how these targets are achieved. Tax officials can't be blamed individually; any official joining tax administration will have to follow existing practice and procedures.

Over time, the administration system has become characterized by; a tax administration that works toward fulfilling revenue targets that are set well below the legal tax liabilities of the taxpayers, low salaries for tax officials, and the negotiation of tax payments between taxpayers and the tax administration. This has created a stable system in which government

revenue targets are met most taxpayers pay less than their legal tax liabilities, and tax officials make considerable income as a result of side payments, which arise from their negotiations with taxpayers (Kandel, 2003).

A great deal of uncertainty and administrative "congestion" are by-products of such a system. Government taxpayers do not have any right to receive direct benefit from the tax paid. The taxpayer cannot receive equivalent benefit from the government. Government needs funds for its running. Therefore tax is paid to the government. Amount collect through taxation is spent for common interest of the people and it is collected from natural and artificial person. Tax is separated in two types which can be shown as below;



Source: (Bhandari, I. and Girija, P.K., 2061; P.3)

According to the above diagram tax revenue comprises two types of taxes, direct and indirect tax. Direct taxes are more familiar and have a dominant role in the developed country as opposed to developing countries. Direct taxes are the means and tools of generating; saving and promoting capital formation includes income tax, gifts tax, interest tax, vehicle tax, house and land tax etc. whereas indirect tax has a dominant role in the whole tax structure of developing countries like Nepal. Earlier most of the revenue was raised from indirect tax because it is easier less expensive and convenient method for implement for a developing country's economy.

1.2 Tax Planning

Tax planning is different from tax management in the sense that the latter means efficient, systematic and timely handling of tax matters to save time and talent and to avoid worry, tension, stringent penalty and prosecutions. Tax management covers maintenance of records and documents, filing of tax returns in time and preparing other tax related matters. It is an administrative work. Businesspersons use tax planning because firstly, it helps in saving tax of a business that in turn enhances the profitability. In other words, it is the process of increasing the net worth of a business organization. Secondly, tax planning helps in avoiding unnecessary worries, tension and administrative hassles. Third, it helps in proper use of government facilities.

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

1.2.1 Tax Planning Avenues

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

a. Tax Planning under Strategic Expenditure

-) Selection of Business
-) Selection of Product
-) Selection of organizational form

-) Selection of Location
-) Merger
-) Selection of the sources of capital
-) Selection of the method of production

b. Tax Planning under Medium and Short Term

-) Make or buy decision
-) Repair
-) Loss recovery
-) Pollution control
-) R & D
-) Depreciation
-) Stock Valuation
-) Donation
-) Retention or Distribution
-) Others

Basically, there are four ways of minimizing the tax liability, via tax evasion, tax avoidance, tax delinquency and tax planning. Tax evasion means evasion of tax through illegal means. It is done through non reporting of income, underreporting of income, making fraudulent changes in account books, maintaining multiple sets of accounts, operating bank account under different names, doing business in dummy names, over reporting of expenses, fragmenting of income, transfer pricing etc. As these are clearly unethical activities, tax evasion is unethical and illegal activity. Tax avoidance, in contrast, is saving taxes without breaking the law. It is using the loopholes of the tax law to tax-payers benefit.

Thus it is not illegal, it is though unethical. From the point of view of a lawyer, tax evasion and tax avoidance are different because tax evasion is breaking the law but tax avoidance is reducing tax liability by using loopholes of the tax law. But from the viewpoint of an economist, they are the same, since they both mean reduction of tax amount and awareness of one induces one to follow the other. In a developed country, where there are large organizations, educated tax payers, strict tax discipline and so on, there is prevalence of avoidance, elsewhere, evasion dominates the scene. Another way of reducing tax liability is

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

Tax planning is related to future activity of a business organization. The objectives of tax planning are reduction of tax liability, minimization of litigation, making productive investment, promoting healthy growth of economy and economic stability in a country. Tax planning entails changing structures of a business, project planning and planning day to day activities of a business organization.

1.2.2 Features of Tax Planning

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

1.3 Statement of the Problem

In every country, the government collects its revenue through different sources. Out of which, taxes contribute a significant amount in the public revenue. The government mobilizes its revenue through budget in development activities for the public welfare and interest.

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

Although the country itself is providing legal ways of reducing tax burden then why the

people are using the illegal and unethical ways to reduce their tax liability? This question points out towards the scope of tax planning under ITA, 2058 that there must be some kind of rules by using which the people can't save their earnings by saving tax liability. So, they are bound to use the illegal ways in order to reduce tax burden. This thing gives us a sign that there must be something missing in the Scope of Tax Planning under Income Tax Act, 2058 or the people are unaware of the scope of tax planning.

This point out towards the uneducated groups or those who are educated but they don't have sufficient knowledge about tax planning and control. So instead of acquiring the legal ways of deducting the tax people are acquiring the illegal means to reduce the tax to be paid. There may be several reasons for the people to acquire illegal means of tax control unawareness, less education, dissatisfaction, etc. Here, in this thesis researcher tried to find out the reasons for the illegal adaptation of tax by the people researcher make some difference in both public's and government's perception.

So the study will focus on those parts such as why people are acquiring the illegal means to reduce the tax to be paid instead of legal means, is people are unaware or less educated etc. Along with these the study will be concerned on the following research questions.

-) What are the problems and challenges of tax planning?
-) What are the area that tax planning are implanting in the nation?
-) Is tax planning and healthy growth of economy is interrelated?
-) The income tax contributes on total nation's revenue?
-) People used illegal way of tax saving in Nepal?

1.4 Objectives of the Study

The study is expected to benefit corporate planners, entrepreneurs, taxation authorities and academics. Moreover, so far as known to the researcher, no study on corporate tax planning has been conducted in Nepal as yet. The present study thus fills in this important gap. In Nepal there are various tax incentives including exemptions, deductions, rebates and allowances granted to tax payers under the provision of income tax act 2058 and industrial enterprises act 2049. The specific objectives of the study are as under: -

1. To identify the scope/areas of Tax Planning under Income Tax Act, 2058.
2. To examine the reducing tax under long term and short term Tax planning.
3. To assess the planning helps in the healthy growth of economy.

4. To examine the satisfaction to the rebate provided by Income Tax Act, 2058.
5. To examine the enjoyment of Loopholes by Tax Payers
6. To find out responsible factor for illegal tax planning in Nepal.

1.5 Significances of the Study

Tax planning is one of the most important functions of management. It is done in order to minimize tax liability or postpone the overall tax burden in the present and foreseeable future under the areas of strategic planning, project planning the operational planning. Tax planning is thus neither tax evasion nor tax avoidance; it is a device through which tax payers takes advantage of the various tax benefits, including exemptions and deductions under the provision of the existing tax laws. Moreover if tax benefit is not claimed by a company by the time of assessment, the same cannot be claimed in future and the benefit lost forever. Income Tax act, 2058 has reduced the scope of tax planning, to a great extent, by abolishing all the tax related provisions under Industrial Enterprise Act, 2049 and other respective Acts. The study is based on present situation and planning of Tax under ITA, 2058. So, it would be useful to tax experts, Businessman, Industrialists or not. Similarly, the study would be also useful to students, teachers and other practitioners to take knowledge about the scope of tax planning in Nepal.

1.6 Limitations of the Study

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

1. Primary data has been collected from the Katmandu Valley only so it reflects the view of the metro city only.
2. The present study is based purely on the aspects of the Income Tax Act, 2058 and Industrial enterprises Act, 2049 which grant various income tax incentives to the industrial units. The study thus relates to the analysis of corporate tax only.
3. This study does not cover other direct and indirect taxes such as customs duty, excise duty, VAT, property tax etc.
4. In most of the cases, the executives tried to avoid filling up the questionnaire or they left answering some questions therein. Consequently, this prohibited researcher to do an incisive analysis of certain aspects of corporate tax planning.

5. The results depend upon the answer given by respondents in primary data and reliability of secondary data.

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

1.7 Organization of the Study

The study is divided into five chapters. Priors to the body of the thesis, several pages of preliminary materials such as title pages, Viva- Voice sheet, Recommendation, Declaration of the researcher, Acknowledge, Table of content, List of tables and figures and abbreviation have been included.

The first chapter is introduction which includes background of the study, brief, description above tax planning, statement of problem, objective of the study, needs and significance of the study, and limitation of the study and organization of study.

The Second chapter is review of the related literature which includes concept of taxation, objectives and principle of taxation, Historical Background of tax in Nepal, legal provision of tax i.e. ITA 2058, tax planning and review of related previous studies.

The Third chapter is research methodology. This chapter includes the details framework of the study, such as research method of population and sample, variables, research design, data collection procedure and presentation and analysis tools and techniques.

The fourth chapter deals with presentation and analysis of relevant data information using various analytical tools which are essential to analyze and interpret the results. In this chapter the primary and secondary data collected from various sources have been presented in a systemic format such as tables, charts, figures. It also includes the major findings of the study.

The fifth chapter presents summary, conclusion and recommendations. This chapter consists of summary of the major findings of the study, concluding it with major recommendations and suggestions for future improvement and betterment of tax planning in Nepal which may

be good references to the Tax administrators, business and individual tax payers, consumers, students, researchers and other professionals in the field of tax planning in general.

At the end of the study, bibliography and appendices have also been incorporated.

CHAPTER II

REVIEW OF LITERATURE

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

2.1 Conceptual Framework

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

2.1.1 Meaning of Taxation

The government of a country requires sufficient revenues to carry out development plans to handle day to day administration, to maintain peace and security and to lunch other public welfare activities. In order to carry out such activities, the government collects revenues from various sources such as tax, revenues from public enterprises, special assessment, fees, fines, grants and assistance etc. Among them, tax is the main source of government revenue. Tax is a kind of money of which it is the legal duty of every citizen of a country to pay honestly. Many economists are of the view that the tax is a compulsory payment to the government by taxpayer without any expectation of some specified return. Findlays Shirras defined tax as compulsory contributions to public authorities to meet the general expenses of the government which have been incurred for the public good and without reference to special benefits (Bhandari and Girija, 2061).

Tax is the main source of fund for the government. Tax is a compulsory payment by the

citizens to the government without the expectation of any personal benefits, which are redistributed, by the government in the nation in terms of public services, peace and security and development of infrastructure. In every country, the largest part of the government revenue is raised through taxation. It is tool of achieving maximum social and economic objective as laid down by the constitution of the nation. Taxation has been a very essential element of the government from the very beginning of the state system. In the early stage, the main objective of the taxation was to make the state sound in respect of resources. In modern days, the main objective is to maintain peace and security with economic development. But nowadays the taxation is vital instrument of social and economic policy for the government. Hence, the main function of taxation is that it ensures collective saving for the purpose of public investment and at the same time provides incentives for promoting private investment.

Similarly, one of the famous economists delineates, taxation is the charge levied by the state on the property or labor of the citizens, in order to provide for the public expenses. However, it is quite different from definition of the Encyclopedia. It is a like a definition of tax though it shares some qualities, but not identical. (K.C., 2009)

2.1.2 Objectives of Taxation

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

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

From the above, we can conclude that the tax has the objectives of raising revenue to have resource mobilization, equal distribution of wealth and income in the society encouragement in production of certain products encouragement in employment, saving and investment, removal of regional imbalances and enforcement of government policy (Kandel, 2007).

2.1.3 Principle of Taxation

As everything is based on certain principles, in the same way taxation also has some specific principle which helps to formulate appropriate tax policies. According to Adam Smith, the father of economics has mentioned the following criteria, maxims or cannons of taxation in his book, the Wealth of Nations.

1. **Cannon of Equality or Equity:-** The tax policy should be formulated considering the ability of public to pay taxes. For this higher tax is imposed on higher income or properties. This policy established the equitable liability to the same income group. Thus cannon of equity say that the people should contribute to the government as per the benefits that they get from the government.
2. **Cannon of Certainty:-** Another quality of tax system is the cannon of certainty. This cannon say that a taxpayer should be informed about the rate, time and procedures of payment of tax. Furthermore fix its target of revenues that comes from taxes.
3. **Cannon of Convenience:-** Convenience is another quality of a good tax system. Common people do not have sufficient knowledge about the taxation nor do they have the capacity to hire the experts. That is way tax system should be such that can be easily understood and followed by ordinary people in the society.
4. **Cannon of Economy:-** If the expenditure of collecting tax is more than or equal to the amount of tax, such policy will not result in surplus to the public revenues and will not be beneficial to the country. This good tax policy has the quality of economy, that the low cost of collecting tax should be maintained to the possible extent so as to minimize the difference between the amount that people take out of their pocket to pay tax and the amount that actually goes to the government treasury.

Besides the above stated canons of taxation given by Adam Smith, Bastable has added two other principles which are discussed below:

5. **Cannon of Productivity:-** Cannon of productivity says that every tax system should be revenue productive. It means that there should be those taxes only which provide adequate revenue. Taxes that do not provide sufficient revenue should be withdrawn.
6. **Cannon of Flexibility:-** Flexibility indicates two things. First, a tax system should have the characteristic of revenue elasticity. There should be built-in tie up between the economic activity of a country and revenue mobilization. Higher the economic activity, higher the revenue. Second, the tax system should be of that type which provides revenue as per the necessity of the situation. If there is need of higher revenue, the tax system should provide as per the needs.

Other modern economists have added some other canons of taxation and those are:

7. **Cannon of Diversity:-** Tax system not totally depends on one source of revenue. It is risky to the government to depend upon only one source. That means the sources of taxation should be diversified as far as possible. This principle says that tax should be levied on various stages and various sources. There should be multiple taxes in place of single tax. Similarly, a tax system should be of that type, the burden of which is diversified on the people of different walks of life.
8. **Cannon of Simplicity:-** Simplicity means understandable. The tax system should be simple to understand and applicable in public life. A complex tax system creates unnecessary hassles. Simple tax system with higher tax rate induces the taxpayer to compliance.
9. **Cannon of Uniformity:-** Uniformity in this context means uniformity in depreciation system, tax rate, stock valuation system, accounting method, dividend distribution system, accounting system, appeal and penalty system, method of payment of tax and time of the payment of tax.

2.1.4 Income Tax in International Context

Income Tax was first introduced in Great Britain in 1799 A.D. after finance wars with France. Only after 1880 A.D., it was accepted as a permanent tax. In United States of America, first federal income tax was imposed in 1862 A.D., next to finance civil war expenditure. However it becomes a permanent only in 1913 A.D. after 16th amendment to U.S. constitution. In neighbor country India, first income tax was introduced in 1860 A.D. After introducing Income tax Act 1886 in 1886 A.D., it was imposed as a permanent. Italy adopted income tax in 1864 A.D., New Zealand in 1881 A.D., Australia in 1915 A.D. and in Canada in 1917 A.D. After First World War, the income tax became an important source of tax revenue in many developed countries. By 1939 A.D., it has become the most important source of revenue in most developed countries and had made appearance in a number of developing nations. From the First World War decade, income tax shown as an important source of revenue in developed country. In the beginning of introducing time, it was generally levied at flat rate. Only after 1909 A.D., the principle of progression was introduced from the UK and New Zealand, (Kumar, 1984 A.D.)

2.1.5 The History of Income Tax in Nepal

Nepalese tax system was based on Vedas, Smritis and Purans. Directives propounded by Menu, Yagnabalka, Chanakya etc. guided the taxation system. At that time, the principle of collecting tax from the people was imposition of tax without harming the activities of people. Although there was tax system in Nepal in ancient time also, the concept of income tax was brought only by the first budget. The budget introduced in B.S. 2008 (1951 A.D.) stated about the introduction of income tax system in Nepal. However, it was actually introduced only in B.S. 2017 (1960 A.D.) when the Finance Act, 2016 and Business Profit and Remuneration Tax Act, 2017 were enacted. The marginal rate of taxation prescribed by these acts was 25 percent. Since, the income tax was imposed only on income from business profit and remuneration; the tax act could not cover all the source of income and so was replaced by the income Tax Act, 2019 in 2019 B.S. (1962 A.D.). Income Tax Act, 2019 with 29 sections divided the heads of income into 9 parts covering business, profession and occupation, remuneration, house and land rent, cash and kind investment, agriculture, insurance business, agency business and other sources. The act was amended in 2029 extensively. However, considering this act incapable of fulfilling the time was replaced in 2031 B.S. (1974 A.D.) by another act.

As already stated, Income Tax Act, 2031 replaced Income Tax Act, 2017 in B.S. 2031 (1974 A.D.). This act having 66 sections classified the sources of income into 5 heads namely (1) Agriculture, (2) Industry, Business, Profession or Vocation, (3) Remuneration, (4) House and land rent and (5) Other sources. However, agriculture income was kept outside the tax net except few years through the finance Acts. This Act was amended for eight times and existed for a period of 28 years. To enhance revenue mobilization through effective revenue collection procedure for the economic development of the nation, and to amend and integrate the laws relating to income tax, the parliament of Nepal enacted Income Tax Act, 2058 (2002 A.D.). Income Tax Act, 2031 was revised for 8 times in 2034, 2036, 2037, 2041, 2042, 2043, 2046 and 2049 B.S. Since 19th Chaitra, 2058 (01, April 2002), Income Tax Act, 2058 has been introduced in Nepal. The Act governs all income tax matters. The new tax act has 143 sections. Income Tax Rules, 2059 is also implemented under the provision of this act, (Kandel, 2007).

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

Tax system is the sub-system of the total economy. Tax policy is changed with the change in the economic policy of the country. Change in word economic policy and advancement in information technology has a vast impact on Nepalese economy too. Small economics like Nepal have to adopt the economic policy followed by World Bank, International Monetary Fund, Asian Development Bank and other International Agencies. Especially other 1990s, there is re-emergence of the Liberalization, Globalization and Privatization system that focuses on the minimum intervention of the state on private economic matters. Nepal also is not an exception in this respect and Nepalese administrators and policy makers too have tried to change the tax policy of the country, ITA, 2058 is the result of the change in all these matters. The following are the features of the ITA 2058.

1. **All Tax related matters within one Act:-** Before the introduction of ITA,2058; there were almost one and half dozen acts related to income taxation. ITA, 2058 has abolished all tax-related laws given in other acts and embraced all income tax related matters within it.
2. **Specification of Tax Rates:-** Earlier, the tax act had not dealt with rates. Finance Act of each year used to deal with the rates. However, ITA, 2058 has embraced the tax rates applicable to all the sources of income.

3. **Abolishing of Various Tax Related Concessions, Rebates and Exemptions:-**
Most of the facilities provided by the government in past to taxpayers were used for tax evasion. ITA, 2058 has abolished most of the facilities given by earlier Acts and introduced a fair system of taxation.
4. **Specification of Stock Valuation Methods:-** ITA, 2031 was silent about the method of stock valuation for taxation purpose. However, ITA, 2058 has made a provision of valuing the stocks of goods for tax purpose.
5. **Simplification of Depreciation Related Provisions:** - ITA, 2031 had complicated provisions related to depreciations. The types of assets categorized for depreciation purpose were around 3 dozens. Different rates were allocated to different types of assets. However, ITA, 2058 has specified diminishing balance method based on pool system with only 5 categories of assets.
6. **Tax on Capital Gains and Dividends:** - ITA, 2031 had not the provisions of taxing capital gains and dividends. But ITA, 2058 in contrast has made legal provisions of taxing these items. A rate of taxes for dividend is laid as 10 Percent where as the capital gain is taxed ordinary income of business.
7. **Liberal Loss Set off and Carry-Forward Provisions;-** ITA, 2031 had made the provisions of setting off and carry forwarding of business losses only for three years from the same source of income. That is interring head provision only. But ITA, 2058 has made provisions of inter-head adjustment for one year and intra-head adjustment for four years. For financial sector and long-term contract the provisions more liberal are providing the facility of recovering the losses from previous profit also.
8. **Provision of International Taxation:** - Due to closed economy concept, international taxation was not felt necessary and hence there was not such tax provision in ITA 2031. But now this concept is introduced in the credit, double taxation agreement etc.
9. **Strict Fine and Penalty Provisions:-** The fines and penalties for the defaulter in old Act were not as severe as in new tax Act. But ITA, 2058 has made the provision of fine and penalty more stringent.
10. **Submission of Income Statement:-** This Act has made a provision of Relaxing the submission of income statement by a person who does not have taxable income or who has the income only from remuneration.

2.1.7 Tax Planning

Tax planning is one of the ways of reducing the tax amount by the taxpayer. 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 decision about the future by choosing the best from different alternatives. In the words of Mishra, the legitimate device to reduce tax liability is tax planning.

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

1. Reduction of tax liabilities
2. Minimization of litigation
3. Productive investment
4. Healthy growth of economy
5. Economic stability

The features of tax planning can be explained as follows:

- It is future oriented. It is concerned with activities to be undertaken in future.
- It is legitimate device of minimizing tax burden. The legislature encourages using this device.
- It is legal, ethical and economic.
- It is genuine use of facilities provided in the tax laws.
- It establishes a good relationship between government and business community. It enhances a healthy environment in the country.
- In literature, there is another word named tax management that similar to tax planning.
- However, there are differences between tax planning and tax management. Tax management is the efficient systematic and timely handling of tax matters to save maximum amount of time, talent and treasure to avoid worry, tension, stringent penalty and prosecutions. It is maintenance of records and documents, filing of tax returns in time and performing other tax related duties.(Citation).

2.1.8 Scope of Tax Planning under Income Tax Act, 2058

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

Under this Act tax planning can be divided into two heads:

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

2.1.8.1 Strategic or Long-Term Tax Planning

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

- a. **Selection of Business:-** As per the Act, the rate of corporate income tax for manufacturing sector is 20 percent, for financial sector 30 percent and for other sectors 25 percent. This means, there are differences in tax rates applicable to different sectors of the economy. The differences are created to promote the manufacturing sector of the economy and thus to create employment to the people. But equally important is the fact that this difference induces tax planning. Other things remaining the same, an investor selects manufacturing sector because the tax rate applicable to this sector is low. In the same way, as per the Sec. 11 of the Act, the agriculture business conducted individually is out of the tax net. Also the incomes of agriculture related cooperatives and saving and lending cooperatives situated in rural areas are tax-free. Even the dividend distributed by such organizations is out of the scope of taxation. That means, an investor can save money by investing in above stated agriculture sector or cooperative business. Such saving of tax is neither illegal nor unethical. It was found from one survey that 90 percent of the business firms consider tax factor while selecting the line of business (Paudyal, 1998).

As per the Section 15 of the Industrial Enterprise Act 2049, there is a provision to return to the taxpayer the value added tax paid by the units that export their products or sell them to export promotion houses, by the units that produce intermediate goods to be used in producing exportable goods or by units earning foreign exchange. Logically, these types of enterprises are selected by investors.

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

c. Selection of Organizational Form:- Progressive tax rate is applicable to proprietorship firm but a fixed tax rate is applicable to a company. A company's profits are taxed twice (i.e. once from the profit of the company and then from the dividend received by the individual shareholder) whereas a proprietorship does not have to pay such double taxation. Banks, Financial Institutions, General Insurance Business, Petroleum Business and cigarette & Beverage business should pay at 30 percent tax. Enterprises accepted as industry by Industrial Enterprise Act (except alcohol & tobacco based units) should pay at 20 percent tax. Enterprises, which construct and operate road, bridge, tunnel, ropeway, flying bridge, trolley bus, and tram, should pay at 20 percent tax. Entities engaged in building and operating public infrastructure to be transferred to NG and export business should pay at 20 percent tax. Entities wholly engaged in power generation, transmission or distribution for an income year should pay at 20 percent tax. In addition, individual owners of vehicles that are for the hire have to pay a nominal income tax (Rs. 1500 for truck/bus, Rs. 1200 for car/jeep etc per year) which is full and final irrespective of the actual income. All these discriminations encourage selection of proprietorship form of business organization. Within corporate bodies, if a company is listed in stock exchange, it can have the facility of paying 2 percent less tax in comparison to non-listed company. It means, listed company can pay tax 18% in case of industry, 23% in case of trading and 28% in case of banking sector, (Kandel, 2007).

d. Selection of Location:- Industries are located at a place which has advantages of raw material, nearness of market, availability of human resources and other related non-tax factors. However, other things remaining the same, the promoters can consider the areas where tax concessions are available. Income Tax Act, 2008 has provided concessions and rebates for the industries established in backward regions.

For example, Special industries established in certain remote, undeveloped or underdeveloped areas should pay at 70%, 75% or 80% respectively of the rate otherwise applicable for the periods of ten income years. ITA, 2058 has also a provision of remote area allowance up to Rs.30,000 to an individual working in remote areas. For example: Individual working in remote area A,B,C,D and E can get an additional exemption of Rs.30,000, Rs.24,000, Rs.18,000, Rs.12,000 and Rs.6,000 respectively. Different taxes are applicable to different small scale businesses established in different parts of Nepal. For example: Business having annual transactions up to Rs.12,00,000 and income Rs.1,20,000 should pay Rs.2,000; Rs.1,500 and Rs.1,000 as tax if established in metropolitan, sub-metropolitan cities and municipalities and anywhere else in Nepal respectively (Bhattarai & Koirala, 2061).

e. **Merger:-** There are certain techniques that help in minimizing the tax by way of merger of a firm with another. Due to the scope of tax planning through merger, the businesspersons consider status of the firm before merging. One of the techniques is merging of a non-manufacturing unit into a manufacturing (e.g. a firm related to trading) unit. According to Income Tax Act, 2058, a trading business has the liability of paying 25 percent as corporate tax whereas a manufacturing firm should pay only 20 percent. Thus, by integrating nonindustrial and industrial units, a firm can save some furthermore, merging of loss-making unit into a profit-making unit is also beneficial from the point of tax saving since the profit of profit-making unit can be adjusted to the loss of loss-making unit. The provision of loss recovery period given by the new Income Tax Act can be helpful in minimizing the tax liability of such firm. It offers 50 percent reduction in applicable tax to employee in case of group retirement of employee due to merger. No capital gain till two years which is paid to shareholder of the time of merger. No tax on dividend till two years which is paid to share holder of the time of merger.

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

normal rate i.e., 20 percent, 30 percent and 25 percent for manufacturing firms, financial firms and others respectively. This means, tax rates on the return on new capital and loan are lower than the tax rate on retention. Accordingly, interest to a business organization is a deductible expense (Sec.14) but dividend and capital gain are not. Naturally, this means more favorable treatment to debenture or loan than to the new capital and retained earnings. This obviously, creates the scope of tax planning employing more loan than new share capital and retained earnings. Since Income Tax Act, 2058, also has favored debt, making interest a tax deductible expense, the firm can plan tax by utilizing more debenture or loan than other forms of capital. In Nepali context, it was found that 76 percent of the executives preferred increase in debt in the capital structure with every increase in the tax rate (Poudyal, 1998), though from another survey conducted by the author of this article, it is found that the average debt equity ratio in Nepali businesses is only 40:60.

2.1.8.2 Operational or Short-Term Tax Planning

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

a. Lease or Buy Decision: - There are two methods of acquiring fixed assets of a firm: leasing and buying. If assets are purchasing, the firm gets depreciation facility as per ITA and it is taken as capital expenditure. If the asset is lease, the rent is taken as revenue expenditure and is allowed to deduct as expense. If fixed asset is purchase through borrowing, the interest on capital can deduct as expenditure. While 100 percent of the rent on the leased asset is allowed in each year as expenditure, this is not so in case of the outlay made for the procurement of a machine, in which case only depreciation is allowed. Therefore, leasing is beneficial than buying machine. But in case of depreciation charge on combined cost i.e. both for land and building purchasing is more advantageous than construction the new building. In construction, depreciation is allowed only on building not on land. Accordingly, between constructing a building and leasing it, the latter is more beneficial option because it will make the firm able to claim the entire rent of land and building as expenditure.

If a road or hospital is to be constructed by a company, it would be better to donate the fund to central or local government and make them construct the road or hospital since this entire amount can be written off as expenditure under donation head itself in the year of donation remaining within the limit of donation. If the firms itself

construct the road, it can be deducted by way of depreciation which write off only one part of the expenditure in a year. It means, the expenditure can be recovered only in a distant future. Future recovery means decrease in the present value.

b. Repair and Improvement Cost:- There are two types of expenditures, i.e., capital expenditure and revenue expenditure. Capital expenditure is taken as fixed assets creation and is authorized to have depreciation claim only in future. The expenditure that increases the longevity, capacity or price of the asset is included within capital expenditure. On the other hand, revenue expenditure is treated as current expenditure and is allowed to be debited in profit and loss account in the current year. Contrary to this universally accepted principle, Income Tax Act, 2058 has treated all the repair expenditure (whether capital or revenue) uniformly. As per the Act, if the repair expenditure is not more than five percent of the depreciation base of the concerned pool of assets, it is allowed as expenditure in the year of occurrence. If the amount spent on repair is more than 7.1 percent of the depreciation base, the excess amount is taken as capital expenditure and is added to the depreciation base of the concerned pool of assets. Considering this provision given in the Act, the taxpayer can plan his expenditure on repair and maintenance.

c. Loss Recovery:- As per the Act, losses can be carried forward up to coming four years. In addition to carry forward of losses, banking and general insurance business can carry back their losses from preceding five income years. Bank can avail this provision only if it does not maintain loan loss provision. As per the Act, loss from investment cannot be carried forward or backward (Bhattari & Koirala, 2061).

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

e. Research & Development:- Research is very important to a firm to sustain in the market. That is why tax law treats research and development expenses as allowable expenditure. Income Tax Act, 2058 too has made this provision but in somewhat

miserly way. Only up to 50 percent of the taxable income can be taken as regular expenditure on R&D of the investment year. The remaining amount should be carried forward and written off in future as depreciation related to research and development expenditure. The excess R&D cost is capitalized and depreciated under Block D from next year. The taxpayer can minimize tax liability by spending on R&D.

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

Table: 2.1
Classification, Pooling and Rates of Depreciable Assets

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

Source: ITA 2058

g. Stock Valuation:- The FIFO (first in, first out) method assumes that the first unit to enter stock is the first one sold, which means that the earliest costs assigned to inventory are the first ones to be charged to expense when items are sold. If prices are rising (which is usually the case), this means that the remaining inventory will have a relatively high price, which means that the cost of inventory charged to expense is low, which creates more taxable income. The LIFO (last in, first out) method assumes that the last unit to enter stock is the first one sold, which means that the latest costs assigned to inventory are the first ones to be charged to expense when items are sold. If prices are rising, this means that the remaining inventory will have a relatively low price, which means that the cost of inventory charged to expense is high, which creates the smallest amount of taxable income.

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

i. Retirement Contribution Fund:- Retirement contribution fund means a payment to a retirement for the provision or future provision payment. Employment provident fund, gratuity fund, citizen investment trust are the common forms of retirement fund. Individual is allowed to reduce from his assessable income A sum of Rs. 300000 or, 1/3 of assessable income or actual contribution (Whichever is Less).

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

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

l. Value Added Tax:- A firm whose annual turnover of goods and services is less than Rs.2 million needs not be registered with the VAT office and collect VAT on sales. But they can register voluntarily. VAT is levied at a single rate of 13 percent.

In certain cases, the rate may be zero and certain goods and services are exempted from VAT. Value Added Tax is collected at every (manufacturing, distribution, wholesale and retail) stage of selling goods and services.

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

VAT Exempted Goods and Services

- Basic Agricultural Products
- Goods of Basic needs
- Live animals, animal product ,animals feed and feed supplements
- Agricultural inputs
- Education services
- Transport service
- Health Services
- Raw materials for pharmaceutical industries
- Books, Newspapers and Publications
- Industrial machinery
- Cultural and Artistic goods and Services
- Specified personal & Professional Services
- Others goods and services such as postal service, financial & insurance service, buying & selling of real estate.
- Zero Rated goods and services
- Goods exported or services provided abroad
- Goods & Services imported by accredited diplomats

m. Retention or Distribution:- "Retention" means not distributing the profit currently whereas "distribution" means payment of tax right now at the rate of 5 percent since there is a provision of deducting tax at source if dividend is distributed. Retention means capital gain also. In case of capital gain, the tax rate is 10 percent. In the same way, in case of capital gain the tax payment is delayed until the date of

the sale of the share. If there is distribution, the tax should be paid in the year of payment of dividend. This means, the firm can at least gain from the present value of the amount of tax that should be paid to the government if it retains the profit. Accordingly, if the dividend is paid to a company that holds more than 25% of the shares in the distributing company, the dividend tax should not to be paid (sec. 54 sub. sec. 3). That is, by selling more than 25 percent of the total shares to a company, a firm can save tax.

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

2.1.9 Tax Reform in Developing Countries

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

2.1.10 Constraints on Tax Reform While

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

success. Other countries invariably have their own set of “sacred cows”.

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

2.1.11 Process of Tax Reform

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

2.2 Review of Related Studies

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

2.2.1 Review of Books

K.C. (2009) wrote a book entitled, Tax laws and Tax Planning: Theory and Practice. It includes calculation of tax liability of both individual and entity. It explicitly explains inclusions and exclusions from business and investment income, deduction allowed in

calculation of taxable income, basic timing and accounting issues and characterization of income. This book explains proper tax payer responsible for reporting methods of taxation of income and need of compliance.

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

Dhakal (2001) has written a book entitled, Income Tax and House and Compound Tax Law Practice. Dhakal has described the provision income tax in Nepal. This book described about income tax in Nepal, house and compound tax and VAT etc. Adhikari (2003) discussed the “legal provision of new Income tax Act, 2002”. His book is analytical rather than informative. Writer has not included administrative aspect, role and structure of income tax in his book. The book has only focused on the legal aspect of the income tax. Agreement and protocol relating to avoidance of double taxation and prevention of fiscal evasion with respect to taxes in income between different countries had also in his book.

2.2.2 Review of Journal and Articles

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

Sinha (2005) the Institute of Chartered Accountants of Nepal (ICAN) published a monthly journal on December 2005. Sinha presented an article named, taxation-legal illegality, he had described the taxpayer have been encouraged by the tax officials themselves to go courts over the complaints of their wrong doing because the authority is totally convinced that no immediately solution can be expected from the court of tribunal on short- span of time as long as they are in position, the Tribunal court reviews the decision of Inland Revenue Department's director. New Business Age (2007), the new business age published news about tax paying behaviors in Nepal and European countries. The news presented that 95% of taxpayer in European countries were willing to pay tax but in Nepal taxpayer want to hide the income and they did not pay tax as per rules and regulation.

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

2.2.3 Review of Thesis

Khtiwada (2012) had presented the thesis entitled, Scope of tax planning under income tax Act 2058 in Nepal, and has made a deep study on Tax planning regarding its effective implementation. People in developing country like Nepal tend to greater propensity to evade taxes. The basic objective of the study is to identify the scope/areas of Tax Planning under Income Tax Act, 2058. The other objectives are as follows:-

- To find out how tax planning can help in the healthy growth of economy.
- To find out the illegal way of tax saving and responsible factor for illegal tax

planning in Nepal.

- To provide the comprehensive information to the managers for strategic planning, project planning and operational planning about the areas provided by the Income Tax Act 2058 in Nepal.
- To provide the suggestions for the effective planning.

The major findings of the study are as follows:-

- 92.5 % of the respondents believe that Tax Planning is being in practice in Nepal and 7.5 % of the respondents think that there is no tax planning in practice.
- 85 % of the population (Approx) are considering the term tax planning in their business and profession in order to reduce tax liability and 15% of the population are not considering the term tax planning.
- 20% of the respondents think that tax planning in Nepal is done through illegal ways also and the remaining 80% of the respondents think that tax planning is done through legal ways and effectively.

Adhikari (2011) conducted a study entitled, A Study on Corporation Income Tax in Nepal.

The objectives of his study were;

- To study and evaluate the status of income tax as major source of revenue,
- To examine the Nepalese income tax structure,
- To review and analyze the trend of income tax collection and tax revenue,
- To identify the factors to increase taxpaying habit of income tax payer,
- To evaluate the problems of income tax management and provide suggestions to the concerned on the basis of study findings.

He has found that;

- The share of tax revenue has always been greater than the share of non-tax revenue. Similarly,
- The contribution of indirect tax has been always greater than direct tax revenue during the study period from 2000/01 to 2010/11.
- Income tax is an important source of direct tax.
- Its structure of Nepal is the composition of tax from government sector, public sector, private corporate bodies and remuneration tax.

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

Objectives

- To study the concept of tax planning.
- To examine the use of tax planning in Nepalese organization.
- To examine the implementation of Tax planning.
- To provide suggestion to Nepalese organization to use tax planning.

Following are the major findings of the study:

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

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

Following are the major objectives of the study:

- Contribution of income tax to the public revenue,
- Contribution of Nepal Telecommunication (NTC) to income tax,
- Effectiveness of income tax collection.

Following are the major findings of the study:

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

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

Following are the major objectives of the study:

- To review the income tax system in Nepal,
- To identify the problem of income tax management. His research was based upon secondary as well as primary data. The primary data was collected within Kathmandu through interview, questionnaire etc.

Following are the major findings of the study:

- He had concluded that income was the major source of internal source mobilization, the income tax system was not efficient and income tax assessment was not efficient.
- Evasion of income tax was a major constraint for revenue mobilization.
- He also added that corporate tax was found high and exemption limit was not sufficient.
- Finally he had recommended that income tax net should be widened assessment

procedure must be improved and income from agriculture and capital gain should be taxed.

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

His major findings are as follows

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

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

Objectives:

- To examine the corporate tax structure in Nepal
- To examine the implications of tax factor in selecting the best alternative strategy in different aspects of strategic planning.
- To analyze impact of corporate tax on managerial decision relating to the different aspects of project planning.
- To examine corporate tax planning in respect of organizational planning.
- To investigate tax planning practices being followed in respect of strategic planning, project planning and operational planning by Nepalese companies.

The selection of tax base is an important constituent of corporate tax structure. The different

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

2.4 Research Gap

Research gap refers to the gap between previous research and this research. Many research studies have been conducted by the different students, experts and researcher about Scope of Tax Planning. There is gap between the present research and the previous researchers. The findings of the previous researches were mostly based on secondary data. Most of the previous researches did not disclose what kinds of tax planning strategies should be implemented in Nepalese environment. Thus to fill up those gap the current research is conducted. This research is a survey type of research. It is based on primary data. This research study is based on using current data which was not included in previous studies. So, this study will be fruitful to those interested person, parties, scholar, civil society, general public, businessmen and government for academically as well as policy prospective.

CHAPTER – III

RESEARCH METHODOLOGY

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

3.1 Research Design

The research design is a plan, structure and strategy of investigation conceived so as to obtain answers to research questions and to control variance. The plan is the overall scheme or program of the research. It includes an outline of what the investigator will do from writing the hypothesis and their operational implications to the final analysis of the data. The purpose of the research design is to provide a maximum amount of information relevant to the problem under investigation at a minimum cost. This research study is concerned with past phenomena both numerical as well as opinions. So this study is based on descriptive survey research under descriptive research design.

3.2 Nature and Sources of Data

Mainly the primary sources of data and information have been used in this research. In addition, secondary sources of data have rarely been used in some extent. Some important sources of the primary data are: opinion survey through questionnaire and interview, review through the internet and by some general discussions with teachers and friends.

3.3 Population and Sample

It is very difficult task to study about the universe. In other words, an individual can't study about the total population of the country. The population for this study was comprised of the entire person belonging to or associated with Value Added Tax in Nepal. In order to fulfill the objectives of the study, 40 samples from the population in the Kathmandu Valley were carefully selected by consultation with lecturers and best judgment of the researcher. Hence for primary data, 40 samples were taken, among them the samples were divided into 4 groups and from each profession researcher took 10 each respondents. Following are the list out of various natures of profession with sample size use for this thesis.

Table: 3.1
List of Sample Respondents

SN	Nature of Profession	Number
1	Bankers	10
2	Lecturers	10
3	Income tax officer	10
4	Businessman	10
	Total	40

A set of questionnaire related to the objectives of the study had been prepared for 40 respondents professionals. Some questionnaires were sent through postal service, some through e-mail and rest through direct visit to the professionals and some are through general discussions with the professionals and similar questionnaires was used for all types of respondent.

A. Primary Sources

The primary data were collected through following techniques:

-) Interview
-) Questionnaire
-) Telephone queries,
-) Discussion with resource persons
-) Field Survey

B. Secondary Sources

The secondary data of this research were collected from the following sources:

-) Published and unpublished reports, articles and dissertations on the concerned subject
-) Published documents of National Planning Commission
-) Publication and annual report of Inland Revenue Department (IRD)
-) Different publication of Central Bureau of Statistics
-) Publications of Nepal Rastra Bank (NRB)
-) Various books written by tax officers and scholars.
-) Publications, Budget Speeches and Economic Survey of various fiscal year of Ministry of Finance, the Government of Nepal.
-) Newspapers, such as, Gorkhapatra, the Rising Nepal, Kantipur Daily, and so on.
-) Publications of various VAT Department.
-) The collected data through secondary sources have been tabulated in different ways according to the requirements of the study.

3.4 Procedures of Presentation and Analysis of Data

The result of each and every question out of the questionnaire was submitted respectively. Similarly they are ranked and planned in order by editing and coding. The views of the respondents about the questions were presented in respective order so that the analysis was fully based on the respondents. The cumulative result of each question is described in the form of respondent's language as far as possible. The main priority is given to the highest support and decision of the respondent. The supports of the respondents were collected in the numerical form as well as in the language form. Finally, the conclusion and suggestions of the study were presented in the summary. Data are analyzed and interpreted using different types of statistical

tools as given below:

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

3.5 Weight of Choice

The respondents are requested either to rank their answer or to give yes/no response or to write their opinion. In the case of ranking the answer the scale varies from question to question. The scale is given 1 to 10 for every option, where 1 stands for least important and 10 stands for most important. In every option four respondents are given their importance that may be 1 – 10, and the total points on every option will be 40. The total points get by each choice are converted into percentage of total points available to the each choice. For example, bankers, lectures, tax officer and business person given scale 6, 5, 7, and 4 respectively then the total points get by this option is 22 out of 40, which means 55% while calculating total scale into percentage. After this the choice is ranking. The choice having higher percentage is ranked as most important and the choice having lowest percentage is ranked as least important.

CHAPTER - IV

PRESENTATION AND ANALYSIS OF DATA

This chapter deals with the data and information collected from the primary sources i.e., questionnaire, interview and field study. This chapter is the main body of the study, which answers the research problems for obtaining the specific goals of the research. It helps for summarizing the conclusion and findings of the research. This chapter introduces the 40 sample units of different professionals relating to various sectors like education, business, banking and taxation.

4.1 Sample Analysis Measurement

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

4.1.1 Tax Planning is being practiced in Nepal

To know whether tax planning is regularly in practice in Nepal, researcher asked yes/no question to respondents. The result has been presented as below.

Table: 4.1

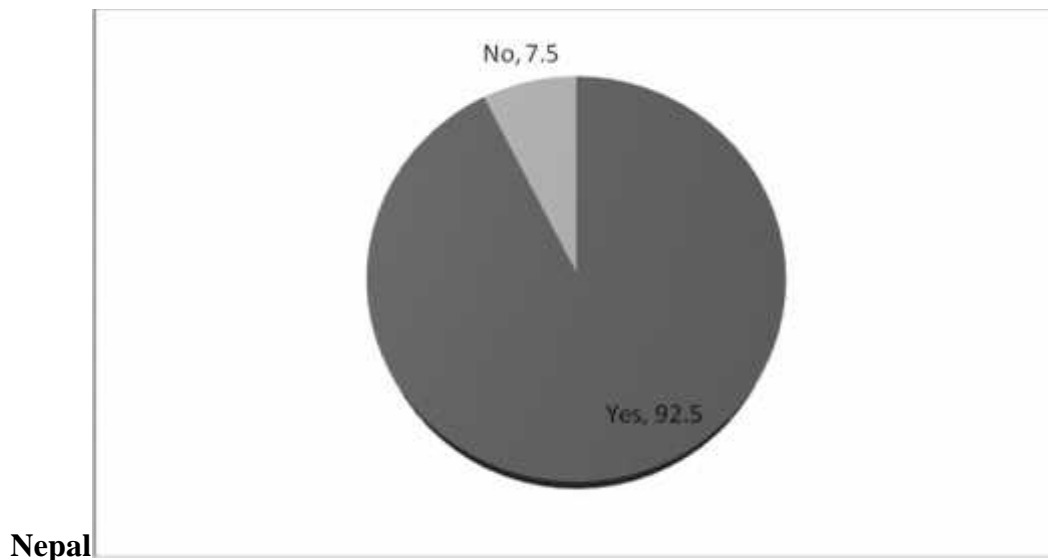
Tax Practicing in Nepal

Option	Lect.	Off.	Ban.	BM	No. of Respondent	Percentage %
Yes	10	8	9	10	37	92.5
No	0	2	1	0	3	7.5
Total	10	10	10	10	40	100

From the above table, it is observed that 37 out of 40 i.e. 92.5 % of the respondents believe that Tax Planning is being in practice in Nepal and 3 out of 40 i.e. 7.5 % of the respondents think that there is no tax planning in practice. Here, it is shows that those who said tax planning is not practiced in Nepal they have pointed towards those sectors of population who are afraid from the term Tax itself so they even don't want to learn about the tax planning and anything relating to tax, they only keep on finding short cut ways to get out of the habit of paying tax. But we can't ignore the respondents who said that there is no tax planning is done in Nepal because some of them were tax officers themselves. And obviously tax officers knows more than anybody that what percent of people are planning tax and what percent are trying to avoid tax so we can't neglect their response. Anyway the happiest part is that there is 92.5% respondents are agree with tax planning is done in Nepal which is quite effective for the country like Nepal where the education is still in growing stage only.

Figure: 4.1

Tax Practice in



4.1.2 Tax planning consider to reduce Tax Liability

To know whether tax planning is being considered by the respondents in the process of reducing their tax liability, researcher collect respondent's habit towards tax planning and the obtained data are as following in table 4.2.

Table: 4.2

Consideration of Tax Planning

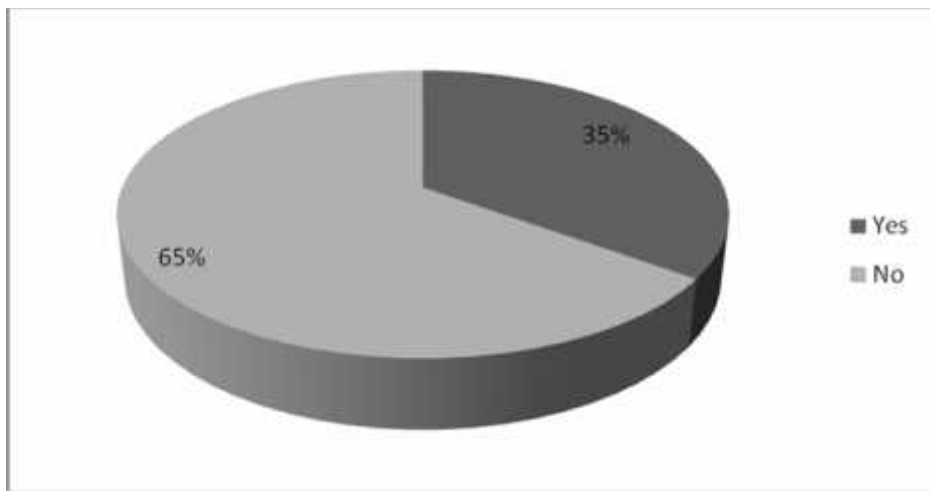
Option	Lect.	Off.	Ban.	BM	No. of Respondent	Percentage %
Yes	7	0	1	6	14	35.00
No	3	10	9	4	26	65.00
Total	10	10	10	10	40	100

Source: Field Survey 2013

Table 4.2 shows that only 35% of the populations are considering the term tax planning in their business and profession in order to reduce tax liability and 65% of the populations are not considering the term tax planning. Respondents are agree they are not able to use properly tax planning and as per them the reasons are unawareness of the term Tax Planning, idea and concept of tax planning is not clear to them, hard to follow the method of tax planning and lack of qualified manpower in tax offices.

Figure: 4.2

Consider Tax Planning



4.1.3 Tax saving through Illegal Ways in Nepal

To know whether tax planning is use through illegal ways for saving of tax in Nepal or not, Researcher collect data and those are as under in table 4.3

Table: 4.3

Tax saving through Illegal Ways in Nepal

Option	Lect.	Off.	Ban.	BM	No. of Respondent	Percentage %
Yes	1	10	10	7	28	70
No	9	0	0	3	12	30
Total	10	10	10	10	40	100

Source: Field Survey 2013

From the above table we can see that 70% of the respondents think that tax planning in Nepal is done through illegal ways also and the remaining 30% of the respondents think that tax planning is done through legal ways and effectively.

Figure: 4.3

Tax saving through Illegal Ways in Nepal

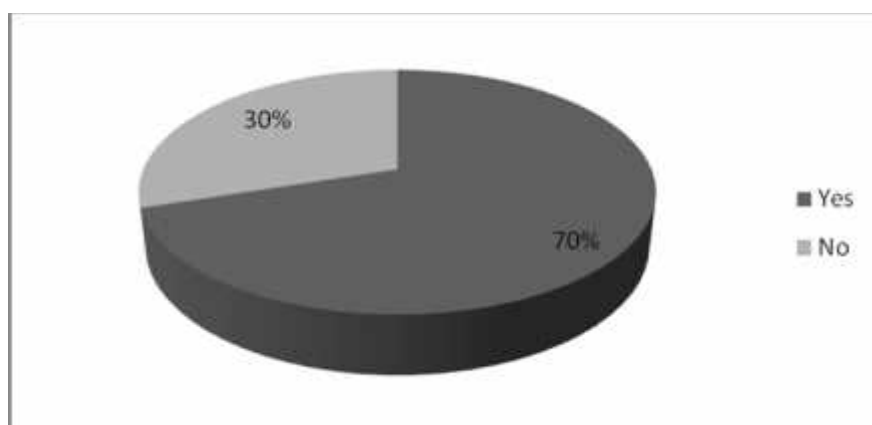


Table 4.3 and figure 4.3 representation of tax saving through illegal ways in Nepal. In Nepal more than two-third populations are agreed with tax saving through illegal ways. Respondents are agree they are saving tax through illegal ways because of having less knowledge regarding the scope of Tax Planning under ITA, 2058 in Nepal. It seems to be provide adequate knowledge regarding scope of tax planning to all the general public in Nepal so that instead of running away from the term tax planning they will come to know the areas and scope of tax planning and will be eager to save their tax under the scope provided by the ITA 2058 in Nepal. It is big challenge that 70% people that saving tax in Nepal is done through illegal ways, It is mandatory to stop these kinds of behavior and make them aware regarding the scope of tax planning as well as implementation in legal way at the same time it is require the law is little bit more flexible after knowing the exact factor why the person is planning tax through illegal ways for certain period. It might be different from person to person the reasons to plan tax so we have to use the right weapon to right person to make them plan their tax through legal ways.

4.1.4 Causes Responsible for saving Tax through Illegal Ways

The following survey shows what the respondents feel which cause is more responsible for saving tax through illegal ways in Nepal. Among the respondents 7 different causes are given and they scaling from 1 to 10 as per their perception that means if they blame for

cause 5 then they give more scale. More scaling represent the more blame cause or mainly responsible for saving tax through illegal ways in Nepal. We totaling the points carry by each cause, convert into percentage and ranking them in order of mostly blamed by respondents.

Table: 4.4
Causes responsible for saving Tax through Illegal ways

SN	Responsible Causes of Illegal Tax Planning	Lect.	Off.	Ban.	BM	Total	%	Rank
1	Higher Income Tax Rate	1	1	6	7	15	37.50	6
2	Tax Administrative Inefficiency	2	5	5	4	16	40.00	5
3	Widespread Illegal Business	6	10	3	5	24	60.00	1
4	High Corruption in Nepal	3	2	4	5	14	35.00	7
5	Poor Tax Paying Habit	7	5	3	6	21	52.50	2
6	Complicated Income Tax Law	6	6	3	3	18	45.00	3
7	Political Indiscipline	1	3	8	5	17	42.50	4

Source: Field Survey 2013

The table above shows the different seven choices for saving of tax through illegal ways. Every profession i.e. lecture, bank manager, tax officer and business person have 10 point scale and out of 10 they assign 1,2,.....10 as per importance of cause as per their perception and knowledge. After their individual scaling we adding all points for each option and divided by total scale possibility i.e. 40 and got in percentage. The choice having higher percentage is ranked as most important and the choice having lowest percentage is ranked as least important. As per the field survey results 60% of the respondents pointed out widespread illegal business to be the ranked one or first reason for illegal tax planning. As the people do illegal business so they have to plan tax through illegal ways because if they

will plan tax legally of illegal business they will get caught and will be punished according to the law. It is very clear that to stop tax planning to be done in illegal ways the widespread illegal business is to be stopped. If not possible then try to control it by making the law a bit flexible in terms of tax planning. Government should discourage people from performing illegal business either by making them know how they can earn money through legal businesses or making the country force and law a bit tighter in terms of illegal business. At the same time to make people aware of the scope of tax planning because most of the people are not aware of the scope of tax planning and when they will come to know the exactly what are the Scope of Tax Planning provided by Income Tax Act, 2058 of Nepal, there is highly chance for illegal business will automatically starts coming to the end.

Respondents ranked second cause for poor taxpaying habit with 52.50% as another reason for illegal tax planning. In Nepal no one is paying tax thinking of the country that taxpaying is their duty and they responsibility towards the country. Nobody have any kind of interest in paying tax to the country they all want to hide their income and are always trying to pay tax as less as possible. In Nepal there is no habit of paying regular taxes and fair tax. Although the people are paying tax but that is not because they are thinking about the country but only they are afraid that if tomorrow they will get caught they have to pay more tax then they are paying at present. This is only reason for paying tax in Nepal. So the government should not only force people to pay tax but also make them understand that the tax they pays goes directly or indirectly at last to them only through different means. Through the development of the country, through distribution of clothe and foods for many kinds of victims, through different plans, etc. In these ways the habit of people to pay tax can be encouraged and they will get rid of poor taxpaying habit.

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

will go through the books of taxation in Nepal.

Fourthly the respondents blamed political indiscipline as another factor influencing the illegal tax planning in Nepal. In Nepal there is no discipline regarding politics, everyday there is going to something wrong in politics. Every day the parties will be quarreling with each other regarding different topics it seems as they are not thinking about the country but only about themselves. They all are unknown about the things happening in the country generally with the people of the country as if they are satisfied or dissatisfied with the present situation. And the people as a result think that if the political leaders are not thinking about the country then why should we do, why should we pay the regular taxes?, why should we only contribute to the country?, and as a result they will starts planning tax through illegal ways. Hence, political indiscipline should be turned into discipline in order to saving tax through legal ways. Fifthly the respondents blamed tax administrative inefficiency to be the reason of illegal tax planning. All the administration part of tax office is inefficient. The officers in the tax offices does not perform their task effectively instead they frustrate the people who came to pay tax for the country by making them run here and there and the most tragedy part is that we go to tax office to pay the tax not to take money back from them. Normally Tax payers should get some kind of respect because they are one of the helping hands of the country, they are contributing to the economic sectors of the country and they are helping country to get developed. The tax administration should work efficiently if the country wants to stop tax planning to be done illegally because tax administration plays a vital role in making people pay tax legally. The officers of tax offices should be very much efficient to make people understand about the pros and cons of paying and not paying the tax then only people will starts paying tax legally instead of finding the tax payment through illegal ways. The sixth rank has been given by the respondents to higher Income Tax rate for the cause of illegal tax planning. As it has been given the sixth rank it is clear that the respondents have given less emphasis to this cause. That means we can say that the tax rate provided to the people and the firm of Nepal by Income Tax Act, 2058 is quite good enough. But there are few unpractical tax mechanisms and somewhere dissatisfactory in terms of tax rate. For example; whether the firm is doing business or not it have to pay the minimum tax to the country is quite not satisfactory and the other part is why rebate is provided only to the factory located in remote areas why not also to the factory located in the municipality areas . The last and seventh rank is given to high

corruption in Nepal by the respondents as the cause of illegal tax planning. No doubt there is corruption in Nepal and it is also affecting in tax planning to some extent but as per the respondents it is blamed lower than other available options. The reason is that all the money that comes from corruption of bribing can't be shown through legal tax planning so the people use the illegal ways of tax planning to make their black money as their white money.

As we all know corruption is in every country but only one thing is to be made into consideration is that the corruption should not influence in the development to that extent as it will cause some influence definitely so we have to try our best to stop the corruption in every single way possible then only we will be stop the planning of tax through illegal ways.

4.1.5 Reducing Tax under Long Term Tax Planning

When asked with the respondents that how they are saving their earnings by reducing tax under long term tax planning they gave their different reasons and taking into mind all those reasons and scaling on every reason we totaling each, convert into percentage and rank them as under.

Table: 4.5

Reducing Tax under Long Term Tax Planning

SN	Ways to Reduction Tax under Long Term Tax Planning	Lect.	Off.	Ban.	BM	Total	%	Rank
1	By Changing the Nature of Business	4	2	4	5	15	37.50	3
2	By Changing the form of the organization	1	2	3	7	13	32.50	4
3	By Changing the location of the industry	1	4	4	3	12	30.00	5
4	By Making the Changes	4	3	5	6	18	45.00	2

	in the Capital Structure							
5	By Changing the Size of Business	6	3	4	8	21	52.50	1
6	By Merging the Business	2	1	2	5	10	25.00	6

Source: Field Survey 2013

As per the field survey results 52.50% of the respondents pointed out by changing the size of business is the major way to saving earnings by reducing tax liability under long term tax planning. They are prefer this cause because selection of suitable size of business helps in tax planning such as; business firm with a turnover up to Rs.20 lakhs and income up to Rs. 2 lakhs fall within presumptive taxation. They are required to pay Rs. 3500; Rs. 2000 and Rs.1250 if they are located in metropolis/sub metropolis, municipality and other areas respectively. Secondly the respondents have ranked by making changes in the capital structure as the second way of reducing tax liability under long term tax planning. Capital required for conducting a business can be raised through issuing shares, debentures, borrowing loans or through retained earnings. ITA, 2058 has made different provisions for treatment of reward given to the providers of capital.

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

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

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

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

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

In the fifth rank the respondents have chosen by changing the location of the industry as the way of reducing tax liability under long term tax planning. Industries are located at a place which has advantages of raw material, nearness of market, availability of human resources and other related non-tax factors. An investor can take benefit of it by establishing business in a suitable location.

- ❖ Special industries established in certain remote, undeveloped or underdeveloped areas should pay at 70%, 75% or 80% respectively of the rate otherwise applicable for the periods of ten income years.
- ❖ ITA, 2058 has also a provision of remote area allowance up to Rs.30,000 to an

individual working in remote areas.

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

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

4.1.6 Reducing Tax under Short Term Tax Planning

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

Table: 4.6

Reducing Tax under Short Term Tax Planning

SN	Ways to Reducing Tax Under Short Term Tax Planning	Lect.	Off.	Ban.	BM	Total	%	Rank
1	By taking care of everything while acquisition of assets	3	4	8	3	18	45.00	2
2	By taking care while deducting repair and	3	3	4	4	14	35.00	4

	maintenance cost							
3	By considering pollution control cost	1	2	3	5	11	27.50	6
4	By considering research and development cost	2	3	4	3	12	30.00	5
5	By deducting donation	3	4	4	4	17	42.50	3
6	By taking care while making loss recovery	5	6	3	9	23	57.50	1

Source: Field Survey 2013

As per the field survey results 57.50% of the respondents pointed out by taking care while making loss recovery is the major way to saving earnings by reducing tax liability under short term tax planning. As per the act, losses from the business can be forwarded up to coming four income years. In addition to carry forward of losses, banking and general insurance businesses can carry back their losses from preceding loan loss provision. As per the act, loss from investment cannot be carry backward or forward. While setting off losses, priority should be given to investment losses. If it is not recouped in the year of loss, it cannot be carried backward or forward. In this way, by properly setting priority, a taxpayer can adjust as much as losses as possible. Second rank is given to by taking care of everything while acquisition of assets as the way of reducing tax liability under short term tax planning. A business firm can make tax planning while acquiring fixed assets needed for running its activities. There are mainly two ways of acquiring fixed assets – one is buying and another is leasing. In case of purchasing, the organization can save tax by way of depreciation, whereas in case of leasing, the tax can be saved by way of lease rent.

Third rank is given to by deducting donation as the way of reducing tax liability under short term tax planning. A donation given to tax exempt organization is allowed for deduction up to Rs. 100000 or 5% of adjusted taxable income. However in Nepal full or partial reduction for donation given to a work by notifying in Nepal gazette. This provision is available to only profit making entity. A tax payer can plan the amount of donation to minimize his tax burden. Fourth rank is given to by taking care while deducting repair and maintenance cost as the way of reducing tax liability under short term tax planning. As per the ITA, 2058

only 7% of the depreciation base can be deducted as repair and maintenance cost in a year. Taxpayers should plan these expenses in such a manner so that maximum deduction is possible. But 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. By considering research and development cost as another way of reducing tax liability under short term tax planning and it is ranked fifth position as per field survey. Research and development (R & D) cost is allowed for deduction up to 50% of adjusted taxable business income. The excess R & D cost is capitalized and depreciated under block D (see appendix) from the next year. The tax payer can minimize tax liability by spending on R & D.

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

4.1.7 Existing rebate provided by Income Tax Act, 2058

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

Table: 4.7

Satisfaction to the Rebate Provided

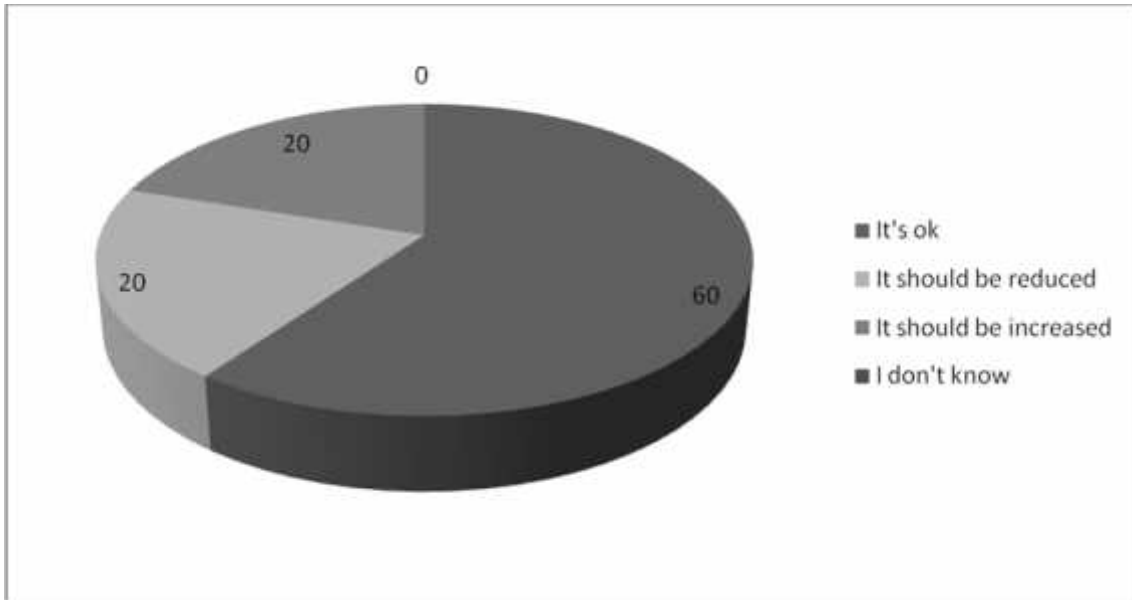
Options	Lect.	Off	Ban	BM	No. of Respondent	Percentage %
It's ok	9	4	4	7	24	60
It should be Reduce	1	3	2	2	8	20
It should be increased	0	3	4	1	8	20
I don't know	0	0	0	0	0	0

Total	10	10	10	10	40	100
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Source: Field Survey 2013

Figure: 4.4

Satisfaction to the Rebate Provided



As per the field survey results 60% of the respondents are state that present rebate is ok and in fact good in respect of the people and the country. They all think that the rebate provided is quite encouraging for the people. The rebate is provided by taking care of the people of the country of all the sectors and groups so quite fair and quite motivating for them to pay the tax in time and properly. 20% of the respondents think that it should be reduced. 20 % of the remaining respondents think that it should be increased a little. These 20 % still think that the rebate provide is still not encouraging for the people of the country to be faithful to the country in terms of payment of tax planning and as a result they will try to find out the illegal ways of reducing tax liability.

So if the country wants all the taxes from the public through legal tax planning then the government have to increase a little for the satisfaction of the public and in comparison to saving tax through illegal ways and increasing the rebate I think increasing the rebate seems to be more profitable for the country. 0% of the respondents gone to option four which is I don't know, this means all the respondents are aware of the rebate provide by the law.

4.1.8 Charging less tax to the industries situated in remote areas

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

Table: 4.8

Charging less tax to the industries in remote areas

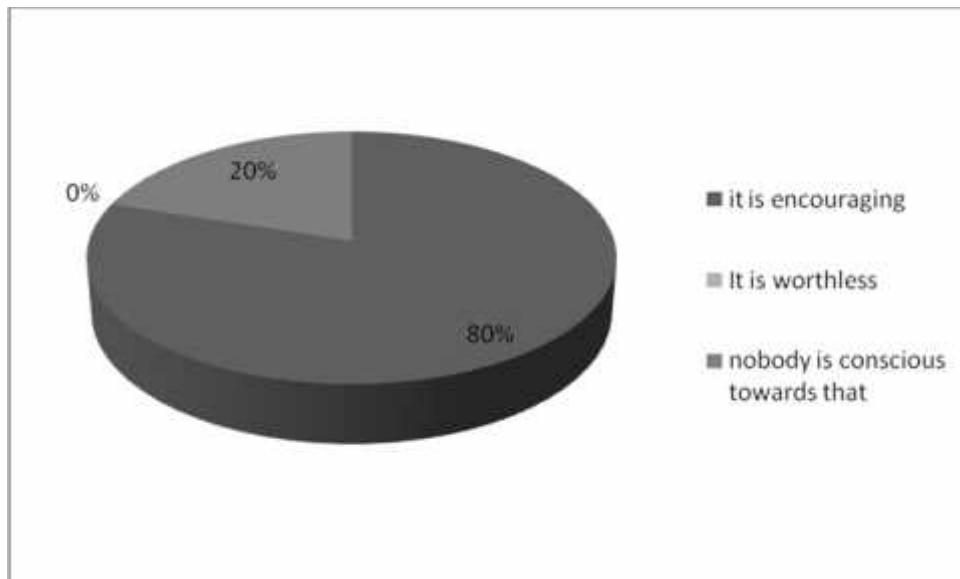
Options	Lect.	Off	Ban	BM	No. of Respondent	Percentage %
It is encouraging	9	5	7	10	32	80
It is worthless	0	0	0	0	0	0
Nobody is conscious towards that	1	4	3	0	8	20
Total	10	10	10	10	40	100

Source: Field Survey 2013

In the above table 32 respondents are agree that charging less tax to the industries situated in remote areas is encouraging the business man, which means 80% of population. But at the same time 8 respondents out of 40 i.e. 20% population said that nobody is conscious towards this tax rebate mechanism, but they selection the areas for industry on the basis of their others requirements. Following are the figure shows the satisfaction to the rebate provided by government in Nepal.

Figure: 4.5

Charging less tax to the industries in remote areas



80 % of the respondents said that charging less tax to the industries situated in remote areas in Nepal is encouraging. The tax charged to the industries situated in remote areas are very much fair and it is quite encouraging for the public of the country as they face many difficulty when the industry will get situated in remote areas. So taking in consideration all those things the tax rate charged to those industries situated in remote areas are very much on the mark. 0 % of the respondents said that it is worthless. That means there is no complaint towards that no doubt that the tax charged to industries situated in remote areas is very much fair. 20% of the respondents believe that nobody is conscious towards charging less tax to the industries situated in remote areas in Nepal. It is because may be the people are unaware of tax planning or maybe they think the rebate not quite satisfactory or maybe they are planning to save tax through illegal tax planning. In any of above reasons the country needs to take some kind of action to make the people know and use the rebate provided to them in the establishment of industry and factory in different parts of the country.

4.1.9 Enjoyment of the loopholes of the Act

Following the table towards respondents viewpoints on whether the loopholes present in the act is been considered by the people of Nepal or not.

Table: 4.9

Enjoyment of Loopholes by Tax Payers

Options	Lect.	Off	Ban	BM	No. of Respondent	Percentage %
Yes	9	6	7	10	32	80
No	1	4	3	0	8	20
Total	10	10	10	10	40	100

Source: Field Survey 2013

80% of the respondents said that the loophole is being enjoyed by the tax payers of the country. Now it is crystal clear that by enjoying the loopholes tax payers are saving their tax and it is also clear that there are a lot of loopholes in the Act. And there are 20% of the respondents said that the loophole is not enjoyed by the tax payers of the country. The conclusion is most of the tax payer are use loopholes so it is suggested that the government must revive the ITA, 2058 of Nepal and the results will be the taxes which are going somewhere else through those loopholes can come to the treasure of the government.

4.1.10 Methods used for Enjoying Loopholes

As 80 % of the respondents think the tax payers are enjoying the loopholes of the Act, so researcher again analysis which of the methods are being used for enjoying loopholes by tax payers that means different methods for loopholes then the respondents ranked in order of preference given by the tax payers for enjoying the loopholes of the Act.

Table: 4.10

Methods of Used for Enjoying the Loopholes

SN	Methods used by tax payers	Lect.	Off	Ban	BM	Total	%	Rank
1	Diverging income or assets to lower taxable entities	5	5	4	6	20	50.00	2

2	Paying salaries, benefits and interest to family members	5	5	4	5	19	47.50	3
3	Transferring income to wife or minor child	5	6	7	7	25	62.50	1
4	Forming trust and other philanthropic institution and taking unnecessary advantage	1	2	6	4	13	32.50	5
5	Transferring income and assets to non-resident	3	2	4	5	14	35.00	4

Source: Field Survey 2013

About 62.50% of the respondents agreed on transferring income to wife or minor child for enjoyment of loopholes used by tax payers, which is ranked on first position. Mr. A, having rendered service to another person Mr. B, is entitled to receive a sum of say Rs. 50,000/- from Mr. B. Mr. A other income is Rs. 200,000/-. Mr. A tells Mr. B to pay cheque of Rs. 50,000/- in the name of Mr. C instead of in the name of Mr. A. Mr. C deposits the cheque in his bank account and account for it as his income. But Mr. C has no other income and therefore pays no tax on that income of Rs. 50,000/-. By diverting the income to Mr. C, Mr. A has resorted to Tax Avoidance. Second rank is given to diverging income or assets to lower taxable entities. This is done by the means that all the income is earned by higher taxable entities and in order to save tax at the last point of time when it is time to pay tax then all the incomes are transferred to lower taxable entities. Here, the government thinks that no matter what but the firm is paying tax anyhow but the problem is that the firm is saving tax to some high extent and is taking wrong advantage of the loopholes of the act. Third rank is given to paying salaries, benefits and interest to family members. Some tax payers distribute the salaries and benefits among their family members in order to reduce their tax liability. This is fair enough in accordance in the terms of law but it is really one of the major means to avoid tax unethically. Fourth rank is given to transferring income and assets to non-resident. As the non-resident employed by Nepal government on terms of tax exemption are exempted from paying tax. Fifth rank is given to forming trust and other philanthropic institution and taking unnecessary advantage. As the donation provided to trust and other philanthropic organization are deducted from income before tax reduction so

people form by themselves such type of organization with the objective of saving tax through the loop holes provided by the Act.

4.1.11 Tax planning helps in Productive Investment

Researcher asked to respondents regarding their thinking about tax planning is helps in productive investment or not, then they responded their opinion into two option those are yes and no, which is presented as below in table format.

Table: 4.11

Productive Investment Helped by Tax Planning

Options	Lect.	Off	Ban	BM	No. of Respondent	Percentage %
Yes	9	9	10	10	38	95
No	1	1	0	0	2	5
Total	10	10	10	10	40	100

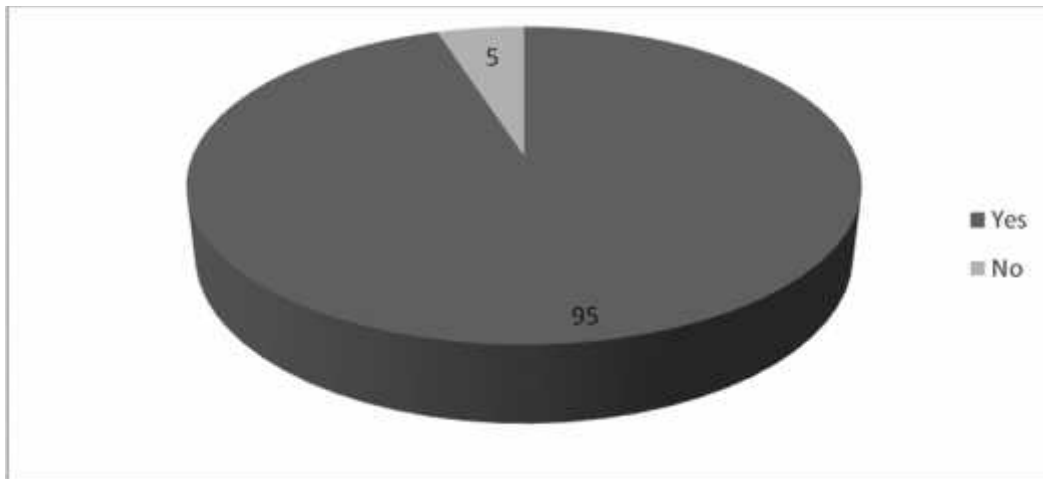
Source: Field Survey 2013

95% of the respondents were positive towards the helping of tax planning in productive investment. The tax law offers large avenues for the productive investment of the earnings granting absolute or substantial reliefs from taxation. When earnings are invested in the avenues recognize by laws, they are not only relieved of the brunt of taxation but they are also converted into means of further earnings. 5% of the respondents still think that there is no connection between tax planning and productive investment. They think that even though there is no tax planning in the country then also productive investment will do continue in the country. In fact they think that there is no relation whether tax planning is done in what way in the country with the productive investment to be done in the country because tax planning is the minor part of a business the major part is the profit making rules. They all think that we should concentrate on increasing the profit not on reducing the expenses and of course tax planning is one of the expenses of the business. The conclusion is most of the tax payer are agree but still few taxpayers are doesn't understand the importance of tax planning toward productive investment so it is suggested that the government must provide the awareness programmed through which total population

understand that tax planning saves tax and increases profitability. Following the figure which show the respondents opinion toward tax planning is helpful for productive investment or not.

Figure: 4.6

Product Investment helped by Tax Planning



In above figure 95% respondents are agree with tax planning is helpful for productive investment where as 5% respondents are doesn't found any positive relation between tax planning and productive investment.

4.1.12 Healthy growth of economy through Tax Planning

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

Table: 4.12

Healthy Growth of Economy through Tax Planning

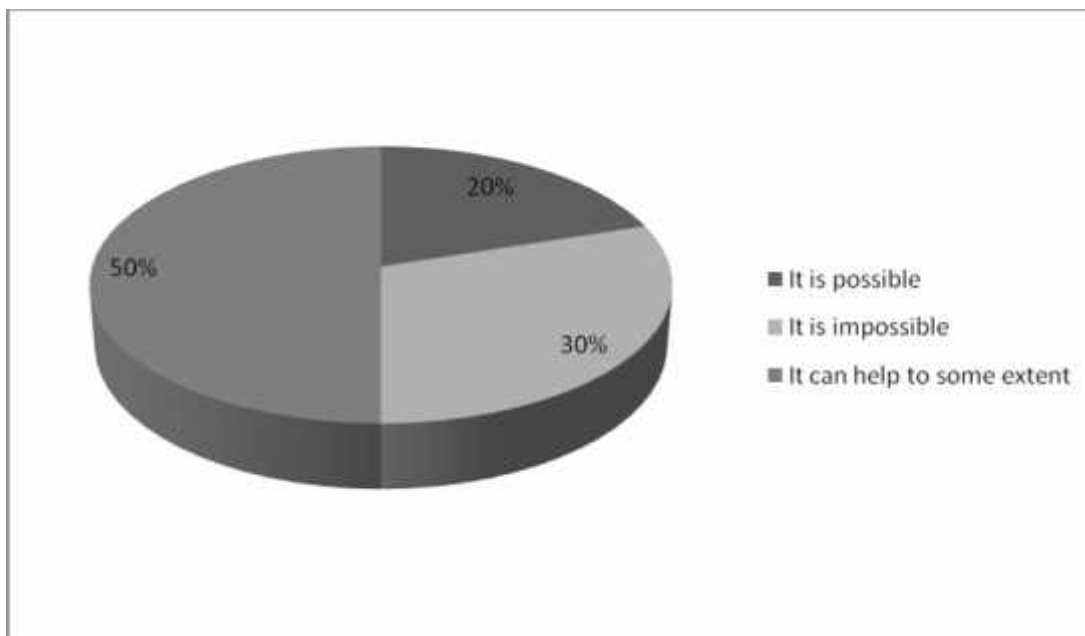
Options	Lect.	Off	Ban	BM	No. of Respondent	Percentage %

It is possible	2	0	6	0	8	20
It is impossible	1	7	1	3	12	30
It can help to some extent	7	3	3	7	20	50
Total	10	10	10	10	40	100

Source: Field Survey 2013

Figure: 4.7

Healthy Growth of Economy through Tax Planning



Only 20% of the respondents said that yes healthy growth of economy is possible through tax planning. It means that the respondents are not very sure of the phrase “Healthy growth of economy through Tax Planning”. The tax laws grant various concession and reliefs to uplift the backward sectors of the economy. As a result, the economy of the country will bust up. 30% of the respondents pointed out that healthy growth of economy are impossible through tax planning. They said that tax planning is just a minor part of the business; businessman really does not care about the corporate social responsibility they know only one thing and that is profit maximization. Already said they do not want to increase profit by minimizing the expenses. For the growth of economy only backward part is not enough the main part is the metro areas and there is not very good planning of tax for the industry

situated in metro areas of the country. Every industry should get rebate is the main point of the respondents here. 50% of the respondents opinion is that healthy growth of economy is helped to some extent through tax planning. There is one saying that “ It is better to have something then to have nothing”, same one is for tax planning ,at least some planning is done which will obviously going to help the country to grow economically healthy. If there will be no tax planning then there will be nothing but yes there is tax planning is being done and that is helping at least to some extent in the healthy growth of the economy of the country. And this is the same opinion of the most of the respondents.

4.1.13 Providing Tax Rebate to Industries Situated in Remote Areas

When asked with the respondents regarding the rebates provided to the industries situated in remote areas with two alternatives, and then they responded in following ways.

Table: 4.13

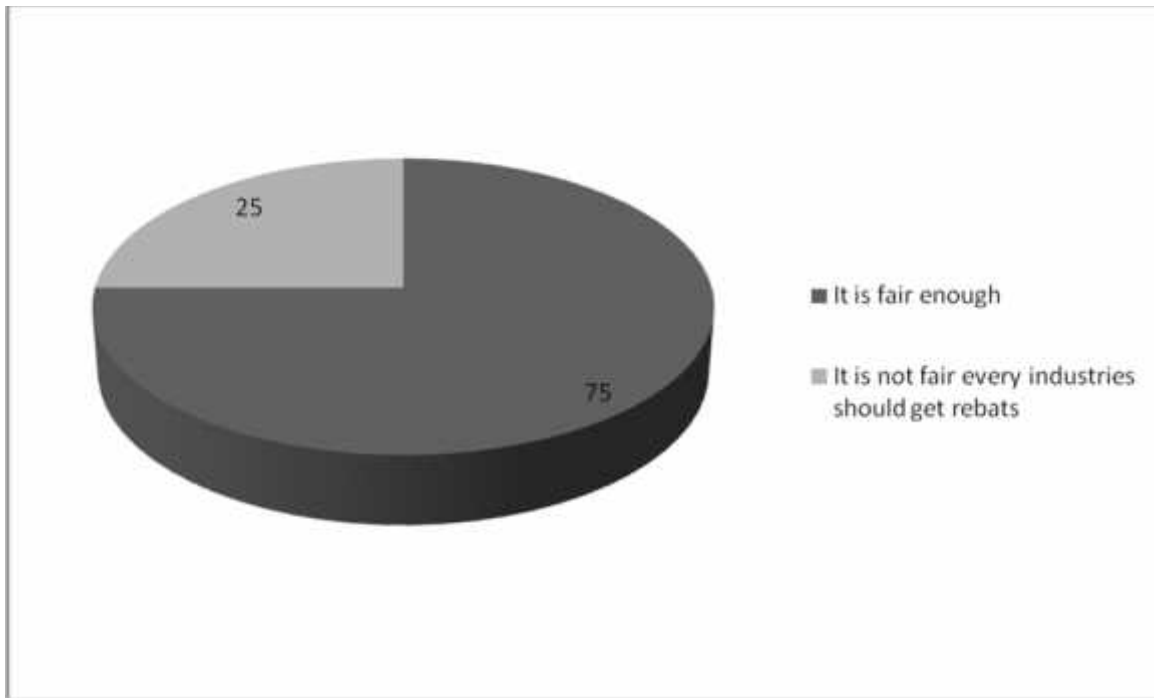
Providing Rebate to Industries of Remote Areas

Options	Lect.	Off	Ban	BM	No. of Respondent	Percentage %
It is fair enough	10	10	10	0	30	75
It is not fair (All industries should get rebates)	0	0	0	10	10	25
Total	10	10	10	10	40	100

Source: Field Survey 2013

Figure: 4.8

Providing Rebate to Industries of Remote Areas



75 % of the respondent said that it is fair enough. The entire respondent in this group are job holders and professional related with no business. They thought from the point of view of their profession and came to the conclusion that the rebate is fair enough in remote areas. The law also have provided maximum rebate to the industries of remote areas which is definitely encouraging them to do business in a better way. genuinely the rebate rates are very much effective for those industries as the law have taken into consideration of all the difficult factors and problems that those industry will face and is facing having being located in remote areas. 25% of the respondents said that it is not fair every industry should get rebate. The respondents belonging to this 25% are businessman and they thought from the view point of their business thinking that one day they will also establish their industry in metro area and they will not get rebate at that time. So these all respondents want that the rebate should also be given to the industry situated in metro areas as these industries also contribute in the economic sector of the country. Otherwise as a result these industries will be bound to plan tax through illegal ways and the harm is finally to the economic condition of the country. The industry will anyhow reduce their tax to be paid so here is the only question to the government whether it is going to give them rebate and take the credit or is not going to give them rebate and make the industry to plan the taxation in illegal ways.

Following the figure which represent the opinion of entire respondents towards providing rebate to industries of remote areas or not.

4.1.14 Problems in Tax Planning Practice in Nepal

When asked with the respondents whether they think that there are problems in tax planning in Nepal along with three options, and then they answered in the following ways.

Table: 4.14

Problems in Tax Planning Practice in Nepal

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

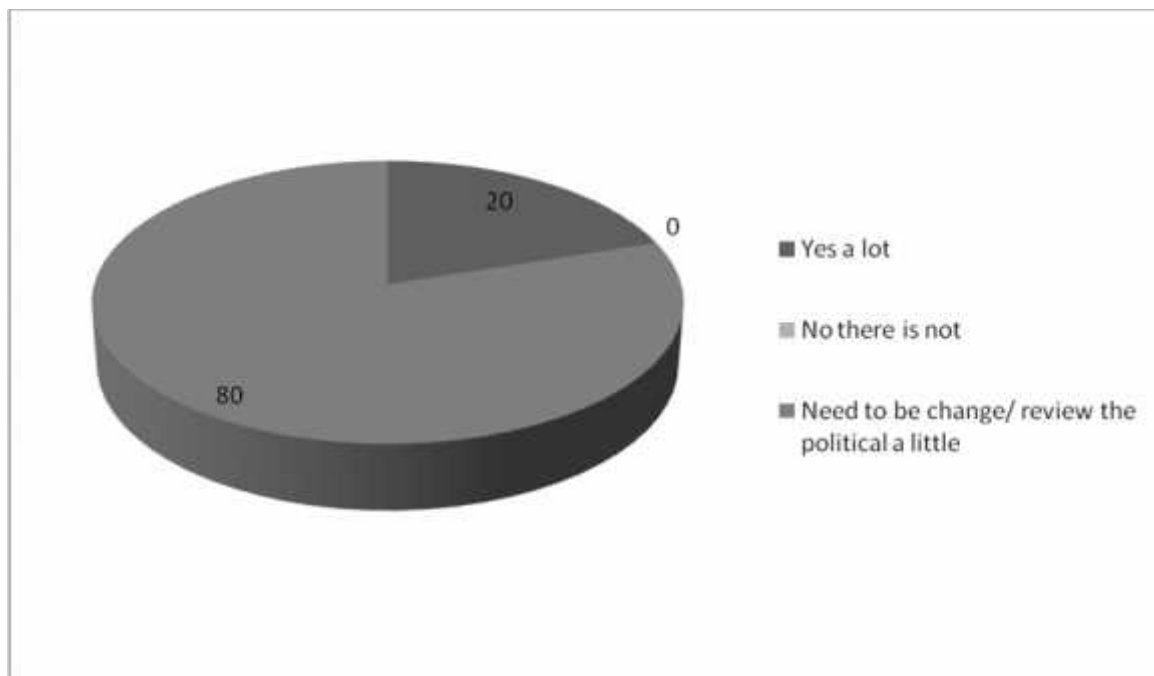
Source: Field Survey 2013

20% of the respondents think that yes there are a lot of problems in tax planning practice in Nepal. They said that no one knows what is tax planning, how it is done and all they are only paying tax in different ways. Some of them are paying tax through legal ways only, some are through illegal ways and some of them uses the both ways being little bit concerns towards the tax. Nobody is even interested to know about tax planning going through in the country they say that who is going to study all those and who is going to appoint a separate staff for that tax policy only as the rebate we will get will be less than the salary of the staff appointed. So the conclusion is that the awareness of the people is to be made in order to solve the problems in tax planning practice in Nepal. 0% of the respondents said there is not any problem in tax planning practice in Nepal. It points out that there is no one who is totally unaware of the tax planning practice in Nepal excluding the uneducated groups. 80%

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

Figure: 4.9

Problem in Tax Planning Practice in Nepal



In above figure 20% population are agree with problems are exiting in tax planning practice in Nepal, where as 80% population are agree with need to be change or review the political a little, and there is no one who agree with there is no problem in tax planning practice in Nepal.

4.1.15 Making the Tax Planning More Effective

When the researcher asked with the respondents that what should be done to make the tax planning more effective then they all answered in their different points and the Researcher

put on all those points and told them to rank in order of preferences to be done then they all ranked the ways to improve tax planning. All those are presented in the following table.

Table: 4.15

Making Tax Planning More Effective

SN	Things should be done for making tax planning effective	Lect	Off	Ban	BM	Total	%	Rank
1	Increase the rebate rate a bit more	4	2	3	6	15	37.50	4
2	Rebate should also be given to industries located in municipality areas	1	3	4	5	13	32.50	5
3	To provide knowledge to the people about tax planning	2	3	5	6	16	40.00	3
4	To encourage the tax payers to pay regular taxes	5	4	7	7	23	57.50	1
5	Building awareness about tax planning	4	3	5	8	20	50.00	2

Source: Field Survey 2013

To encourage the tax payers to pay regular taxes is best option for making tax planning more effective where 57.50% of the respondents are agreed. All the tax payers are need to be encouraged to pay tax, they are need to be motivated, they are need to be promoted and they are need to be marketed also. Tax payers can be motivated by making them loyal towards the country, this can be done by saying them exactly why and how the country need them and their attention to get developed and to compete with the other countries . Tax payers can be promoted by making them famous through the newspaper and magazine

making the heading as the habit of their paying tax regularly and with proper tax planning. They are needs to be marketed by publishing their firm in tax paying magazine as one of the properly paying tax company. These all things will really encourages tax payers to pay regular tax and seeing these all other people will also starts paying regular tax to get these types of attention and as a result we can make the tax planning more effective and that is our main concern. Second priority is given to building awareness about tax planning. This can be only done by the government when every sector will act properly and the tax officers will feel their responsibility towards the country that a big responsibility is given to them and they have to come up with the expectation of the country. Unless and until the tax offices will starts some kind of knowledge gaining and information providing program for the tax payers of the country and for even to the non-tax payers then only the tax planning of the country can be made effective otherwise it is very much difficult to change the ineffective tax planning to effective tax planning. Awareness is the most necessary thing which will make the people to know their responsibility towards the country and the use of tax planning need to be done effectively to develop any country. unless and until the public will get aware of the fact that tax is one of the major thing to the country and can help the country to very much extent for the development they will never bent towards the tem effective tax planning, so the main point is to create awareness to the people regarding tax so that the planning of tax can be done more effectively.

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

Fourth rank is given to increase the rebate rate a bit more. Some people still think that the rebate rate provided by ITA, 2058 of Nepal is not satisfactory. They still are demanding for the increment in rebate rate provided to increase a bit more. Now the government should

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

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

4.2 Major Findings

The major findings of the study are as follows

- ❖ 92.5 % of the respondents believe that Tax Planning is being in practice in Nepal and 7.5 % of the respondents think that there is no tax planning in practice.
- ❖ 35% of the populations are considering the term tax planning in their business and profession in order to reduce tax liability and 65% of the populations are not

considering the term tax planning.

- ❖ 70% of the respondents think that tax planning in Nepal is done through illegal ways also and the remaining 30% of the respondents think that tax planning is done through legal ways and effectively.
- ❖ 60% of the respondents pointed out widespread illegal business to be the main reason for illegal tax planning, which is ranked first. Poor taxpaying habit is ranked second, complicated income tax law to be the third reason for illegal tax planning. Respondents blamed political indiscipline, tax administrative inefficiency and higher Income Tax rate as fourth, fifth and sixth ranked cause of illegal tax planning. The last and seventh rank is given to high corruption in Nepal by the respondents as the cause of illegal tax planning.
- ❖ 52.50% of the respondents ranked by changing the size of the business as ranked one or best way of reducing tax under tax long term tax planning. Respondents ranked making changes in the capital structure as the second way of reducing tax liability under long term tax planning. By changing the nature of business, by changing the form of organization, and by changing the location of the industry are ranked third, fourth and fifth respectively ways of reducing tax liability under long term tax planning. In the sixth rank the respondents have chosen by merging the business as the way of reducing tax liability under long term tax planning.
- ❖ 57.50% of the respondents are agree that by taking care while making loss recovery become the ranked one or best ways of reducing tax under short term tax planning. Second rank is given to by taking care of everything while acquisition of assets. Respondents ranked by deducting donation, by taking care while deducting repair and maintenance cost, and by considering research and development cost as third, fourth, and fifth ways of reducing tax liability under short term tax planning. Sixth and final rank is given to by considering pollution control cost is another way of reducing tax liability under short term tax planning.
- ❖ 60 % of the respondents said that the rebate is okay and in fact good in respect of the people 20 % of the remaining respondents think that it should be increased a little. These 20 % still think that the rebate provide is still not encouraging for the people of the country to be faithful to the country in terms of payment of tax planning and as a result they will try to find out the illegal ways of reducing tax liability.
- ❖ 80 % of the respondents said that charging less tax to the industries situated in remote areas is encouraging. The tax charged to the industries situated in remote

areas are very much fair and it is quite encouraging for the public of the country as they face many difficulty when the industry will get situated in remote areas. So taking in consideration all those things the tax rate charged to those industries situated in remote areas are very much on the mark. 20% population said that nobody is conscious towards this tax rebate mechanism, but they selection the areas for industry on the basis of their others requirements.

- ❖ 80% of the respondents said that the loophole is being enjoyed by the tax payers of the country. And there are 20% of the respondents said that the loophole is not enjoyed by the tax payers of the country.
- ❖ 62.50% of the respondents are agreed with transferring income to wife or minor child as the ranked one way used by tax payers for enjoyment of loopholes. Second rank is given to diverging income or assets to lower taxable entities. Third rank is given to paying salaries, benefits and interest to family members. Fourth rank is given to Transferring income and assets to non-resident. Fifth rank is given to forming trust and other philanthropic institution and taking unnecessary advantage.
- ❖ 95% of the respondents were positive towards the helping of tax planning in productive investment and 5% of the respondents still think that there is no connection between tax planning and productive investment.
- ❖ Only 20% of the respondents said that yes healthy growth of economy is possible through tax planning. 30% of the respondents pointed out that healthy growth of economy is impossible through tax planning and 50% of the respondents opinion is that healthy growth of economy is helped to some extent through tax planning.
- ❖ 75 % of the respondent said that it is fair enough to providing rebate to industries of remote areas and only 25% of the respondents said that it is not fair every industry should get rebate.
- ❖ 20% of the respondents think that there are a lot of problems in tax planning practice in Nepal. 80% of the respondents said that the policies need to be changed or review the policies a little to make the planning problem less.
- ❖ 57.50% of the respondents ranked to encourage the tax payers to pay regular taxes as the ranked one in order to make tax planning more effective. Second priority is given to building awareness about tax planning. Third rank is given to provide knowledge to the people about tax planning. Fourth rank is given to increase the rebate rate a bit more. Fifth and the last rank is given to rebate should also be given to industries located in municipality areas.

CHAPTER - V

SUMMARY, CONCLUSION AND RECOMMENDATION

The last chapter of the thesis presents the summary, conclusion and recommendations. Summary refers the short form of whole study, conclusion draw from the analysis and recommendation suggests the improving the activities for avoiding the problems and suggest for the scope of tax planning under Income Tax Act 2058 in Nepal.

5.1 Summary

In developing countries like Nepal, lack of sufficient financial resources is the main constraint for national economic development. A lot of fund is required to meet the additional financial requirements for the development activities of the country. Nepal has been suffering from capital shortage to accelerate the economic growth. The expenditure of Nepalese government is increasing year by year. To meet the additional capital requirements Nepalese government has been using external and internal resources. Internal resources are preferable for sustainable economic development. Nepal has been unable for proper mobilization of internal resources. Thus, fiscal deficit and resources gap of Nepal have been increasing every year.

In Nepalese income tax system was introduced in 1959 (2016). The elected government levied the first income tax and so specific act was made to define and to treat income tax. Since than four income tax acts have been implemented. The present study entitled "Scope of Tax Planning under Income Tax Act 2058 In Nepal" is related to the income tax collection and its efficiency and increment in total collection after the implication of the act. This study entitled "Scope of Tax Planning under Income Tax Act 2058 In Nepal " is concerned with the provisions and facilities and practice of tax planning in Nepal. This study covers the important of income tax in government revenue, provisions and facilities i.e. concession rate, excess rate of depreciation facilities etc. for the industrial development, implementation of the act in manufacturing sectors and its impact and Practice of Tax Planning. Former requires knowledge about scope of tax planning and encourage to people

towards the consideration of tax planning to reduce tax liability while latter needs control the illegal ways to saving tax, encourage people towards legal ways for tax saving. Thus, we have to make aware and easy to understand scope of tax planning and implementation part also be simple, efficient, transparent and effective.

This report presents problems and prospects taking into consideration the scope of Tax Planning under Income Tax Act 2058 in Nepal and provides recommendations to each problem. Conclusions of this study are the outcome of analysis of primary information acquired from respondents including tax officers, lectures, bankers and business man through face to face interview, questionnaire, telephone queries, discussion with resource persons and field survey. 10 tax officials, 10 lectures, 10 bankers and 10 business man and key informants totaling 40 respondent and interviewees were the source of primary data. Conclusion consists of problems in scope of tax planning under Income Tax Act 2058 in Nepal, best ways to reducing tax under long term as well as under short term tax planning, probability of saving tax through illegal ways in Nepal and prospects of its effective implementation. Recommendations consist of problem solving measures identified while analyzing the qualitative data and respondent's suggestion.

5.2 Conclusion

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

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

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

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

5.3 Recommendations

On the basis of research, the following corrective measures are recommended for scope of Tax Planning under Income Tax Act 2058 towards tax collection and government effort in solving the problems.

-) Few respondents are think Tax planning in Nepal is not in practice. It is support by those people who are afraid from the term Tax, even don't want to learn about the

tax planning and anything relating to tax they only keep on finding short cut ways to get out of the habit of paying tax. But government can't neglect their response, so government makes them aware about tax and scope of tax planning.

-) Very few populations are considering tax planning in their business and profession in order to reduce tax liability. It is because of unawareness of the term Tax Planning, idea and concept of tax planning is not clear to them, hard to follow the method of tax planning and lack of qualified manpower in tax offices. Hence, provide awareness program, and tax administrative should be made efficient.
-) Huge people are saving tax in Nepal done through illegal ways. It is mandatory to stop these kinds of behavior and make more flexible tax law.
-) There are so many causes responsible for tax saving through illegal planning, out of that many people blame to widespread illegal business as first reason. Poor taxpaying habit, complicated income tax law, political indiscipline, and tax administrative inefficiency are causes ranked second, third, fourth and fifth for tax saving through illegal planning. And higher income tax rate is another cause that responsible for illegal planning. Hence illegal business should be controlled, tax law should be made simple to understand, provide proper training to tax officers and make tax administrative efficient, and tax rate should be reduced,
-) There are so many ways to saving earnings by reducing tax liability under long term tax planning, out of that many people agreed with by changing the size of business is a best alternative. By changing in capital structure, by changing the nature of business, by changing the form of the organization, by changing the location of the industry and by merging the business are better ways and ranked second to sixth respectively. It is better to understand the different ways to saving earning by reducing tax liability under long term tax planning and implement as per convenience.
-) There are so many ways to saving earnings by reducing tax liability under short term tax planning too, out of that many people agreed with by taking care while making loss recovery is a best alternative. By taking care of everything while acquisition of assets, by deducting donation, by taking care while deducting repair and maintenance cost, by considering research and development cost, and by considering pollution control cost are better ways and ranked second to sixth respectively. It is better to understand the different ways to saving earning by reducing tax liability under short term tax planning and implement as per convenience.

-) The existing rebate provided by Income Tax Act, 2058 is satisfied to more than average population while few are demanding the increase and left suggest decrease the existing rebate, so it is suggested to either continue the same pattern rebate system or increase the rebate rate.
-) Charging less tax to the industries situated in remote areas is encouraging while few are said that there is no relationship in between charging less tax and established industries in remote area. But government still continue the charge less tax to the industries situated in remote areas for development the nation and also support technically, and financially those industries at the time of construction also.
-) Many tax payer enjoyment of loopholes for saving their tax. A person or company utilizing a loophole isn't considered to be breaking the law, but circumventing it in a way that was not intended by the regulators or legislators that put the law or restriction into place. Most loopholes will close in time, as those who have the power to do so rewrite the rules to cut off the opportunity for loophole advantage.
-) There are so many ways to used for enjoying the loopholes, out of that many people ranked first for transferring income to wife or minor child. Diverging income or assets to lower taxable entities, paying salaries, benefits and interest to family members, transferring income and assets to non-resident and forming trust and other philanthropic institution and taking unnecessary advantage are different ways and ranked second, third, fourth and fifth respectively. It is better to revised and monitor properly and most of loopholes will close in time.
-) Almost population are agreed with tax planning helps in productive investment, hence tax planning will continue and provide knowledge to people regarding tax planning.
-) Tax planning is not a main option for healthy growth of economy, but it can help to some extent. Apart from tax planning government make available the proper infrastructure development, simple rules and regulation and effective implementation.
-) Providing tax rebate to the industries situated in remote areas is fair enough i.e. encouraging while few are said that it is not fair to provide tax rebate to remote area's industries but also provide the every industries should get rebates in Nepal. If it is possible then few tax rebate scheme also lunch for industries which are situated in urban and suburban area also otherwise government continue provide tax rebate to the industries situated in remote areas.

-) Regarding tax planning practice in Nepal, few people agree with there are so many problem are exists while huge people think that the policies need to be changed/revived a little to make the planning problem less. It is recommends that tax policies will get revived, which finally will supportive for reducing problem in tax planning practice in Nepal.
-) There are so many ways are supportive towards tax planning becomes more effective, out of that many people agree with to encourage the tax payers to pay regular is the main option and they ranked one for this. Building awareness about tax planning, to provide knowledge to the people about tax planning, and increase the rebate rate a bit more are other alternative and ranked second, third, and fourth respectively for making the tax planning more effective. And rebate should also be given to industries located in municipality areas is another option which makes tax planning more effective.
-) Hence it is suggested that government will be encourage to all the tax payers for paying tax, motivate them also promote them and make them famous through different mass media which also motivate others tax payer to paid tax on right time. Unless and until the tax offices will starts some kind of knowledge gaining and information providing program to the tax payers and non-tax payers of the country. Government not to be partial regarding industrial set up, if it is possible then the government to see every industry through soft eye and make available rebate within urban and suburban area's industries also.

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APPENDIX

Questionnaire

Dear Sir/Madam,

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

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

a. Yes ()

b. No ()

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

a. Yes ()

b. No ()

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

a. Yes ()

b. No ()

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

a. Higher income tax rate ()

b. Tax administrative inefficiency ()

c. Widespread illegal business ()

d. High corruption in Nepal ()

e. Poor tax paying habit ()

f. Complicated income tax law ()

g. Political indiscipline ()

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

term tax planning

- a. By changing the nature of the business ()
- b. By changing the form of organization ()
- c. By changing the location of the industry ()
- d. By making changes in the capital structure ()
- e. By changing the size of the business ()
- f. By merging the business ()

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

- a. By taking care of everything while acquisition of assets ()
- b. By taking care while deducting repair and improvement cost ()
- c. By considering pollution control cost ()
- d. By considering research and development cost ()
- e. By deducting donation ()
- f. By taking good care while making loss recovery ()

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

- a. It is OK
- b. It should be reduced more
- c. It should be increased a little
- d. Don't know

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

- a. It is encouraging
- b. It is worthless
- c. Nobody is conscious toward that

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

a. Yes ()

b. No ()

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

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

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

c. Transferring income to wife or minor child ()

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

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

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

a. Yes ()

b. No ()

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

a. It is possible

b. It is impossible

c. It can help to some extent

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

a. It is fair enough

b. It is not fair every industries should get rebate

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

a. Yes, a lot

b. No, there is not

c. Need to be changed/revive the policies a little

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

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

Name of the respondent: -

Name of the company/office/firm: -

Position:-.....