CHAPTER – I

INTRODUCTION

1.1 General Background

Nepal is an agriculture based country, though service sector business are also up rising. Among service sector business, commercial banks are mushrooming those branches of the services sector, which are earning good profit and paying heavy tax to the nation. Commercial banks plays vital role in the development of the country. Commercial banks collect saving and investment in productive sector i.e. where the fund is in need. They perform various kind of banking functions such as accepting deposit, advancing loans, credit general utility services and agency functions. They provide short term loans, mid-term loans and long term loans to trade and industries. They also operate balance sheet functions such as issuing guarantee, bonds, letter of credit etc. (Vaidya, 2001:33). Thus, the two essential functions of commercial banks may best be summarized as the borrowing and lending of money. They pool together the saving of the community and arrange for their productive use or can say it works as a broker and a dealer in money. (Sekhar, 1997:6). Thus, banks are essential sector of business activity, which are established to promote the economy in aggregate.

Peace and security, development, bureaucracy and social welfare, these are the responsibility of government to fulfill this responsibility government has need some money which is collected from different source such as tax fee fines and penalty among these source tax is an important source which is defined as follows:

"Tax is a compulsory contribution made by taxpayer to the government under the prevailing law. On the basis of tax payment taxpayer cannot claim for direct benefit."

Nepal has been facing political instability, conflict and other problem that hinder economy growth, yet the commercial banks are spreading their branches and most of banks are earning good profit and contributing strong tax revenue to the nation . Now thirty commercial banks are in operations. The Nepalese commercial banks are innovating new product and technology to provide quality service to their customer. Besides this, banks are practicing new management tools, standard accounting system and other responsibility creation system to obtain higher profit. They want to maintain good growth rate in their business and obviously profit too and question comes, are they practicing tax planning to increase their net profit? Tax planning is an art and science of planning the company's operation in such way attract the minimum liability to tax with the help of various concessions, allowances and relief provided in the tax laws. As such the basis purpose of corporate tax planning is to reduce the overall tax burden in the present and foreseeable future. Tax planning is a discipline and an attitude towards the corporate problems in a methodical way from a long run point of view. Hence, the significance of tax planning is extremely higher to reduce their overall tax burden and can give a good hike in profit.

This present research study focuses in tax planning practices and its significance to the Nepalese commercial banks. The study will focus on whether the Nepalese banks are using adequate tax planning tools or not and how much attention they are giving to tax planning to increase their net profit. The study will mainly focus on eight commercial banks of Nepal : i.e. Nepal Bank Limited (NBL), Rastriya Banijya Bank (RBB), Standard Chartered Bank Nepal Limited (SCBNL), Nabil Bank Limited (NABIL), Kumari Bank Limited (KBL), Bank of Kathmandu Limited (BOK), Laxmi Bank Limited (LBL) and Machhapuchhre Bank Limited (MBL).

1.2 Relevance of Tax Planning to Commercial Banks:

In simple terminology, tax is a liability to pay the amount to the government. It is a compulsory contribution on the government revenue from the taxpayers according to law. “Tax are general contributions or wealth levied upon persons, natural or corporate, to defray expenses incurred in conferring common benefit upon the residents of the state” (Plehn, 2003). “Tax planning may be legitimate provided it is within framework of law. Colorable devices cannot be part of tax planning and it is wrong to encourage or entertain the belief that it is honorable to avoid payment of tax by resorting to dubious method”. Hence, banks can’t avoid tax but can minimize it, with proper planning of it. The Nepalese banks are donating millions of money for Philanthropic purposes. They are opening their branches all over the Nepal. The Nepalese banks’ of activities show the clear picture that they can practice tax planning on capital structure, location selection, timing of activities, R & D expenditure planning, pollution control cost planning. As it is understood that tax is unavoidable expenditure but it can be reduced with proper planning of it. Banks can manage tax in every activity. Tax planning can increase the net profit. There are many other core factors that actually increases organizations profit, yet tax planning is also a crucial technique to increase profit in this throat cut competition. Despite all this argument, tax planning has remained most important factor to increase bank’s net profit. It plays vital role for every decision-making.

The more profit organizations earn, the more tax they have to pay to the nation. Hence, most of the tax liabilities of organizations are determined by their profit or income of the relevant fiscal year. Nowadays, banking industries are earning more profit in the Nepalese market.

The latest profit earning of the banks in Nepal can be shown in the following table:

Table 1.1
Net Profit of banks

S.N	Banks	Net Profit
1.	Nepal Bangladesh Bank Ltd.	102 Crore
2.	Rastriya Banijya Bank Ltd.	192 Crore
3.	Nabil Bank Ltd.	113 Crore
4.	Standard Chartered Bank Ltd.	108 Crore
5.	Agriculture Development Bank Ltd.	189 Crore
6.	Nepal Investment Bank Ltd.	126 Crore
7.	Nepal Bank Ltd.	89 Crore
8.	Himalayan Bank Ltd.	50 Crore
9.	Everest bank Ltd.	83 Crore
10.	Bank of Kathmandu	50 Crore
11.	Nepal Credit and Commerce Bank Ltd.	42 Crore
12.	Nepal SBI Bank Ltd.	39 Crore
13.	Lumbini Bank Ltd.	30 Crore
14.	NIC Bank ltd.	45 Crore
15.	Kumari Bank Ltd.	31 Crore
16.	Siddhartha Bank Ltd.	24 Crore
17.	Laxmi Bank Ltd.	32 Crore
18.	Prime Bank Ltd.	32 Crore
19.	Development credit Bank Ltd.	15 Crore
20.	Sunrise Bank Ltd.	20 Crore
21.	Machhapuchhre Bank Ltd,	7 Crore
22.	Citizen Bank International Ltd.	19 Crore
23.	Kist Bank Ltd.	14 Crore
24.	Bank of Asia Ltd.	20 Crore
25.	NMB Bank Ltd.	15 Crore
26.	Global Bank	7 Crore
27.	Janta Bank Nepal Ltd.	96 Lakh
28.	Mega Bank Nepal Ltd.	
29.	Commerz and Trust Bank Ltd.	
30.	Civil Bank Nepal Ltd.	
31.	Century Commercial Bank Ltd.	

Source: (AGM Annual Report of related banks)

1.3 Statement of Problem

Banking and financial sector are the back bone of whole country. Different types of banks operating their financial activities and contributing the national economy. Recently in Nepal, thirty commercial banks are operating.

The commercial banks are categorized into two types i.e. as public sector commercials bank and private sector commercials bank. Although these banks are committed to provide services, their major aims are to get profit so far.

Profit is a must part for any kinds of business firms without profit business society cannot be existed. Like the other business sector, banking sector cannot survive and operate without profit but the profit doesn't just happen. It's to be well managed and planned. There are many types of expenditures that reduce the profit. Lost may or may not be certain. But one of the creation expenditure or liability as tax. Every organization must pay tax to the government according to the prescribed law. Hence, tax expenditure should be managed to earn higher profit to there is significance of tax planning in every organization. Now it can be concluded that tax planning practices is a subject matter of research in Nepal. In banking sector a question may arise do the commercial banks of Nepal practice tax planning tool and technique in their financial and other decision? To find out the correct answer of this question. It is felt that there should be serious studies on tax planning practices of commercial banks in Nepal. In addition to this, the research will try to find the answers to the following questions;

- Are the Nepalese commercial banks practicing tax planning?
- At what level are they practicing tax planning if they are practicing?
- How do they perceive the tax planning?
- Is tax-planning significance to the Nepalese commercial banks?

1.4 Objectives of the study

The main objectives of the research is to examine the study of tax planning practices by commercial banks in Nepal. The major objectives are as follows:

a) To analyze tax planning practices in the Nepalese commercial banks.

b) To examine the managerial practices of income tax in commercial banks.

c) To suggest and make recommendations on the basis of major findings.

1.5 Significance of the study

This research provides information to practices of tax planning tools and techniques used in commercial banks of Nepal. It has analyzed the actual practices implemented by the banks and its significance to them. It is beneficial for those people who are directly or indirectly related with tax and tax planning field. The studies significance in the following ways:

- It examines tax planning tools and technique followed by commercial banks in Nepal.
- It explains the level of tax planning practices in the Nepalese commercial banks.
- It is useful to concerned company, investor policy maker, manager and researcher of taxation.
- It provides literature to the researches who want to commence further research in this field.

1.6 Limitations of the Study

The study is partial fulfillment of master of business studies. The study is conducted within certain immolation and constraints. Some of them are:

- This study mainly focuses the practice of some important tax planning tools and technique.
- Data constraints are common phenomenon in the study. The study is based on primary data to avoid but still it may be bias to some extent.
- This study is limited to 25% of total number of commercial banks.

1.7 Introduction of sample Banks

Regarding the origin of bank in Nepal, goldsmiths and merchants were the ancient bankers in Nepal. Till 18th century, it was not formed officially. In 1983 B.S. then Prime Minister Ranadip Singh took the first step towards the institutional development of the banking in Nepal by establishing "Tejrath Adda". Tejrath Adda provided loan to the government employee in low rates of interest, but did not collect deposit from public. As it was focused with the valley only, the Prime Minister Chandra Shamsher in 1957 B.S. undertook on initiative in expansion of setting up branches outside the valley. Banking in true sense was first established in Nepal on 30th Kartik 1994 B.S. named as Nepal Bank Limited. Central bank was established in 2013 B.S. for developing of banking sector and to help the government to fromulate monetary policies. Since then, it has been functioning as the government bank. In 2022 B.S. Rastriya Banijya Bank, the second commercial bank was established. Nepal being and agricultural based country, Agricultural Development Bank was establishment in 2024 B.S. After Government of Nepal allowed operating a bank in a joint venture, the first joint venture bank, Nepal Arab Bank Limited established in 2041 B.S. This has proved to be a milestone in banking sector in Nepal. Similarly, other commercial banks have been established in joint venture with foreign banks. Now there are thirty one commercial banks till the date of this research, which was just twenty till 2007/08. Now the commercial banks are scattered all over the nation. Banks are established as a joint venture and non joint venture form. After the restoration of democracy in Nepal there has been tremendous development in banking sector. It has played important role in the economic development of the country. After the introduction of Development Bank Act 2052, many development banks have been opened in the various parts in Nepal. Since the numbers of banks are increasing, Nepal Rastriya Bank is conducting a study whether or not any other banks are required in the country. The sample has been taken so as to represent all type of commercial banks. The sample commercial banks are as follows:

1.7.1 Nepal Bank Limited

Nepal Bank Limited is oldest bank of Nepal established in 1994 B.S. (1937). NBL's authorized capital was Rs. 10 million and issued capital Rs. 2.5 million & paid-up capital was Rs. 8.42 million of 10 shareholders. Now the bank has Rs. 380,383,000.00 paid up capital. It is the first bank of Nepal to establish under the principle of joint venture (Joint venture between governmental and general public). The vision statement of the banks is to remain the leading financial institution of the country. It has 111 branches excluding head office in the capital. The shareholders composition of the bank is as follows:

- The government of Nepal has 40.49% shares.
- ‘A’ Class Financial Institutions have 4.92% shares.
- NRB Licensed Financial Institutions have 3.42% shares.
- Other Institutions have 0.52% shares.
- General Public has 49.94% shares.
- Others have 0.71% shares.

Source: Nepal Bank Limited’s retrieved from

1.7.2 Rastriya Banijya Bank Ltd.

Another government owned bank in the Nepalese market is Rastriya Banijya Bank. This bank was established on 2022 B.S. on the ground of “Commercial Bank Act” 2021 B.S. This bank played a great role to uplift the agricultural, industrial and commercial sector of the country since its establishment. This is the largest commercial bank among all thirty one commercial bank in Nepal. It has 128 branches scattered all over the country side. This bank has highest amount of deposit as well as granted highest amount of loan till this study so this bank is important sample for this study.

1.7.3 Standard Chartered Bank Ltd.

Early known as Nepal Grindlays Bank Ltd. came into existence in 1987 as a joint venture between ANZ Grindlays and Nepal Bank Ltd. It's has Rs. 30 million in the beginning paid up capital. After acquiring of the ANZ operation on in the region by the Standard Chartered, it has become a subsidiary of Standard Chartered Grindlays, which holds 50% of shareholdings in the bank. Now from the date July 2001, it has named as Standard Chartered Bank Ltd., after take over by Standard Chartered (Jha, 2003). Now, Standard Chartered Bank (its group) has 75% shares and the Nepalese public has 25% shares in this bank.

1.7.4 Nabil Bank Ltd.

Nepal Arab Bank Ltd. the first joint venture commercial bank was established in 1984, Dubai Bank Ltd. was the initial foreign joint venture partner with 50% equity investment. Later on, the shares owned by Dubai Bank Ltd. were transferred to Emirates Bank International Ltd. Again Emirates Bank International Ltd. sold its entire 50% equity holding to National Bank Ltd, Bangladesh. At present National Bank Ltd. Bangladesh is managing the bank in accordance with the technical services agreement signed between it (NBL) and the bank on June 1995 (Financial Statement, 1997/ 98:9). Now, National Bank Ltd. Bangladesh has 50% share, Nepal Industrial Development Corporation has 10% shares, Rastriya Beema Sansthan has 9.66% shares, Nepal Stock Exchange has 0.31% shares and the Nepalese public has 30% shares.

1.7.5 Kumari Bank Ltd.

Kumari Bank Limited, came into existence as the fifteenth commercial bank of Nepal by starting its banking operations from (April 03, 2001) with an objective of providing competitive and modern banking services in the Nepalese financial market. The bank has paid up capital of Rs. 7580 million, of which 70% is contributed from promoters and remaining from public.

KBL has been providing wide range of modern banking services through branches of representations located in various urban and semi urban part of the country, 20 outside and 9 inside the valley. The bank is pioneer in providing some of the latest lucrative banking services like E-Banking and SMS banking services in Nepal. The bank always focus on building sound technology driven internal system to later the changing needs of the customers that enhance high comfort and value. The adoption of modern Globus Software, developed by Temenos NV, Switzerland and arrangement of centralized data base system enables customer to make highly secured transactions in any branch regardless of having account with particulars branch. Similarly, the bank has been providing 365 days banking facilities, extended banking hours till 7 PM in the evening, utility bill payment services, inward and outward remittance services and various other banking services.

Visa Electron Debit Card, which is accessible in entire VISA linked ATMs both in Nepal and India, has also added convenience to the customers. The bank has been able to get reorganization as an innovative and fast growing institution striving to enhance customer value and satisfaction by backing transparent business practice, professionals Management, Corporate governance and total quality management as the organizational mission.

The key focus on the bank is always center on serving unfulfilled needs of all class of customers located in various parts of the country by offering modern and competitive banking products and services in their door step. The bank always prioritizes the priorities of the valued customers.

1.7.6 Bank of Kathmandu Ltd.

Bank of Kathmandu Limited has become a prominent name in the Nepalese banking sector. It has put in conscious efforts to glorify our corporate slogan; “We make your life easier”.

BOK started its operation in March, 1995 with the objective to stimulate the Nepalese economy and take it to newer heights. BOK also aims to facilitates the nation's economy and to become more competitive globally. The vision of the bank is To become a significant contribution to the economic development of Nepal by distinguishing the bank as an efficient competitive, safe and top quality financial institution. BOK's IT infrastructure has been designed, to facilitate internal and customer convenience. Nationwide, all the branches are connected to central database via Wide Area Network (WAN) powered by Finacle, state-of-the art banking application software supported by hardware like SUN Fire V880 RISC Server, VSAT etc. Internally, BoK relies on Information and Communication Technology (ICT), for a quick, reliable, efficient system. Banking operations are powered by Finacle, which that have reshaped the global economy as per the wired magazine.

1.7.7 Laxmi Bank Ltd.

Laxmi Bank was incorporated in April 2002 as a commercial bank. The current shareholding constitutes of promotes holding 55.42%, Citizen Investment Trust holding 9.02% and the general public holding 35.56% promoters, represent Nepal's leading business families with diversified business interests. The Bank's shares are listed and actively traded in the Nepalese Stock Exchange

1.7.8 Machhapuchhre Bank Ltd.

Machhapuchhre Bank Limited was registered in 1998 as the first regional commercial bank to start banking business from the western region of Nepal with its head office in Pokhara. It has paid up capital of above 820 million rupees.

It is pioneer in introducing the latest technology in the banking industry in the country. It is the first bank to introduce centralized banking software named Globus Banking System developed by Temenos MV, Switzerland.

Currently it is using the latest version of Globus, referred as T-24 banking system. The bank aims to serve the people of both the urban and rural areas.

1.8. Organization of the study

The study is organized in the following five chapters.

Chapter 1: Introduction

It deals with introduction of the main topic of the study like general background, profile of sample bank, statement of the problem, objectives and significance with limitation of the study and other introducing framework.

Chapter 2: Review of Literature

It deals with the review of available relevant studies. It includes the conceptual review and review of the related books, journals and the published and unpublished research works as well as thesis. It also includes the investment policy of commercial bank.

Chapter 3: Research Methodology

It deals with methodology of the study i.e. research carried out in this size and shape. For this purpose various financial tool and statistical tool are defined which will be used for the analysis of the presented data.

Chapter 4: Presentation and Analysis of Data

It deals with the presentation and analysis of all the relevant collected data analysis is done as per described in chapter 3. This chapter is the heart of the study.

Chapter 5: Summary, Conclusion and Recommendations

It contains of the summary of the study, the major findings, conclusion, recommendation and suggestion on the basis of the study.

CHPATER III

RESEARCH METHODOLOGY

Research is essentially a systematic inquiry seeking facts through objectives verifiable methods in order to discover the relationship among them and deduce from them broad principles or laws. It is a method of defining and refining problems, formulating hypothesis or suggested solution, collecting, organizing and evaluating data, making decision and making conclusions. “Research is the process of a systematic and in depth study or search of any particular topic, subject or area of investigation balked by the collection, compilation, presentation and interpretation of relevant details or data. It is a careful search or enquiry into any subject matter, which is an endeavor to discover or find out valuable facts which will be useful for further application or utilization”. (Joshi, 2004).

Research methodology depends on the various aspects of the research projects. The size of the project, the objectives of the project, importance of the project, time frame of the project, impact of the project in the various aspects of the human life etc. are the variables that determines the research methodology of the particulars projects.

“Research methodology refers to the various sequential steps to adopt by a researcher in studying a problem with certain objectives in view”. (Kothari, 1989).

In other words, Research Methodology describes the methods and proves applied in the entire aspects of the study.

3.1. Research Design

Research design is a plan. Structure and strategy of the investigation so as to obtain and answer to research questions, a research is a arrangement of condition for collection for collection and analysis of data aims to combine relevance to research purpose with economy in procedure. This research attempted to analyze the primary as well as secondary data. Hence, descriptive and analytical both research design have been used to analyze the contribute pattern of income tax from public enterprises to government revenue,.

3.2 Population and sampling

To obtain the desired objectives of the study opinions of the various respondents associated with sample banks:

Table No: 3.1
Group of Respondents and size of Sample from each group

S.N.	Name of Bank	No. of Employers	Sample Size
1	NBL	2963	7
2.	RBB	3123	7
3.	SCBNL	350	7
4.	NABIL	465	7
5.	KBL	376	7
6.	BOK	208	7
7.	LBL	347	7
8.	MBL	492	7
Total	8	8324	56

Source: fncci.com.np, 2011

Random sampling techniques were used to select the target and sample population. Among the 8324 number of employee from 8 commercial banks in Nepal, 56 number of employees respondent were selected for the research purpose.

3.3 Nature and sources of Data

To meet the objectives of the study, primary as well as secondary sources of data were used.

I. Primary data were collected from the responses of persons representing from various sectors through structure questionnaire.
II. The same questionnaires were distributed to there group i.e. tax administrators, tax experts/policy makers and taxpayers.

III. Secondary sources of data were the information received from books, journals, newspapers, reports and thesis etc. the major sources of secondary data as follows:

- Everyone survey and budget speech of various years from ministry of finance.
- Publication of CEDA (Tribhuvan University) report and records of department of Inland Revenue (taxation), ministry of finance.
- Books related to income tax.
- Books related to public finance and public enterprises.
- National newspaper, journals, souvenir and news magazines.
- Unpublished dissertation.

3.4 Procedure of Data Collection

Primary information was collected by developing a schedule of three distinct types of respondents. Distribution was done through personally field visit to get accurate and actual information in time.

For secondary data, information was collected from Central Library of T.U. internal revenue department (Lazimpat) and other public libraries.

3.5 Data analysis procedure and analysis tools

It is observed that the collected data does not depict the result itself. To draw the required conclusion from the collected data are classified, tabulated and analyzed in descriptive and analytical way. Likewise, The required accounting principle mathematical approaches and legal provision of ITA 2058 are taken into consideration in data analysis procedure.

The different tools are required for the analysis. The tools and techniques depend upon the study. The following tools are applied for the purpose for analysis:

a. Simple Percentage
b. Simple average
c. Pie chart

3.6 Weight of choice

The questionnaire either asked for a yes/no response or for ranking of first choice was most important and last choice was least important. For the analysis purpose, choices were assigned weight according to number of alternatives. If the number of alternative which was not rank did not get any point the total points available to each choice. The choice with highest score of percentage was ranked as the most important choice and one with the lowest percentage being ranked as last choice.

CHPATER IV

PRESENTATION AND ANALYSIS OF DATA

Various experts and writers have defined the word tax planning as a weapon that helps to reduce the taxpayer's tax burden. It is to a taxpayer's machine that neither reduces the tax liability nor helps to reduce tax amount directly. It depends upon the degree that how much a tax planner deciphers and knows the tax acts, laws and rules and their appropriate uses. There are many provisions made in Income Tax Acts. Rules and laws (both in Income Tax Act 2031 and 2002) that can be helpful to a planner to minimize his tax amount.

The basic objective of the study is to examine the present practice of tax planning tools in the Nepalese commercial banks and to identify the relevance of the tax planning. This chapter presents the analysis and interpretation of data. The responses were collected from the concerned authorities of selected commercial banks. For the purpose of data presentation and analysis, this chapter has been broken-down in three step - introduction of heading, planning procedure and presentation and analysis of the resolves. In introduction, the meaning and provision provided under that heading have been presented. In tax planning produces, tax minimization ways and techniques have been presented. And in presentation and analysis, the degree of implementation of respective headings in Nepalese contexts has been presented.

To meet the objectives, all the commercial banks have been taken as target population. Banks are categorized in three group namely government bank, joint venture bank and non joint venture bank. Total eight commercial banks have been selected as sample from each three category. Stratified sampling with proportionate allocation of 25% (i.e. 8 banks) was made for the study. Questionnaires are distributed to eight sample commercial banks.

Besides questionnaires, discussions are also made with respondents to get more information about the present practice of tax planning.

Raw data are properly processed, tabulated and analyzed. They are presented into different tables. Tables are developed based on question asked; open ended questions are arranged in a descriptive way.]

4.1. Location of Business

Location is yet another strategic decision of any business unit. An ideally located firms gets the maximum benefits-both physical and financial. The various important factors which should be considered while deciding the location of a firm are infrastructure facilities, nearness to the product market, availability of raw materials and labour force, tax benefits etc.

Location of business represents the place where the main body of the organization is placed. It indicates the set up place of any manufacturing or service organization. All the places in a country are not equally developed or do not have all required infrastructure facilities. There needs lot of things to run a business. But all the facilities may not available at one pace in each part of the nation. The entrepreneurs choose well-facilitated places to start their business that encourages present regional imbalanced development. So, the government has to encourage to entrepreneurs to setup their business in under or undeveloped or remote areas by granting some special facilities.

There are some provisions made by the government under Income Tax Act, 2002 considering this factor. Under this Act, manufacturing industries operated in remote areas, undeveloped areas under developed areas can enjoy 30 percents, 25 percent and 20 percent tax rebate respectively. It means those industries established in remote, underdeveloped and under developed areas have to pay only 14 percent, 15 percent and 16 percent tax on their income respectively.

Similarly, the Income Tax Act, 2031 had also some provisions regarding this topic. Under that Act, industries other than cigarette, bidi, alcohol and beer, established in remote areas under developed and relatively developed areas are granted a tax rebate of 60 percent, 50 percent, 20 percent and 10 percent of the income tax and 35 percent, 25 percent, 15 percent and also 10 percent of excise duty respectively (Industrial Enterprise Act, 2049, sec-15). In addition to normal tax holiday of 2 years in addition to normal tax holiday period of 5 years is granted to manufacturing, energy-based, agro-based and forest-based industries (other than tobacco and alcohol based industries) utilizing 90 percent or more local raw materials whether that is included or not in Annex-4 of the Industrial Enterprises Act.

An important step by the Government was the extensive industrial survey of Nepal and subsequent classification of all the 75 districts of the country into five regions namely remote areas, undeveloped areas, underdeveloped areas, relatively developed areas and developed areas.

Under the Industrial Enterprise Act 1992, tax rebates ranging from 10 percent to 20 percent are given to different category of district. Out of 75 districts, 22 districts (29.3 percent) are grouped under remote areas. Manufacturing units set-up in these areas are entitled to 60 percent tax rebate. There are 13 districts (17.3 percent) falling under undeveloped areas, which gets 20 percent tax rebate, while 9 districts (12 percent) belong to relative developed areas, which get 10 percent tax rebate. The remaining 12 districts (16 percent) are industrially developed districts that are not entitled to get any tax rebate. In addition to income tax rebate, exemption is also granted in respect of excise duty to units belonging to these areas at the rate of 35 percent, 25 percent, 15 percent, 10 percent and zero percent respectively. (Source:ITA 2058)

4.1.1. Tax Planning Procedure

The whole territory in Nepal is divided into four broad groups, by the ITA 2002, for the income tax purpose-remote areas, undeveloped areas, under-developed areas and developed areas. Similarly, the ITA 2031 had categorized all the regions in to five groups - remote areas, undeveloped areas, under-developed areas, relatively developed areas and developed areas. No tax rebates are allowed to the organization in developed areas but some percentage of rebates for other regions according to their nature. Remote areas are facilitated more percentage rebate and relatively lower to the undeveloped, under developed and relatively developed areas. The ITA 2002 grants 30 percent, 25 percent and 20 percent rebate to the organizations established in remote, undeveloped and under-developed areas respectively. Such rebate under ITA 2031 was 35 percent, 25 percent, 20 percent and 10 percent for remote, undeveloped, under-developed and relatively developed areas respectively.

But the entrepreneurs, investors, managers have to decide the place before the commencement of the business. This is pro transaction decision also known as strategic planning. And it is hard to calculate profit before the commencement of business in different areas. It is not possible to change its place after once it sets up its plan and premises. So, all the decision should be made before the commencement of the business.

4.1.2. Presentation and Analysis

The following question regarding location of business has been asked to the sample bank officials. All banks have provided their responses. The question, its responses and its analysis have been presented below.

Asked question: Is location of business considered for the purpose of tax planning in your bank?

Table 4.1 :
Banks considering location of business for the purpose of tax planning

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL		7
2.	RBB	7	
3.	SCBNL		7
4.	NABIL	7	
5.	KBL	7	
6.	BOK		7
7.	LBL	7	
8.	MBL		7
Total	**8**	**28**	**28**

Source: Field survey, 2011

The ITA, 2002 has provided tax rebate for different locations. But the Act has not provided any tax rebate for banking and financial institutions. Regarding the above queries, all banks have provided their responses. Among them fifty percent banks responded that they are considering location of business and next four banks responded that they are not considering location of business for the purpose of tax planning.

4.2. Timing of Activities

This is a broad concept that consists every activity under where tax can be planned. This timing of activities is substitution of operational tax planning and only related to expenses that occurs while operating business. All those scopes such a pollution control expenses, research and development expenses, depreciation expenses, donation expenses etc. can be studied under timing of activities.

Every corporate body has to make tax planning in respect of different financial activities and programs in order to enjoy more tax saving benefits by reducing its tax liability. These activities can be planned and carried-out in a suitable time or period. Capital investment, sale of depreciable and non-depreciable assets at profit of loss. Investment on pollution-control devices, research and development activities, issue of share and debenture at par, premium or discount, redemption of preference share and debentures, payment of dividends, receipt and payment of loans. Staff welfare expenses etc are sort of activities to be planned in a year to minimize tax burden maximizing the claim of expenses. This is planning of future expenses in a business that saves maximum amount of tax.

4.2.1. Tax Planning Procedure

Timing of activities denotes the planning of different activities in time frame in such a way to obtain maximum tax facility from such expenditure. This is a way for scheduling business expenses so that the payable tax can be minimized. But there are some ways to do so. First of all, the loss on business should be recovered because it can be recovered within certain time limit of 4 or 7 years etc. (Under ITA 2002). If the loss is not recovered within the time bound, it cannot be carried further more and there is not any alternative relief to the loss holder.

After the recovery of loss, the allowable large amount of expenses is preferred to deduct. Here the allowable large limit of expenses represents research and development expenses, and pollution control expenses. The allowable limit for research and development expenses, and pollution control expenses is 50 percent of net profit. And it is to claim these expenses when there is maximum profit.

4.2.2. Presentation and Analysis

The following question regarding timing of activities has been asked to the sample bank officials. All banks have provided their responses. The question, its responses and its analysis have been presented below.

Asked Question: Is Timing of Activities Decision considered for the purpose of tax planning in your organization?

Table 4.2:
Banks Considering Timing of Activities Decision for the Purpose of Tax Planning.

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	7	
2.	RBB	7	
3.	SCBNL		7
4.	NABIL		7
5.	KBL	7	
6.	BOK	7	
7.	LBL	7	
8.	MBL		7
Total	8	35	21

Source: Field survey, 2011

There are only five banks curtailing their tax burden through time value of money. This is around sixty percent of total responses. All banks gave their responses upon this question. Actually timing of activities is very important tool for tax planning but it is very tough to practice.

4.3. Time Value of Money

Peterson and Lewis, "The time value of money refers to the fact that a rupee received in the future is not worth a rupee today". It means the rupee to be received in future is less important than a rupee at present because a rupee of today can be invested and due to interest factor becomes more than a rupee after one year. e.g.- If we invest Rs.1 on zero year at the interest rate of 10 percent, it becomes Rs.1.10 in one year. Here, Rs.1 presents value of Rs. 1.10 to be received after one year.

For the meaningful comparison of cash flows at different periods of time they should be converted into a some point of time or should be expressed in common denominator that is interest factor. There are two methods of making such transformation – compounding and discounting.

How tax can be planned under time value of money? This question may arise confusion because the Income Tax Act does not have such headings. But if we perceive what actually the tax planning is, then it really helps us. Tax planning simply means curtail on tax burden, but in depth it is also to get maximum ATP. This is the indirect way of planning to maximize after tax profit.

4.3.1. Tax Planning Procedure

As the researcher has already mentioned, time value of money itself does not reduce the tax liability. It enhances the financial strength of an organization suggesting delay on payments. One has to pay all this debt and obligations on deadline. One can pay his debt tax liability at the end of 3^{rd} month by writing an application to the department to extend its filing date. Similarly, he can submit excess TAX collected at 15^{th} day after the end of month (deadline of submission date) and also, to exploit the benefits from this heading, one has to claim all the deductions earlier and as much as he/she can because a rupee worth more today than tomorrow.

4.3.2. Presentation and Analysis

The following question regarding time value of money has been asked to the sample bank officials. All banks have provided their responses on the question. The question, its responses and its analysis have been presented below.

Asked Question: Is Time Value of Money decision considered for the purpose of tax planning in your organization?

Table 4.3:
Banks Considering Time Value for the Purpose of Tax Planning

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	7	
2.	RBB	7	
3.	SCBNL	7	
4.	NABIL	7	
5.	KBL	7	
6.	BOK	7	
7.	LBL	7	
8.	MBL	7	
Total	8	56	0

Source: Field survey, 2011

All banks responded on this question. Among sample banks hundred percent banks consider time value of money for the purpose of tax planning. It shows that Nepalese Commercial banks are aware about the importance of time value of money for the purpose of tax planning. Even all the tools above presented and this time value of money is closely bound to the tax planning, most of the respondents disagree on timing of activities and leasing or buying but agree on time value of money. These entire three financial tools do help to maximize one's ATP by the help of making expensed or acquiring funds at right time.

4.4. Nature of Employment

Under Income Tax Act, 2002 special industries providing direct employment to 600 or more Nepalese citizens in whole year can enjoy 10 percent rebate on levied tax to them. It means those industries have to pay 18 percent tax on their income. But in Industrial Enterprise Act, 2049, sec-15 allows 9 years tax holiday if that industry is of national priority nature, otherwise 7 years tax holidays for ordinary industries provide 600 or more employment to the Nepalese citizens. After the amendment of that

Industrial Enterprise Act in 2054, such organizations having 600 or more employees get 10 percent tax rebate along with other all facilities provided to the industries. It changed the 2 years tax holidays to national priority industries into 50 percent tax rebate. And such organization get maximum benefits from this act. e.g. if an organization listed as national priority industry earns 5,00,000 it has to pay only 9% tax; that is Rs.45,000. Generally a manufacturing organization pays 20 percent taxes that is Rs.1,00,000 on its earning worth Rs.5,00,000. But being a national priority industry, it enjoys 50 percent tax rebate that is 50,000. again providing 600 or more employment it can deduct 10 percent of its tax liability as rebates and its actual tax liability comes to be Rs.45,000.

4.4.1. Tax Planning Procedure

As per the Act provides an especial facility to the organizations of 10 percent tax rebate on the levied tax that provide direct employment to 600 or more Nepalese citizen whole the 365 days in a year. This provision is not viable to those small scale organizations; only large scale of labor-intensive organizations can enjoy this facility. To reduce the tax burden, an organization has to recruit more employee(s) under this provision. One may wonder and arise question that how the payment can be curtailed by paying more to the employees. The following example can be given to tranquil such queries.

4.4.2. Presentation and Analysis

The following question number of employee has been asked to the sample banks officials. All banks have provided their responses. The question, its response and its analysis have been presented below.

Asked Question: Is No. of employee decision considered for the purpose of tax planning in your organization?

Table 4.4:
Banks Considering no. of Employees Decision for the Purpose of Tax Planning.

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL		7
2.	RBB	7	
3.	SCBNL		7
4.	NABIL	7	
5.	KBL	7	
6.	BOK	7	
7.	LBL	7	
8.	MBL		7
Total	8	35	21

Source: Field survey, 2011

Above table shows that 60 percent banks consider to employees decision for the purpose of Tax Planning. Income Tax Act, 2002 special industries providing direct employment to 600 or more Nepalese citizens in whole year can enjoy 10 percent rebate on levied tax to them. But this type of rebate is not for banks or financial institutions.

4.5 Depreciation

Depreciation is the amount that curtails the original value on asset for its use. It is clearly explained as deductible amount while calculating assessable income from business and investment. But there are some limits made in Income Tax Act regarding depreciation as described before. The taxpayer has to choose one among many alternatives because he cannot enjoy all the facilities at once. Different depreciation rate is levied on the assets purchased on different time. Whole depreciation is deductible if that assets is purchase within the end of the Poush, two third of depreciation is allowable if that is purchased after end of Poush and within end of Chaitra, and only one third portion of depreciation is deductible if that is purchased after end of Chaitra.

So the taxpayer has to make a decision, which one does he prefers, first, second or third slab of depreciation rate. It is the most important option to plan one's tax within the depreciation head. Of course one can save a handsome amount of tax but he has to make a decision very sincerely.

On the behalf of infrastructure projects that should be transferred to the Government of Nepal and electricity production and transmission; all the scraps on Plant and Machinery can be deducted as expenses at the time of their replacement. Moreover, all the book values of assets can be deducted as expenses at the time of its ownership transfer to the Government of Nepal. Special industries are entitled to reduce an additional one. Third depreciation on prescribed rate of depreciation as per S/3(1) of the same schedule. (ITA, 2002, S/3-2, Schedule 2). Moreover, "if their remains less than Rs.2,000 after the deduction of depreciation from its concerned pool, the whole sum can be deducted as additional depreciation expenses", (ITA, 2002, S/2-6, Schedule 2).

4.5.1. Tax Planning Procedure

From all the explanations presented about we can come to a conclusion that there are lots of provisions made regarding depreciation and organization has to make a correct decision for what to do. And a rational entrepreneur, manager gives priority to the ATP and ROI/ROE while selecting an option. The time slab for depreciation base is most valuable thing to plan the reduction on tax. To claim the higher amount of depreciation as deductible expenses, one has to purchase that asset at early. One can borrow the sum to invest on asset if there are not sufficient funds because interest expenses are also deductible expenses for income tax calculation and the ROE would be high in debt financing that the equity financing only.

Presentation and Analysis

The following question regarding depreciation has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Question: Is Depreciation decision considered for the purpose of tax planning in your organization?

Table 4.5:
Banks Considering Depreciation Decision for the purpose of Tax Planning.

S.N.	Name of Banks	Frequencies	
		Yes	**No**
1.	NBL	7	
2.	RBB	7	
3.	SCBNL	7	
4.	NABIL	7	
5.	KBL	7	
6.	BOK	7	
7.	LBL	7	
8.	MBL	7	
Total	8	56	0

Source: Field survey, 2011

The survey shows that, all sample banks are considering depreciation decision for the purpose of tax planning. Every sample bank is deducting their depreciation as per the provisions lies on ITA, 2002. they are using depreciation as a crucial tool of tax planning. Besides this, they are conscious about the impact of depreciation on every decision they made for the minimization of tax burden during any fiscal year.

4.5. Leasing and Buying

The assets of one organization can be purchased in two ways - leases or outright purchase. Leasing or outright purchase can be made by borrowed fund or won capital. When an asset is acquired by paying all its value, it is known as buying. The whole worth of that stuff should be paid for such deal. When the same goods is hired on lease, it has to pay some installments for that leasehold property. The payment made for rent can be made at the beginning or end of a period. If that asset is leased, the taxpayer can claim for the rent, repair and maintenance expenses and management fees. If it is purchased, there is the facility of depreciation and repair and maintenance. If borrowed funds are used to purchase that asset, the interest paid and borrowed fund can be deducted as business expenses. And the tax can be planned while making decision regarding leasing or buying. There are many more advantages in leasing like- there does not require any initial capital, no risk of obsolescence, tax saving on lease rent, less restriction, quick service, risk of investment can be transferred to the lender, lower maintenance cost etc. but there are also some disadvantages for leasing. It is expensive. It has less salvage value, less investment tax credit, less tax saving on depreciation and difficulties in getting approval asset's repair and improvement if required etc.

4.6.1. Tax Planning Procedure

It is mostly, depends upon the nature of assets, funds available at the time of its requirement, maintenance and handling expenses and estimated returns from those purchase. e.g., if a piece of land is required for organizational set-up, it is better to purchase rather than to take in lease. If a land is required to excavate for mines. It is better than to take in lease. Again, if a 'C' grade contractor needs a caterpillar. It is better to hire heavy machine because the equipment is essential to purchase for 'A' class contractor. The rent paid at the beginning cost more than its payment at the end of a period. Whatever the approaches are taken to make decisions regarding leasing or buying the PV of payment is considered. The individual acquirement costs and its returns should be made at the time of making a decision. The alternative which has maximum return in PV, is selected.

4.6.2. Presentation and Analysis

The following question regarding leasing or buying has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Asked Question: Which of the following methods does your bank use while purchasing fixed assets?

Table 4.6:
Methods Preferred by Nepalese Commercial Banks While Purchasing Fixed Assets.

S.N.	Name of Banks	Frequencies	
		Leasing option	**Buying option**
1.	NBL		7
2.	RBB		7
3.	SCBNL	7	
4.	NABIL	7	
5.	KBL		7
6.	BOK		7
7.	LBL		7
8.	MBL	7	
Total	8	21	35

Source: Field survey, 2011

The table 4.6 shows that five banks prefer buying options while purchasing fixed assets whereas three banks prefer leasing options. It means that sixty two percent commercial banks prefer to buy fixed assets and use depreciation facility for the purpose of tax planning. And thirty eight percent banks prefer leasing options and deduct lease expenses from their profit and loss account. Most of Nepalese commercial banks hesitate to pay the lease amount but have courage to pay whatever the sum key have to expand to get any tools or machines. Normally, banks have sufficient funds for the investment in fixed assets hence: they prefer to buy their needful assets than to hire or to take in lease.

4.7. Research and Development Cost

Research and development cost means cost incurred by a person for the purpose of developing the person's business and improving business products or process. For the purpose of calculating a person's income from business, there shall be deducted research and development expenses to the extend incurred by the person during the year, in conductivity the business. But the limit should not exceed 50 percent of taxable income before deducting research and development cost. Any excess expenses shall be capitalized and depreciated accordingly.

4.7.1. Tax Planning Procedure

As provided by the ITA 2002, S/18, all the Research and Development expenses incurred to conduct a business are deductible given that the amount of such expenses should not exceed 50 percent of the net profit before Research and Development expenses, deducting all other costs. Allowable limit of this type of expenses depend upon the amount of profit. And it is crystal clear that when there is large amount of profit, the allowable limit would be high and if there were small amount of profit, the allowable limit would be low. The ITA, 2002 also provides that the unrecoverable amount of Research and Development expenses can be added in the depreciation base amount of Poll 'D' of assets on next year. It means, though the act does not allow deducting a large sum of amount at the time of less profit it allow to deduct all actual costs on installment as depreciation expenses. So it is suggested to install or incur Research and Development expenses in the year when there is huge sum of profit. And also suggested to incur such expenses at the end of the fiscal year because it is earlier to estimate the accurate profit at the end than it was predicted at the beginning. Such expenses can be deferred to some extent if there is not chances of generating profits in the business. If there comes any necessity to conduct such expenses and there is less or no profits, whole expenses can be segregated in a manner that the allowable limit would be high (see appendix-2). And remaining unrecoverable amount can be added in the depreciation base amount of poll 'D' of assets. The anti avoidance rules of S/35 in ITA 2002 does not interrogate for segregation or expenses but only the segregation of income and there is not any other acts or rules to stop the segregation of expenses.

4.7.2. Presentation and Analysis

The following question regarding research and development cost has been asked to the sample bank officials. All of them have given their responses. The question and its responses and its analysis have been presented below.

Asked Question: Has your bank incurred any expensed in Research and Development expenses?

Table 4.7:
Expenses Made by Nepalese Commercial Banks in R & D.

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL		7
2.	RBB		7
3.	SCBNL	7	
4.	NABIL	7	
5.	KBL		7
6.	BOK		7
7.	LBL	7	
8.	MBL		7
Total	8	21	35

Source: Field survey, 2011

Table no. 4.7 explains that Nepalese commercial banks are not incurring expenses in Research and Development. Among sample banks, three banks have incurred in R & D expenses and remaining five banks have not incurred any expenses in R & D. hence, most of banks are not getting chance to claim for R & D expenses. Only SCBNL, NABIL and LBL have incurred expenses in R & D. According to them, they are also considering their profit while making any expenses in R & D. Hence, it can be said that those forty percent banks that have incurred R & D expenses, are also practicing provisions of R & D for the purpose of tax planning. Obviously, those sixty percent banks, which have not incurred any expenses in R & D, may practice it when they will start to expand in R & D.

4.8. Capital Structure

So far the choice is concerned; companies prefer to go in for debt financing, as the interest paid on debt is a tax-deduction expenses, where as dividend on equity capital is not deductible at the time of computing taxable income. "Chad teacher, who conducted detailed survey of the tax system in Columbia, Republic of Korea, Mexico and Thailand express deep concern about the possible adverse impact on corporate financial structure arising out of discriminatory treatment of equity visa-vis debt. His observation were as follows: (a) Debt Capital produces tax deducting in the from of interest payments, a privilege equity capital is not entitled to (b) Because of the interest deductibility, corporations can lower their tax liabilities by raising the debt equity ratio. (c) Equity financing, therefore, represents on inferior method of fund raising".

The funds can be fulfilled through various sources like short-term debt, medium-term debt, long-term debt, ordinary share, preference share etc. short term funds are needed particularly to arrange current assets. Long term funds are needed to replace the existing capital goods or to expand the existing capacity etc. the decision regarding what proportion of these sources to be used is capital structure decision. Borrowing short-term debt is more risky and medium-term and long-term debts are more costly. For the purpose of calculating taxable income the taxpayer can deduct all interest expenses that are paid for the debts. Issuing shares are not costlier as the debts are because are organization has not to curtail its income as interest if it issues shares instead of borrowing debts. But from the financial point of view, the structure having a certain percentage of debt amounts is more preferable. Because the ROE is greater on such mixed capital structure that the fund collected through issuing shares only.

Since the objective of the firm is regarded as the maximization of value, the capital structure should be made so as to maximize value. Such structure is called Optimal Capital Structure. According to Schall and Haley- "The optimal based capital structure is the set of proportions that maximize the total value of the firm". The optimal/sound capital structure refers to the appropriate combination of debt and equity capital. Such combination or ratio should be determined so as to maximizing the value of the firm or minimizing the cost of capital.

The whole financing can be divided into two prominent parts: Equity Financing and Debt Financing.

Equity Financing:- When the fund is arising from issuing shares or required fund collected from shareholders/owners, it is known as share capital. It can be divided into two parts- Ordinary Shares Financing and Preference Share Financing. This is organization's liability to shareholders.

Debt Financing:- The funds arise by borrowing from outsiders other than the shareholders/owners to finance a business in debt financing. The borrowed debt can be categorized into many sub headings such as short-term, medium-term and long-term debt. Similarly, it also can be divided as secure and insecure debt.

4.8.1. Tax Planning Procedure

Many of the investors do not know about the rational capital structure decision. They fear to borrow and more interested to finance their own capital that cause fund insufficiency to operate a business.

The entire life of a business depends upon the financing decision, so one has to measure all the pros and cons of every alternative model of capital structure. It is not that much though to identify a most suitable structure when the market and interest risks are known. Always, the high ROE capital structure is preferred. This following example can help to make a decision on capital structure.

A firms needs Rs.20,00,000 and it has two alternatives- financing whole fund raising equity shares: or taking 50 percent debt Rs.10,00,000 and remaining 1,00,000 from shares. The corporate tax rate is 25 percent and expected EBIT for the year is 20 percent on total investment. While alternative should the firm prefer?

Table 4.8:
EAT in Different Capital Structure

EBIT	Equity Financing	Equity + Debt Financing
	4,00,000	4,00,000
Less: Interest	-	1,00,000
EBT	4,00,000	3,00,000
Less: Tax 25%	1,00,000	75,000
EAT	3,00,000	2,25,000
Shareholder's Equity	2,00,000	1,00,000
ROE	15%	22.5%

Here, the ROE (EAT/Shareholder's equity represents the percentage of the earning on investment made by the shareholders. And the example expressed above shows that the planning per slave on equity and debt financing is more than the equity financing only. So, the investor, manager, entrepreneur should take the decision of mixed capital structure here on.

From the example presented above, we can come to a conclusion that the mixed capital structure is move profitable to an investor from each point of view, risk and return. To get the benefits from this heading, one must be well known of the financing affairs. And the market risks and returns must be arranged in accurate figure.

4.8.2. Presentation and Analysis

The following question regarding capital structure has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Asked Question-1: Is capital structure decision considered for the purpose of tax planning in your organization?

Table 4.9:
Banks Considering Capital Structure Decision for the Purpose of Tax Planning.

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	7	
2.	RBB		7
3.	SCBNL	7	
4.	NABIL	7	
5.	KBL	7	
6.	BOK	7	
7.	LBL	7	
8.	MBL	7	
Total	8	49	7

Source: Field survey, 2011

The table 4.9 shows that eighty eight percent of commercial banks are considering capital structure decision for the purpose of tax planning. Twelve percent bank is not practicing capital structure decision as tax planning tools. As the table shows that RBB not considering capital structure as tax planning tools.

Asked Question-2: Which of the following opinions does your bank prefers for capital structure to minimize tax?

Table 4.10:
Preferred Capital Structure by Nepalese Commercial Banks.

S.N.	Name of Banks	Options and Frequencies		
		Equity Only	Debt Only	Both Equity+Debt
1.	NBL			7
2.	RBB			7
3.	SCBNL			7
4.	NABIL			7
5.	KBL			7
6.	BOK			7
7.	LBL			7
8.	MBL			7
Total	8			56

Source: Field survey, 2011

The table 4.10 gives clear-cut picture that each and every sampled bank prefers debt plus equity capital structure for the minimization of tax. It shows that Nepalese commercial banks are aware about the importance of debt in capital structure for the purpose of tax planning.

4.9. Avoiding the Penalties

There are many categories where the penal can levied such as: charge for failure to maintain documentation or file statement or return of income. Interest for understanding estimated tax payable by installment, interest for failure to pay tax, charge for making false or misleading statements etc. in ITA, 2002. Similarly, there are also provisions of offence and punishment for failure to pay tax, making false or misleading statement etc.

- **Charge for Failure to Maintain Documentation or File Statements for Return of Income**

"A person who fails to file a return of income for an income year as required by sub-S/(1) of S/95 and 96 of ITA 2002, shall be liable to pay a charge for each month and part of month at the rate of 0 percent per annum of the person's assessable income without any deductions and including in calculating the person's income for the year of Rs.1,000, whichever is greater (Income Tax Act, 2002, S/-117-1). Similarly, "a withholding person who fails to file a statement shall be liable to pay a charge for each month and part of month for a period, from the due date to file the statement to the date of its filing at the rate of 1.5 percent per annum on the amount of tax". (ITA, 2002, S/-117 (3))

➲ **Interest for Failure to Pay Tax**

A person, who fails to pay tax within which the tax is payable, is liable to pay interest for each month and part of month for which any of the tax is outstanding calculate by applying the standard interest rate to the amount outstanding (ITA, 2002, S/119-1).

➲ **Charges for Making False or Misleading Statements**

"Where the statement is happened to be false or misleading by mistake without knowingly or recklessly, fifty percent of the amount of tax reduced should be charged". (ITA, 2002, S/120-1)

"Where the statement is made false or misleading knowingly, hundred percent charges should be levied on the tax amount reduced that reason". (ITA, 2002, S/120-2).

➲ **Punishment to Failure to Pay Tax**

"A person who does not submit the tax amount within the due date without any reasonable cause, liable to pay a fine Rs.5,000 to Rs.3,000 or imprisonment of one month to three months, or both". (ITA, 2002, S/123).

➲ **Punishment for Making False or Misleading Statement**

"A false or misleading statement by reason of concealing or omitting particular matter from a statement by the person shall be punished by a fine of Rs.40,000 to Rs.1,60,000 or an imprisonment of six months to two years, or both". (ITA, 2002, S/124).

4.9.1. Tax Planning Procedure

Tax planning is the benefits that can be taken from tax acts and rules, and even the exploitation of loopholes thereon. But it does not mean to break the laws, acts and rules. Breaking the law is crime and should be punished according to the nature of crime, under ITA, 2002, a person may have to pay minimum Rs.1,000 to maximum Rs.2,40,000 as fine and minimum one month to maximum three year's imprisonment for the different crime he does. The penal amount cost nothing for large organizations but the imprisonment of head person, management leader may sink the whole organization. We can take an example of Michael Khodovovski of Yukos Company in Russia. As he was imprisoned, the Yukos gradually looses its value and finally it has to sell its mainstream. Again, as an article published on FOBS magazine Khodovovski's personal loss for the year 2004 was 13,000 million dollars. So it is better to avoid penal and not to take any risk.

4.9.2. Presentation and Analysis

The following question regarding avoiding the penalties has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Asked Question: Does your bank consider avoiding penalties for the proper tax planning?

Table 4.11:
Banks that Avoid Penalties for the Purpose of Tax Planning.

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	7	
2.	RBB	7	
3.	SCBNL	7	
4.	NABIL	7	
5.	KBL	7	
6.	BOK	7	
7.	LBL		7
8.	MBL	7	
Total	8	49	7

Source: Field survey, 2011

Most of the respondents are aware of the penal that can be levied for the malfunctioning. The responses shows 88 percent banks avoid the penal as much as they can. They always try to avoid penalties to reduce tax burden, but LBL is not considering avoiding penalties for the proper tax planning. It is obviously true that tax paid amount with penalties will reduce tax burden. The ITA, 2002 has prescribed heavy penalties plus interest on delay submission of tax hence, Nepalese banks prefer to submit tax burden in time to skip from the penalties.

4.10. Pollution Control Cost

Pollution control costs mean cost incurred by a person with respect to a process for the purpose of controlling pollution or in other way protesting or sustaining the environment. For the purpose of calculating a person's income from business, there shall be deducted all pollutions control expenses incurred during the income year for conducting the business. But the deductible amount should not exceed 50 percent of taxation income before deducting pollution control cost. If there are any excess expenses, then such excess expenses shall be capitalized (added to cost of respective depreciable assets) and shall be depreciated accordingly. Under Economic Act, 2051, any industry installs pollution control device can deduct the whole expenses in 2 equal installment. But it should be certified by the technician and recommended by the department of industry. This provision is kept alike in Economic Act 2052, 2053, 2054 and 2055. The Income Tax Act, 2031 also had this provision. The allowable limit under the ITA 2031 was also 50 percent of taxable income before adjusting this expense.

4.10.1. Tax Planning Procedure

"All pollution control cost or any equipment installment charge of this nature are deductible at the time of calculating taxable income from business. But the expenditure such nature should not exceed the 50 percent of net income excluding pollution control cost and including all other expenses". (Income Tax Act 2002, S-17). The allowable limit of pollution control expense also depends upon the amount of profit as a Research and Development expenses depends. As a result of such dependency, large sum can be deducted when there is large profit and only small portion is allowed at the time of less profit. Same as R & D expenses, all unrecoverable amounts of pollution control expenses are added to the depreciation base of poll "D" of assets on next year. And all unrecoverable expenses on pollution control will be reduced as depreciation expenses at the rate of 15 percent thereafter it may take a long time to recover but fully deductible expenses is far better than it will be unknown future. That's why it is suggested that to incur or install pollution control equipment in the year when there is large amount of profit and also suggested to segregate the expenses to deduct a large portion of expenses for its necessary installment or sudden occurrence in the period when there is less profit of loss. Such unfavorable condition may arise due to regulatory policy of the government. In such conditions, the organization can incomplete the project and left some portion of its incomplete work for next fiscal year that helps to segregate the costs of one plant into two different fiscal year and no doubt that the allowable limit would be high because the profit would be high on which this expenses depends.

4.10.2. Presentation and Analysis

The following question regarding pollution control cost has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Asked Question: Has your bank incurred any expensed in pollution and control cost?

Table 4.12:
Banks Considering Incurred any Expensed in Pollution and Control Cost.

S.N.	Name of Banks	Frequencies	
		Yes	**No**
1.	NBL		7
2.	RBB		7
3.	SCBNL	7	
4.	NABIL		7
5.	KBL		7
6.	BOK		7
7.	LBL		7
8.	MBL		7
Total	8	7	49

Source: Field survey, 2011

The table 4.12 shows that only twelve percent bank among eight sample banks has spent in pollution control cost. That bank is SCBNL. It is spending expenses in Sanitation and other pollution control costs. In the scenario of Nepalese commercial banks only SCBNL is incurring expense in pollution control cost. Hence the research shows that only SCBNL can practice it for the purpose of tax planning. According to the responses of the authorities of SCBNL, they are not considering their profit to determine PC cost for the purpose of tax planning because it is for corporate social responsibility. Hence, only one bank, which is spending in PC, is not considering bank's profit to determine the amount of PC that should be expended during one fiscal year.

4.11. Repair and Improvement Cost

"All expenses in respect of repair or improvement are deductible if that is owned and used by the person for earning income from business or investment. However, the allowable limits is 7 percent of depreciation base amount of the respective pool of depreciable assets. Any excess expenses will be added to the depreciation base amount for next year". (Income Tax Act, 2002, S/16).

Under S/12 (1-b) of ITA 2031, such expenses were also deductible item. Such repairs should be made for the purpose of keeping an asset in running or preventing from being damaged. When such repairs results in increase in the value, life or working capacity of that asset or change their basic structure, the expenses incurred to expand such capacity of that asset or change their basic structure, the expenses incurred to expand such capacity were not allowed to deduct as repair or maintenance expenses, but would be added in the cost of concerned fixed assets and depreciated as per the rate applicable for the respective pool. Sometimes replacement and renewal for existing plants becomes essential in order to enable its strength to meet the competing demands of new era in modern technology. At that time, huge sum of investment is required to replace the existing plants and machinery.

4.11.1. Tax Planning Procedure

The tax could be reduced by the proper planning or renewal or replacement under the ITA 2031 (with help of IEA, 1992) only which are not allowed by the ITA, 2002. the tax planner only can reduce up to 7% on its depreciable base amount of respective pool as repair and maintenance expenses as provided of ITA, 2002. Since, the depreciation base amount would be greater, more repair and maintenance expenses can be reduced for earlier purchase of an asset and it is all where the tax can be planned through the ITA, 2002.

1.11.2. Presentation and Analysis

The following question regarding repair and maintenance cost has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Asked Question: Do you consider asset's depreciation base while incurring any expenses in Repair and Improvement?

Table 4.13:
Banks Considering Asset's Depreciation Base for the Purpose of Tax Planning.

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	7	
2.	RBB	7	
3.	SCBNL	7	
4.	NABIL	7	
5.	KBL	7	
6.	BOK	7	
7.	LBL	7	
8.	MBL	7	
Total	8	56	0

Source: Field survey, 2011

The above table 4.13 shows good sign for the practice of tax planning, as every bank among sample banks are considering depreciation base while incurring any expenses in Repair and Improvement. It shows that Nepalese commercial banks are aware about the provisions regarding Repair and Improvement cost. There are more chances of exploiting this facilities by making unnecessary expenses in Repair and Improvement expenses.

4.12. Recovery of Losses

The profit is return for the risk bearing capacity of investor. There are different types of risks that the investor has to bear. But we can see two dominate risks for the investors, viz. break-even (zero point) risk and investment (sinking the fund) risk. Every organization is established with its profit maximization objectives but here is an equal chance of getting risk as well all those risks lead an organization to the losses, which discourage the investors to invest. And that redundancy to invest has cyclical effect on a nation's economy. The government charges some amount as tax to the investors who earn profits. It (the govt.) enjoys the profit that one earns. So, the government has a duty to share its losses too. That is why the govt. provides some special provisions for those losses.

According to Kandel (2006) 'The loss of the investor can be recovered in two ways - they are full loss offsetting and partial loss offsetting. Full loss offsetting means recovering full value of loss by the government. Full loss offsetting can be done by two ways - firstly by refunding total value of loss by the government and secondary - by allowing to recovering the loss with interest when there is profit in the business.

The full loss recovery system is not in use these days. It is impracticable to reimburse full loss because it curtails the managerial expertise. Investors neglect the business and also challenge the threats beyond their caliber because losses are compensated by the government. That is why the government follows partial loss offsetting of the investment. The government of Nepal is also following the partial loss offsetting. The Income Tax Act 2002 has made some provisions regarding offsetting and carrying the loss other that the year occur.

Business loss in Nepal can be set-off from investment income only either that is earned in the country or in abroad. Loss of foreign source investment can be recovered from the gain of foreign source investment of the same country. The loss of capital nature can be set-off from capital income only. Loss from foreign sources business can be recovered from foreign source gain on investment and business of the same country only. Loss from special industry and other business enjoying special tax rate can be recovered from the same business. Now the Income Tax Act has provisions of only carry forward of losses. The act has already removed the provisions regarding carry back of losses.

4.12.1. Carry Forward of Loss

The Income Tax Act, 2002 allows the investor to set-off both intra head and inter head losses from his business and investment to subsequent four years for ordinary business/investment. Loss of last seven years is deductible from income from public infrastructure projects to be transferred to government and electricity house construction, production and transmission projects.

Under Income Tax Act, 2031, only three year loss of intra head was allowed to carry forward.

4.12.1.1. Tax Planning Procedure

A loss occurs when the expenditure exceeds incomes. All the losses in a business are deductible from its income in subsequent years. One should know that the acts and rules properly while recovering the losses from earnings. A domestic business loss can be recovered from any earnings of business and investment in the country, and foreign business and investment income. Domestic investment can be recovered from domestic and foreign investment income. And foreign investment loss can be recovered from foreign investment only. Whatever, the provisions of recovery made (intra or into heading recovery of loss), the recovery period does not exceed four year after the loss happens. But the loss of special industries such as public infrastructure operate and transfer to the government of Nepal and electricity project that are involved in building power station, generating and transmitting electricity etc. can be recovered within seven years.

4.12.1.2. Presentation and Analysis

The following questions regarding carry forward of loss has been asked to the sample bank officials. All of them have given their responses. The question, its responses and its analysis have been presented below.

Asked Question: Is carry forward of loss considered for the purpose of tax planning in your bank?

Table 4.14:
Banks Considering Carry Forward of Loss for the Purpose of Tax Planning.

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	7	
2.	RBB	7	
3.	SCBNL	7	
4.	NABIL	7	
5.	KBL	7	
6.	BOK	7	
7.	LBL	7	
8.	MBL	7	
Total	8	56	0

Source: Field survey, 2011

The table 4.14 shows that total sampled commercial banks are aware about the carry forward of loss. And the purpose of tax planning they may consider carry-forward of loss as a tax planning tools. It is clear from above table that hundred percentage commercial banks are able to forward their losses, if they bear losses, for the purpose of tax planning. Now, it might conclude that Nepalese commercial banks are considering carry forward of loss for the purpose of tax planning.

4.13. Presentation and Analysis of Major Responses from Questionnaires.

To find out the actual tax planning practice, some major opinions have been taken from the respondents. This has been done to identify the difficulties in applying tax planning tools and such suggestions for the application of such tools. Some important questionnaires are presented here were asked to the concerned authorities of sample banks. Their responses have been presented below on the basis of asked questions.

➲ Asked Question: The following are some of the important factors considered while launching new branches of the bank. Please rank them in order of their importance.

Nepalese banks are expanding their branches day by day to for the competition that will arise in the days to come. The question regarding their preferences while launching new branches has been asked to find out their actual preference to tax planning. Their responses and respective ranks have been presented in Table 4.15 below.

Table 4.15:
Preferred Priorities Options by Nepalese Banks while Launching New Branches.

S.N. / Options	Name of Banks	Infrastructure facilities such as transportation, communication, power, well security	Access to high deposit collection	Access to high investment opportunity	Availability of adequate labour in the location of the business	Tax incentive provided by the tax laws
				Rank		
1.	NBL	5	1	2	3	4
2.	RBB	4	1	3	2	5
3.	SCBNL	1	2	3	4	5
4.	NABIL	5	1	3	2	4
5.	KBL	5	1	2	3	4
6.	BOK	4	1	2	3	5
7.	LBL	1	2	3	5	4
8.	MBL	1	2	3	4	5

Source: Field Survey, 2011

The question has been asked regarding the priority sector they are seeking while launching now branches. All sample banks have provident their responses. Among them most of them are saying that they give high priority to access to high deposit collection. After them "Infrastructure facilities such as transportation, communication, power, well security. Among them fifty percent banks give first priority to well infrastructure. After that they prefer "Access to high investment opportunity" and so on. But most of them give last priority to "Tax incentives". It shows that they are not implementing good tax planning practice.

➲ Asked Question: Does your bank consider reducing tax liability while making any decision?

Seven bank officials gave their responses in aforementioned question. Their responses have been presented in table 4.16.

Table 4.16:
Banks that Consider on Reducing Tax Liability While Making any Decision.

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	7	
2.	RBB	7	
3.	SCBNL		7
4.	NABIL	7	
5.	KBL	7	
6.	BOK	7	
7.	LBL	7	
8.	MBL	7	
Total	8	49	7

Source: Field survey, 2011

The bank or financial institutions have to make many decisions in daily basis for the operation of the organization. The decisions are analyzed in each and every aspect to find out the profitability of specific decision. The decision, which gives more profit to the bank, is selected and others are dropped. The question has been asked to the concerned authority of the bank whether they consider reducing tax liability while making any decision or not. All of sample banks have, provided their responses. Among them eighty eight percent banks are considering tax element while making any decision and twelve percent are not considering it. It shows that there is majority of banks for the practice of tax reduction while making their decision.

➲ Asked Question: Does your bank use any tax planning software to reduce tax liability?

All of eight banks officials provided their responses in aforementioned question. The actual responses have been presented in the following table.

Table 4.17:
Nepalese Banks Using Tax Planning Software

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL		7
2.	RBB		7
3.	SCBNL	7	
4.	NABIL	7	
5.	KBL		7
6.	BOK		7
7.	LBL		7
8.	MBL		7
Total	8	14	42

Source: Field survey, 2011

The development of information technology has been liked. Most of multinational banks are now using sophisticated software for proper tax planning. Such type of software simplifies tax planning procedure. But above table shows, only twenty five percent banks among sample banks are using tax-planning software.

➲ Asked Question: Who does the taxable income in your organization?

All of sample bank officials have provided their responses in aforementioned question too. The responses have been presented below.

Table 4.18:
Designation of Nepalese Bank Officials Who Asset Taxable Income.

S.N.	Name of Banks	Options and Frequencies			
		Assistant level staff	**Supervisor level staff**	**Officer level staff**	**Managerial level staff**
1.	NBL				7
2.	RBB				7
3.	SCBNL		7	7	7
4.	NABIL			7	7
5.	KBL			7	
6.	BOK		7		
7.	LBL				7
8.	MBL		7		
Total	8		21	21	35

Source: Field survey, 2011

There is scarcity of human resources for tax planning in Nepalese market. In Nepalese banking industry, most of banks have separate tax department or all department for the computation of total taxable income and other tax related activities. As table shows most of banks have higher designation than assistant level staff for the assessment of taxable income in their banks. Among sample banks, seventy percent banks have managerial level staff in tax department who assess taxable income. But in SCBNL and LBL have a mix team of assistant, supervisor, officer and managerial level staff for the same. It shows that Nepalese banks have already built a separate department for the management of tax planning.

- Asked Question: There are many difficulties in tax planning as given below. Are you facing these difficulties?

There are many difficulties that the Nepalese Banks are facing while practicing tax planning. Mainly there is lack of clear cut knowledge of existing tax rules and regulations among banking officials. Besides this, there are much more ambiguities in tax laws that are very difficult to understand. Banking authorities are also facing difficulties to rapid change in provisions regarding tax rules and regulations. The above question has been asked to the concerned bank officials to find out the actual difficulties they are facing. All of them have provided their responses. The responses have been presented in table 4.19. the table shows that most of bank are facing “Ambiguities in income tax acts, rules and laws” and “High penalty or wrong assessment” problems. This survey shows that ninety percent sample banks are facing problem related to high penalty or wrong assessment and eighty percent are also facing ambiguities in income tax laws. Some banks even don’t hesitate to say that taking advantages of loopholes in tax laws are easier than tax planning.

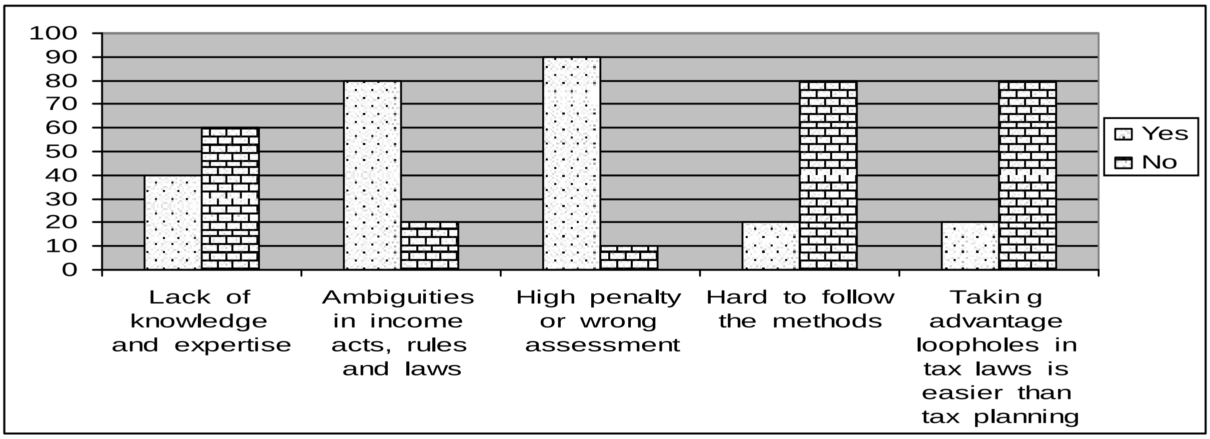
Table 4.19:
Difficulties Faced by Nepalese Bank while Practicing Tax Planning.

Options / S.N.	Name of Banks	Taking advantages of loopholes in tax laws are easier than tax planning	Ambiguities in income tax acts, rules and laws	High penalty or wrong assessment	Hard to follow the methods	Lack of knowledge and experts
1.	NBL	Y	Y	N	N	N
2.	RBB	Y	Y	N	N	N
3.	SCBNL	Y	Y	Y	Y	Y
4.	NABIL	N	Y	Y	N	N
5	KBL	Y	Y	N	N	N
6	BOK	Y	Y	N	Y	N
7.	LBL	N	N	N	N	Y
8.	MBL	Y	Y	N	N	N

Source: Field Survey, 2011

Even reputed banks like SCBBL agree on "Taking advantages loopholes in tax laws are easier than tax planning". Here, the x-axis has shown the difficulties faced by banks and Y-axis has shown percentage for respective difficulties.

Figure 4.1:
Difficulties Faced by Nepalese Banks for Tax Planning



Source: Annual Report 2011

- Asked Question: Does your bank practice on benefits, concessions, rebates etc. provided by ITA 2002 to minimize tax?

All sample banks has provided their responses in this question too, the responses has been presented in the table below.

Table 4.20:
Nepalese Banks Practicing on Benefits, Concessions, Rebates etc. as stated in ITA, 2002.

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL	7	
2.	RBB	7	
3.	SCBNL	7	
4.	NABIL	7	
5.	KBL	7	
6.	BOK	7	
7.	LBL	7	
8.	MBL	7	
Total	8	56	

Source: Field survey, 2011

The bank should be sufficient to search benefits, concessions, rebate in tax related laws so that they can utilize their scare resources to minimize tax burden. The above table shows that hundred percent banks practice on benefits, concessions, rebates etc. provided by ITA, 2002 to minimize tax.

- Asked Question: What appropriate percentage of profit has been gained due to well practice of tax planning in your bank?

Well practiced tax planning obviously can increase bank's profit. The opinion has been also taken regarding the profit percentage that can increased with the help of proper tax planning.

Table 4.21:
Percentage of Profit Earned by Nepalese Banks Due to Well Practice of Tax Planning.

S.N.	Name of Banks	Options and Frequencies			
		1-3 percent	**3-5 percent**	**More than 5 percent**	**Other %**
1.	NBL				7 (<1%)
2.	RBB	7			
3.	SCBNL	7			
4.	NABIL				
5.	KBL				7 (>1%)
6.	BOK	7			
7.	LBL		7		
8.	MBL				
Total	8	21	7	0	14

Source: Field survey, 2011

The opinion regarding contribution of profit by proper tax planning from bank authorities has been taken. As table shows, four bank says that 1-3 percentage of total profit can be gained from well practice of total profit gained from well practice of tax planning, further two banks say that 3-5 percentage of total profit can be gained from well practice of tax planning and other two banks add that less than one percentage of total profit can be gained due to well practice of tax planning. It shows that Nepalese banking professionals give high priority to tax planning for the enhancement of total profit.

➲ Asked Question: Do you think that the ITA, 2002 has provided sufficient grounds for the practice of tax planning in banking industries?

The question regarding sufficiency of provisions made by tax laws has been also asked. The following table shows the responses of aforementioned question.

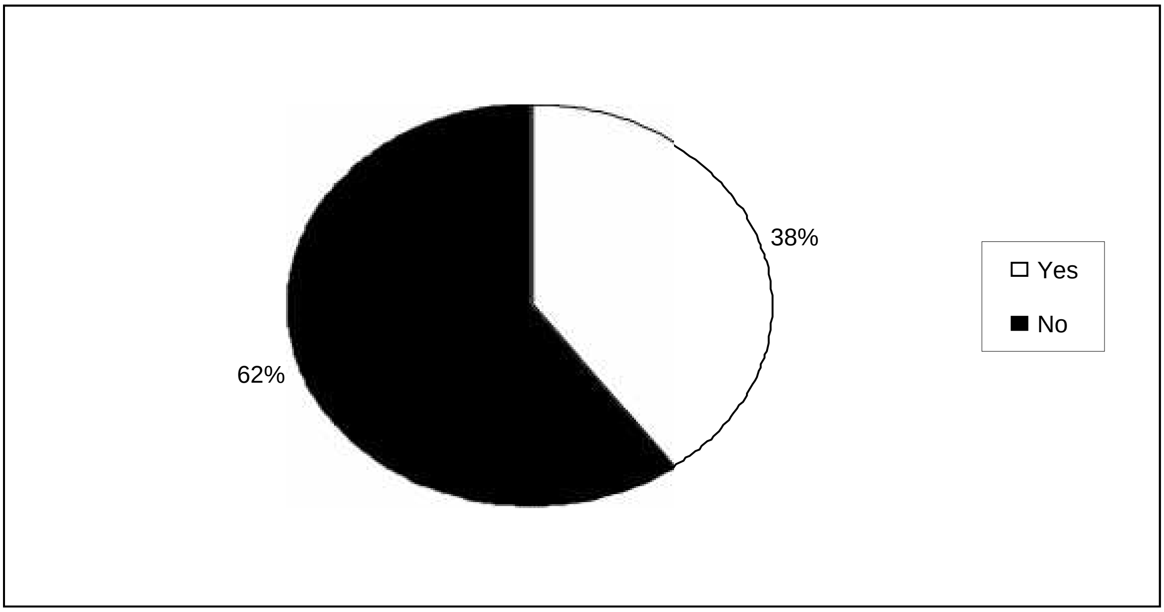
Table 4.22:
Whether ITA, 2002 has Provided Sufficient Grounds to Nepalese Banks for the Practice of Tax Planning or Not?

S.N.	Name of Banks	Frequencies	
		Yes	No
1.	NBL		7
2.	RBB		7
3.	SCBNL	7	
4.	NABIL	7	
5.	KBL		7
6.	BOK		7
7.	LBL	7	
8.	MBL		7
Total	8	21	35

Source: Field survey, 2011

The ITA, 2002 has provided many facilities for tax planning purpose to different industries. The act has provided tax rebate locations for only special industries whereas it has provided 5 year carry back facility only to banking industries. The question regarding whether the act has provided sufficient grounds for the practice of tax planning in banking industries or not has been asked. Among them sixty two percent banks are not agree with the existing tax laws that it has provided sufficient grounds for the practice of tax planning in banking industries. But on that ITA, 2002 has provided sufficient ground for the practice of tax planning in banking industries. The responses for the question have been shown in the following picture for the clear-cut picture.

Figure 4.2:
Has ITA, 2002 Provided Sufficient Grounds for the Practice of Tax Planning?



Source: Annual Report 2011

➲ Asked Question: Which of the following methods does your organization prefer to reduce the tax liability?

The above question has been asked to find out their preference to tax planning. All of them provided their responses. Their response and their preferred methods for tax planning have been presented in table 4.23.

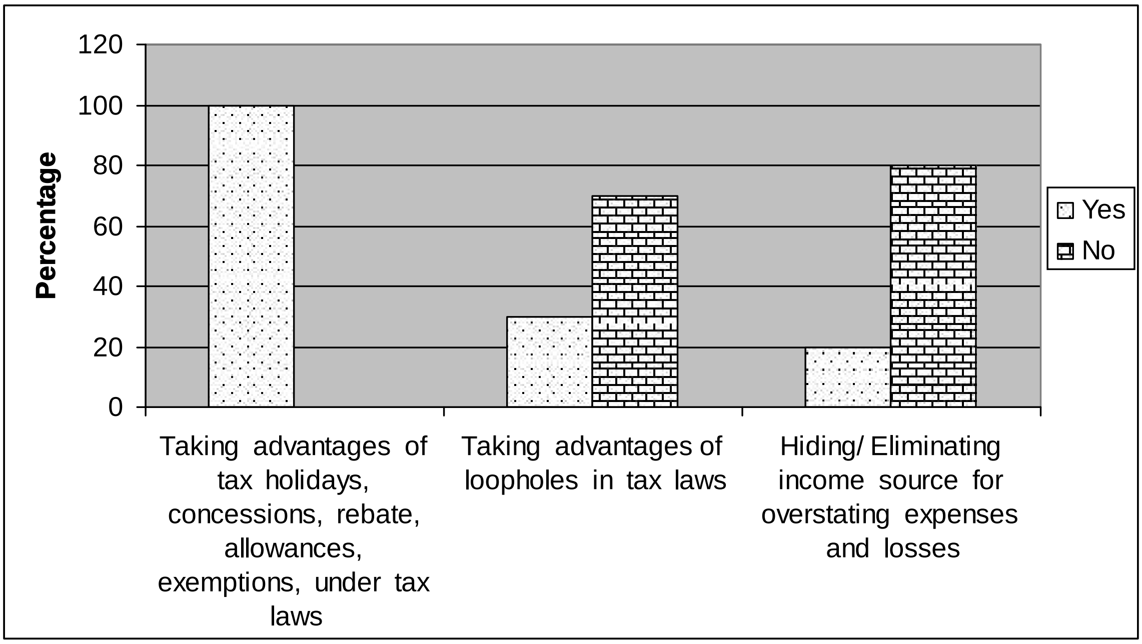
Table 4.23:
Method Preferred by Nepalese Banks to Reduce Tax Liability.

Options / S.N.	Name of Banks	Taking advantages of tax holidays, concessions, rebate, allowances, exemptions, under tax laws	Taking advantages of loopholes in tax laws	Hiding/ Eliminating income source for overstating expenses and losses	All of them	If other (Please Specify)
1.	NBL	Y	N	N	N	-
2.	RBB	Y	N	N	N	-
3.	SCBNL	Y	Y	Y	N	-
4.	NABIL	Y	N	N	N	-
5.	KBL	Y	N	N	N	-
6.	BOK	Y	Y	N	N	-
7.	LBL	Y	Y	N	N	-
8.	MBL	Y	N	N	N	-

Source: Field Survey, 2011

Above table shows that most of banks prefer first option for the reduction of tax burden. All sample banks gave positive priority for first option. It shows that Nepalese Banks are moving toward good practice for tax planning. But some banks also prefer second and third option for the reduction of tax burden. As SCBNL, BOK and LBL also prefer second and third option for the reduction of tax burden. It shows that there is also some existence of mal practice of tax planning in Nepalese banking industries. The gist of the table can be easily understood from the figure below.

Figure 4.3:
Preferred Methods by Nepalese Banks for the Reduction of Tax Burden.



Source: Annual Report 2011

➲ Asked Question: If your bank is practicing tax planning, at what level, tax planning tools and techniques has been practiced in your opinion?

The above question regarding level of tax planning practical has been asked to find out the actual level of tax planning that they are practicing. The responses have been presented below.

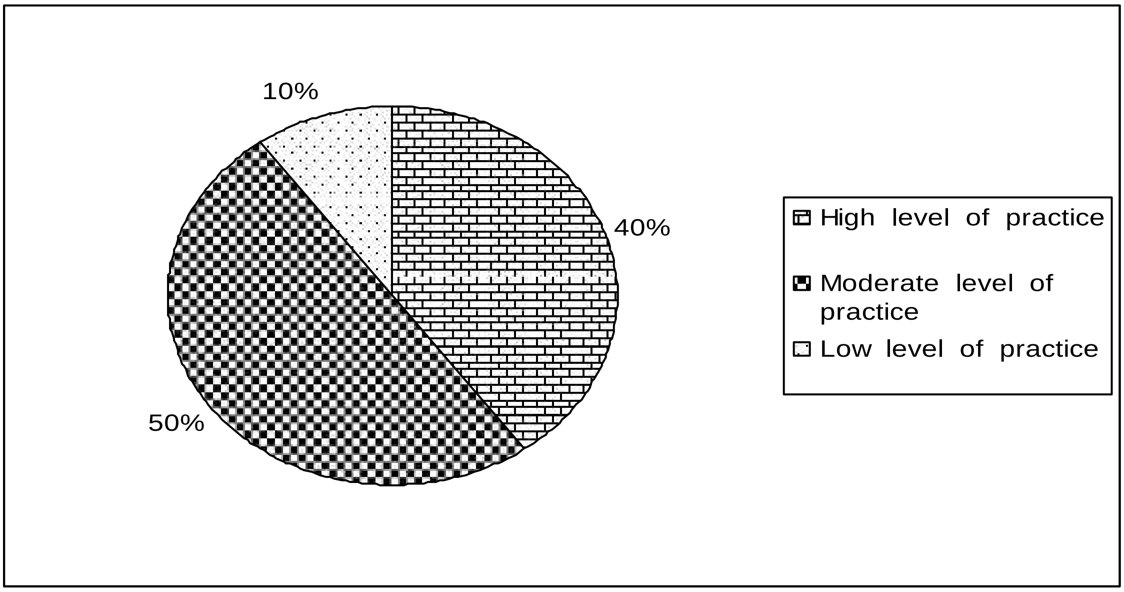
Table 4.24:
Practice Level of Tax Planning by Nepalese Commercial Banks.

S.N.	Name of Banks	Options and Frequencies		
		High level of practice	Moderate level of practice	Low level of practice
1.	NBL		7	
2.	RBB		7	
3.	SCBNL	7		
4.	NABIL	7		
5.	KBL		7	
6.	BOK	7		
7.	LBL	7		
8.	MBL			7
Total	8	28	21	7

Source: Field survey, 2011

The opinion regarding level of tax planning practices has been taken from authorities of each sample bank. As the table shows that among them fifty percent bank say that they are practicing tax-planning tools at high level. Further, thirty two percent banks agree that they are practicing tax-planning tools at moderate level and remaining twelve percent banks says that they are practicing tax planning tools at low level. But it is not blindly acceptable opinion because even those banks, which are not familiar about major tax planning tools such as carry back of loss, timing of activities, are saying that they have high level of tax planning practice. The below figure has tried to show the act level of tax planning practices by Nepalese commercial banks, in the opinion.

Table 4.4:
Level of Tax Planning Practices by Nepalese Commercial Banks



Source: Annual Report 2009/10

4.14 Major Findings of the study

To prepare this thesis work, various types of questionnaire related with Tax Planning and Practice have been asked (Questionnaire is in Annex). From the selected bank's response and the basis of the comprehensive analysis of their response, the following findings have been detected.

a) As we have seen the tax planning procedure in data presentation and responses regarding, we can say there still are some chances of planning of tax under Income Tax Act, 2002. But there is less practice of tax planning in Nepalese commercial banks believe in tax avoidance and evasion than tax planning.

b) Based on the above analysis, it is observed that 100% banks consider carry forward of loss. Only 50% banks consider location of business, 88% banks consider capital structure, 60% banks consider timing of activities, and 88% banks consider time value of money for the purpose of tax planning. Though some banks are not aware about timing of activities since they could not give any responses regarding it. Besides this, most of Nepalese commercial banks have not had any long-term debt in their capital structure but they still prefer equity plus debt option. It show that there is lack of practice in this aspect.

c) Besides this, 100% banks are considering depreciation base while making decision on repair and improvement lost. Ninety percent banks refer to avoid tax penalties for the reduction of tax burden. It also shows that Nepalese banks are practicing tax planning at different level.

d) Eighty percent banks prefer to consider their income to make donation decision. It also shows that they are aware about the provisions made by ITA, 2000 regarding donation, R & D, PCC etc.

e) Only twelve percent banks are spending their expenses in PCC and only 60% banks are incurring their expensed in R & D. it shows that there is less opportunity for commercial banks to practice tax planning on PCC, R & D and so on.

f) Nepal is very poor country, but Nepalese banks are using world class software for their banking transaction. Even twenty five percent banks have tax planning features in their banking software.

g) As above data shows that 63% banks have managerial level staffs in their tax or percent department for the assessment of total taxable income and other tax related activities. It shows that Nepalese banks are handing over their tax planning procedure to managerial level staff too.

h) Nepalese banks are also facing many problems for tax planning too. Eighty percent banks are facing “Ambiguities in income tax acts, rules and laws” and ninety percent banks are facing “High penalty or wrong assessment problem”. Besides this twenty percent banks says that taking advantages to loopholes in tax laws are easier than tax planning.

i) Nepalese bankers are also positive towards tax planning. In their opinion, forty percent banks agree that 1 to 3 percent profit can be increased due to well practice of tax planning. Further, twenty percent banks agree that 3 to 5 percent profit can be earned due to high level of tax planning.

j) Tax Authorities of Nepalese Commercial banks are strongly known of the tax acts and laws as per the responses say (except some cases where the respondents from some banks have replied as they are enjoying tax rebate in remote locations). In the responses, it seems all possible rebates: holidays and allowances are seen by the respective organizations, which are eligible to enjoy those facilities in ITA. Naturally the manufacturing organizations are allowed more the banks are practicing tax planning.

k) But if we go for the implementation of the tax planning in the context of strategic planning is almost zero, a little bit in project planning and awful majorities in operational planning are in existence. Since, the strategic planning is made at the zero years, it has been step-up by the management at that time and change in management at that time and change in management cannot renew the strategic decisions as per the new management interest. Even their knowledge and experience won’t help to reduce the tax liability in this condition.

l) In many books and articles related to finance, the researcher found that the debt plus equity capital structure as most approval decision. In Nepalese banking industry, they don't have long-term debt in their capital structure but they still prefer debt plus equity option for the reduction of tax burden. It shows that Nepalese bankers are capable for the practice of tax planning but they are not implementing their knowledge for it.

m) For the strategic planning, even there are many tax planning options than operational and project planning, negligible Nepalese banks have been enjoying this facility. The strategic decisions have to make before or at the exact time of the organizational set-up, it cannot be changed frequently to get the benefits of tax acts and laws, which are changed, in very short duration.

n) Nepalese banks are practicing tax planning at procedural level. They are not practicing it professionally. They also agree on that ITA has not provided sufficient grounds for the practice of tax planning in banking industries. In their opinion regarding the level of practice. Forty percent banks says that they are practicing tax planning at high level, fifty percent are practicing at moderate level and remaining ten percent banks are practicing at low level. Among high-level practitioner, most of them are joint venture banks.

CHPATER V
SUMMARY, CONCLUSION AND RECOMMENDATION

5.1. Summary

Tax planning is a process of taking maximum advantages and benefit from the facilities guaranteed in Income Tax Act. Tax planning is related to future activity of business organization. It is a technique of enjoying full benefits from all concessions, rebates and holidays provided by the government under the tax laws. It is a system of paying the minimum possible tax by the taxpayer.

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 structure of a business, project planning and planning day to day activities of a business organization.

Business persons use tax planning because it has a great importance in business organization. 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. Moreover, tax planning helps in avoiding unnecessary worries, tensions and administrative hassles.

It is a proper, safe, scientific, moral legal and long-term device to maximize the after-tax profit by minimization the tax liability of a taxpayer. It helps in exploiting all facilities allowed by the ITA.

Planning can be done for both short and long term. For example, planning on repair and improvement expenditure is short-term operational planning where as selection of location and capital structure to run a business in long-term/strategic planning.

It is a new concept in Nepal. In abroad, it is also known as hard to minimization one's taxable amount. Nepalese tax experts are enjoying it.

As per the responses received and analyzed in Chapter-4, and discussion made with bank authorities that many of the respondents are known of the tax planning provisions in Tax Acts. Though they are aware of the S/1 of ITA as, they are unable to grab it. To compare the tax planning between ITA 2031 and ITA 2002, there are many more rebates especially for strategic planning under ITA 2031, which are not in ITA 2002. But ITA 2002 facilities more allowances for operational planning which are not allowed to pronounces as tax planning as bank authorities say.

If the researcher has to say in few words, though bankers are well known of Tax Acts and rules yet there is less practices of tax planning in Nepalese banks as per the responses presented in Chapter-4. The main hindrances for their tax planning steps are the lack of tax planning idea, higher penal system and ambiguities due to technical and official terms used in Tax Acts. Since the tax act has eliminated all the tax planning aspects and that rarely to be found, there is higher degree of tax avoiding or evasion trend in Nepal. Even the experts and Acts makers claim that the ITA 2002 has eliminated all the cons of its predecessor Tax Acts 2031; it still has some loopholes like segregation of expenses which are not prohibited in Act and one can explain as per its interests and grab the benefits from. Hence, it can be easily said that Nepalese banks has started to practice tax planning but they are in infant stage.

5.2. Conclusion

Planning of tax is perceived by different persons with different meanings. Some of them perceived it as reduction of tax liability legitimately. But some of them perceived it as the loopholes of existing tax act and rules.

There are many more complexities in Income Tax Act. But the most prominent, the terms mentioned there are not clear and ambiguous. It is also more volatile than the foreign Income Tax Acts and changed amended in very short duration. This is why there are less tax experts and less planning practices too.

The planning of tax can be done in three ways- strategic, project and operational planning. As per the rebates, holidays and allowances guaranteed in ITA 2002, there are more enhances of planning of tax under provisions for operational tax more provisions for operational tax planning but very few planning aspects are available for project planning under this Income Tax Acts, 2002. Many of this provisions made in ITA regarding strategic planning are worthless due to inconveniencies of exploiting those allowances.

The main objectives of the this research was to examine the present practice of tax planning tools in Nepalese commercial banks and to identify the areas where the tax planning tools can be applied to strengthen the banking companies. From the analysis it was found that tax planning tools such as capital structure decision, acquisition of fixed assets, location of industrial setup, research and development and time value of money are mostly practiced tools where as practice of tools like pollution control decision, research and development and timing of activities are less in the Nepalese banks. High cost may be the reason behind it.

Nepalese government banks have not sufficient awareness about tax planning rules and regulations than other Nepalese commercial banks and joint venture commercial banks. There is also seen the less tax expertise due to the experts' negligence in Nepalese banks. Though they are acquainted to each Section of ITA, they have lack of its thorough knowledge. They are eager to give a glimpse over the Act for their vanity only. They want to show their omniscience and also able to say what is written on particular section of ITA but cannot say how it can be helpful to the beneficiary. They also do believe in tax evasion and avoidance than tax planning. They say tax evasion or avoidance is easier than tax planning. Here they have wrong perception of tax planning, avoidance and evasion. The bankers have knowledge of tax but less tax planning ideas, procedures especially under ITA 2002. This research shows that Nepalese banks plan their tax with the help of tax planning scopes known as rebates, allowances holidays etc. Besides this Nepalese banks are spreading their branches in remote areas where ITA, 2002 has provided tax rebate but it's not for banking industries. Hence, they claim that they have not got sufficient grounds for proper tax planning.

5.3. Recommendations

Nepal has already taken the membership of WTO. In this global environment Nepalese banks should fit with the global environment. Managers should think in a global perspective.

The world is facing recession. Mainly the banking industries have been suffered from this global economic crisis. Hence, none can say that Nepalese banks are out of this economic risk. The crisis may also cover profitable banking business of Nepal. Hence, Nepalese banker should think to wriggle out from this crisis. The bank should search new sources of income to increase or stabilizer their profit. Nepalese banks are paying heavy tax to the government. If they have little bit time to think it out, they can also increase their profit or stabilize it with well planning of their taxes. So besides other ideas, banks should not forget tax planning for their long-term existence. Hence, every bank should start to plan their taxes.

Balancing the payment of tax to the taxpayer and revenue collection of the government is a tough job. The higher tax rate is not a favorable one to collect more revenue to the government. But less payment of tax increases the deficit budget of the government. Both of these conditions create and unhealthy economy, which is unfavorable to both the government and the taxpayers. That is why the experts suggest to increase the tax bracket rather than to increase the tax rates. The more business persons are encouraged for further business practices. But the businessmen are not interested to expand their business activities at the higher rate of tax on other income form business practices. But lowering the existing rate of tax is not in favor to the government.

To eliminate the gap between these two constraints at higher rate of tax government has made some alternatives that encourage the business practice through some allowances, rebates, holidays etc. And the practice of exploiting or uses of such provisions are termed as tax planning, Entrepreneurs mangers and experts are very seeking to use the tax-planning tool, but the government resists in as much as it can.

The experts are well known of the tax and have searched all possible pros and cons while making the tax acts, laws and rules. And even at the time of its amendment, they have vid the hurdles and short coming in previous acts. Even in these conditions, the researcher dares to give some suggestions to both the government and taxpayers especially for banks. And they are all listed in numbering as follows:

a) The terms used in acts and rules must be in simple form rather than official terms those lead to ambiguities to the taxpayers. And there must be stability in ITA. It has not to be changed in short period.

b) Taxation, being hard and ambiguous phenomena and process of tax planning, one tries to evade or avoid the tax. It is due to lack of civic consciousness on the taxpayers. First of all the government has to initiate some steps to stop existing tax evasion/avoidance trend ignoring whatever it costs. Then its duty becomes to aware the letting them know what actually the tax is and how it can be minimized with the help of guaranteed provisions made in Income Tax Act.

c) Interest expenses on debt are declared as deductible item in both Income Tax Act 2031 and 2002 if the debt is used to earn profit. But there is not any facility for raising funds through equity financing or retained earning. The dividend is not deductible expensed before paying the tax. There is double taxation for equity investment, corporate tax and dividend tax.

To promote the business practice, government has to allow the dividend paid on investment as deductible item while calculating taxable income. But the percentage of dividend should not exceed the risk free interest rate of the market. It does not affect to the revenue collected through income tax to the government till allowable dividend rate equals to allowable interest rate to the debt.

d) The experts or tax planner must have a sound knowledge of finance and a sound knowledge of finance and the financial tools. Time value of money is the most important thing to be noted for the tax planning purpose. If we come across to a decision that there is at least a little bit practice of tax planning and can be hoped of it's implementation in full fledge in coming days, we also have to be sure that time value of money helps to reduce all possible burdens under different financial headings-time value of money itself, timing of activities, leasing or buying, research and development expenses, pollution control cost, repair and improvement cost, value added tax and depreciation etc.

e) S/35 of ITA 2002 resists all possible reduction on tax liability but government, allows different tax rebates, holidays, allowances, concessions etc. On the one hand government encourage tax planner to minimize taxable income with the help of different provisions, but the very next time it restricts all tax reduction activities with the help of sec. 35. It creates dilemma to the taxpayers and experts, and reduces tax planning practices, and reduces tax planning practices. Such type of dilemma can be found in many numbers in the Acts. Hence, such dual aspects must be eliminated; either the government has to curtail allowance, rebates etc. or it has to remove anti-tax avoidance section. And it is better to take our second one to encourage tax planning practices.

h) If the government is going to remove anti-tax avoidance section and encourages taxpayers for tax planning practice, it is also to be liberal for the assessment of taxable income. As per the act allows self-assessment of taxable income, there is also chances of wrong calculation. On such miscalculation, it has to charge lower rate of interest and fines. But it does mean that the malfunctioning that are done knowingly are also consider for lower penal. The investigation must be done thoroughly for such assessment and if there is not any fault and the calculation has done unknowingly, the penal charged there on must be curtailed than existing rate. Otherwise, the existing penal system is appropriate for wrong assessment done knowingly because most of Nepalese banks are suffering with penalties and wrong assessment due to unknowingly mistake.

i) Government tries to collect more revenue levying higher tax rate or not allowing any rebates to the taxpayers. But the government alone is not to be blamed for its hardness to the taxpayers. The taxpayers themselves compelled the government to do this with their unethical and immoral behavior. And the taxpayers also want to minimize their tax liability both legitimately and illegitimately. Both these conditions (illegitimate tax reduction practice and higher tax amount) are not favor to the nation. So, there need an amiable cooperation between government and taxpayers in tax rates and practices.

j) The allowable limit of all expensed based on amount of profit before those expensed must be deducted as per the priority. Otherwise, the actual allowable limit of that heading cannot be acquired (see appendix-2 for detail). There must be certainty which sort of expensed is deducted at first or which is at last, otherwise the taxpayer can claim the higher amount of expenses at first and the tax official can calculate that amount at last. In such condition, one cannot say what is the actual amount is deductible, the amount calculated by the assesses or the tax official.

k) As the ITA, 2002 has levied banking industries at thirty percent tax bracket, which is higher than other industries. But the act has not provided any special facilities or concessions to the bank for example banks are spreading their branches in remote areas but they are not allowed to enjoy remote area tax rebate as special industries are getting it. Besides this, some of banks are giving direct employment to more than 600 Nepalese citizen but they are not allowed to have any tax rebate. The government also play as a promotional role in this case.

l) Nepalese banks are investing most of their funds in urban areas. This type of investment policy has promoted centralized development. Hence, the government should come up with new tax rules to promote investment in rural area. For example the government may give some percentage tax rebate or fixed allowances for those banks that have stretched their branches in remote areas and invested for the development of rural areas.

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