

## CHAPTER-I

### INTRODUCTION

#### 1.1 Background of the study

If you drive a car, I'll tax the street,

If you try to sit, I'll tax your seat,

If you get too cold, I'll tax the heat,

If you take a walk, I'll tax your feet'

'Cause I'm the taxman and you're working for no one but me'-[George Harrison]

Exactly taxes follow people or organizations in every moment in every day. Suppose that if anyone buys a cup of tea, some sort of value added tax is included in the amount paid. Similarly if anybody makes a telephone call, a service tax is imposed in addition to value added tax. Income taxes are imposed on employment, business and investment. Gain tax is taxed on net gain from disposal of assets and liabilities. Karayan and swenson (2004) write that taxes seem to be everywhere may be that taxes are a price paid for government. Not the total price: to some extent governments support themselves by charging users for specific services provided. For example, some local governments charge a monthly fee to owners of residences which are hooked up to municipal sewer systems. However, throughout the world governments primarily are financed through taxation. Taxes are charges not directly related to good or services provided, which are imposed on people and organization located within a governments legal reach.

The word tax planning is made from the combination of two words – 'Tax' and 'Planning' .Tax means compulsory payment to the government and planning means taking decision about the future by choosing the best from different alternatives. Every business organization uses to plan as regards to may be

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

Planning is an important feature of all business organization. The formal planning system in a company arises from the necessity of management to conduct the operations of the company efficiently & effectively. Planning is necessary for the survival and growth of a company. Denning (1) regards corporate planning as a formal and systematic managerial process organized by responsibility, time and information to ensure that operational planning, project planning and strategic planning are carried out regularly to enable top management to direct and control the future enterprise. Operational planning refers to the future planning of existing operations in existing markets with existing customers. Project planning includes the generation, appraisal and working out the details of an action outside the scope of existing operations. Similarly, strategic planning is the process of formulating long run objectives. Thus corporate tax planning includes operational planning, project planning & strategic planning.

A nation requires sufficient funds to carry out development plans, handle day to day administration, maintain peace and security and launch other public welfare activities. The funds required by the government are normally collected from two sources: debt and revenues. The debt can be collected both internal sources and external sources. The debt collected within the country is known as internal debt while the debt collected from outside the country is called external debt. The debt financing of the government is also known as deficit financing. The revenue of the government comes basically from two sources; tax and non tax. Non tax sources include different revenues like gifts, grants, revenue from public enterprises, administrative revenue such as registration fees, fines and penalties, etc. A tax source includes customers, excise duty, Vat, income tax. In Nepal around eighty percent of the government revenues come from taxation. Hence, the tax is the major source of government revenue.

### **1.1.1 Meaning of Tax**

Tax is any compulsory levy from individuals, households, and firms to central or local government. It is simply a liability to pay an amount to the government. It is a compulsory contribution from the taxpayers. Tax is computed and paid as prescribed in the law.

Different persons have defined taxation in different ways. Some of them are presented here.

Prof. Seligman defined tax as “a compulsory contribution from a person to the government to defray the expenses incurred in the common interest of all without reference to special benefit conferred.”

Find lays Shiras defined tax as: “a compulsory contribution to public authorities to meet the general expenses of the government which have been incurred for the public good and without reference to special benefits.”

From the above definitions, it can be concluded that-

- Tax is a compulsory levy imposed by the government.
- It is levied on persons as per the prevailing laws.
- Those who pay tax do not get corresponding benefits from the government.
- It is spent for common interest of people.
- It is collected from haves and spent for the interest of have notes in the society.

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

### **1.1.2 Meaning of taxation**

Taxation is a system of levying taxes. The system is a set of principle. The principal is a scheme of ideas or body of rules by which a theory is organized. Thus the system of levies was developed after the origin of tax.

Many scholars have stated concept of taxation and all the scholars agree that taxation is the system whereby taxes are levied on some types of income, earnings, or gains or purchases. In this connection, the Columbia encyclopedia (2006) cites on the most absolute and extensive definition as;-“taxation is a system used by government to obtain money from people and organization”. The government uses collected revenue to support itself and to provide public services. In its nature it is relatively permanent and compulsory and does not guarantee a direct relationship between the amount contributed by a citizen and the extent of government services provided to him. (2006)

Therefore, taxation is a device or process of imposing a tax.

Similarly, one of the famous economists delineates, “taxation is the charge levied by the state on the property or labor of the citizens, in order to provide for the public expenses”(De Parieu). However, it is quite different from former definition of the Columbia encyclopedia. It is alike a definition of tax though it shares some qualities, but not identical.

Tax and taxation are not synonymous terms. Tax is a compulsory exaction of money by public authority for public purposes enforceable by law and is not a payment for service rendered while taxation is a device for imposing a tax. Thus, tax is a charge by the government on income or property or expenses of an individual or group of individual and taxation is a device or process of taxing or imposing a tax.

### **1.1.3 Canon of taxation**

The government of a country adopts various principles while formulating suitable tax policy. These principles are referred to as the canon of taxation.

The canons of taxation were first developed by Adam Smith as a set of criteria by which to judge taxes. They are still widely accepted as providing a good basis by which to judge taxes. Smith's four canons as outlined in his book entitled 'wealth of nation' are as follows:

1. Canon of equality or equity

High earners should be imposed higher taxes as compared to low earners. Tax policy should not discriminate the persons with same income level.

2. Canon of certainty

Another quality of a system as laid by Smith is the canon of certainty. Certainty in the word of Smith is related to the time, method, manner and quantity of paying the tax. In his own words-"the tax which each individual is bound to pay ought to be certain, and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor and to every other person".

3. Canon of convenience

Tax system should be simple so that ordinary people can easily understand and follow it. Time, procedure and place of payment of tax should be convenient to the taxpayers. In this respect, Adam Smith says-"every tax ought to be levied at the time or in the manner, in which it is most likely to be convenient for the contributor to pay".

4. Canon of economy

The collection expenses of the tax should be less than the amount of tax collected so that a surplus to public revenue is generated and the country will be benefited. The amount that goes from taxpayer's pocket should not differ greatly with the amount that actually goes to government's treasury.

Besides the above stated canon of taxation given by Adam Smith there are other too developed by other economists. These canons given by other economists are as follows;

#### 5. Canon of productivity

The fund raised through taxes should be utilized by the government in productive sector of the economy so that the taxpayer can see the utilization of their hard earned money paid as taxes.

#### 6. Canon of elasticity

The government should easily change the tax rate as per the need of the country. Instead of being rigid, tax rate should be made flexible as per the changes in taxpayer's income, properties and transactions.

#### 7. Canon of diversity

The tax system should not totally depend on one source of revenue. It is risky for the governments to depend on a single source. So that government levies various taxes instead of imposing a single tax. This ensures smooth collection of taxes in different years.

#### 8. Canon of simplicity

A good tax system should be easily understood by general public. There should be no administrative hassles. The tax payment procedure should not be too lengthy.

#### 9. Canon of neutrality

The tax system should not affect badly to the production and distribution aspect of the nation rather it should facilitate them. The government should impose heavy taxes on harmful products and less tax or no tax on basic goods in such a way that the total tax revenue is not affected.

#### 10. Canon of coordination

There should be coordination among various taxes raised in the country. Tax payers should not be imposed various similar nature taxes.

#### **1.1.4 Meaning of tax planning**

Tax planning refers to the planning of future activities so as to reduce the tax liability. The tax law provides certain concession, rebates and allowances to taxpayers in order to enhance a healthy environment in the country. Tax planning is to take full advantage of those facilities. It can be defined as an arrangement of one's financial and economic affairs by taking complete legitimate benefit of all deductions, exemptions, allowances and rebates so that tax liability reduces to minimum. Thus, all such arrangement by which the tax laws are fully complied and which meet all legal obligations are tax planning. Tax planning does not take from of "colorable devices" and no intention to meet deceit the legal spirit behind the tax law.

Tax planning is the art and science of an arrangement of a person's business and/or private affairs in order to minimize tax liability. Specially, it deals and minimizes tax liability with the help of various concessions, allowances and rebates provided for in tax laws. In addition it is a process of looking at various tax option in order to determine when, where and how to conduct business and personnel transactions so that taxes are eliminated or reduced. As an individual taxpayer, and as a business owner, you will often have the option of completing a taxable transaction by more than one method. Thus, tax planning is a discipline and an attitude towards solving the problems in a methodological way from a long term point of view.

Tax planning may be legitimate provided it is within the framework of law. Colorable devices can not be a part of tax planning and it is wrong to encourage or entertain the belief that it is honorable to avoid the payment of tax by resorting to dubious method. It is the obligation of every citizen to pay taxes honestly without resorting to excuses.

Tax planning is thus defined as a scheme whereby the taxpayer makes use of all the concessions available to him under tax law and pays the minimum possible tax. It implies full compliance of all tax laws and meeting the tax obligations. The focus is on taking full advantage of all the tax exemptions, rebates, deductions and allowances to minimize the tax liability. It is legal, ethical and economic. It is a legitimate device of minimizing tax burden. Tax planning is avoiding tax by availing of various reliefs and concessions provided within the four corner of tax law.

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

The correct approach in regard to tax planning has been formulated by Rangnath Mishra a supreme court justice of India in the case of M. C. Dowell(supra) in the following words.-“tax planning may be legitimate provided it is within the framework of law. Colorable devices can not be the part of the tax planning and it is wrong to encourage or entertain the belief that it is honorable to avoid the payment of tax by resorting to dubious methods. It is the obligation of every citizen to pay tax honestly without resorting to subterfuges.” In other words of Mishra the legitimate device to reduce tax liability is tax planning.

In conclude, we can say that tax planning is a systematic and scientific planning of company operations. It is economic, legal and ethical activity. It is the use of various incentives, concessions, allowances, rebates etc and it is an



activity related to the future. There are three broad area of corporate tax planning viz strategic planning, project planning and operational planning. Tax consideration is required to be given in each of these planning areas is as follows.

### **Strategic planning**

It is the process of formulating long term objectives and deciding on the resources for attaining them. Determination of corporate objectives and goals is the starting point of the process. Formulation of strategies and objectives aims at attaining the corporate objectives and goals. Strategic planning relates to the strategic decisions such as choice of business, location of the company, diversification of business, corporate restrictive etc. Tax planning in strategic decision not only benefits the compulsory in minimizing tax liability, but also contributes to the accomplishment of social and economic objectives.

### **Project planning**

It is the performance appraisal and working out of details of an action outside the scope of existing operations. Such an action is capable of an investment in plant and machinery for making additions modernization or renovation. Various ongoing projects of a business are directly or indirectly related with the corporate objectives, goals and strategies. When a company is considering a project or program of any area of project, planning it is necessary to consider tax factor. Taxation law invites companies to avail of the benefits and concessions provided within the framework of existing rules and regulations for new investment in fixed assets, tax concessions or allowances, depreciation allowances, rehabilitation allowances, tax holiday must be considered.

### **Operational planning**

It is the future planning of existing operation. A company at a given point of time conducts several operations which result in generation of better operation or new projects. Before making the operating decisions, tax implications must

be carefully studied on the different aspects of operational planning, which includes among others, expenditure to be incurred on affecting repairs and renewals of plant machinery, product promotion, short term borrowing ,personnel remuneration etc. The operational planning, strategic planning and project planning are carried out regularly to enable top management to direct and control the future of a business. These three components of corporate tax planning are necessary for the survival as well as the growth of a company. The basic purpose of corporate tax planning is to reduce or defer the overall tax burden in the present and foreseeable future.

## **1.2 Statement of the problem**

The main problem is about the theory and practice of tax planning for minimizing tax burden. Tax planning is the new concept and it requires technical and critical mind to plan tax so that tax burden can be minimized by using all the weapons given by the law.

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

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

Therefore, the main problem is the practice of tax planning in Nepal though the government has given various facilities for the taxpayers. In addition, there is not proper evaluation of taxable incomes whether by government or by the taxpayers. Therefore, the proper tax administration is also essential for smooth

application of tax planning in the context of Nepal. As a result, the effective mobilization of resources would be applicable. Some specific problems are as follows;

- Are Nepalese businesspersons familiar with tax planning?
- What is the concept of tax planning?
- What tax incentives does ITA, 2058, give?
- Is there any contribution of tax planning to minimize tax liability?
- What are the effects of tax incentives on tax planning?
- What role-plays tax planning to minimize tax liability?
- What are the difficulties\obstacles of tax planning?
- What is the scope of tax planning in Nepal?

### **1.3 Objectives of the study**

Objectives are the desired outcomes. There are certain objectives with every study. Therefore, there are also certain objectives in this study; it would be helpful for providing the comprehensive information to the manager for strategic planning, project planning and operational planning. As a result, it reduces tax liability within the legal framework. It also pinpoints that area, where tax implications either ignored or are given less importance in decision making by the managers. The main focus goes to the application and obstacles of tax planning. Tax evasion and tax avoidance would be discouraged by tax planning. Mobilization of maximum resources through tax can be done either by increasing present income tax rates or removing tax evasion. Removing the tax evasion, fraud and negligence, the revenue of the country can be mobilized thoroughly and successfully. On the other hand, increasing present income tax rate is not the permanent solution for the country like Nepal because taxable capacity of Nepalese people is very low. In addition, the government should be too cautious before improving new tax or raising the existing tax rates in the country.

The study is thus, expected to benefit corporate planners, entrepreneurs, managers, taxation authorities and academics. Moreover, so far as known to the researcher, no study on corporate tax planning has been conducted in Nepal as yet. The present study thus, fills in this important gap to Nepal. There are various tax incentives including exemptions, deductions, rebates and allowances granted to tax payers under the provision of ITA 2058 and industrial enterprise act 2049. These provisions are scattered throughout these acts. The present study them together under three broad heads, viz tax incentives relating to strategic planning, project planning and operational planning. Some specific objectives are as follows;

- To examine and analyze the tax incentives provided by ITA 2058.
- To identify the effect of tax incentives on tax planning.
- To examine the obstacles and challenges of tax planning.
- To highlight the applicability and scope of tax planning in Nepal
- To recommend the furthermore required tax incentives to increase the scope of tax planning to policy maker.

#### **1.4 Rational of the study**

Tax planning is one of the most important functions management. It is done in order to minimize tax liability or postpone the overall tax burden in the present and foreseeable future under the area of strategic planning, project planning and operational planning. Tax planning is thus, neither tax evasion nor tax avoidance, instead, it is a device through which tax payer takes advantage of the various tax benefits, including exemptions and deductions under the provision of the existing tax laws. Moreover, if tax benefit is not claimed by a company at the time of assessment, that cannot be claimed in future and the benefit would be lost forever.

Similarly, tax planning is a branch of financial planning. So, tax planning is considered to be essential. It is therefore important to study of tax planning theory and its corresponding practices in Nepal. Tax incentive is becoming an

integral part of tax planning for accelerating the pace of industrialization in most of the developing countries. Tax incentives involve cost in the form of loss of revenue to the government but at the same time, it results in increase in corporate savings and investments. Finally, it offers suggestions for improvement in corporate tax laws, which have direct bearing on the corporate planning.

## **1.6 Organization of the study**

The study has been organized into five chapters. Each devoted to some aspects of the study of the theory and practices of tax planning for minimizing tax burden in Nepal. The titles of each of these chapters are as follows;

Chapter-1: Introduction

Chapter-2: Review of literature

Chapter-3: Research Methodology

Chapter-4: Presentation and analysis of data

Chapter-5: Summary, conclusion and suggestion

The rationale behind this kind of this organization is to follow a simple research methodology approach. Content of each chapter has been mentioned briefly as follows;

Chapter-1 - It includes background of the study, statement of the problem, objective of the study, rationale of the study, organization of the study and limitation of the study.

Chapter-2 - This chapter is devoted to theoretical analysis and brief review of related and pertinent literature available. It includes a discussion on the conceptual framework and review of the major studies.

Chapter-3 – This chapter explains the research methodology applied for the solution of the research problem. This chapter deals with research design, sources of data, population and sample and data collection process.

Chapter-4 - This chapter deals with presentation and analysis of relevant data and information using various analytical tools which are essential to analyze and interpret the results.

Chapter-5 - This chapter states summary, conclusion and suggestion of the study. This chapter presents the major finding of and compares them with theory and corresponding practice to the extent possible. It also offers several avenues for future research. The exhibits and bibliography are incorporated at the end of the study.

### **1.7 Limitation of the study**

Having outlined the objectives, methodology and organization of the study, we now briefly note its principal limitation, which are as follows.

1. The present study is based purely on aspect of the income tax act, 2058 and industrial enterprise act, 2049 that grant various income tax incentives to the industrial units. The study, thus relates to the analysis of corporate income tax only. Other direct and indirect taxes such as customs duty, excise, value added tax, property tax have not been covered.
2. This study is mainly from the point of view of company assesses and not from the point of view of income tax authorities, though it may indirectly help the latter in formulation tax policies according to the priorities accorded by government of Nepal.
3. The third limitation relates to the nature and availability of the data. As stated earlier, it is a pioneer study on corporate tax planning in Nepal.
4. Sample is taken only in Kathmandu valley. And reliability of available data has not been examined.

5. The sample size in the study is 50 and some of the respondents are found less acquaintance with income tax act, so their responses may not be accurate. Further, the probability of sampling error is there.
6. The study is confined within the prevailing acts and laws of the country.

These above limitation, no doubt, have some impact on quality of the study. However, such impact will not affect usefulness of the study in a significant manner. In fact, this study would provide a base for further study in the area of corporate tax planning in the country.

## **CHAPTER-II**

### **REVIEW OF LITREATURE**

The purpose of reviewing the literature is to develop some expertise in one's area to see what new contribution can be made and to receive some ideas for developing a research design, their relevant finding issues, arguments, logic and suggestions which will give a glimpses guidelines to go further study. Thus this chapter contains review of act, dissertations, books, newspaper, articles etc. The review of act simply is the review of the some features in business source of income under the act. The reviews of dissertations, related with topic of the study and available in the libraries are the main content of thesis review. Some books written in income tax and some other related materials of concerned found during the study were also reviewed. The study has been conducted as;

#### **2.1 Review of Acts**

This section deals about the historical development of income tax laws in Nepal, types of tax, objectives of income tax act, feature of income tax act, heads of income, different ways of minimizing tax liabilities, tax planning , feature of tax planning, importance of tax planning, tax management, scope of tax planning under income tax act,2058 etc.

##### **2.1.1 Historical development of income tax laws in Nepal**

Great Britain is the first country in the world to introduce the modern income tax. It introduced income tax in 1799 to finance the war fought with France. USA introduced income tax in 1862 to generate revenue to finance civil war. In India, while income tax in its modern form was adopted in 1860, several experiments were made from 1860 to 1866 and finally the systematic income tax legislation was enacted in 1886.

Although the taxes were collected in various forms in ancient era, the history of modern income tax is not very old in Nepal. The idea of introducing income tax in Nepal originated in the early 1950s when a multiparty democratic



political system was introduced. In 1951, the finance minister in his budget speech declared the intention of the government to levy an income tax.

Attempts were made to introduce income tax in subsequent years. In 1954, an income tax with Rs 10000 basic allowances and progressive taxes ranging from 5 to 25 percent was proposed. Due to political instability, it could not be introduced until 1958.

The first elected government in 1959 finally introduced business profits and salaries tax act, 1960 in Nepal. At that time, income tax was levied only on business profits and salaries. After about three year experience of income tax, the government replaced the prevailing tax act by income tax act, 1962. The coverage was extended in the act. In 1974, income tax act, 1974(2031) was enacted. The act remunerated income sources into five groups; a. agriculture, b. industry, trade, profession and occupation, c. remuneration, d. house and compound rents, e. other sources. However, agricultural income was kept outside the tax net except few years through the finance acts.

To enhance revenue mobilization through effective revenue collection procedure for the economic development of the nation and to amend and integrate the laws relating to income tax, the parliament of Nepal enacted income tax act, 2002 (2058). This act has replaced income tax act 1974(2031), which was amended for eight times and existed for a period of 28 years. The government of Nepal framed 'income tax rules, 2059' in 2059 to help clarifying the act.

### **2.1.2 Objectives of income tax act, 2058**

Main objectives of income tax act, 2058 are;

- Promote self assessment and tax compliance voluntary.
- To bring all income generating activities into tax net.
- To harmonize tax rates and concessions on equity grounds.
- To widen the tax base.

- To confine all the income tax related matters within the act.
- To make income tax elastic and revenue productive.
- To develop a taxpayer friendly taxation system by making it clear and transparent.
- To reduce the scope of discretionary interpretation of the tax authorities.
- To minimize tax avoidance and tax evasion.
- To make taxpayers more responsible by enforcing the self assessment system.
- To integrate Nepalese tax system with the system of foreign countries.

### **2.1.3 Key feature of income tax act, 2058**

Income tax act, 2058 has been enacted with wide a prospective. Various new concepts have been introduced in this act as compared to income tax act, 2031. Many of the concept put forward in this act were not prevailing at Nepalese tax culture. This act contains 143 sections. The key feature of income tax act, 2058 are as follows;

- All income tax related matters are confined within the act by abolishing all tax related concessions, rebates and exemption provided by different acts. Thus act has been made super in regard to all income tax matters.
- The act has broadened the tax base.
- Unlike previous tax act, tax rates have been spelled out in the act. The tax rate and concession have been harmonized on equity ground.
- The act has introduced a pool system of charging depreciation. A provision has also been made for depreciating intangible assets.
- The act has first introduced the taxation of capital gains.
- The act has provided liberal loss set off and carry forward\ backward provisions. Inter head adjustment of losses have been clearly specified. Such provisions have been made from international prospective.
- The act has first introduced a provision for administrative review to allow the tax administration to correct mistakes made by the tax administrators internally.

- The act has made provisions for a stringent fine and penalty for the defaulters. There have been made provision for punishment in the fines up to 300000 and imprisonment on conviction up to 3 years.
- Global incomes of a resident are made taxable. Non-residents are also taxed on their incomes with source in Nepal.
- List of expenses are inclusive. All expenses relating to income have been made admissible.
- The act has made provision for international taxation. Foreign tax credit has been introduced for the first time.
- The act has separated administrative and judicial responsibilities by distinguishing civil liabilities of the taxpayers from criminal liabilities.

#### **2.1.4 Heads of the income**

The act imposes tax on those activities contributing toward the creation of wealth or income. Wealth is created with the help of labor, capital and capital and labor plus activities. The corresponding income is known as income from employment, investment and business respectively. The act has made a broad classification of income encompassing of all income earning activities (sec-5. They are;

Income from employment -An individual's remuneration income from an employment, termed as income from employment, are included in employment income. All payments or benefit received in respect of employment including past or future employment, are made taxable. For example, payments relating to the change of terms of employment, fringe benefits, various types of allowances, salaries, wages, payment received through third parties etc are included in employment income.

Income from business-Profit and gains from conducting the business are considered as business income for the purpose of income tax. This type of income may include service fees, amount derived from the disposal of trading

stock, net gains from disposal of business assets and liabilities, gifts relating to business and other amounts.

Income from investment- profit and gains from conducting an investment are considered as investment income. All types of investment incomes including dividend, interest, natural resource payment, rent, royalty, gain from investment insurance, gain from an unapproved retirement fund, retirement payment made by an approval retirement fund are included in investment income.

### **2.1.5 Types of tax**

Basically, tax can be classified into two broad categories.

Direct tax and

Indirect tax

**Direct tax** - A direct tax is a tax paid by a person on whom it is legally imposed. In direct tax, the person paying and bearing tax is the same. It is the tax on income and property.

**Indirect tax**- An indirect tax is a tax imposed on one person but partly or wholly paid by another. In indirect tax, the person paying and bearing the tax is different. It is the tax on consumption or expenditure.

#### **2.2.1 Different ways of minimizing the tax liabilities**

Where there is money to be made, there is crime. It therefore follows that where there is an obligation to pay taxes, there will always be people who will strive to avoid meeting their obligation. All other things being equal, the temptation to cheat increases as the amount to be gained from cheating also increases. Similarly, based on the assumption that most people do not wish to pay any more taxes than their obligations permit, legitimate & sometimes questionable tax minimization schemes or practices are adopted in order to reduce tax liability.

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

There are different ways of reducing the tax liabilities. They are tax evasion, tax avoidance and tax planning. They are presented as bellows;

### **2.2.2 Tax evasion**

Tax evasion is the way of minimizing tax liability by illegal means. “Action by the taxpayer which entails breaking the law and which moreover can be shown to have been taken with the intention of escaping payment of tax” is generally regarded as tax evasion. Tax evasion may involve;

- None reporting of income.
- Under reporting of income.
- Making fraudulent changes in account books.
- Maintaining multiple sets of accounts.
- Operating business transactions under different names.
- Opening bank account in dummy name.
- Over reporting of expenses.
- Fragmentation of income.

Tax evasion is an unethical, illegal and uneconomic way of reducing tax liability. Reasons for tax evasion can be attributed to various tax and non tax factors. Tax factors include tax rates, tax base, tax structure, fine and penalty system etc. whereas non tax factors include economic policy, government rules and regulations, level of literacy etc.

Tax evasion is an unethical because the activity of not paying tax is against the moral ethics. It is illegal because the law does not permit to evade the tax. In the same way, it is uneconomic because it promotes black money, i.e. underground economy in a country. Such types of activities do not promote healthy economy in a country.

Tax evasion is a major problem to the government in developing countries. There are several types tax evasion.

Unilateral (taxpayer himself)- it is evasion of tax by taxpayer himself.

Bilateral – it is evasion of tax with the assistance of tax officials.

Trilateral –it is evasion of tax from the collusion of tax auditors and taxpayers.

Multilateral- it is evasion of tax from all parties involved from government to taxpayers.

Basically, there are three types of effects of tax evasion in the economy. They are ;

- Loss of revenue to the state.
- Redistribution of income which affects the efficiency of resource allocating in the economy.
- Creating wrong statistics leading to errors in government policies.

Tax evasion is thus an illegal way of minimizing tax liability. It is an illegal practice under the prevailing act. Tax evasion is a more serious problem in developing countries than developed countries.

### **2.2.3 Tax avoidance**

Tax avoidance is taking advantage of the loopholes and limitation in tax provisions. It is the art of dodging tax without actually breaking the law. It is an exercise where the assesses tries to take advantage of the loopholes of the laws and bypasses it. With all this it remains outside the purview of law. Without

resorting to illegal ways, one effects a reduction in one's tax liability. It is saving of taxes without actually breaking the law. It is not illegal but unethical. Tax avoidance is done on full legal backing which is against the intention of the tax law. Following are some of the criteria used to define tax avoidance.

- Use of colorable devices.
- Defeating the genuine spirit of law.
- Misrepresentation or twisting of facts.
- Taking only strict interpretation of law and suppressing the legislative intent behind it.

Income tax act, 2058 has defined tax avoidance scheme as any arrangement, one of the main purpose of which is the avoidance or reduction of liability to tax. For the purposes of determining liabilities to tax, the act has provided the following rights to Inland Revenue department (section 35).

The department may recharacterise an arrangement or part of an arrangement that is entered into or carried out as part of tax avoidance section.

The department may disregard an arrangement or part of an arrangement that does not have substantial economic effect.

The department may characterize an arrangement or part of an arrangement the form of which does not reflect its substance.

The act has made following provisions with a view to reducing tax avoidance.

Use of arms length price to avoid transfer pricing (section 33)

Provision against splitting of income (section 34)

Provision of not allowing reducing dividend income (section 58)

Rights of tax authorities to have access to the information of the taxpayers (section 82)

Quantification of amounts (section 27)

Inclusion of indirect payment (section 29)

Tax avoidance can thus be defined as any planning of tax which though done strictly according to the legal requirement but defeats the basic intention of the legislature behind the tax law. It is legally permissible but unethical.

#### **2.2.4 Tax delinquency**

Tax delinquency is also one way of reducing tax liability. In this case, the liability is reduced in present value by deferring the payment. Although tax delinquency means the failure to pay tax due to lack of sufficient fund, it also covers nonpayment at the time of having fund. It is a temporary deceiving of tax by the taxpayer although he cannot escape in the long term.

#### **2.2.5 Tax planning**

Tax planning is also one of the ways of reducing the tax amount by the tax payer. However, in contrast to tax evasion, tax avoidance and tax delinquency, it is legal, ethical and economic.

The word tax planning is made from the combination of two words- tax and planning. Tax means compulsory payment to the government and planning means taking decision about the future by choosing the best from different alternatives. Every business organization has to make decision while conducting its business activities. That means every business organization uses to plan as regards to its future activities. Such future activities may be short term, medium term or long term and operational or strategic. If tax factor is considered while planning the business activities of an organization it is tax planning.

For the purpose of enhancing the investment environment in a country, the government provides different types of facilities to the business organizations. Such facilities include reduction in tax rates, providing tax holiday, investment allowances, depreciation facility etc. Tax planning means the use of all these facilities given by the government to reduce the tax liability. In other words,



tax planning is the scientific planning of the company's operations in such a way as to attract minimum liabilities of tax or the postponement of tax liability for the subsequent period by availing of various incentives, concessions, allowance, rebates and relieves. It is not only the planning of infrastructure of the business and industries but also the planning of its various projects from time to time and its day to day activities so as to acquire the maximum facility as per the existing law of the country. In short, it is a judicious use of tax incentives provided by the government. It is also defined as the exploitation of tax concessions in accordance with parliament's intention.

Indian Supreme Court judge Ranganath mishra says –“tax planning may be legitimate provided it is within framework of law. Colorable devices cannot be part of the 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.”

In the words of Mishra, the legitimate device to reduce tax liability is tax planning. If there is use of unnecessary means to reduce tax liability, it can't be taken as tax planning.

To conclude, we can say that tax planning is a scientific planning of company operations. It is economic, legal and ethical activity, it is the use of various incentives, concessions, allowances, rebates etc and it is an activity related to future. Tax planning has the following objectives.

- Reduction of tax liabilities
- Minimization of litigation
- Productive investment
- Healthy growth of the economy
- Economic stability
- Feature of tax planning

From the above discussions, the feature of tax planning can be stated as below.

- It is genuine use of the facilities provided by the government.

- It enhances economic environment of the country
- It reduces tax liability
- It is universal in nature. It means all the business organization use tax planning.
- It is a use of dignified facilities.
- It is a use of expertise to get consciously given facilities.
- It is related to future activities.
- It is legal, ethical and economic.
- It establishes a good relationship between government and business community.

### **2.2.6 Importance of tax planning**

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

- Tax planning saves tax and increases profitability.
- It avoids unnecessary works, tensions and administrative hassles
- It helps in using the facilities provided by the government.
- It helps in increasing working capital.
- It helps in analysis of risk.
- It helps in an increase of profit distribution
- It creates easiness in day to day work.
- It enhances the investment opportunity.
- It enhances competitive ability.
- It helps in upgrading technology.

- It creates good business environment.
- It helps in development of manpower.

### **2.2.7 Tax management**

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

### **2.2.8 Scope of tax planning under ITA, 2058**

We know that during 1950s to 1980 there was great scope of tax planning in most of the countries of the world. So, many types of tax incentives provided such tax planning facilities. In this regard, developed countries provide investment allowance and accelerated depreciation, where as developing countries provided tax holidays for the purpose of promoting the investment. Besides these, other types of tax facilities were also provided to the industrial Sector in that period. In Nepal, industrial enterprise act 2018 BS, industrial enterprise act, 2031, industrial enterprise act, 2068 and industrial enterprise act, 2049 provided many types of tax facilities to the industrial sector. Due to these facilities provided to industrial sector in Nepal and the world at large, there was the need of expert knowledge to find out the actual facilities provided and to act as per the law. This necessity of tax expertise and tax research of that time introduced the concept of tax planning. It means there was great scope of planning at that time.

After 1990s the trend of tax system reversed. Now, there is fashion of reducing the tax facilities provided to the industrial sector. “low rate wide net” is the main slogan of the current taxation system in the world. All over the world, the scope of tax planning is reduced to some extent in these days. Nepalese

government also has changed its course and abolished most of the tax facilities provided by industrial enterprise acts. New income tax act has been brought to increase the net of taxation. The rate of taxation has been reduced to the lowest possible rate. In Nepal, the present tax rate is 20 to 30 percent in contrast to 60 to 65 percent during 1960s, 1970s and first half of 1980s. However, still there are some avenues where the tax experts can make tax planning. The new act has widened the tax base by bringing in all the income into tax brackets. Under this act, tax planning can be divided into two heads;

a. Strategic or long term tax planning

b. Operational or short term tax planning.

A. Strategic or long term tax planning-the following can be the area of tax planning as per income tax act, 2058 as regards long term planning.

### **1. Selection of business**

An investor can plan to minimize the tax by selecting those areas of business activities where the tax rate is minimum. He can do this when he has the idea of establishing the business. As per income tax act, 2058, different types of tax rates are applicable to different types of business activities. For example agricultural activities are tax free. Business activities that are related to industrial sector except tobacco and alcohol i.e. special industry should pay the tax at 20%. The business related to export and construction of road, bridge, tunnel, ropeway, sky bridge, electricity generating and transmission etc also should pay only 20 % tax. Business related to insurance, finance and banking activity and petroleum industry should pay 30% tax from their income. Other business except stated above should pay 25% tax.

The income of cottage industries is tax free. Here, cottage industry means production based labor intensive industries based on Nepalese customs, arts, culture using local skill and raw materials. Such industries should not be related to dyeing, carpet, pashmina and woolen garments. Accordingly, the

industry should not use motor of more than 5 kilowatt of power. This means a business organization can plan about tax before selecting the line of business.

## **2. Selection of the product**

Tax can be planned while selecting the product to be produced. The investor which invests in hydropower generations, transmission or distribution and construction of infrastructure project should pay only 20% tax. Investors investing to produce petroleum product should pay 30% tax. As regards loss recovery period also there is scope of tax planning based on the selection of product. Loss recovery period for BOT (built, operate and transfer) and BOOT (built, own, operate & transfer) project is seven years with carrying forward provision. Whereas business organization producing other products, have the facilities of carrying forward of loss for four years. Loss on petroleum industry can be recovered within 12 years.

## **3. Selection of the form of organization**

Business organization can be organized in different forms-Sole proprietorship, partnership and company. Form of organization is generally decided on the basis of size of funds required or the technical skill. Small size units can be started by proprietorship firms, partnership firms etc. for bigger units company form of organization suits. ITA, 2058 has imposed different tax rates as well as has provided different facilities to different forms of business organization. For example;

Proprietorship firm can enjoy exemption facility but is taxed at progressive tax rate. In addition to exemption, the owner of proprietorship firm is entitled to a medical tax credit up to Rs 750.

Partnership and company do not get any exemption but are taxed at a flat rate.

#### **4. Selection of location**

ITA, 2058 has provided concessions and rebates for the industries established in backward regions. An investor can take benefit of it by establishing business in a suitable location. For example;

Special industries established in remote, undeveloped and under developed area are required to pay tax at 70%, 75% and 80% respectively of the rate otherwise applicable for the period of ten income years.

An industry established in SEZ located in mountainous districts, GON specified hilly districts is exempt from tax for the first ten years of its operation and thereafter taxed at 50% of the tax rate otherwise applicable.

An industry established in SEZ (other than specified above) is exempt from tax for the first five years from its operation and then after taxed at 50% of the rate otherwise applicable.

An IT industry established in GON specified IT Park is taxed at 75% of the tax rate otherwise applicable (i.e. 25% of the tax rate exempt from tax).

Income tax act, 2058 has also a provision of remote area allowance up to 30000 to an individual working in remote areas. For example;

Individual working in remote area A, B, C, D and E can get an additional exemption of Rs 30000, 24000, 18000, 12000 and 6000 respectively. Different taxes are applicable to different small-scale business established in different parts of Nepal. For example;

Business having annual transaction up to Rs 1500000 and income of Rs 150000 should pay Rs 2000, 1500 and 1000 as tax if established in metropolitan, sub metropolitan cities, municipalities and anywhere else in Nepal respectively.

## **5. Selection of sources of capital**

Capital required for conducting a business can be raised through issuing shares, debentures, borrowing loans or through retained earnings. ITA, 2058 has made different provision for treatment of reward given to the providers of capital. For example;

Interest is deductible in case of borrowed funds where as dividend does not enjoy this benefit.

Expenditure incurred while borrowing loan is an allowable expenses.

Raising funds through equity| preference share or retained earnings are without strings and do not involve regular outflow of cash by way of interest.

A taxpayer can minimize his tax liability by borrowing loan or reissuing debenture than raising fund through other sources.

## **6. Size of business**

Size of business can also be used for the purpose of tax planning. If the business house are of those doing business of less than Rs 2000000 or has the annual income of less than Rs 200000, the taxpayers are within the area of presumptive taxation. According to ITA, 2058 such tax payers should pay Rs 3500 as taxation if the business is in metropolitan or sub metropolitan area. They should pay Rs 2500 as tax if they are established in any municipality area and Rs 1250 if they are established in any area other than metropolitan, sub metropolitan and municipality. Furthermore, transporters should pay income tax for the income earned by vehicle at the rate of Rs 1500 for bus, truck, minibus, minitruck etc, Rs 1200 for microbus, car, jeep , van etc, Rs 850 for three wheelers, auto rickshaw and Rs 750 for power tiller, tractor etc.

The number of employees can also be used for the purpose of tax planning. If one industry has more than 600 Nepalese employees, it should pay only 90% of

the ordinary tax rate (18%). Accordingly, those who employ Nepalese citizen for work, they can write per worker Rs 500 as expenditure.

## **7. Merging of business**

There are certain techniques that help in minimizing the tax to be paid to the government by way of merger of a firm with another. One of these techniques, under merger is the inclusion non industrial unit into industrial unit. That means merging industrial and non industrial unit. Non industrial unit, in this respect, means firms that are related to trading. It is clear that according to income tax act, 2058, a trading business has the liability of paying 25% tax, where as an industrial firm should pay only 20% tax. The merging of trading and industrial unit means vertical integration of a business. Thus, by integrating non industrial and industrial unit, a firm can save some percentage of the total tax to be paid to the government. The government has made this provision because merger helps for the healthy growth of enterprises. Furthermore, merging of loss making unit to profit making unit is also beneficial from the point of view of tax saving since the profit of profit making unit can be adjusted to the loss of loss making unit. The provision of loss recovery period given by the new income tax act can be helpful in minimizing the tax liability.

## **B. Operational or short term tax planning**

As per income tax act, 2058 areas for operational or short term planning can be as follows;

### **1. Acquisition of fixed assets**

A business firm can make tax planning while acquiring fixed assets needed for running its activities. There are mainly two ways of acquiring fixed assets; leasing and buying. The issues to be considered are cash outflow, tax shield in respect of depreciation, interest payable or lease rent;

If the assets are acquired through leasing, annual rental charge is allowed for deduction.



If the assets are purchased, depreciation as well as interest on borrowed loan is allowed for deductions.

So the tax payer can evaluate both the options before making purchase and leasing decision.

## **2. Repair and Improvement cost**

According to ITA, 2058 the business organization is allowed to deduct the repair and improvement expenses from its income. However there is limitation as regards to such expenditure. Only 7% of the depreciation base can be deducted as repair and improvement cost. The excess of 7% can be capitalized and carried forward to next year. The organization can see tax implication in making repair and improvement expenses also. In case of capitalized expenditure, there will be maintenance cost due to inflation factor. It means present value of future recovery will be less than present value of present recovery.

## **3. Pollution control cost**

ITA, 2058 has provided a deduction for pollution control cost up to 50% of adjusted taxable business income. The excess pollution control cost is capitalized and depreciated under block D from next year. The tax payer should claim these expenses as much as possible to reduce the tax liability.

## **4. Research and development cost**

R&D cost is allowed for deduction up to 50% of adjusted taxable business income. The excess R&D cost is capitalized and depreciated under block D from next year. The tax payer can minimize tax liability by spending on research and development.

## **5. Donation**

A donation given to tax exempt organization is allowed for deduction up to Rs 100000 or 5% of adjusted taxable income. However, the government of Nepal

can allow full or partial reduction for donation given to a work by notifying in Nepal gazette. This provision is available to only profit making entity. A tax payer can plan the amount of donation to minimize his tax burden.

## **6. Loss of recovery**

As per the act, losses from business can be carried forward up to coming seven income years. Similarly loss from investment can be carried forward up to next seven years.

## **7. Stock valuation**

There are two recognized methods of valuation of stock; market price and cost price whichever less is. ITA 2058 has adopted the second method. As per the act, business firms, keeping accounts on a cash basis needs to adopt prime cost basis for valuation of its stock. However, if the business firm keeps account on an accrual basis, it can adopt either prime cost or factory cost basis. If the cost of stock can't be determined, stock can be valued either FIFO or weighted average method. From tax angle, weighted average method is more beneficial as it produces lower profit & thereby decreases the tax liability.

### **2.3 Tax planning for various types of payments and activities**

#### **1. Remuneration payment**

.Tax planning in respect of remuneration payment should be viewed from the point of view of employer as well as employee. In planning for employment income, a tax planner should employ his expenditure scheme in such a way that both the employer and employee would be benefited. The employer should see that whatever is spent on employees is allowed to be deducted while computing business income. But at the same time, he should not keep his employee in disadvantaged position. Some of the avenues for tax planning from the point of view of employees are as follows;

If husband and wife earn taxable income, it is beneficial to assess their income separately by having joint request as per section 50 of ITA, 2058. By doing so, each will get a basic exemption of Rs 160000 (i.e. 320000 in total). On the other hand, if only one of them has taxable income, it is better to assess the income as a spouse as they will get the basic exemption of Rs 200000.

ITA, 2058 has provided a medical tax credit of Rs 750 for an individual. If both husband and wife assess their income separately each will get medical tax credit up to Rs 750 (i.e. Rs 1500 in total). So if both of them have taxable income, it is better to assess their incomes separately as they are able to get medical tax credit of Rs 1500 in total.

An employee is allowed to reduce from his assessable income  $\frac{1}{3}$  of his assessable income or Rs 300000 whichever is lower. Such reduction facility is not available if the retirement contributions are deposited with unapproved retirement fund.

In case of retirement payment made from an approved retirement fund, Rs 500000 or 50% of such payment whichever is higher is exempted from tax, and the balance is taxed at @ 5% (final TDS). On the other hand gain (total incoming minus total contribution) from unapproved retirement fund is subject to 5% final TDS. From tax angle, contribution made to an approved retirement fund is beneficial.

An employee can deduct from his taxable salary a sum equal to 7% of the sum insured or Rs 20000, whichever is lower as his life insurance premium (LIP).

If an employee enjoys an accommodation facility and motor vehicle facility, 2% and 0.5 percentage of salary are included in the income of the employee irrespective of actual payment made by the employer for the provision of such facility. So it is beneficial for employees to enjoy such facilities rather than taking amount as allowances.

## 2. Self employment

Self employment is conducting one's own business. In self employment, an individual sets up his own business and earns income. It is also known as small scale business. ITA, 2058 has provided various facilities relating to an individual. A tax payer as a self employer can avail these facilities to save his tax liability. Following are some of the areas where self employer can make tax planning.

**a. Presumptive taxation** – presumptive taxation is a system of taxation under which income tax is levied on average income in place of actual income. ITA 2058 has made a provision of presumptive taxation to the small taxpayer whose annual turnover is up to Rs 20 lakh and annual income is up to Rs 200000 and who elects to apply this provision for the year. Such tax payer is subject to the presumptive flat annual taxes. The rates of tax for individuals conducting business in metropolitan, sub metropolitan, municipalities and anywhere else in Nepal are Rs 2000, 1500, and 1000 respectively. A self employer can minimize his tax burden by establishing his business in appropriate areas.

Presumptive taxation is also applicable to individuals earning income from operating vehicles. The selection of right vehicles can be an area for tax planning. The rates of tax per vehicles for;

Minibus, Minitruck, truck & bus	Rs 1500
Car, Jeep, Van, Micro bus	Rs 1200
Three wheeler, Auto rickshaw & tempo	Rs 850
Tractor & power tiller	Rs 750

### **b. Medical tax credit**

An individual can claim a deduction from his tax liability a medical tax credit up to Rs 750 per year for the approved medical expenses incurred for him. This

facility however is not available to partnership or company. This will also help to reduce his tax liability.

### **C. Exemption limit and progressive tax rate**

According to ITA, 2058 basic exemption of Rs 160000 and Rs 200000 has been provided to an individual and couple respectively. Such exemption facility is available to only proprietorship firms. Further, proprietor (self employer) is taxed at progressive rate which is lower than the corporate tax rate.

### **d. Retirement contribution**

A self-employer can claim a reduction from his assessable income as an amount Rs 300000 or 1/3 of his assessable income whichever is lower. This is available only if the contributions are made to an approved retirement fund.

## **3. Capital structure**

Capital structure is the combination of different sources of capital. A company can be financed mainly by equity or debt capital or a combination of both. Sources of financing affect tax liability of a taxpayer in different ways. There is scope for tax planning regarding the choice of capital component. For example, if debt financing is used, the company has to pay interest on the loans, which is a deductible expense for income tax. ITA, 2058 has stated that the interest incurred during the year for the debt obligation of the person will be available for deduction to the extent that;

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

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

On the other hand, if the company uses equity capital (either reissues or retained earnings), the company has to pay dividend on equity capital, which is paid out of taxed profit and is not deductible for income tax. Dividend received by the shareholder is also subject to final tax @5%,

#### **4. Location of industrial set up**

As per the ITA, 2058 there is scope of tax planning while selecting location of business also. For example, in remote area an individual can avail exemption up to Rs 30000 remote area allowances. Special industries established in remote, undeveloped, under developed area should pay only 10%. 20%, and 30% of the statutory rate.(section 11, sub section 3) for first 10 years.

The scope of tax planning is enhanced due to the provision of applying different amounts of taxes to firms situated in different types of cities also.

#### **5. Leasing or buying**

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

#### **6. Timing of activities**

Timing of activities refers to the scheduling of business activities in such a manner so that tax can be saved in earlier years. It is the planning of future business activities in order to get maximum benefit of tax by availing various facilities provided by the act.

ITA, 2058 has provided deduction facilities for certain activities like, donation, repair and improvement cost, pollution control cost, research and development cost, depreciation; business losses etc. a taxpayer can minimize his tax burden by properly setting time for undertaking those activities. The following factors should be taken into account while planning or timing of activities.

- The main objective of timing of activities is to reduce the tax liability as much as possible in earlier years.
- In timing of activities, it is important to distinguish between activities that affect tax liability or not. In other words, item of revenue nature that appear in the determination of taxable income are considered.
- It is also important to distinguish between past losses and projected losses. Some activities that are not directly tied up with taxable income can be planned even in the year of projected loss. For example, PCC, R&D cost and donation are direct tied up with taxable income. So they cannot be planned in the year of projected losses. However other expenses can be planned in the year of projected losses.
- The activities should be planned in such a manner that losses could be recovered as early as possible before the laps of loss recovery period.
- Activities that reduce the tax liability should be planned as early as possible and the activities that increase the tax liability should be planned as late as possible. This will provide the present value benefit to the tax payers.

### **2.3 Review of related previous studies**

Though there are not enough studies relating to the title, I have tried to collect some more information throughout the following thesis, books and reports.

Paudel (1997) in his thesis made an overview about tax planning. This study provides comprehensive information to managers for strategic planning; project planning and operational planning that would help to reduce tax liability within the legal framework. This study, thus, expected to be beneficial for corporate

planners, entrepreneurs, managers, taxation authorities and the academicians. It is the corporate tax planning based on the information collected from 30 samples of manufacturing companies registered under company act, 1964 of Nepal. The sample companies include 14 government companies and 16 private sector companies. This study is based on primary and secondary data. Primary data has been collected mainly through questionnaire and personal interviews. Secondary data relate to fixed assets, depreciation, capital structure, profit provision for taxes etc published by Nepal stock exchange ltd. Annual reports of the ministry of finance, department of industries, economic newspapers and journals.

Karki, (2005) in his thesis tried clear about tax planning practices in Nepal. This study is manly concentrated on the theory and practice of tax planning in the country. Research methodology, therefore, is designed and implemented to study about the sources, causes and methods of tax planning. Mainly the primary sources of data and information have been used in this study. In addition secondary sources of data have also been used in some extent. The samples of 50 companies were observed with the help of questionnaire and personal interviews for the data collection. Out of 50 sample companies, there were 5 financial companies, 8 insurance companies, 12 manufacturing companies, and 25 trading companies. Most of them are private companies. All companies were located in Kathmandu. Bhaktapur and Lalitpur except some companies from Morang and Sunsari.

### **2.3.1 Review of books and reports**

Agrawal (1978), studied on “**Resource Mobilization for Development; the Reform of Income Tax in Nepal,**” has analyzed the various item of income system of Nepal. A report presented into nine chapters’ manly focus on role of income tax, legal aspect of income tax and administrative problem facing by the tax authority, tax evasion, problems etc(Agrawal 1978).



An economic commission established by HMG on 20 jeshtha, 2036 published its preliminary report on “Arthik Aayogko Pratham Charanko Pratibedan” in 1979. This report deals for the development of the tax system in Nepal and suggests reforms for the different taxes in Nepal. However in the present context the report is one event (HMG 2036 BS).

Agrawal (1980), again presented another research report concerning about income tax administration. The report has explained in detail about resource mobilization through income tax in Nepal, role of income tax administration and legal aspect of income tax in Nepal (Agrawal, 1980).

Paudyal and Timalisina (1990) published a book entitled “Income Tax in Nepal” After a long time. This book is based on then B. Com syllabus and then income tax act 1974. This book contained theoretical as well as practical ideas of the income tax in Nepal (Paudyal. 1990).

Khadka (1994), gave his immortal contribution towards income taxation. It deals with national and local taxes and administration in Nepal. The study was divided into seven chapters discussing the general economic condition in Nepal, commodity taxes, income taxes, property taxes, local taxation, tax administration and the strategy for tax reform respectively. Moreover, it traces out the path of the Nepalese tax system and presents the tax system of the period. The study basically focuses on the process by which the tax system was adopted and developed. It has explored possibilities for the reform after scrutinizing the main problems with the operation of the tax system and tax administration (Khadka, 1994).

Dhakal (1998), published a book based on syllabus of BBS third year. The book contains descriptions of the provisions made under the income tax laws and the method of income tax assessment with numerical examples. Besides, value added tax system is also included in the book. The book is more helpful to have general knowledge about provisions made under income tax act 1974.

He has included all the amendment regarding the provisions in his subsequent editions 2000 & 2001(Dhakal 1998).

Tiwari (1999) published a book named “Income Tax System in Nepal”. The book is basically designed for the students of the TU but it is equally useful to others viz the tax payers, tax administrators, and those who desire to get theoretical knowledge about the tax system. Just like others book, which are published based on university syllabus. It lacks analytical study. In other words, it is informative rather than analytical ( Tiwari 1999).

Khadka (2001) published a book on income taxation of Nepal. The book is a combination of several articles published in the national newspaper, particularly in the Rising Nepal and the Katmandu Post. This book focuses on how the ITA, 2000 will be different from the previous and existing (i.e.ITA, 1974) income tax act. It first traces out the evolution of income tax around the world followed by evolution of income tax in Nepal, relative importance of income tax in the tax literature. The book has reviewed major changes introduced in the field of Nepalese income tax system since its inception in 1955 AD. It looks at where the income tax came from in Nepal and explains where it is heading in new Income tax act 2000 and why? Further, the book is written in the best academic style, that is precise in it’s academic content but which explains complex concepts in a way that non specialist can understand(Khadka,2001).

Kandel (2003), published a book on income taxation giving name “Tax law and tax plan, in Nepal” on syllabus of MBS, TU. The contents of the books are divided into three parts, part one deal with practical problems & provision relating to the act. Similarly part two deals with tax planning and third part is concerned with value added tax. (Kandel, 2003)

Bhattarai and Koirala (2004), published a book concentrating on the syllabus of MBS second year of TU. The book is informative rather than analytical. The book has given sufficient practical problems and solutions regarding income

tax assessment from different sources of income. Highlighted notes to be considered on each and every chapter have augmented the beauty of the book (Bhattarai & Koirala, 2004).

KC (2007) wrote a book named “Tax laws and tax planning: theory and practice”. It includes calculation of tax liability to both individual and entity. It explicitly explains inclusion and exclusion from business and investment income, deduction allowed in calculation of taxable income, basic thing and accounting issues and characterization of income. This book explains proper tax payer responsible for reporting methods of taxation of income and need of compliance (KC, 2007).

#### **2.4 Research gap**

All the research studies mentioned above is concerned with study of laws, provision, and contribution of income tax, administration aspect and structure of tax. Most of them have indicates the inefficiency of tax administration, widespread tax evasion. No attention is paid on particular problems and reforms provided under ITA, 2058.

I found no more study done in the “tax planning provision for minimizing tax burden under ITA, 2058.” So this study has been undertaken analytically and intensively to analyze the current tax planning provision and other incentives which affect tax liability.

## **CHAPTER-III**

### **RESEARCH METHODOLOGY**

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

Research methodology is the systematic way to solve the research problems. In other words, research methodology describes the methods and process applied in the entire aspect of the study. It may be understood as a science of studying how research is done scientifically? It helps to analyze, examine and interpret various aspects of research work. For the achievement of desired objectives primary as well as secondary data are used in this study. Opinion survey is adopted while collecting primary data in this study to find out the opinion of respondents, representing different groups related to income tax. This is adopted to find out the practical aspect of income tax system in Nepal from different perspectives. While conducting this survey, questionnaires are distributed to the income tax payers, tax administrators or policy makers and tax experts.

This study is mainly concentrated on the tax planning for minimizing tax burden of the individual and entity. Research methodology, therefore is designed and implemented to study about the sources, causes, methods and techniques of tax planning. The structural analysis of government revenue, income tax, tax evasion, tax avoidance, exemption limits, concessions, rebates and tax payment behavior of the tax payer are studied. For the achievement of the objectives the research methodology includes research design, population and sample, nature and sources of data, data collection procedure and data processing procedure and analysis tools are presented as follows.

### 3.1 Research Design

Research design is the overall framework for conducting research. It is the configuration and strategy about how to conduct the research. It is methodological arrangement of all conditions for collection and analysis of data, which provides relevancy in research purposes. This study attempted to analyze the how to planning tax to minimize tax burden of individual and entity. Most of the data and information of the study were concerned with the opinion, experience and performances of the respondents. This study therefore follows descriptive, analytical, true experiment and fields' study, research design in order to obtain the required information. The questionnaire included the problem of tax administration, efficiency of tax administration and tax planning practices of individual and an entity, with necessary suggestion to improve the income tax management. Hence research methodology follows in this study can be termed as survey cum descriptive research design.

### 3.2 Population and sample

It is very difficult to study about the universe. In other words individual can't study about the universe. Therefore for the purpose of collecting primary sources of data, judgment stratified random sampling has been conducted. A sample size of 50, consist of tax experts, administrators and tax payers are selected from kathandu valley. As mentioned earlier, the sample is categorized into three strata; tax expert, tax administrators and tax payers. The following table shows the group of respondents and the sample size.

SN	Group of respondents	Sample size
1	Tax experts	15
2	Tax administrators	5
3	Tax Payers	30
	Total	50

### **3.3 Nature and sources of Data**

To get the reliable and significant result, both primary and secondary sources of data are collected. Mainly the primary sources of data and information have been used in this research. In addition, secondary sources of data will be used while necessary. The major sources of data are expressed as below.

#### **Primary sources of data**

Primary sources of data has been collected within Kathandu Valley from those respondents who are representing themselves as tax expert, tax payers and tax administrators of different sectors. To know the opinion of the respondents, a structured questionnaire had distributed i.e. data has been collected through a schedule of self structured questionnaire, informal dialogue, discussions and direct interviews.

#### **Secondary sources of data**

Secondary sources of data are collected from various books, journals, newspapers, reports, and dissertations etc. Among them major sources of secondary data are as follows:

Dissertations relating to income tax planning, available at the library of central depart of management and Shanker dev Campus.

Various types of text books related with income tax planning.

Economic survey, Economic review of NRB.

### **3.4 Data collection procedure**

For primary data, the information has been collected by developing a schedule of questionnaire and distributing to three distinct types of respondents. Distribution has been done through personally field visit to get accurate and actual information. In the same way secondary information has been collected from published report of different organization.

### **3.5 Data Processing Procedure and analysis tools**

Primary information collected through the questionnaire was on raw form. So they need to be correction, simplified and verified for the purpose of analysis. Figure and facts related to the study are edited, coded and tabulated.

Collected data from primary as well as secondary sources are firstly tabulated into separate format systematically. The data are tabulated into various tables according to the subject matter, and then simple statistical analysis such as average and percentage are calculated. Where necessary they have been presented and analyzed in descriptive way. Graphs and chart also presented to interpret to visually the finding of research.

## **CHAPTER-IV**

### **PRESENTATION AND ANALYSIS OF DATA**

This empirical study is based on an opinion questionnaire survey which was distributed to the 50 respondents in order to know about their opinion regarding tax planning provision under income tax act, 2058. This chapter is the main body of the study, which answers the research problems for obtaining the specific goals of the research. It helps for summarizing, concluding and finding of the research.

Te effectiveness of this thesis is highlighted by the opinion survey. Thus, the main portion of the investigation depends upon the view of respondents rather than secondary data. This investigation has been conducted for the purpose of understanding the provision of tax planning for minimizing tax burden under ITA, 2058. For which questionnaire have been developed and responses collected from the respondents. A set of 50 questionnaires has been received from various respondents. The responses received from various respondents have been arranged in a particular sequence, tabulated and analyzed in order to facilitate the descriptive analysis of this study.

The questionnaire has been asked either for a yes\no response or choice alternative or ranking of alternatives. In the choice alternatives, the first (tick) choice has the most important and the last (not tick) is the least important. The choices among the ranking alternatives have been assigned weights according to the number of alternatives. if the number of alternatives has five, the first choice has got five points and the last preferred choice has got one point. Any alternative, which has not ranked, got no points. The total points available to each choice have been converted into weighted average with reference to the total points available for all choices. Then weighted average value has converted into simple average by dividing the number of respondent. The choice with the highest percentage score as been ranked as the most important



causes and another one with lowest percentage score has been ranked as the least important causes.

#### **4.1.1 Familiarity with tax planning**

To know the familiarity of tax planning among the respondent a question was asked with them;- are you familiar with term tax planning? The result has been presented the following table.

Table-1

#### **Familiarity with tax planning**

Option	No of Respondent	% of Respondent
Yes	30	60
No	20	40
Total	50	100

Source- Opinion Survey, 2010

From the table -1, it is observed that 60% of the respondents are familiar with tax planning, whereas 40% are unfamiliar with tax planning. However they are utilizing the facilities provided by the act knowingly or unknowingly. On the other hand, those respondent who are familiar with the concept of tax planning replied that, they utilized every benefits provided by the government in terms of tax planning.

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

We also observed that 40% of the total respondents have not understood about tax planning. They were in confusion that tax planning was proper utilization

of revenue by the government. They used to take advantages of the facilities provided by current law partially due to the lack of proper knowledge about tax planning.

#### **4.1.2 Reasons for not familiar with term tax planning**

In a question, why they are unfamiliar with term tax planning? The reasons given by the respondent has been presented in the following table.

**Table-2**  
**Reasons for unfamiliar with tax planning**

Reasons	No of Respondents	% of Respondents
Hard to follow the method of tax planning	12	60%
Concession and rebates are not cleared	3	15%
Easy to follow tax evasion and avoidance	0	0
Lack of qualified manpower	5	25%
Total	20	100%

Source- Opinion Survey, 2010

From the above table -2 most important reasons of not familiar with tax planning is;- it is hard to follow the method of tax planning. 60% of the respondents tick this option. And second reasons for unfamiliar with tax planning is lack of qualified manpower. 25% of the respondent tick this option and third reason is concession and rebates provided by the tax law are not cleared.15% of the respondent tick in this option.

We can conclude that people are unfamiliar with tax planning because tax planning method under the act is very hard, it is difficult to follow. Lack of clear concept and stability of tax law, the qualified manpower cannot be developed. On the other hand, there is no certain idea among the experts about tax planning which made confusing to the available manpower. As a result,

they tried to tax avoidance and evasion rather than tax planning. In the mean time, they feel great burden for them. They felt to rescue from this burden at any cost. So, tax planning was still not practice in our country due to the lack of stable law, clear concept and qualified manpower.

#### **4.1.3 What factor should be considered to make tax planning practicable?**

In their overall ranking of above questions, the result was as below. Respondents ranked the answer until third positions. For example Rank first, second and third. I have tabulated all choice separately. Those are as below.

**Table-3**

#### **Factor to be considered to make tax planning practicable**

Option	Weighted average value	Simple average value
a. Increasing administrative efficiency	220	4.4
b. Simplifying income tax law	230	4.6
d. Penalizing to the tax evader and avoider	180	3.6

Source- Annex-I

By the help of above table-3, ranking result, the most important factor for not applying tax planning practicable is answer B. whose simple average value is highest rather than other choice. Among 50 respondents 15 respondents ranked as first position, 20 respondents ranked as second position and 15 respondents ranked as third position for answer (B), so that have highest simple average value i. e. in the same way second important factor is Answer (A), which have simple average value 4.4. And third important factor was answering (D) which has simple average value 3.6.

From the above table-3 it can be conclude that the first important factor for considering tax planning is simplifying income tax law, because provision are difficult for tax planning. Second important factor is increasing administrative efficiency. It means Nepalese firm are not applying tax planning due to the lack

of qualified manpower. Third factor is penalizing the tax avoider and tax evader.

**4.1.4. Do you think that tax evasion and tax avoidance practices are the root causes of not applying tax planning?**

Answers of above question from 50 respondents were as below;

**Table -4**  
**Causes of not applying tax planning**

Option	No of Respondent	% of Respondent
Yes	45	90
No	0	0
No Idea	5	10
Total	50	100

Source – Opinion Survey 2010

Among 50 respondents 45 tick the Yes and rest 5 tick the no idea. Thus, it can be conclude that tax evasion and tax avoidance are the root causes of not applying tax planning. People try to minimize their tax burden by tax evasion and tax avoiding instead of tax planning.

**4.1.5. What should be done to practice tax planning?**

Ranking of answer, of above question were as below

**Table-5**  
**Activity for tax planning practices**

Option	Weighted average value	Simple average value
a. providing education to taxpayer about tax planning, evasion and avoidance.	235	4.7
b. simplified tax planning procedure	190	3.8
c. Reducing unnecessary documents needed for taking tax planning benefits.	175	3.5

Source- Appendix I

From the above table-5 it can be conclude that the first important duty for tax planning practice is providing education to taxpayer about tax planning, evasion and avoidance. That answer have the highest simple average value, ie. 4.7. Second important method for tax planning practice to simplifying tax planning procedure. Many people did not tax planning because procedure of tax planning is too much complex. Third method for practicing tax planning is reducing unnecessary document while planning tax.

**4.1.6 Do you believe that tax planning is being shadowed by tax evasion and tax avoidance?**

To know the cause and effect of tax evasion and tax avoidance activities for effective tax planning practices, the result has been presented in following table;

**Table – 6**

**Tax planning is being shadowed or not?**

Option	No of Respondent	% of Respondent
Yes	37	74
No	4	8
No Idea	9	18
Total	50	100

Source- Opinion Survey 2010

From the above table-6, it is observed that, 37 respondents out of 50 were with the above question that tax planning is being shadowed by tax evasion and tax avoidance practices. They were 74% respondents and focused for the control of tax evasion and tax avoidance activities through government and moral, ethical behavior of taxpayers is to be established to make the tax planning activities more effective, ethical, and economic and so on. 8% of respondents replied their answer ‘No’. They said not application of tax planning was not by the causes of tax avoidance and tax evasion; rather it is due to other causes. They

were lack of knowledge, skills, and complex procedure. Similarly 18% of respondents did not have any idea about this concern.

#### **4.1.7 What are the factors responsible for poor tax planning habit of Nepalese people?**

Ranking position of answer of this question was as below;

**Table-7**

#### **Factor responsible for poor tax planning**

Option	Weighted average value	Simple average value
a. Lack of tax payer education	190	3.8
c. unhelpful attitude of tax personnel	210	4.2
d. . lack of more incentive to taxpayer	200	4.0

Source- Appendix I

From the above tables-7 it can be conclude that main important factor for poor tax planning habit of Nepalese people was unhelpful attitude of tax personnel. Which answers have simple average value was highest than other answer i.e 4.2. Then second important factor for poor tax planning habit is lack of incentive to tax payer, and the third factor is lack of education. Those have simple average value 4 and 3.8 respectively.

#### **4.1.8 In your experience, does a taxpayer feel difficulties in the process of income tax assessment?**

To overcome the above problem, the following result has been obtained;

**Table-8**

**Does a taxpayer difficulty or not?**

Option	No of Respondent	% of Respondent
Yes	14	28
No	32	64
No Idea	4	8
Total	50	100

Source -Opinion Survey 2010

From the above table-8, 28% respondents feel difficulties while assessing their amount of income and tax liability. They could not understand the document that they had to fill themselves in a self assessment method. 64% of respondent took the self assessment method as positive way. They said in self assessment they were able to utilize the advantages of rebates, concessions and allowances provided by the tax law. Similarly 8% respondents had no idea about the difficulties in the process of income tax assessment.

**4.1.9 What type of difficulties is felt by taxpayer while assessing income and making tax plan?**

The difficulties that were felt by taxpayer while assessing income and making tax plan has been presented as follows;

**Table-9**

**Difficulties felt by taxpayer while assessing income**

Option	Weighted average value	Simple average value
a. complicated procedure	210	4.2
b. consumes unnecessary times	205	4.1
d. need of unnecessary document	185	3.7

Source- Appendix I

From the above table-9, it can be concluding that tax payer feel so many difficult while assessing the income and tax plans. The great difficulty felt by tax payer are complicated procedure. That had highest simple average value i.e. 4.2. Another second difficulties felt by taxpayer was consumes unnecessary times. That had simple average value 4.1 and lastly a third difficulty felt by the tax payer was need of unnecessary document. That has simple average value 3.7 only.

#### **4.1.10 How would you reduce your tax liability?**

About this question, answer of respondents is as bellows

**Table-10**

#### **Method of reducing tax liabilities**

Option	Weighted average value	Simple average value
a. by using tax concessions, incentives, allowances, rebates and reliefs provided by existing law	250	5

Source- Appendix I

From the above table-10, it can conclude that the entire respondent had tries to minimize tax liability by using tax concessions, incentives, allowance, rebates and reliefs provided by tax law. We found that all they are conscious about tax minimize. They all agreed that minimizing tax liability by using illegal means is immoral. So they didn't follow illegal ways to minimize tax law as much as possible. Knowingly or unknowingly all the respondents tick in the answer of using tax concessions, rebates, allowances, incentives etc for minimizing tax liabilities.



#### **4.1.11 Are the tax exemption, rebates, deduction and concession granted to the company under the existing law adequate?**

The result of Are the tax exemption, rebates, deduction and concession granted to the company under the existing law adequate are presented as bellow;

**Table-11**

#### **Adequacy of exemption, rebates, concession in existing tax law**

Option	Number of Respondent	% of Respondent
Yes	28	56
No	18	36
No Idea	4	8
Total	50	100

Source- Opinion Survey 2010

From the above table-11, 56 percent of respondents accept the tax exemption, rebates, deductions and concessions granted to the company under the existing tax law are adequate. Only the important point of them is that they can feel more difficulties to understand the sections and subsections of the act. It is very vast in the language and they get confusion about it. Such types of facilities have made them successful in every step of their business lives. On the other hand they can legally reduce their tax burden with the help of tax planning. They always claim the facilities provided by the act, in different ways at project planning, operational planning and strategic planning. Though the company has been provided such facilities, they felt difficulties in planning their resources on the case of minimum tax liabilities.

Among the 50 respondents 36% respondents said that the tax exemptions, rebates, concessions and allowances granted to the company under the existing law are not adequate. Because of rebates, concessions, etc should be given in descending order according to time period. The newly established company should face various problems in strategic planning, project planning and

operational planning. So they must be provided maximum incentives, rebates and concessions in the beginning and reducing in the years to come. In addition they said that only such type of facilities cannot pay great role in the development of the company, they need security, moral support, financial support, technical support feasibility development etc by the government.

Rest 8% of the respondents stated that they are unknown about tax exemption, allowance and rebates are adequate or not. They are trying to use these facilities to minimize tax liabilities but they are undecided about adequate or not.

#### **4.1.12 what other facilities you suggest to reduce tax liabilities?**

To know whether there were other facilities or not to reduce tax liability, a question of five options was asked. The real picture of the result has been presented in the following table;

**Table-12**

#### **Facilities suggest for reducing tax liabilities**

Option	Number of Respondent	% of Respondent
By increasing the period of carry forward	2	4
By increasing the amount of rebate and concessions and exemption	5	10
By providing the facilities to carry backward to all organization	2	4
All of the above	41	82
Total	50	100

Source- Opinion Survey, 2010

The above table-12, shows that most of the respondents (82%) choose the option all of the above. The above options were increasing the period of carry forward, increasing the amount of rebates and concessions and providing the

facilities to carry backward to all organizations. They claimed that, the government should provide all these facilities in a systematic manner to motivate investor, to maintain good investment climate and balance regional development of the country. They said that the government should maintain supportive activities to make such rebates, concessions and exemptions adequate. They also suggested that the amount of rebates, concessions and exemptions should be increased. Similarly, the period of carry forward should be extended.

Only 10% respondents focused to the alternatives to increase the tax facilities is essential by the government. They said that before 2058 B.S. there were more facilities provided to the tax payers as compared with present. It is due to the government policy of 'low rate and wide net'. It means there were ore facilities provided as well as the rate of tax were higher as compared with present. In modern time the rate of tax has been reducing but tax facilities have been cutting down gradually.

Similarly, 4% respondents focused to the option of carry backward of losses. They said that all the organization should be given to the opportunities of carry backward facilities.

#### **4.1.13 Does your company maintain proper books of accounts?**

In their overall ranking of the major problems of maintaining proper books of accounts, the following results has been presented as follows.

**Table-13**  
**Maintaining of books of account**

Option	Number of Respondent	% of Respondent
Yes	50	100
No	0	0
Total	50	100

Source- Opinion Survey, 2010

From the above table-13, it is observed that all the organization or tax payers maintain proper books of accounts. Most of the large organizations record their financial transactions based on double entry book keeping system or based on accounting equation. This system is scientific, systematic and modern to keep the records properly. They used to record day to day income and expenditure in the prescribed format of existing law. They have been also prepared profit and loss account, balance sheet, cash flow statement etc in the prescribed forms which are declared by Inland Revenue Department.

None of the respondents rejected for the maintaining proper books of accounts. However some small organization cannot maintain their books of accounts based on accounting principle.

#### **4.1.14. What are the reasons of wide spread evasion of income tax in Nepal?**

In their overall ranking of the suggestions for the reasons of widespread evasion of income tax in Nepal has been presented as follows;

**Table-14**  
**Reason of widespread evasion of income tax**

Option	Weighted average value	Simple average value
b. Due to the administration inefficiency	185	3.7
c. Due to the high corruption	235	4.7
e. Due to the political instability	180	3.6

Source- Appendix I

From the above table-14, it is conclude that number one reason for widespread tax evasion is due to the corruption, which has simple average value 4.7. People claimed that corruption culture was developed in every sector of the economy. As a result tax evasion, had not done taxpayers themselves, rather it

was done with the help of tax administrators. Hence, to reduce widespread tax evasion, corruption activity should be avoided.

Another cause of widespread tax evasion is due to the administration inefficiency, which has simple average value -3.7. Tax personals of government are not very interested to make the effective plans, policy and implement them very actively. They are concerned to come office and spent official time only, but not about how to collect more and more tax. As a result taxpayers take the credit habit of tax personals bad habit.

Next reason for widespread tax evasion is political instability. Policy will change with government change. Policy of a government can't be implementing due to the political instability. As a result taxpayer cannot plan the tax properly and tax evasion takes place.

#### **4.1.15. How tax evasion behavior of Nepalese tax payer can be avoided?**

A question of five options has been asked to the respondents for ranking each option. The real picture of the result was as below.

**Table-15**

#### **Avoidance of tax evasion behavior of Nepalese taxpayer**

Option	Weighted average value	Simple average value
a. educating tax payer by training	210	4.2
b. simplifying tax law in term of language, section, subsection etc	185	3.7
d. more incentive to regular taxpayers	205	4.1

Source- Appendix I

The above table-15, indicates that the first rank held by educating tax payer by training for avoiding tax evasion behavior, which has simple average value 4.2. Some tax payer did not have knowledge about tax planning, tax evasion and tax

avoidance properly. So if governments provide training about tax planning, evasion and avoidance to the tax payer there will be avoiding of tax evasion.

Another method of avoiding tax evasion behavior was more incentive to the regular tax payer, which had simple average value 4.1. if government respect regular tax payer in a society they will come under the tax bound and avoiding tax avoidance.

Thereafter third method for avoiding tax evasion behavior was simplifying tax law in term of language, section and subsection. Existing tax law is difficult to understand due to the complex language. If government simplifies tax law every tax payer understands its language and terms. As a result they didn't avoid tax.

**4.1.16. What are your suggestions for educating tax payer for increasing tax consciousness for voluntary compliance?**

In their overall ranking of the suggestions for educating tax payers for increasing tax consciousness for voluntary compliance, has been presented as follows;

**Table-16**

**Suggestions for educating tax payer for increasing tax consciousness for voluntary compliance**

Option	Weighted average value	Simple average value
a. Providing more incentives and recognition program to tax payers.	200	4
c. using service of radio, TV, newspapers, hoarding board, posters etc.	210	4.2
d. providing information desk service in tax office	190	3.8

Source- Appendix I

From the help of above table-16 it is conclude that suggestions for educating tax payers for increasing tax consciousness for voluntary compliance was using service of radio, TV, newspapers etc. which have simple average value 4.2. Another suggestion was providing more incentives and recognition program to tax payers and providing information desk service in tax office respectively.

#### **4.1.17. What are the major problems of tax administration to support and reform tax planning in Nepal?**

About to find out the major problems of tax administration to support and reform tax planning in Nepal, answer of the respondent has been presented below;

**Table-17**

#### **Major problem of tax administration to support and reform tax planning in Nepal.**

Option	Weighted average value	Simple average value
b. Misuse of power by tax administration	210	4.2
c. weak tax administration	220	4.4
d. lack of motivation to tax personnel and tax payers	170	3.4

Source- Appendix I

From the above table-17, the first problem of tax administration to support and reform tax planning was weak tax administration, which had simple average value 4.4. The effectiveness of tax administration depends upon the quality of tax personnel. The tax administration was weak and traditional. There had been a mismatch between the quality of staff and the demand of the job.

Another problem of tax administration was misuse of power by tax administration, which had simple average value 4.2. Most of the tax personnel use their power as their wish. They did not bear their responsibility fully as per

the tax law. Hence, third problem of tax administration was lack of motivation to the tax personnel and taxpayers. There was no provision of prize and penalty for tax lawbreakers and followers.

**4.1.18. What are the essential factor for making tax administration and tax planning effective in Nepal? Please rank.**

In their overall ranking of the essential factors for making tax administration and tax planning effective, the following result has been obtained.

**Table-18**

**Essential factor for making tax administration an effective in Nepal.**

Option	Weighted average value	Simple average value
a. Proper training to the personnel	185	3.7
c. Effective reward and punishment system	200	4.0
d. tax education to taxpayers	215	4.3

Source- Appendix I

From the above table-18, it is observed that, in the Nepalese context, tax education to the taxpayers was necessary, which have highest simple average value, i.e. 4.3. Only the educated and qualified people do make the activity of tax planning. Moreover, tax planning is the art and science to reduce tax liability by the proper utilization of facilities provided by the act. Respondents claim that most of the taxpayers are uneducated or they knew a very few about the tax law, tax planning etc. they suggested that tax education was indispensable for making tax administration and tax planning effective.

Second position was received by the option that effective and better reward and punishment system was urgent fort making tax administration and tax planning effective. They added, fine and penalties to the taxpayers, who did not pay tax was essential to make tax system effective. Moreover, if there is not establishment and implementation of effective reward and punishment system



to honest and dishonest taxpayers; the honest ones will also shifted to dishonest taxpayers. So dishonest taxpayers should punish immediately, and reward honest taxpayers to encourage them to pay tax regularly.

The third factor was providing training to the tax personnel. Training was essential element to improve and update the knowledge, skill and technique of tax personnel. There was lack an extensive training program for tax officers. Personnel were directly posted to the field office after giving them small orientation class. There was lack of auditors, treaty negotiators and trained personnel on various aspect of taxation. Opportunities for training abroad had rather been limited to the tax personnel. Therefore, there was a need for specialized institute that organizes special training for tax officers.

**4.1.19 in your opinion, what step should be taken to improve tax collection and tax planning system?**

To find the conclusion of the above problem regarding the steps that should be taken to improve tax collection and tax planning system, the following result has been obtained.

**Table-19**

**Step to be taken to improve tax collection and tax planning system.**

Option	Weighted average value	Simple average value
b. Making taxpayers aware of their rights, obligations and consequences of failure to comply with tax laws.	185	3.7
c. Adopting reasonable tax rates	195	3.9
d. Providing more incentives, recognition and other support to tax payers.	220	4.4

Source- Appendix I

The above table-19 shows that most of the respondents rank the first choice was providing more incentives, recognition and other support to tax payers for

improving and tax collection and tax planning system, which had simple average value 4.4. They said that by providing more incentives, rebates and recognition and other support, taxpayers would be willing to pay tax honestly. If they get the social recognition regarding of paying the tax, then they will feel proud and dignity of them. They would not want to down their dignity and proud by tax evasion and tax avoidance. Other support, such as providing security, moral support, financial support, technical support, feasibility development, infrastructure development play the significant role to improve the collection as well as tax planning.

Second choice was adopting reasonable tax rates. 20% to 30% tax rate is the very high in Nepalese context. High tax rates leads to the tax evasion and tax avoidance activity.

Another choice of the respondents was making taxpayer aware of their rights, obligations and consequences of failure to comply with tax laws. If taxpayers knew the rights, duties and consequences of not discharging their duties, they would think and take tax very seriously.

#### **4.1.20 Do you think, Income tax act 2058 B.S is sufficient to support tax planning?**

To know the respondents response about above problems the following result based on Yes or No answer was as follows.

**Table-20**

#### **Sufficiency of ITA, 2058 for supporting tax planning**

Option	No of Respondent	% of Respondent
Yes	7	14
No	32	64
No Idea	11	22
Total	50	100

Source – Opinion Survey, 2010

Here the above table-20 shows that, majority of respondents said ITA, 2058 was not sufficient to support tax planning activity of tax payers. Among all 64% respondents were not satisfied with the act. They said that government had cutting down the incentives, rebates, and allowances after adopting the policy of low rate wide net. In Nepal Industrial enterprise act 2031, enterprise act 2018 BS, Industrial enterprise act 2031, Industrial enterprise act 2038, and Industrial enterprise act 2049, provided various types of tax facilities to the industrial sector. Due to these facilities provided to industrial sector in Nepal and world at large, there was the need of expert knowledge to find out actual facilities provided by the act as per the law. It means there was the great scope of tax planning at that time. However, the scope of tax planning has been reduced to some extent in these days under ITA, 2058.

However, 14% respondents said the income tax act 2058 was sufficient to tax planning. Still there were some avenues where tax expert can make tax planning. There are the options of selection of business, selection of the product, selection of the sources of capital. Selection of the structure of the organization, selection of the location, size of business, acquisition of fixed assets, repair and improvement cost, pollution control cost, research and development cost, donation, leasing and buying etc.

Among all the respondents 22% respondents select the option no ideas. They said that they are unfamiliar with the ITA, 2058 B,S. So, they do not know about the scope of tax planning under ITA, 2058.

#### **4.1.21 What are the major demerits of ITA, 2058 B.S. regarding the scope of tax planning? Please rank.**

To know the response of respondents regarding the demerits or drawbacks of ITA, 2058 BS for the effective application of tax planning has been presented as follows.

**Table-21**

**Major demerits of ITA, 2058 regarding the scope of tax planning.**

Option	Weighted average value	Simple average value
a. Lack of covering the loopholes in tax law.	175	3.5
b. Regular cut down incentives and rebates as compared with ITA, 2031.	195	3.9
c. unclear rules, regulations, sections and subsections to understand by tax payers	230	4.6

Source- Appendix I

Above tables-21 indicates that the opinion of majority of respondents about the drawbacks or limitation of ITA, 2058 B.S. was ambiguous and unclear rules, regulations as well as unnecessarily established sections and sub sections are some of the hindrances of tax planning. This had simple average value 4.6. supporting this view they obtained that new ITA, is very complex to understand not only to ordinary people but even to tax expert also. The level of language was tedious, unclear and incomplete. Repeated by use of “or” was that leads the reader towards confusion. Tax planning is an art of dogging tax law and tax act. However, the tax planners felt very confusion to apply tax planning to minimize their tax liability.

The second limitation of ITA, 2058 of hindering effective tax planning was regular cut down of incentives and rebates in new ITA. This had simple average value 3.9. New income tax act 2058 had narrowed down the scope of tax planning by abolishing the various facilities and rebates extended in the previous act. They said that there was great scope of tax planning before the implementation of new income tax act “low rate wide net” policy was adopted by the government. The new act has widened the tax base by bringing in all the income into tax brackets.

Another limitation of the act was not covering the loopholes of tax law that had simple average value 3.5. Due to this, tax payer had been using the loopholes to reduce their tax liability rather than using tax planning. They suggested that if tax loopholes will be plugged completely, then after, the taxpayer would search positive or legal way of reducing tax liability.

## CHAPTER-V

### SUMMARY, CONCLUSION AND RECOMMENDATIONS

#### 5.1 Summary

Summary and conclusion regarding this study have been presented in this chapter. Some useful recommendations have been given in the last chapter, which are very much useful to the tax policy makers, industrialists, and general public too.

Revenue is the lifeblood of any state and tax is one of the most important income sources of any country, which directly affects the economic system of the society. With tax, the government not only collects money but also regulates all the business organizations. To reduce the poverty of the country, it is very compulsory to grow up the industries. Up to now, Nepal is following traditional agricultural based industry and other disciplines have very low contribution to GDP. Industrialization is fundamental need to develop the country, for this purpose tax system should be practical and effective. Tax system should be initiative to establish new industry and facilitative to continue the business for long term. Tax shouldn't be as a financial burden to the people imposed by the state. It should feel as a moral responsibility and prestigious task.

In the developing country, such as Nepal, if the government doesn't play vital role to establish the new industry it seems to be impossible because of high risk and low chance to grow up. Nepal has very few of big industries and little more of cottage and small industries. Due to lack of encouraging law and act of government new industries are not establishing and old also are not running well.

It is necessary to develop industries to increase the economic status of the country. For the expansion of the industries, conducive environment is necessary to attract the industries. Government needs to provide such

environment. Various incentives and subsidies should be provided to the investors. Those incentives encourages in the establishment of new industries and operation of existing industries. Among the various incentives that are taken for reducing tax burden is called tax planning.

Nepal has been practicing various tax incentives programs but still the industrialization process is very slow. As previous acts, the income tax act 2058 has provided various tax incentives and facilities to investor to attract investment. However, the number of new industries is very poor. Only 46 new industries in first eight months of FY 2003/04 are approved for foreign investment. Out of them, only 13 are for the industrial production. (Economic survey; 2003/04)

A tax is a compulsory contribution by a person to the government without having any direct benefit for the payment. Especially, the direct tax is a burden to the taxpayer because it is not shift able. Since it is painful, everyone wants to reduce the tax liabilities as much as possible. Planning is the way of making systematic and easy of any task previously or decision making in advance. So, tax incentives are the main factors to encourage or promote tax planning and ultimately to promote the business and the industries of any country.

Various books, articles, dissertations and other reference materials are reviewed in the course of study. Almost all the books are of descriptive in nature and fully based on the course of various level of syllabus. No one has studied in the tax planning provision under income tax act, 2058. So the researcher had selected the unique topic to study.

Various incentives of the income tax to industries have been studied to find out the impact of these incentives on tax planning to the industries. Meaning of tax, classification of taxes, heads of incomes, concept of tax planning feature of tax planning, scope of tax planning etc have been studied in conceptual framework of this study.

Mostly this study is based on primary data and very few of secondary data has been used in this study. Minimum use of secondary data is due to the unavailability of related material in secondary sources. The primary data is based on opinion survey of various respondents. A set of questionnaire has been developed and distributed to various respondents. Among them 50 respondents has been selected. Statistical tools like weighted average and simple average method has been used in this study to analyze and interpreted the various data collected.

Nepal is least developed landlocked country. Where need for mobilizing additional resources has been growing. Poor tax administration has remained the major constraint for mobilizing additional resources from taxation in Nepal. Tax administration can not improve unless revenue administration as a whole is professionalized. Research and planning wing of ministry of finance must be strengthened to take a long term perspective taxation policies. At present tax policies have been formulated on ad-hoc basis and this has not been healthy for the development of effective tax policies.

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

Tax incentives are another constituent of tax structure as it results in lowering down of the effective tax rate. Tax incentives may mean partial or complete exemption from one or a variety of taxes and special allowances generally for a limited period of time. Like many other developing nations, various tax incentives are provided in Nepal as under the income tax act and industrial enterprise act with a view to promoting saving and investment in the country in desired direction. These incentives include tax holiday's tax concessions on income from export business tax excision to companies located in industrially backward areas. In fact such facilities have been promoting the small industries in remote, undeveloped, underdeveloped areas in the country. Indeed, most of



the respondents explain that it is very complex to fulfill the criteria of tax planning practically. They cannot compete with other company when they search for tax facilities.

Administrative issues are even more serious to reform in the areas in tax planning. The tax administration is traditional, weak and inefficient. It has not been able to implement the tax acts and regulations properly, resulting in a big gap between the legal provision and their actual implementation. As a result, despite considerable reforms introduced in tax policies in recent year, tax planning practice is not highly increased and tax evasion and tax avoidance have not decreased a desired level also.

Majority of respondents said that there are not adequate tax exemption, rebates, deductions, allowances and concessions under existing tax law. It is because of new policy – “low rate wide net” accepted by the country. It has made serious to the competent tax planners to apply tax planning for reducing tax liability.

The next problem in tax planning reform is the lack of education. It was necessary to have a minimum level of education on specified subjects in order to be eligible to appear in tax officer level, entrance examination in the past. For example the aspiring candidates had to have a graduate degree in commerce, economics, law or public administration. Unfortunately this requirement has now been relaxed. This means that anyone having a graduate degree in any subject can apply for a tax officer position. This means that tax officers who are selected will not have a proper knowledge of the tax system, tax administration, tax laws, accounting and auditing if their basic education does not have elements of commerce, economic or law.

There is a lack of detailed introductory training program for the new entrains and refreshing training programs for the officials working in the tax administration. There is also lacking the training program to the tax payers to make them motivate and induce them towards the planning activity.

Tax administration does not have transparent policy regarding the transfer of staff political influence in transfer has been simply too much to bear. Generally, those who have connections to influential politicians or bureaucrats are posted to the so called attractive places.

The salary scale of tax personnel is very low. It is not possible to maintain a minimum standard of living with the existing salary level. There are also no other facilities and reward and punishment in the system. Promotion is based mainly on seniority and not on merit or efficiency. It is also very difficult to dismiss corrupt staff. Positive attitude and motivation among the most of the tax officials is lacking. Due to the lack of service minded attitude, tax officials do not handle tax payer's problems seriously. There is a common feeling that the officials should not take any decision concerning cases where there are travail gray areas. There is a lack of adequate supervision and monitoring system. The officials are not punished for their wrong doing, and the code of conduct is not implemented effectively.

Most of the respondents kept their statement in the prescribed books of account for the effective and proper calculation of taxable income. This is system helped them for tax planning as well as uses to support to the government for collecting revenue. But, they claimed that the government has not been able to collect adequate revenue from the public according to the target due to the weak tax administration.

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

There is necessary to educate taxpayers by training, so that they can easily understand the concept and views of tax act. Then, they can preplan for tax by utilizing maximum facilities provided by the law. Similarly, they suggested to

the simplification of tax law in term of language, section, subsection etc for the easy adjustment of tax liabilities.

With respect to the responsible factor for poor taxpaying habit of the Nepalese people, the opinions of the responding group were disassociated. In ranking the opinion of the respondents together, lack of incentives to the taxpayer, lack of tax education and complicated/ unstable laws were found the corresponding first, second and third prioritized responsible factors for poor taxpaying habit.

With respect to the difficulties faced by the taxpayers in the process of income tax assessment, they accepted that they were feeling some sort of difficulties in that process. While ranking the views of respondents, complicated procedure, consumes unnecessary times and documents were the corresponding prioritized difficulties felt by the taxpayers in the process of income tax assessment.

Regarding the wide spread evasion of income tax majority of the respondents accepted that there was wide spread evasion of income tax in Nepal. While ranking together the views of all respondents of each group, high corruption and administrative inefficiency were the respective prioritized reasons for wide spread evasion of income tax.

In respect to the methods of tax evasion the pinion of the respondents were submissions of wrong statement\account\ documents, non maintenance of proper accounts and non disclosure of income from different sources, were found the respective prioritized methods of income tax evasion.

Concerning the complication of tax planning, respondents explained that they had been facing many problems of tax planning in their companies. They complained that the section and subsection of the act are not clear. The act has been written in vast and confusing language. Tax planning need technical and critical mind. As a result, most of the taxpayers are not able to take benefit of tax planning. Some are taking advantage of tax avoidance. There is not specific definition and rules of all types of deductible expenses, final withholding payment, advance tax etc.

Many taxpayers had been taking undue advantage of weak and corrupt tax administration. Tax evasion was common. Under valuation was rampant. Smuggling took place on a large scale. There was a lack of invoicing or proper invoicing. Businessman kept two sets of accounts. Tax personnel focused stop gap measures to tackle the problems, which were often not in line with the principle of modern tax system and that lead to disputes, conflicts, instability and lack of confidence. The tax procedures were traditional and not transparent. The audit functions had been initiated but were weak in functioning effectively. The tax administration has not been able to make use of the information available through modern information technology.

In Nepal however, income tax efforts have been constrained by hasty formulated policies, ambiguous laws, poor coverage, establishing of illegal; and unregistered business, poor enforcement as well as compliance and bad image of tax administration. Such activities have hindered for the effective utilization of tax planning. So a comprehensive study for reform of income tax and planning has become necessary.

With respect to the possibility for modernizing of tax planning, all the respondents suggested many areas to be reformed from administrative as well as corporate level or by taxpayers. The following are the existing problems that have to be reformed to make tax planning effective and productive.

- Problem of tax evasion and avoidance.
- Lack of adequate incentives, facilities, rebates, grants, deductions, allowances provide for tax planning.
- Poor record keeping system of tax payers.
- Poor training opportunities to tax officers as well as taxpayers.
- Lack of motivation in tax personnel.
- Existence of corruption.
- Instability of tax law.
- Lack of adequate information system
- Unwanted pressure from vested interest group

- Lack of tax education etc.

Taxation of Nepal is ineffective in reducing the gap between rich and poor, mainly because of widespread tax evasion, poor tax coverage, defective expenditure programs, inefficient tax administration and poor tax consciousness. To overcome such problems policy measures such as restriction on illegal business, compulsory account keeping, high penalties and fines for breaking the rules, better coordination with custom, excise and other concerned department, punishment to corrupt personnel are the important steps to have taken immediately.

With respect to other suggestions for tax planning reform in tax administration simplification of income tax act 2058, need of cooperative attitude of tax personnel towards taxpayers, comprehensive training to tax personnel, and fixation of tax collection target and strict monitoring of tax personnel were received from some of the respondents. In additional establishment of a tax college for long term training, supporting to the healthy business units by providing facilities etc were other notable suggestion given by the respondents. Since a good tax policy cannot come about without good tax administration. It is very urgent to adopt planning in a drastic manner. Reform in tax administration leads to the tax planning reform also. It is also crucial to reform tax administration on all fronts, including the organizational structure, tax personnel system, tax incentive package, tax procedural automation and the tax appeal system, the tax administration should be friendly and service minded to the taxpayers.

It can be explained that almost all the respondents did not state their weakness. Most of the respondents said that they were always on the favor of tax law and support the norms of the tax law. They said the government was not able to implement the system of the law. The government has made strict punishment for those who violates the tax law but there less moral support and subsidies provided for those who respect the tax law. The government always looks them as a means of revenue collection but not helped on their operating problems,

strategic problems and existing problems. Respondents said that the government is idle in their problems but active for charging tax. Tax evasion and tax avoidance were made by taxpayers on the support of tax administrators. Even tax administrators did not bear their duties and responsibilities equally. As a result above stated problems appeared.

## **5.2 Conclusions**

Some conclusions have been drawn on the basis of opinion survey, personal interview at the time of opinion survey and other studies. These are presented as below:

- Revenue is the lifeblood of any state and tax is one of the most important income sources of any country, which directly affects the economic system of the country.
- Tax is financial burden to all the individual and organization, so every individual and organization want to minimize their tax liability by utilizing facilities provided by the law. Since tax planning is a tool of reducing financial burden by utilizing facilities, concessions, rebates, allowances etc. by providing tax law.
- However the incentives and facilities provided by the ITA are insufficient, some intensive programs should be brought to aware and sensitize the taxpayers. Additional tax incentives are required to increase the scope of tax planning. To encourage export industries, to highlight the agro based industries; to stabilize the tourism industries further incentives are needed.
- The most important reason that tax planning is not widely used in Nepal is that tax administration is not cooperative and friendly, the next important reason is people are unaware about tax planning then tax planning is lengthy, complex, costly and so on.
- Income tax act 2058 has no clear provision in all aspect of tax planning. So there are lots of difficulties for planning tax.

- Income tax act ,2058 provide various incentives and facilities to the rural areas but still it is not seems to be sufficient to invest in rural areas of Nepal in respect to plan tax.
- 10 years tax rebate is not sufficient in the remote area for the special industries, and 20%,25% and 30% concession is not sufficient to the industries established in the underdeveloped, undeveloped and remote area for the scope of tax planning.
- 10 years tax rebate i.e. tax holidays to industries established in various region of the country, tax rebate and rate of depreciation should be increased.
- Indeed tax planning are the fundamental element to minimize tax burden in legal ways. It can also be said that tax minimizing can't be imagined without tax planning by utilizing tax incentives and facilities. So tax planning plays the vital role to initiate the industrialists for the entrepreneurship practice.

### **5.3 Recommendations**

On the basis of opinion survey, personal interview and other studies some measures regarding tax planning provision for minimize tax burden to industrial sector of Nepal under ITA, 2058 have been recommended as follows;

1. Tax incentives and facilities should be provided in the new horizons, fields and areas of the Nepalese economy.
2. Tax rates should be reduced for banking, insurance and financial institutions in order to boost up foreign investment.
3. To maximize the scope of tax planning , tax personnel and tax payers should be honest, government should encourage the tax planning scheme, because these are the facilities extended by the law to the assesses.
4. Tax planning is not a new term for the business organization of Nepal but due to the lack of proper knowledge, practicing of tax avoidance and

tax evasion it is not functioning as desired. So, effective guideline, orientations and cooperation should be provided by the authorities.

5. The terms used in ITA are very complex and confusing. So the term should direct clear vision, clear cut language should be used in the act. i.e common people can understand the tax incentives and facilities provided by ITA.
6. The main constraint for tax planning is the behavior of tax administrator. Taxpayer expects cooperation and good guidance from tax administration but the tax administration is not like that. So tax administration should be more liberal and cooperative that reduces tax avoidance and tax evasion.
7. Tourism and its related industries, communication network business, hydropower sector, software development business, agro based industries, professional and technical education service industries and other abroad export industries should be included in special industries.
8. Tax concession of 20%, 25% and 30% to the industries established in the underdeveloped, undeveloped and remote area is not sufficient and it should be increased to 30%, 50% and 100%.
9. 10 years tax rebate i.e. tax holidays to industries established in various region of the country, tax rebate and rate of depreciation should be increased.
10. Indeed, tax planning is a way of maximum utilizing the tax incentives and tax facilities provided by the ITA and reducing tax burden. By other way it is an element to empower industrial practice. So, tax incentives should be recommended to increase and also recommended to raise the tax planning practice.



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## Appendix I

3. What factor should be considered to make tax planning practicable?

In their overall ranking of above questions, the result was as below. Respondents ranked the answer until third positions. For example Rank first, second and third. I have tabulated all choice separately. Those are as below.

For answer (A). - increasing administrative efficiency.

No of respondent	Rank	Value	Weighted average Value
30	first	5	150
10	second	4	40
10	third	3	30
Total			220

Simple average value = total weighted average value/No of respondent =  $220/50 = 4.4$

For Answer (B) simplifying income tax law- ranking result was as below

No of respondent	Rank	Value	Weighted average Value
15	first	5	75
20	second	4	80
15	third	3	45
Total			230

Simple average value = total weighted average value/No of respondent =  $230/50 = 4.6$

For Answer (D) penalizing to the tax evader and avoider- ranking result was as below

No of respondent	Rank	Value	Weighted average Value
5	first	5	25
20	second	4	80
25	third	3	75
Total			180

Simple average value = total weighted average value/No of respondent =  $180/50 = 3.6$ .

#### 4.1.5. What should be done to practice tax planning?

Ranking of answer, of above question were as below

For Answer (B) – providing education to taxpayer about tax planning, evasion and avoidance

No of respondent	Rank	Value	Weighted average Value
40	first	5	200
5	second	4	20
5	third	3	15
Total			235

Simple average value = total weighted average value/No of respondent =  $235/50 = 4.7$

For answer (C) – simplified tax planning procedure

No of respondent	Rank	Value	Weighted average Value
5	first	5	25
30	second	4	120
15	third	3	45
Total			190

Simple average value = total weighted average value/No of respondent =  $190/50 = 3.8$

For answer (E) – reducing unnecessary documents needed for taking tax planning benefits.

No of respondent	Rank	Value	Weighted average Value
5	first	5	25
15	second	4	60
30	third	3	90
Total			175

Simple average value = total weighted average value/No of respondent =  $175/50 = 3.5$ .

#### 4.1.7 What are the factors responsible for poor tax planning habit of Nepalese people?

Ranking position of answer of this question was as below;

For answer (A)- lack of tax payer education

No of respondent	Rank	Value	Weighted average Value
15	first	5	75
10	second	4	40
25	third	3	75
Total			190

Simple average value = total weighted average value/No of respondent =  $190/50 = 3.8$

For answer (D)- unhelpful attitude of tax personnel

No of respondent	Rank	Value	Weighted average Value
20	first	5	100
20	second	4	80
10	third	3	30
Total			210

Simple average value = total weighted average value/No of respondent =  $210/50 = 4.2$

For answer (E) - lack of more incentive to taxpayer

No of respondent	Rank	Value	Weighted average Value
15	first	5	75
20	second	4	80
15	third	3	45
Total			200

Simple average value = total weighted average value/No of respondent =  $200/50 = 4.0$ .

4.1.9 What type of difficulties is felt by taxpayer while assessing income and making tax plan? The difficulties that were felt by taxpayer while assessing income and making tax plan has been presented as follows;

For answer (A)- complicated procedure

No of respondent	Rank	Value	Weighted average Value
25	first	5	125
10	second	4	40
15	third	3	45
Total			210

Simple average value = total weighted average value/No of respondent =  $210/50 = 4.2$

For answer (C)- consumes unnecessary times

No of respondent	Rank	Value	Weighted average Value
15	first	5	75
25	second	4	100
10	third	3	30
Total			205

Simple average value = total weighted average value/No of respondent = 205/50 = 4.1

For answer (E)- need of unnecessary document

No of respondent	Rank	Value	Weighted average Value
10	first	5	50
15	second	4	60
25	third	3	75
Total			185

Simple average value = total weighted average value/No of respondent = 185/50 = 3.7

4.1.10 how would you reduce your tax liability?

About this question, answer of respondents is as bellows;

For answer (A)- By using tax concessions, incentives, allowances, rebates and reliefs provided by existing law.

No of respondent	Rank	Value	Weighted average Value
50	first	5	250
0	second	4	0
0	third	3	0
Total			250

Simple average value = total weighted average value/No of respondent = 250/50 = 5

4.1.14. What are the reasons of wide spread evasion of income tax in Nepal?

In their overall ranking of the suggestions for the reasons of widespread evasion of income tax in Nepal has been presented as follows;

For answer (A)- Due to the administration inefficiency

No of respondent	Rank	Value	Weighted average Value
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5	first	5	25
25	second	4	100
20	third	3	60
Total			185

For answer (C) – Due to the high corruption

No of respondent	Rank	Value	Weighted average Value
40	first	5	200
5	second	4	20
5	third	3	15
Total			235

Simple average value = total weighted average value/No of respondent =235/50 = 4.7

For answer (E) –Due to the political instability

No of respondent	Rank	Value	Weighted average Value
5	first	5	25
20	second	4	80
25	third	3	75
Total			180

Simple average value = total weighted average value/No of respondent =180/50 = 3.6

4.1.15. How tax evasion behavior of Nepalese tax payer can be avoided?

A question of five options has been asked to the respondents for ranking each option. The real picture of the result was as below.

For Answer (A)- educating tax payer by training

No of respondent	Rank	Value	Weighted average Value
20	first	5	100
20	second	4	80
10	third	3	30
Total			210

Simple average value = total weighted average value/No of respondent =210/50 = 4.2

For Answer (B)- simplifying tax law in term of language, section, subsection etc

No of respondent	Rank	Value	Weighted average Value
10	first	5	50
15	second	4	60
25	third	3	75
Total			185

Simple average value = total weighted average value/No of respondent =185/50 = 3.7

For answer (C)- more incentive to regular taxpayers

No of respondent	Rank	Value	Weighted average Value
20	first	5	100
15	second	4	60
15	third	3	45
Total			205

Simple average value = total weighted average value/No of respondent =205/50 =4.1

4.1.16. What are your suggestions for educating tax payer for increasing tax consciousness for voluntary compliance?

In their overall ranking of the suggestions for educating tax payers for increasing tax consciousness for voluntary compliance, has been presented as follows;

For Answer (A) – providing more incentives and recognition program to tax payers.

No of respondent	Rank	Value	Weighted average Value
10	first	5	50
30	second	4	120
10	third	3	30
Total			200

Simple average value = total weighted average value/No of respondent =200/ 50 =4

For answer (B) – using service of radio, TV, newspapers, hoarding board, posters etc.

No of respondent	Rank	Value	Weighted average Value
25	first	5	125



10	second	4	40
15	third	3	45
Total			210

Simple average value = total weighted average value/No of respondent =210/50 =4.2

For answer (C)- providing information desk service in tax office

No of respondent	Rank	Value	Weighted average Value
15	first	5	75
10	second	4	40
25	third	3	75
Total			190

Simple average value = total weighted average value/No of respondent =190/50 =3.8

4.1.17. What are the major problems of tax administration to support and reform tax planning in Nepal?

About to find out the major problems of tax administration to support and reform tax planning in Nepal, answer of the respondent has been presented below;

For answer (B)- Misuse of power by tax administration

No of respondent	Rank	Value	Weighted average Value
20	first	5	100
20	second	4	80
10	third	3	30
Total			210

Simple average value = total weighted average value/No of respondent =210/50 =4.2

For answer (B)- weak tax administration

No of respondent	Rank	Value	Weighted average Value
25	first	5	125
20	second	4	80
5	third	3	15
Total			220

Simple average value = total weighted average value/No of respondent =220/50 =4.4

For answer (C) – lack of motivation to tax personnel and tax payers

No of respondent	Rank	Value	Weighted average Value
5	first	5	25
10	second	4	40
35	third	3	105
Total			170

Simple average value = total weighted average value/No of respondent =170/50 =3.4

4.1.18. What are the essential factor for making tax administration and tax planning effective in Nepal? Please rank.

In their overall ranking of the essential factors for making tax administration and tax planning effective, the following result has been obtained.

For answer (A)- proper training to the personnel

No of respondent	Rank	Value	Weighted average Value
10	first	5	50
15	second	4	60
25	third	3	75
Total			185

Simple average value = total weighted average value/No of respondent =185/50 =3.7

For answer (B)- effective reward and punishment system

No of respondent	Rank	Value	Weighted average Value
15	first	5	75
20	second	4	80
15	third	3	45
Total			200

Simple average value = total weighted average value/No of respondent =200/50 =4.0

For Answer (C) – tax education to taxpayers

No of respondent	Rank	Value	Weighted average Value
25	first	5	125
15	second	4	60
10	third	3	30
Total			215

Simple average value = total weighted average value/No of respondent =215/50 =4.3

4.1.19 in your opinion, what step should be taken to improve tax collection and tax planning system?

To find the conclusion of the above problem regarding the steps that should be taken to improve tax collection and tax planning system, the following result has been obtained.

For answer (A)- Making tax payers aware of their rights, obligations and consequences of failure to comply with tax laws.

No of respondent	Rank	Value	Weighted average Value
10	first	5	50
15	second	4	60
25	third	3	75
Total			185

Simple average value = total weighted average value/No of respondent =185/50 =3.7

For answer (B)- adopting reasonable tax rates

No of respondent	Rank	Value	Weighted average Value
15	first	5	75
15	second	4	60
20	third	3	60
Total			195

Simple average value = total weighted average value/No of respondent =195/50 =3.9

For answer (C)- providing more incentives, recognition and other support to tax payers.

No of respondent	Rank	Value	Weighted average Value
25	first	5	125
20	second	4	80
5	third	3	15
Total			220

Simple average value = total weighted average value/No of respondent =220/50 =4.4

4.1.21 What are the major demerits of ITA, 2058 B.S. regarding the scope of tax planning? Please rank.

To know the response of respondents regarding the demerits or drawbacks of ITA, 2058 BS for the effective application of tax planning has been presented as follows.

For answer (A) – lack of covering the loopholes in tax law.

No of respondent	Rank	Value	Weighted average Value
5	first	5	25
15	second	4	60
30	third	3	90
Total			175

Simple average value = total weighted average value/No of respondent =175/50 =3.5

For answer –(B)- regular cut down incentives and rebates as compared with ITA, 2031.

No of respondent	Rank	Value	Weighted average Value
10	first	5	50
25	second	4	100
15	third	3	45
Total			195

Simple average value = total weighted average value/No of respondent =195/50 =3.9

For answer (C)- unclear rules, regulations, sections and subsections to understand by tax payers

No of respondent	Rank	Value	Weighted average Value
35	first	5	175
10	second	4	40
5	third	3	15
Total			230

Simple average value = total weighted average value/No of respondent =230/50 =4.6

## Appendix-II

### Questionnaire

Dear sir/Madam

Would you provide me necessary information of the following questionnaire in the partial fulfillment of MBS to conduct research work and submit to the university as a thesis? I also assure you that the information supplied by you will be exclusively used for academic research purpose only.

1. Are you familiar with tax planning?
  - a. Yes [    ]      b. No [    ]
2. If No, why have you not applied tax planning?
  - a. It is hard to follow the method of tax planning [    ]
  - b. Concession and rebates provided are not cleared [    ]
  - c. It is easy to follow tax evasion and tax avoidance than tax planning [    ]
  - d. Lack of qualified manpower [    ] [    ]
  - e. Any other reason (please specify).....
3. What factor should be considered to make the tax planning practicable?  
Please Rank
  - a. Increasing administrative efficiency[    ]
  - b. Simplifying income tax law [    ]
  - c. Penalizing to the tax evader and tax avoider [    ]
  - d. Others (Please specify).....
4. Do you think that tax evasion and tax avoidance practices are the root cause of not applying tax planning?
  - a. Yes [    ] b. No [    ]
5. If yes, what should be done to practice tax planning? Please Rank
  - a. Providing education to taxpayer about tax planning, evasion and avoidance[    ]

- b. Controlling to the establishment of illegal as well as unregistered business [    ]
  - c. Simplified taxpaying procedure [    ]
  - d. Reducing unnecessary document needed for taking tax planning benefit[    ]
6. Do you believe that tax planning is being misused as tax evasion and tax avoidance in Nepal?
- a. Yes [    ] b. No [    ] c. No idea [    ]
7. What are the factors responsible for poor tax planning habit of Nepalese people? Please Rank
- a. Lack of taxpayers' education. [    ]
  - b. Poor enforcement of penalties [    ]
  - c. unhelpful attitude of tax personnel [    ]
  - d. Lack of more incentive to taxpayers [    ]
8. In your experience, does a taxpayer feel difficulties in the process of income tax assessment?
- a. Yes [    ] b. No [    ] c. No Idea
9. If yes, what types of difficulties are felt? Please Rank
- a. Complicated procedure [    ]
  - b. Consumes unnecessary times [    ]
  - c. Lack of relevant tax information system [    ]
  - d. Need of unnecessary documents [    ]
10. How would you reduce tax liability?
- a. By taking advantages of loopholes of tax laws [    ]
  - b. By using tax concessions, incentives, allowances, rebates and relief provided by existing laws [    ]
  - c. By over statement of expenses and understatement of incomes [    ]

- d. Any other method (please specify)
11. Are the tax exemption, rebates deduction and concession granted to the company under the existing tax law adequate?
- a. Yes [ ] b. No [ ] c. No idea [ ]
12. If not, what other facilities you suggested to reduce tax liabilities?
- a. By increasing the amount of rebate, deduction, exemption [ ]
- b. By increasing the period of carry forward [ ]
- c. By providing the facilities of carry backward to all organization [ ]
- d. All of the above [ ]
- e. If any (please specify)
13. Does your company maintain proper books of accounts?
- Yes [ ] No [ ]
14. What are the reasons of widespread evasion of income tax in Nepal?  
Please Rank
- a. Due to the loopholes in income tax law [ ]
- b. Due to the administration inefficiency [ ]
- c. Due to the high corruption [ ]
- d. Ineffective of fine and penalties [ ]
- e. Due to Political instability [ ]
- f. Others (please specify)
15. How tax evasion behavior of Nepalese taxpayer can be avoided? Please Rank
- a. Educating taxpayer by training [ ]
- b. Simplifying tax law in term of language, section, subsection etc [ ]
- c. Timely assessment of taxes [ ]

- d. More incentives to regular tax payers [    ]
16. What are your suggestions for educating taxpayer for increasing tax concession for voluntary compliance? Please Rank
- a. Providing more incentives and recognition program to taxpayers [    ]
  - b. Establishment of more branches of tax office in different places [    ]
  - c. Using service of radio, TV, newspapers, hoarding board, posters, etc [    ]
  - d. Providing information desk service in tax offices [    ]
  - h. Others (please specify)
17. What are the major problems of tax administration to support and reform tax planning in Nepal? Please Rank
- a. Lack of sufficient incentives to taxpayers [    ]
  - b. Misuse of power by tax administrators [    ]
  - c. Weak tax administration [    ]
  - d. Lack of motivation to tax personnel and tax payers [    ]
  - e. Others (please specify)
18. What are the essential factors for making tax administration and tax planning effective in Nepal? Please Rank.
- a. Proper training to tax personnel [    ]
  - b. Effective reward and punishment system [    ]
  - c. Simple tax laws and procedure [    ]
  - d. Tax education to tax payers [    ]
  - g. Others (please specify)
19. In your opinion, what steps should be taken to improve tax collection and tax planning system? Please Rank.
- a. Setting and monitoring tax collection targets [    ]



- b. Making taxpayers aware of their rights, obligations and consequences of failure to comply with tax laws [   ]
  - c. Adopting reasonable tax rates [   ]
  - d. Providing more incentives, recognition and other support to taxpayers [   ]
  - e. Others (please specify)
20. Do you think, Income tax act 2058 B.S is sufficient to support tax planning?
- a. Yes [   ] b. No [   ] c. No Idea [   ]
21. What are the major demerits of ITA, 2058 regarding the scope of tax planning?
- a. Lack of covering the loopholes in tax law.
  - b. Regular cut down incentives and rebates as compared with ITA, 2031.
  - c. unclear rules, regulations, sections and subsections to understand by tax payers

***The End***

Name:

Organization:

Designation:

## Appendix III

### Major Tax holidays\ rebates\concessions

1. No income tax for co operatives and saving and credit in urban area.
2. Special industry IT industry providing more than 300 regular employments for Nepali citizen will get 10% rebate in applicable Income tax and industry providing employment for 1200 regular employment get facility of 20% tax rebate.
3. Special industry providing more than 100 employees including 33% women or Dalit or disable person get 20% tax rebate in applicable income tax.
4. In special industry established in remote, undeveloped and developing area 30, 20 and 10 % income tax rebate in applicable income tax for first 10 years from the date of establishment.
5. 10 year tax holidays for an industry establish in Himali and specified mountain region in (special economic zone) and 50% tax rebate on applicable income tax after 10 years of operation.
6. Industries establish in special economic zone of the area get 5 years tax holidays and 50% tax after 5 years on applicable tax.
7. Industry involved in innovation , petroleum business| mineral state their transaction before 2075 get facility of 7 year tax holidays and 50% tax rebate after 7 year to 10 year.
8. IT industry established in specified technology park, Biotech park, informative technology park will get 50% tax rebate in applicable tax.
9. 7 year tax holidays and 50% tax rebate after 7 year to 10 year from date of operation for hydro industry.
10. 100% income tax rebate in applicable tax for manufacturing industry, hydropower production and distribution.
11. Only 12% income tax is applicable for infrastructure industry.
12. 50% tax rebate in royalty received from intellectual property.

13. Wine industry established in remote area will get 40% tax rebate from date operation to 10 years in applicable tax.