CHAPTER-I

INTRODUCTION

This chapter is the foremost chapter of the study and contains the general background, statement of the problem, objective of the study, hypothesis, and focus of the study, rationality of the study, limitation of the study and organization of the study respectively.

1.1General background

It is generally said that nothing in the world except death and tax is certain. This sentence simply means that death and tax are inevitable, however it reveals the several issues underlying in it. First when it is said tax is certain, it means that tax is mandatory, it must be paid. The obligation in wider sense is related with legal provisions and action that ultimately shows the association with the government or its political division. The legislative and sometimes executive and judiciary with the delegated authority make the acts, rules, sub-rules and provisions which are enforcedly applicable and do execute within the frontier of the nation where it is governed. The act relating to taxation is therefore imposed, guided and governed by act, ordinance (under certain circumstances) rules and provisions. In other word, the tax system is directly recognized by law and without law; tax cannot be collected from the public. No taxes are levied and collected except in accordance with law. Therefore tax is imposed by government with the approval of legislative and it is binding to all targeted people. Hence we can conclude that government does charge the certain levy to its people living inside or outside the country for their economic involvement in different activities, which can be termed as tax. Most of the people do agree with the suitable name of tax as KAR in Nepali, which is meant as ‘must to pay’.

Government of any country is supported by its people by two ways: one is with their vote and another is by their tax. Hence tax is the foundation of government of all kinds without which neither the government can sustain nor can exist. In other word, taxation system has been the basis of the government in all countries. The success of the government largely depends on the socio-economic development of the county, which needs adequate financial resources to carry out in desired level. And the tax revenue greatly contributes public revenue and eventually to the government stability. So the taxation has significant importance on the overall development of the country. Tax in most of the cases, is the composition of direct and indirect tax. Direct tax contributes significantly in public tax revenue and covers the wide area of economic activity. And income tax is the major part of the direct tax revenue and business source of income is the large income tax payer. Hence business source of income covers the major part in taxpayer that not only pays the tax on profit but also does collect and pay the tax from public to the government as indirect tax. Therefore business taxation has significant contribution in the economic development of the country.

'The hardest thing to understand in the world is the income tax" Albert Einstein had once commented on the nature of income tax. Supporting his view, another nuclear scientist Jerold Ruchwald said 'Nuclear physics is much easier than tax laws, it is rational and always works the same way' (Kandel 2003: preface). These views mean that understanding tax system is not as easy as we presume. The word tax simply denotes the certain charge that has to be paid to the government in lieu of their economic involvement with the legal obligation both in taxpayers and tax administrators. It is the obligation of taxpayers in the sense that it is their duty to pay tax on profit they make and the obligation of the tax administrators lies in the duties and responsibilities to assess and collect the tax according to the spirit of act under certain rules and the assigned authority. Therefore the government or its administrative division that collect the tax is the collector or payee and those who pay the tax are giver or payer.

Government does use the collected fund from the tax in different ways, such as in development of infrastructure, to maintain administrative cost, to keep law and order in desired level and other several public welfare purposes. The taxation system today has been widely accepted as a good and reliable source of inland revenues. Tax therefore, plays the major role equally in the contribution of revenue for all countries regardless of the degree and rate of development of the country. Taxation system is also a developed concept of human era that provides an opportunity to feel pride for what the people do contribute their nation by providing the fund that helps in making motherland developed and prosperous and creating awareness in public expenditure and its appropriate and reasonable utilization, a part of their contribution. But the taxpayers do never receive any **quid pro quo** for the payment, as the tax is not the price paid by one for which s/he can claim goods and service in return. It is because the tax paid by taxpayers is collected in governed treasury and expended accordance with law as per requirement, which is aimed at the development and social welfare of the nation and habitants.

Government needs heavy fund to maintain peace and law in the country, to carry out development activities, and to provide the goods and services to its people most efficiently, economically and effectively. In narrow sense, the needed fund is available to government by two ways that are tax revenues and non- tax revenues, (in broad sense government may collect fund by tax revenue, non tax revenue, grant, internal debt, external debt, overdraft etc). Non tax revenues include charges, service fee, fine, penalty, royalty, profit generated by government owned or controlled corporations, or by selling assets of these etc, whereas tax revenues means all other income to the government except non tax revenue and includes the different types of tax which is the major source of government revenues and has been using as permanent mechanism of raising public fund. The contribution of tax revenue to the total revenue in fiscal year 2063/64 is about 81.1 percentages (Economic Survey 2065). Tax revenue has been considered as the major instrument of social and economic policy and has mainly three goals: to transfer resources from private to the public sector, to distribute the cost of government fairly by income classes and among people in approximately the same economic circumstances and to promote economic growth, stability and efficiency in the country.

Regardless of nature of business, the business organizations have profit or value maximization objectives along with some social goals. In course of deriving profit, the business organizations do pay tax. Hence tax is the output of profit. So if there is no profit there is no question of paying tax. The basis for the payment is that the assessee must 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, which have been chosen for taxation. Thus, those organizations that earn income, pay income tax to the government. Since the income tax is mandatory, every business companies, firms, or professional institution should be in the tax net.

Depending upon the impact and incidence, the tax revenue can be categorized into two groups, which are direct tax and indirect tax, a tax is said to be direct when the impact and incidence fall on the same person or in direct tax the person bearing and paying the tax is same. It is to mean that direct tax is the tax, which is paid by the person on whom it is legally imposed. Income tax, property tax, vehicle tax are the good examples of direct tax. Similarly another type of tax is indirect tax and it can be defined as the tax, which is imposed on one person, group or company but paid partly or fully by another person, group or company. Value added tax, entertainment tax, hotel tax etc, are the good examples of indirect tax. In conclusion, taxes which have to be paid by the person of direct concern and that can not be shift to others are direct taxes and vice versa. There are some merits and demerits of both types of tax.

The present tax structure of Nepal consists of direct tax and indirect tax. Tax structure refers to the level as well as relative importance of various taxes in the composition of total tax revenue of a country. The base for levying taxes may be consumption, income and capital. Taxes on consumption are known as indirect taxes whereas taxes on income and capital are known as direct taxes. Tax structure of any country is composed of both direct as well as indirect taxes

Historically, income tax in the world was firstly introduced by Great Britain in the year of some 1977. Dr. Roop Khadka in his book entitled 'Income Taxation in Nepal : Retrospect and prospect' gives the history of income tax as 'Modern Income tax was first adopted by Great Britain as a temporary instrument to generate revenue required for the war finance. This tax was introduced by many other countries for similar reasons. But due to its revenue potential, the tax has been used as a permanent instrument by the government in various countries despite its strong opposition in the initial stage of its implementation. Now this tax is the major source of revenue in the developed world and has been appearing as an important source of revenue in the developing world as well. Presenting the table he further adds that income tax revenue collected through the individual and corporation taxes has been playing important role in the present world. (Khadka, 2001:7)

One of the main objectives of the tax system in developing country in the promotion of saving and investment and also the growth in industry including export. Income tax being directly concerned with the taxpayer makes feeling of tax in real sense to the taxpayer. Income tax is the tool that enhances in internal source mobilization by providing the fund enough to support the activities. Tax revenue consists of both direct and indirect tax. Taxation system whether it is direct or indirect, is more reliable as the system bears certainty in nature with certain legal aspects provided that the consumption of goods and service to people is never ending process. Whereas non-tax items that include fee, levy and other similar charges might not be regular and are not always basic sources of revenue. Country economy therefore cannot be fully dependent on the non-tax revenues.

Taxation has been very essential elements of a government from the very beginning of the state system. The main jobs of the government in the ancient era were to collect the tax and to maintain peace and security. Actually tax system is the subsystem of the total economic system. Tax policy is changed with the change in the economic policy of a country. Change in the world economic policy & advancement in Information Technology has vast impact in Nepalese economic policy too. The 1950's concept of high incentive & high tax rate is changed into the concept of low rate wide net at the present time. Today this trend in the tax system is followed by most of the countries of the world. Nepal also is not an exception in this respect and Nepalese administrators and policy makers have to change the tax policy of the country according to the changing time and requirement. In the context of Nepal, the Historic background of the taxation was started in late 1950.However tax in different means was used in collecting the regime of the ancient Kings also. Though different efforts at different time were made to bring income tax act in organized and effective way, actual concept of income tax was brought only by the first budget of Nepal. The budget introduced in 2008 BS stated about the introduction of the income tax system in Nepal. However it was actually introduced only in the year of 2017 BS. When the Finance Act, 2016 and Business, profit and Remuneration tax act 2017 were enacted. Since the income tax was imposed only on income from Business, Profit and Remuneration, the act had not included all the sources of income and was replaced by ITA 2019.

Due to growing needs of time and to make the act more effective, the Income Tax Act,2019 was replaced by the new Income Tax Act 2031(1974).The act was more effective with wider area and had included many provisions to cope the changing economic scenario. Contrary to the previous Act 2019, the act had classified incomes into five different sources as an income from Agriculture, Income from Business/Profession/Vocation, Income from Remuneration, Income from House Rent and Income form other sources. However agriculture income was exempted except for some years. Several amendments were made to make the act more effective in different times including the last one in the year of 2050 BS. But to go along with the timely requirement and growing changing economic context, the Income Tax Act, 2031 at the 28th year of it's implementation was replaced by the new Income Tax Act, 2058(2002).The new act was in effect from BS 2058/12/19.and with the effectiveness of this Act, all other income tax related provisions made under other special enactment have also been replaced. This act has been made in the accordance with international standards, so it is broader as compared to previous act.

Many Incomes not included in the Income Tax Act, 2031 have been brought into tax net. It had been said that the new Income Tax Act, 2058 has been brought into effect to avoid the defects or drawbacks presented in the former act 2031.Some of the defects pointed out in previous Income Tax Act, 2031 were narrow base of tax, taxing only in income originated within country, dispersions of tax related acts, low penalty rate to evader, incompatible to self assessment system and unsuitable of modern economy. Since the act is in beginning years of practice, the effectiveness of the new act will be depending on the proper implementation of the act and its result seen directly in revenue growth.

After the date of its introduction, new income tax act is under practice. However it seems that there is no solidarity regarding the different provisions of act between the experts and tax administrators. Taxpayers are more confusing. In fact, it has been found debate or even conflict in understanding, analysis, interpretation and implementation of the provisions in new act. Perhaps it is because some provisions have been taken without doing enough exercise in the new act and thus some provisions are dubious and confusing. In the other hand, income tax has been a subject of "everybody concern", because tax is mandatory payment of the person that makes significant difference (5%-30%) in the income. So tax greatly affects to individual life and lifestyle. In this regard to understand, to develop skills, to analyze and interpret the changed provisions, to know its better aspect, to get the optimum benefits by tax planning and to make it effective, it is very essential to know its strength and threats in comparison to former act of 2031.To understand and explain the act and correct computation of assessable and taxable income under this head, it is necessary to have good knowledge of accountancy and the concerned laws such as Tax Laws, Industrial Laws,Labour Laws etc.However, new act has, in this respect made easier by covering all the tax related matters in one.

Since the act is about the taxation system of the country, it is not practical to study in detail for thesis purpose, it has therefore been planned to make the study only in the business income which has been major source of income tax in Nepal. Simply Business means the activities involved in trade and commerce with investment and mostly with the objective of profit maximization. In other words, Business is an activity based in labor and capital. Income from the business is the major revenue provider with large number of taxpayers. Income Tax Act, 2058 has defined business as "*an industry, a trade, profession or the like isolated transaction with a business character and includes a past, present or prospective business and the conduct of electronic commerce."* The new law has clarified that the business does not include employment. A person's income from a business for an income year is the person's profit and gains from the conducting the business for the year. It is income generated with the help of capital labor activities. Hence Business income means the income gained from the conducting of industry, trade, doing profession and it covers income earned in past, earning in present and income that is expected to earn in future. Past income means any income for the year that was gained in past income year and was excluded in the same year by different reasons. Similarly future income for a year is the future income from business gained at present and will be excluded in the future income year. Hence all the business income, whether it is past or future at the time of receipt is the business income for the year.

In brief, this study has been designed to study business source of income comparatively under present and previous income tax act. Hence it will help to understand both the acts comprehensively to some extent. The study has made an effort in getting the realistic data and to examine briefly under two different provisions of two acts and has studied how it has affected the income,expenses,tax liability of taxpayers, methods of calculating these variables and contribution of business in income tax owing to the change in tax law.

1.2 Statement of the problem:

Nepal has not succeeded to enjoy the level of development what it really deserve for. In spite of highly available of natural resources, planned effort of nearly five decades, adequate foreign loan and grant and other several conducive environments, Nepal is ironically one of the poorest countries in the world. Nepal has been following a liberal open and market oriented economic policy since more than two decades.However,the present report of the country pertaining to the socio-economic,political,human sector etc.published by the different national and inter-national organizations such as World Bank,WHO,IMF,ADB,UNDP,is very embarrassing. So the pace of economic growth is very slow.

Whatever be the present share of income tax in total revenue of Nepal, it plays one of the major roles in the overall economic development of the country. Income Tax is sometimes considered as economic and revenue tools. In Nepal, it's been nearly more than four decades of practicing Income tax; however it seems that it requires more genuine practices in tax administration as well as needs to change in taxpayer concept and attitude towards taxation. People are more concerned in direct tax since they have to pay it directly. In direct taxation, business taxation is the source of the income where improvement has been feeling in order to make it more convenient, effective and transparent in more scientific way. Managing business sector in terms of taxation and make and bring it under tax net itself is not easy task. Act, a written legal format alone is not enough to solve the problems underlying to it. The simplification of tax, its practical aspects, clearly defined provisions, awareness of taxpayers and analytical skills of the tax authorities and tax expert are some of the major factors essential to make act proper and effective.

Among the ups and downs in the business taxation, new act as income tax act, 2002 (2058) has come into force effective from Chaitra 19 of 2058 BS (April 01, 2002) by replacing the existing act of 2031 (1974). Therefore it is in the initial stage of implementation and experimentations. Except clarifications for administrative conveniences all provisions of the act await itself to be analyzed and interpreted. The complexity of this new act is evident from the wordings and phrasings used in various clauses. The new act has included many provisions, which were not in previous act. It seems that the new act is more confusing in relative to previous act or may be because of the long habitual attitude with previous act. New act has been claimed as cleared than previous. Differences lie only in the understanding of the act according to the spirit of the act. In this regard, it is necessary to understand and analyze that what actually are the different provisions in the new income tax act with old (previous) income tax act. What are the impacts of such differences in assessing, calculating and collecting business tax? What are the provisions changed in the new act that are likely to foster the business sector more pragmatically. And the matters in relating to the establishment, conduction and growth of business sector should be analyzed before making the execution of new business opportunity. And what other aspect of the new act can be taken positively in the effective collection of tax revenue. The growth of income tax means a growth in total revenue. The ultimate goal of the act is to make the effective provisions and practice according to changing time and requirement that enhance in the collection of revenue in proper way. However there are several factors that are insisting in reduction of total tax revenue. Unhealthy business practice, tax evasion and political incapability and instability have been costing the Nepali economy heavily.

Accessing income, making deduction of allowable business expenses, submitting income tax statement to the Inland Revenue Department at specified time and paying tax is not a job that can be carried out easily and comfortably. It requires adequate knowledge, understanding and skills to analyze and interpret the provisions accurately. Moreover there is high tendency of income tax evasion and low income tax payment in the country and tax policy and revenue are not found effective. Tax act and other related rules, regulations, tax rates and tax related provisions have not remained stable in past and have the significant impact in the business taxation. It is therefore very important to any business firms or companies to have adequate knowledge and skills to know and interpret the different legal aspects of prevailing business taxation in the country according to the spirit of the act. And after all it is very necessary to know the effectiveness and strengths of new income tax over previous one and to judge whether it was right decision to bring the new act into force rather to keep on amendment previous one. Keeping all these issues in mind, a part of study to differentiate the provisions under business source of income and their impact in business tax that will help in studying the actual effectiveness to the extent, of the new act in comparison to old has been felt. Since no such study after the introduction of new act had been done, it was really interesting and encouraging to study this particular topic which might interest for tax payers, tax administrators, and tax experts and for all those who have keen interest in taxation and those who are knowingly and unknowingly involved in the taxation.

1.3 Objective of the Study

Any research work must be directed towards finding something new which does not exit earlier even if it exit the validity of which expire, in other word, there is an objective behind doing the research or study. In this regard, the main objective of this study is to compare the different provisions under business source of income between the new income tax act, 2058 and previous income tax act, 2031 and to make analysis of the impact, the new tax act has made in business taxation. However the study has also focused on some other related issues, which can be stated in the form of objectives, hence the objectives of this study on the topic of '**Taxation of Business Income in Nepal: Past & present'** can be outlined as follows:

a) To analyze the effectiveness of business taxation in income tax revenue,
b) To study the contribution of income tax on tax revenue,
c) To study the target and collection of income tax,
d) To study the change in tax liability of a business company due to change in tax law,
e) To analyze the opinions of taxpayer. Tax administrator and tax expert in business source of income under new income tax act,
f) To make the proper recommendations possibly in the improvement of provisions of business taxation under new act in order to make it more effective and time fit.

1.4 Hypothesis:

A hypothesis is a conjectural statement of the relation between two or more variables. It is always in a declarative form and relates either generally or specifically variables to variables. In other word, a hypothesis is a tentative generalization the validity of which has to be tested. In its initial stage, a hypothesis may be an imagined idea or a mere guess depending upon previous accumulated knowledge (Pokhrel 2003:71). Hence, hypothesis is a proposition, which can be put to test to determine its validity. In other word, when a proposition is formulated for empirical testing we call it a hypothesis.

During the opinion survey study, a set of questionnaire was distributed to 45 respondents and their views in different matter was collected, presented and interpreted accordingly. Not every responses of the questionnaire were clear; however some of the responses have to be tested under testing of the hypothesis. Two types of hypothesis were tested as follows and the views tested hypothetically have been included in empirical study under sixth chapter

a) Null Hypothesis: H0
b) Alternate Hypothesis: H1

Hypothesis 1:

Ho: There is no significant difference in opinion among the taxpayers, tax administrators and tax experts regarding the taxation on capital gain provisions in new act.

H1: There is significant difference in opinion among the taxpayers, tax administrators and tax experts regarding the taxation on capital gain provisions in new act.

Hypothesis 2:

Ho: There is no significant difference in opinion among the taxpayer, tax administrators and tax experts regarding the provisions of repair and improvement cost in new act.

H1: There is significant difference in opinion among the taxpayer, tax administrators and tax experts regarding the provisions of repair and improvement cost in new act.

Hypothesis 3:

Ho: There is no significant difference in taxpayer, tax administrators and tax experts' view in business concession, exemption and rebate in two acts.

H1: There is significant difference in taxpayer, tax administrators and tax experts' view in business concession, exemption and rebate in two acts.

These are the hypothesis of the study, which is simply a proposition, and validity of the hypothesis has been tested on opinion survey under chapter four of this study.

1.5 Focus of the Study

This study to the extent aims at differences mainly under income tax in business head of income between the existing and previous act. It primarily has looked the comparative study of change in provisions in business under two acts. It focuses on the study of the way of assessing assessable income, total income, taxable income and obviously tax liability of a business house. Firm or company under business source of income according to new as well as old act and has tried to locate the differences underlying in it. The study has observed how it makes difference in tax liability contribution from business by the change in provisions in relating to the income, expenses and related changes; it has also observed the contribution of business taxation in total income tax. It further studies in how the impact of new act has been felt and how well it has been implemented practically in business sector; it has also observed the obstacles of practical difficulties faced by tax practitioner in implementing act in proper way mainly in business sector. Moreover it has suggested taking necessary changes or to make amendment on the field applicable found during the course of research.

1.6 Rationality of the Study

Whenever there are changes or amendment in policies, laws, rules, or acts, it brings certain changes in practice and the change itself is not the measurement. In fact new act brings lot of changes otherwise it is not necessary to be in existence. Change is making things different. Here change in income tax act means change in the provisions in different heads in many ways. How well the change has been occurred and how has it impacted to the concerned sector should be studied for different purpose. Unless we differentiate in appropriate way, effectiveness of the changes is not known. It should not be changed just for change it should be result and outcome oriented rather to be process oriented, it has to be meaningful and difference, which can be directly studied or observed, gives the basic reasons or requirement behind the change. Change in income tax act is the change in overall way of taxation for which it is made. To study the change or difference in tax contribution (from business sector) just because of change in tax law should be studied in proper way, which will show the ultimate effectiveness of change of act. As the new income tax act has been in effect from Chaitra 19, 2058 (April 01, 2002) by repealing previous act, the changes under business taxation and its effectiveness in tax revenue owing to change in act has been studied yet, it may be therefore a rational attempt to study both the acts in relative terms and to examine the impact of changes in income tax in different ways specially under business source o f income.

1.7 Limitation of the study

As other research work, the study on business income before and now is within some constraints. Some of such limitations can be outlined as follow:

a) The study is based on only income taxation under business source of income under income tax act, 2058 and income tax act, 2031.

b) The sample size, in the study was 45 and some of the respondents are found less acquaintance with income tax acts, so their responses may not be accurate. Further the probability of sampling error is there.

c) Obtaining primary data from taxpayers, tax experts and tax administrators was not easy task since people usually do not want be responsive in what they are not really involved or concerned and that does not give direct benefit to them. Finding based on the responses given unwillingly may occur error.

d) Since one of the respondent groups was a tax administrator (body of act structure), their responses in some opinions may be biased.

e) The presentation and analysis of opinion survey study is completely based in the basis of sample of 45, this may not be applicable as a whole. Similarly the presentation and analysis of secondary data in entirely based in the information published by authorized bodies of Ministry of Finance. And the data may have variations.

f) The study was confined within the prevailing acts and laws of the country.

1.8 Organization of Study

The whole study has been organized in seven chapters as follows:

Chapter I: Introduction

Chapter II: Review of Literature

Chapter III: Research Methodology

Chapter IV: Presentation and Analysis of Secondary data

Chapter V: Summary, Conclusion and Recommendation

The foremost chapter is about introduction that includes the general background, statement of problem, objective of study, focus of study, rationality of study and limitation of study.

The second part of the study has contained the Review of Literature. This part has been studied by dividing into two parts as Review of Act and Review of Thesis/Books. It is the part of study where the two income tax acts and many published or of other type of related materials were studied, interpreted and presented as per requirement.

The third part of the study is about Research Methodology and includes research design, population and samples, sources and data collection procedures, methods of analysis and presentation, tools and techniques of analysis, research variables, weighted of choice of respondents and respondent profiles.

Presentation and analysis of secondary data has been presented in the chapter four. this is one of the most important chapters and has include the data related to the topic extracted from economic survey and annual report published by ministry of finance in their respective way and theory analysis has been presented accordingly with suitable methods of presentation.

Chapter four includes the comparative study of income tax act, 2058 and income tax act, 2031 under the business source of income in brief, in this study, business expenses, business incomes and tax rates between two acts have been compared in relative way. It further studies the difference in tax liability of a same company under two different acts and observed how the change has made the difference in the contribution of same company under new act.

Similarly, data presentation and analysis of opinion survey has been placed under chapter four and has been named Empirical study. It is the main body of the research where descriptive and analytical analysis of the collected primary information through sampling method from various respondents has been studied, analyzed and presented accordingly.

And chapter five is the final chapter and has contained with summary. Conclusion and possible recommendations in the improvement of provisions under business source of income and in related issues.

CHAPTER-II

REVIEW OF LITERATURE

This chapter contains the reviews of the acts, review of dissertation, some books or even newspaper and articles for the purpose of review of literature. The review of act simply is the review of the some of the features basically in business source of income under both the acts. The review of dissertations, related with the topic of this study and available in the libraries is 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.

Part A: Review of Act

2.1 Introduction:

Review of both the acts Income tax Act, 2031 and Income tax Act, 2058 with some background have been reviewed for this purpose. Provisions under business source of income of the stated acts have been reviewed so as to get the general knowledge of the acts as per the purpose of the study.

2.1.1 Historic Background of Income tax:

Income tax, in formal way has nearly 200-year history of implementation. Great Britain is the first country in the world to introduce the modern income tax. This country introduced income tax in 1799 in order to generate revenue to finance the war fought with France between 1793 and 1816,which is also known as Napoleonic War. The income tax law was enacted on January 9, 1799.which was first modern income tax law in the world and was come into force on April 5, 1799. However, the income tax was reinstated in 1803 after the end of the war with France. Similarly income tax was introduced in USA in 1842,in Japan in 1887,in Germany in 1871,in India in 1849,in Italy in 1864,in New Zealand in 1891,in Canada in 1892,in Holland in 1892-93,in Australia in 1895,in Denmark in 1903,in France in 1909,in Sri Lanka in 1932,in Venezuela in 1943,in South Korea in 1948 etc.

Reliable records about taxation in ancient and medieval Nepal are not available. However taxation took its earlier form in the actions of pretty rulers scattered in various parts of the country who extracted levies and tolls from the travelers and merchants. Although land tax was the major source of revenue in Nepal, there did exist irrigation tax and religious monuments preservation tax in the time of king Amshuverma of Nepal. There was tax for purification of castes as well as cremation of dead. In ancient time Nepal, taxes were levied in the form of kind, cash & labour. Special portions of agriculture product were payable to the king as tax. There also existed tax payable in gold. Fixed taxes were levied on the villages. Compulsory manual work of taxation was temporary & taxes were raised for special purposes. Nepalese ancient tax system was based on Vedas, Smirits and Purans. Directives propounded by Manu and Chanakya etc.Guided the taxation system. At that time, the principle of collecting tax from the people was imposition of tax without harming the activities of the people.

Although there was tax system in Nepal in ancient time also, the concept of income tax was brought only by the first budget. The budget introduced in 2008B.S. stated about the introduction of income tax system in Nepal. However, it was in actual sense introduced only in 2017 BS when the finance Act, 2016 and Business Profit and Remuneration Tax Act, 2017 were enacted. At the beginning, equivalent tax rates with progression and exemption limit were prescribed by the finance Act of 2017 applicable to all companies, private firms, individuals and families. The marginal rate of taxation prescribed by these act was 25%.Since the income tax was imposed only on income from Business Profit and Remuneration, the act could not cover all the sources of the income and was so replaced by the Income Tax Act, 2019. Income Tax Act, 2019 with 29 sections divided the heads of income into 9 parts covering business, profession and occupation, remuneration, house and land rent, cash or kind investment, agriculture, insurance business, agency business and other sources. The act was amended in 2029 extensively. However, considering this act incapable of fulfilling the needs of time, it was replaced in 2031 by another act Income tax Act, 2031.This act classified the sources income into 5 sources namely (1) Agriculture, however income from Agriculture was exempted except for some years (2) Industry, business, profession, or vocation (3) Remuneration (4) House and land rent (5) and income from other sources.

As per the change in concept, time and requirement it was not possible to cover or address all the needy provisions by the act made before 30 years. In the course of development and modernization of income tax system and in order to make the act more effective and broad, Income Tax Act, 2031 has been replaced by new Income Tax Act, 2058 which is in practice since Chaitra 19 of 2058.

2.1.2 Meaning and Nature of Business Taxation:

Before knowing what business taxation is, perhaps it would better to define what business is? Actually business has been in practice since the very ancient time even at the time of before Kiranti Regime in ancient Nepal. People used to fulfill their different needs by exchanging the goods with what they need. After the invention of money (coins) which was easier in carrying out. However, barter system in Nepal is still in use in different ways.

In modern ways, the definitions are not limited in the purchasing and selling of goods as is defined in dictionary, it has now wide area coverage. Business in wide scope covers trade, commerce, production, profession, vocation etc. The activity of a trade starts from the moment of good when it is purchased or otherwise acquired with an intention to sell it for some profit. It is not necessary that the goods is sold in due course and profit is acquired there from. It's not only the purchase and sell of goods that constitutes a trade but a sale of services is also included in the definition. The transportation of goods and humans, tourism, trade etc is examples of the trade of services. Though commerce is something similar to trade, it is used especially when the trade takes place between two countries. Production is a process whereby the form of a good is changed and the new product acquires a new commercial value. Similarly a profession is a paid occupation, which requires advance education or training. Chartered accountants, Lawyers, doctors, architects etc are the examples of profession. A vocation is also paid occupation and requires practice and skill but does not require advanced education. Carpenters, craftsmen etc are the example of vocations. Hence, business in wide sense is something really associated with every aspect of human life. Business exists everywhere from production to service, from health to education, from agriculture to war amenities. Single person, company or group is not capable of producing, trading or consuming all the goods and services needed. This fact perhaps makes the trade to expand greatly according to needs, wants and purchasing power of consumer. This shows the scope of business and its importance to human life.

Income from Business is the maximum revenue earner with large number of tax payers. Tax is the legal practice of collecting fund from different economic involvement revenue in order to carryout several social, political, cultural, development ant other activities for the welfare of the Nation. Because of existence of business in everywhere in the world, it has been very important source of income for the purpose of taxation. Most of the revenue of almost every government of the nation comes from the business either in the form of direct or indirect tax or even in the form of non-tax items in some cases.

Today it is hard to find countries in the world without some sort of income tax.

In Nepal, Business is the first targeted source of income when the taxation concept was emerged. Formal tax act in Nepal was named as 'Business Profit and Remuneration Tax Act, 2017', which was introduced by first elected government of Nepal. This shows that how important was the business sector for the purpose of Tax. The underlying reasons for the introduction of income tax were to generate more revenues in order to finance development activities and to help in establishment of social justice through redistribution of income.

Today, almost every country along with other source of income does charge the tax in income earned from business activities for similar purposes.

2.1.3 Definitions and Sources of Income:

It is noted that the economists and accountants have taken different concepts to define the meaning and application of income. The economists have generally adapted a wealth maintenance concept of income. Under this concept, income is the maximum amount that can be consumed during a period & still have the enterprise with the same amount of wealth at the end of the period as existed as in the beginning. Wealth is determined with reference to the current market value of the net productive assets at the beginning and at the end of the period (market value changes both increases and decreases in wealth) in the determination of periodic income.

The word income is related to monetary value. When we are talking about income we mean that there is incoming of monetary value from outside (from salary, profit from business or trade, return of interest or investment or even casual gains or lottery etc.) which was, before receiving, not in ownership of the person who get the value. In dictionary income has been defined as the money received during a period. However, like the definitions, it is not easy to define income precisely. Dr.Roop Khadka,in his book '*Income taxation in Nepal: Retrospect and Prospect' p.12 writes' one can find various definitions of income in the literature'* many writers have cited definitions given by R.M.Haig and Henry C.Simons.In 1921,Haig defined income as the 'money value of the net accretion to one's economic power between two points in time'. In 1938, Simon's defined income as the algebraic sum of (1) the market value of rights exercised in consumption and (2) the change in the value of store of property rights between the beginning and the end of the period.

The essence of these definitions is that income is the sum of consumption plus increase in net weight. It is the definition of comprehensive income and is generally referred to as the Haig-Simons definition. Dr.Khadka further writes that ‘it is however difficult to adopt such a broad definitions for the purpose of income tax in real life’. According to this definition, it would be necessary to include income generated by any means in the tax base. However, income generated through housewives, services or other services provided within the family such as medical services provided by a doctor to his/her family by a person in his kitchen garden for self consumption etc are practically impossible to include in the net tax base.

Simillarly there is also a practice to exclude receipts from gifts, inheritances, bequests, lottery or gambling from the definition of income for the purpose of income tax. These receipts cannot be considered as consideration since receivers do not pay anything for these items. They are not considered as economic activities and creation of wealth, but are simple transfer of wealth. They can be subject to a separate tax but not income tax. Besides, their inclusion in the income creates the problem of double counting. For practical purposes, income tax laws of various countries define the scope of income for the purpose of income tax. They generally do not try to create an ideal tax base but create a workable tax base.

Unlike the Income Tax Act, 2031, new Income Tax Acts, 2058 has defined income as person’s income from any employment, business or investment and the total of that income as calculated in accordance with this act. It includes all sorts of income receives for the provision of labour or capital or both of whatever form or nature in the taxable income.

2.2 An Overview of Income Tax Act, 2058(2002)

Eventually, in order to meet the timely requirement of rapid changing context of national and international economic scenario and development, new income tax act 2058(2002) has been enacted and is in practice effective from Chaitra 19, 2058 BS (April 01, 2002). The system of a country must address the socio economic conditions of the nation. The system should be based on realistic economic condition of the country in systematic and scientific way. Income tax act, 2058 is the result of the changes in economic policy and changes in taxation purpose of government, reemergence of liberalization, globalization and privatization system that focuses on the minimum intervention of the state on private economic matters. Preamble in

New Act justifies the necessity of new act as ‘Whereas it is expedient 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 the income tax, the parliament of Nepal enacted income tax act 2058.

This act has replaced income tax act, 2031 existing earlier. The new tax act, 2058 has many provisions in comparisons to previous act 1974(2031).Many incomes not included in income tax act, 2031 have been brought into tax net. In this act, some of the provisions have been added and some have been changed. It had been said that the new income tax act has been brought into effect from the date 2058/12/19 to avoid the defects or drawbacks presented in the previous income tax act, 2031. The new has been divided into 24 part/division, 143 sections and 2 articles.

2.2.1 Defects of Income Tax Act,2031 (1974):

While introducing the Income tax Act, 2058 (2002), some of the defects presented in previous act of 2031 were pointed out & it is said that the defects has been either avoided or corrected. Defects or the incomplete provisions in the existing act, result the introduction of new comprehensive act to cover the up to date provisions. In fact, the defects or drawbacks of Income Tax Act, 2031 provide the base for the introduction of new Income Tax Act,2058.Some of such defects were as follows.

a) Narrow base of tax.
b) Taxing only the income originated in Nepal,
c) Dispersion of tax related acts i.e. income tax related provisions were given in different acts,
d) Low penalty rate to tax evaders,
e) Incompatible to self-assessment system and
f) Unsuitable to modern economy.

In one hand, the new act had to avoid or correct the defects presented in the previous act and in the other hand it has to be used effectively in order to make the revenue collection more efficiently.

2.2.2 Objectives of Income Tax Act,2058(2002):

Objective is the defined goal that provides the reason of existence. The success of these objectives of new income Tax depends on the proper implementation and mobilization of the act. As given by the policy makers, the objectives of the new act are:-

i. To bring all the income generating activities within tax net,
ii. To increase the base of Taxation,
iii. To bring all the income tax related provisions within one act,
iv. To make income tax related provisions clear and transparent,
v. To interlink Nepalese tax system with tax of other countries,
vi. To make tax system base on account,
vii. To minimize tax avoidance and tax evasion,
viii. To make tax system compatible to modern economy,
ix. Reducing the scope of discretionary interpretation of the tax administration thereby ensuring simplicity, uniformity and the transparency,
x. Separating administrative and judicial responsibilities,
xi. Defining the power as well as authority of the tax administration,
xii. Distinguishing tax payers, violation of civil duties and criminal offences,
xiii. Further streamlining the appeal system by making it mandatory for the taxpayers to file objection with the department of taxation before appealing to the Revenue Tribunal.

The objective of the act will be meaningful if and only if the act is implemented effectively according to the spirit of the act. It is too early to evaluate about the effectiveness of the act only at the second year of implementation.

2.2.3 Features of Income Tax Act,2058(2002):

The new act has many provisions, which were not in the previous income tax acts. It is being said that the act is more suitable to the present context of economic policy and has made effort to make the act more effective itself. The relative strength of this act shows the effectiveness of this act over previous acts. Features of this act describe the differences in provisions between the previous income tax act and present act. In fact, features of the new act are the foundation of existence of the act. Some of the features of the new act are listed below:-

i. All tax related matters are included within the act,
ii. Specification of tax rates in the act itself,

iii. Specification of stock valuation methods,
iv. Pool system of depreciation basis, intangible assets are also depreciated,
v. Taxing on capital gains has been introduced,
vi. Liberal loss set-off and carry forward provisions,
vii. Introduction of global taxation system (This act is applicable throughout the Kingdom of Nepal. It is also applicable to the residents residing wherever out of the Kingdom).
viii. Provision of fine and penalty had been tightened.
ix. No submission of income statement by s person who doesn't have taxable income.

2.2.4 Definitions of Related Terms:

Any terms may have different meaning in different situations. Each term used in particular law should have definite meaning so that it determines the scope and limitations of provisions mentioned in that law. The new income tax under section 2, has defined some of the basic terms related to the act comprehensibly.

Income (sec.2 Ja)

The new act in section 2 Ja has defined income as person's income from any employment, business, or investment and the total of that income as calculated in accordance with this act. It includes all sorts of income received for the provision of labour or capital or both of whatever form or nature in the taxable income. Income received as payment is known as cash income. Income may be earned by a person without actual receipt and such income is called accrual income. Income received in terms of physical good is known as income in kind.

Income Year (sec.2 Jha)

A period of 12 months commencing from first Shrawan and ending at the end of Ashad of consecutively year is an income year. This is also a fiscal year or financial year of the government. IT is also called previous year, preceding year or accounting year. Nepalese fiscal year is the income year for any taxpayer.

Assessment (sec.2 p)

In general, the word assessment refers to the procedure of ascertaining and imposing tax liability of a person. According to the provision made in the act, it includes compulsory assessment under section 99, jeopardy assessment under section 100 amended assessments under 101 and assessment of interest and penalties under section 122.

Business (Sec.2 Ka.Ja)

Business means an industry, a trade, a profession, or isolated transaction with a business character and includes a past, present, or prospective business and the conduct of electronic commerce. The term doesn't include employment.

Investment (Sec. 2 Ka.Kha)

Investment means an act of holding or investing one or more assets of similar nature that are used in an integrated fashion. But it excludes an act of holding of assets (other than non business chargeable asset) primary for personal use by the person owing the asset or investing amount on such assets. It also excludes employment or business income.

Company (Sec. 2 Da)

For the purpose of income taxation, a company means a company established under 'Company Act 2053'or any corporate body or any unincorporated association, committee, institution, society, or group of persons other than a partnership or a proprietorship firm(whether or not registered) or a trust. The word company also includes a partnership firm(registered or unregistered) having 20 or more partners, a retirement fund, a co-operative, a unit trust, a joint venture, a foreign company and foreign institution prescribed by the Director General.

Person (Sec. 2 Ka.Na)

According to sec 2, person means an individual or an entity. An individual is defined as a natural person and the term also denotes, for the purpose of the act, any proprietorship firm and a couple of making and election to be a single unit of taxpayers or separate unit of taxpayer under sec 50.An entity means a partnership, trust or company, local body or government. The term entity also includes a foreign government, a political sub-division of the foreign government a public international organization establishes under treaty, a permanent establishment of a resident individual and an entity that is situated in the foreign company.

Asset (Sec. 2 Ka.Dha)

According to section 2(bc), an asset means a tangible or intangible asset and includes currency, goodwill, know how, property, an owner's interest in a foreign branch, a right to income or future income and a par of an asset. Depending upon the nature and existence, assets have been divided into 5 groups. (a) Trading Asset (b) Depreciable Asset (c) Business Asset (d) Non-business Chargeable Asset (e) Non-taxable Asset. Trading Asset means assets owned by a person that are intended to be sold in the ordinary course of a business conducted by the person, work in progress, on such assets and inventors of materials to be incorporated into such assets, An asset used in business or investment for earning income and that is likely to lose value because of wear, tear, obsolescence or the passing of time has been named as *Depreciable Asset.* Business asset has been defined as an asset to the extent to which it is used in a business. However the term business asset doesn't include trading stock or a depreciable asset. Similarly *Non-business chargeable asset* means securities or an interest in an entity as well as land and buildings. However it doesn't include asset, depreciable asset or trading asset and a private residential house of an individual that has been owned continuously for three years or more and lived by the individual continuously or intermittently for a total of three years more.

Tax (sec.2 Dha)

Tax means income tax imposed under the act. It also includes the following payments: expenses incurred by the department in the process of creating charge and performing auction of the property of tax debtor, amount payable by a withholding agent or with holder, amount payable by installment payer, amount payable to the department in respect of a tax liability of a third party, amount payable by way of interest and penalties and amount payable by way of fine in orders of the department.

Partnership (sec 2 ka, pa)

Partnership means a firm (whether or not registered) that has fewer than 20 partners. However, the term doesn't include a proprietorship firm, whether or not registered or a joint venture.

Withholding Agent (sec.2 ka)

Withholding agent means a person required to withhold tax at the time of payment for employment, investment return, service return, services fees or contract.

Final withholding Payment (sec 2 Ga)

Final withholding payment means a payment of dividend, rent, gains, interest and payment made to a non resident person to be made after withholding final tax.

2.2.5 Heads of Income:

Unlike previous act, the new income tax act has divided the sources of income into 3 sources only. This shows the continuity of reducing trend of income sources of past acts. The act imposes tax on those activities contributing towards the creation of wealth. Wealth is created with the help of capital, labour and idea related activities that generate income from employment, investment and business respectively. The act has made a broad classification of income encompassing of all income earning activities. They are:

- Income from Employment.
- Income from Business.
- Income from Investment.

2.2.6 Income from Business:

Business is an activity undertaken by commercial enterprise for the purpose of making profit on a continuous and repetitive basis. In other words, business means use of factor of production for the purpose of earning profit. The new income tax act has been defined business as an industry, a trade, a profession or like isolated transaction with a business character and includes a past, present or prospective business. The term business doesn't include employment. Basically employment requires labour only, investment requires capital but business requires labour as well as capital. Thus, any controversial activity that can be included with in the definition of employment, the preference is given to such activity in the income from employment. For such activity second priority is given to include in income tax from business.

Income from business is the maximum revenue earner with large number of taxpayers. According to sec.7 of the act, a person's income from a business means the person's profit and gains form conducting a business for an income year. Profit and gains are calculated by subtracting deductible expenses from total inclusions (amounts to be included in the income). If the total amount of profits and gains from business is positive, assessable income from business will be equal to it. In contrast, if the total amount of profits and gains from business is zero or negative, there will be no assessable income from the business. The format of calculating assessable income from the different sources is different from the general business income, such as income from the banking business, income from the general insurance, income from the special industry, income from the foreign sources or repatriated income of controlled foreign entity is calculated in separate format. This is to say that the act has mad e special provisions for the calculation of assessable income under different sources in business income.

2.2.7 Inclusions in calculating Income from Business:

Incomes derived by a person during an income year are included in assessable income while calculating person's profits and gains for an income year. Such incomes defined by new act 2002 are as follows:

i. Services fees including commissions, meeting management or technical service fees.
ii. Amount derived from the disposal of trading stock.
iii. Net gains from the disposal of business assets or liabilities of the business.
iv. Gifts or amount of similar nature received in respect of the business.
v. Amount derived as consideration for accepting restriction on the capacity to conduct the business.
vi. Amounts derived that are effectively connected with the business and that would otherwise be included in calculating the person's income from an investment.
vii. Other amounts requires to be included under-business income such as income received due to change in accounting methods, transfer pricing, recovery of bad debts, compensation received, difference of interest amount payable and market rate etc.

2.2.8 Deductible Expenses:

Like in previous acts, this act has also made clear provisions in relating to the expenses incurred during the year in respect to the business. All reasonable business expenses subject to the certain criteria are allowed to deduct under different heads. Those expenses can be outlined as follows:-

i. **General expenses:-**

Expenses which are incurred by a person in an income for the purpose of deriving the taxable income from the business or an investment are allowed to deduct for the purpose of calculating the person's income from the respective business or investment during the year by the person.

ii. **Interest Expenses:-**

Subject to the certain conditions and criteria, interest incurred in the production of income from the business or investment or to purchase fixed assets used for business purpose during an income year under the debt obligation is allowed to deduct for the purpose of calculating a person's income from business or investment for the income year. However, interest expenses paid by resident entity to the controlled entity of a tax exempt organization may deduct the interest paid expenses without exceeding the sum of (a+b).

a) Total interest derived (income) by that entity which is included in taxable income.
b) 50% of the entity's adjusted income for the year calculated without including any interest derived (income) and deducting any interest incurred (expenses) by the entity.

The amount of interest not deducted due to the above criteria will be admissible expenses in next year.

iii. **Cost of Trading Stock:**

Cost of trading for the purpose of calculating the assessable income of business is allowable for deduction. Trading stock includes raw materials, work in progress and finished goods. But it doesn't include stock in foreign currencies. For the purpose of closing stock valuation, the, market value or cost which is less is taken into criteria. Cost of trading stock is determined either by prime cost (variable cost) or factory cost (absorption cost) method. In case of cash basis accounting, prime cost or factory cost method can be used. But, in case of accrual basis accounting absorption (factory) cost method can be used.

iv. **Repair & maintenance:-**

The act specifies that the cost of repair and improvement of the depreciable assets owned and used by a person in generating business or investment income are deductible from the income of the year. However, such cost don’t exceed 7 percent of the depreciable basis (previously it was 5 percent) of the pool at the end of the income year. And the unabsorbed repair expense is capitalized at the beginning of next income year in respective blocks.

v. **Pollution Control Cost:-**

The act had introduced the new provision regarding the Pollution Control Cost. Pollution control cost however of capital nature is allowed for deduction subject to the certain criteria. Pollution control cost means cost incurred by a person with respect to a process or an asset that seeks to control pollution or otherwise protect or sustain the environment. The criterion for the deduction has been clearly stated in the act as the lower of the two:

a. Actual Pollution Control Cost or,
b. 50% of adjustable taxable income of business.

The portion of Pollution Control cost not deducted this year will be capitalized at the beginning of the next year income under block D.

vi. **Research & development:-**

Simillarly the new act 2058 has also introduced the new provisions in relating to Research and Development Cost. Research and Development cost means cost incurred by a person for the purpose of developing the person’s business or improving business products or process. However, it doesn’t include cost in respect of the natural resource prospecting, exploration and development incurred by a person in the production of the person’s income from a business, which is treated as an outgoing for an asset used by the person in that production. Thus the Research and Development cost are allowable expenses comparing with the following criteria.

a) Actual Research And Development Cost or,
b) 50% of adjustable taxable income from business whichever is less.

Like in Pollution control cost, the amount of Research and Development cost not deducted if any will be forwarded for capitalization under Block D in subsequent year.

vii. **Provision of Depreciation:**

Depreciation is the depletion of the value of assets by wear and tear, obsolescence or by passing of time. The assets used in business are depreciated at prescribed rate and the amount is deductible while calculating the assessable income from the business. The provision of depreciation in the new act is not like what it was in precious act. It has divided the assets into 5 blocks and made provisions of charging depreciation at different rates accordingly. The provision regarding depreciation can be presented block wise in the following tables:

Table 2.1

Depreciable Assets and rate of depreciation

Blocks	Types of Assets	Rate of depreciation in %
A	Building, Structures and similar works of a permanent nature	5
B	Computers, furniture and fixtures, office equipment, data processing equipment	25
C	Automobiles bus and minibus	20
D	Construction and earth moving equipment, portion of pollution control and research and development cost and any tangible assets not included in above blocks (Plant and Machinery etc.)	15
E	Intangible assets other than not included in block D (Patent, Design, Software etc.)	The amount of depreciation for the year is calculated by dividing the cost by the useful life of the asset.

The act has made some other related provision for depreciation. The depreciated amount is not easy to deduct since it has to be calculated in prescribed way under different blocks differently. And it doesn't necessarily be the full deduction of the amount in an income year. Actually the amount of depreciation is the sum of depreciation base and the rate of depreciation applicable to the particular assets. The depreciation base is calculated as under:

Opening base for depreciation	XX
Add: Addition during the year	XX
Less: Disposal during the year	XX
Depreciation base for the year	XX

Addition of asset during the year may be in any month and the rate has been given differently for different time as follows:

- If the asset is purchased from Shrawan 1st to Poush end 3/3
- If the asset is purchased from Magh 1st to Chaitra end 2/3
- If the asset purchased is from Baisakh 1st to Aashadh end 1/3

This shows that those assets that are purchased earlier will be depreciated at cost price. In other words the absorbed portion is dependent on the time of purchase from all to 1/3 of the cost price.

The total amount of depreciation is deducted by adding the amount calculated separately under different blocks. Not always the depreciated amount is deducted wholly; remaining amount is capitalized as the Written Down Value (opening base) for next year.

viii. Bad Debt:

Similarly the act has a provision of deduction of bad debt on verifiable. According to the act, bad debt can be written off under following conditions:

- If the outstanding loan of bank or financial institution has become bad debt in accordance with the standards prescribed by Nepal Rastra Bank.
- In other case, the person receiving payment believes that the amount could not be recovered after taking reasonable steps to recover the amount or loan.

  However he has to submit some proof that verifies his/her claim.

ix. Business Loss:

Like in previous act, present act has also made a provision of loss adjusting facility. Moreover this act is more liberal in adjusting the loss incurred in conducting the business. For the purpose of calculating income from business for an income year, the following losses are allowed for deduction.

- Any unrelieved loss of the year incurred by the person from any other business and
- Any unrelieved loss of previous four income year incurred by the person from business.

2.2.9 Business Exemptions, Exempt Amounts and other Concessions:

According to the new Income Tax Act, 2058, the following amounts are exempt from the tax.

- **i.** Amounts derived by a person entitled to privileges under a bilateral or a multilateral treaty concluded between Nepal Government and a foreign country of an international organization.
- **ii.** Amounts derived by an individual from employment in the public service of the government of a foreign country, provided that, the individual is a resident person solely by reason of performing the employment or is a non resident person; and the amounts are payable from the public funds of the country;
- **iii.** Amounts derived from public fund of the foreign country by an individual who is not a citizen of Nepal or by a member of the immediate family of the individual.
- **iv.** Amounts derived by an individual who is not a citizen of Nepal from employment by Nepal government on term's of a tax exemption;
- **v.** Allowances paid by Nepal government to widows, elder citizens or disabled individuals.
- **vi.** Amounts derived by way of gift, bequest, inheritance, or scholarship, except as required to be included in calculating income under this Act;
- **vii.** Amounts derived by an exempt organization by way of gift or other contribution that directly relate to the organization's function, whether or not the contribution is made in return for the consideration provided by the organization.
- **viii.** Pension received by a Nepali citizen from the army or police service of a foreign country provided the amounts are payable from the public fund of that country.
- **ix.** An agricultural income derived from source in Nepal during an income year by a person, other than the income from an agriculture business derived by a registered firm, or company, or partnership, or a corporate body, is exempt from the income tax.
- **x.** Incomes derived by cooperative societies, registered under cooperative Act, 2048 (1991), from business mainly based on agriculture and forest products cooperatives are exempted from tax. Dividends distributed by such societies are also exempt from tax.

2.2.10 Other Provisions Regarding the Business Exemptions:

- For the FY 2064/635, statuary exemption limit of NRs.115, 000.00 for individual taxpayer and NRs.140, 000.00 for couple is allowed for deduction as exemption limit to reduce the taxable income. Moreover couple may elect either single or couple as to take the statutory exemption limit:
- Remote are allowance as an additional exemption limit has been provided by the act depending upon the geographic region of location. This is applicable to all natural people's income from employment, business or investment. Depending upon the degree of development, the regions within the country have been divided into A, B, C, D and E classes. And the amount of the exemption limit is specified as NRs. 30,000.00, Rs 24000.00, 18000.00, Rs 12000.00 and Rs 6000.00 for A, B, C, D and E respectively.
- Income derived from source in Nepal during an income year by a person from a special industry is taxed as follows:
  a) In case the industry provides direct employment to 600 or more Nepali Citizens throughout the year, such industries are taxed at 90 % of tax rate. In other words such industries have 10% concession privilege on tax rate.
  b) If the special industries are operated in remote, undeveloped and underdeveloped areas, they are taxed at 70%, 75% and 80% respectively of the tax rate for the 10 years from the date of establishment.

Special Industry refers to the Industry producing other than tobacco and alcoholic products. A person can take only one concession at a time if it is eligible for both.

2.2.11 Common Reductions:

The amounts that are commonly reduced from the total assessable income while computing taxable income may be termed as common reductions. According to the new act, such common reductions are as follows:

a) Retirement Contribution to the approved retirement fund within the limit is allowed to deduct to obtain the taxable income of a natural person. The limit is Rs.300, 000.00 or 1/3 of assessable income of the person whichever less is. This provision is not applicable to the entity. Employer is allowed to deduct the employer's contribution to retirement fund as general expenses under section 13.

b) The amount of donation paid by the person to exempt organization is deductible expenses under the act comparing with the criteria of NRs.1000, 000.00 or 5% of taxable income or actual donated amount whichever is less.

2.2.12 Provisions of Losses from Business:

In respect of business, a taxpayer is allowed to offset or carry backward or forward of unrelieved loss as per tax laws. The provision in this respect is:

- Carry forward of loss up to 4 subsequent income year for general business income.
- Banking and insurance business losses can be carried backward till past 5 income years and will be carried forward up to next 4 years if any unrelieved loss exists after carry backward. Loss from a banking business can be recovered from the profit of the banking business and loss from a general insurance business can be recovered only from profits of the general insurance business only.
- The act had made special provisions of carrying forward of losses up to 7 subsequent income years in case of electricity projects involving in building power station generating and transmitting electricity and the projects conducted by any entity so a to build public infrastructure own, operate and transfer BOOT to the Nepal Government.

2.2.13 Expenses Not Allowed for Reduction:

The new income tax act has clearly spoken about the in admissible expenses like in previous act while assessing person's income from any business or investment. Such expenses fall under this category:

i. Any expenses which are expended for personal or domestic reason or the expenses having no relation with in generating income from business or investment are disallowed for deduction from the business while assessing assessable income from the business.

ii. Amount paid as income tax, bribes, fine, penalties to the government or political sub division of a government of any country for breach of any law or subsidiary of any law no matter of in respect of business or investment are not allowable to deduct from the assessable income.

iii. Expenses incurred by a person in deriving non-taxable income or exempt or final with holding payments are not allowed for deduction from assessable income of business.

iv. Any costs incurred by a person having annual turnover more than NRs.20,00,000.00 in cash exceeding NRs.50,000.00 is not allowable expenses provided that the business is operating in the area where the banking service is available within 10 km. of distance. However, it has been further made clear that this provision is not applicable if the payment is made to the Nepal Government, Constitutional body, government owned corporation or bank or financial institutions farmer producing agricultural products, a retirement contribution, banking services aren't available or closed and payment made to bank account of the payee. Similarly, cash payment doesn't include a payment made through a bank or financial institution by the way of letter of credit, check, draft, money order, telegraphic transfer, money transfer(hundi) and any other forms of transfer made between two banks or financial institutions.

v. Distribution of profit by an entity is also not admissible. Profit or dividend should be distributed from after tax profit i.e. from net profit.

vi. Any other amount or expenses paid which is denied by other provisions of the law is also expressly disallowed for the deduction from assessable income.

vii. Capital nature expenditure that doesn't fall into the criteria amount of Research and Development, Pollution Control Cost Expenses are also inadmissible.

viii. Excess amount of admissible expenses which are not allowed for the deduction during a year comparing the criteria are not allowed for deduction. Excess of donation, repair and Maintenance, life Insurance, Research and Development, pollution Control expense fall under this provision.

- Income tax act 2058 has provided the facility of exemption for the life Insurance premium comparing the 7% of Insured sum or Rs.10, 000.00 or actual premium paid whichever is less. This provision is applicable effective from the income-year 2060/61.
- Provision of Medical Tax Credit in the act has been made eligible medical tax credit for an income year will be lower of either 15% of approved medical cost incurred in the relevant income year or Rs.750.00. However,

excess amount of medical expenses are not deducted an income year is forwarded for subsequent income year.

- Amount of income tax paid in a foreign country is deductible as tax credit from the tax liability of foreign sources of income not exceeding the average rate of Nepal Income Tax. For this purpose the average tax rate is calculated as follows:

$$\text{Average Tax Rate} = \frac{\text{Total tax liability before deducting foreign income tax}}{\text{Total taxable income of the person}} \times 100$$

2.2.14 Tax Accounting and Timing:

i. For tax purposes, an individual is required to maintain his accounts on a cash basis in calculating the individual's income from an employment or investment and a company is required to maintain its accounts on an accrual basis within the basis framework of generally accepted accounting principles.

ii. Bad Debts are allowed to be written off if a debt claim of a bank or financial institution has become bad debt as determined in accordance with the prescribed standards.

iii. Inclusions and deductions under a long-term contract are calculated according to the percentage of the contract completed during the year.

2.2.15 Quantification, Allocation and Characterization of Amounts:

1. Quantification of Amount

Payments are not always made in monetary terms. The payments made other than in terms of money should be quantified for income tax purposes. ITA, 2058 has made provisions for quantifying amounts under section 27. Some provisions relating to quantification are:

a. If a person makes payment to another person by transferring an asset, the market value of the asset transferred is considered as paid.

b. If a motor vehicle is availed wholly or partly for the private purpose, 0.5% of salary in case of employees or 1% of market value of vehicle in case of other is included in the income of a payee. Similarly, if a provision of a house is made to an individual, 2% of salary in case of employees or 25% of actual rent (prevailing rent) incase of other is included in the income of a payee.

2. Indirect Payments: If a person is indirectly benefited from the payments made by a payer or associate o f the payer or the person directs another person to be the payee of a payment, the Department may treat the person as the payee of the payment. For this purpose, the Department is required to provide a written notice.

3. Jointly Owned Investment: According to section 30 of ITA, 2058, a person's income from a joint investment with another person, amounts to be included and deducted should be apportioned among the joint owners in ratio of their investment.

4. Characterization of compensation payment: According to section 31, when a person receives a compensation amount including a payment under insurance that compensates for the following things, it should be included at the time of receiving compensation under employment, business or investment, as the case requires.

a. <u>Compensation for income</u> or for an amount to be included under employment, business or investment incomes, which the person expects or is expected to receive.

b. <u>Compensation for loss</u> or an amount deductible in calculating the person's income from business or investment, which the person expects or is expected to incur.

5. Characterization of payments under annuities, installment sales and finance lease: According to section 32 of ITA, 2058, payments made to a person under annuity, or by a person acquiring an asset under an installment sale or the use of an asset under a finance lease will be treated as interest and repayment of capital under a debt claim.

2.2.16 Information about Tax Deduction and Payment:

Table 2.2

Nature of payment and rate of withholding tax

S.N.	Particulars	Withholding tax rate
01	Nepal sourced interest, natural resource payment, rent, royalty and service fee	15%
02	Interest paid to an individual for deposit, debenture or government bond with no business relation	6%
03	Amount from lump sum retirement payment made from Nepal Government or approved retirement fund	6%
04	Amount from Nepal sourced retirement made by an unapproved retirement fund	10%
05	Payment of Nepal source dividend by resident Company	5%
06	Payment of Nepal sourced investment insurance gain by resident insurance company	5%
07	Payment of general Insurance premium as a business activity by a resident person	1.5%
08	Payment for business contracts amounting to more than Rs.50,000.00	1.5%
09	Teaching not on regular basis	15%

2.2.17 International Taxation:

- For taxation purposes, all payments and gain need to be considered on the basis of the source country of the payment. Details of the circumstances under which the source rules are defined are given in the act.
- Tax is imposed on the repatriated income of a foreign permanent establishment of a non-resident person situated in Nepal.
- A non-resident person carrying on a business of chartered or air transport operator are taxed at a flat rate on their amounts derived from carriage of passengers, mail or goods which embark in Nepal. The provision is also applied to nonresident persons who transmit messages by any technical means if the apparatus is established in Nepal.
- A tax credit may be claimed for any foreign income tax paid with respect to foreign source income. The tax credits are calculated separately for assessable foreign income

sourced in each country and will not exceed the average rate of Nepal income tax applicable to the assessable foreign income.

2.3 An Overview of Income Tax Act,2031(1974):

Income tax Act, 2031 was the most comprehensive act than the former acts in the history of income tax in Nepal. The act was come into effect from Shrawan 5th of 2031 BS. Replacing the prevailing Income Tax Act, 2019 and was in existence till Chaitra 18th of 2058 BS. The act was amended eight times in the year 1977, 1979, 1980,1984,1985,1986, 1989 and1992 in accordance with the timely requirement of economy of Nepal. Nepal Government had enacted the Income tax act Rules, 1982 (2039) in accordance with the authority given under section 65 of the act. The framework of the Act was derived from the Income tax Act, 1962. The act with 66 sections had clear provisions of self assessment; carry forward of losses and the act had defined the related terms in precise way, had remained or amended certain provisions of the old act and has added certain new provisions. Some of the salient points were as follows:

i. It had clarified certain definitions, especially relating to tax assessment of tax, year of income, income, personal status of the tax payer and non resident taxpayers.
ii. Five sources had been specified. Methods of computing net income from each source, including the allowable deductions had been specified.
iii. The act had made it obligatory for tax payers to register their industry, business, profession or vocation in the tax office. Any changes should also be notified.
iv. It had made provision for self assessment of tax for the first time in Nepal.
v. Carry forward of losses was allowed for three years.
vi. There was a provision of deduction of life insurance premium.
vii. Taxpayer was required to keep accountants and records for their sources of income and preserve those records for a period of six years.
viii. Provisions had been made for reassessment or additional tax assessment.
ix. Procedures for assessment, collection, payment and refund of tax have been streamlined. Powers for search & seizure had been specified. Penalties had been increased. Various forms had also been specified.

The Income Tax Act, 2031 had classified the sources of income only into 5 groups contrary to the previous act 2019 that had classified the sources into 9 heads. According to the Income Tax Act, 2031 the income heads were:

i. Income from Agriculture
ii. Income from Business, Profession, Vocation
iii. Income from House and land rent
iv. Income from Remuneration
v. Income from Other sources

However the income from agriculture remained tax exempt for few years. Income Tax Act, 2019 firstly introduced the taxation system in Agriculture. This provision was amended by different financial act time to time and sometime agriculture income was in and sometime out of tax bracket. Finance Act, 2034-exempted income from agriculture. The act was silent on the agriculture income derived in organized form. In other words, income generated from agriculture as business income was not clearly defined.

2.3.1 Taxable Income under ITA,2031:

Income Tax Act, 2031 under section 5 had a provision regarding the inclusions of incomes while calculating the taxable income from business, profession and Vocation. According to the act, following items were taken as income.

i. Amount received by way of compensation against loss of profit from insurance or contract.
ii. Amount which was not spent.
iii. Amount received as recovery of bad debts.
iv. Amount received after the closing of business.
v. Any benefit or perquisites on the basis of market value.
vi. Amount received as commission, fee, charges, or any other income received of similar nature.
vii. Commissions, fee, charge or any similar amount to be received from time to time commissions, fees Charges or any other similar amount received exhibiting or imparting talent knowledge, expertise or experience or by providing opinions, advice, consultation, inspection, tests, contract or training.

2.3.2 Non Taxable Income under ITA,2031:

Income Tax Act, 2031 had a provision regarding to non taxable income in section 42. According to which following incomes that was taken tax free under the act:

i. Remuneration received by diplomatic representatives of foreign countries.
ii. Employment income where conditions of employment specify exemption from income tax.
iii. Remuneration received by foreign advisors
iv. Tax paid income
v. The income of Guthi
vi. Income of public or educational institutions
vii. Facilities provided by his Nepal government to ministers, state ministers and assistant ministers
viii. Income of the employee's provident fund
ix. Principles, interest and bonus in consideration of deposits in provident fund
x. Amount to be received from life insurance
xi. Income of village Development Committee, District Development Committee and Municipality
xii. Amount received by foreign company or person through bank in consideration of supplying goods in Nepal.

2.3.3 Allowable Deduction:

Income tax Act, 2031 had also provided facilities of deduction of actual expenditures related to business, industry, profession or vocation and other real expenses under section 12.

i. Rent of the house or property used for business purpose as per contract. However the rent related to the property of business itself was not allowable.
ii. Expenses incurred for repairs provided they should not increase the capacity or life or value of the asset.
iii. Interest on loan. However if the receiver of the interest was the member of the same unit it was not allowable, similarly the interest of the loan taken from the non registered institution should not exceed Rs.20,000.00

iv. Remuneration, salary paid to employees, but pre-approval of Nepal Government was mandatory to pay more than Rs.25, 000.00 as salary.
v. Bad debts in the course of business.
vi. Transport and traveling expenses.
vii. Discount, Commission or amount of similar nature.
viii. Administrative Expenses.
ix. Depreciation as per the rate prescribed.
x. Advertisement and Entertainment expenses within the limit of 2% and 1% of total income except of capital nature.
xi. Preliminary expenses @20% within five years.
xii. Other Real expenses spent in generating business Income.

2.3.4 Expenses not allowed for Deduction:

The previous Income Tax Act, 2031 had also made provisions regarding the expenses, which are not allowed for deduction while calculating income from industry, business, profession or vocation under section 41.

i. Any personal or domestic expenses.
ii. Income tax before calculating income.
iii. Payment made without making deduction of tax at source.
iv. Capital expenditure and capital loss.
v. Amount paid to partner or any member of the unit.
vi. Rent on his own house or land property.
vii. Reserve and other funds.
viii. Expenses not related to income.
ix. Expenses pertaining to non taxable income.

2.3.5 Some other Provisions of The Act:

The act with 66 sections had identified the chargeable incomes and admissible expenses for each head of the income. The other features of this act were provisions of registration, provision of carry forward of loss, provision of common expenses, provisions of fine, penalty and appeal, provision of tax deduction at source, provision of tax refund, provision relating to tax collection in advance, provision relating to correction in the statement of income, provision relating to make agreement for avoidance of double taxation, provision relating to maintenance of accounts, provision of rectification, provisions of tax exemptions by different other acts and rules, provisions for avoidance of double taxation etc. the government had also issued Income Tax Rules,2039 for effective implementation of objectives of the income tax.

Part B: Thesis & Book Review

Many researches and studies can be found that have been done or conducted regarding to income tax. However, direct comparison of provisions of tax act particularly under business source of income has not found. A brief revision of the thesis or desertion and some books in this regard written at different times and available at Central Library, Campus library and in this market is as follows:

In 1984, Miss Roshani Shrestha wrote a dissertation entitled ‘Income Tax in Nepal’. She has described the historical background of income tax in Nepal and the role of income tax in Nepalese taxes structure. She has studied the problems of income tax in Nepal. She has found that revenue from the income tax is small due to tax evasion, which shows that the income tax policy is not well operated and the collective revenue is low. To increase the revenue from taxation, per capita income should be first increased. Growing per capita, real income provides the base to collect larger tax revenue. To increase income tax revenue, there must be efficient administration. She has suggested that the practice of tax evasion must be checked if the taxes are to contribute to the economic growth of Nepal.

In 1985, Mr.Roshan Shrestha presented a Master’s level dissertation entitled ‘Income Taxation in Nepal’: A study of its Structure and Productivity’. He has concentrated his dissertation mainly on the analysis of the structure of Income tax and its responsiveness and productivity with respect to GDP and its components. He has found that income tax has been contributing significantly in direct taxes. He has shown the constraints of resource gap in Nepalese Finance is serious. According to him, Nepal’s tax effort ratio is still very slow in comparison to other developing countries. Individual taxpayers contribute about two-third of income tax revenue. He had suggested that an effort should be initiated by the government to control tax evasion and tax avoidance.

In 1986, Mr.Shambhu Nath Regmi wrote a dissertation entitled' The Role of Income Tax in Nepal'. He has discussed the trend and contribution of Income tax in the developmental efforts of Nepalese government. He has suggested checking income tax evasion because it has been a great problem in income tax collection of Nepal. According to him, if the income tax evasion is checked properly, income tax can be contributed significantly to the economic growth of Nepal.

In 1985, Mr. Balanda Paudel made a study on the Nepalese tax structure in his dissertation entitled 'A Study of Nepalese Tax Structure'. He has made a review of revenue structure of HMG/N, analyzed revenue generation from individual taxes, analyzed the relationship of direct and indirect taxes with total revenue and GDP and assessed various weakness and problems of present tax system and put forward suitable recommendations to solve the problem. He has suggested that the tax system will be successful and effective with the political support, administrative efficiency and people's confidence. Given those conditions, the measures to be taken and the policy to be adopted should be such that could generate more revenue for our economic development.

In 2001, Miss Binita Shrestha wrote a thesis on 'Revenue Collection from Income Tax in Nepal, Problems and Prospects'. She has analyzed the effectiveness of Income tax collection policy, examined the problems of revenue collection from income tax and recommended measures for improvements of income tax law and management in Nepal. She has found that the level of income tax collection has been rising. Income tax system in Nepal is suffering from various problems such as narrow tax coverage, mass poverty of Nepalese people, lack of conscious taxpayers, inefficient tax administration, instability in government policy, etc.

In 2003, Mr.Bidyadhar Mallik publishes a book named 'Nepal Ko Aadhunik Aayakar Pranali'. The book consists of development of taxation system, and all tax related matters, international taxation, collection of tax and other matters related with the tax administration. The book has precisely defined the provisions of the new act clearly in Nepali Language with the practical examples wherever necessary. This book is useful to anyone who is interested in the subject of taxation. Mr. Mallik has presented the complexity of the act in simple and lucid manner so that it is easy to understand the act. He has shared his experience in his book. His book is descriptive and analytical. All the provisions in the act have been clarified in simple language. He has also clarified why some of the tax-exempted amounts have been brought into tax net by the new act. In some cases, he has also compared the provisions of the old act and the new act.

In 2003, Dr. Puspa Raj Kandel brought a book entitled ‘Tax Laws and Tax Planning’. The book had come into the market when there was not a book designed for master Level student under Tribhuwan University after the introduction of new income tax act. The book has included theoretical concepts of new income tax act with necessary numerical practices. The book also has briefly compared the some provisions of the previous and existing act. The book was divided into Income Tax, Tax Planning and Value Added Tax.

In 2003, Mr. Surendra Keshar Amatya, Dr. Bihari Pokharel and Rewan Dahal wrote a book entitled ‘Taxation in Nepal’. This book has also been designed to meet the requirement of the BBS 3rd year syllabus. Theoretical as well as practical aspects of taxation have been included in the book. The book is a descriptive one, not analytical one.

In 2004, Mr. Ishwor Bhattarai and Mr. Girija Prasad Koirala Published a book named ‘Tax laws and Tax Planning’ basically designed to meet the requirements of MBS II year students under Tribhuwan University: the book includes the theoretical concepts along with the practical exercises to be familiar with the subject matter for the master level students. The book is based entirely on new act and has tries to enrich tax planning, value added tax, and some other procedural matters under new act.

In May 2005, Mr. Indra Dhoj K.C. presented his thesis entitled “A Comparative Study of Income tax Act in Nepal”. This thesis was written in the earlier stage of implementation of new income tax act, 2058. In his study, he has concluded that implementation of new income tax act 2058 has caused decrease in tax revenue collection in comparison to goal. There is lack of awareness about new income tax act in the common taxpayer. Many provisions of the act are confusing and have dual meaning. There is a need to have debate on confusing provisions among tax payer, tax experts and tax administrators.

Research Gap

Various dissertations, books, reports and articles available to my best knowledge, have been reviewed while preparing this thesis. To be frank all the books have written professionally and this is natural too. Earlier i.e. before introducing of new act, there were very limited books available in the market designed to meet the student requirement for their academic purpose. But now number of books can be found and seen in the market based on new act according to the syllabus of Tribhuwan University and reviewing them in detail is time consuming and hence reviewing of some books has been done briefly. In fact, there is one type of wave in the market in writing books on taxation and this is good in one aspect that the trend at least has enhanced the 'Principle of Choice' to the students and readers. This also shows that there has been increasing trends of professionals, students and interest keeper in the field of taxation.

While reviewing the thesis, only a single thesis was found written by Indra Dhoj K.C. entitled 'A comparative Study of Income Tax Act in Nepal". The thesis had been prepared in the very beginning years of implementation of new income tax act, 2058. At that time, new income tax had not crossed 3 years. Thus, I have made an effort to compare New Tax Act with old Income Tax Act in the changed scenario. Hence I am pretty sure that this research work is completely new, unique, genuine and authentic one.

Chapter III

RESEARCH METHODOLOGY

To research is to get nearer to the truth to understand reality. Research in some form or the other has been a passion with mankind at all times. To search is to search again to take another more careful look, to find out more. We take another look because something may be wrong with what we already know. Hence research methodology refers to the various segmental steps to be adopted by a researcher in studying a problem with certain objectives in view. It is significant to have appropriate choice of research methodology that helps to make this research study meaningful and more scientific.

This chapter is devoted to the research methodology applied in the study to achieve the goals setout. Both primary and secondary sources of data have been used in the study. Opinion survey technique was adopted while collecting primary data. Questionnaires were distributed to tax payers, income tax experts and tax administrators so as to know their opinion towards various provisions of income taxation under business income under two acts. Economic survey was used as the major source of secondary data and annual report published by Inland Revenue Department also lies in this source. Different statistical tools are used to analyze the data. In this study, simple average, percentage, and chi-square test for hypothesis have been used to analyze the primary data.

3.1 Research Design:

A research design is a logical and systematic plan prepared for directing a research study. It specifies the objective of the study, the methodology and techniques to be adopted for achieving the objective. In other word, a research design is the specification of methods and procedures for acquiring the information needed. The research design is the task of defining research problem. It is the plan, structure and strategy of investigation conceived so as to obtain answers to research questions and control variance. (Kerlineer, 1986; Cited in Wolf & Pant. 2003: P.74). In fact, the research design is the conceptual structure within which the research is conducted. It constitutes the blueprint for the collection, measurement and analysis of data. (Kothari, 1990:39).

The research has been carried out for examining the different provisions of new act under business source of income and the differences with that of previous act under the same.

The study has also made an effort to find out problems confronting in implementation of new act in proper way and the collection revenue after introduction of new act. Hence, the nature of the study is on theoretical as well as practical based. The research designs followed in the study were as follows:

a) Historical Research:

History has been a great source of inspiration for researchers. In fact there is considerable research, which can be done only with the help and assistance of historical data and as such historical method for the study of research. It has very appropriately been said that past containing within itself all its past and seeds of its future. Historical research has been carried out in terms of the past records and methods. Historical research is analytical type of research. In analytical research, the researcher uses the facts and the information already available and analyzes to make a critical evaluation of the materials. Analytical research has been carried out in terms of role of total tax revenue, income tax revenue and business tax contribution in the public revenue of Nepal as secondary data.

b) Descriptive Research:

Descriptive research design seeks to describe a field or a problem by using questionnaires and opinionates. The approach is mostly directed towards identifying the various characteristics of the research problems and to create observations conducive to further research. It includes surveys and fact finding inquiry of different kinds. It is concerned with finding of facts relating to the subject matter, obtaining important data and getting new areas of knowledge by describing them. Descriptive research has been carried out in the study of the provisions of both income tax acts especially under business source of income.

To achieve the stated objectives of the study, opinion of 85 respondents were collected out of 90 distributed. Respondents have been classified into tax payers, tax experts and tax administrators, questionnaires given to the respondents have been included in appendix.

c) Case study research:

A case describes the actual working of a company or business situation at the time it was conducted, in this research, a case study was done in order to examine the differences in accounting method, assessment procedures, assessable income and tax liability, for this, an imaginative data of a manufacturing and trading company has been taken and studied under both the acts for the purpose of stated objective.

3.2 Populations and Sampling:

Trading houses, manufacturing organizations, banks, insurance companies, finance companies, hotels and airlines operating inside Kathmandu valley have been taken as population of taxpayers. Similarly registered CAs, professors/lecturers and lawyers have been taken as population of tax experts & personnel of Inland Revenue department and tax offices within the valley have been as population of tax administrators. The sample size of respondents was chosen conveniently; hence the method of sampling is non- probability sampling method. If the selection of the individual from the population to form a sample is not depending on the chance but depends on the judgment or convenience of the investigator, then the sampling is said to be non random sampling (non probability sampling). In other words, non probability sampling is a procedure of selecting a sample without the use of probability or randomization, it is based on convenience, judgment etc, (Sharma and Chaudhari 2058: 174). The denomination of the sample size of respondents is presented in table 3.1

Table no. 3.1

Group of Respondents and Sample size

S.N.	Denomination o f the respondents	Sample Size
1	Tax payers	30
2	Tax Administrators	30
3	Tax Experts	30
	Total	**90**

3.3 Sources and data collection procedures:

According to the nature of study, the study requires primary as well as secondary data.

The primary data has been collected through questionnaires, informal and formal dialogues, discussions and interviews with the respondents mentioned above. The secondary data has been collected from published and unpublished disclosure books, reports etc. Most of the data has been abstracted from Economic survey, Annual report published by Inland Revenue Department. Further, publications from renowned journals, magazines, articles and newspaper as well as internet web sites of concerned organizations have also been used.

3.4 Method of Analysis & Presentation:

Analysis is the careful study of available facts so that one can understand and draw conclusion from them on the basis of established principles and sound logic. This is an important part in research work. Therefore, collected data from secondary source and primary source have been presented in appropriate and suitable forms like tables, diagrams and figures. In the study, the responses obtained from respondents of three groups in different provisions of business under two acts have been presented and analyzed as per their opinions. Taxation practices of Nepalese entities under income tax act, 2058 has been compared with previous practices under previous income tax act, 2031.

3.5 Tools and Techniques of Analysis:

The collected information has been tabulated in a frequency distribution separately for the purpose of data presentation, analysis and exact findings, research in its nature is a comparative analysis in practical aspect of taxation system under business source of income between two acts, then simple analysis has been done by using statistical tools such as percentages, average, chi-square (χ^2) test hypothesis, correlation etc.

Available data have been presented and analyzed in descriptive way. In primary data analysis, some hypothesis has been tested to know whether there is significant difference in the opinion of taxpayers, tax administrators and tax experts.

3.6 Research Variables:

A variable is a quantity, which can assume any numerical value out of a given set of values. Research variables here refers to all those variables such as business income, business expenses, taxable income, non- taxable income, reduction allowed expenses and not allowed expenses, capital gain and capital loss etc. that have been used in the research work, especially under analysis of secondary data and case study research.

3.7 Weight of the Choice:

The questionnaires were asked for either to give yes/no response or to give their opinions; respondents were also given alternatives to rank. In this case, the first and last preferred choices have been assigned highest point and lowest point respectively. The total points got by each alternatives, the alternative with the highest percentage has been ranked as most important and the alternately with the lowest percentage has been ranked as the least important. for example, if there are eight alternatives, the most important ranked by the respondents gets eight points and the least important alternative ranked by the respondents gets one point, the alternative, which is not ranked, does not get any points.

3.8 Respondents' Profile:

Questionnaires were distributed to ninety respondents, 30 each of taxpayers, tax administrators and tax experts, out of them, eighty- five questionnaires were received, the following table reveals the different denominations, number and percentages of the respondents.

Table: 3.2 Respondents' Profile

S.N	Denominations	Total sample		Responses received	
		No	%	No	%
1	Tax payers	30	33.33	26	28.88
2	Tax administrators	30	33.33	29	32.23
3	Tax expert	30	33.34	30	33.33
Total		90	100.00	85	94.44

Chapter-IV

PRESENTATION AND ANALYSIS OF DATA

A.PRESENTATION AND ANALYSIS OF SECONDARY DATA

The analysis and presentation of secondary data is the main content of chapter four and this is one of the major parts of the study that enhances the knowledge of contemporary and past related matters. In this chapter, data related to the study that has been mentioned or given somewhere such as in economic survey published by Minister of Finance, annual report published by Inland Revenue Department and some other published report have been taken as secondary data and have been tabulated, presented, analyzed and interpreted in own way as findings. The reliability of the analysis under this chapter solely depends on the data available in those sources. In order to make the study compressive, this chapter has been divided into following heads.

4.1 Target and collection of income tax (comparative study for 8 years)

4.2 Internal revenue collection in FY 2063/064

4.3 Tax/GDP ratio

4.4 Findings.

4.1 Target and collection of income tax by IRD (comparative study for 8 years)

Since the effectiveness of the act or provision does reflect in the collection of revenue. Hence we must see how the change has in act made change in revenue collection and this also makes able to know the collection status of different taxes under different heads of income. However collection of revenue is not the sole part of the acts, because there are number of reasons and factor behinds this tasks. Act simply provides the legal framework to play. This topic has included the analysis of the secondary data from annual report published by Inland Revenue Department regarding the achievement in tax collection against the target set.

In the collection, study and analysis of secondary data, the annual report published by IRD was studied. The report basically consists of the general introduction about Inland Revenue Administration, work progress and collection of revenue and other matters in relating to the revenue collection procedures. While studying this report, some data are found that are related with the study and therefore have been presented and analyzed below.

Table no.4.1

Comparative study of income tax structure and its collection for 8 years

Particulars	F.Y. 2056/057	F.Y. 2057/058	F.Y. 2058/059	F.Y. 2059/060	F.Y. 2060/061	F.Y. 2061/062	F.Y. 2062/063	F.Y. 2063/064
Target								
Corporate Tax	**4,570,000**	**6540000**	**7260000**	**5430000**	**4000000**	**5080600**	**5906900**	**8964900**
Public Enterprises	1,770,000	2520000	3600000	2020000	1250000	1254200	1471900	1582500
Public Ltd Company	1,440,000	2270000	2320000	2120000	1550000	2461100	2550000	2739600
Private Ltd. Company	1,360,000	1750000	1340000	1290000	12000000	1365300	1885000	4642800
Individual Income Tax	**2,250,000**	**2730000**	**3010000**	**3582500**	**3447500**	**4118200**	**4473100**	**1534000**
Remuneration	430,000	550000	675000	1230000	1300000	1538500	1800000	1534000
Industry, Trade, Profession, Vocation	1,820,000	2180000	2335000	2352500	2147500	2579700	2673100	254923
House and land rent Tax	**240,000**	**310000**	**320000**	**380000**	**400000**	**431600**	**520000**	**560400**
Interest Tax	**320,000**	**400000**	**550000**	**470000**	**850000**	**869600**	**900000**	**967770**
total	**7,380,000**	**9980000**	**11140000**	**9262500**	**8697500**	**10500000**	**11800000**	**12681993**
Increment percentage	27.68	35.23	11.62	-11.47	-11.81	20.72	12.38	43
progress								
Corporate Tax	**4,440,000**	**5990000**	**4371208**	**3655556**	**4838689**	**5327323**	**5395701**	**11515835**
Public Enterprises	2,200,000	2930000	1770651	1251615	2056635	1331561	185888	1018318
Public Ltd Company	1,340,000	1930000	1429904	1236268	1531274	2467622	3537448	5711298
Private Ltd. Company	900,000	1130000	1170652	1167673	1250780	1528140	1687048	4786219
Individual Income Tax	**2,320,000**	**2400000**	**3731653**	**3177104**	**3539416**	**3871676**	**4234653**	**2028857**
Remuneration	450,000	600000	834849	1240291	1391522	1676982	1751505	2028857
Industry, Trade, Profession, Vocation	1,870,000	1800000	2896803	1936813	2147894	2194694	2483148	481221
House and land rent Tax	**250,000**	**260000**	**348524**	**381715**	**103282**	**496306**	**509062**	**599369**
Interest Tax	**410,000**	**460000**	**468294**	**845200**	**733395**	**757332**	**757032**	**996148**
Total	**7,420,000**	**9110000**	**8919680**	**8059575**	**9514782**	**10452637**	**10896448**	**15621430**
Increment percentage	20.26	22078	-2.09	-9.64	18.06	9.9	9.16	43.36

Rs. in ‘000’

From the study of above data, following findings have been drawn:

- Total period of 8 years is divided into two parts. In the first 3 years 2056/2057, 2057/058, and 2058/059, income tax was collected under Income tax Act, 2031. whereas in the next 5 years from 2059/060 to 2063/064 income tax was collected under new income tax Act 2058. The year 2059/060 is the year of implementation of new Act.
- The percentage of tax collected in comparison to the goal was 100.5, 91.28, 80, 81.7, 109.40, 99.55, 92.34, and 123.18 from fiscal year 2056/057 to 2063/064 respectively. From this data, it can be said that in the earlier years, percentage of tax collection in comparison to target in decreasing trend. When income tax Act 2031 was effective. On the hand, when income tax Act 2058 became effective from the fiscal year 2059/060, percentage of tax collection in comparison to target was in increasing trend. Even in the fiscal year 2063/064 it was 123.18 percentage of target .It can be understood that in the beginning year of implementation of new year tax act due to lack of awareness about new income tax act, target set for income tax collection couldn't be achieved . But after completion of 5 year of its implementation, the target was achieved substantially.
- The total collection of tax from business income was 6310000, 7790000, 7268011, 5592369, 6986583, 7522017, 7878849 and 11997056 from fiscal year 2056/057 to 2063/064 respectively. The above amount is in "000". Here business income includes corporate income and income from industry, trade, profession and vocation. the contribution of tax from business income in total tax revenue was 85.04%, 85.51%, 81.48%, 69.39%, 73.42%, 71.96%, 75.38%,and 76.80% respectively. From above data it can be concluded that tax from business income had contributed a major part in the tax revenue whether it was income tax act 2058 or 2031.In the beginning year of implementation of new income tax act 2058. The collection of tax from business income had negative been affected and it had also decreased total tax revenue collection during the period. The reason might be lack of effective implementation of new income tax.
- Income tax collected in the fiscal year 2063/064 was 15621430 thousands

which was 43.36% higher than previous year. Moreover the contribution of corporate tax, individual tax, house rent tax and interest tax was 74%, 16%, 4% and 6% respectively. From these data, it can be said that after completion of 5 year, income tax act 2058 has positively affected the collection of total tax revenue and tax revenue from business income has major portion in the total tax revenue.

4.2 Internal Revenue collection in FY 2063/064

Collection of revenue in desired volume is challenging task to the government. The target set by IRD for the collection of internal revenue in fiscal year 2063/064 and the actual collection of the revenue during this year has been tabulated as follows

Table 4.2

Internal revenue collection for fiscal year 2063/64

Rs. in "000"

Total	Target	Collection	Collection %
Total tax revenue(a+b)	**48698500**	**51541450**	**105.83**
Total Direct Tax (a)	**12682000**	**15621430**	**123.17**
Income Tax	10898900	14025912	128.69
House and Land Tax	560400	599370	106.83
Interest tax	967770	996148	102.85
Total Indirect Tax (b)	**36016500**	**35920020**	**99.72**
Vat	26423000	26704180	101.06
Excise Duty	8587500	8533844	99.36
Vehicle	106000	681996	67.79

Source: Annual Report 2063/64, Inland Revenue Department, Ministry of Finance

The above table depicts the collection of revenue has exceeded the target in most cases. The only vehicle tax hasn't met its target. VAT and exercise duty has exceeded the target by nominal figure. Total indirect tax has just met its target. So far, direct tax is concerned; it has substantially exceeded its target by 23.17%. The collection of income tax has exceeded its target by 28.29% which is highest out of all. It means that the collection of income tax in comparison to target is very satisfactory. Likewise house and land rent tax and interest tax has also exceeded their target by 6.83% and 2.85% respectively. In aggregate, total tax revenue has exceeded its target by 5.83%. It can be said that income tax Act 2058 has positive impact on tax collection.

4.3 Tax/ GDP Ratio

Here attempt has been made to know and analysis of the share of taxation in total gross domestic product of Nepal.

Table 4.3

Contribution of Tax revenue and income tax revenue in GDP of Nepal from Fiscal year 2057/058 to 2063/64

Rs in million

Fiscal year	**GDP**	**Tax Revenue**	**Tax revenue as % of GDP**	**Income Tax Revenue**	**Income Tax Revenue as % of GDP**
2057/58	441519	38865	8.80	9110	2.06
2058/59	459442.8	39330.6	8.56	8919.7	1.94
2059/60	492231.3	42586.9	8.65	8059.6	1.64
2060/61	536748.9	48173	8.97	9514.8	1.77
2061/62	589411.6	54104.7	9.18	10452.6	1.77
2062/63	654054.5	57430.4	8.78	10896.4	1.67
2063/64	727089	71127	9.78	15621.4	2.15

Source: Economic Survey 2064/65, Ministry of Finance

Nepal is one of the least developed countries in the world. Nepalese economic activity is very slow and does not show any drastic positive change. There are several reasons behind this fact and the country is not even capable of maintaining internal regular and development expenditure itself. Revenue collection is not satisfactory and since there is very low level of economic activity, tax revenue is also very low. The moderate Tax/ GDP ratio ranged from 15-18 percentages in other developing countries(World Bank Report 1991) but in Nepal it is obvious from the fact that Tax/GDP ratio never exceeded ten percentages and it was even clustered around nine percentage throughout the year FY 2057/58 to FY 2063/64. Table 4.3 shows the contribution of tax revenue in GDP of Nepal over 7 years from FY 2057/58 to FY 2063/64. Tax/GDP ratio has fluctuated between 8.56 percentages to 9.78.

If the share of Tax revenue on GDP is considered it is not found satisfactory. From FY 2057/58 to fY2059/60, Tax /GDP ratio is in decreasing trend. Then after, from FY 2060/61 to FY 2061/62, it is in increasing trend. The Highest Tax /GDP ratio was 9.78% in FY 2063/64. It seems that Tax /GDP ratio is in improving trend. The mean Tax /GDP ratio for the seven years has been computed to be 8.96 percentages. It has already been stated that moderate

Tax/GDP ratio in developing countries ranges between 15 to 18 percentages but Nepalese Tax/GDP ratio averaged 8.96 percentages, which is too below the minimum limit. So, Tax/GDP ratio has not been found satisfactory.

Income tax /GDP ratio of Nepal has not exceeded 2.15 percentages since FY 2057/58 to FY 2063/64. Income tax /GDP ratio in FY 2057/58 was 2.06 where as it was 2.15 percentages in FY2063/64 which was highest out of all. The average contribution of income tax to GDP of Nepal since the year 2057/58 to 2063/64 was about 1.86 percentage. The income tax /GDP ratio from FY 2057/58 to FY 2059/60 has decreased gradually. Then after, the ratio has increased up to 2.15% in FY 2063/64. It seems that slowly contribution of income tax to GDP is increasing. In aggregate, the role of income tax in total GDP is very low. It is perhaps because of low level of economic activities in the country. Policy should be taken consciously to combat such situation prevailing in the country and to foster economic activities.

4.4 Findings:

While studying above secondary data to the study, some findings can be outlined as follows:

1. In the earlier years, when income tax act, 2031 was effective, percentage of tax collection in comparison to target was in decreasing trend. On the other hand, when income tax act 2058 became effective from the fiscal year 2059/60, % of tax collection in comparison to target is in increasing trend. Even in the fiscal year 2063/64, it was 123.18 % of target. It can be understood that in the beginning year of implementation of new income tax act. Due to lack of awareness about new income tax act, target set for income tax collection couldn’t be achieved. But, after completion of 5 years of its implementation, the target was easily achieved.

2. Tax from business income had contributed a major part in the total tax revenue whether it was income tax act 2031 or 2058. it ad contributed 74% in total tax revenue of 2063/64.

3. The actual collection of the revenue in fiscal year 2063/64 in comparison to the target set by IRD is satisfactory. Out of total internal revenue, indirect tax has just met its target. But, direct tax has substantially exceeded its target by 23.17%. . . The collection of income tax has exceeded its target by 28.29% which is highest among other tax.

4. The mean tax/GDP ratio from FY 2057/58 to FY 2063/64 is 8.96% which is very low in comparison to other developing countries. . Income tax / GDP ratio during the period has not exceeded 2.15%. The average contribution of income tax to GDP of Nepal since the year 2057/58 to 2063/64 was about 1.86% which indicates that Nepal has very low level of economic activities.

B.Comparative study

A comparative study of two income tax acts is the main objective of this study. In this chapter, study has been designed to get the theoretical as well as accounting concept for the clear distinction between the business expenses and incomes under both the acts; Income tax Act, 2031 and Income tax Act, 2058. firstly expenses and incomes has been tried to study under both the acts, comparatively and one accounting problems have been tried to solve to show the actual differences in accounting methods of business taxation for tax payers under the acts.

5.1 Background

In the course of development and modernization of income tax system, the new 'Income Tax Act, 2058'has been enacted and the new act is in practice since Chaitra 19,2058(April 01,2002)'. This new act has completely replaced the previous income Tax Act, 2031(1974), which was in existence form Kartik 05, 2031. Previous income tax Act, 2031 was amended several times (8 times) and remained for about 28 years before it was replaced by new act.

New act, more or less seems trying to be in the International Standard. It has introduced various new concepts and some of the provisions of previous acts are amended and some are taken same. Definitely there are some differences in the provisions otherwise it had no meaning to introduce new act replacing existing act. Change of the act has made Tax experts, practitioner, tax payers and other in the concerned field, confused in the understandability as they were having the knowledge and practice according to the previous act and now have to follow the new provisions under new act. Computation of assessable income, taxable income and tax liability of business also require additional effort under new provisions of new act. It would be better understood of the same or similar provisions of new act. Since the comparison of whole act with previous act is time consuming and vast, the thesis attempts to compare the different provisions, its impacts and effectiveness only under the business source of income. Following table depicts the different provisions comparatively between the new Income Tax Act, 2058(2002) and previous Act, 2031(2974) under the business Income of Income.

5.2 Comparisons in expenses:

S.N.	Income Tax Act,2058	Income Tax Act,2031
01.	Expenses are inclusive.	List of expenses are exhausting.
02.	All interest amounts paid on the loan taken for the purpose of business or investment by the person during the year is admissible expenses. However in case of a resident entity controlled by a tax exempted institution and that entity has paid interest to the controlling institution is not exceeding to the sum of total interest derived and 50% of the entity's adjusted income calculated without including interest expenses & interest income. However portion of the interest not deducted during the year will be deducted in next year.	Interest amount paid on the loan taken for the purpose of business or investment was admissible. But for the interest amount paid to the loan taken from individual or unregistered firm or body is not admissible more than 20,000.00. Furthermore the concept of controlled entity was not there so there was no limitation neither was the provision of forwarding to the next year for the remaining amount of interest not deducted due to the limitations. But interest paid on loan taken from a member of business unit, partner or from owner was not admissible expenses.
03.	All cost incurred during the year in respect of the repair and improvement of depreciable assets owned and used by the person for the production of income from the business and investment during the year are admissible to the extent of 7% of depreciable base of respective pool as	Repair and maintenance expenses for the assets used for the purpose of business except of capital nature was admissible regardless of ownership of the asset. There was no limitation of repair and maintenance expense as admissible but capital nature of repair and maintenance expenses were not allowed for the

	defined in new act.	deduction.
04.	Cost of trading stock is calculated by the adding purchase during the year to the cost of opening stock and deduction of cost of closing stock. Closing stock should be valued at cost price or market price whichever is lower. Also introduced the concept of prime cost and factory cost in the valuation of the trading stock.	Cost of trading stock was used to be evaluated on the basis of cost price, prevailing market price or at cost price or market price whichever is less. There was no concept of prime cost or factory cost in evaluation of trading stock.
05.	Defined pollution control cost as a cost incurred by a person with respect to a process or an asset that seeks to control pollution or other wise protect or sustain the environment. The lower amount of actual pollution control cost or 50% of adjustable taxable income from all business is admissible .Excess amount of expenses not deducted due to the limitation can be capitalized in the beginning of the next income year under block D.	The criteria of expenditure to claim for deduction was 50% of the total investment made for this purpose and the expenditure has to be deducted up to three years. Later it was amended by Finance act as to claim for two equal installments within two years.
06.	The new act has also defined research and development cost as a cost incurred by a person for the purpose of developing the person's business and improving business products or process. The lower amount of actual research and development cost or 50% of adjustable taxable income from all	The act had not defined the provision of Research and Development cost, such as expenses was taken as capital nature expenditure and was not admissible. However 40% cost of assets could be claimed for deduction if added later at similar industry or development of new technology.

	business is admissible expenses. Excess amount of expenses not deducted due to the limitation can be capitalized in the beginning of the next year income under block D.	
07	Introduction of depreciation Pool system. The depreciable assets have been classified into 5 blocks depending upon the nature (useful life) of depreciable assets.(ITA 2058,sec. 19,schedule 2)	The depreciable assets had been divided into 5 groups (according to income tax rules 2049, 10) depending upon the nature (useful life) of depreciable assets.
	Method of charging depreciation is only Diminishing Balance Method to the assets under Block A,B,C,D and straight Line Method to intangible assets Block E.	Method of charging depreciation may be Straight Line or Reducing Balance Method on Individual asset method.
	5% rate of depreciation is applicable for all types of buildings or structure or of similar works of permanent nature.	Depending upon the nature of structure, the rate of depreciation of buildings or permanent structure varied 5%, 7% and 50% on diminishing Balance Method.
	Computers, office equipment, data processing equipment and furniture have been put together in a same block (block B) and the rate of depreciation has been specified as 25%.	Computers office equipment, data processing equipment and others were grouped into one and Furniture was put into another groups and the rate were varied differently depending upon the nature of assets.
	Means of transportation have been put together in a same block (block C) and depreciated at the rate of 20% to all types of transactions.	Means of transportation however were grouped into same group but the rate was greatly varied from 15 to 25% depending upon the types of transportation.
	Construction of earth moving	All other types of depreciable assets not

	equipment and portion of pollution control cost and Research & Development cost plus any tangible assets not included in other blocks have been kept under block D and depreciated @ of 15%.	fall into 5 groups were depreciated @ 15%.
	Intangible assets have also been depreciated	There was no provision of depreciation to intangible assets.
	Accelerated rate (additional 1/3) of depreciation is applicable only for Manufacturing entity other than liquor and tobaccos as per sec.3 of industrial enterprise act 1992 and other specific sectors, sec, 19, schedule 2.	According to the (Industrial Enterprise Act sec. 15) Accelerated rate of depreciation available to all the industry.
	No such additional depreciation facility has been given in the act of rules.	Additional depreciation up to 50% for the industrial asset was available in the case of manufacturing industry working in more than a single shift, rule 10 Income Tax Rules.
08	Bad Debts after the reasonable proofs can be written off. However the bad debts of the outstanding loan of bank or financial institution should be conforming to the standards of prescribed by Nepal Rastra Bank (sec. 25.2).	The debt which was considered to have become barred and written off as irrecoverable can be written off irrespective of format for banks or financial institution (ITA 2031 sec. 12).
09	Any unrelieved loss of the year incurred by the person from any other business can be put forward up to 4 years. Further more losses incurred by electricity projects, infrastructure	There was a provision of forwarding such business losses up to 3 consecutive years. And there was neither a provision of forwarding losses up to 7 years applicable to electricity projects,

	projects own, operate and transfer to HMG/Nepal, can be forwarded up to 7 years. Similarly the losses of banking and general insurance business can be carrying backward up to preceding 5 income years but this is not applicable incase of loan loss provision.	infrastructure projects own, operate and transfer to HMG/Nepal nor a provision of carry backward of losses applicable to banking and insurance business sector.
10	No limitation has been applied to pay the amount of salary to the employee, hence no question of taking approval of HMG Nepal.	Payment of salary to employee exceeding Rs. 25000.00 per month has to be taken per approval of HMG.
11	According to new Income tax Act, limitations of advertisement and hospitality expenses are not applicable.	According to Industrial Enterprise Act 2049, there was a limitation of revenue nature of advertisement expenses up to 2% of total income if paid without paying VAT & hospitability expenses only 1% of total income.
12	Gain on depreciation asset and gain on disposal of business asset are taxable under this act. Similarly some capital nature expenses such as pollution control cost, research and development cost and the expenses incurred during the gain of disposal of business asset are admissible subject to the certain criteria.	Generally capital gains were treated as non-taxable income and capital expenses were also inadmissible expenses.

5.3 Comparisons in Income:

S.N.	Income tax Act, 2058	Income Tax Act,2031
01.	The sources of income has been divided into 3 sources: Income from Employment Income from Business Income from Investment	Income sources were classified into 5 sources. Income from Agriculture Income from Business/Profession and Vocation Income from Remuneration Income from House and Land Rent Income from Other sources
02.	Capital Gain is taxable income.	Capital Gain was not in tax base.
03.	Income received from change in accounting method, excess of exchange rate variation, underpayment of interest is business income.	Such incomes were not considered. Sometime they used to be treated as others source of income.
04.	Foreign income of residents is in tax net in the act.	Foreign income of residents was not in the tax net systematically.

5.4 Comparison Between Tax Rates:

S.N.	Income Tax Act, 2058	Income Tax Act, 2031
01.	Trading Company: 25% Manufacturing:20% Special Sector:20% Other Industry:25% General Insurance Company: 30% Banking/Financial Company:30% Export Profit: 20% (Industry)	Trading Company: 25% Manufacturing: 20% All other Industry: 25% Insurance Company: 25% Banking/Financial Company: 30% Export profit was tax exempted however Finance act 2058 amended and taxed export Profit at 14% or not more than 0.75% of export sales.

5.5 Computation of Income from Business as per ITA,2058

Specimen

S.N.	Particulars	Rs.	Rs.
01.	Service Charge (7.2)	XXXX	
02.	Disposal of trading stock	XXXX	
03.	Net gain from disposal of business assets or liabilities (7.2)	XXXX	
04.	Net gain from disposal of pool of depreciable assets (7.2)	XXXX	
05.	Prizes of gifts in connection with business (7.2)	XXXX	
06.	Amounts received in lieu of accepting any restrictions regarding business (7.2)	XXXX	
07.	Amounts amount received from any investment directly related to business.	XXXX	
08.	Incomes to be included due to change in accounting methods (22.6)	XXXX	
09	Excess amounts received due to exchange rate variation(24.4)	XXXX	
10.	Bad Debts recovered (25.1)	XXXX	
11.	Proportionate amounts received under long term contracts (26.1)	XXXX	
12.	Under payment of interest according to market rate (27.1)	XXXX	
13.	Receivable amounts paid to others (29)	XXXX	
14.	Amounts received for compensation(31)	XXXX	
15.	Other income received from business if any	XXXX	
Gross Income from Business (A)………			XXXX
B.	Less Admissible expenses	XXXX	
1.	Interest expenses (14)	XXXX	
2.	Cost of trading stock(15)	XXXX	
3.	Repair and improvement cost (16)	XXXX	
4.	Pollution control cost (17)	XXXX	
5.	Research and Development cost (18)	XXXX	
6.	Depreciation (19)	XXXX	
7.	Reserve fund for Bad debts (59)	XXXX	
8.	Other expenses	XXXX	
Total Allowances deductions (B)			XXXX
Assessable Income From Business before loss adjustment (A-B)			XXXX
	Less: Adjustment of business losses (20)		
1.	Unrelieved loss from other business this year (20)	XXXX	
2.	Unrelieved loss form business (past 4 years) if any (20)	XXXX	
	Total Adjustable business loss (1+2)=C		XXXX
	Assessable income from Business (A-B-C)		XXXX

Statement of Total Taxable Income

Particulars	Rs.	Rs.
Assessable income from Business	XXXX	
Assessable income from Investment (if any)	XXXX	
Assessable income from Employment (if any)	XXXX	
Total assessable income		XXXX
Less: Reductions: a. Retirement Contributions (63) b. Donation –Section (12)	 XXXX XXXX	
Total taxable income		XXXX

5.6 Computation of Income from Business as per Income Tax Act, 2031

Specimen on P/L A/C

S.N.	**Particulars**	**Rs.**	**Rs.**
A.	Net profit as per the P/L A/C		XXXX
B.	Add: Inadmissible Expenses	XXXX	
1.	Personal and households expenses	XXXX	
2.	Rent on own house property	XXXX	
3.	Interest on Capital	XXXX	
4.	Capital Expenditure and Capital loss	XXXX	
5.	Income tax paid	XXXX	
6.	Provisions or reserve fund	XXXX	
7.	Dividend paid	XXXX	
8.	Salary to owner and partners	XXXX	
9.	Dividend paid	XXXX	
10.	Commission and discount paid to employees in addition to regular remuneration	XXXX	
11.	Commission, discount and bonus paid to proprietor/partners	XXXX	
12.	Gifts and presents	XXXX	
13.	Fine and penalty	XXXX	
14.	Advance payment	XXXX	
15.	Excess of amount not verifiable	XXXX	
16.	Overvaluation of opening stock	XXXX	
17.	Under valuation of closing stock	XXXX	
18.	Expenses not related to business	XXXX	
Total Inadmissible expenses (B)			XXXX
C.	Less: Admissible expense but not charged to P/L A/C if any		XXXX
D.	Less: Tax free income charges in P/L A/C 1. Agriculture income	 XXXX	

	2.Dividend 3.Capital Gain 4.Interest on Tax free Govt. debenture. bond 5.Interest on fixed deposit 6.Amount received from termination of life insurance policy 7.Other income specified as tax free by the act Total Tax Free Income (D)	XXXX XXXX XXXX XXXX XXXX	XXXX
E.	Add: Taxable Income not charged to P/L account		XXXX
F.	Less Income not related to Business 1.income from house rent 2.income from other source Total income not related to business (F)	XXXX XXXX	XXXX
Total income from business before common expenses (A+B+E)-(C+D+F)			XXXX

Statement of Total Taxable Income

S.N.	Particulars	Rs.	Rs.
01.	Income from business	XXXX	
02.	Income from House and Land Rent	XXXX	
03.	Income from Remuneration	XXXX	
04.	Income from other sources	XXXX	
05.	Total Net Income before deducting LIP and Donation		XXXX
06.	Less: Reductions: Life Insurance Premium (in case of proprietorship) donation	XXXX XXXX	
07.	Total Taxable income		XXXX

In order to find out the deviation in the provisions of business taxation fewer than two acts, one case study has been done to find out the numerical deviation in the provisions by calculating the tax liability. A business company would have to pay for the income year 2059/60 assuming if the new act had not been enacted at the time. This is simply an imaginary data and just tries to examine how the change in tax law has made change in tax liability of the business sector. Its purpose is to study the change in method of assessing taxable income and to know whether there is increase or decrease in tax liability of contribution of business in income tax before and after the implementation of the new Income Tax Act, 2058. however many factors are responsible to bring the change in tax liability of business company, so it will not be fair to make conclusion that the change in tax liability is not just because of change in tax laws. But such comparative study does help in understanding both act in terms of accounting way and shows how was the businesses taxation under previous act and now how it has been treated under present act.

Keeping other things remaining the same, it may be appropriate to examine the change in contribution from business sector due to change in tax laws. For this an imaginary data has been developed and taxable income and tax liability have been calculated under different provisions of both acts so that it can give the clear change in assessment process, way of treating incomes and expenditure and some related tax variables besides liability. Following is the study for this purpose.

Trading and profit and loss account of a Manufacturing Company for the Income Year 2059/60

Rs. in "000"

Particulars [DEBIT]	Amount	Particulars[CREDIT]	Amount
To opening stock	220.00	By sales	26,360.00
To purchase	20500.00	By closing stock	165.00
To freight	85.00	By gain on sale of land	40.00
To office and administrative expenses	340.00	By miscellaneous income	210.00
To salary to staffs	920.00	By house rent	75.00
To staff welfare expenses	180.00	By bad debt recovered	50.00
To Dashain allowances	110.00	By refund of custom duty	28.00
To business Promotion expenses	120.00	By prize received	25.00
To office rent	240.00	By gain on transaction of foreign exchange	55.00
To R & D cost	205.00	By interest income from Agriculture Development Bank(including TDS Rs.13.80)	92.00
To printing and stationery	55.00		
To clearing and forwarding expenses	190.00		
To preliminary expenses	60.00		
To advertisements expenses	328.00		

To repair and improvement expenses	130.00		
To Bonus	280.00		
To pollution control cost equipment(total)	550.00		
To depreciation on : computer: 40.00 office equipment: 50.00 furniture (metal and wooden): 30.00 car: 90.00	210.00		
To traveling expenses	105.00		
To Audit fees	175.00		
To legal expenses	115.00		
To Interest paid	92.00		
To provision for tax	70.00		
To Fine & penalty	60.00		
To provision for bad debts	28.00		
To miscellaneous expenses	160.00		
To donation	130.00		
To general reserve	200.00		
Net Profit c/d	1,297.00		
	27155.00		27155.00

Additional information:

- Stock of closing goods was overvalued by 10 percent.
- Actual bad debt for the year was Rs. 75,000.00 that was not included in the account.
- Opening book value of computer, car, office, equipment and furniture was 60,000.00, 250,000.00, 150,000.00 and 130,000.00 respectively.
- Legal expenses include Rs. 65,000.00 paid to lawyer for income tax appeal.
- Repair and maintenance includes Rs. 75,000.00 being cost of computer purchases on Magh 01 and Rs. 25,000.00 is the cost of metal furniture added on New Year (Baisakh 01, 2060) and balance is repairs expense expended for car.
- Salary includes Rs. 40,000.00 paid to the senior manager without taking pre approval of HMG/N.
- Interest expenses include Rs. 50,000.00 paid to the local moneylender who used to supply money on credit @ 24% interest rate without registration.

- Pollution control cost includes Rs. 150,000.00 paid to the computer engineer for Annual Maintenance Contract.
- Advertisement expenses include Rs. 120,000.00 cost of publicity of the goods produced by the company without paying Vat.
- A sum of Rs. 12,000.00 was the household expenses of accountant and was included in the miscellaneous expenses.
- Dashain expenses were paid without deducting TDS.
- Postpaid mobile bill of Rs. 12,000.00 of manager was paid by employer and has been included in traveling expenses. The company has provided this facility to manager for private use without deducting tax. Similarly fuel expenses of the car amounting Rs. 2,000.00 has been included under this head.
- $1/4^{th}$ of the car was used for private purpose of the manager.
- Company had expended Rs. 60,000.00 before commencing business which has been treated as preliminary expenses and has been accounted total amount to show the effect in both acts.
- The company is running in fifth year and loss of Rs. 200,000.00 is still to be recovered.
- Staff welfare expense includes Rs. 40,000.00 drawing by accountant for his personal visit to home town and Rs 60,000.00 paid to life Insurance Premium of staff.
- Donation was given to Nepal Communist Party (UML) for election campaign though the election wasn't held.
- Actual bad debt recovered in the income year 2059/60 was Rs. 150,000.00 and in the previous year IRO had not accepted Rs. 50,000.00 as bad debt due to lack of proof.
- Furniture of BV 50,000.00 was disposed at Aashadh end of previous year.

Calculation of:-

Assessable income from Business (Under ITA, 2058)

- **Net income from Business (Under ITA, 2031)**
- **Net income from House Rent (Under ITA,2031)**
- **Net income from other sources (Under ITA, 2031)**
- **Tax liability (Under two acts) of the company for IY 2059/60**

A. Comparison of Tax Liability of the ABC Company for the assessment year 2060/61 under ITA, 2058

Rs in

"000"

Particulars	Rs.	Rs.
Income from Business		
Sales	26360.00	
Bad debt recovered	100.00	
House rent	75.00	
Rent from vacant land	35.00	
Royalty received	20.00	
Miscellaneous income	2+10.00	
Refund of custom duty	28.00	
Prize received	25.00	
Gain on transaction on foreign currency	55.00	
Interest from ADB (including TDS Rs. 13.80)	92.00	
Gross income from Business		26,900.00
Less: Admissible expenses		
Cost of trading stock (WN I)	20,845.00	
Actual bad debt	75.00	
Depreciation: (WN 2)		
Block B (Computer +Office equipment + furniture) Rs.116.134		
Block C (car) Rs. 66.675	182.809	
Legal expenses (115-65)	50.00	
Repairs and improvement cost of car (WN 3)	17.5	
Salary to staff	920.00	
Interest expenses	92.00	
Amount paid to computer engineer fro AMC	150.00	
Advertisement expenses	328.00	
Dashain allowances to staff	110.00	
Traveling expenses (105-12-2)	91.00	
Staff welfare expenses (180-40)	140.00	
Office & administrative expenses	340.00	
Bonus	280.00	
Business promotion expenses	120.00	
Office rent	240.00	
Printing & stationery	55.00	
Preliminary expenses (balance)	12.00	
Audit fees	175.00	
Miscellaneous expenses(160-12)	148.00	24371.309
Assessable Income from Business before PCC and R&D cost and loss		2,528.691
Less:	400.00	
Pollution control cost (WN 4)	205.00	605.00
R & D cost (WN 5)		1923.691

Assessable income from business before loss adjustment Less: business loss that has to be recovered Assessable income from business **Capital Gain** Gain on sale of land		 200.00 1,723.691 40.00
Total Assessable income		1763.691

Statement of Total Taxable Income

Particulars	Rs.
Net Income from business	1723.591
Capital gain	40.00
Total Assessable income	1763.691
Less: donation(WN 11)	100.00
Total Taxable Income	1663.691

Calculation of tax liability

Total taxable income =Rs. 1663.691

Tax liability=0.20*1663.691=Rs.332.738

Tax liability	=Rs. 332.738
Less: Advance TDS in interest from ADB	=Rs.13.80
Total tax liability from business	Rs. 318.938

Total tax liability =Rs. 318.938

Working Notes:

1. Calculation of cost stock

Opening stock	Rs. 220.00
Add: purchase	Rs.20, 500.00
Freight	Rs. 85.00
Clearing & forwarding cost	Rs.190.00
Less: Closing stock	Rs. 150.00
Cost of stock	Rs. 20,845.00

2. Calculation of Depreciation and Repair and Improvement Cost

	Block B	Block C
Beginning WDV	340,000.00	250,000.00
Add: Addition during the year		

Computer 75,000*2/3 (Magh 01)	50,000.00	Nil
Metal furniture 25,000*1/3(Baisakh 01)	8,333.00	
Less: disposal during year		
Sale proceeds during year	(50,000.00)	Nil
Depreciation base	348,333.00	250,000.00
Depreciation rate	25.00	20.00
Add: 1/3 rate of accelerated		
Depreciation (available to industry)	8.34	6.67
	33.34%	26.67%
Total eligible depreciation	116.134	66.675

3. Calculation of allowable Repair & Improvement Cost

Actual Repair expenses: Rs. 30.00
7% of Dep.Base (250): Rs. 17.5
Whichever is less

Hence eligible Repair &Improvement Cost is Rs. 17.5

4 Calculation of Pollution Control Cost

Assessable income before PCC and R & D	2528.691
Less: loss forwarded	(200)
Adjusted Taxable income for the purpose of PCC	2328.691
(50% of Rs. 2328.691: Rs1164.346	
Or actual Rs 400 whichever is lower	
Hence Eligible PCC is Rs.	400.00

5. Calculation of R & D Cost

Assessable income before PCC and R & D	2528.691
Less: loss forwarded	(200)
Adjusted Taxable income for the purpose of R & D Cost	2328.691
(50% of Rs. 2328.691: Rs1164.346	
Or actual Rs 205 whichever is lower	
Hence Eligible R & D is Rs.	(205.00)

6. Since the tax rate applicable to capital gain is @ 20% it has been included in total taxable income and taxed accordingly.

7. Bonus expenses, advertisement expenses are fully admissible under ITA 2058.

8. There is no limitation in interest paid to non-registered money-lender, to pay salary more than Rs. 25,000.00 per month to any employee of the company need not to take approval of HMG/N admissible and preliminary expenses incurred in business for the purpose of deduction is fully admissible under ITA 2058.

9. Forward of business loss is up to 4 consecutive years under ITA 2058.

10. Donation given to political parties registered in election commission is admissible comparing the limit under ITA 2058.

11. Calculation of allowable donation:

- Actual donated Rs. 130,000.00 or,
- 5% of Adjusted Taxable income (Rs. 2378.691)= Rs. 118.935 or ,

Rs. 100,000.00 whichever is less.
Hence, eligible donation is Rs. 100,000

B: computation of Tax Liability of the ABC Company for the Assessment year 2060/061 under ITA, 2031

Particulars	Rs.	Rs.
Net Profit as per P/L A/C		1297.00
Add: In admissible expenses		
Amount paid for income tax appeal	65.00	
Excess amount of repair & maintenance of car	100.00	
Salary paid to manager without approval of HMG/N	40.00	
Interest paid to non-registered lender	30.00	
Excess amount of depreciation (210-128.92) WN 1	81.08	
House hold expenses of accountant	12.00	
Mobile Bill of manager paid by employer	12.00	
Excess amount of fuel expenses of car	2.00	
Donation to CPN (UML)	130.00	
Bonus:	280.00	
Excess amount of PC cost(50% of total 400) WN5	200.00	
Excess R & D expenses WN6	205.00	
Excess amount of advertisement (120-110.3)	9.70	
Excess preliminary expenses (60-0.2*60) WN7	48.00	
Amount expended for personal reason of accountant and included in staff welfare expenses	40.00	
Provision for income tax	70.00	
General reserve	200.00	
Fine & penalty	60.00	
Provision for bad debts	28.00	1612.78
		2909.78
Less: overvaluation of closing stock	15.00	
:actual bad debt not shown in P/L A/C	75.00	
:bad debt recovered previously not allowed	50	140.00
		2769.78
Less: Income not related to business and non taxable income		
Gain on sale of land	40.00	
House Rent	75.00	
Prize received	25.00	
Interest income from ADB	92.00	
Interest on govt. bond	55.00	287
Net income from business before donation and bonus		3056.78
Income from House Rent		75.00
		3131.78
Income from other sources:		
Receipt of prize	25.00	
Gain on transaction of foreign currency	55.00	
Interest from ADB	92.00	172
		3303.78

Statements of Total Taxable Income

Particulars	Rs.
Net Income from business Net income from House Rent Net income from other sources Total Net income before donation and bonus	3056.78 75.00 172 3303.78

Total income before donation and bonus	Rs. 3303.78
Less: donation	Nil
Total net income before bonus	Rs. 3303.78
Less bonus $\frac{3303.78*10}{100}$ or actual	Rs. 280
Total net income	**3023.78**

Calculation of tax liability

Total net income Rs.3023.78

Tax liability= 0.20*3023.78

=Rs. 604.756

Tax liability	Rs. 604.756
Less: TDS in interest from ADB	Rs. 13.80
Tax liability	Rs.590.956

Total tax liability =Rs 590956

Working Note:

1. Advertisement expenses without paying Vat were admissible only up to 2% of Gross Profit.

Calculation of gross profit:

Sales		Rs. 26,360.00
Add: Closing Stock		Rs. 150.00
		Rs. 26,510.00
Less: Opening Stock	Rs. 220.00	
Purchase	Rs. 20,500.00	
Freight	Rs. 85.00	
C & F cost	Rs. 190.00	Rs. 20995.00
	Gross Profit	Rs. 5515.00

2% of gross profit (Rs. 5515) Rs 110.3

Eligible amount of advertisement =Rs. 110.3

Excess amount of advertisement for publicity =Rs. 120-110.3= Rs. 9.70

2. Gain on sale of land, interest on government development bond was non-taxable income under ITA, 2031. There was not the concept of capital gain.
3. Dashain allowance was tax exempted under ITA, 2031.
4. Pollution control cost had to be claimed in two equal installments (50% in an income year) of two consecutive years under ITA, 2031.

5. there was not R & D concept under ITA, 2031, however similar expenses was admissible up to 10% of gross income or actual income paid whichever is less at the year of expenditure as technology and product development expenses.

Calculation of gross R & D

Gross profit	=Rs. 5515.00 (WN 1)
10% of GP	=Rs. 551.5 or
Actual expenses	=Rs. 205.00

Whichever is less.

Eligible R & D expenses =Rs. 205.00

6. Preliminary expenses were admissible @ 20% up to within 5 years from the year of commencing under ITA, 2031.

7. Repair and maintenance was admissible until and unless the expenses wasn't proved as capital expenditure under ITA, 2031.

8. Interest expenses paid to the unregistered lender was admissible only up to Rs. 20,000.00 under ITA, 2031.

9. Donation given to Political parties regardless of registration was not admissible under ITA, 2031.

10. The depreciation of the depreciable assets was as per followings.

Items	**Book Value**	**Rate in %**	**Depreciation**
Car	25,000.00	(15+15*1/3)	50,000.00
Computer	60,000.00	(20+20*1/3)	16,002.00
Furniture:			
Metal	65,000.00*	(15+15*1/3)	13,000.00
Wooden	65,000.00*	(10+10*1/3)	8,667.00
Office equipment	150, 000.00	(15+15*1/3)	30,000.00
	Eligible depreciation	(a)	117,669.00

Depreciation of added assets:

Addition of computer on Magh 01,

$$\text{Rs. } \frac{75{,}000*0.2667*6}{12} = \text{Rs. } 10{,}001.00$$

Addition of metal furniture on Baisakh 01,

$$\text{Rs. } \frac{25{,}000*0.20*3}{12} = \text{Rs. } 1250.00$$

Eligible depreciation of added assets (b) =Rs. 117,669 +Rs. 11251.00
=Rs. 128.920

Excess amount of depreciation =Rs. 210.00-128.920 =Rs. 81.08

*Since there hasn't been shared the opening book value of metal and wooden furniture, it has been assumed 50% of each.

5.7 Findings:

From the above calculation of tax liability of the company, it shows that there has been change in tax liability of a company under two acts. Referring to above examples, if the new Income tax Act, 2058 hadn't been enacted, the tax liability of the above company would have been **Rs. 590956.00** for the income year of 2059/60 under the previous Income Tax Act, 2031.But the tax liability if the same company from the same business transaction under new act is **Rs. 318938.00,** which isles by Rs. 272018.00 than the tax liability calculated under previous act. Thus the tax liability under ITA, 2058 is about 46 percentages less than the tax liability under ITA, 2031. Reduction in tax liability caused due to the more facilities (more rebate, more reductions, more exemptions) given to business taxation for deduction that reduces taxable income proportionately. Which may terms as business friendly policy from the tax payers view. The change in tax liability of above company under two acts is mainly because of changes in following business expenses:

- interest expenses,
- PCC and R & D expenses,
- Advertisement and pre operating expenses,
- Business loss forward facilities,
- Bonus and salary given to employees,
- Flexible depreciation & donation provision etc,

Widening tax base therefore may not increase the tax liability under all circumstances since this either may not hold true to all companies or not accounted for tax purpose, but the facilities given are mostly applicable to the business companies and they do avail of these facilities for proper tax planning. However this particular result doesn't hold true to all other business companies, it is instead depends on the nature and types of business as well as nature of business expenses. There may be many business companies paying more tax under new income tax act than previous one thought it has widened the tax base than in previous act. Based on the taxpayers' point of view, this act is more business friendly, but if the effectiveness of the rest of the act is measured in terms of revenue collection, it may give different result or analysis.

It is to be noted here that the income from investment is not precisely applicable in case of company. Income like house and land rent, interest, income from banks, royalty income etc.

are all included in the business income of a company since those income are derived from the use of capital or profit earned in business. Moreover, capital gain taxation doesn't contribute significantly to tax revenue since the amount from the capital gain is not regular and not much in amount in most of the cases.

C: EMPERICAL INVESTIGATION

The collection, presentation, interpretation and analysis of primary data have been named as empirical investigation. An empirical investigation simply means the study, which is primarily done in the field and presented accordingly. The study was conducted in the form of questionnaire distributed in order to get various primary information regarding the business taxation and related matters from respondents. For this, questionnaire was developed, distributed and responses were collected from the respondents. 90 questionnaires in total were distributed to the respondents as a sample size. However out of 90, only 85 (94.5) % responses were received. Respondents were classified into three groups-tax payers, tax administrators and tax experts. The responses received from various respondents have been arranged, tabulated and analyzed in order to facilitate the descriptive analysis of the study. This chapter is all about empirical investigation during study. (The format of questionnaire and the list of respondents have been placed in appendix A and B respectively of this study).

The respondents were requested to respond on questionnaire by three ways:

a) They were requested to respond simply by yes or no response.
b) They could respond by ranking the choices starting from 1 to most important to least important as per number of choices.
c) Respondents had also option to put their views by writing wherever necessary.

For analysis purpose, choices were assigned weights according to the number of alternatives. If the number of alternatives were eight, the first preferred choice would get eight points and the last preferred choice would get one point. Any alternative, which was not ranked or left, did not get any point. The total points available to each choice were converted into percentages with reference to the total points available for all choices. The choice with the highest percentages score was ranked at the most important choice and the one with the lowest percentage score was ranked as the least choice.

The following table 6.1 (a) shows the group of respondents:

Table: 6.1 (a)

Group of the respondents

S.N.	Group of Respondents	Sample size
01.	Tax Payers	30
02.	Tax Administrators	30
03.	Tax Experts	30
	Total	90

Respondents Profile:

Not every questionnaire distributed was collected. Questionnaires were distributed to 90 respondents, 30 each of tax payers, tax administrators and tax experts. Out of them, 85 respondents' view was received. The table 6.1 (b) shows the different denominations number and percentages of respondents received from the respondents:

Table: 6.1 (b)

Respondents Profile

S.N.	**Denominations**	**Total sample**		**Responses received**	
		No.	%	No.	%
1.	Tax payers	30	33.33	26	30.59
2.	Tax administrators	30	33.33	29	34.12
3.	Tax Expert	30	33.34	30	35.29
Total		**90**	**100**	**85**	**100.00**

Source: opinion Survey

6.1 Presentations and Analysis of Opinion Survey:

A set of 18 questionnaires was distributed to each of the respondents listed above. However 16 set of questionnaires received from respondents have been presented and analyzed here since some are found not appropriate with the study. The responses received during opinion survey have been presented below with order.

6.1.1 Acquaintance with business Provisions of New Act:

A question was asked about their acquaintance with business provision of the acts to know their level of familiarity with the act. The responses received from the respondents are tabulated as follows.

Table: 6.1.1

Acquaintance with Business Provisions of New Act

Respondents	High		Moderate		Low		Total no.
	Nos.	%	Nos.	%	Nos.	%	
Tax payer	7	26.92	16	61.54	3	11.54	26
Tax Administrator	20	68.9	9	31.1	-	0	29
Tax Expert	13	56.67	17	43.33	-	0	30
Total	40	47.05	42	49.41	3	3.52	85

Source: Opinion Survey

From the table 6.1.1, it is seen that the majority of tax administrators are highly acquaintance with the provisions of new Income Tax Act, 2058. The percent of high acquaintance of tax administrator is about 68.9 whereas such percentage in tax expert and taxpayer is about 43.33 and 26.92 respectively.

However, if we study as whole, it is clear that the majority of respondents (49.41 %) in total have put them as moderately acquaintance with the provisions of new income tax act. But nearly 47.05 % respondents as a whole have said that they are highly acquaintance with the provision where as poor acquaintance percentage of the respondents is only 3.52. Further more in some informal dialogues, the majority of respondents are found high acquaintance with previous Income Tax Act, 2031 rather to present Income Tax Act, 2058.

Hence it can be concluded that the understanding new act highly and moderately are near equal but very nominal have responded for weak acquaintance with the provisions of new income Tax Act. Moreover, the percentage of high understanding of new act among three groups is in tax administrators, tax experts and tax payers respectively.

Some respondents have also said that the new act is confusing since some of the words are dubious and not clearly defined. This has made them difficulties in implementing rightly. Some have also criticized severely that the act has copied from foreign act.

6.1.2 Opinion on the Appropriateness of Capital Gain Taxation and its Process of Taxation

Since the new act has made a provision of taxing on capital gain. Another question was asked to the respondents as ‘in your opinion, are you satisfied with capital gain and its process of assessment?’ to know the respondents opinion towards this provision. The responses received as and have been tabulated below.

Table: 6.1.2

Appropriateness of Capital gain Taxation and its Process of Assessment

Respondents	YES		NO		TOTAL	
	Nos.	%	Nos.	%	Nos.	%
Tax payer	16	61.54	10	38.46	26	100
Tax administrators	24	82.75	5	17.24	29	100
Tax Experts	22	73.34	8	26.66	30	100
	62	72.94	23	27.06	85	100

Source: opinion Survey

From the table 6.1.2, it is clear that about 72.94 % of the respondents have showed their approval of taxing on capital gain in order to increase the tax revenue. Only 27.06 percentage respondents showed their disapproval on capital gain taxation and its way of assessing ignoring time value money of the assets.

Further, the respondents in favour of capital gain taxation are more in tax administrators whereas there have been relatively low respondents in tax experts and tax payers consenting capital gain taxation and its way of assessment. Although majorities are there in favour of capital gain taxation provision. Some respondents have said that time value of money of the assets while assessing the gain should be considered accordingly.

Test of Hypothesis

Respondent	YES	NO	Row Total
Tax Payers	16	10	26
Tax administrators	24	5	29
Tax Experts	22	8	30
Column Total	**62**	**23**	**85**

Source: Opinion Survey

Formulation of Hypothesis

Hypothesis 1

Null Hypothesis, Ho: there is no significant difference in taxpayers, tax administrators and tax experts' views regarding the taxation on capital gain and its method of assessing the income.

Hypothesis 2

Alternative Hypothesis, H_1: There is significant difference in taxpayers, tax administrators and tax experts' views regarding the taxation on capital gain and its method of assessing the income.

Test statistic: Under H_O, the test statistic is

$$\chi^2 = \Sigma \frac{(O - E)^2}{E}$$

Where, O=observed frequency

E= Expected frequency in a cell = $\frac{\text{Row Total * Column Total}}{\text{Grand Total}}$

Calculation of χ2

(row, column)	O	E	O-E	$(O-E)^2$	$(O-E)^2/E$
(1,1)	16	(16*62)/85=18.96	-2.96	8.76	0.462
(1,2)	10	$(26*23)^2/85=7.03$	2.97	8.82	1.254
(2,1)	24	$(29*62)^2/85=21.15$	2.85	8.1225	0.384
(2,2)	5	$(29*23)^2/85=7.84$	-2.84	8.06	1.028
(3,1)	22	$(30*62)^2/85=21.88$	0.12	0.0144	0.0006
(3,2)	8	$(30*23)^2/85=8.11$	-0.18	0.0324	0.00399
					$\sum \frac{(O-E)^2}{E} =$ =3.133

Calculated $\chi^2 = \Sigma \frac{(O-E)^2}{E} = 3.13$

Degree of freedom =(r-1) (c-1) = (3-1) (2-1) =2*1=2

Level of significance, ∞=5 %(assumed) = 0.05

Tabulated $\chi^2 0.05\ (2) = 5.991$

Conclusion:

Since calculated χ^2 <tabulated χ^2,it is not significant and Ho is accepted and hence H_1 is rejected. It also means that there is no significant difference in taxpayers, tax administrators and tax payers view regarding the appropriate of capital gain taxation and its method of calculation.

Hence, it is found that the capital gain taxation is one of the measures to increase revenue though its contribution is not significant.

6.1.3 Opinions of Appropriateness of Taxing Foreign Income of Resident Under new Act:

Another question on the appropriateness of the provision of new act to bring the foreign income of resident into tax bracket was asked to know the respondents view on this matter. This question was asked to all respondents and none of them have said that this is not appropriate. Hence it can be concluded that the provision of new act to tax on foreign income of resident is an appropriate provision to increase the contribution of tax revenue in total revenue. However some of the respondents have opinioned that the act is not clear about the foreign tax credit.

6.1.4 Opinions on the Appropriateness of New provision on Interest Expenses:

Income tax Act 2058 has made different process to follow while calculating the interest expenses as admissible expenses. In this regard, one question was asked to all the respondents that whether or not the new provision regarding the interest expenses is appropriate than in previous one. The respondents profile has been presented in table 6.1.3.

Hence from table 6.1.3, it is seen that a high percentage of respondents as a whole are feeling comfortable with the provisions regarding interest in new income tax act. The percentage of census is seen 92.94 whereas a small number of respondents (7.05) percent have stood themselves in against of the provisions and have said that the better provision was in previous act. And mainly because they have said that controlled entity case has created confusion otherwise it is appropriate. If we look in micro level, cent-percent of tax administrators and 93.34 percent of tax expert have said that the provision is appropriate than the previous act one. And the percent of taxpayer in this line is about 80.76

Table: 6.1.3

Appropriateness of New Provision of Interest Expenses

Respondents	YES		NO		TOTAL	
	Nos.	%	Nos.	%	Nos.	%
Tax Payers	22	80.76	4	15.38	26	100
Tax Administrators	29	100	0	0	29	100
Tax Expert	28	93.34	2	6.66	30	
Total	79	92.94	6	7.05	85	100

Source: opinion Survey

6.1.5 Opinion on Whether Pollution Control Cost and Research and Development Cost have benefited the Organization:

Among the queries asked to the respondents another was about the pollution control and research and development cost as an admissible expense comparing the limit. The question was: does this provision benefit your organization? This question was asked to tax payers only. The response of the respondents has been shown below in the following table 6.1.4.

Table 6.1.4(a)

Provision of Pollution Control Cost and R & D Cost and its benefit

Respondents	YES		NO		TOTAL	
	Nos.	%	Nos.	%	Nos.	%
Tax Payers	15	57.69	11	30.36	26	100
remarks						

Source: Opinion Survey:

From the table 6.1.5, it is clear that the majority of respondents (57.69 %) have respondent that this provision made in the act has given the facility to tax payers which has benefited to them in reducing of tax liability by deducting the expenses comparing to limit. However, 42.30 % have said that it has not benefited to them. They were requested to further supplementary question if their response in the above question is NO. The reason is as follows:

Table: 6.1.4(b),

Reason of not taking advantage of PC and R & C Facility,

S.N	Options	No.	%
01.	There's no practice of these costs	3	27.27
02.	No knowledge of taking benefits	8	72.73
03.	Ignored as it does not make big difference	0	0
04.	Total	11	100

Source: Opinion Survey

Referring to the above table 6.1.5 (b), it can be seen that most of the respondents who have not been benefited with the provision of PC and R & D expenses as admissible expense have said that they don't have knowledge regarding this provision. Out of 11, 8 respondents don't know that the new act has introduced this facility that was considered capital nature expenditure expenses and was disallowed for deduction under previous act, it is to be noted here that some of the respondents do not remember that Industrial Enterprises Act, 2049 and economic Act in later years had made some provisions regarding these facilities. Similarly out of 11 respondents, 3 are found who have not been practicing such costs in their organization.

Hence, it can be concluded that business organizations are not fully aware of the provisions under new Income Tax Act, 2058. In some discussions and oral interview with them, some of the taxpayers have expressed that they need briefing class by experts to be familiar with the many provisions of new Income tax Act, which are completely different with that of the previous tax laws. This really has made them difficulties in work.

6.1.6 Opinions Regarding the Pool System of Depreciation:

Income Tax Act, 2058 has made new provisions of pool system of depreciation. In this regard another question was asked to all the respondents for their view on the system. Almost all the respondents have responded this question. All the respondents are found to in favor of new provision of depreciation under new act. They were asked to choose one option as reason, which they think is the best; however they were also allowed to express any other best reason by writing in others. Their view has been tabulated as below.

Table: 6.1.5

Views on the Pool System of Depreciation

S.N.	Options	Nos.	%
01.	New act has made easier to classify the assets and avoided the confusion	67	78.82
02.	Grouping of Intangible assets is logical	0	0
03.	Depreciation rate are scientific	18	21.18
	Total	85	100

Source: Opinion survey

From table 6.1.6, it can be concluded that the most of the respondents think that the new provision of depreciation has made easier in classifying the assets and it has included all types of depreciable assets. The percentage of this view is nearly 78.82 % that is more than 3.5 times of the respondents who have said that the depreciation rate under the new act is scientific. The percentage of such respondents is 21.18. But none of the respondents are in the belief that the provision is good because of intangible assets have also been grouped as under block E.

Some of the respondents have also written that the single method diminishing balance method to follow for depreciation is also clear than previous act's option for both straight line and diminishing balance method. It is to be noted that present act has provisioned straight-line method of depreciation to the intangible assets under block E. Moreover; some respondents have opinioned that the depreciation method is contrary to accounting method.

6.1.7 Opinions on the Provision of Separating of Offences from Penalty:

Another important feature of new Income Tax Act, 2058 is that it has separated offences from penalties and tax authorities do not have right to improve offences on taxpayer instead it is now with in the area of court. In this regard, one question was asked for the opinions of respondents. In your view is it appropriate provision in favour of taxpayer?

Was the question asked to tax expert and tax administrators? Their view has been tabulated as below.

Table: 6.1.6

Appropriateness of decision of Separating Offences from Penalty

Respondents	Yes		Nos.		Total	
	Nos.	%	No	%	Nos.	%
Tax administrators	26	89.6	3	10.34	29	100
Tax Experts	30	100	0	0	30	100
Total	56	94.9	3	5.1	59	100

Source: Opinion Survey

Hence, table 6.1.9 shows that cent percent of tax expert are in favour of new provision of separating offences from the hand of tax administration. And such percentage in tax administrator is 89.6. Out of 29 respondents of tax administrators, 3 are against the provision of new act. They have said that, by doing so it is very time consuming and it eventually severely affects on national revenue regardless of quantity. If we take as a whole, it can be concluded that a high percentage of respondents do agree with the new provision of new act on this matter. In fact taxpayers have felt great relief where they have been provided an opportunity to verify them innocent when they are charged as violator of the law. In other hand, some tax administrators are in the belief that this makes the process lengthy and hampers eventually to the public revenue.

6.1.8 Opinion on Carry Forward of Losses of Business Globally:

New Income Tax Act, 2058 has provisioned the carry forward of domestic business loss regardless of source and place of loss. Business loss can be forwarded up to 4 years from the income of any source anywhere. A question in this regard was asked to the respondents that Contrary to previous act, new act has made a provision of domestic business set off loss globally from both sources of income (business and investment) up to 4 years whereas others are limited within the particular source and place of income. Do you think that it is an appropriate provision? This question was asked to Tax administrators and tax expert only.

The following table 6.1.7 shows the views of respondents.

Table: 6.1.7

Appropriateness of Global carry Forward of Business Loss

Options / Respondents	Yes it has given high priority to business loss		No this type of facility should be given to investment loss too		Total
	No	%	No	%	
Tax administrators	29	100	0	0	29
Tax Expert	27	90	3	10	30
Total	56	94.92	3	5.08	59

Source: Option Survey

Referring to above table 6.1.7, a very high 94.92% of respondents are seen in favour of set off domestic business loss globally. A very nominal 5.08% of respondents are found against this provision and do advocate that this is not fair treatment and said that this facility of forwarding of domestic loss globally should also be available to investment loss, which is only forwarded within the head.

Further in informal discussion in this matter, some respondents have said that the facility of forwarding business loss should be increased from 4 years to enhance business sector.

6.1.9 Opinions on Whether the Business Exemption, Rebate and Concession given in the Act are enough:

One of the questions asked to respondents was: In your opinion, are the business exemptions, rebate and concessions given in the act satisfactory? The responses received have been tabulated below.

Table: 6.1.8

Opinions on Business Exemption and Concession Given in the Act

Respondents	Yes		No		Total	
	Nos.	%	Nos.	%	Nos.	%
Tax payers	15	57.69	11	42.30	26	100
Tax Administrators	27	93.10	2	6.90	29	100
Tax Experts	19	63.34	11	36.66	30	100
Total	61	71.76	24	28.23	85	100

Source: Opinion Survey

Hence it is seen from table 6.1.8 that however majority of respondents are found satisfactory with the exemptions, rebate and concessions given in the act, but the respondents who are not satisfied with the exemptions, rebate and concessions given are also not small, they are about 28.23%. In-group wise observation, tax administrator with 93.10% are highly satisfied with the given exemptions and concessions in the act where as only 57.69% of taxpayers and 63.34% of tax experts are founds satisfied with the given facility. Hence the percentage of the respondents in taxpayers and tax experts who think that the business concessions and exemptions should be increased is significant.

Test of Hypothesis:

Respondents	Yes	No	Row Total
Tax Payers	15	11	26
Tax administrators	27	2	29
Tax Experts	19	11	30
Column Total	**61**	**24**	**85**

Source: Opinion Survey

Formulation of hypothesis

Hypothesis 1

Null Hypothesis, H_0: There is no significant difference in taxpayers, tax administrator and tax experts' view on the business exemptions, rebate and concessions given in the new act.

Hypothesis 2

Alternative Hypothesis, H_1: There is significant difference in taxpayers, tax administrator and tax experts' view on the business exemptions, rebate and concessions given in the new act.

Test statistic: Under H_0, the test statistic is $\chi 2 = \sum \frac{(O-E)^2}{E}$

Where, O=Observed frequency

E= Expected frequency in a cell = $\frac{\text{Row Total} * \text{Column Total}}{\text{Grand Total}}$

Calculation of $\chi 2$:

(Row, Column)	O	E	O-E	$(O-E)^2$	$\frac{(O-E)^2}{E}$
(1,1)	15	(26*61)/85=18.65	3.65	13.32	0.7143
(1,2)	11	(26*24)/85=7.34	3.66	13.39	1.82
(2,1)	27	(29*61)/85=20.81	8.35	69.72	3.73
(2,2)	2	(29*24)/85=8.18	-6.18	38.19	4.668
(3,1)	19	(30*61)/85=21.52	-2.52	6.3504	0.295
(3,2)	11	(30*24)/85=8.47	2.53	6.4009	0.7557
					$\sum (O-E)^2/E$ =11.99

Source: Opinion Survey

Calculated $\chi 2=\sum (O-E)^2/E=11.99$

Degree of freedom=(r-1) (c-1) = (3-1) (2-1) =2*1=2

Level of significance, α=5 %(assumed) =0.05

Tabulated $\chi 2$ 0.05(2) =5.991

Conclusion:

Hence calculated $\chi 2$>tabulated $\chi 2$, it is significant and H_0 is rejected and therefore H_1 is accepted. This means there is significant difference in taxpayers, tax administrator and tax experts' view on the business exemption, rebate and concessions given in the new act.

6.1.10 Opinion on Whether the Present Tax structure is Appropriate

Opinions of respondents were taken also on the present tax structure of the new Income Tax Act, 2058. A high percentage of the respondents are found satisfactory with this present tax structure under new act.

Table: 6.1.9

Opinion on the Tax Structure under New Act

Respondents	Yes		NO		Total	
	Nos.	%	Nos.	%	Nos.	%
Tax payers	22	84.62	4	15.38	26	100
Tax administrators	29	100	0	0	29	100
Tax Experts	24	80	6	20	30	100
Total	75	88.24	10	11.76	85	100

Source: Opinion Survey

Referring the table no. 6.1.9, it can be concluded that there is a high percentage of respondents who are agreed with the present tax structure of the new act. Such percentage is 88.24 whereas 11.76 percentages of the respondents are disagreeing with the structure.

In micro level, it is found that cent percent of the tax administrators do advocate that the present structure is appropriate whereas a small group of taxpayers and tax experts believe that the tax structure is still not progressive. They are however in 15.38% and 20% respectively. Among those disagree; some have suggested that the exemption limit should be increased and the slab should be 10, 20 and 30% instead of 15 and 25%.

6.1.11 Opinions on the Appropriateness of New Income Tax Act, 2058 for Effective Taxation System in Nepal:

Since the new Income Tax Act has come with broad tax base than previous, all tax related matters are confined within this act. A question in this regard was asked to respondents to know their view on new act. Question was: how appropriate is the present Income Tax Act, 2058 for effective taxation system in Nepal? There were 3 choices available to the respondents however they could express their view if any by writing in the spaces provided. This question was asked to all the respondents and their responses have been tabulated as below.

Table: 6.1.10

Opinions on the Income Tax Act, 2058

Option	Tax payers		Administrators		Tax Experts		Total	
	Nos.	%	Nos.	%	Nos.	%	Nos.	%
1. Highly appropriate as it has brought many incomes in tax net	19	73.07	22	75.86	17	56.67	48	68.24
2. Moderately appropriate, still has many loopholes	6	23.08	7	24.14	13	43.33	26	30.59
3. Not appropriate, better was previous income tax act	1	3.85	0	0	0	0	1	1.17
Total	26	100	29	100	30	100	85	100

Source: Opinion Survey

According to the above-tabulated data, majority of the respondents have advocated in favour of present Income Tax Act, 2058. The percentage of the respondents in this group is 68.24 as a whole. Similarly 30.59 percentages of the respondents have said that the present act is moderately appropriate and the act has still to be made more systematic, progressive, broad and appropriate. The percentage of the respondents who do not like this act is only 1.17 and has opined that the previous Income Tax Act, 2031 was more appropriate and clear than the present new Act, 2058.

If we care the percentage of the respondents within the group, it is found that 75.86% of the respondents from tax administrators with the highest percentage have opined that the present act is appropriate than previous since it has brought many incomes within the tax base. Similarly taxpayers are in the second position with 73.07 % in the line of respondents with highly appropriate than previous act. Tax experts have divided into highly appropriate and moderately appropriate with the percentage of 57.67 and 43.33 respectively. 43.33% of tax experts have viewed that the present tax act still has many loopholes to avoid. 1.17% of taxpayers are found against the present act.

6.2 Finding on Opinion Survey:

Followings are the major finding obtained during the opinion survey study.

1. **1.** Most of the taxpayers, tax administrator and tax experts are familiar to the new Income Tax Act, 2058 and major changes in business source of income. However some words used in the act are dubious and need to be defined further lucidly.
2. **2.** Capital gain taxation, which has been newly introduced in the new Income Tax Act, 2058 does help to increase tax revenue to some extent. However time value of money of the assets of tax payers which is not considered after 2058-12-18, should be considered accordingly otherwise there will be injustice with the tax payers.
3. **3.** Bringing the foreign income of resident into tax net is a good provision of new income tax act. It does eventually contribute in the tax revenue.
4. **4.** The new Income Tax Act, 2058 is appropriate than the previous Income Tax Act, 2031 regarding the provision of interest expenses. However the method of calculating and assessing the eligible interest expenses in case of controlled entity is somewhat confusing.
5. **5.** New act's provision of considering admissible expenses of Pollution and Research & Development comparing limit is another good aspect of new income tax act. Although some of the business organizations are still not aware with this facility and do treat the accounting methods as previous.
6. **6.** Another appropriate provision of Pool system of depreciation and rate of depreciation under new act has made taxpayers easier in classifying the assets under respective groups. This is scientific too and covered all the depreciable assets.
7. **7.** Taxpayers have felt great relief from the new provision of separating offences from penalties. In fact this is a step of transferring of power from tax administrators to the esteemed court and taxpayers have at least some legal option to way out on the cases when they really do not violate the law as charged by tax administrators for other reasons. This also has protected some probable unethical activities that could happen in such case and has provided the opportunity to verify them innocent legally. And this provision will also penalize to those who are real violator of law in paying tax.
8. **8.** The global set off domestic business loss from business and investment provisioned in new income tax is also found highly appropriate. Some have however opined that investment loss should also avail of this facility.

9. The business concessions, rebate and exemption are found enough in taxpayers view. Significant numbers of taxpayers are in favour of more facilities the act should guarantee business activities of the country especially when the country is in the crisis.

10. Majority of the respondents do agree that the present tax structure has been appropriately designed and needs no immediate change. However it should be flexible with the changes in socio economic conditions of the country.

11. The present Income Tax Act, 2058 is found highly effective for effective taxation system in the country in majorities of respondents' view. However it has many weaknesses still to correct.

CHAPTER - V

Summary, Conclusion and Recommendation

7.1 Summary

Nepal is one of the least developed countries in the south Asia. Because of low level of economic activities in the country there has always been the deficit of financing to carry out development activities in mass level. Since there has been significant contribution of agriculture sector to GDP, the balance of overall production is subject to fluctuations until the agriculture output is stabilized. It is imperative to break vicious circle of factors which is an obstacle to efficient use of available resources for achieving the productivity level of south Asia region and achieved broad based and sustainable higher economic growth. In order to reap advantages from the improved trends in the global economy and to sustain economic growth at a higher level, Nepal needs to undertake a flexible and appropriate structural reform measures.

The present study lies somewhere in the subject matter that has been major contribution to the financial resources in order to carry out any types of either regular or developmental activities. It is the tax revenue that contributes more than two third in total revenue. And it is the business sector that contributes dominantly in public revenue either in the form of direct tax or in the form of indirect tax. Taxation policy of the country is the determinant of the raising public fund, it is therefore income tax act that reflects the tax policy of the government and hence eventually concerned with the public fund of the country. The more suitable is the tax policy of the country, the more is the collection of revenue and vice versa.

This study entitled "Taxation under business Income in Nepal: Past & Present" in broad sense, aims at the analysis of effectiveness of present tax policy of the government relatively and comparatively with the past. In this study, effort has been made to bring two acts, the present Income Tax Act, 2058 and previous Income Tax Act, 2031 in a place and the differences have been tried to locate in one particular part of the whole act. It is the research work that has tried to find out some thing new which does not exist earlier, and I am pretty sure that this study is succeeded in its purpose at least in the field of writing dissertation for academic purpose.

The thesis is basically based on analysis of primary and secondary data. Available relevant secondary data have been collected and presented either for the purpose of review or analysis and primary data that were collected by opinion survey either in the form of questionnaire method or in the form of informal dialogues and discussions with the concerned. Since this is the one types of comparative study of two acts, it has undertaken the various information relating to the income taxation of Nepal. It has briefly examined the role of tax revenue to the total revenue in Nepal in macro level and contribution of business taxation to income tax in micro level.

Available various books, articles, dissertations and other reference materials were studied during the course of study. Almost all the dissertations found related to topic of the study and books written by different authors at different time were the subject matter of the study and analysis. However these materials have been used as supplementary study since the materials directly related with this study do not exist till date.

This study has been prepared as a whole body of different parts. Organization of the study has been done in such a way that related information could be grouped, presented and analyzed under related topics as much as possible. First part simply is about the introduction, objective and hypothesis of the study and explains the need and rationality of study. The review of both acts in related issues, dissertations, books and magazines/articles is the main part of the literature of review. The framework of the study is a research design that explains the methods and tools used during the course of preparation of this research work. Similarly available and related published information were collected, presented, analyzed with suitable tools and tables and has been placed under the Analysis of Secondary data.

According to the purpose of study , one particular case studied along with the brief comparison of income and expenditure in business section under two acts so that it could show the deviation in ultimate goal that is in tax liability due to change in tax laws. This study is the case study and has named comparative study in this dissertation. The study cannot be completed only on the basis of available information in the market. Rather it requires some primary information and this task was done by conducting opinion survey and informal discussions with the concerned personnel and has been presented and analyzed with suitable tools and tables and has been placed under Empirical Investigation.

This study ends at chapter seven with conclusions of the study and some of the recommendations felt and found during the course of study. Conclusion is the summarized part of the core study and main points noticed and found during the study. Recommendations are the state of "would be better”. Some areas have also been recommended for further research in income taxation. And the findings of each unit if any have been placed at the end of the chapters. This is also a summarized and main points noticed in the chapter.

During the study, it has been tried to cover all the related part that are directly or indirectly concerned with the subject matter of study however sampling error or even human error has always been there in such study and analysis. Because efforts are made not for elimination of errors in fact efforts are made to minimize the errors.

In this way, this study has been completed with the achievement of the stated objectives and found and realized some gaps that have been come up with recommendations at the end of the study.

7.2 Conclusion

During the study of this thesis, some information is found to be noticed. These are presented below.

5. In the earlier years, when income tax act, 2031 was effective, percentage of tax collection in comparison to target was in decreasing trend. On the other hand, when income tax act 2058 became effective from the fiscal year 2059/60, % of tax collection in comparison to target is in increasing trend. Even in the fiscal year 2063/64, it was 123.18 % of target. It can be understood that in the beginning year of implementation of new income tax act due to lack of awareness about new income tax act, target set for income tax collection couldn’t be achieved. But, after completion of 5 years of its implementation, the target was easily achieved.

6. Tax from business income had contributed a major part in the total tax revenue whether it was income tax act 2031 or 2058. It had contributed 74% in total tax revenue of 2063/64.

7. The actual collection of the revenue in fiscal year 2063/64 in comparison to the target set by IRD is satisfactory. Out of total internal revenue, indirect tax has just met its target. But, direct tax has substantially exceeded its target by 23.17%. The collection of income tax has exceeded its target by 28.29% which is highest among other tax.

8. If the share of Tax revenue on GDP is considered, it is not found satisfactory. From FY 2057/58 to FY2059/60, Tax /GDP ratio is in decreasing trend. Then after, from FY 2060/61 to FY 2061/62, it is in increasing trend. The Highest Tax /GDP ratio was 9.78% in FY 2063/64. It seems that Tax /GDP ratio is in improving trend. The mean Tax /GDP ratio for the seven years has been computed to be 8.96 percentages which is very low in comparison to other developing countries.

9. The contribution of income tax to GDP of Nepal is not satisfactory. It has not exceeded 2.15% since FY 2057/58to FY 2063/64. One thing is important that slowly contribution of income tax to GDP is increasing from FY 2060/61 to 2063/64.

10. While studying the differences in business income and business expenditure, new act (leaving some dubious words used and complex process of assessing) has been found more precise in terms of nature of business income and business expenditure. And the method of assessing tax variables is also comprehensive in new act. Moreover it has been found that other things remaining the same, the tax liability of a particular business company under New Income Tax Act, 2058 has reduced than in previous Income Tax Act, 2031. This may be because of the more business friendly nature of new act than the previous. However this is not the absolute conclusions to all cases.

11. In the opinion survey study, it is found that present Income Tax Act is known to the most of the taxpayers, tax administrators and tax expert. However some of the words in the act need to be future simplified in lucidly.

12. Taxation on capital gain helps in generating the tax revenue in small amount, non-transparency in the transaction also hinders the purpose. Since the new act is silent about time value of money of capital gain after 2058-12-19, it should be consider accordingly.

13. New act however is clear than the previous act regarding interest expenses, but the case of controlled entity should be monitored.

14. Most of the organizations are found not aware of the pollution control and Research and Development activities and the provisions of new act. They have not paid much attention towards it.

15. Pool system of depreciation and diminishing value method has made easier in depreciating assets. However the addition and disposal of assets in most of the organizations are found haphazardly.

16. However the provision of separation of offences from penalty in new act is in the favour of taxpayers but it may enhance the red tapism (delay in process) in administration and eventually hampers in timely collection of revenue.

17. The global set off of loss facility should also be given to the domestic investment loss.

18. Tax rate structure should be flexible accordance with the economic activities of the country. Nepalese tax structure has been found progressive one however some of the persons are in favour of 10, 20 and 30% to make the slab more progressive.

19. There has not been much difference in accounting method for tax purpose before and after the enactment of New Income Tax Act, 2058.

20. The trend of business contribution in income tax revenue is found decreasing. Income tax act is a tool to increase the contribution of business income through effective mobilization of internal resources. Due to low level of economic activities in the country, business section is in recession therefore the role of the government should be considerably higher so as to boost up the business sector from the present situation.

21. In brief, in spite of some points to be clear, the present Income Tax Act 2058 is found much appropriate than previous Income Tax Act, 2031, however it has still loopholes to correct ahead. The effectiveness of the act does depend entirely on its effective implementation according to the sprit of law. And there should be equal and constructive role of taxpayers, tax administrators, tax experts and civil society in this task.

7.3 Recommendation:

Many published data and information were gathered and studied, many persons were interviewed informally, many views were collected as opinion survey and an extensive review of related materials was done during the course of study. While doing all these, some of the issues are found and felt which should be taken as corrective measures, such issues are collectively presented as recommendations. Some areas have also been recommended for further research. Thus some of the issues have been presented as follows:

1. Since the contribution of tax in tax revenue is not found satisfactory, the policy should be formulated to enhance the economic activities of the country and the government should focus on developmental activities and play catalytic role and to provide various facilities to foster private sector investment.

2. In order to increase thee contribution of business income in income tax, the tax base should be widened rather to increase tax rate. The awareness of tax payers should be increased in paying tax by different programmes and the TDS should be effectively implemented.

3. There should be effective monitoring mechanism in order to control and avoid tax evasion, unethical practices and encourage to honest tax payers. This will ultimately help in collecting more tax.

4. The act does not differentiate between short-term and long-term capital gains. There should be clear provisions on this issue and time value of money should be considered accordingly.

5. The basis for 7% repair and improvement cost is not appropriate. Rather it should be different to different nature of business. Moreover, maintenance expenses are logically and reasonably admissible expenses, such expenses should not be challenged by using the word "Improvement". The act should be clear on the nature of expenses and should treat accordingly.

6. The act has not defined clearly about the PC and R & D expenditure. The nature of PC and R & D expenses should be defined clearly. Moreover Nepalese organizations are not much sensitive to pollution control and research and development aspects. Whatever the amount they spend in this head, it should be either fully admissible in the year of expended after detailed scrutiny or should be provided the facility to claim next consecutive year if not deducted in the same year. This will foster business sector to make environment friendly and encourage to go and support in new technology that will enhance out put of company and eventually help in raising more tax.

7. Business loss forwarding facility should be increased from 4 years to 7 years. And the global set off facility should also be given to domestic Investment loss.

8. The facility given to claim all the pre operating expenses in commencing year is not appropriate, rather it should be deducted in succeeding 3 or 5 years like in previous income tax Act. This helps in making taxable income even though in smaller figure.

9. The act has provided the foreign tax credit facility to the income earned in foreign but has not defined whether this is applicable to the countries avoiding double taxation. It should be defined lucidly.

10. The criteria of donation to tax exempt organization has been Rs. 100,000.00 or 5% of net income or actual paid whichever is lower since decades which is not practical now.

The criteria should be 300,000.00 or 10/% of net income or actual whichever is lower.

11. The present business exemptions, rebate and concession given in the act do not appear practical as most of the companies do not run in remote areas; manufacturing companies are being decreased etc. Better would be if these exemptions, rebate and concession are provided to existing sick industries and trade as well.

12. The current trend of collection of income tax should be carefully analyzed and found where the loopholes have been used and where the policy is lacking and should take the immediate corrective policy.

13. There have been found misinterpretations, conflict and confusions on the provisions of the new act. This has lead wrong concept to them resulting practical difficulties in business taxation. The act should represent and encourage the concept of self-assessment. Taxpayer should be fully known with the tax provisions. since the new act is under implementation from short period of time, it is the duty of ministry of finance that it should organize programmes to facilitate tax payers and tax experts or even to tax administrators with the provisions in clear-cut way according to the spirit of act to avoid the difficulty in the understanding the act.

Finally the economic condition of Nepal is worsening day by day. No significant outcome in development has been achieved even after the long planned effort. The core reason for less than expectation especially in the field of poverty reduction, employment generation and unable to enhance economic activities in the country are unsatisfactory implementation of development plans, lack of co-ordination among formulation, implementation and resource mobilization agencies, poor governance, weak accountability and inefficient service delivery and weak mechanism of monitoring and evaluation. Lack of proper resource mobilization has always been the major problem in the country's development effort. To the large extent, Nepal is dependent on external aid and grants in addition to external loan to carry out development plans. Recently some of the donor agencies have withdrawn their assistance to Nepal at different reasons. In such conditions, the need and significance of internal resource mobilization is even more growing. Income tax is the effective tool to balance such socio-economic disparity. However there has also been lacking in effective income tax policy in the country. Business sector, a major contributor in income tax is also in recession period due to low level of economic activities in the country. The concerned should consciously be alert in identifying, analyzing and correcting all those factors responsible for poor performance in contribution to income taxation of Nepal. In this respect new Income tax Act, 2058 has been in effect since past 5 years and the effectiveness of the act depends on the effective implementation of the act according to the spirit of the tax law. For this a genuine effort and commitment from all concerned is not only necessary but also inevitable.

7.4 Further Area of Research:

During the study of this thesis, many areas have been found to further research in the field of income taxation. However mainly following areas of the study are recommended.

1. The contribution of the business income in Income Tax of Nepal: now & then.
2. The contribution and effectiveness of capital gain in Income Taxation of Nepal.
3. The target and collection of Income tax in Nepal.
4. The role of income tax in internal revenue mobilization: retrospect and prospect.
5. The unethical practices in income taxation of Nepal.
6. The Dynamics of the income tax act 2058: expectation and realization.

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Appendix-A

Questionnaire

To…………………………………… Date:

…………………………………………

…………………………………………

Dear sir/ madam,

I have been conducting a research entitled to "Taxation of business income in Nepal: past & present" for the partial fulfillment of the requirement of the masters degree in Business Studies under faculty of management, Tribhuwan University.

As we know that new Income tax act, 2058 has been in practice effective from 2058/12/18 replacing the previous Income Tax Act, 2031.And the act has been amending to some extent by finance Ordinance .Since the new act has come into force, taxation and all related matters of tax have to be practiced under the provisions of new act. The historic background of organized taxation in Nepal however is more than 4 decade, it has still many challenges in the field of understanding and assessing it according to the spirit of the act .And introducing new act might create more confusion to the concerned on the same .It is therefore important to know the differences made in new act that really make the new act different and effective in its purpose.

Understanding new act by comparing with previous perhaps is the best method to know it rightly. Business sector is the major part of taxpayers and has the greatest contribution in tax revenue of the country .This is the reason why I am going to compare the provisions under Business Source of Income and hope to find out relative strength ,weakness and effectiveness of the new act over previous .

As we all do agree that research or study can never be completed in absolute way, nor can be done alone without consulting others. Rather it requires additional efforts and co-operation from the concerned personnel or officials so that reliability of the research would high enough to give something new. So your small effort or interest may result great contribution in finding out empirical output. I am therefore here to request you to provide needed and related information of your knowledge and about the organizations for which you are working in this respect if any.

I would like to assure you by all means that the information provided by you would strictly be used only for academic purpose. Moreover, please refer to the attached copies of the letter of recommendation issued by the campus and questionnaire herewith.

Thank you for your active participation.
Sincerely,

……………………………

Sudish Kumar Kushawaha
Roll no: 162/061
Patan Multiple Campus

‘Your prompt response will be highly appreciated’

General Information of the respondent

A. Name: ………………………………………………….

B. Address: ………………………………………………….

Note: please be noted that you may rank the options whenever necessary and please make sure that you have responded the entire questionnaire concerned to you.

Questionnaire

1. To what extent are you acquainted with the different provisions under existing Income Tax Act, 2058?
   a. Highly acquainted ☐
   b. Moderately acquainted ☐
   c. Weakly acquainted ☐
   d. No idea ☐

2. Capital gain is in tax bracket under new act. I n your opinion, is taxing on capital gain is appropriate measure to increase tax revenue?
   a. Yes it contributes significantly in tax revenue ☐
   b. No rather it has created more confusion ☐
   c. Capital gain should be tax exempted ☐
   d. Others (please specify if any)
   ……………………………………………………………………………………......
   ……………………………………………………………………………………...

3. The act is silent on the time value of money of capital assets while taxing on capital gain. What do you think is it fair treatment?
   a. Yes otherwise it needs another mechanism for valuation of assets which creates more burdens. ☐
   b. No, it should be considered accordingly ☐
   c. Others (please specify if any) ………………………………………………….
   ……………………………………………………………………………………

4. Foreign income of resident was not subject to tax previously but now it is under tax bracket. Is it appropriate? ☐

a. Yes, it will help in increasing tax revenue

b. No, there is no proper system of account

5. Which of the following methods does the organization for which you are auditing, adopt for the valuation of stock for tax purpose?
   a.First in First out Method

   b.Weighted Average cost of capital Method

   c.Others if any
   ………………………………………………………………......………………………
   ……………………………………………………………………………………….

6. Is the new provision regarding to interest expenses under new act is appropriate?

   a. Yes it is clear than in previous act

   b.No , better was in previous act

   c. Case of controlled entity is confusing

   d.Others, Please specify if any
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7. Do you agree with the introducing "Pollution control and Research & Development cost" as admissible expenditure and its criteria for comparing the limit?

   a. Yes

   b. No

   c.If not, will you please specify further
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8. Is the pool system of charging depreciation in new act better than item wise rate of depreciation of previous act?

   a. Yes

   b. No

   c. Others (please specify if any)
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9. Earlier there was a limitation of advertisement and hospitability expenses as percentage of gross profit whereas there is no limitation of these expenses under new act. Do you feel comfortable with this provision?

a. Yes ☐

b. No ☐

c. If no please specify ……

10. Now business firm has to adopt DBM of depreciation where as it was optional either SLM or DBM under previous income tax act .Is it appropriate?

a. Yes ☐

b. No ☐

c. Others ………

11. Is the criterion of 7% of depreciation basis for repair and improvement cost under new act is appropriate for all the types of business ?(Previously there was no limitation for revenue expenditure)

a. yes ☐

b. No, it should differ on the basis of nature of business. ☐

c. Previous act had better provision. ☐

12. Is the provision of 5 years carry backward of loss to bank and financial institution is appropriate under new act, which was not in earlier?

a) Yes. ☐

b) No, such facility should be given to others too. ☐

c) Others(Please specify) ………

13. Contrary to previous act, new act has been made a provision of domestic business set off loss globally from both sources of income (business and investment) up to 4 years whereas others are limited within the particular source and place of income. Do you think that it is an appropriate provision?

a) Yes it has given high priority to business loss. ☐

b) No, other loss should also be treated equally. ☐

c) Other(Please specify)

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14. Unlike in the previous income tax act, new act has separated offences from penalty and tax officers do not have right to impose offences instead it is now within the area of court. In your view, is it an appropriate step in favor of taxpayers?

a. Yes ☐

b. No ☐

c. Clear provision was in previous act ☐

d. Other (Please specify)

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15. In your opinion, are the business exemptions and concessions given in the act satisfactorily?

a. Yes they are enough ☐

b. No! needs more exemptions ☐

c. Were better in previous act ☐

d. Others if any

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16. In your opinion, is the present tax rate structure appropriate?

a. Yes it is ☐

b. No it is not ☐

c. Others if any(Please specify)

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17. Unlike previous act, all matters related to tax rebate, additional allowances are available only in Income tax Act,2058.Many other provisions have been added and removed. In your personal opinion, how is the present act for effective taxation system in the country?

a. Highly appropriate as it has brought many Incomes Under tax net ☐

b. Moderately appropriate, still has many Loopholes ☐

c. Better result could have been achieved under Previous act ☐

d. The act has been copied from Indian and American Act and the words are used accordingly ☐

e. If your views are not in above, please specify.
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…………………………………………………………………………………

18. In your view, what ought to be done in order to increase the contribution of business income in total income tax? You may rank accordingly.

a. Tax rate should be increased ☐

b. Exemption and rebate should be reduced ☐

c. Effective implementation of TDS ☐

d. Tax bracket should be widened ☐

e. Awareness of taxpayers should be increased ☐

f. Fine and penalty should be stricken ☐

g. Unethical practices should be stopped ☐

h. Proper monitoring mechanism should be developed ☐

19. Your comment on the Income Tax Act.2058(If any)
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