

**E-Contents for M.Com. Semester-IV**  
**SUBJECT- COMEC-1**  
**CORPORATE TAX PLANNING AND MANAGEMENT**  
**UNIT- 1**  
**Introduction- Concept of Tax Planning**  
**and Management, Tax Avoidance**  
**and Evasion**

**Dr. S. S. Prasad**  
**Associate Professor**  
**Vanijya Mahavidyalaya**  
**Patna University, Patna**  
**E-mail: ssprasad1421@gmail.com**  
**Mobile No: 9431662241**

## **MEANING OF TAX**

The word 'tax' means 'a rate or sum of money levied on persons or property for the benefit of the state'.

According to Justice Holmes

“Taxes are what we pay for a civilized society, I like to pay taxes, with them I buy civilisation”.

Sec 2(43) of the Income Tax Act 1961, defines tax. Tax means income tax chargeable under the provisions of this Act.

## **CORPORATE TAX**

The tax collected from companies is called Company Tax or Corporate Tax. The Union Government has exclusive power to make laws relating to the Corporate Tax.

Tax paid by a company on its income is not treated as the tax paid on behalf its shareholders. The shareholders are liable to pay tax on dividends received or due from a company in their individual capacity until and unless it is exempt under any provision of the Act.

Dividends received from a domestic company are exempted U/S 10(34) of the Income Tax Act.

The rate of tax being very high at present, it has become necessary to arrange the fiscal affairs in such a way as to attract least tax. This can be done by three ways:

1. Tax evasion,
2. Tax avoidance,
3. Tax Planning.

### **TAX EVASION**

When a person reduces his total income by making false claim or withholding the information regarding his real income, so that his tax liability is reduced, is known as tax evasion.

Tax evasion is not only illegal but it is also immoral, anti-social and anti-national practice.

Therefore, under the direct tax laws provisions have been made for imposition of heavy penalty and institution of prosecution proceedings against tax evaders.

The tax evader reduces his taxable income by one or more of the following steps:

1. The unrecorded sales.
2. Claiming bogus expenses, bad-debts and losses.
3. Charging personal expenses as business expenses.
4. Submission of bogus receipts for charitable donations for deduction u/s 80 G.
5. Non-disclosure of capital gains on asset.
6. Non-disclosure of income from “Benami transactions”.

In brief to evade tax he suppresses or omits receipts, inflates expenses and claims bogus deductions.

The person who adopts these measures cannot have sound sleep. The fear of Tax Authorities will always be on his head and he cannot enjoy the fruits of his efforts.

## **TAX AVOIDANCE**

Tax avoidance is an art of dodging tax without actually breaking the law.

It is a method of reducing tax incidence by availing of certain loopholes in the law.

The Royal Commission on Taxation for Canada has explained the concept of “avoidance of tax” as under:

Tax Avoidance will be used to describe every attempt by legal means to prevent or reduce tax liability which would otherwise be incurred, by taking advantage of some provision or lack of provision in the law. It excludes fraud, concealment or other illegal measures.

The Supreme Court is the case of [M/s McDowell & Co. Ltd. Vs Commercial Tax Officer (1985) 154 ITR 148 (SC)]

clearly changed its view from earlier observations and gave its observations in the following manner:

1. There is a substantial loss of public revenue required for the economic development of the nation.

2. It results in creation of black money economy which results into inflation.

3. It results into lot of litigation which results into huge amounts of tax arrears, busy courts and wastage of time and money.

4. It results into injustice and inequality caused by the tax avoidance for the honest tax payers.

5. It results into an unethical practice of transferring the incidence tax liability from the tax dodgers to the honest tax payers who have to pay tax at higher rates.

The legislature has inserted the provisions in direct tax laws for checking tax avoidance. But so long there are loopholes in the laws, tax avoidance can not be checked by the courts.

The function of Judiciary in India is clearly not legislative, its role lies in interpreting the law made by the legislature.

## **TAX PLANNING**

Tax planning may be defined as an arrangement of one's financial affairs in such a way that without violating in any way the legal provisions of an Act, full advantage is taken of all exemptions, deductions, rebates and reliefs permitted under the Act, so the burden of the taxation on the assessee, as far as possible, is the least.

This statement is based on a Judgement given under English Law in case *Inland Revenue Commissioner Vs Duke of Westminster* 1936 AC.

Actually the exemptions, deductions, rebate and reliefs have been provided by the legislature to achieve certain social and economic goals. For example, sec 801B of the Income Tax Act, 1961 provides deductions from gross total income in respect of profits from newly established industrial undertakings in industrially backward state or industrially backward district as may be notified in this behalf.

Section 80C provides deduction from Gross Total Income, if an individual or HUF saves the amount and invests or deposits it in prescribed schemes. The deduction has been provided to encourage savings and investments for economic development of the country.

Thus if a person takes the advantages of the aforesaid deductions, he not only reduces his tax liability but also helps in achieving the objective of the legislature, which is lawful, social and ethical.

### **NEED FOR TAX PLANNING**

1. Reduction in Tax liability.
2. Minimisation of Litigation.
3. Productive investment.
4. Reduction in cost.
5. Healthy growth of economy.
6. Employment Generation.



Thus tax planning is not only the need of the tax payers but also of the society as a whole and the Government.

## **TAX MANAGEMENT**

Tax planning is not possible without tax management. Tax management covers matters relating to:

1. Compliance with legal formalities.
2. Taking steps to avail various tax incentives.
3. Saving from consequences of non-compliance of statutory duties i.e. saving from penal interest, penalties and precautions.
4. Review of department's orders and if need be apply for rectification of mistake, filing appeal, request for revision or settlement of a case.

Some important areas of tax management are as follows:

- A. Deduction of tax at source.
- B. Collection of tax at source.

C. Payment of Tax

(i) Advance Payment of Tax

(ii) Tax on self assessment

(iii) Payment on demand

D. Maintenance of accounts.

E. Audit of accounts.

F. Fulfilment of conditions to claim or retain a deduction.

G. Furnishing the return of income.

H. Documentations and maintenance of records.

I. Review of orders.

## **DIFFERENCE BETWEEN TAX PLANNING AND TAX MANAGEMENT**

1. Tax planning is a wider term. It includes tax management. Tax management is the first step towards tax planning.
2. The primary aim of tax planning is minimising incidence of tax, where as the main aim of tax management is compliance with legal formalities.
3. Tax planning is not essential for every assessee, while tax management is essential for every person, otherwise he may be liable for penal interest, penalty and prosecution.
4. Tax planning is a guide in decision making while tax management is a regular feature of an undertaking.
5. In tax planning exemptions, deductions and reliefs are claimed while in tax management the conditions are complied with to claim the exemptions, deductions and reliefs.
6. In tax planning alternative economic activities are studied and an activity with least incidence of tax is selected. Where

as tax management includes maintenance of accounts in prescribed form, get this audited, filing the required forms and returns, payment of taxes etc.

7. Tax planning essentially looks at future benefits arising out of present actions. Tax management relates to past, present and future.

Past – At the end of financial year filing of various returns.

Present – Payment of tax at appropriate time.

Future – Rectification of any mistake committed, going in for appeals etc.

## **DIFFERENCE BETWEEN TAX PLANNING AND TAX EVASION**

1. In tax planning it is the compliance of law and then save tax, where as in tax evasion it is willful disobedience of law and then save tax.

2. Tax planning is a legal right and a social responsibility. By tax planning certain social and economic objectives are achieved.

Tax evasion is a legal offence coupled with penalty and prosecution.

3. Tax planning require through knowledge of the relevant Acts, social, economic and political situation of the country. While tax evasion requires boldness to infringe the law.

4. Tax planning helps in economic development of the country by providing additional funds for investment in desired channel, while tax evasion generates black money which is generally utilised for smuggling, bribery, extravagant expanses on luxury.

5. A tax planner enjoys his fruits freely and he does not suffer from high blood pressure, whereas a tax evader remains always in anxiety of search and seizure.

## **DIFFERENCE BETWEEN TAX PLANNING AND TAX AVOIDANCE**

1. In tax planning the letter and the spirit of the law are followed while in tax avoidance the tax is reduced by taking advantages of the loopholes of the law.
2. Tax planning is permanent while tax avoidance is temporary. However no penalty can be imposed in the case of tax planning or in case of tax avoidance.

## **DIFFERENCE BETWEEN TAX AVOIDANCE AND TAX EVASION**

1. Tax avoidance is legal, but tax evasion is illegal.
2. In case of tax avoidance the object and spirit of the law are not followed, while in the case of tax evasion the provisions of the law are flouted.
3. In case of tax avoidance no penalty can be imposed while in case of tax evasion the person is liable to penalty and prosecution.

4. In case of tax avoidance, black money is not generated, it is not very harmful to the society. In case of Tax evasion, black money is generated which is mostly used for unproductive purposes.