

Presented by Niranjan Swain

Corporate Tax Planning

Money Saved is Money Earned



A presentation by Niranjan Swain,
OPGCL, Bhubaneswar



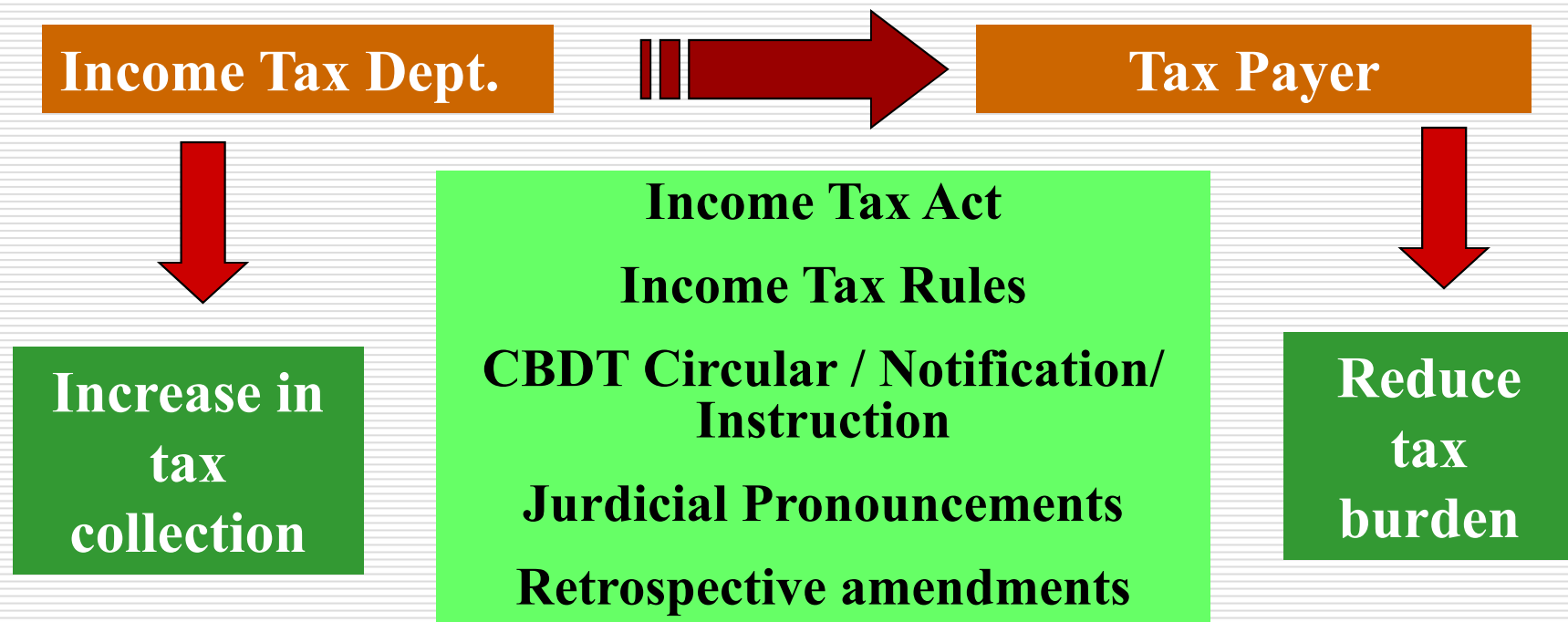
**A "TAX" IS A "FINE"
FOR DOING WELL**

**A "FINE" IS A "TAX"
FOR DOING "WRONG".**

Tax Planning - Legislative Right



What is the relation?



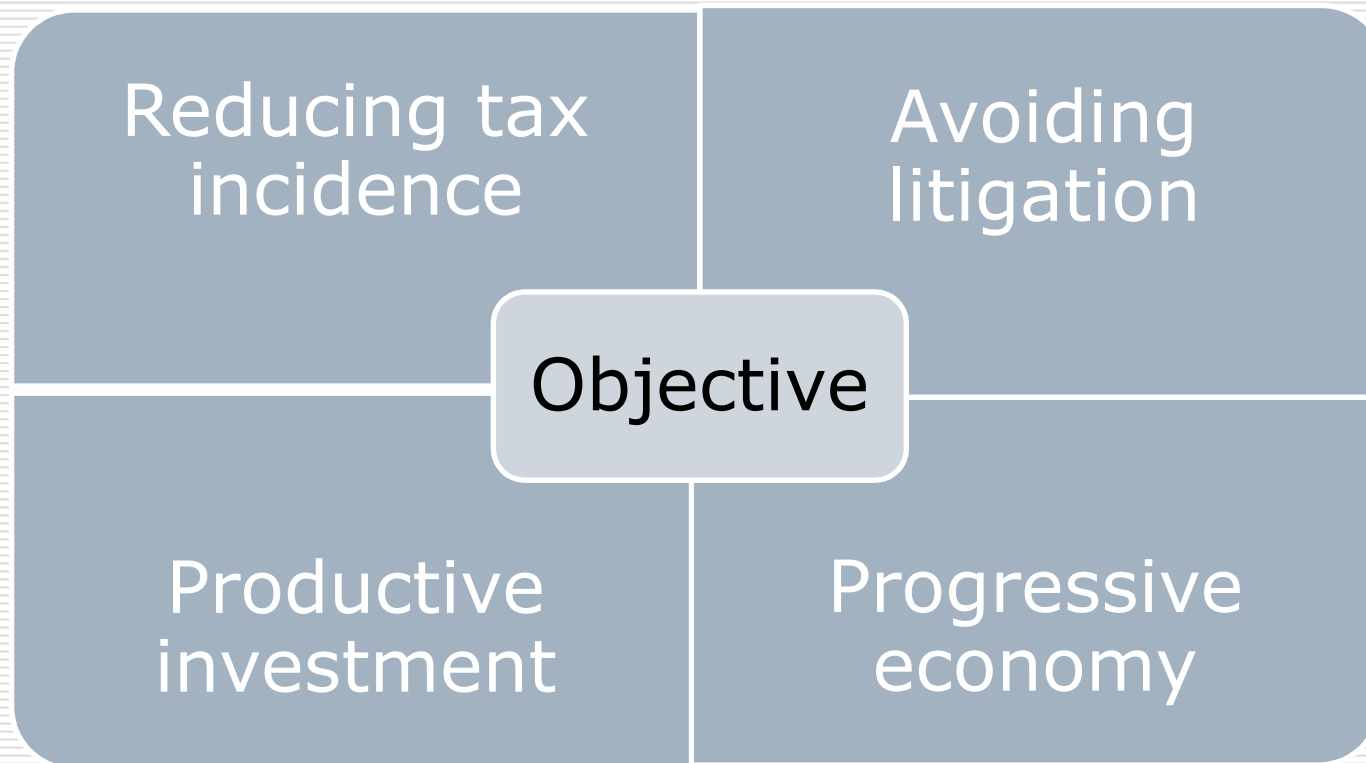
What is Tax Planning ?

Tax Planning



- ❖ Exercise carried out by a tax payer to meet his tax obligations in a
- ❖ proper, systematic and orderly manner
- ❖ availing
 - all permissible exemptions, deductions and relief under the statute as may be applicable in its case
- ❑ not taking form of “*colourable devices*” and
- ❑ having no intention to deceit the legal spirit behind the tax law

OBJECTIVE OF TAX PLANNING



Tax Planning

***[McDowell & Co. Ltd. v. CTO [1985] 154 ITR 148
(Supreme Court)]***

- **Colourable devices cannot be part of tax planning and it is wrong to encourage or entertain the belief that it is honourable to avoid payment of tax by resorting to dubious methods**
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What is Tax Avoidance ?

Tax Avoidance



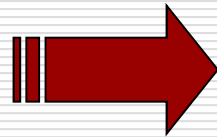
- ❖ Planning to reduce or negating tax liability legally permissible ways
- ❖ takes into account loopholes of law
- ❖ Tax hedging within frame work of law
- ❖ Intentional tax planning before actual tax liability

It has legal sanction

The line of demarcation between tax planning and tax avoidance is very thin and blurred.

What is Tax Avoidance ?

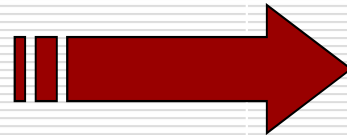
Tax Avoidance



- **Criteria to define tax avoidance**
 - **(1) use of colorable devices;**
 - **(2) instances where doctrine of substance is defeated;**
 - **(3)defeating the genuine spirit of law;**
 - **(4)mis-representation or twisting of facts;**
 - **(5)taking only strict interpretation of law and suppressing the legislative intent behind it.**

What is Evasion ?

Tax Evasion



- ❖ Tax liability is illegally avoided
- ❖ Attempted with help of unfair means / methods
- ❖ Tax omission
- ❖ Unlawful
- ❖ Punishable under law
- ❖ intentional

Tax Planning

- ❑ **Tax planning should not be done with an intent to defraud the revenue; though all transactions entered into by an assessee taken individually could be legally correct, yet on the whole these transactions may be devised to defraud the revenue**
 - ❑ **Thus, planning for tax should be correct both in *form and substance***
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Areas of Tax Planning



- Management Decisions
- Tax Computation
- Tax Compliance
- Tax Payments

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What the job of Tax Planner ?

Tax Planner



- Determination of most tax effective structure.
- Taking full advantage of tax opportunities and reliefs
- Achieving the optimum capital or revenue tax treatment
- Reducing tax on disposals and maximising relief on acquisitions
- Making the most of tax opportunities specific to your industry
- Meeting the rigorous demands of compliance including corporation tax self assessment
- Acting on your behalf in discussions with the tax authorities

Tax Planning – Salary

Component Break Up	
A	Basic
B	Supplementary Allowances
Components of Supplementary Allowance	HRA
	Medical Reimbursements
	LTA
	Children Education
	Children Hostel Subsidy
	Conveyance Allowance
	Professional Development Allowance
	Balancing Figure
C	Retirement Benefits
D	Performance Pay
	CTC

Salary - Structures - Pictorial Structure

Benefits	Market Structure Benefits
Basic Pay	40% TFP (Total Fixed Pay which does not include Variable Pay)
Retirals	Provident Fund - 12% of Basic
	Gratuity - 4.81% of Basic
Supplementary Allowance	CTC - (Basic + Retrials + Variable Pay)
	As per CTC
	E6 - 19%
	E5 - 18%
	E4 - 16%
	E3 - 15%
	E2 - 12%
	E1 - 8%

Tax Planning – Salary Income

Planning



- ❖ Consolidated Salary Vs. Break up salary
- ❖ Deduction vs. Exemption
- ❖ HRA Vs. Accommodation / Self Leasing
- ❖ Commuted pension vs. Uncommuted Pension
- ❖ Contribution to PF, Gratuity, Pension etc.
- ❖ Medical Allowances, Reimbursements and facilities.
- ❖ Education Allowances, Reimbursements and Facilities.
- ❖ Tax free perquisites - benefits
- ❖ Provision of – Computes / laptops, Vehicles / movable assets / Electronics assets etc.
- ❖ Tax Relief u/s 89.

Tax Planning – House Preoperty Income

Planning



- ❖ House Property Income Vs. Business Income
- ❖ Self Occupies Vs. Let Out / Deemed Let Out
- ❖ Registered Owner Vs. Deemed Owner
- ❖ Deduction u/s 23 – On Payment
- ❖ Deduction u/s 24 – Source of Borrowing
- ❖ Purchase of House in name of Spouse / Transfer of House to Spouse / Gift to Spouse
- ❖ Transfer of House Property to spouse without consideration.

Areas of Tax Planning?

Management decisions



- Selection of type of industry, location of industry etc.
- Corporate mergers / amalgamations.
- Procurement / acquisitions of Fixed assets.
- Make or buy,
- own or lease,
- retain or replace,
- export or domestic sale,
- shut down or continue,
- expand or contract .

Areas of Tax Planning?

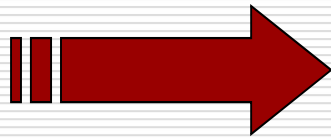
Tax Computation



- Claiming appropriate exemptions.
- Claiming deductions under respective heads of income.
- Revenue and Capital
- Booking of Expenses in appropriate Head of Accounts.
- Capitalization of Assets.
- Claiming deduction in respect of Depreciation / addl. depreciation etc.
- Advantage of unabsorbed depreciation.
- Bad Debts – Tax Benefits

Areas of Tax Planning?

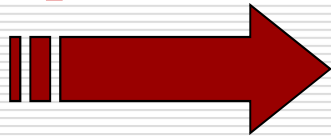
Tax Computation
Additional Condition



- **Compliance with the provisions of:**
- ❖ **u/s 40(a)/ 40(a)(i) / 40(a)(ia) – TDS**
- ❖ **Income Tax -40(a)(ii)**
- ❖ **Perquisite Tax –40(a)(v)**
- **Compliance with the provisions of:**
- ❖ **Payment to Relative – 40 A(2)**
- ❖ **Cash Payment – 40 A(3)**
- ❖ **Provision of Gratuity -40A(7)**
- ❖ **Contribution to Non Statutory Fund-40 A(9)**
- **Compliance with the provisions of:**
- ❖ **Un paid Liabilities – 43B**

Areas of Tax Planning?

Tax Computation



- **Computation of Business / Profession Income – Special Provisions**
- **Planning for carry forward and setoff of losses**
- **Claiming Chapter VI A deductions.**

Areas of Tax Planning – Capital Gain

Tax Computation



- Short Term Vs. Long Term
- Capital Gain - Block of Assets
- Stamp Duty Valuation
- Obligation of Purchaser to deduct tax at source.
- Deduction u/s 54

Areas of Tax Planning – Capital Gain

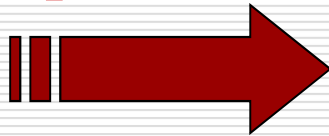
<i>Section</i>	<i>Gain eligible for claiming exemption</i>	<i>Re-invested Asset for Exemption</i>
54	LT capital gain arising on transfer of residential house property.	Gain to be re-invested in purchase or construction of residential HP.
54B	Long-term or short-term capital gain arising on transfer of agricultural land.	Gain to be re-invested in purchase of agricultural land.
54EC	Long-term capital gain arising on transfer of any capital asset.	Gain to be re-invested in bonds issued by NHAI or by REC.
54F	Long-term capital gain arising on transfer of any capital asset other than residential house property.	Net sale consideration to be re-invested in purchase or construction of residential house property.
54D	Gain arising on transfer of land or building forming part of industrial undertaking which is compulsorily acquired by Government	Gain to be re-invested to acquire land or building for industrial purpose.

Areas of Tax Planning – Capital Gain

Section	Gain eligible for claiming exemption	Asset in which the capital gain is to be re-invested to claim exemption
54G	Gain arising on transfer of land, building, plant or machinery in order to shift an industrial undertaking from urban area to rural area	Gain to be re-invested to acquire land, building, plant or machinery in order to shift the industrial undertaking
54GA	Gain arising on transfer of land, building, plant or machinery in order to shift an industrial undertaking from urban area to any Special Economic Zone	Gain to be re-invested to acquire land, building, plant or machinery in order to shift the industrial undertaking from urban area to any Special Economic Zone.
54GB	Long-term capital gain arising on transfer of residential property (a house or a plot of land). The transfer should take place during 1 st April, 2012 and 31 st March 2017.	The net sale consideration should be utilised for subscription in equity shares in an "eligible company".

Areas of Tax Planning – Other Sources

Tax Computation



- Gift up to Rs.50,000/-
- ❖ Gift in cash/cheque/ draft
- ❖ Gift - immovable property
- ❖ Gift of Movable Property
- Exemptions: Received from
- ❖ Relatives
- ❖ On the occasion of marriage of individuals
- ❖ By way of will/ inheritance
- ❖ Contemplation of death of payer
- ❖ Local authority
- ❖ Charitable Institution registered u/s 12AA
- ❖ Fund / Foundation / University - Sec 10(23)(C)

Available deduction while computing Taxable Income.

SEC	Applicability	Nature of Payment	Amount of Deduction
80C	Individuals	Investments	Max. - Rs. 1 .50 lakhs
80CCC	Individuals	LIC or Other Insurance Pension Plan	Max.Rs.1.00 lakhs
80CCD	Individuals	Contribution to approved Pension Plan	80CCD(1): Employee's contribution 10% of salary (for other than employee ,10% of gross total income) or Rs.100,000 which ever is lower 80CCD(2): Employers contribution up to 10% of salary. Additional Contribution – Rs.0.50 lakhs

80CCE- Total of 80C + 80CCC+80CCD =Rs.1.50 lakhs + Addl. Contribution Rs.0.50 lakhs u/s 80CCD

- Available deduction while computing Taxable Income.**

SEC	Applicability	Nature of Payment/Receipt	Amount of Deduction
80CCG	Resident Individuals	Investments in notified equity shares	50% of amt invested subject to maximum of Rs.25000 for 3 consecutive A/Y.
80TTA	Individuals	Interest on deposits in saving a/c	Interest income or rs.10000 whichever is less
80D	Individuals	Mediclaim policy or contribution to central govt health scheme or preventing health check-up	Group 1 (Assessee, Spouse , Dependent Child): Rs.25,000(including Preventive health check-up) Super Senior Citizen – Rs.30,000

- Available deduction while computing Taxable Income.**

SEC	Applicability	Nature of Payment/Receipt	Amount of Deduction
80DD	Resident Individuals	Expenditure on handicapped dependants	If General: Rs.75,000 If Severe Disability: Rs.1,25,000
80DDB	Resident Individuals	Expenditure on specified diseases	General :Actual or Rs.60,000 whichever is less. Senior Citizen: Actual or Rs.80,000 whichever is less.
80E	Individuals	Interest on Loan taken for Higher Education of self or relative.	Any amount paid

Available deduction while computing Taxable Income.

SEC	Applicability	Nature of Payment/Receipt	Amount of Deduction
80G	Individuals	Donation	1.Unrestricted – 100% or 50 % of donation. 2.Restricted -Max. Limit upto. 10% Adjusted Total Income
80GG	Individuals	Rent Payment (if no HRA)	Maximum upto Rs.24,000.
80GGC	Resident Individuals	Donation to Political Party or Electoral Trust.	Actual Amount(Contribution by way of cash is not eligible)
80U	Handicapped Resident Individuals	Not Applicable	General: Rs.75,000, Severe Disability: Rs. 1,25,000

Areas of Tax Planning – Other Areas

Tax Computation



- **Disclose all incomes**
- **Avoid Concealment of facts**
- **Avoid attraction of Penalty**

Tax Planning - Compliances

Tax Compliances



- Maintenance of Accounts
- Audits / Tax Audits
- Certifications / Audit certificates
- Filing returns / forms promptly.
- Compliance with various provisions of TDS/TCS.
- Filing Quarterly & Annual returns of TDS.
- Reply to the Tax Authorities

Areas of Tax Planning?

Tax Payments



- **Payment of Advance Tax as per the stipulated schedule.**
- **Availing Tax Credit**
- **Carry forward of Tax Credit**
- **Avoidance of Interest**
- **Avoidance of penalty**
- **Avoidance of Prosecutions**
- **Claim of Refund**

Thank you

