



# RAMA UNIVERSITY

www.ramauniversity.ac.in

**FACULTY OF COMMERCE AND MANAGEMENT**

**COURSE: B.COM VI SEM.**

**SUBJECT: Corporate Tax Planning**

**SUBJECT CODE: BCH 403**

**LECTURE: 19**

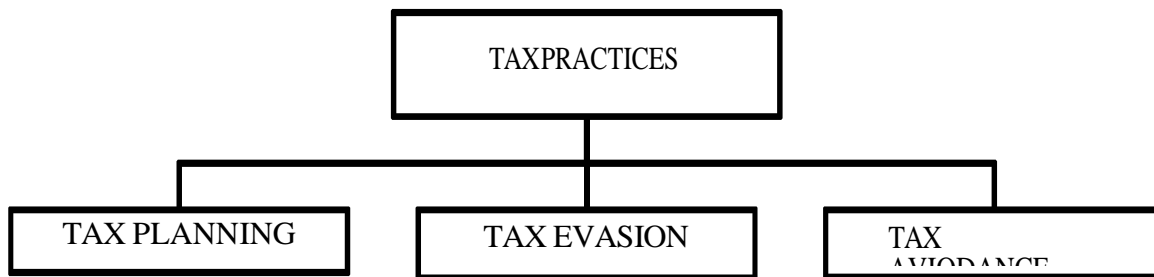
**NAME OF FACULTY: DR. PALASH BAIRAGI**

## LECTURE-19



## INTRODUCTION TO TAX PLANNING AND MANAGEMENT

Taxes are the compulsory contribution by the citizens of a country for meeting different government expenditures. There are three stages in the imposition of tax by the government. First step is the declaration of the liability by the Government i.e. what are all the incomes chargeable to tax, second one is the assessment and tax payment by persons and the last one is the method of recovery of tax if tax was not paid on time. Tax planning and management focuses efficient administration of tax procedures and minimization of tax liability through eligible schemes. Through this chapter we can discuss about the basic concepts of Tax Planning, Tax Management, Tax Evasion and Tax Avoidance.



### TAX PLANNING

Tax Planning is an exercise undertaken to minimize tax liability through the best use of all available exemptions, deductions, rebates and reliefs to reduce income. Tax planning can be defined as an arrangement of one's financial and business affairs by taking legitimately in full benefit of all deductions, exemptions, allowances, reliefs and rebates so that tax liability reduces to minimum. In other words, all arrangements by which the tax is saved by ways and means which comply with the legal obligations and requirements and are not colourable devices or tactics to meet the letters of law but not the spirit behind these, would constitute tax planning.

The Hon'ble Supreme Court in *McDowell & Co. v. CTO* (1985) 154 ITR 148 has observed that "tax planning may be legitimate provided it is within the framework of the law. 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."

Actually the allowances, deductions, exemptions, rebates and reliefs were given as per legal

regulations to achieve social and economic goals. For instance deductions as per 80C for individuals and HUF aim to encourage lease it. In the same manner to choice the form of organization, capital structure, buys or make products are the assessee's exclusive right. One may look for various incentives in the above said transactions provided in Income Tax Act, for reduction of tax liability. All this transactions involves tax planning.

## **TAX EVASION**

It refers to a situation where a person tries to reduce his tax liability by deliberately suppressing the income or by inflating the expenditure showing the income lower than the actual income and resorting to various types of deliberate manipulations. An assessee guilty of tax evasion is punishable under the relevant laws. Under direct tax laws provisions have been made for imposition of heavy penalty and institution of prosecution proceeding against tax evaders.

The tax evaders reduce his taxable income by one or more of the following steps:

- (a) Non-disclosure of capital gains on sale of asset.
- (b) Non-disclosure of income from 'Binami transactions'.
- (c) Willfully unrecording or partial recording of incomes. Eg: sales, rent, fees, etc.
- (d) Charging personal expenses as business expenses. Eg: car expenses, telephone expenses, medical expenses incurred for self or family recorded in business books.
- (e) Submission of bogus receipts for charitable donations under section 80 G.

## **TAX AVOIDANCE**

Tax avoidance is a method reducing tax incidence by availing of certain loopholes in the law. The Royal Commission on Taxation for Canada has explained the concept of tax avoidance as under: For our purposes the expression "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 provisions or lack of provisions of law. It excludes fraud, concealment or other illegal measures.

The line of demarcation between tax planning and tax avoidance is very thin and blurred. Any planning which, though done strictly according to legal requirements, defeats the basic intention of the Legislature behind the statute could be termed as instance of tax avoidance. It is usually done by taking full advantage of loopholes adjusting the affairs in such a manner

that there is no infringement of taxation laws and least taxes are attracted.

Earlier tax avoidance was considered completely legitimate, but at present it may be illegitimate in certain situations. In the judgment of the Supreme Court in McDowell's case 1985 (154 ITR 148) SC, tax avoidance has been considered as heinous as tax evasion and a crime against society. Most of the amendments are now aimed at curbing practice of tax avoidance.

saving and investment habits for the economic prosperity of the country.

### **DISTINCTION BETWEEN TAX PLANNING, TAX AVOIDANCE AND TAX EVASION**

Basis	Tax Planning	Tax Avoidance	Tax Evasion
Meaning	Way of minimizing tax liability by availing full advantages of the Act through exemptions, deductions, rebates and relief.	The assessee legally takes advantage of loopholes in the tax laws	Illegal way reducing tax liability by deliberately suppressing incomes or hiking expenditures.
Aim of Practice	Saving of tax	Hedging of tax	Concealment of tax
Nature	Moral in nature	Immoral in nature and bends the law without breaking it	Illegal and objectionable.
Result	Advantages arise in the long run	Advantages arise in the short run.	Penalty and Prosecution
Legal implications	Uses benefits of the law	Loopholes in the law	Overrules the law