

Consolidated Text

Preamble:

Whereas it is expedient to amend and consolidate legislation relating to the taxation of incomes.

Now therefore, His Majesty King Birendra Bir Bikram Shah Dev has enacted this law on the advice and with the approval of the National Panchayat.

1. Short Title, Extent and Commencement

- (1) This law may be called the Income Tax Act, 1974.
- (2) It shall be applicable throughout the Kingdom of Nepal.
- (3) It shall come into force at once.

2. Definitions

Unless otherwise meant with reference to the subject or context, in this Act,

- (a) Income means cash or in-kind income earned or obtained from the sources mentioned in section 5.
- (b) Tax means the income tax imposed or payable under this Act or current Nepal law. The term includes fines, fees and additional fees levied or payable under this Act or current Nepal law, and the deposits demanded under Section 35.
- (c) Tax-Payer means an individual who is under obligation to pay income tax under this Act or current Nepal law, or any person who has to pay income tax and on whom the Tax Officer has served any notice or taken any action under this Act.
- (d) Income-Year means the period for which any individual has maintained accounts of the income and expenditure of his business or profession, or the period for which his income and expenditure are determined under Section 49.
- (e) Tax-Assessment includes provisional tax-assessment, advance tax-assessment, reassessment, additional assessment order issued by the Tax Officer after making alterations in the self-tax assessment and assessing the tax, and the decision to demand deposits under Section 35.
- (f) Tax Officer means Tax Officer, Senior Tax Officer, or Chief Tax Officer appointed by His Majesty's Government for the purpose of

this Act, or any other officer appointed by His Majesty's Government to exercise the powers of a Tax Officer under this Act.

- (g) Firm means any firm registered or not registered according to current Nepal law. The term includes a partnership firm.
- (h) Company means a company or corporate body established under the Company Act or other current Nepal law for the time being in force; the term includes any foreign institution prescribed as a company for the purposes of this Act by the Director-General through a general or special order, irrespective of whether or not such institution has been established under any law.
- (i) Chief Officer in respect to any company, firm or public institution means the following individuals:
 - (1) The Secretary, Treasurer, Proprietor, Administrator, Manager, Agent, Managing Director, Working Director, or Managing Agent of such company, firm or public institution, or
 - (2) In case the individual mentioned in Clause (1) is absent, or cannot be located, and the Tax Officer sends any notice to any other officer connected with such company, firm or public institution, regarding him as the Chief Officer, the officer receiving such notice.
- (j) Agricultural Income means the income mentioned in Clause (a) of Section 5.
 - (j1) Agriculture means the work of direct production from the land.
- (k) Remuneration-Income means the income mentioned in Clause (c) of Section 5.
- (l) Income from Industry, Trade, Profession, or Occupation means the income mentioned in Clause (b) of Section 5.
- (m) House and Compound Rent Income means the income mentioned in Clause (d) of Section 5.
 - (m1) Gross Income means the amount left after deducting direct expenses from the business of the tax -payer.
- (n) Net Income means the amount left from the income earned by any individual after deducting expenses pertaining to earnings which are deductible under this Act; the term includes the net income determined under Sub-Section (2) of Section 33.

(n1) Pre-Operation Expenses means the technical consultancy expenses, supervision expenses, interest on the money obtained as loan, study and research expenses, publicity expenses, expenses relating to registration and license and other actual expenses incurred for operating the business, which have been incurred before the commencement of the business and which are to be capitalised.

Provided that the following expenses shall not be considered pre-operation expenses:

(a) Amount spent on fixed assets which have been included in the assets shown in the balance sheet.

(b) Amounts paid in advance subject to reimbursement or subsequent adjustment in the accounts.

(o) Individual includes firms, companies, and institutions.

(p) Couple means a husband and wife who have maintained matrimonial relations; provided that a husband and wife shall not be regarded as a couple if they are actually living separately after divorce, or after sub-division of property, or on the basis of a judicial decision.

(q) Family means a husband and wife and minor children, irrespective of whether or not they have obtained their inheritance during the life-time of their mother or father.

(r) Loss means the loss determined while calculating profit.

(s) Director-General means the Director-General of the Tax Department.

(t) Philanthropic Work means any religious work, relief of helpless persons, assistance to or improvement of educational or medical institutions, or any other work done for the welfare of the public within the Kingdom of Nepal without the motive of earning profits.

(u) Temporary Resident means an individual of the following categories:

(a) Any individual who has resided in the Kingdom of Nepal for 183 days or less during any fiscal year.

(b) Any individual who resides outside the Kingdom of Nepal but earns or obtains income from the Kingdom of Nepal.

(c) Any firm or company operating as a branch or sub-branch of any foreign firm or company, or under the control of such (foreign)

firm or company, irrespective of whether or not it is registered under the current Nepal Law.

- (v) Prescribed or in the prescribed manner means prescribed or in the manner prescribed in the rules framed under this Act.

3. Appointment of Tax Officers and Delegation of Powers

- (1) His Majesty's Government may appoint Tax Officers in the necessary number for the purposes of this Act.
- (2) The jurisdiction of a Tax Officer shall be as prescribed by His Majesty's Government. In case His Majesty's Government so considers necessary, it may have functions lying within the jurisdiction of the Tax Officer of any area performed by another Tax Officer.
- (3) Tax Officers appointed prior to the commencement of this Act shall be deemed to have been appointed under this Act.
- (4) A Tax Officer may delegate any or all of his powers to a subordinate employee under his general supervision and control.
- (5) His Majesty's Government may delegate any or all of the powers vested in it under this Act to the Director-General or to a Tax Officer.
- (6) A Tax Officer shall comply with specific instructions, if any, issued by His Majesty's Government in regard to his delegating his powers to his subordinate employees.

4. Assessment and Collection of Income Tax

In case any law provides for the imposition of income tax on a permanent basis, or for any specific year, such income tax shall be assessed on the income earned, or obtained by the tax-payer during the preceding income-year and collected at the income tax rates applicable on the last day of such income-year, in accordance with this Act and the rules framed hereunder. Such income tax shall be assessed on the combined income of all members of the unit, which is under obligation to pay income tax under current Nepal law, and collected accordingly. Such unit shall be determined on the basis of the position prevailing on the last day of the year, and income tax shall be assessed and collected accordingly.

5. Classification of Incomes

For the purpose of income tax assessment, incomes shall be classified under the following categories:

- (a) Agriculture.
- (b) Industry, trade, profession or occupation.
- (c) Remuneration.
- (d) House and compound rents.
- (e) Other sources.

5A. Registration

- (1) Persons desirous of engaging in any industry, trade, profession or occupation shall, before starting such enterprise, register themselves with the Tax Office. An application in the prescribed form shall be submitted to the appropriate Tax Officer for such registration.
- (2) Persons engaged in any industry, commerce, profession or occupation since before the commencement of this Sub-Section shall submit the application mentioned in Sub-Section (1) within one hundred and twenty days from the date when this Section comes into force.
- (3) The Tax Office shall issue a certificate of registration in the prescribed form to the person who has submitted an application under Sub-Section (1) or (2) after registering his industry, trade, profession, or occupation.
- (4) In case any person who has obtained a certificate under Sub-Section (3) gives up or closes his industrial or commercial enterprise, or discontinues his profession or occupation, he shall notify the Tax Officer accordingly within thirty-five days. On receipt of such notice, the Tax Officer shall conduct necessary inquiries, and if such industry, trade, profession, or occupation is found to have been given-up or closed, he shall cancel the registration thereof within three months.
- (5) A person who has obtained a certificate under Sub-Section (3) must submit an application to the appropriate Tax Office within three months after the expiry of each fiscal year for renewing his registration, and the Tax Officer shall renew the registration and indicate the matter in the certificate accordingly.
- (6) The Tax Officer may obtain a security deposit or personal surety for the amount considered necessary by him while issuing certificates under Sub-Section (3) to any temporary resident or non Nepali national.

5B. Power to Direct Production of Certificate of Registration

His Majesty's Government may direct any tax –payer engaged in any business to produce the certificate or registration mentioned in Sub-Section (3) of Section 5A.

6. Taxable Income

Tax shall be assessed on the net income calculated after deducting expenses deductible under this Act from the income earned or obtained by any individual during his income-year from any or all of the sources prescribed in Section 5 within the Kingdom of Nepal, as well as the income earned or obtained in foreign countries by conducting business from the Kingdom of Nepal.

Provided that in the case of temporary residents, tax shall be levied on the net income earned or obtained by them inside the Kingdom of Nepal and obtained from the Kingdom of Nepal while residing in foreign countries.

Explanation : For the purpose of this Section, the term "obtaining" refers to an increment in the tax –payer's income, or an amount credited to his accounts.

6A Expenses Incurred for Earning Non-Taxable Income not to be deducted

Expenses incurred in respect to earning or obtaining income, which is not taxable under this Act, or other current Nepal law shall not be deducted for the purpose of tax assessment.

Provided that in case the expenses incurred for taxable and non-taxable income cannot be ascertained or separated, the Tax Officer shall make calculations on a proportionate basis and not allow deduction of expenses incurred for non-taxable income.

7. Assessment of Income From Industry, Trade, Profession, and Occupation

(1) The income of any individual from industry, trade, profession, or occupational shall be determined by combining profits of all kinds obtained by him from any industry, trade, profession or occupation, and incomes or amounts of the following categories, if any :

(a) Amount of compensation obtained under insurance policies taken with the objective of preventing a loss of profits or under similar other contracts.

(b) In case any part or the whole of any expense that had been debited while determining the net income or loss in any year, or of

reserves set aside for expenditure on any work, need not be so spent, the amount which need not be so spent.

- (c) In case any debt has been remitted on the ground that it is a bad debt, and in case such debt is repaid, the amount so repaid.
- (d) In case income due for any income-year before the closure of any industry, trade, profession or occupation is received even after such closure, the amount of such income.
- (e) The market value of any ordinary or special facility obtained in the course of business during any income-year, irrespective of whether or not such facility can be converted into cash.
- (f) Any commission, fee, charge, or other payment obtained by performing any work or providing any service in the form of a profession or occupation.
- (g) Any commission, fee, charge, or any other similar payment obtained from time to time by any individual who is engaged in any profession or occupation or condition that he makes his services available whenever necessary.
- (h) Any commission, fee, charge, or any other similar payment obtained by any individual for demonstrating or making available his skill, knowledge, expertise, and experience to others, or for making available advice, consultation, inspection, testing, control, training, study or research to others.
- (i) Income obtained from the sale of houses and residential sites built or purchased for commercial purposes and not for personal residence in any area prescribed by His Majesty's Government by notification in the Nepal Rajapatra.

Explanation : For the purpose of this Clause, "house and residential site for personal residence" means not more than two houses and the lands covered by them, and, if there is no house, not more than two residential property and earned by oneself.

8. Assessment of Income From Remuneration

The income of any individual from remuneration shall be assessed by adding together amounts of the following categories earned by him from service or employment during any income year:

- (a) Wages, salaries, special salaries, allowances, special allowances, salary in lieu of leave, commissions, fees, charges, bonus, and other facilities in cash or kind.

Provided that medical expenses, daily or travelling allowances, remote area allowances, pocket expenses, leadership allowances, foreign allowances and contingency allowances of delegations visiting foreign countries, Dashain expenses, amounts received as reimbursement, amounts pertaining to telephone facility made available by the employing institution, and pensions, gratuities and amounts in consideration of accumulated home leave and sick leave paid by His Majesty's Government, governmental and semi-governmental corporations, institutions working in the public interest and other prescribed institutions, and amounts paid in consideration of decorations, insignias and medals shall not be included in income from remuneration.

Explanation: for the purpose of this Clause,

- (1) Foreign allowance means the amount that is paid to an employee in a foreign country in addition to what he is entitled within the Kingdom of Nepal in case he is deputed by the employing institution within the Kingdom of Nepal to work in any of its offices located in foreign countries.
 - (2) Remote Area Allowance means the amount not exceeding the percentage prescribed by His Majesty's Government of the remuneration to be paid to any employee in consideration of his work in any remote area.
 - (3) Dashain Expenses mean an amount equal to one month's salary received from the employer once a year.
- (b) Any expenditure that has not been authenticated incurred from the amount sanctioned to any employee or representative by the Chief Manager and any Officer to whom he has delegated the power for the benefit or development of his industry, trade, profession, or occupation. Provided that in case such expenditure or sanctioned amount is less than 50 percent of the salary of the employee or representative, it shall not be added to the income of such employee or representative, even if the expenditure may not have been authenticated.
- (c) Any amount that is normally spent or borne by the individual who obtains remuneration, but is actually spent or borne by the employer.

9. Assessment of Income From House and Compound Rent

- (1) Income from house and compound rent shall be assessed by combining the following amounts:

- (a) Any amount that may have been obtained from the tenant during any income-year as royalty or additional charge, or under any other name.
 - (b) In case any person has permitted any other person to construct a house and live there for some period of time in lieu or payment of rent, the total amount spent on the construction of the house shall be regarded as rent for the entire period for which the house is to be occupied according to the agreement, and the annual rent shall be calculated by dividing this amount by the number of years during which the house is to be so occupied.
 - (c) The amount of expenses, other than water, electricity and telephone charges, which are normally borne by the house-owner, if borne by the tenant.
- (2) In case any individual has given his house and compound on rent during any income-year, the amount due in consideration of such rent shall be deemed to have been obtained, unless otherwise proved.
- (3) Except in circumstances when a relative or employee of the house-owner or a caretaker is living in the house and compound, in case (any house and compound) has been given out on rent exceeding Rs. 25,000 a year, an agreement must be concluded in writing between the two parties, and the renter must submit a copy of such agreement to the appropriate Tax Office within 35 days after it is signed. In case no agreement has been signed, or in case the rent on any house and compound is held to have been shown at a figure which is less than the actual figure, the amount of rent shall be determined on the basis of current market practices.
- (3A) Notwithstanding anything contained in Sub-Section (3), in regard to the rent of houses and compounds in areas prescribed by His Majesty's Government by notification in the Nepal Rajapatra, the minimum rent may be fixed on the basis of the procedures prescribed in the same notification. The minimum rent so fixed, the rent mentioned in the particulars submitted by the tax-payer, or the rent that is proved to be true, whichever is higher, shall be considered to be the rent.
- (4) In case any house and compound owned by two or more persons is given on rent, and in case the income tax payable such owners is to be assessed separately, the amount of rent accruing from such jointly-owned house and compound shall also be calculated separately on the basis of their title and liabilities and added to their respective incomes. Otherwise, the rent shall be included in their joint income.

10. Assessment of Income from Other Sources

Income obtained or to be obtained during any income-year from any source other than those mentioned in Sections 7, 8 and 9, as well as agricultural incomes, shall be regarded as incomes from other sources, Such income shall include the following amounts also:

- (a) Any amount which any person shows in his accounts as paid or payable to another person, but which is not proved to have been so paid or to be so payable by the tax-payer.
- (b) In case any person has made any investment but has failed to prove to the Tax Officer that he has done so with non-taxable income, or with after-tax income, the amount of such investment, and in case it is not possible to indicate the value or amount of such investment, the amount assessed by the Tax Officer on the basis of market prices.

11. Method of Assessing Net Income From Agriculture

- (1) While assessing net income from agriculture, the prescribed expenses incurred in connection with earning or obtaining such income shall be deducted and the balance shall be deemed as net income.

Provided that in case separate provisions are made in another Nepal law in case separate provisions are made in another Nepal law in respect to the assessment of net income from agriculture, action shall be taken accordingly.

- (2) Notwithstanding anything contained in Sub-Section (1), His Majesty's Government may, if it so deems necessary, grant remissions in the event of floods, drought, or any other proper reasons.

12. Method of Assessing Net Income from Industry, Trade, Profession, or Occupation

- (1) While assessing net income from any industry, trade, profession or occupation, the following actual expenses incurred in the process of earning or obtaining income from such sources shall be deducted :

- (a) Amount paid as rent on houses and compounds, according to lease agreements.
- (b) Amounts spent on the repair of machinery, furniture and other property or equipment, which have been used to earn or obtain income.

Provided that such repairs shall be limited to operating such equipment in their usual condition, or to preventing them from

being damaged. In case repairs result in an increase in the value, life and working capacity of such equipment, or effect changes in their basic structure, expenditure incurred thereon shall be regarded as capital expenditure, and, therefore, shall not be deducted.

(c) Interest on Loans

Provided that with the exception of interest paid to any corporate body, no interest exceeding Rs.20,000 per annum paid on the basis of unregistered transactions with others may be deducted.

(d) Rents, land tax, customs, registration fees, and similar other amounts paid under current Nepal law.

(e) Remuneration paid to workers and employees.

Provided that in case the total amount of salaries and allowances paid as remuneration to any person exceeds Rs. 25,000 per month, such amount as is in excess of this figure shall not be deducted, unless so permitted by His Majesty's Government.

(f) Amounts which are mentioned in the accounts as non-recoverable, and are, therefore, deductible.

(g) Transport or travelling expenses.

(h) Discounts and commissions

(i) Administrative expenses.

(j) Depreciation at a rate not exceeding that prescribed on the basis of the type and durability of machinery and other assets owned by the tax-payer which are utilized for earning or obtaining income.

(j1) Not more than two percent and one percent respectively of the total incomes as prescribed for advertisement and hospitality expenses.

Provided that expenses other than those incurred for publicity and broadcasting through national and international newspapers and magazines, television, radio, cinema or different types of paintings, or by printing posters, pamphlets, booklets, calendars, dairies, etc. shall not be included in advertisement expenses, and the other expenses incurred for the promotion of business shall be deducted subject to Clause (k).

(j2) One-fifth of the pre-operation expenses every year on the basis of an equal division.

(k) Other actual expenses incurred for earning or obtaining income.

(2) In case income due for any income-year is obtained only in the next income-year, the actual expenses incurred under Sub-Section (1) in the process of obtaining such income shall be regarded as expenditure incurred in the year in which it has been obtained, and deducted for the purpose of assessing net income.

12A. Method of Determining Income and Assessing Net Income of Petroleum Industries and Cooperative Societies

Notwithstanding anything contained in Section 7 and Section 12, the method of determining the income of petroleum industries and cooperative societies, and of assessing the net, shall be as prescribed.

Explanation: For the purpose of this Section, the term "petroleum industry" means a petroleum enterprise as mentioned in the 1983 Nepal Petroleum Act.

13. Method of Assessing Net Income From Remuneration

The following expenses shall be deducted while assessing net income from remuneration:

(a) Amounts deducted from remuneration and credited to the provident fund, and the amount credited to such fund by the employer.

Provided that such expenses shall be deducted only in prescribed circumstances in respect to facilities other than the employee's provident fund

(b) Fifteen percent of the amount left after deducting the amounts mentioned in Clause (a), or Rs. 5,000, whichever is lower, in consideration or other expenses.

Explanation: For the purpose of this clause, the term "other expenses" does not include other expenses which may be deducted while assessing the net income under other Sections of this Act.

14. Method of Assessing Net Income from House and Compound Rent

The following expenses shall be deducted while assessing net income from house and compound rent of only a house and from which rent has been obtained:

- (a) Repair expenses amounting to ten percent of the rent, incurred by the owner in accordance with the lease agreement.
- (b) Insurance premium paid on the house.
- (c) Land taxes, and taxes paid on the house and compound, if any.
- (d) The certified amount paid as interest on loans obtained for the construction or repair of houses given out rent from financial institutions under current law.
- (e) A maximum of one month's rent if commission has been paid while renting out (the house and compound), if any.
- (f) In case anyone is proved to have rented out his own house and compound and resided in a house and compound rented from others, one-third of the house and compound rent that he has been obtaining by renting his own house and compound, or the amount of rent that he has to pay for having rented the house and compound of other, whichever is lower.

14A. **Net House and Compound Rent to be Determined on the Basis of Accounts**

Notwithstanding anything contained in Section 14, in case a corporate body earning house and compound rent maintains the accounts of its house and compound rent and gets them audited, the net income from house and compound rent may be determined on the basis of such accounts by deducting the expenses mentioned in Section 12.

15. **Method of Assessing Net Income From Other Sources**

While assessing net income from other sources, all expenses actually incurred in the process of earning or obtaining such income shall be deducted.

Provided that the total expenditure to be deducted under this Section shall not exceed the total income for the appropriate income-year.

16. **Method of Assessing Net Income from Insurance Business**

- (1) While determining the net income from life insurance business, the expenses mentioned in Clause (b) below shall be deducted from the amount of income earned according to the following Clause (a), and the balance shall be assessed as net income.

(a) Income

- (1) Income made by investing life insurance funds.
- (2) Income from transactions in investments.
- (3) Commission earned through reinsurance.

(b) Expenses

- (1) Interest set aside as actuarial reserves.
- (2) Amounts allocated for payment on with-profit insurance policies.
- (3) Commissions and other administrative expenses.

- (2) While assessing the net income from insurance business other than life insurance, the expenses mentioned in Clause (b) below shall be deducted from the income obtained from sources mentioned in Clause (a), and the balance shall be assessed as net income.

(a) Income

- (1) Amounts obtained or to be obtained as premium.
- (2) Income from investment.
- (3) Income from transactions in investments.
- (4) Income from reinsurance.
- (5) The amount left unspent from funds reserved for meeting possible financial liabilities during the preceding income-year.

(b) Expenditure

- (1) Amount of compensation paid in consideration of insurance.
- (2) Amount paid or to be paid as reinsurance premium.
- (3) Commission and discount to be paid in connection with insurance business.
- (4) Reserve fund maintained in order to meet contingencies.
- (5) Expenses incurred in the process of earning income from investment, or of making investments.

(6) Other administrative expenses.

17. Net Income to be Prescribed in Respect to Incomes of Specific Categories

Notwithstanding anything contained elsewhere in this Act, the method of determining net income from any specific business or source which is subject to income tax under this Act or current Nepal law shall be as prescribed, or as prescribed by His Majesty's Government by notification in the Nepal Rajapatra.

17A. Tax-Assessment of Small Tax Payers

Notwithstanding anything contained in other Sections of this Act, the method and procedure of tax-assessment in the case of small tax-payers whose income does not exceed the prescribed limit shall be as prescribed.

18. Power to Assess Net Income by Agreement in Special Circumstances

In case it is not deemed necessary to follow the procedure laid down in this Act to determine net income in relation to any tax-payer who earns or obtains income in any specific manner through business at international level, the Director-General may make arrangements for determining the net income by agreement with such tax-payer.

19. Assessment of Income of Firms

The tax payable under this Act on the income earned by any firm with more than one proprietor, or by a partnership firm, shall be assessed in the name of the firm. The tax so assessed shall be collected from the proprietors or partners of the firm.

19A. Assessment of Tax on Income of Private Limited Company

The tax assessed on the income of private limited company shall be realized from its Chairman, Managing Director, Working Director, or Managing Agent, or the Person who discharges the functions of such Chairman, Director, or Agent, irrespective of whether or not such company is closed or dissolved.

20. Assessment of Income of Minors or Disabled Persons

The tax payable by any minor or disabled individual shall be assessed and collected from the custodian or guardian who receives income on behalf of such person.

21. Assessment of Income of Couples Families

- (1) In case tax is payable under this Act or any other current Nepal law on the income earned by any couple or family, such tax shall be ordinarily assessed as follows and collected accordingly:
 - (a) Tax on the joint income of a couple shall be assessed in the name of the husband.
 - (b) Tax on the joint income of a family shall be assessed in the name of the head of the family.

22. Assessment of Income of Temporary Residents

In case it is not possible to obtain particulars of income from temporary residents and assess or collect the tax payable by them, income tax shall be assessed and collected from the chief officer of such individual, or from the individual engaging in business in the Kingdom of Nepal on his behalf. In case such an individual does not exist, income tax may be assessed and collected from the individual who makes payment of income to the temporary resident.

Explanation:

For the purpose of this section, the term "Chief Officer of temporary resident" means an individual who receives or is empowered to receive the income of such temporary resident.

23. Assessment of Deceased Person's Income

The income obtained by or payable to any deceased person before his death shall be assessed and the tax payable by him while he was alive shall be collected from his heir who uses such income.

24. Income Concealed Through Collusion

- (1) In case two or more persons earn or obtain any income through collusion, and in case it is proved that they have concealed such income or evaded tax by suppressing information about the income of any one of them through mutual consultation or any other similar arrangement, thereby showing that some of them do not have any income at all or earn less than the actual amount, the Tax Officer shall regard an amount equal to the income that may ordinarily be obtained by other tax-payers through such business as the income of such person, and assess the tax accordingly.
- (2) In case the Tax Officer is satisfied that any individual has engaged in any business in the name of any other person or under any name other

than that of his own, but has been mainly responsible for the control or management of such business and has been appropriating all or the main portion of the income accruing from such business, such income shall be regarded as the personal income of the individual and tax shall be assessed accordingly.

- (3) In case the Tax Officer finds in the course of assessing tax under Sub-Section (2) that any individual has engaged in any business in the name of any other person, he may summon under Section 45 both the person who has engaged in business in the name of another person and the person in whose name such business has been conducted, and interrogate them.

25. **Deduction of Losses**

In case any person suffers losses in industry, trade, profession or occupation during any income-year, such losses shall be deducted from the net income determined after calculating the profit and loss for the next income-year, and the tax due for such losses cannot be deducted in full from the net income of such income-year, these may be deducted from the income of the next two years.

Provided that:

- (1) The Tax Officer shall follow the same method for assessing the net loss as for assessing the net income in order to ascertain the amount of loss incurred during any income year. The net loss shall not be assessed in cases where particulars of income have not been submitted.
- (2) Except for the petroleum industry, the net loss incurred during the period of income tax exemption under current law shall not be deducted from the net income for the subsequent period for which income tax is payable.
- (3) The method of carrying forward and deducting losses in respect to petroleum industries shall be as prescribed.
- (4) The losses sustained because of the failure to conduct business throughout any year by the tax-payer himself shall not be deducted from the profits of the year in which business has been conducted.

26. **Life-Insurance Premium to be Deducted**

In case any income-earning person has taken a life insurance policy from the prescribed insurance company, the premium paid in consideration of such policy shall be debited. Provided that deduction shall not be granted for premium expenses exceeding 7 percent of the insurance amount.

27. **Obligation to Submit Particulars**

- (1) Every tax-payer shall fill up particulars of his income in the prescribed form and submit such particulars to the Tax Officer within three months after the expiry of his income-year.

Provided that in case any tax-payer, or any person who is under obligation to submit particulars of income or pay tax on his behalf, fails to submit particulars of income within the prescribed time-limit by reason of having gone abroad, or of sickness, or of non-completion of his final accounts, or any other similar reason, and in case he submits an application to the Tax Officer within that time-limit explaining the reasons why he had failed to do so, the Tax Officer, if he is satisfied with such explanations, may extend the time limit by not more than three months.

- (2) In case the profit and loss account and the balance sheet of any company has not been audited or approved by its general meeting within three months after the expiry of its income-year, it shall submit provisional particulars on the basis of the profit and loss account and the balance sheet prepared according to its accounts.
- (2a) In case the profit and loss account and the balance sheet relating to the provisional particulars submitted under Sub-Section (2) are not approved by the general meeting and submitted to the Tax Office within six months from the date of submission of such particulars, the Tax Officer may take action under Section 28.
- (3) Notwithstanding anything contained in Sub-Section (1), any tax-payer who has worked for less than one year shall be required to submit provisional particulars of his income to the Tax Officer before the completion of the work done by him to earn an income.
- (4) In case any tax-payer who has been paying tax from year to year has not earned any taxable income during any income year because he has not conducted any business, such tax-payer need not submit particulars of his income. He must send a notice to the appropriate Tax Office within the time-limit mentioned in Sub-Section (1) mentioning the reasons why he has not earned any income.

28. **Power to Direct Submission of Particulars**

- (1) In case particulars are not submitted under Section 27, or in case it is suspected that any person is earning income which is subject to income-tax under this Act or current Nepal law, the Tax Officer may direct such person to submit or arrange for the submission of particulars of his income. Such person shall submit particulars of his income in the

prescribed form to the Tax Officer within fifteen days from the date of receiving such directive.

Provided that in case such tax payer is unable to submit particulars even within the time limit mentioned above, he shall submit a written notice to this effect to the Tax Officer within the time-limit prescribed in such order, and in case the Tax Officer is satisfied with the explanations given by such tax-payer, he may extend the time-limit by a maximum of one month.

No extension of time-limit shall be granted under this Sub-Section if an extension of time-limit has been obtained under Sub-Section (1) of Section 27.

- (2) In case the Tax Officer feels that any tax-payer is likely to leave the Kingdom of Nepal before or immediately after the end of the current income-year, and that such individual may not return soon, or that any individual is going to discontinue his business, he may direct such individual to submit particulars of his income within seven days.

29. Revision of Particulars of Income

- (1) In case any tax-payer comes to know of errors in the particulars of income after he has submitted the same, he may submit revised particulars before receiving a tax-assessment order.

Provided that in case revised particulars are submitted after the tax-assessment order has been issued, but before the notice or action initiated by His Majesty's Government under Sub-Section (1) of Section 56 has been received, a fee amounting to 10 percent of the tax payable in the event of the tax being reassessed or additional tax assessment on the basis of such particulars, shall be charged.

- (1a) A tax-payer who has submitted particulars of his self tax-assessment may submit revised particulars within three months from the date of such submission. In case such revised particulars are submitted, the tax-payer shall be required to pay additional fee amounting to 25 percent of the amount of tax assessed on the basis of such particulars.

Provided that in case the tax-payer who has submitted particulars of self-tax assessment submits revised particulars within a month from the date of such submission, and in case the revised particulars lead to a discrepancy in the amount of tax by not more than five percent, no additional fee shall be charged.

- (2) A tax-payer shall be allowed to submit revised particulars under Sub-Section (1) not more than once in any income-year.

30. Annual Statement of Income From Remuneration

Every office head or employer shall submit to the Tax Officer particulars of income obtained by his employees in the form of remuneration containing information on the following matters:

- (a) Name and address of every individual and the amount of remuneration received by him.
- (b) Particulars of advance deduction of tax.

30A. Particulars Need not be Submitted

In case the institution in which an employee is working furnishes evidence of advance payment of tax payable by him, such tax-payer need not submit particulars of his income to the Tax Office if the only source of his income is remuneration.

31. Necessary Information to be Provided

- (1) Notwithstanding anything contained in current law, in case the Tax Officer demands from any individual, firm, company, bank, financial, or any other institution, or any governmental or non-governmental office, any information in respect to the source of income or business of any tax-payer, it shall be the duty of such individual, firm, company, bank, institution, or office to provide such information.
- (2) Information received under Sub-Section (1) shall not be used for any purpose other than tax assessment, or be disclosed to any other person.

31A. Power to Direct Submission of Particulars

The Tax Officer may direct any tax-payer to submit the following particulars for the purpose of tax assessment in respect to particulars of income submitted under this Act, or to business done for the purpose of earning income:

- (a) Necessary facts relating to the account of tax-payers and other documentary evidence.
- (b) Liabilities, assets, sources of income and items of expenditure of tax-payers, and such other particulars as are deemed necessary.

32. Places Where Particulars are to be Submitted

Particulars of income to be submitted by tax-payers under this Act shall be submitted at the following places:

- (a) At the Tax Office to which the tax-payer had been submitting annual statement of income previously.
- (b) In case any tax-payer has not previously submitted such particulars of income, or in case the address of any tax-payer who had previously submitted such particulars has changed, such tax-payer shall submit particulars to the Tax Office of the area where the main office from which he earns income is situated, or to the Tax Office of the area where he permanently resides.

Provided that, in the case of tax-payers earning income by engaging in business in more than one area, such particulars shall be submitted to the Tax Office prescribed by the Director-General.

33. Assessment of Tax

- (1) After particulars of the income of any tax-payer are received, the Tax Officer shall determine the net income on the basis of such particulars, and complete the assessment of tax within the year immediately following the year in which the particulars were received. In case he cannot complete the assessment of tax within this period, he must notify the Director-General accordingly, and indicate the reasons. On receiving such notice, the Director-General may extend the time limit by not more than two years. In case tax assessment cannot be completed even within the extended time limit, the Tax Officer shall again notify the Director-General accordingly and indicate the reasons. On receiving such notice, the Director-General may extend the time limit in installments in such a manner that tax-assessment is completed within a period of four years after the particulars of income are received.

Provided that in the case of tax payers whose particulars of income have been received prior to the commencement of this Sub-Section, and action is being taken for the assessment of tax, the time limit may be extended in such a way that the tax is assessed within five years from the date when the particulars of income were submitted.

- (2) In case the tax-payer does not submit particulars of his income, or submits false particulars, or does not maintain accounts of his business, or in case the accounts that he has maintained cannot be accepted as valid, the Tax Officer shall determine the net income on any of the bases mentioned below and assess the tax accordingly:
 - (a) Liabilities, assets, sources of income and particulars of tax-payer.
 - (b) The report of the Tax Inspector, if any, in respect to the business of the tax - payer during the income-year for which income has to be determined.

- (c) The report obtained through the Tax Inspector, if any, in respect to the business of the tax-payer during the fiscal year for which the Tax Officer has to assess his tax.
- (d) The basis on which the net income of other tax- payers conducting any similar business of occupation has been determined.
- (e) Evidence or basis obtained or compiled in respect to such tax-payer by the Tax Officer.
- (f) Basis ascertained in respect to such tax-payer by the Tax Officer himself.
- (g) Any factual report or basis received by the Tax Office in respect to the tax-payer.

Explanation

For the purpose of this Section, the term "false particulars" mean any or all of the circumstances prescribed in Sub-Section (2) of Section 56.

- (3) Notwithstanding anything contained in Sub-Section (1) and Sub-Section (2), the Tax Officer, after scrutinizing or investigating particulars of income that he has received, may deduct expenses which are deductible under this Act, include other amounts of income which must be included, if any, determine the net income, and assess the tax accordingly.
- (4) While determining the net income under Sub-Section (2) or Sub-Section (3), the Tax Officer shall clearly indicate the reasons why it has been necessary to determine the income in this manner, notify the tax-payer accordingly in writing, and give him a time-limit of 7 days to state anything in his defense or to produce evidence.
- (5) In case a company which has to submit particulars of income under Sub-Section (2) of Section 27 submits provisional particulars of its business, the Tax Officer may make a provisional assessment of tax on the basis of such particulars, without prejudice to the provisions contained in other Sections of this Act.

33A. Provisions Concerning Self Tax-Assessment

- (1) For the purpose of self tax-assessment, a tax-payer may determine his net income, submit particulars thereof in the self-tax assessment form, and assess his tax himself.

Provided that tax-payers who are required to maintain accounts and records under current law must themselves assess their tax.

- (2) In case any mistake is detected, or in case it is found that tax has been assessed at a figure that is lower than what is due, in the course of investigating into the particulars submitted by any tax-payer in the self tax-assessment form under Sub-Section (1), the Tax Officer may make final assessment of tax under this law.

33B. Procedure of Self Tax-Assessment to be Prescribed

The Director-General may make following arrangements for determining the procedure of self tax-assessment:

- (a) Determine the procedure of self tax-assessment.
- (b) Prescribe the specimen of the form to be submitted along with particulars of self tax-assessment.
- (c) Prescribe the categories of tax-payers who must make self tax-assessment on a compulsory basis.
- (d) Prescribe the criteria for determining whether or not self tax-assessment is appropriate.

33C. Particulars of Self Tax-Assessment to be Certified

Particulars of income and related account and records to be submitted to the Tax Office by a tax-payer for the purpose of self tax-assessment must have been certified by a recognised auditor.

34. Power to Take Fresh Action and Assess Tax

- (1) In case the Director-General has reason to believe on the basis of available information, before tax has been assessed, that any irregularity has been or is being committed with regard to any action relating to such tax-assessment, he may direct the appropriate Tax Officer to assess the tax through fresh action, or direct any other Tax Officer to do so, after preparing a note indicating clearly the reasons for his action.
- (2) In case the tax-payer files an application within thirty-five days after he receives the tax assessment order, to the effect that his tax-liability has increased, because the Tax Officer has not complied with any provision relating to tax assessment, or because he committed any irregularity, or acted negligently while assessing the tax, and in case investigations reveal that the complaint is true, the Director-General may invalidate the tax assessment order and issue an order for fresh tax assessment after preparing a note indicating the reasons for such action. In case an order is issued for fresh tax assessment in this manner, the Director-

General shall inform His Majesty's Government accordingly within three days.

Provided that in circumstances when an appeal has already been filed under Section 57, the Director-General shall have no power to issue an order under this section.

- (2A) A tax-payer who files an application under Sub-Section (2) must deposit one-third of the amount of the outstanding tax.

Provided that in the case of the amount of tax assessed in respect to the points, on which no dispute has arisen at the time of assessing tax, the entire amount must be paid.

- (3) In case there are satisfactory reasons for which the tax-payer cannot file an application within the time limit mentioned in Sub-Section (2), he may file an application to the Director-General within such time-limit for an extension, clearly indicating the reasons. In case the reasons mentioned in such application are found to be satisfactory and in case no appeal has been filed under Section 57, the Director-General may extend the time limit by not more than thirty days.
- (4) Notwithstanding anything contained in this Act or current Nepal law, no fees shall be payable under Sub-Section (2) or (3) of Section 37 until a final decision is reached on an application filed under Sub-Section (2).

Provided that in case it is decided that the claims made by the tax-payer are wholly or partially unacceptable, the concerned tax-payer must pay the fee payable under Sub-Section (3) of Section 37 to the extent of the amount covered by the decision.

- (5) Notwithstanding anything contained in Section 57, no appeal shall be entertained against the fresh tax assessment made according to an order of the Director-General on the basis of an application filed under Sub-Section (2).

Provided that only in circumstances when an Appellate Court grants permission for an appeal to be filed with it because of any prima facie legal error on any of the following questions, so that the decision of the Director is liable to be reversed partially or fully, an appeal may be filed with such Appellate Court:

- (a) Question of jurisdiction,
- (b) Question involving interpretation of law,

- (c) Question involving failure to consult evidence which should have been consulted, or acceptance of evidence which should not have been consulted, or
- (d) Question involving the breach of procedural law which must be followed on a mandatory basis.

35. Advance Collection of Tax

- (1) In case the Tax Officer is satisfied that any non-Nepali national or temporary resident who is under obligation to pay tax under the 1963 Nepal Income Tax Act, this Act, or other current law, is likely to evade the payment of tax and abscond, or in case the person who is liable to pay tax changes the name or address of his firm or business with the intent of evading such tax, (the Tax Officer) may direct such person to furnish an advance deposit of the amount of tax, which is payable by or is due from him, before the expiry of his income-year, or even if the time-limit for the submission of particulars of income has not yet expired, or before tax assessment, or before the time-limit for payment of tax has expired, immediately after receiving the tax assessment order.
- (2) A personal surety may be accepted against the amount mentioned in Sub-Section (1). Until a deposit or personal surety is furnished, the Tax Officer may detain or intern such individual.
- (3) In respect to tax-payers other than those mentioned in Sub-Section (1), in case particulars of income are not submitted within the time-limit prescribed under this Act, or in case particulars of income have been submitted but it is not possible to assess tax on the basis of such particulars immediately, the Tax Officer may direct the advance payment of a deposit on the basis of the net income as determined in the assessment of tax for the latest year for which tax assessment has already been made, or according to the amount of tax due on the net income on the basis of the particulars which have been submitted, without any prejudice to other actions and tax assessment under this Act, and prescribe a maximum time-limit of 35 days for the purpose (of such advance payment).
- (4) In case any tax-payer is not satisfied with any order issued under Sub-Section (3), he may submit a petition to the Director-General within 35 days after receiving such order.

Provided that in case a tax-payer files an appeal to the revenue Tribunal under Section 57 against the order of the Tax Officer, he shall not be entitled to submit a petition to the Director-General.

35A. **Tax to be paid in advance**

- (1) Notwithstanding anything contained elsewhere in this Act, tax-payers of categories prescribed by His Majesty's Government by notification in the Nepal Rajapatra shall make advance payment of tax payable on their income on the basis of the particulars of income while submitting such particulars after the expiry of their income-year.
- (2) All tax-payers shall be required to make advance payment of tax under Sub-Section (1) from 2037 – 38 (1980-81).
- (3) In case the tax payable by any tax-payer is not assessed within four years from the date of advance payment of tax under Sub-Section (1) and (2), in the case of a tax-payer making advance payment of tax after the commencement of this Sub-Section, and within five years from the date of advance payment of tax under Sub-Sections (1) and (2), in the case of a tax-payer making advance payment of tax before the commencement of this Sub-Section, the tax paid by him according to particulars submitted by him shall be regarded as tax assessed under this Act.

Provided that:

- (1) In case the Tax Officer summons such tax-payer to present himself at the Tax Office, or directs him to produce any evidence in connect on with his tax assessment within four years from the date of advance payment of tax, in the case of tax-payers making advance payment of tax after the commencement of this Sub-Section, and within five years from the date of advance payment of tax in the case of tax-payers making advance payments before the commencement of this Sub-Section, and in case such tax-payer fails to do so, this Sub-Section shall not be applicable to him. Such orders to tax-payers to present themselves at the Tax Office may be issued through notification in any national level newspaper or magazine.
- (2) In case any tax-payer submits false particulars under Sub-Section (1) and (2), the provisions of this Sub-Section shall not prejudice reassessment or additional assessment of tax under Section 56.
- (3) The tax must be assessed within a period of six months from the date of expiry of the time-limit prescribed in the order issued to the tax-payer to submit evidence or be present under the Restrictive Clause (1) of Sub-Section (3).

36. Deduction at Source

- (1) While disbursing any remuneration, rent, commission, bonus, share of profits, interest, or any other similar amount which is subject to income tax to any individual, the individual who make such disbursements shall deduct the tax payable on such amount under this Act or current Nepal law at the time when disbursement is made. A receipt against such deduction of tax shall be given to the payee immediately, the amount so deducted shall be credited to His Majesty's Government within fifteen days, and particulars thereof shall be submitted to the Tax Officer.
- (2) In case payment is due on an annual basis, income-tax shall be deducted under Sub-Section (1) for each period for which payment is actually made, on the basis of the total amount payable to such individual or of the total amount of tax due from him after the expiry of the year.
- (3) In case any person fails to deduct the tax under Sub-Section (1), or deducts and an amount which is less or more than due and credits it accordingly, he shall adjust such omissions or discrepancies at the time of the next payment.
- (4) No provision contained in this section shall prejudice any other procedure or collecting the tax.

37. Payment of Income-Tax

- (1) The tax-payer shall pay the tax within 35 days from the date of receiving the tax-assessment order under this Act tot the bank or office prescribed therein.
- (2) In case there exist satisfactory reasons for the inability of the tax-payer to pay the prescribed amount of tax within the time-limit prescribed in Sub-Section (1), he may file an application to the Tax Officer for an extension of the time-limit for the payment of the arrears of tax in a lump sum or in installments after paying the fine, if any, imposed before the expiry of that time-limit. In case the reasons mentioned in the application are considered satisfactory, the Tax Officer may extend the lime-limit by a maximum of nine months after the expiry of 35 days from the date on which the tax-payer has received the tax assessment order. In consideration of extension of the time-limit for the payment of tax arrears, fees shall be charged at the rates mentioned below:
 - (a) (Repealed on September 18, 1980)
 - (b) For the first three months - 3 percent

- (c) For the first six months - 5 percent
 - (d) For nine months - 7 percent
- (3) Fees amounting to 25 percent of the annual tax shall be charged from tax-payers who default in the payment of tax within the time-limit mentioned in Sub-Section (1), or within time-limit extended under Sub-Section (2), if any. The prescribed Officer of Office shall, on receipt of information from the Tax Officer, recover the tax arrears and fees by adopting any or all of the following procedures:
- (a) By impounding or sequestering the movable and immovable property owned by the tax-payer,
 - (b) By impounding the deposits held by the tax-payer in his name in any government office, or any corporate body controlled by His Majesty's Government, or the amount due to the tax-payer from such office or body, or by directing the payment of such amount to the Tax Office,
 - (c) By suspending the business and exports and imports of the tax-payer,
 - (d) By auctioning the whole or part of the movable or immovable property held by the tax-payer in his name in one or several lots in the prescribed manner.
- (4) In case the tax-payer offers payment of the arrears due from him after action is initiated to auction his property under Clause (d) or Sub-Section (3), but before it has been completed, the auction may be called off after collecting the arrears along with an additional fee amounting to 5 percent of the total amount of the tax arrears, fees and fines due from the tax-payer,
- (5) In case the proceeds of the auction of the tax-payer's property, carried out under Clause (d) of Sub-Section (3), exceed the sum due from him, the excess shall be refunded to him.

37A. Power to Detain Until Tax is Paid

In case any tax-payer transfers his property or business to any person in any manner after or before submitting particulars of income or after or before tax assessment, with the intent of evading the payment of tax, or defaults in the payment of the prescribed amount of tax within the time-limit prescribed in Sub-Section (1) or (2) of Section 37, such tax-payer, notwithstanding anything contained in that Section, may be detained through an order of His Majesty's Government until he has paid the tax due from him under this Act.

Provided that His Majesty's Government shall not order the detention of such defaulter for more than six months.

38. Refundment of Tax

In case the tax payable by any individual for any income-year has been paid or deducted in advance in any manner, and in case it is found at the time of final tax-assessment that he has paid more than what is due from him, the Tax Officer shall refund the excess amount within six months.

39. Claim to Refunded Amount Not to be Entertained

The amount to be refunded under Sub-Section(5) of Section 37 or under Section 38 shall be received by the tax-payer within two years from the date of obtaining a notice of such refundment. In case the amount is not received within this time-limit, the tax-payer shall not be entitled to claim it later.

40. Power to Form Income Assessment Committee

- (1) Notwithstanding anything contained in Section 10, His Majesty's Government may, if it so deems necessary form an Income Assessment Committee by notification in the Nepal Rajapatra from time to time, consisting of a Chairman and four members, for the purpose of assessing the net income of any tax-payer, or if any particular group of tax-payers, in order to collect the income tax payable by him/them.
- (2) The quorum for the meeting of the committed formed under Sub-Section (1) shall consist of three members.
- (3) The decision of a majority of the members shall be finding. Ordinarily, the Chairman shall not be entitled to vote, but he may exercise his casting vote in the event of a tie.
- (4) The committee formed under Sub-Section (1) shall assess the net income on the basis of the criteria referred to in Sub-Section (2) of Section 33, and other criteria, if any, prescribed by His Majesty's Government.
- (5) On receipt of notice of the decision made by the committee formed under Sub-Section (1), the Tax Officer shall assess the tax payable according to this Act and current Nepal law on the net income as assessed through such decision.

41. Deduction Not Permitted

Notwithstanding anything contained in other sections of this Act, the following expenses shall not be deducted while assessing the net income of any person:

(a) Any personal or household expenses.

(b) Taxes due on income under this Act or current Nepal law.

Provided that in case (the tax-payer) has paid income tax or similar other tax outside the Kingdom of Nepal, deduction shall be made to the extent of the sum paid in this manner.

(c) Amount paid without having income tax deducted in advance or at the source as required under this Act.

Provided that the amount of tax shall be debited even if it has not been deducted while paying interest or any other amount to any bank, financial institution, or a corporate body owned by His Majesty's Government.

(d) Capital expenditure or capital losses.

(e) Remuneration, interest, commission, rent, or bonus paid to partners of tax-payers or members within the same unit, other than public limited companies.

Provided that reasonable remuneration paid to the partner or director designated as the chief executive of the firm or company may be deducted.

(f) Commissions of different categories, discount, etc. paid in addition to regular commission.

Provided that only a reasonable commission paid on the condition of non-payment of remuneration may be deducted as expenses.

(g) Rent on the house and compound or any other property belonging to the tax-payer himself.

(h) Reserves funds and similar other amounts allocated from the net profit.

Provided that amounts set aside for expenses to be incurred from the net profit under current law, amounts not exceeding three percent of the amount of outstanding loans deposited in the risk-bearing fund by banks of financial institutions as prescribed by the Nepal Rastra Bank, and interest suspension amounts shall be deducted as expenses. In case risk-bearing fund is so maintained, the amount deducted as expenses from the profits in consideration of unrecoverable loans shall not be allowed to be deducted, and in case the amount deposited in the fund is capitalised or in case it is distributed as profits or dividends, the concerned amount shall be included in the income of the year in which such distribution is made.

- (i) Expenses not incurred for the purpose of earning or obtaining income.

42. Exemption from Income Tax

- (1) Notwithstanding anything contained in this Act or current Nepal law, no tax shall be imposed on incomes of the following categories:
 - (a) Remuneration paid to diplomatic representatives of foreign countries posted in the Kingdom of Nepal, and to other foreign personnel of diplomatic missions, other than those recruited locally.
 - (b) Remuneration paid to foreign nationals employed by His Majesty's Government on the condition of non-payment of tax.
 - (c) Remuneration to be paid by foreign governments, or foreign or international agencies to foreign nationals posted in the Kingdom of Nepal to advise or assist His Majesty's Government.
 - (d) If tax has already been imposed on the total profits of any company or firm, other than those liable to pay corporate income tax under current law, the share of each shareholder in such profit.
 - (e) Income of Guthis.
 - (f) Income made by Village Development Committees, District Development Committees, Municipalities, and public or educational institutions, which have been registered or recognised according to current Nepal law, other than those established with the motive of making profit.
 - (g) Facilities to be provide by His Majesty's Government to Ministers, Ministers of State and Assistant Ministers of His Majesty's Government, other than the remuneration to be paid to them by His Majesty's Government.
 - (h) Income of the Employees Saving Fund.
 - (i) The amount paid to any employee as principal interest and bonus in consideration of his savings in the Savings Fund.

Provided that in the case of savings funds other than the Employee Savings Fund, tax exemption shall be granted only in the prescribed circumstances.
 - (j) Amounts received as compensation for life insurance or after the expiry of the life insurance policy.

- (k) Income earned through only the supply of goods to Nepal against payment in foreign countries directly through letters of credit or bank drafts by any firm, company or individuals in any foreign country.
- (2) Industrial enterprises, which are entitled to full or partial exemption from income tax according to current Nepal law relating to industrial enterprises shall be granted tax exemption on industrial income accordingly.

In the case of industrial income of the prescribed industry which enjoys tax exemption in such manner, the Tax Officer shall grant such exemption after assessing the tax separately.

- (3) His Majesty's Government may, by notification in the Nepal Rajapatra, grant full or partial tax-exemption to any individual, or on income of any specific category.
- (4) Individuals who are granted tax-exemption under Sub-Sections (2) and (3) shall submit particulars of income as well as all evidence required to support such particular to the Tax Officer.

43. Power to Deduct Expenses Incurred for Philanthropic Purposes

- (1) The expenses incurred or donations made by any tax-payer for the purpose of performing religious functions or for philanthropic purposes within the Kingdom of Nepal shall be deducted at the time of the assessment of his income to the extent of Rs 100,000, or 5 percent of the net income shown by the tax-payer, whichever is lower.
- (2) Notwithstanding anything contained in Sub-Section (1), in specific cases, His Majesty's Government may, by notification in the Nepal Rajapatra, allow the amount spent or donated by the tax-payer for any specific purpose to be deducted as expenses fully or partially at the time of assessment of his income.

44. Power to Grant Remission

His Majesty's Government may, if it so deems necessary, grant full or partial remission or exemption from fines or additional fees imposed or payable under this Act in specific circumstances by notification in the Nepal Rajapatra.

44A. Power to Remit Tax Arrears

His Majesty's Government may remit arrears of tax in the prescribed circumstances and in the prescribed manner.

45. Powers of a Court to be Exercised

- (1) For the purpose of scrutinizing the particulars submitted under this Act, the Tax Officer shall exercise all such powers as are vested in a court under current Nepal law in respect to issuing summonses to and recording statements and evidence from persons submitting such particulars, and directing them to submit documents.
- (2) While issuing orders under Sub-Section (1), the Tax Officer may issue a written notice to any tax-payer or his agent indicating the liabilities which may have to be borne by him by reason of any failure to submit any particulars or information as demanded by the Tax Officer, and initiate further action in accordance with this Act.

46. Power to Examine and Search Tax-Payers and Obtain Records

- (1) In case His Majesty's Government feels that any tax-payer has taken or is going to take any action with the intention of evading tax, it may direct the prescribed authority to enter into and examine or search the places connected with the income earned by such tax-payer or take over or control the relevant records or evidence for such period as may be necessary.
- (2) In case it becomes necessary to inspect or search any place under Sub-Section (1), the individual staying at such place, or the care taker, shall be given a notice explaining the reasons for such inspection or search and such individual, on his part, shall allow the employee seeking to inspect or search, to enter the place without any obstruction.
- (3) In case the individual staying at the place which is to be inspected or searched under Sub-Section (2) refuses entry to the inspecting or searching employee, such employee may break open any window, door or bolt of the house according to need and enter into and inspect or search the place between sun-rise and sun-set, after giving a notice asking women staying at such place to leave it, or providing them with an opportunity to do so.
- (4) The appropriate employee shall submit particulars regarding the inspection or search conducted under this section, as well as of the records collected in the course of such inspection or search, to His Majesty's Government within seven days.

47. Release of Contract Deposits

- (1) Notwithstanding anything contained in current Nepal law or in contract agreements, in case any government office or any other institution concludes a contract agreement worth more than Rs 100,000 with any individual or institution, five percent of the amount of the contract must

be deducted in advance while making or accepting such payments in consideration of income tax, and deposited with the appropriate Tax Office.

Provided that no deduction shall be made as advance income tax while disbursing or accepting deposits under contracts.

- (2) After the amount deducted as income tax under Sub-Section (1), as well as other taxes, if any, payable according to current law are deducted in advance and evidence of payment of tax to the Tax Office is submitted, the office or institution issuing the contract may refund to the contractor the security deposit furnished by him.
- (3) In case the amount of income tax received in advance under Sub-Section (2) is found to be in excess of the tax assessed by the Tax Officer under this Act, the excess amount shall be refunded to the contractor, and in case the amount of income tax received in advance is less than the amount of tax assessed, the shortfall shall be collected from the contractor.
- (4) Notwithstanding anything contained in Sub-Section (1) and (2), in case temporary residents or non-Nepali nationals accept contracts worth more than Rs 25,000, the deposits furnished by them must be withheld until they produce certificates of payment of tax or of exemption from tax issued by the concerned Tax Office.

48. Power to Conclude Agreements to Avoid Double Taxation

In case any individual is liable to pay tax under this Act or current Nepal Law on any income earned by him, if any tax is payable on the same income in a foreign country, His Majesty's Government may conclude agreement with the concerned foreign government to avoid such double taxation.

49. Income Year and Maintenance of Accounts

- (1) In case any tax-payer had been observing any specific period to determine the amount of the income earned or obtained by him, such period shall be regarded as his income-year. In the case of tax-payers who do not maintain accounts of income and expenses, the fiscal year of His Majesty's Government shall be regarded as their income-year.

Provided that after fiscal year 2052 – 53 (1995-96), the income-year of His Majesty's Government shall also be the income-year of all tax-payers.

- (2) An income-year shall ordinarily consist of twelve months.

- (3) Notwithstanding anything contained in Sub-Section (2), in case it becomes necessary for any tax-payer to maintain accounts for a period less or more than twelve months for any special reason, such period shall be deemed one income-year.
- (4) In case any tax-payer wishes to change the income year being observed by him, he shall obtain the approval of the Tax Office for doing so.
- (5) Any individual earning or obtaining income from industry, trade, profession or occupation and any other source prescribed by His Majesty's Government by notification in the Nepal Rajapatra shall maintain accounts showing his income and expenditure clearly. The Procedure of maintaining such accounts, and the language in which this is to be done, shall be as prescribed by His Majesty's Government, by notification in the Nepal Rajapatra.

50. Safety of Accounts and Relevant Evidence

Every tax-payer shall be under obligation to maintain accounts relating to his industry, trade, profession or occupation and relevant evidence safety for a maximum of six years from the date of tax assessment.

51. Power to Direct the Audit of Accounts

His Majesty's Government may, by notification in Nepal Rajapatra, direct any person engaging in business of any specific category, or earning or obtaining income in excess of any specified limit, or engaging in transactions beyond a specified limit, to have the accounts of his business audited by a recognised auditor for the purpose of tax assessment.

Provided that the particulars of income and accounts to be submitted on behalf of foreign individuals, institutions, companies, or their branches, sub-branches, sales deposits, etc. working in Nepal must have been certified by a Nepali chartered accountant.

Explanation

For the purpose of this Section, the term "recognised auditor" means an auditor who has obtained an audit license under current Nepal law who has been included in the list prepared by the Tax Department of auditors who are entitled to carry out audit operations for the purpose of tax.

51A. Power to Take Action Against Auditor

- (1) In case any tax-payer who makes self tax-assessment, evades tax by submitting false particulars of income in any or all of the circumstances mentioned in Sub-Section (2) of Section 56, and in case the auditor is proved to have helped him in doing so through collusion, the concerned

auditor shall be fined with not more than Rs 5,000 and his name shall be removed for a period of five years from the list of recognized auditors prepared by the Tax Department for the purpose of tax.

- (2) In case any tax-payer who makes self tax-assessment submits false particulars, and in case the concerned auditor is not found to have acted in collusion in that connection but that such false particulars have been submitted because of his professional negligence, the concerned auditor shall be fined with not more than Rs 500, and his name shall be removed for a period of three years from the list of recognized auditors prepared by the Tax Department for the purpose of tax.
- (3) In case any auditor is found to have certified any false accounts or particulars as true in circumstances other than those mentioned in Sub-Section (1) and (2), the Director- General may recommend to the Auditor-General to punish him under the 1974 Auditor Act.

51B. Seal to be Affixed on Ledgers and Sales Memo

- (1) The tax-payers prescribed by His Majesty's Government by notification in the Nepal Rajapatra must have the seal of the Tax Officer affixed on the ledgers used for maintaining accounts of their business and sales memos.
- (2) The Tax Officer may conduct investigations according to need to ascertain whether or not ledgers and sales memos with seals affixed under Sub-Section (1) have been used.

51C. Payments to be Made Through Banks

Except in circumstances prescribed by His Majesty's Government by notification in the Nepal Rajapatra, in case any tax-payer is required to pay more than Rs 20,000 at a time, he shall do so through a bank. Any amount, which is not so paid through a bank, shall be included in the net income.

52. Procedure of Sending Notices

- (1) In case the Tax Officer is required to send a notice to any person under this Act, or has empowered any one to do so, such notice shall be addressed to the concerned individual, and if the addressee is a company or firm, to the Chief Officer of such company or firm, and such notice shall be deemed to have been sent to such individual, company or firm if it is delivered in the manner indicated below:
 - (a) In case it is handed over in person to the appropriate individual,
 - (b) In case it is sent by registered post and is delivered at his present or latest address, or to his post box.

- (2) In case any notice mentioned in Sub-Section (1) is dispatched by registered post, it shall, unless otherwise proved, be deemed to have been delivered within the normal period of delivery.

53. Documents to be Kept Confidential

Documents in the possession of the Tax Officer in respect to the income tax payable by any person, or information received from any other source, shall be kept confidential. Such documents or confidential information shall not be disclosed for any purpose other than action to be taken in respect to income tax or any other tax, and no authority may demand them for inspection or investigations without the approval of His Majesty's Government before final tax assessment.

Provided that in case it becomes necessary for the person responsible for the enforcement of the provisions of this Act to disclose any confidential matter for the purpose of this Act, this provision shall not be deemed to have prevented him from doing so.

54. Forms to be Prescribed

The forms of particulars required for the purpose of this Act shall be prescribed by the Director-General from time to time.

55. Errors may be Rectified

- (1) In case the Tax Officer comes to know through an application from any tax payer, or otherwise, that there has been any discrepancy in the amount of tax due to errors in any particulars or any arithmetical mistake in the tax assessment order while calculating income, or net income, or the amount of tax payable by the tax-payer. he may rectify such errors and reassess the tax within two years from the date of assessment.
- (2) In case the amount of tax determined after rectification of the tax assessment order under Sub-Section (1) is less than the amount indicated in the previous tax assessment order, such rectification shall be effected with the prior approval of the Director-General after explicitly explaining the reasons therefor in a memorandum.
- (3) In case the amount of tax determined after rectification effected in the manner indicated in Sub-Section (1) is higher than the amount assessed previously, a memorandum explaining the reasons for such excess assessment shall be prepared, and a written notice issued to the tax-payer, before rectifying the tax assessment order, so as to provide and opportunity to him to make statements or submit evidence in respect to the tax payable by him.

55A. Rewarded to True Informant

- (1) In case any person submits information in writing to the Tax Department along with evidence within a period of two years after tax assessment under this Act indicating that the tax liability of any tax payer has been reduced as a result of evasion, and in case investigations conducted on the basis of such information prove that it is true, His Majesty's Government shall grant the informant 25 percent of the amount of tax collected on the basis of such information as a reward.
- (2) Investigations shall be instituted on the basis of the information furnished Sub-Section (1) only if the informant has enclosed any evidence of tax evasion.

56. Power to Reassess Tax or Make Additional Tax Assessment

- (1) In case any person has submitted false particulars of income which he is required to submit under the 1963 Nepal Income Tax Act, this Act, or according to current Nepal law, and in case His Majesty's Government is satisfied that the tax liability of any person has been reduced as a result thereof, it may order the reassessment of tax, or additional tax assessment, within a period of five years from the date of tax assessment.

Provided that in the case of tax-payers who submit particulars of income for the purpose of self tax-assessment, the Tax Officer himself may issue a tax reassessment order.

- (2) For the purpose of this Section, the term "false" indicates any or all of the following circumstances:
 - (a) In case existing sources of income have been fully or partially suppressed.
 - (b) In case income from any source has been fully or partially suppressed.
 - (c) In case fictitious bills and vouchers, or similar other evidence, are used to substantiate particulars or accounts, or bills or vouchers are submitted for an amount exceeding the actual expenditure.
 - (d) In case particulars are submitted on the basis of false accounts.
 - (e) In case tax is evaded, or tax liability is reduced, in the manner indicated in Sub-Section (1) or (2) of Section 24.

- (3) In case His Majesty's Government is satisfied that the tax due from any tax-payer has been assessed with a mollified motive, or carelessly, or in an irregular manner, thus reducing his tax liability, it may order assessment of tax, or additional tax assessment, within five years after tax assessment.

56A. Appeals to be Dismissed in the Event of Reassessment of Tax

- (1) In case an appeal has been filed against a tax assessment order made under the 1963 Nepal Income Tax Act, or this Act, but has not been disposed of, (the Tax Office) may reassess the tax under Sub-Section (1) or Sub-Section (3) of Section 56.
- (2) In case an order is issued for tax reassessment under Sub-Section (1) or (3) of Section 56, the previous tax assessment order issued by the Tax Officer shall be invalidated, and the appeal filed there against shall ipso facto lapse.

56B. Additional Tax Assessment

In case an appeal has been filed against the tax assessment order under the 1963 Nepal Income Tax Act, or this Act, but has not been disposed of, or even in case such appeal has already been disposed of, (the Tax Officer) may make additional tax assessment under Sub-Section (1) or (3) of Section 56 in respect to income other than the income covered by the previous tax assessment order.

57. Appeal may be filed with Revenue Tribunal

Any person who is aggrieved by an order of tax assessment or punishment issued by the Tax Officer under this Act may file an appeal to the Revenue Tribunal against such order. In case the tax payer appeals to the Revenue Tribunal and the Revenue Tribunal decides that the claims made in the appeal are wholly or partially unacceptable, the tax payer shall be required to pay the fee mentioned in Sub-Section (3) of Section 37 to the extent of the amount covered by the decision.

Provided that in case the tax-payer submits a petition to the Director-General under Sub-Section (2) of Section 34 or under Sub-Section (4) of Section 35, no appeal shall be heard by the revenue Tribunal against the order of the Tax Officer.

57A. Matters to be Mentioned, While Submitting Applications or Appeals

While submitting applications under Sub-Section (2) of Section 34, or appeals under Section 57, the tax payer shall clearly indicate for what reasons the decision or order of the Tax Officer is wholly or partially incorrect, and also mention the actual amount of his income or liabilities.

58 Accounts not to be Recognized

Accounts of the following categories shall not be recognized for the purpose of this Act:

- (a) (Accounts) containing no documents or particulars as mentioned in Section 31A
- (b) (Accounts) not maintained according to the method and in the language prescribed by His Majesty's Government under Sub-Section (5) of Section 49.
- (c) (Accounts) that have not been audited under Section 51.
- (d) (Accounts) not bearing the seal of the Tax Officer under Section 51B.
- (e) (Accounts) coming under any or all of the circumstances mentioned in Sub-Section (2) of Section 56.

58A. Revision of Tax Assessment Order According to Final Decision

In case it becomes necessary to revise the tax assessment order on the basis of the final decision pronounced by the appellate authority on an appeal or petition filed against any tax assessment order, the appropriate Tax Officer shall revise it ordinarily within thirty-five days from the date of receipt of a copy of such decision, or of submission of an authenticated copy thereof by the tax-payer.

58B. Departmental Action in the Event of Negligence

In case the tax liability of any tax-payer has increased or declined as a result of mollified or careless tax assessment, the Director-General shall be under obligation to initiate departmental action to punish the Tax Officer responsible for such tax assessment of failure to assess tax within the time-limit mentioned in Sub-Section (1) of Section 33 in accordance with current law concerning his conditions of service.

58C. Time-Limit not to Expire in Case a Stay-Order is Issued by a Court

In case any court issues an order staying any action initiated by the Tax Officer, or by His Majesty's Government, under this Act, the time-limit prescribed under Section 55 and 56 shall be so calculated that it does not cover the period involved in the stay of such action.

58D. Local Agents to Submit Particulars

In case any foreign company, firm or individual appoints its local agent in Nepal, the local agent so appointed must submit the following particulars to

the appropriate Tax Office within a period of 35 days from the date of such appointment:

- (a) His name and address;
- (b) His remuneration and method of payment; and
- (c) A certified copy of the agreement if any signed with the (foreign company, firm or individual) which has appointed him as agent.

59. Punishment for Failure to Submit Particulars of Income

- (1) Any tax-payer who does not submit particulars of his income within the time-limit prescribed in Section 27 shall be fined at the rate of 10 percent a year on the amount of tax payable by him.
- (2) In case any tax-payer does not submit particulars of his income within the time-limit prescribed in order issued under Section 28, he shall be punished with a fine amounting to 15 percent a year of the tax payable by him.
- (3) In case any tax-payer does not submit particulars of his income under Sub-Section (2), the Tax Officer may take any or all of the following actions against him until he submits particulars of his income:
 - (a) Impound or sequester the movable assets of the tax-payer.
 - (b) Impound the deposits held by the tax-payer in his name in any government office or corporate body owned by His Majesty's Government or the amount due to such tax-payer from such office or corporate body.
 - (c) Suspend the business, or imports and exports, of the tax-payer.

Provided that the Tax Officer must obtain the prior approval of the Director-General for action under Clause (a), (b), or (c), after explaining the reasons therefor in a memorandum.

- (4) In case any tax-payer who has failed to submit particulars of his income under Section 27 or Section 28 is granted a time-limit under Sub-Section (4) of Section 33 for the purpose of assessing tax under Sub-Section (2) of Section 33, and in case he does not present himself to give explanations or submit evidence within that time-limit, he may be punished with a fine amounting to 15 percent a year of the tax payable by him.
- (5) In case any tax-payer is punished with a fine under Sub-Section(4), he shall not be fined under Sub-Section (2).

- (6) The amount of fine payable under Sub-Sections (2) and (4) shall be determined only on the basis of the amount of tax due after deducting the amount of tax paid in advance from the total amount of tax.
- (7) Notwithstanding anything contained in Sub-Sections (2) and (4), the amount of fine payable under these Sub-Sections shall be calculated only from the date when the period of three months from the end of the fiscal year expires.

60. Punishment to Tax-Payers who Submit False Particulars

- (1) In case the particulars of income to be submitted by a tax-payer under this Act are proved to be false in the circumstances mentioned in Sub-Section (2) of Section 56, the shortfall in tax which has resulted or will result because of the submission of such false particulars shall be realised from him, and he shall also be punished with a fine of the same amount, or with imprisonment for a term not exceeding two years, or with both.

Provided that while punishing the tax-payer with imprisonment, the case shall be referred to the Revenue Tribunal and action shall be taken as sanctioned by the Revenue Tribunal.

- (2) In case any tax-payer who makes self tax-assessment makes any arithmetic mistake with the intention of evading tax, the shortfall in tax resulting therefrom shall be realised from him and he shall also be punished with a fine up to 50 percent of the shortfall.
- (3) In case the particulars submitted by a tax-payer making self tax-assessment are not false but in case he has committed mistakes in respect to amounts which may be deducted under Section 12, 41 and 43 for the purpose of assessing tax, or in respect to amounts to be included in income, the shortfall resulting therefrom shall be realised from him and he shall also be punished with a fine up to 50 percent of the amount of shortfall.

61. Punishment to Tax-Payers who do not Maintain Accounts or do not Preserve Accounts

In case any tax-payer does not maintain accounts under Sub-Section (5) of Section 49, or does not keep accounts and related evidence safe under Section 50, he shall be punished with a fine not exceeding Rs 5,000.

62. Punishment for Causing Obstruction in Search

- (1) In case any individual offers opposition or causes obstruction in any search conducted under Section 46, the Chief District Officer may

punish him with a fine not exceeding Rs 500, or with imprisonment or for a term not exceeding one month, or with both.

- (2) An appeal may be filed with the Appellate Court against the decision taken by the Chief District Officer under Sub-Section (1).

63. Punishment for not Deducting Tax and Crediting the Proceeds

In case any individual does not deduct tax under Section 36 and credit it to His Majesty's Government within the prescribed time-limit, he may be punished with a fine not exceeding Rs 500.

63A. Power to Withhold Sale and Transfer

His Majesty's Government may, by notification in the Nepal Rajapatra, promulgate an order prohibiting the sale or transfer of movable or immovable property of the categories prescribed therein by persons earning any specific category of income as prescribed in the same notification, unless they have produced evidence of payment of tax payable on income earned from such property, or of tax exemption thereon. After such an order has been promulgated, the office, which registers documents relating to such property and other, concerned offices shall accordingly withhold the sale or transfer thereof.

63B. Punishment to Persons Violating Laws and Regulations

Except where punishment is to be awarded under Sections 59, 60, 61, 62, and 63, the Tax Officer may impose a fine of a maximum of Rs 1,000 on any individual, firm, company, bank or any financial or other institution violating this Act, or the rules framed hereunder.

63C. Other Penalties

- (1) In case any tax-payer fails to fulfill his obligations under this Act, the Tax Officer may, if he so deems necessary, prohibit the issue of a passport to him without prejudice to the punishment to which he is liable under other sections until he has fulfilled such obligations.
- (2) In case any person who is under obligation to register his industrial or commercial enterprises, profession, or occupation under Section 5A starts the same without having it registered, the Tax Officer may fine him with an amount not exceeding Rs 500, or order the closure of such business or the impounding of any or all of the goods involved in such business until he has registered it.
- (3) Before ordering the withholding of a passport, closure of business, or the impounding of goods under this Section, the Tax Officer shall

obtain prior approval of the Director General explaining the reason for such action in a memorandum.

64. Authority Awarding Punishment

The Power to award punishment under Section 59, 60, 61, and 63 shall vest in the Tax Officer, and the power to award punishment under Sub-Section (1) and (2) of Section 51A shall vest in the Director-General.

65. Power to Frame Rules

His Majesty's Government may frame rules in order to implement the objectives of this Act.

66. Repeal and Savings

- (1) The 1963 Nepal Income Tax Act has been repealed.
- (2) In case particulars of income remain to be submitted, or in case tax assessment remains to be made on the basis of particulars of income which have been submitted, or in case the assessed tax remains to be collected at the time of the commencement of this Act under the 1963 Nepal Income Tax Act, tax shall be assessed and collected under this Act.
