UNIT IV CORPORATE TAX & GST

Tax Planning:

Definition:

- Tax planning is a **legitimate way of reducing your tax liabilities** in any given financial year.
- It helps you **utilise the tax exemptions, deductions, and benefits** offered by the authorities in the best possible way to minimise your liability.
- It is the analysis of one's financial situation from the tax efficiency point-of-view.

Scope of Tax Planning:

1. Location of the business,
2. Nature and size of business,
3. Forms of business organization and pattern of its ownership,
4. Specific management decisions like make or buy, own or lease, capital structure, renew or replace, etc.
5. Employee's remuneration,
6. Mergers/Amalgamation of companies,
7. Double taxation relief,
8. Non-residents, and
9. Advance Rulings.

Types of Tax Planning

- Short-range tax planning
- Long-term tax planning
- Permissive tax planning
- Purposive tax planning

1. **Short-range tax planning**
   Under this method, tax planning is thought of and executed at the end of the fiscal year. Investors resort to this planning in an attempt to search for ways to limit their tax liability legally when the financial year comes to an end. This method does not partake long-term commitments. However, it can still promote substantial tax savings.

2. **Long-term tax planning**
   This plan is chalked out at the beginning of the fiscal and the taxpayer follows this plan throughout the year. Unlike short-range tax planning, you might not be offered with immediate tax benefits but it can prove useful in the long run.

3. **Permissive tax planning**
   This method involves planning under various provisions of the Indian taxation laws. Tax planning in India offers several provisions such as deductions, exemptions, contributions, and incentives. For instance, Section 80C of the Income Tax Act, 1961, offers several types of deductions on various tax-saving instruments.

4. **Purposive tax planning**
   Purposive tax planning involves using tax-saver instruments with a specific purpose in mind. This ensures that you obtain optimal benefits from your investments. This includes accurately selecting the appropriate investments, creating an apt agenda to replace assets (if required), and diversification of business and income assets based on your residential status.

Corporate Tax Planning:

Definition:

- Corporate tax planning is a means of **reducing tax liabilities on a registered company.**
- The common ways to do this includes taking deductions on:
  - ✓ Business Transport,
  - ✓ Health Insurance of Employees,
  - ✓ Office Expenses,
  - ✓ Retirement Planning,
  - ✓ Child Care,
  - ✓ Charitable Contributions etc.
- Through the various **tax deductions and exemptions provided under the Income Tax Act**, a company can substantially reduce its tax burden in a legal way.
- Tax planning should not be confused with tax avoidance and all the **planning should be done within the framework of law.**

Objectives of Corporate Tax Planning:

a) To minimise litigation:
To litigate is to resolve tax disputes with local, federal, state, or foreign tax authorities. There is often friction between tax collectors and taxpayers as the former attempts to extract the maximum amount possible while the latter desires to keep their tax liability to a minimum. Minimising litigation saves the taxpayer from legal liabilities.

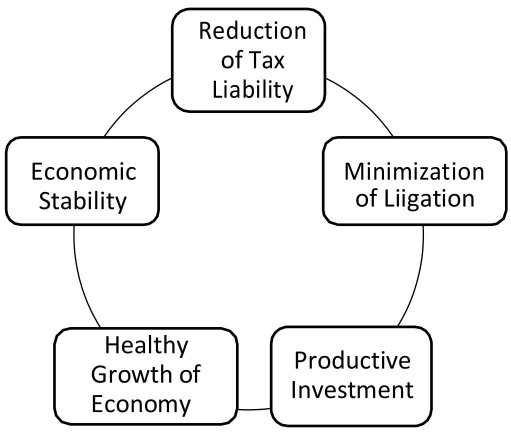
b) To reduce tax liabilities:
Every taxpayer wishes to reduce their tax burden and save money for their future. You can reduce your payable tax by arranging your investments within the various benefits offered under the Income Tax Act, 1961. The Act offers many tax planning investment schemes that can significantly reduce your tax liability.

c) To ensure economic stability:
Taxpayers9 money is devoted to the betterment of the country. Effective tax planning and management provide a healthy inflow of white money that results in the sound progress of the economy. This benefits both the citizens and the economy.

d) **To leverage productivity:**
One of the core tax planning objectives is channelising funds from taxable sources to different income-generating plans. This ensures optimal utilisation of funds for productive causes.

Advantages of Tax Planning:

(Same as Objectives: Refer objectives of corporate tax planning)



Areas of Corporate Tax Planning

1. Tax planning with respect to setting up new business
    - Tax planning with respect to location of business
    - Tax planning with respect to nature of business
    - Tax planning with respect to form of organisation or ownership
2. Tax planning with respect to financial managerial decisions
3. Capital structure decisions
4. Tax planning for amalgamations
5. Tax planning for demerger of companies

TAX PLANNING WITH RESPECT TO SETTING UP NEW BUSINESS:

✓ Location of New Business
✓ Nature of New Business
✓ Form of Organisation & Ownership

Location of new business:

i. Industrial undertaking in free trade zones (sec 10A)
ii. 100 per cent export-oriented undertaking (sec 10B)
iii. Industrial undertaking in an industrially backward state or district (sec 80IB)

Nature of New business:

A. Venture capital companies [sec 10(23FB)]
B. Infrastructure capital companies [sec 10(23G)]
C. Tea development account [sec 33AB]
D. Site restoration fund [sec33ABA]
E. Telecommunication services [sec 35ABB]
F. Reserves for shipping business [sec 33AC]
G. Amortisation of certain preliminary expenses [sec 35D]
H. Deductions for expenditure on prospecting for certain minerals [sec 35E]
I. Special provision for deduction in the case of business for prospecting for mineral oil [sec 42 &44BB]
J. Special provisions for computing profits and gains of business of civil construction [sec 44AD]
K. Special provisions in the case of business of plying, hiring or leasing goods carriages [sec44AE]
L. Special provisions for computing profits and gains of retail business [sec 44AF]
M. Special provisions in the case of shipping business [sec 44B]
N. Special provisions in the case of business of operation of aircraft [sec 44BBA]
O. Special provisions in the case of certain turnkey power projects [sec44BBB]
P. Special provisions in the case of royalty income of foreign companies [sec 44D]
Q. Profits and gains from industrial undertakings engaged in infrastructure, etc [sec 80IA]
R. Profits and gains from certain industrial undertakings other than infrastructure development undertakings [sec 80IB]
S. Profits and gains from the business of collecting and processing of bio-degradable waste [sec 80JJA]
T. Employment of new workmen [sec 80JJAA] ′ Special tax provision under sections 115A, 115AB, 115AC, 115AD, 115B, 115BB, 115BBA and 115D.

Form of Organisation & Ownership:

i. Company form of organisation
ii. Partnership firm or limited liability partnership
iii. Sole proprietorship
iv. Hindu Undivided Family.

Various Schemes and Policies for New Entrepreneurs

i. 3year tax holiday for new entrepreneurs
ii. Change in duty rates to boost manufacturing
iii. Small bag of goodies for importers
iv. Service tax changes in Budget2016
v. FDI in food retailing
vi. Presumptive tax schemes for small business
vii. Employee provident fund
viii. 80gg deduction increased by Rs. 36000/annum
ix. Amendments in companies act, 2013
x. Capital gains and ARCs

TAX PLANNING WITH RESPECT TO FINANCIAL MANAGERIAL DECISIONS

The survival of an organization depends up on the efficiency of its management. Whatever decisions taken by the management directly or indirectly affects all activities of an organization. The general considerations which area applicable in the case of Managerial decisions are:

- Capital Structure Decisions
- Dividend policy
- Bonus shares

Capital Structure Decisions:

i. Cost of capital and expenditure incurred in rising of such capital
ii. Expectation of shareholders by way of dividend, growth, etc.,
iii. Expansion needs of the business, i.e., the rate by which profits of the business shall be again ploughed back in the business.
iv. Taxation policy, and
v. Rate of return on investment (Equity + Debt funds)

Dividend Policy:

i. Ordinary connotation means the sum paid to or received by a shareholder proportionate to his shareholding in a company out of the total sum distributed.
ii. Any amount declared, distributed or paid by way of dividends referred to in section 115-O on or after 1/4/2013 whether out of current or accumulated profits shall not be included in computing the total income of a previous year of any person.
iii. Therefore, no expense shall be allowed from such dividend.
iv. Dividend from a **foreign company or deemed dividend** is **taxable under <Income from other sources=.**

Dividend does not include:

- Loan advanced in the ordinary course of business by the money lending company
- Dividend paid if set off against loan already treated as deemed dividend
- Buyback of shares as per section 77A of companies act.
- Distribution of shares to the shareholders of demerged company

Bonus share capital:

- Capitalization by issue of bonus shares to equity shareholder does not release of assets of a company hence shall not been deemed to be dividend.
- Although distribution of bonus shares to equity shareholders will not be deemed to be dividend, but the distribution of bonus shares to preference shareholders is a dividend.
- If the company does not declare the dividends out of its income, then the profits are available to the company for being ploughed back into the business. And if company distributes its income by way of dividends, then the company shall have to look for alternative source of raising capital. The company must be cautious while capitalizing the profit.
- If the company is able to invest the capitalized funds into profitable venture where the return is higher than the existing rate of dividend, the future rate of earnings is bound to increase.

CAPITAL STRUCTURE DECISIONS:

In financial management, to understand the basis of arriving at the **make or by decision** considers capacity utilization, inadequacy of fund, cost of fund, latest technology, variable cost of manufacturing.

One must consider that if one decides to make, there is less outflow due to tax benefit on depreciation/interest and tax advantage available due to location of manufacturing in a particular area.

TAX PLANNING FOR AMALGAMATIONS

During an amalgamation, the transferor company is absorbed by the stronger transferee company which then leads to the formation of a completely new company with more assets and a stronger customer base. The process of amalgamation helps to increase the cash resources, eliminate competition and save companies on taxes

Under Income Tax Act, 1961 Section 2(1B) of Income Tax Act defines „amalgamation" as merger of one or more companies with another company or merger of two or more companies to from one company in such a manner that:

i. All the property of the amalgamating company or companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of the amalgamation.
ii. All the liabilities of the amalgamating company or companies immediately before the amalgamation becomes the liabilities of the amalgamated company by virtue of the amalgamation
iii. Shareholders holding at least three-fourths in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the amalgamated company or its nominee) becomes the shareholders of the amalgamated company by virtue of the amalgamation

TAX PLANNING FOR DEMERGER OF COMPANIES

Demerger (Section 2(19AA)): means the transfer of one or more undertakings to any resulting company pursuant to a scheme of arrangement under Sections 391 to 394 of the Companies Act, 1956 in such a manner that:

- All the property/liability of the undertaking becomes the property/liability of the resulting company.
- All the property/liabilities are transferred at book value (excluding increase in value due to revaluation).
- The resulting company issues shares to the shareholders of demerged company on a proportionate basis, except where resulting company is a shareholder of the demerged company.
- Shareholders holding minimum 75% of the value of shares become shareholders of the resulting company (other than shares already held therein immediately before the demerger by, or by a nominee for, the resulting company or its subsidiary).
- The transfer of an undertaking is on a going concern basis.
- The demerger is in accordance with the conditions notified under Section 72A(5) of IT Act, 1961.

GOODS & SERVICES TAX

Definition:

GST is defined as, <a tax on goods and services with value addition at each stage having comprehensive and continuous chain of set of benefits from the producer9s/service provider9s point up to the retailer9s level where only the final consumer should bear the tax=.

FEATURES OF GST:

A. GST would be applicable on <supply= of goods or services as against the present concept of tax on the manufacture of goods or on sale of goods or on provision of services.

B. GST would be based on the principle of destination-based consumption taxation as against the present principle of origin-based taxation.

C. It would be a dual GST with the Centre and the States simultaneously levying it on a common base. The GST to be levied by the Centre would be called Central GST (central tax- CGST) and that to be levied by the States [including Union territories with legislature] would be called State GST (state tax- SGST). Union territories without legislature would levy Union territory GST (union territory tax- UTGST).

D. An Integrated GST (integrated tax- IGST) would be levied on inter-State supply (including stock transfers) of goods or services. This would be collected by the Centre so that the credit chain is not disrupted.

E. Import of goods would be treated as inter-State supplies and would be subject to IGST in addition to the applicable customs duties.

F. Import of services would be treated as inter-State supplies and would be subject to IGST. G. CGST, SGST /UTGST& IGST would be levied at rates to be mutually agreed upon by the Centre and the States under the aegis of the GSTC.

H. GST would replace the following taxes currently levied and collected by the Centre:
   i. Central Excise Duty
   ii. Duties of Excise (Medicinal and Toilet Preparations);
   iii. Additional Duties of Excise (Goods of Special Importance);
   iv. Additional Duties of Excise (Textiles and Textile Products);
   v. Additional Duties of Customs (commonly known as CVD);
   vi. Special Additional Duty of Customs (SAD);
   vii. Service Tax;
   viii. Cesses and surcharges insofar as they relate to supply of goods or services.

I. State taxes that would be subsumed within the GST are:
   i. State VAT;
   ii. Central Sales Tax;
   iii. Purchase Tax;
   iv. Luxury Tax;
   v. Entry Tax (All forms)
   vi. Entertainment Tax (except those levied by the local bodies);
   vii. Taxes on advertisements;
   viii. Taxes on lotteries, betting and gambling;
   ix. State cesses and surcharges insofar as they relate to supply of goods or services.

J. GST would apply to all goods and services except Alcohol for human consumption.

K. GST on five specified petroleum products (Crude, Petrol, Diesel, ATF & Natural gas) would be applicable from a date to be recommended by the GSTC.

L. Tobacco and tobacco products would be subject to GST. In addition, the Centre would continue to levy Central Excise duty.

OBJECTIVES OF GST:

- One country – one tax
- Consumption based tax instead of manufacturing
- Uniform GST registration, payment and input tax credit
- To eliminate the cascading effect of indirect taxes on single transaction
- Subsume all indirect taxes at centre and state level under
- Reduce tax evasion and corruption
- Increase productivity
- Increase tax to GDP ratio and revenue surplus
- Increase compliance
- Reducing economic distortions

BENEFITS OF GST:

- **Benefits to the Economy:**
  i. Creation of unified common market.
  ii. Increase in manufacturing processes.
  iii. Enhancement of exports and investments
  iv. Generation of more jobs through enhanced economic activity

- **Benefits to Citizen:**
  i. Simpler tax system
  ii. Reduction in prices of goods and services due to elimination of cascading
  iii. Uniform prices throughout the country
  iv. Transparency in taxation system
  v. Increase in employment opportunities
  vi. Increased competition between manufacturers and businesses will benefit consumers

- **Benefits to Trade/Industry:**
  i. Reduction in multiplicity of taxes
  ii. Mitigation of cascading or double taxation
  iii. More efficient neutralization of taxes especially for exports
  iv. Development of common national market
  v. Simpler tax regime-fewer rates and exemptions
  vi. Uniform procedures for registration, filling of returns, payment of taxes and tax refunds.

- **Benefits to Central/State Government:**
  i. A unified common national market to boost foreign investment and 8Make in India9 campaign.
  ii. Boost to export/manufacturing activity, generation of more employment, leading to reduced poverty and increased GDP growth.
  iii. Improving the overall investment climate in the country which will benefit the development of states
  iv. Reduction in compliance costs as no requirement of multiple record-keeping.

Limitations in GST

- Higher tax burden for manufacturing SMEs
- Increase in operating costs
- Change in business software
- Increase in taxes will increase prices
- Registration with multiple states
- Problems in e-commerce
- No anti-inflationary measures

STRUCTURE OF GST

The three prime models of GST in India:

i. GST at Union Government Level only (Central GST)
ii. GST at State Government Level only (State GST)
iii. GST at both, Union and State Government Levels (Concurrent GST)

1) CGST- Central Goods & Services Tax Act, 2017:

Under CGST, both Central and State government combine their levels to bring into existence a single unified taxation system at the centre level, with revenue sharing arrangement among them and leaving no for tax levy by state government.

Features of CGST:

i. CGST on supply of goods or services both will be charged for within the state transactions.
ii. Tax revenue is meant for central government and tax rates will be common all over India.
iii. Expected rate of CGST is around 9%.

2) SGST- State Goods & Services Tax Act, 2017:

Under SGST, only States alone levy GST and the Centre withdraws power to levy the tax completely on goods or services. It significantly enhances the revenue generating power of states and SGST increases compliance cost to business houses as it will have to comply with tax laws of each state within the country and brings unhealthy competition among the states.

Features of SGST:

i. Tax revenue is meant for State Government and the tax rates will be decided by each state.
ii. Expected rate of CGST is around 9%.

3) IGST- Integrated Goods & Services Tax Act, 2017:

It provides for the levy of the Integrated Goods & Services Tax (IGST) by the centre on inter-state supply of goods and services.

Features of IGST:

i. Inter-state supply of goods & services
ii. Imports and exports
iii. Supplies to and from special economic trade zones

Tax Avoidance:

- Tax Avoidance involves the **legal exploitation of tax laws** to one9s own advantages.
- Every attempt by legal means **to prevent or reduce tax liability** which would otherwise be incurred, by taking advantage of some provisions or lack of provisions in the statutes of the country.
- An arrangement entered into solely by or primarily for the purpose of obtaining a tax advantage.

Tax Evasion:

- Tax evasion is a crime in which an individual or a business entity **intentionally underpays or hide their certain amount of income** in order to save more amount of taxes.
- This method is certainly **illegal** in all the countries.
- Tax Evasion is basically **non-payment of taxes by means of not reporting all taxable income**, or by taking not allowed deductions.

Difference Between Tax Avoidance & Tax Evasion

Basis For Comparison	Tax Avoidance	Tax Evasion
Meaning	Minimization of tax liability, by taking such means which do not violate the tax rules, is Tax Avoidance, i.e., hedging of tax	Reducing tax liability by using illegal ways is known as Tax Evasion. i.e., concealment of tax
Objective	To reduce tax liability by applying the script of law.	To reduce tax liability by exercising unfair means.
Attributes	Immoral in nature, which involves bending the law without breaking it.	Illegal and objectionable, both in script and moral.
Concept	Taking unfair advantage of the shortcomings in the tax laws.	Deliberate manipulations in accounts resulting in fraud.
Legal implications	Use of Justified means	Use of such means that are forbidden by law
Exercise	Done before the occurrence of tax liability.	Done after tax liability arises.
Type of Act	Legal Act	Criminal Act
Consequences	Deferment of tax liability	Penalty or imprisonment

Difference Between Tax Evasion & Tax Planning

Basis For Comparison	Tax Evasion	Tax Planning
Meaning	Reducing tax liability by using illegal ways is known as Tax Evasion. i.e., concealment of tax	Tax planning means the arrangement of one9s financial affairs in such a way that the best tax benefits can be availed.
Objective	To reduce tax liability by exercising unfair means.	To reduce tax liability and to minimise litigation.
Attributes	Illegal and objectionable, both in script and moral.	Legal and ethical.
Concept	Deliberate manipulations in accounts resulting in fraud.	Ensure tax efficiency
Legal implications	Use of such means that are forbidden by law	Using the provisions of law to achieve financial goals.
Exercise	Done after tax liability arises.	Done before the tax liability
Type of Act	Criminal Act	Legal Act