

Tackling aggressive tax planning

THERE was a time when a tax professional would confidently tell you that tax avoidance would not get you in trouble.

You might be bending the rules a little to minimise your tax liability, but as long as you followed the letter of the law, you would be fine.

On the other hand, he was duty-bound to warn you against doing anything that had even a whiff of tax evasion.

If you intentionally under-reported your income or claimed for more deductions than you were entitled to, you would be committing an offence.

Tax evasion is still very much illegal, but revenue collectors around the world have a different take on tax avoidance these days.

The attitude change is mainly the result of governments doing more to maximise their revenue and the people becoming increasing-

ly anxious about the widening gap between the haves and the have-nots.

Today, the authorities tend to scrutinise arrangements that are designed to reduce tax bills.

In particular, there is a lot of attention on tax avoidance strategies that exploit differences in rules around the world so that profits are artificially shifted to places where the tax is low or none at all.

The Organisation for Economic Cooperation and Development concedes that most of such schemes are not illegal. They do, however, undermine the fairness and integrity of tax systems.

Multinational corporations that use these strategies, known as base erosion and profit shifting, have an advantage over businesses that have not ventured abroad.

In addition, if companies are allowed to

benefit from base erosion and profit shifting, other taxpayers may take it as a cue to not comply with the tax law as well.

A key phrase in this global monitoring of tax avoidance is "aggressive tax planning".

Tax planning refers to arrangements within the law (such as restructuring of businesses or framing business relationships in a certain way) to reduce tax liability. Companies and wealthy individuals pay professionals to provide this kind of expertise.

But to the tax departments, a tax planning scheme is deemed aggressive or abusive when it ignores the spirit of the law and is formulated primarily to avoid payment of taxes.

The Inland Revenue Board (IRB) is looking out for such things too. On Monday, its CEO Datuk Sabin Samitah said the board was focusing on aggressive tax planning as part of

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its efforts to curb tax leakages and evasion. The board has set up an Aggressive Tax Planning Division under the Special Task Department.

That should be considered a shot across the bow. As it is, too few people and businesses in Malaysia are paying income tax, which is an important element in the government's redistribution of income.

Those who earn more should pay more tax. That is the principle. However, those who earn more are also more likely to afford the fees for tax planning so that they end up paying less tax.

That in itself is not wrong, but when the line is crossed and there is aggressive tax planning, we expect the IRB to move in and do what is right.

Otherwise, we will struggle to reduce income inequality in this country.