

MALAYSIA

Doctors cry foul after failing to keep taxmen away

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Malaysian Medical Association president Dr Ashok Zachariah Philip (second from left) says it is not fair for IRB to go after doctors as they have only acted on the professional advice of tax consultants. - MMA Facebook pic, January 7, 2016.

Doctors with private companies providing medical services to hospitals are now being hounded by the Inland Revenue Board (IRB) for wrongly declaring their taxes, according to the Malaysian Medical Association (MMA).

These doctors set up their own firms with the understanding that it would be more convenient for tax planning purposes, said MMA president Dr Ashok Zachariah Philip, who met a few of them before the New Year.

But Dr Ashok was told that IRB was now after them because the doctors signed contracts with the hospitals to provide medical services in their own name, rather than under a company, he said.

"As such, they say, income has been wrongly declared, there is a shortfall in tax and LHDN is backdating this for five years and applying a 100% penalty," he said, referring to the IRB by its initials in Bahasa Malaysia.

He said this was unjust as the doctors had acted on the professional advice of tax consultants.

"Furthermore, many of the doctors involved had been audited within this five-year time frame.

"If at that time they were not told about this problem with their companies, what is the rationale for the five-year backdating?"

He urged IRB to reconsider its actions, saying there had been no element of wrongdoing and that there was no need to impose retrospective action.

"Is there a need to bankrupt individuals who have been practising lawfully, until LHDN suddenly changed what had been (its) practice since independence?"

He said doctors were respected professionals with high levels of social responsibility, and earned far less than what the public assumed.

"Our fees are capped by the Private Healthcare Facilities and Services Act. Our patients, looking at hospital bills, do not realise that only about 10% to 30% of it is the doctor's portion.

"The vast majority goes to the hospital, whose fees are totally unregulated."

However, when contacted, IRB media officer Masrun Maslim said MMA had not provided any concrete evidence to back its claims.

Masrum added that it was not IRB's practice to issue statements to the media.

"My advice to the MMA president is that he present the evidence to IRB, and we can give him feedback, and it is up to MMA to disclose the information or not."

Meanwhile, independent tax consultant Dr Veerinderjeet Singh (pic, left) said he did not think IRB was making a mistake, if it were true the doctors had been paying taxes under their own names for services rendered to private hospitals.



He said the problem was caused by doctors not understanding how taxes worked, and acting based on poor advice from accountants.

"I don't think the tax authorities are wrong, if you look at the letter of the law. If the invoice letterhead states the name of the company, then the tax should be paid in the name of the company.

"But if the letterhead has the individual doctor's name, then it is considered the doctor's income and the tax must be paid under his own name," said Veerinderjeet.

He added that the laws empowered IRB to backdate tax penalties for up to five years, if

the taxes were wrongly declared due to common error.

He said IRB had the discretion not to take retrospective action on the doctors, but said it still had to act based on logic and facts.

"The tax authorities will ask the doctors to explain why the company did not issue invoices to hospitals. And if the doctors cannot explain properly why, I don't think the authorities will let it go."

He suggested that the doctors resolve the problem by consulting the accountants they had been engaging with.

"If the doctors are saying they set up their companies under the advice of their accountants, and if the accountant is handling their accounts and is aware that invoices are being wrongly issued, then the doctors should hold the accountants responsible.

"Has the accountant informed them they were making mistake and should rectify it? Perhaps the accounting professionals haven't been advising properly.

"The accountants should be the one dealing with tax authorities on behalf of the taxpayer. The accountants should be settling the issue and justifying this."

Veerinderjeet said if the doctors or their accountants could justify why they had been paying taxes wrongly, and prove that it was genuine error, the tax authorities would take their explanation into account.

Veerinderjeet added the doctors could also consider suing their accountants for not providing professional advice. – January 7, 2016.

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