

The long-awaited BIK rules have arrived ^{P1}

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The Minister of Finance (MoF) issued PMK-66¹ to stipulate more details with regards to Income Tax treatment of Benefits In-Kinds (“BIKs”). PMK-66 is effective from 1 July 2023 and revokes PMK-167² which stipulated the provisions of food and beverages (“F&B”) for all employees as well as reimbursement or compensation in the form of BIKs in certain areas and related to work which may be deducted from the gross income of employers.

Some of the provisions stipulated in PMK-66 have already been stipulated in GR-55³ concerning updates on Income Tax regulations. This TaxFlash will only highlight additional details related to BIKs stipulated in PMK-66.

Deductibility of BIKs

Deductible BIKs are BIKs that represents reimbursement/compensation related to:

- employment relationships between employers and employees;
- service transactions between taxpayers.

BIK costs that have a useful life of less than one year are expensed in the year where the expense is incurred. Meanwhile, expenses for benefits (*kenikmatan*) that have a useful life of more than one year are expensed through depreciation or amortisation.

Taxability of BIKs received in 2022

BIKs have been generally taxable as of 1 January 2022 (for employers whose Fiscal Year (FY) 2022 started prior to 1 January 2022) or when FY2022 begins (for other employers) under the HPP Law⁴. GR-55 further stipulated that BIKs received in 2022 must be calculated, paid, and reported by employees in their 2022 Annual Income Tax Return (where tax has not been withheld by the employer). However, PMK-66 stipulates that all BIKs received in 2022 by

¹ MoF Regulation No.66 Year 2023 (PMK-66) dated 27 June 2023 and effective from 1 July 2023

² MoF Regulation No.167/PMK.03/2018 (PMK-167) dated and effective from 19 December 2018

³ Government Regulation No.55 Year 2022 (GR-55) dated and effective from 20 December 2022. Please refer to [TaxFlash No.26/2022](#) for more details on GR-55

⁴ Law No.7 Year 2021 concerning Harmonisation of Tax Regulations (*Harmonisasi Peraturan Perpajakan/HPP*) Law dated and effective from 29 October 2021

employees/service providers fall under the category of certain types of non-taxable BIKs.

Employers' withholding tax obligation for January – June 2023

GR-55 stipulates that withholding tax obligations for employers are applicable for BIKs received, starting from 1 January 2023. However, PMK-66 stipulates that where tax has not been withheld by the employer on BIKs received from January to June 2023, then the tax must be calculated, paid, and reported by employees in their 2023 Annual Income Tax Return.

Non-taxable BIKs

The Income Tax Law and GR-55 have already introduced the categories of non-taxable BIKs for employees, as follows:

- a) F&Bs provided for all employees;
- b) BIKs in certain areas;
- c) BIKs necessary to carry out the employees' work activities;
- d) BIKs sourced or financed from the regional/state revenue budget; or
- e) BIKs of certain types and/or thresholds.

PMK-66 provides more detailed guidelines on point (a), (b), and (e) as set out below. Calculation examples are also provided in the attachment of the PMK.

a) F&Bs provided for all employees

One of the forms of F&B stipulated in GR-55 under this category is F&B coupons for employees who, due to the nature of their work, cannot enjoy the F&B provided by the employer at the workplace, i.e. employees of the marketing and transportation departments as well as other out-of-office employees.

PMK-66 defines coupons as non-money transaction tools that can be exchanged for F&Bs, including reimbursement of F&B expenses which is borne in advance by employees.

There is however a threshold for the non-taxable coupon value, as follows:

- a) IDR 2 million/month per employee; or
- b) the monthly expense per employee for F&B provided by the employer at the workplace, if the amount exceeds IDR 2 million/month per employee.

The excess of the actual coupon value after deducting the value as mentioned above is an Income Tax object.

b) BIKs in certain areas

The provisions of BIKs in certain underdeveloped areas ("remote area") were previously regulated in PMK-167. As PMK-66 revokes PMK-167, most of the content of PMK-167 and previous implementing regulations (i.e. PER-51⁵) are accounted for in PMK-66 with minor updates. The definition of remote area, the types of non-taxable BIKs, as well as the types of infrastructure that are used as an indicator in the determination of remote area, remain the same.

PMK-66 adds clarity: at least six out of the eleven types of infrastructure stipulated as indicators must be unavailable or unfit for an area to be determined as a remote area.

⁵ DGT Regulation No.PER-51/PJ/2009 (PER-51) dated and effective from 7 September 2009

Under PMK-167, the remote area approval period can be granted by the Directorate General of Taxes (DGT) for ten and five years for certain mining licence holders (mining) and non-mining taxpayers, respectively. This approval can be extended for another ten and five years with another application by the taxpayers. Under PMK-66, the approval and extension procedures for non-mining taxpayers remain the same. However, the approval for mining taxpayers is now granted in stages every five year up to the expiry date of the mining licence, where the extension is conducted ex-officio by the DGT without application from the taxpayers.

The transitional provisions are as follows:

- a) Existing remote area approvals issued under PMK-167 remain valid until the expiry date, but implementation is based on PMK-66.
- b) All ongoing applications (determination or extension) will be processed under PMK-66.
- c) The document completion request on incomplete applications must be sent by the DGT by 15 July 2023 at the latest.
- d) Applications that have not been issued a decision after four months of the completed application, must be issued with a decision no later than six months after the complete application is received or one month after PMK-66 comes into force, whichever is earlier.
- e) Certain mining licence holders with remote area approval which expires after 1 July 2023 must re-apply for an extension at the latest four months before the expiry date.

More details on the administrative procedures are available in this PMK.

e) BIKs of certain types and/or thresholds

The non-taxable BIKs of certain types/thresholds are stipulated in the Appendix of PMK-66, as follows:

No.	Type of BIKs	Threshold/requirements
1	Gifts from the employer for religious holidays, i.e. Eid al-Fitr, Christmas, <i>Nyepi</i> , Vesak, or Chinese New Year	Received or earned by all employees
2	Gifts from employers that are given other than for religious celebrations	<ul style="list-style-type: none"> • Received or earned by employees; and • Maximum IDR 3 million/year per employee
3	Work equipment and facilities from employers, including computers, laptops, or cellular phones and their related costs such as phone credit or internet connection	<ul style="list-style-type: none"> • Received or earned by employees; and • Support employee's work
4	Health and medical treatment facilities from the employer	<ul style="list-style-type: none"> • Received or earned by employees; and • Provided for handling: <ol style="list-style-type: none"> 1) work accident; 2) occupational diseases; 3) life-saving emergencies; or 4) follow-up care and treatment due to work accidents or occupational diseases

5	Sports facilities from the employer, other than golf, horse racing, motorised boat racing, gliding, and/or automotive sports	<ul style="list-style-type: none"> Received or earned by employees; and Maximum IDR 1.5 million/year per employee
6	Communal residential facilities from employers, including dormitories, lodges, or barracks	Received or earned by employees
7	Residential facilities from employers whose utilisation rights are held by individuals, including apartments/landed houses	<ul style="list-style-type: none"> Received or earned by employees; and Maximum IDR 2 million/month per employee
8	Vehicle facilities from employer	Received or earned by employees who: <ul style="list-style-type: none"> do not have capital investment in the employer; and have an average gross income of maximum IDR 100 million/month in the last 12 months from the employer
9	Employer-borne contribution to pension funds approved by the Financial Services Authority (<i>Otoritas Jasa Keuangan</i>)	Received or earned by employees
10	Religious facilities, including prayer rooms, mosques, chapels, or temples	Intended solely for religious activities
11	All BIKs received in 2022	Received or earned by employees/service providers

BIK value exceeding the above threshold constitute taxable income.

Determination of taxable value of BIKs

In-Kinds

If the In-Kinds (*natura*) is provided in the form of goods originally intended to be traded by the provider, the taxable value is based on:

- market value for land and/or buildings (“L&B”); or
- cost of goods sold for other than L&B.

Benefit

If the benefits have a utilisation period of more than one month, the determination of taxable value is carried out every month during the utilisation period.

For joint benefits where the facility/service is given to more than one recipient, the taxable value is allocated proportionally to each recipient based on the benefits utilisation records.

Taxable event

The employee withholding tax on BIKs is due at the end of the month:

- for In-Kinds – where the In-Kinds are transferred or the employment income is earned, whichever is earlier; or
- for benefits – where the rights or part of the rights to utilise a facility/service is transferred.

Key takeaways

With more clarity being provided, employers need to assess their previous positions taken during the absence of this guidance and carefully consider whether any adjustment needs to be made. In addition, they also need to identify the taxable and non-taxable BIKs provided by their company and start preparing

to implement these new rules, including preparing supporting documents and calculating taxable value. More importantly, communication with employees needs to be handled with care.

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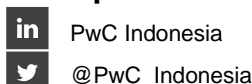
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