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TAX TREATMENT OF BENEFITS IN KIND OBTAINED FROM EMPLOYMENT ACTIVITIES/ SERVICES (PMK-66/2023)

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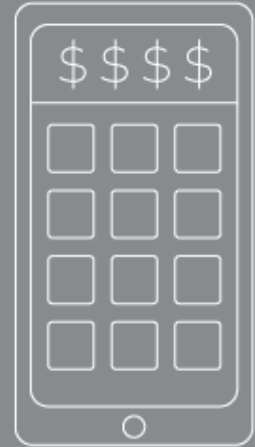
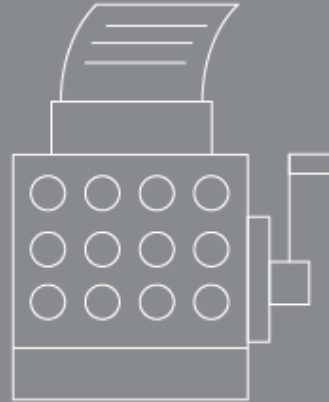
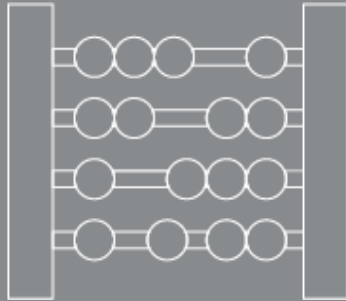
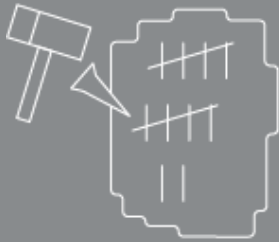
Partner

TOPICS

- Tax Treatment of Benefit In Kind (BIK)
- BIK excluded from Tax Object
- The Assessment and Calculation of Income in form of BIK
- Transitional Provisions



TAX TREATMENT OF BENEFIT IN KIND (BIK)



Scope: Tax Treatment of BIK gained from Employment or Services

[Article 3 and Article 4]



Government Regulation No 55 Year 2022 and PMK No 66 Year 2023

Income tax object for the recipient and the expense will be deductible for the provider if the costs are related to gaining, collecting or maintaining taxable income

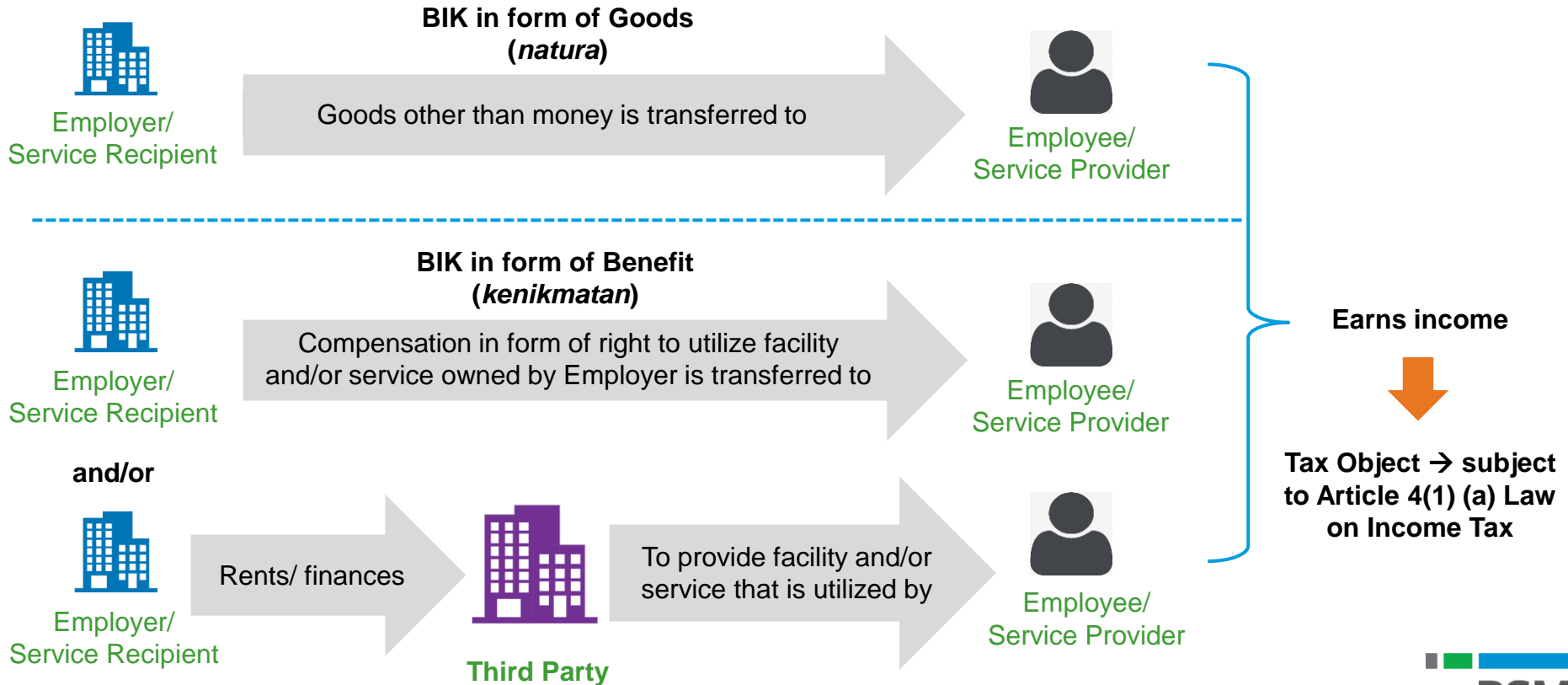


Article 6(1) letter (n) in Law on Income Tax, as last amended by Law on HPP
BIK in form of Goods and/or Benefits are deductible costs



Explanation Article 9(1) Law on Income Tax, as last amended by Law on HPP
Costs are not deductible if these are not directly/ indirectly connected to activity to obtain, collect and maintain income

Scope: BIK as Tax Object [Article 3 and Article 4]



Consequence of PMK-66

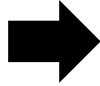
Consequence for Employee/ Service Provider	Consequence for Employer/ Service Recipient
BIK is taxable income	BIK is deductible (if 3M)
BIK is taxable income	BIK is non-deductible (if not 3M)
BIK is excluded from tax object	BIK is deductible (if 3M)
BIK is excluded from tax object	BIK is non-deductible (if not 3M)



BIK as Tax Object: Requirements and the Implementation Provisions

[Article 2]

Compensation
in form of BIK
may be
deducted from
Gross Income IF



Is given due to relationship between
Employer and Employee
OR
Occurs due to a service transaction
between the taxpayers

AND

Constitutes costs to obtain,
collect and/or maintain
income



Expenditure for reimbursement/ compensation cost in form of BIK that:

- Is a Benefit (*Kenikmatan*) and has a useful life of more than 1 year shall be charged under depreciation or amortization based on Tax Law
- Is in the form of Goods and/or Benefit and its useful life is less than 1 year shall be charged in the year when the expenditure occurs

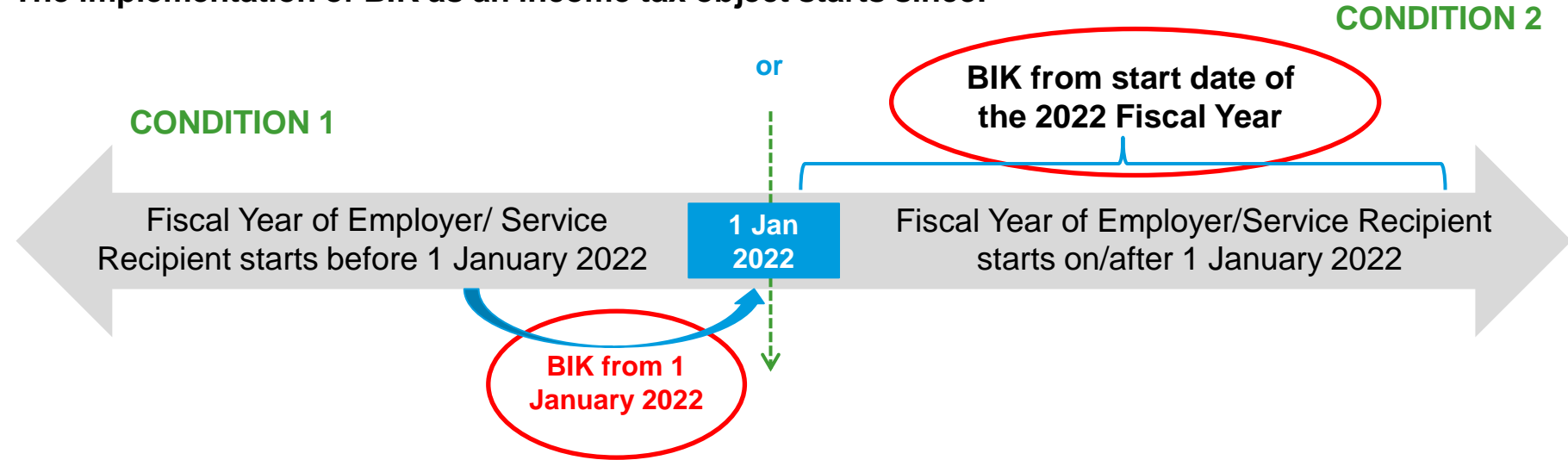


Employee/Service Provider, shall report compensation in form of BIK in Annual Tax Return
Employer/Service Recipient (the Payor) to report BIK expenses in Annual Tax Return (specific attachment?)

BIK as Tax Object: Requirements and the Implementation Provisions

[Article 2 and Article 3] [cont'd]

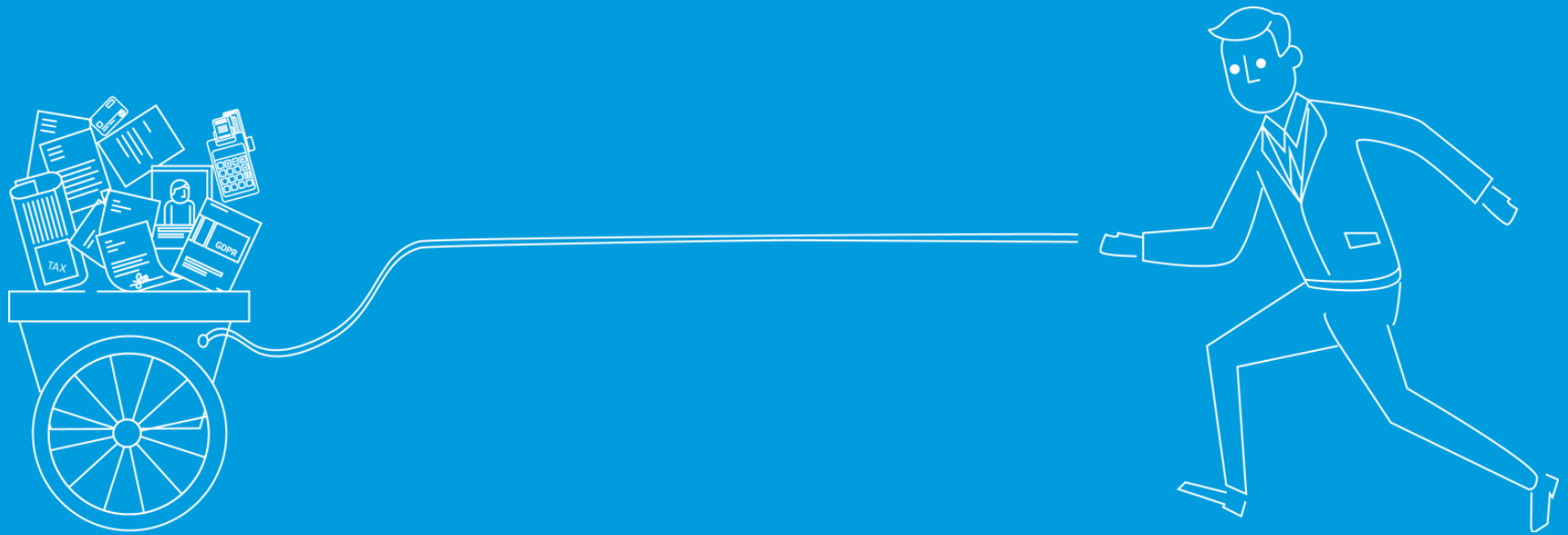
The implementation of BIK as an income tax object starts since:



Note:

- BIK is taxable income (BIK recipient) and deductible expense (BIK payor) since 1 January 2022 if fiscal year of Employer/Service Recipient commences before 1 January 2022
- BIK is taxable income (BIK recipient) and deductible expense (BIK payor) since the start of the 2022 fiscal year if fiscal year of Employer/Service Recipient started on/after 1 January 2022

BIK EXCLUDED FROM TAX OBJECT



Types of BIK Excluded from Tax Object [Article 4]

Food and beverages,
including ingredients,
provided to all
employees

BIK required to be
provided to carry out
the work

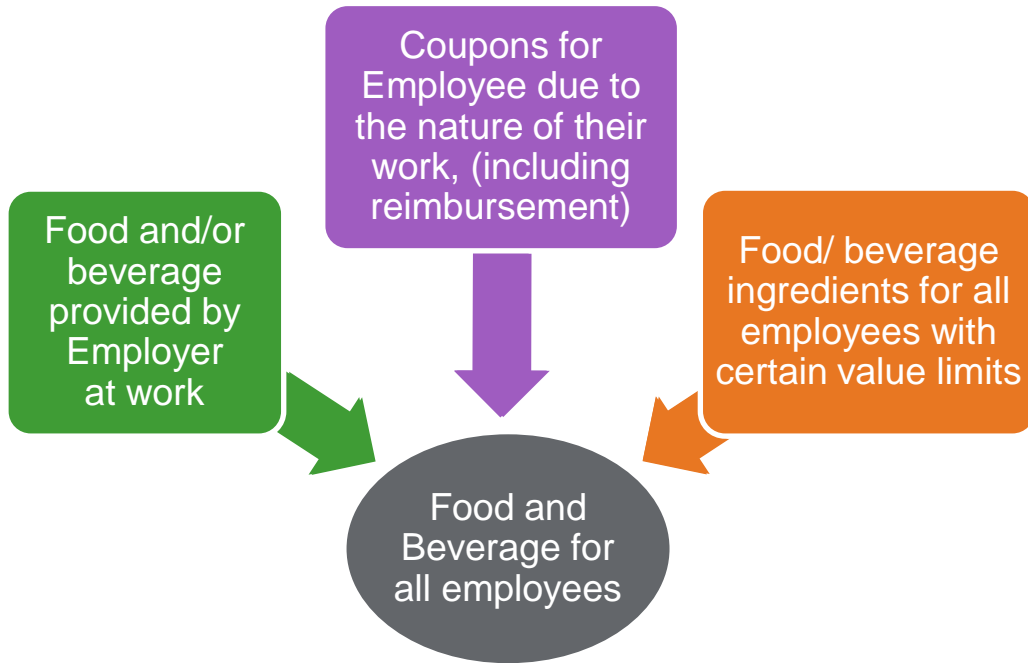
BIK provided in remote
areas

BIK which is sourced
from state budget,
regional budget and/or
village budget

BIK by type and/or
certain amounts/limits



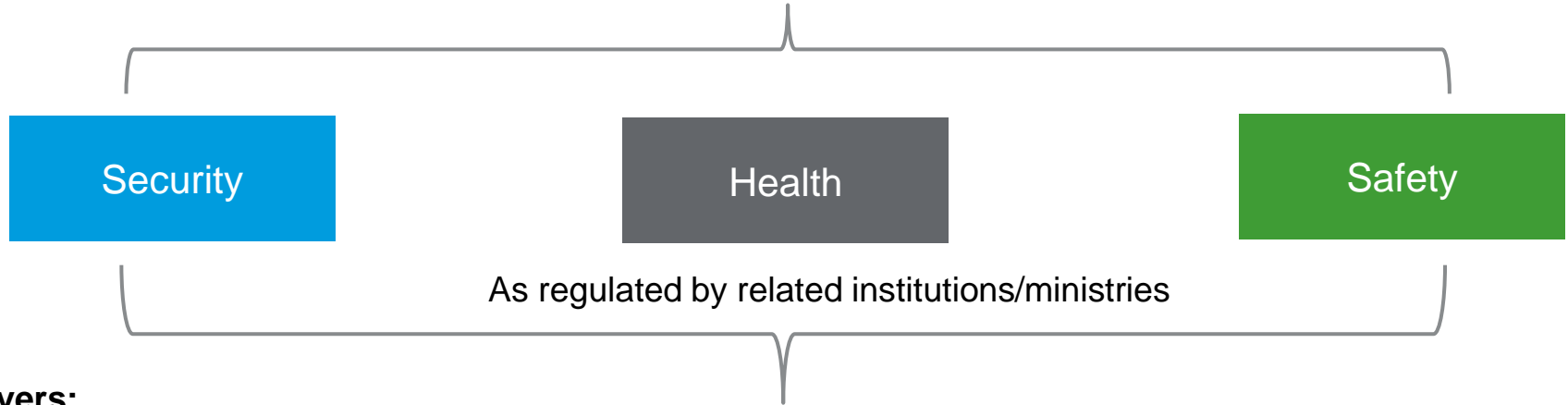
BIK excluded from Tax Object: Food and Beverage [Article 5]



- Coupon excluded from tax object is the higher of:
 - ✓ IDR2 million per Employee in a month; or
 - ✓ Value per Employee in a month of spending on food/ beverage provided by Employer at the workplace
- Coupon is only used as transaction tool, not used as cash
- If the actual value of the coupon exceeds the excluded amount:
$$\text{Taxable BIK} = \text{Actual Value of Coupon} - \text{Higher of Value provided by Employer or IDR 2 million}$$

BIK excluded from Tax Object: BIK required to be provided to carry out the Work [Article 6]

BIK provided by Employer in connection with:



Covers:

- Work uniforms
- Equipment for safe work
- Employee shuttle service
- Lodging for crew and similar; and/or
- BIK received by Employee in terms of handling of epidemic, pandemic or national disaster

BIK excluded from Tax Object: BIK in Certain Area (Remote Area)

[Article 8]



Residence



Health facility



Education



Worship place



Sports*



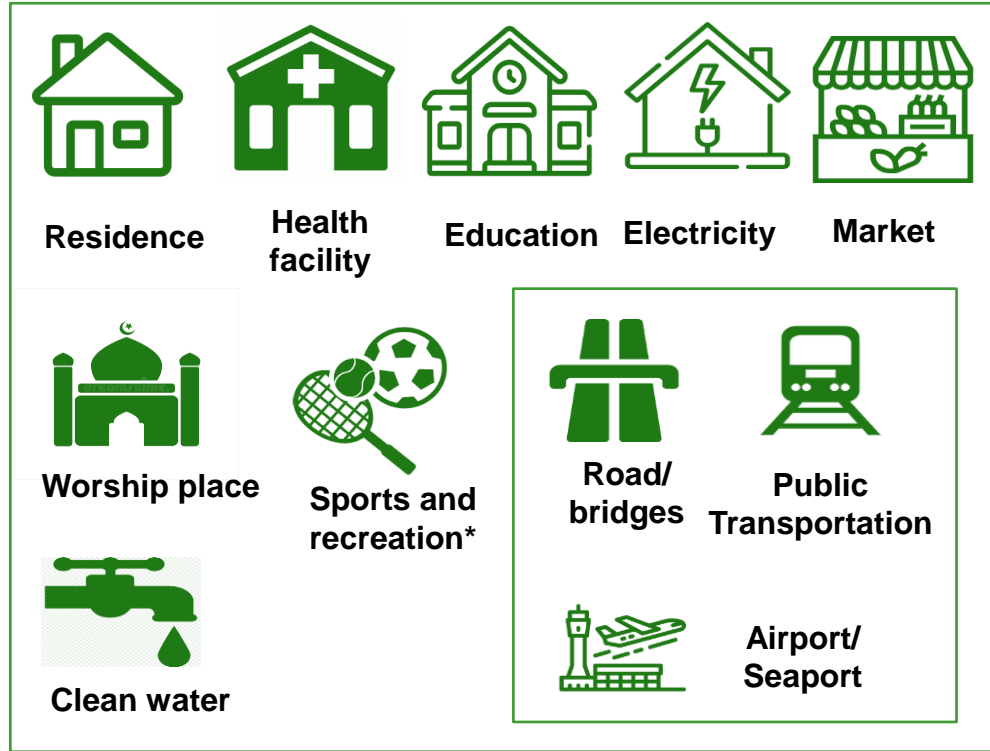
Transportation

- These BIK that are provided in Certain Area (remote area) are not included as a tax object
- The services, infrastructure and facilities can be provided directly by the employer and/or by other parties cooperating with the employer if the employer bears the costs of maintaining these
- There is no ceiling for the amount of these BIK.

Note: * → except golf, motorboat racing, horse racing, gliding/ automotive sports

The Criteria to be Classified as Certain Area (Remote Area)

[Article 9]



If:

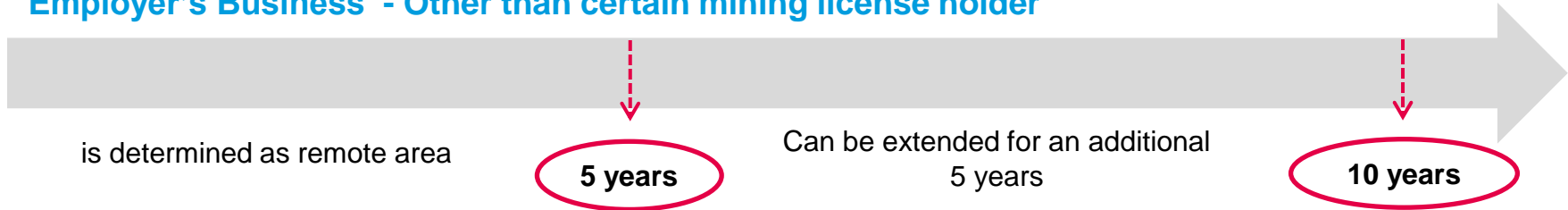
- An area does not have (min) 6 of 11 types of economic infrastructure and public transportation, including (min) 1 type of public transportation; and
- Built by Employer or third party that cooperates with and financed by Employer

Facility and/or infrastructure is built within **certain area** → requirement: shall obtain approval from DGT

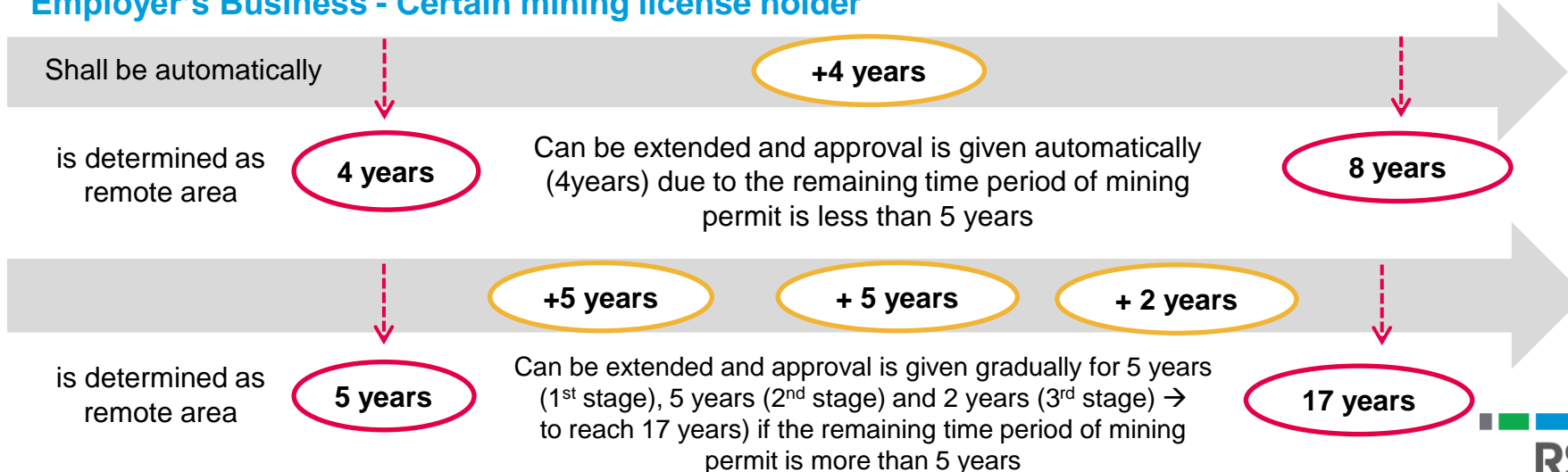
Note: * → except golf, motorboat racing, horse racing, gliding/ automotive sports

Determination of the Location of the Employer's business as Remote Area - Validity Period [Article 10]

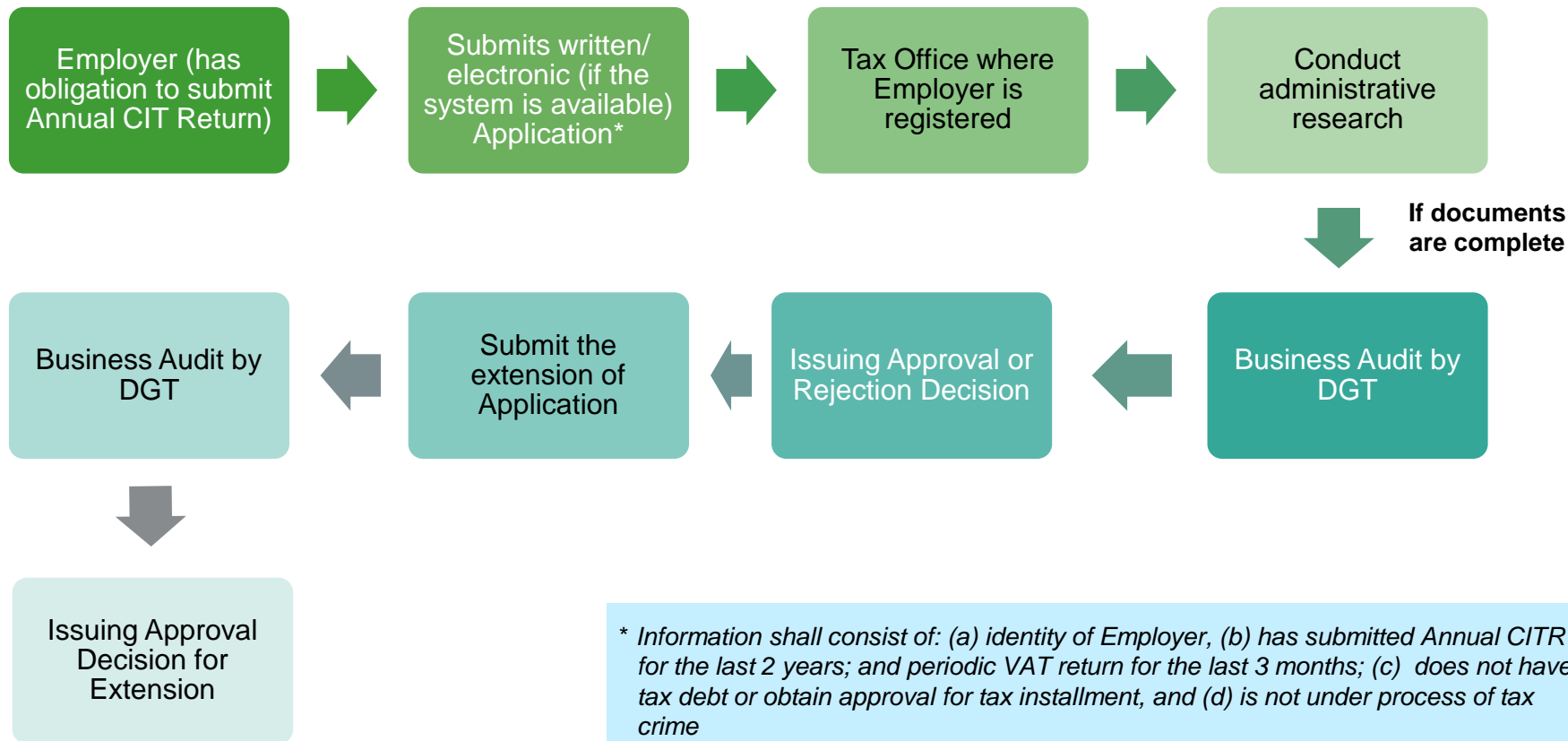
Employer's Business - Other than certain mining license holder



Employer's Business - Certain mining license holder



Determination of the Location of the Employer's business as Remote Area - Process [Article 10 – Article 21] [cont'd]



BIK excluded from Tax Object: Types and/or Certain Limits

[Article 7]

Basis used in terms of types and/or certain limits of BIK

BIK in form of Goods (other in cash) (*natura*)

- Type of recipient and/or
- Value of BIK

BIK in form of Benefit (*kenikmatan*)

- Type of recipient;
- Value; and/or
- Function of the benefit

Note:

Any excess of value of BIK gained by Employee > specified limit = taxable BIK income

BIK excluded from Tax Object: Types and/or Certain Limits

[Article 7] (cont'd)

List of BIK by Type and/or Certain Limits Excluded from Income Tax Object		
No.	Type of BIK of Goods (other in cash) or Benefit	Limits (certain recipients)
1	All BIK received or obtained during 2022	All amounts received or obtained by employees or service providers
2	Food/ beverages ingredients for all employees	Limit follows no. 3 and 4
3	Gifts from the employer for religious holidays, i.e. Idul Fitri, Christmas, Nyepi, Vesak, or Chinese New Year	No limit, provided received or obtained by all employees
4	Gifts from employers that are given other than for religious celebrations (e.g., birthday or as appreciation)	<ul style="list-style-type: none">Received or obtained by employeesTo a maximum of IDR 3 million/tax year per employee
5	Work equipment and facilities from employers, including computers, laptops, or cellular phones including supporting services such as phone credit or internet connection	<ul style="list-style-type: none">No limit, provided received or obtained by employees, andSupports the employee's work

BIK excluded from Tax Object: Types and/or Certain Limits

[Article 7] (cont'd)

List of BIK by Type and/or Certain Limits Excluded from Income Tax Object		
No.	Type of BIK of Goods (other in cash) or Benefit	Limits (certain recipients)
6	Health and medical treatment facilities provided by the employer	No limit, provided received or obtained by employees; and the facility is provided for handling: 1) work accidents; 2) occupational diseases; 3) life-saving emergencies; or 4) follow-up care and treatment due to work accidents or occupational diseases
7	Sports facilities provided by the employer, other than golf, horse racing, motorized boat racing, gliding, and/or automotive sports	<ul style="list-style-type: none">• Received or obtained by employees,• To a maximum of IDR 1.5 million/tax year per employee
8	Communal residential facilities provided by employers, including dormitories, lodges, or barracks	No limited, provided received or obtained by employees
9	Residential facilities provided by employers whose utilization rights are held by individuals, including apartments/landed houses	<ul style="list-style-type: none">• Received or obtained by employees,• To a maximum of IDR 2 million/month per employee

BIK excluded from Tax Object: Types and/or Certain Limits

[Article 7] (cont'd)

List of BIK by Type and/or Certain Limits Excluded from Income Tax Object		
No.	Type of BIK of Goods (other in cash) or Benefit	Limits (certain recipients)
10	Vehicle facilities provided by employer	<ul style="list-style-type: none">Received or obtained by employees who do not have capital investment in the employer; andHas an average gross income of no more than IDR 100 million/month in the last 12 months (rolling period) from the employer
11	Employer-borne contribution to pension funds approved by the Financial Services Authority (Otoritas Jasa Keuangan)	No limit, provided received or obtained by employees
12	Religious facilities, including prayer rooms, mosques, chapels, or temples	No limit, provided it is intended solely for religious activities

Case Study

Case 1

Ms JA is contracted by PT JZ, a cosmetic company, to advertise its cosmetic products in social media. For this service, in December 2023, Ms JA receive a BIK in the form of a package of cosmetic package from PT JZ. The COGS of cosmetic package is IDR10 million. In this case, Ms JA receives BIK in form of goods (cosmetic package) in December 2023 and that BIK is subject to Article 21 income tax withholding on income of IDR10 million.

Case 2

PT JB provides pest control service to PT JY. For this service, in August 2023, PT JB receives reimbursement in the form of a set of pesticides and pest control from PT JY. The cost of goods sold which is a set of pesticides and its tools is IDR50 million. In this case, PT JB receives BIK in form of goods which is the object of Article 23 withholding tax on income of IDR50 million in August 2023.

Case 3

PT JC provides apartment facility to Ms JX from 3rd party. Ms JX is a lessee. All costs consist of rent of IDR50 million; maintenance of IDR15 million, utility of IDR 10 million → total cost is IDR75 million. Residential facilities provided by employers whose utilisation rights are held by individuals, including apartments/houses is maximum IDR2 million/month each employee → Article 21 object for income tax is IDR73 million (IDR75 million – IDR2 million).

Case Study (cont'd)

Case 4 – Vehicle facilities provided by employer, but the Employee does not have capital investment in Employer

Month when income is earned	Gross income from Employer		Average of gross income in last 12 months (IDR)	Month when income is earned to calculate average of gross income in last 12 months
	Income including BIK other than vehicle (IDR)	Facility value of vehicle (IDR)		
January 2025	80 million	20 million	95 million	February 2024 – January 2025
February 2025	90 million	22 million	105 million	March 2024 – February 2025
March 2025	100 million	21 million	110 million	April 2024 – March 2025

Month when income is earned	Facility value of vehicle	Status of object income tax	Explanation
January 2025	20 million	Non-tax object	Average of gross income in last 12 months is < IDR100 million
February 2025	22 million	Tax object	Average of gross income in last 12 months is > IDR100 million
March 2025	21 million		

Case 4 (b): Fully worked example of Calculation for Motor Vehicle Facility

Month	Income from Employer				Average Total Income incl BIK	Period for Calc of Average
	Salary & Allowances	Other BIK	MV Facility	Total Income incl BIK		

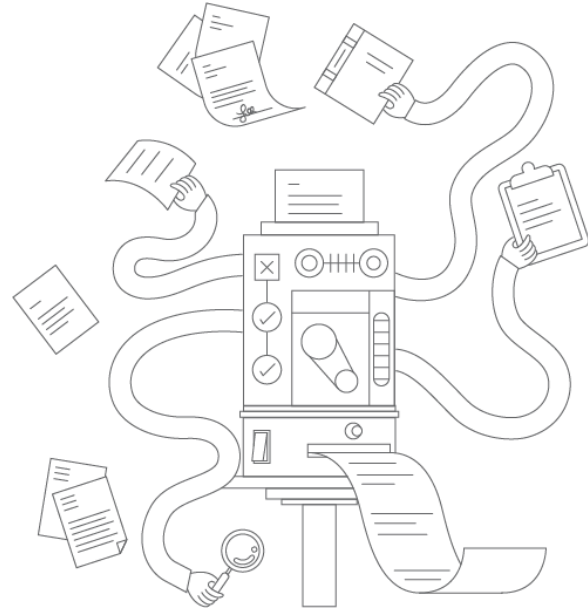
Join Date

Jan-24	60.000.000	10.000.000	20.000.000	90.000.000	90.000.000	Jan-2024
Feb-24	70.000.000	10.000.000	22.000.000	102.000.000	96.000.000	Jan-Feb 2024
Mar-24	90.000.000	10.000.000	20.000.000	120.000.000	104.000.000	Jan-Mar 2024
Apr-24	70.000.000	10.000.000	10.000.000	90.000.000	100.500.000	Jan-Apr 2024
May-24	70.000.000	10.000.000	10.000.000	90.000.000	98.400.000	Jan-May 2024
Jun-24	70.000.000	10.000.000	20.000.000	100.000.000	98.666.667	Jan-Jun 2024
Jul-24	70.000.000	10.000.000	20.000.000	100.000.000	98.857.143	Jan-Jul 2024
Aug-24	70.000.000	10.000.000	20.000.000	100.000.000	99.000.000	Jan-Aug 2024
Sep-24	70.000.000	10.000.000	20.000.000	100.000.000	99.111.111	Jan-Sep 2024
Oct-24	70.000.000	10.000.000	20.000.000	100.000.000	99.200.000	Jan-Oct 2024
Nov-24	70.000.000	10.000.000	20.000.000	100.000.000	99.272.727	Jan-Nov 2024
Dec-24	70.000.000	10.000.000	20.000.000	100.000.000	99.333.333	Jan-Dec 2024
Jan-25	70.000.000	10.000.000	20.000.000	100.000.000	100.166.667	Feb 2024-Jan 2025

Case Study (cont'd)

Case 5

Ms MC (artist) provides paid promotion service for Hotel MX. For payment of the promotion service, Ms MC receives 8 vouchers to stay in Hotel MX for 8 nights. The contract for promotion service was signed on 1 January 2024 together with receiving the 8 vouchers → Article 21 income tax withholding is made by the end of the month when the delivery of rights to utilize the vouchers is transferred to Ms MC, it is by the end of January 2024.



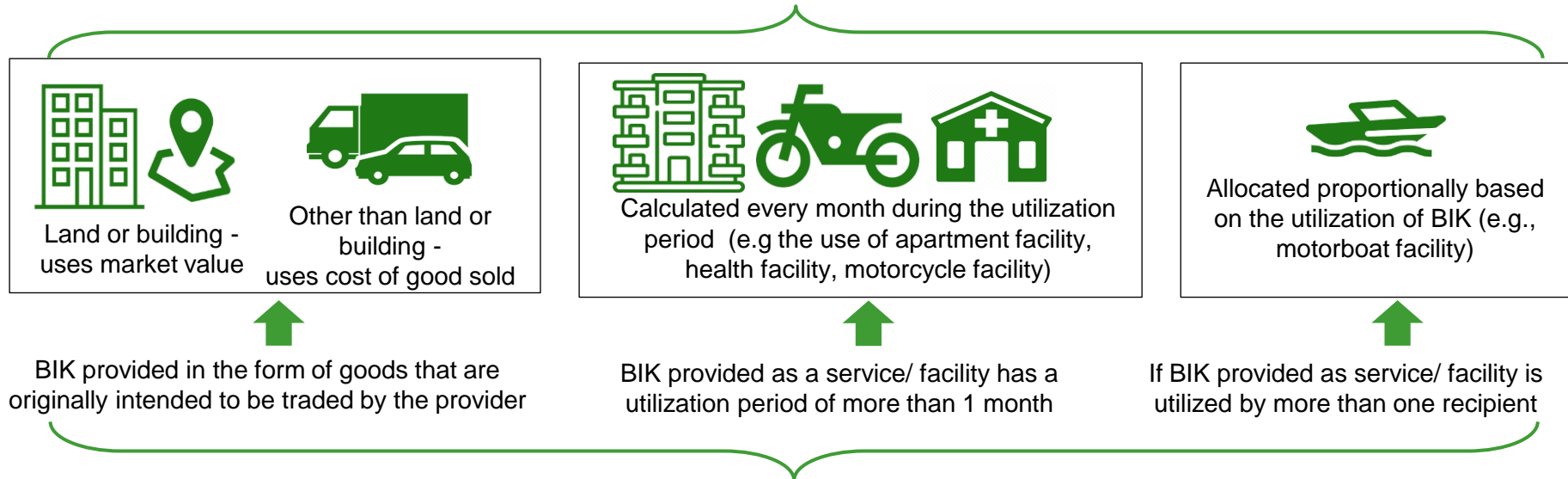
THE ASSESSMENT AND CALCULATION OF INCOME IN FORM OF BIK



Procedure to Calculate Taxable Value of BIK [Article 22]

Taxable value of BIK shall be:

- The **market value** if the BIK is provided in form of goods (other than cash)
- The amount that **is spent or should have been spent** by the provider if the BIK in form of service/ facilities



Taxpayers are not required to withhold tax from BIK provided during January to June 2023 to employees or service providers

Procedure to Calculate Taxable Value of BIK [Article 23] (cont'd)



The Employer/ User of services is required to withhold taxable BIK

shall occur for the month when:



The goods (other than cash) are transferred, or the related income is earned, whichever is earlier



The facility/ service utilization rights or part of the right is being transferred/ provided

Taxpayers are not required to withhold tax from BIK provided during January to June 2023 to employees or service providers

TRANSITIONAL PROVISIONS



Transitional Provisions [Article 25]



Relate to Remote Area (both existing Remote Area or for an Application that is in process under PMK No 167/PMK.03/2018)

- *Any Remote Area approval decision/ approval extension decision issued under PMK-167 is still applicable until the expiry of the term mentioned in that decision letter/ extension letter*
- *The kind of BIK that are determined as nontax object and provided within certain area (remote area) governed under PMK-167 is conducted under provisions mentioned in PMK-66 (e.g., residence, health facility, education, worship, transportation, sports (exclude golf, motorboat racing, horse racing, gliding/ automotive sports))*
- *Employers holding mining permits that already have a remote area approval must reapply for an extension of the remote area approval no later than 4 months before the expiry of the existing remote area approval*
- *Existing application currently in process shall follow the procedure of PMK-66, and DGT must issue the decision the sooner of (a) no later than 6 months from receipt of the complete application or (b) 1 August 2023*

IMPLICATIONS



Implications



- *Should have careful coordination between Employer and Employee (or Service Provider) re:*
 - *who will bear the tax for January-June 2023*
 - *who will bear the tax for the future*
 - *update Employment Agreements and/or other documents*
- *Review accounting and payroll records to ensure these capture the BIK financial information and any other criteria*
- *For mining company/ non-mining company must monitor the expiry date of Remote Area approval decision or extension decision to ensure on-time application for the extension, must fulfill the requirements and submit together with application letter*



DISCLAIMER

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It is not advice, does not reflect the specific circumstances that might
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for professional advice.

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