



## INCOME TAX TREATMENT OF BENEFIT IN KINDS OBTAINED FROM EMPLOYMENT OR SERVICE ACTIVITIES

RSM INDONESIA CLIENT ALERT – 14 JULY 2023

On 27 June 2023, the Minister of Finance issued Regulation No. 66 Year 2023 concerning Income Tax Treatment of Reimbursement or Compensation related to Employment or Services received or earned in the form of Benefit in Kind (“PMK-66”). PMK-66 is the long-expected regulation implementing the taxation of Benefits in Kind (“BIK”) in accordance with Government Regulation No. 55 Year 2022 that was issued on 20 December 2022 (“PP-55”).

As an implementing regulation, PMK-66 does not change the stipulation per Law No 7/2021 on the Harmonization of Tax Regulations that BIK are income tax objects for the recipient and the expense will be deductible for the provider if the costs are related to gaining, collecting or maintaining taxable income. PMK-66 provides further details regarding what BIK are not included as an income tax object, how to determine the value of certain BIK, and the obligation to withhold. Importantly, PMK-66 also clarifies the obligations for BIK received in 2022 and those received during January - June 2023.

Some of the provisions explained in PMK-66 are already stipulated in PP-55 – please refer our [FAQ – Taxation of Benefits in Kind](#) dated 21 March 2023 for details. This new Client Alert addresses those matters where additional detail has been provided by PMK-66.

## WHEN IS PMK-66 APPLICABLE?

PMK-66 is applicable on 1 July 2023, although certain provisions apply for BIK provided during January - December 2022 and for January - June 2023. Please refer Transitional Provisions below.

## WHAT ARE BENEFITS IN KIND?

BIK are reimbursement/compensation in the form of the provision of:

- Goods other than money ("*natura*"); and/or
- A benefit in the form of facilities or services ("*kenikmatan*") which is sourced from assets of:
  1. The provider of the facility/service and/or
  2. A third party that is rented by and/or financed by the provider.

BIK are an income tax object since:

- 1 January 2022, for taxpayers whose 2022 financial year commenced before 1 January 2022; or
- The start of the 2022 financial year, for taxpayers whose 2022 financial year started on/after 1 January 2022.

## CLAIMING OF BIK AS TAX DEDUCTIBLE EXPENSES

The cost of providing BIK can be deducted from gross income to obtain taxable income provided the cost is incurred to obtain, collect and/or maintain income and the provision of the BIK is related to:

- An employment relationship between employer and employee; or
- A service transaction between taxpayers.

Expenditure for BIK that has:

- A useful life of more than 1 year (and that is a facility/service) shall be deducted based on the applicable depreciation or amortization as per the Income Tax Law
- A useful life of less than 1 year shall be deducted for the year when the expenditure occurred

The tax deduction for BIK applies for expenditure from:

- 1 January 2022, for taxpayers whose 2022 financial year commenced before 1 January 2022
- The start of the 2022 financial year, for taxpayers whose 2022 financial year started on/after 1 January 2022

## WHAT BIK ARE NOT INCLUDED AS TAXABLE INCOME?

PP-55 has stipulated that the following types of BIK are excluded from income tax objects:

1. BIK in the form of food and drinks provided for all employees
2. BIK provided in Certain Areas (remote areas)
3. BIK that are required by applicable laws and regulations to be provided by an employer for employees' work

4. BIK sourced from funding of the National, Regional or Village Budgets
5. Certain types and/ or amounts of BIK

PMK-66 provides more detailed explanations regarding items 1, 3 and 5. It also, effectively, re-states the provisions of MoF Regulation No.167/PMK.03/2018 with regard to the provision of BIK in Certain Areas (remote areas).

The table below summarises these:

BIK NOT INCLUDED AS INCOME TAX OBJECTS	
Type of BIK	Explanation
<b>Foods and drinks</b>	<p>a. These covers:</p> <ol style="list-style-type: none"> <li>1. food and/or drink provided to all employees at the workplace;</li> <li>2. coupons or reimbursements for employees that, due to the nature of their work are unable to utilise the BIK per a.1, including marketing, transportation and other staff with duties outside the workplace;</li> <li>3. food/drink ingredients provided to all employees within certain value limits.</li> </ol> <p>b. There is no ceiling for the amount that can be claimed for food/drinks provided at the workplace for all employees (as per point a.1).</p> <p>c. For coupons, the BIK is not a tax object provided the value of the coupons does not exceed the higher of:</p> <ol style="list-style-type: none"> <li>1. IDR 2 million/ employee per month; or</li> <li>2. the value of spending on food/drinks per employee per month provided by the employer in the workplace.</li> </ol> <p>The excess between the actual coupon value less the higher of the value per c.1 or c.2 is the income tax object.</p> <p>d. For food/drink ingredients – the amount of BIK that is not included as an income tax object is covered by “Certain types/amounts of BIK” – refer below.</p>
<b>BIK that are required by law to be provided to employees to carry out their work</b>	<p>a. Covers BIK that are required to be provided by an employer for the employees’ safety, health, and/or security as per applicable laws and regulations issued by a relevant government authority or institution.</p> <p>b. The types of BIK are uniforms, equipment for work safety, employee shuttle service, lodging for ship crew and similar; and/or BIK received in the context of handling endemics, pandemics, or national disasters.</p> <p>c. There is no ceiling for the amount of these BIK.</p>
<b>BIK provided in Certain Areas (“remote areas”)</b>	<p>a. Covers services, infrastructure, and/or facilities at the work location for employees and their families, comprising:</p> <ul style="list-style-type: none"> <li>- residences,</li> <li>- health services,</li> <li>- education,</li> <li>- places of worship,</li> <li>- transportation,</li> <li>- and/or sports, except golf, motorboat racing, horse racing, gliding, or automotive sports,</li> </ul>

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Type of BIK	Explanation										
	<p>provided the area of the employer's business has been stipulated as a Certain Area by the Director-General of Taxation.</p> <p>b. 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.</p> <p>c. For health and education, the services, infrastructure and facilities include those located in the kabupaten or city where the employer's business is or the kabupaten/city bordering the kabupaten/city where the employer's business is.</p> <p>d. Transportation is limited to that required to attend work.</p> <p>e. The determination of the area as a Certain Area requires fulfilment of at least six of eleven criteria that are listed in PMK-66, including at least one criteria related to public transportation.</p> <p>f. The determination as a Certain Area can be given:</p> <ol style="list-style-type: none"> <li>1. up to the end of the validity period of the relevant mining permit (if the employer is a mining permit holder; or</li> <li>2. for 5 years if the employer does not hold a mining permit.</li> </ol> <p>g. The determination as a Certain Area can be extended if the criteria continue to be met.</p> <p>h. Detailed information regarding the criteria, process and forms are included in PMK-66.</p> <p>i. There is no ceiling for the amount of these BIK.</p>										
<b>Certain types/amounts of BIK</b>	<p>a. PMK-66 provides a list of certain BIK that by nature or value are not included as income tax objects. The BIK and relevant limits are as follows:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Type of BIK</th> <th style="text-align: center;">Detail/Limit</th> </tr> </thead> <tbody> <tr> <td>1. All BIK received or earned during the 2022 year</td> <td>All amounts received or earned by employees or service providers during 2022</td> </tr> <tr> <td>2. Gifts from the employer for religious holidays, i.e., Idul Fitri, Christmas, Nyepi, Vesak, or Chinese New Year, including food/drink ingredients, food and/or drinks</td> <td> <ul style="list-style-type: none"> <li>• No limit, provided received or earned by all employees</li> </ul> </td> </tr> <tr> <td>3. Gifts from employers that are given other than for religious celebrations (e.g., birthdays or as appreciation)</td> <td> <ul style="list-style-type: none"> <li>• Received or earned by employees to a maximum of IDR 3 million/tax year per employee</li> </ul> </td> </tr> <tr> <td>4. Work equipment and facilities from employers, including computers, laptops, or cellular phones including supporting services such</td> <td> <ul style="list-style-type: none"> <li>• No limit, provided received or earned by employees, and</li> <li>• Supports the employee's work</li> </ul> </td> </tr> </tbody> </table>	Type of BIK	Detail/Limit	1. All BIK received or earned during the 2022 year	All amounts received or earned by employees or service providers during 2022	2. Gifts from the employer for religious holidays, i.e., Idul Fitri, Christmas, Nyepi, Vesak, or Chinese New Year, including food/drink ingredients, food and/or drinks	<ul style="list-style-type: none"> <li>• No limit, provided received or earned by all employees</li> </ul>	3. Gifts from employers that are given other than for religious celebrations (e.g., birthdays or as appreciation)	<ul style="list-style-type: none"> <li>• Received or earned by employees to a maximum of IDR 3 million/tax year per employee</li> </ul>	4. Work equipment and facilities from employers, including computers, laptops, or cellular phones including supporting services such	<ul style="list-style-type: none"> <li>• No limit, provided received or earned by employees, and</li> <li>• Supports the employee's work</li> </ul>
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## BIK NOT INCLUDED AS INCOME TAX OBJECTS

Type of BIK	Explanation	
	as phone credit or internet connection	
	5. Health and medical treatment facilities provided by the employer	<ul style="list-style-type: none"> <li>• No limit, provided received or earned by employees, and</li> <li>• The facility is provided for handling:               <ol style="list-style-type: none"> <li>1. work accidents;</li> <li>2. occupational diseases;</li> <li>3. life-saving emergencies; or</li> <li>4. follow-up care and treatment due to work accidents or occupational diseases</li> </ol> </li> </ul>
	6. 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"> <li>• Received or earned by employees to a maximum of IDR 1.5 million/tax year per employee</li> </ul>
	7. Communal residential facilities provided by employers, including dormitories, lodges, or barracks	<ul style="list-style-type: none"> <li>• No limited, provided received or earned by employees</li> </ul>
	8. Residential facilities provided by employers whose utilization rights are held by individuals, including apartments/landed houses	<ul style="list-style-type: none"> <li>• Received or earned by employees, subject to a maximum of IDR 2 million/month per employee</li> </ul>
	9. Vehicle facilities provided by employer	<ul style="list-style-type: none"> <li>• Received or earned by employees who do not have capital investment in the employer, and</li> <li>• Have an average gross income from the employer of no more than IDR 100 million/month in the last 12 months (rolling period)</li> </ul>
	10. Employer-borne contributions to pension funds approved by the Financial Services Authority ( <i>Otoritas Jasa Keuangan</i> )	<ul style="list-style-type: none"> <li>• No limit, provided received or earned by employees</li> </ul>
	11. Religious facilities, including prayer rooms, mosques, chapels, or temples	<ul style="list-style-type: none"> <li>• No limit, if provided solely for religious activities</li> </ul>



## HOW TO DETERMINE THE VALUE AND CALCULATE THE AMOUNT OF BIK?

The value of the BIK shall be:

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

If the BIK is provided in the form of goods originally intended to be traded by the provider, the taxable value is based on:

- The market value for land and/or buildings; or
- The cost of goods cost for goods other than land and/or buildings.

If the BIK provided as a service/facility in relation to employment has a utilization period of more than one month (e.g., the use of a motor vehicle), the taxable value is calculated every month during the utilization period.

If there is more than one recipient of a facility/service, the taxable amount is allocated proportionally based on the utilization of the BIK.

## WITHHOLDING OBLIGATIONS FOR THE BIK PROVIDER

The employer or user of services is required to withhold income tax from the provision of taxable BIK to employees or service providers.

The type of WHT and rate will depend on whether the BIK are provided to an employee, an individual other than an employee (as a service provider), or an entity (as a service provider).

The withholding should occur for the month when:

- The goods (other than cash) are transferred or the related income is earned, whichever is earlier; or
- The facility/service utilization rights or part of the right is being transferred/provided.

The WHT is then paid and reported in accordance with the prevailing regulations.

## TRANSITIONAL PROVISIONS

BIK provided to employees or service providers during 2022 are part of the list of BIK that are specifically excluded as income tax objects.

Taxpayers are not required to withhold tax from BIK provided during January to June 2023 to employees or service providers. If the provider of the BIK did not voluntarily withhold tax, then the recipient is required to separately report the BIK in their Annual Income Tax Return, calculate and pay the tax.

For Certain Areas (remote areas), any existing determination remains in effect.

## RECOMMENDED ACTIONS/COMMENTS

- Providers of BIK (especially employers) will need to identify taxable and non-taxable BIK and carefully consider:
  - ✓ Who will bear the tax for any taxable BIK. If the employer will bear the tax, then the tax will need to be grossed up; if the employee will bear the tax, then this should be communicated to the employees.
  - ✓ How to capture the BIK information in the financial records so that these can be provided for withholding tax calculations.
  - ✓ What supporting documents are required to confirm the BIK comply with the requirements to be excluded as an income tax object.
- PMK-66 does not prevent the BIK provider from including a taxable BIK provided during January - June 2023 as a withholding tax object. Therefore, BIK providers (in particular employers) might wish to do so rather than require the employee to declare the BIK and pay tax at year-end (at their cost or with an additional allowance from the employer). If the employer decides to recognize the taxable BIK for January - June 2023 then the relevant WHT Returns should be revised. Late payment penalties will then apply for the tax that is paid. If the employer does not recognize the taxable BIK then the employee should be advised as soon as possible so they are aware of the obligation and amount of taxable BIK to be reported in their 2023 Annual Income Tax Return.
- Although PMK-66 suggests that the provision of mobile phones and internet (and related service charges) are not included as taxable BIK, it remains to be seen if the DGT will accept that all such charges “support the employees’ work”. Therefore, employers may need to assess the basis for the provision and whether some reasonable estimate should be made as to what BIK is appropriate for the employee rather than covering 100% of all mobile phone/internet charges.
- The exclusion of medical facilities from BIK is limited to those linked to work-related accidents and illness. This creates uncertainty if the facility is also open to the family or provides treatment for general sickness.
- Policies regarding the provision of motor vehicles should be reviewed to ensure these do not accidentally create a BIK if the vehicle is a pool vehicle. The records might also address/separate if certain operational expenses are clearly not a BIK but are for “pure” business.

For further information please contact:

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