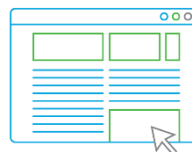
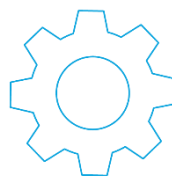
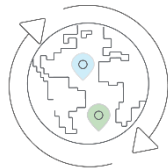


Frequently Asked Questions – Taxation of Benefits in Kind



Benefits in Kind (“BIK”) can be in the form of the provision of goods other than money (“natura”, such as food and drink) or the provision of facilities or services (“kenikmatan”, such as the use of a car).

Prior to Law No 7/2021 on the Harmonization of Tax Regulations (“UU HPP”), BIK provided to employees were not taxable income for that employee unless the employer wished to claim a deduction for the cost of providing the BIK or if that employer was not subject to profit-based income tax (e.g., the employer was a Final Taxed business or a KP3A or KPPA Representative Office). Following the enactment of UU HPP, commencing the later of 1 January 2022 or the commencement of the employer’s 2022 Tax Year, all BIK are an income tax object for the employee, unless otherwise regulated.

The issue of Government Regulation No. 55 on 20 December 2022 (“PP-55”) provides additional information regarding the taxation of BIK. It further stipulates that the cost of the reimbursement or compensation in the form of BIK with respect to

employment or services is a deductible expense for the employer provided it is a cost to obtain, collect, and/or maintain taxable income/revenue (known as 3M in Bahasa Indonesia).

This note summarises the current position regarding the taxation of BIK. It will be updated when the Government issues the additional implementing regulations referred to in PP-55.

The obligation to withhold Article 21 income tax for BIK has only come into effect for BIK received or obtained commencing 1 January 2023. Therefore, BIK received in 2022 and not yet subject to Article 21 withholding must be self-assessed and reported through employee’s Annual Individual Income Tax Return for 2022.

WHAT ARE BENEFITS IN KIND?

BIK are compensation in the form of the provision of goods other than money (“natura”) and/or the provision of a benefit in the form of facilities or services (“kenikmatan”).

Examples of BIK include:

Benefits In Kind

Natura (In the form of goods other than money)	Kenikmatan (In the form of facilities / services)
Food i.e., rice, sugar, etc.	Vehicles (provided to certain employee)
Toll Vouchers	Housing
Gasoline Vouchers	Education
Uniforms	Medical facility
Overtime Meals ⁽¹⁾	

(1) Overtime meals provided in-kind are BIK. However, an overtime meal allowance would be considered as part of salary.

Although, medical and life insurance are routinely referred to as benefits in kind, the Income Tax Law considers these to be separate from defined BIK. That is, the elucidation to Article 4(1)a of the Income Tax Law (both before and after its amendment by UU HPP) explicitly states the payment by an employer of premiums for medical and life insurance are tax objects in connection with employment, while also noting that BIK are also tax objects. Therefore, premiums for medical and life insurance are not BIK but are already subject to Article 21.

ARE BUSINESS TRAVEL COSTS A BIK?

Business travel costs such as travel, accommodation and meals are not BIK provided the travel can be shown to be for business purposes. To avoid challenge by a tax auditor it is recommended that supporting documentation is maintained regarding the reason for the travel.

Travel costs that are reimbursed to employees should be supported by receipts to reduce the risk a tax auditor considers these to be additional income for the employee.

Per diems or other travel allowances that exceed actual receipted costs are taxable income. These were already considered to be part of employee remuneration and an Article 21 object prior to UU HPP.

IS A CASH REIMBURSEMENT OF PERSONAL COSTS CONSIDERED A BIK?

Cash reimbursements are not BIK. These are considered as income and subject to Article 21 under the existing concepts of income.

WHAT TYPES OF BIK ARE NOT INCLUDED AS TAXABLE INCOME (NON-TAXABLE OBJECT)?

PP-55 provides that certain BIK are not considered as taxable income. These are:

1. **BIK in the form of food and drinks provided for all employees, either:**
 - a. In the form of food and drinks at the work site, or
 - b. In the form of a voucher for those employees who cannot access the on-site food and drinks (e.g., travelling sales team), or
 - c. Food and/or drink ingredients provided for all employees up to a certain amount (the amount is to be determined by Minister of Finance regulation).

2. **BIK provided in a special area/zone**

A Special Area/Zone means an area with economic potential; however, the infrastructure is inadequate, and it is difficult to access by public transportation. Typically, the investor

faces high risks in developing the project in that area and has a long return on investment. To be designated as a Special Area/Zone, the employer should file an application to the Director-General of Taxation.

The BIK excluded from taxable income include services, infrastructure, and/or facilities provided at the work site for employees and their families in the form of:

- a. Residences, including houses;
 - b. Medical services;
 - c. Education facilities;
 - d. Worship facilities;
 - e. Transportation (in the form of facilities, infrastructure, and transportation provided by the employer to the employee and family in order to carry out duties related to obtaining, collecting, and maintaining the employer's income); and/or
 - f. Sports excluding golf, power boating, horse racing, glider flying, or motorsports.
3. [BIK that should be provided by the employer in relation to performing the work/job, in connection with requirements regarding security, health, and/or safety of employees as required by relevant ministries or agencies based on applicable laws and regulations \(e.g. issued by the Ministry of Health or Ministry of Manpower\).](#)

PP-55 provides the following examples:

- a. Uniforms;
- b. Equipment for occupational safety;
- c. Employee shuttlebus;
- d. Lodging for boat crewmembers and similar; and/or

- e. BIK received in the context of handling endemics, pandemics, or national disasters (based on the provisions of the Ministry of Health, among others, in the form of pandemic virus detection tools and/or vaccines and their supporting facilities).

4. [BIK sourced from funding of State/Province/Town/District/Village Budgets](#)

5. [Certain types and/ or amounts of BIK](#)

Article 28 of PP-55 provides that certain BIK might not be included as taxable income based on the type and/or value of the BIK and/or the recipient of the BIK. The elucidation to PP-55 states that gifts in the context of religious holidays or worship facilities at the work site that are utilized by all employees fall within this exclusion.

Further detail will be provided by Minister of Finance regulation.

WHO SHOULD REPORT THE INCOME/HOW IS IT TAXED?

From 1 January 2023, the employer/provider of the BIK is required to include the BIK as an Article 21 tax object for the relevant employee and withhold tax. However, implementation of this requires a Minister of Finance regulation. Although it has been suggested in the media that implementation might be delayed until the second semester of 2023 (after the regulation is issued), it is not known if the implementing regulation will require retroactive calculation and payment of the Article 21 tax for the first semester of 2023 (with or without any penalties?) or if some other alternative will be regulated.

PP-55 does not explicitly state that the employer/BIK provider has an obligation to withhold Article 21 tax from the provision of BIK during 2022. Therefore, in principle, for 2022 the employee is required to report the BIK in their 2022 Annual Income Tax Return and pay the tax.

WHAT IS THE VALUE OF THE BIK PROVIDED?

The value of the BIK will be determined as follows:

Natura	Based on the market value of the goods provided
Kenikmatan	Based on the costs incurred or that should have been incurred to provide the facility or service

This will be further regulated by Minister of Finance Regulation.

CAN EMPLOYERS GROSS-UP THE VALUE OF BIK FOR THE TAX THAT IS DUE?

Yes, however, the gross-up is also taxable income.



SUMMARY OF TAXATION IMPLICATIONS FOR BIK

The tables below summarise the deductibility of BIK, the employer's obligation to withhold Article 21 tax and the employee's obligation to report the income during the transition period (2022 Tax Year) and for 2023 and future years.

If the employer's 2022 Tax Year commences before 1 January 2022 (e.g., Bookkeeping period 1 October 2021 – 30 September 2022) then:

Period when BIK is provided	For Employer		For Employee
	Deduction	Obligation to Withhold Article 21 tax	
1 Oct 2021 – 31 Dec 2021	Non-Deductible Expense	N/A	Not Income Tax Objects
1 Jan 2022 – 31 Dec 2022	Deductible Expense (subject to 3M)	Not required; voluntary withhold	Income Tax object - reported via 1721 A1 in 2022 Annual Personal Income Tax Return
		Not required; not withheld	Income Tax Object - self-assessed, paid and reported through 2022 Annual Personal Income Tax Return.
Commencing 1 Jan 2023	Deductible Expense (subject to 3M)	Must Withhold	Income Tax object - reported via 1721 A1 in 2023 Annual Personal Income Tax Return

If the employer's 2022 Tax Year commences on 1 January 2022 then:

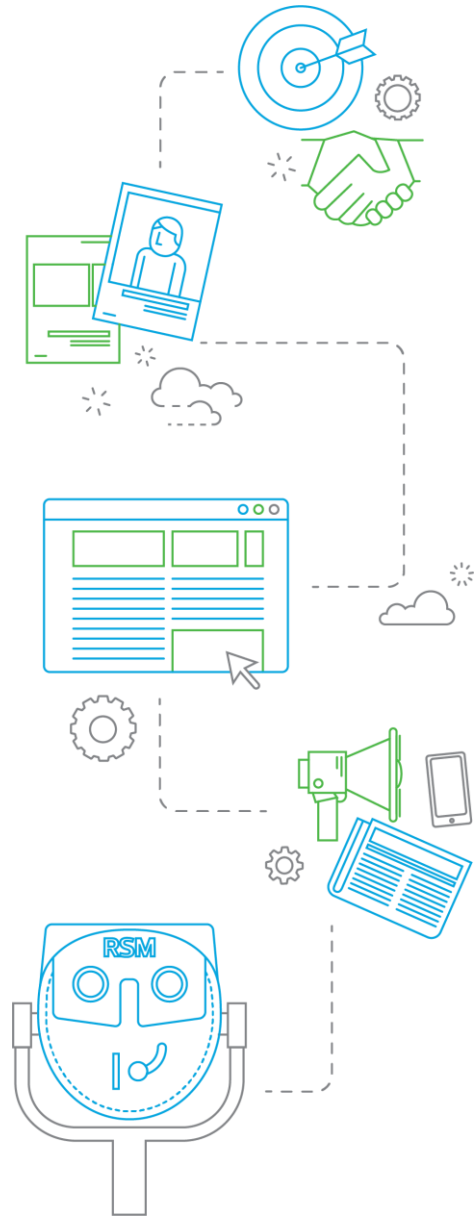
Period when BIK is provided	For Employer		For Employee
	Deduction	Obligation to Withhold Article 21 tax	
Before 1 January 2022	Non-Deductible Expense	N/A	Not Income Tax Object
1 Jan 2022 - 31 Dec 2022	Deductible Expense (subject to 3M)	Not required; voluntary withhold	Income Tax object - reported via 1721 A1 in 2022 Annual Personal Income Tax Return
		Not required; not withheld	Income Tax Object - self-assessed, paid and reported through 2022 Annual Personal Income Tax Return.
1 Jan 2023 - 31 Mar 2023	Deductible Expense (subject to 3M)	Must withhold	Income Tax object - reported via 1721 A1 in 2022 Annual Personal Income Tax Return

If the employer's 2022 Tax Year commences after 1 January 2022 or later (e.g., 1 April 2022 - 31 March 2023) then:

Period when BIK is provided	For Employer		For Employee
	Deduction	Obligation to Withhold Article 21 tax	
Before 1 April 2022	Non-Deductible Expense	N/A	Not Income Tax Object
1 Apr 2022 – 31 Dec 2022	Deductible Expense (subject to 3M)	Not required; voluntary withhold	Income Tax object - reported via 1721 A1 in 2022 Annual Personal Income Tax Return
		Not required; not withheld	Income Tax Object - self-assessed, paid and reported through 2022 Annual Personal Income Tax Return
1 Jan 2023 - 31 Mar 2023	Deductible Expense (subject to 3M)	Must withhold	Income Tax object - reported via 1721 A1 in 2022 Annual Personal Income Tax Return

IMPLICATIONS

- Employer records need to capture the value of BIK provided so this information can be given to employees for 2022 (if the BIK were not subject to Article 21) and so these can be included for payroll/Article 21 calculations.
- Employers need to decide and communicate to employees whether the Article 21 tax on BIK will be paid by the employer (as a gross-up) or be borne by the employees. As noted, if it is borne by employees then, in 2022, the employees must report the BIK as income and pay additional tax and, in 2023, the employees will receive lower after-tax salary as a result of the additional Article 21 tax that must be deducted. Employment agreements should also be updated.
- Employers should review employment agreements if employees are receiving a net salary and determine what adjustment to the agreement is necessary to accommodate the Article 21 tax that will now apply if the tax was previously considered a non-deductible BIK.
- It remains unclear how the provision of some services/facilities will be allocated to employees to determine the income per employee. For example, for medical facilities – will the total value of the BIK for the year (once it has been calculated) be allocated per visit? And will access to a motor vehicle be valued using the depreciation and operating costs? It is hoped the implementing Minister of Finance regulation will resolve these uncertainties.



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