

INDONESIAN TAX UPDATES

Preview of Indonesian tax regulations updates

Taxation on Benefit-in-Kind

Content:

New Regulations on Income Tax for Reimbursement/Compensation in the Form of Benefit-In-Kind (BIK)

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New Regulations on Income Tax for Reimbursement/Compensation in the Form of Benefit-In-Kind (BIK)

REGULATORY BASIS

1. **Regulatory Code** : Ministry of Finance's (**MoF**) Regulation No. 66 of 2023 (**PMK 66/2023**)
Title : Income Tax Treatment of Reimbursement or Compensation in connection with Works or Services Received or Earned in the form of In-Kinds and/or Benefits
Issuance Date : 27th of June 2023
2. **Regulatory Code** : Official Note of the Directorate General of Taxes (**DGT**) No. ND-14/PJ/PJ.02/2024 (**DGT Note 14/2024**)
Title : Confirmation of the Implementation of PMK 66/2023
Issuance Date : 8th of July 2024



A. BENEFIT-IN-KIND IN INDONESIA

- Benefit In-Kind (**BIK**) is a form of reimbursement (*penggantian*) or compensation (*imbalan*) from the employer to its employees in other forms than cash. BIK can be in the form of goods and/or the right to utilize certain facilities and/or services.
- PMK 66/2023 is the implementing regulation of the latest amendment of Income Tax Law through Law No. 7 of 2021 on Harmonization of Tax Regulations (**2021 Income Tax Law**) and Government Regulation No. 55 of 2022 (**GR 55/2022**). Prior to the issuance of 2021 Income Tax Law, BIK were not object of Income Tax of Article 21 (**PPh 21**) and are non-deductible expenses. Now, within the framework of 2021 Income Tax Law and its implementing regulations, BIK are PPh 21's object and become deductible expenses with certain limitations.
- The parties giving the BIK (**BIK Provider**) and the receiving parties (**BIK Recipient**) are as follows:

Nature of Transaction	BIK Provider/Employer	BIK Recipient/Employee
Employment Relationship	Employer	Employee
Services Transaction (<i>Transaksi Jasa</i>)	Service User	Service Provider

B. BIK AS PPh 21's OBJECT AND BIK AS DEDUCTIBLE EXPENSES

- The cost of BIK can be a Deductible Expense if: (i) the BIK resulted from employment relationship and/or services transaction; and (ii) the BIK costs are needed to obtain, collect, and maintain income.
- Under PMK 66/2023 and DGT Note 14/2024, some BIK are exempted from being object of PPh 21. Please refer to the brief description summarized in the table attached to this document.

- BIK given to the BIK Recipient must be reported to the DGT in the Annual Tax Return (*Surat Pemberitahuan Tahunan/SPT*) of Income Tax in the form of BIK nominative list (*daftar nominatif*).

Please refer to Section 3.f. and the Attachment of DGT Note 14/2024 for the required information, forms and samples of BIK nominative list.

C. CALCULATION AND TAX DEDUCTION FOR BIK

- In line with Article 22 of PMK 66/2023, the value of income in the form of BIK is determined based on the market value and/or cost expense incurred or should have been incurred for the BIK, whereby:

Conditions of BIK	BIK Value Determination
BIK has more than 1 month of utilization period	Value determined monthly during the utilization period
BIK is collectively utilized/received by more than 1 recipients	Value determined by allocating the cost/expense incurred (or should have been incurred) proportionally among recipients
BIK originally meant to be sold (land/building)	Value determined based on market value
BIK originally meant to be sold (other than land/building)	Value determined based on cost of goods sold (COGS)

- Income tax for BIK should be withheld by the BIK Provider at the end of each month when the BIK is given, handed over or owed (whichever is earliest and applicable).

If you need information on the MOF's Exchange Rate (MOF Rate/Kurs Pajak) and MOF's Interest Tax Rate (MOF Interest Charge/Tarif Bunga), please access our website <https://www.rustanconsulting.com/>.



BIK EXEMPTED FROM PPh 21's OBJECT

No.	BIK	Description/Requirements/Threshold/Limitation of PPh 21 Exemption
1.	Meals, food ingredients, beverage ingredients, and/or beverages (F&B)	<ul style="list-style-type: none"> Types of F&Bs include: <ul style="list-style-type: none"> F&B provided to employees in the working premises; F&B coupons for traveling employees; and/or F&B ingredients for all employees. Exempted if the F&B facility is given for all employees.
2.	BIK provided in "Certain Areas", including facilities for the employee and its family members	<ul style="list-style-type: none"> Facilities include residential, health, education, religious, shuttle, and/or certain sports facilities. Facilities may be provided directly and independently by the BIK Provider and/or through a third party cooperating with the BIK Provider.
3.	BIK which are mandatory to be provided by the employer for the working operations	<p>Including:</p> <ul style="list-style-type: none"> BIK relating to employees' security, health and/or safety requirements as mandated under the laws and regulations. Examples: uniform, work safety equipment, employees' shuttle service, accommodation, and/or BIK for handling endemic, pandemic, or national disaster.
4.	BIK sourced from State Budget and Revenue (APBN), Regional Budget and Revenue (APBD) and/or Village Budget and Revenue (APBDesa)	PMK 66/2023 and DGT Note 14/2024 do not provide further explanation on this BIK from APBN, APBD and/or APBDesa.
5.	BIK with certain types and/or threshold:	
	a. Parcels from employer for major religious holidays	<ul style="list-style-type: none"> Forms of parcels include, among others, F&B and/or F&B ingredients. Religious holidays include Eid, Christmas, Seclusion (<i>Nyepi</i>), Vesak Holiday or Chinese New Year. Exempted if parcels are received or obtained by all employees.
	b. Parcels from employer for other occasion than the religious holidays	<p>Exempted if:</p> <ul style="list-style-type: none"> Parcels are received or obtained by employees; and The overall value does not exceed IDR 3 million/employee within 1 fiscal year.
	c. Working tools and facility from employer	<ul style="list-style-type: none"> Tools and facilities, among others: computers, laptops, or mobile phone as well as its supporting facilities such as phone credit or internet connection. Exempted if the tools and facilities are: <ul style="list-style-type: none"> received or obtained by employees; and support employees' works.
	d. Health and medication facility from employer	<p>Exempted if:</p> <ul style="list-style-type: none"> received or obtained by employees (and their family members, for employees located in "certain areas"); and given in the following events (including the reimbursements): <ul style="list-style-type: none"> work accident; lifesaving emergency; or illness caused by work; follow-up treatment and medication resulting out of work illness or accident.

No.	BIK	Description/Requirements/Threshold/Limitation of PPh 21 Exemption
	e. Sports facilities from employer	<ul style="list-style-type: none"> Excluded sports: golf, horse racing, motorized boat racing, hang glider, and/or automotive sports. Exempted if: <ul style="list-style-type: none"> received or obtained by all employees; and The overall value does not exceed IDR 1.5 million/employee within 1 fiscal year.
	f. Communal residential facility (utilized collectively)	<ul style="list-style-type: none"> Communal residential facilities are, among others, mess, dormitory, boarding house, or barracks. Exempted if received or obtained by employees.
	g. Residential facility of the employer utilized by individuals	<ul style="list-style-type: none"> Individual residential facilities are, among others, apartments, or landed house. Exempted if: <ul style="list-style-type: none"> received or obtained by employees; and The overall value does not exceed IDR 2 million/employee in a 1-month period.
	h. Vehicle facility from employer	Exempted if received or obtained by employees which: <ul style="list-style-type: none"> Do not have shares subscription on the employer (not a shareholder); and Have an average gross income from the employer of up to IDR 100 million for the last 12 months.
	i. Contribution for pension funds legalized by the Financial Services Authority (OJK) borne by the employer	Exempted if received or obtained by employees.
	j. Religious facility	<ul style="list-style-type: none"> Religious facilities include chapels, prayer room (<i>musala</i>), mosque or temple (<i>pura</i>). Exempted if the facilities are given solely for religious/worship activities (<i>kegiatan peribadatan</i>).
	k. All BIK obtained or received during 2022	Exempted if obtained or received by employees or service providers (BIK Receivers).
	l. Educational and/or training facility	Exempted if: <ul style="list-style-type: none"> The facilities are received or obtained by employees (and their family member, for certain areas); For scholarships, employers do not have any relation with the employees: <ul style="list-style-type: none"> Whether work relation (other than employment), ownership, or control; and/or The employers' owner, Board of Commissioners, Board of Directors, or management do not have family relationship with the BIK Recipient (1st degree family member, by blood or by marriage).
6.	Limitation of Employee Discount Facilities	
	a. Employee discount for employer's products	Deemed as BIK if the employee's purchase price is lower than the COGS – and the price difference is not exempted from PPh 21.
	b. Lower interest rate for employee's loan	Deemed as BIK if the employee's interest rate is below the published rate and lower than the cost of fund – and the difference of interest rate is not exempted from PPh 21.
	c. Employee's shares option	Deemed as BIK if the employee's shares purchase price is lower than the value of shares buyback <u>or</u> shares value added by cost of issuing new shares – and the price difference is not exempted from PPh 21.