

Global Mobility Services bulletin

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New tax treatment on benefits-in-kind

The long-awaited Government Regulation No.55 (GR-55) implementing the Income Tax Law amendments introduced under the Harmonization of Tax Regulations (*Harmonisasi Peraturan Perpajakan/HPP*) Law was issued on 20 December 2022. This new regulation applies retroactively from 1 January 2022

The HPP Law changed the rules on the treatment of benefits-in-kind (BIKs) provided by Indonesian employers to its employees. Previously, non-cash benefits provided by an Indonesian company were excluded from the employee's taxable income and treated as a 'non-deductible expense' for the purpose of calculating corporate tax payable. Under this new regulation, BIKs are now taxable for the employee (with some exceptions) and the cost can be deducted by the employer (provided that the cost relates to obtaining, collecting and maintaining income).

GR-55 defines "in-kind" as compensation in goods rather than money. A "benefit" is defined as compensation in the form of the right to use a facility or a service which is provided by either the employer or a third-party where the asset is rented or paid for by the employer (e.g., accommodation, children tuition fees and insurance).

The BIK categories excluded from taxable income are as follows:

- a. Food and beverages provided to all employees;
- b. BIKs in certain remote areas;
- c. BIKs necessary to carry out an employee's work in relation to the requirements for the security, health and safety of the employee (e.g., uniform, safety equipment, BIKs provided during a pandemic/natural disaster);
- d. BIKs sourced or financed from the regional/state revenue budget; or
- e. BIKs of certain types and/or thresholds (e.g. parcels, gifts) – these will be regulated later

The regulation has stipulated the following tax treatment for BIKs:

- Employers who provide BIK are obliged to withhold income tax starting 1 January 2023
- Any BIKs provided by the employers during fiscal year 2022 should be taxed and reported in the employees' individual tax return (SPT 1770 or 1770S), on a self-assessment basis, unless those have been withheld and reported by employers.

KPMG notes:

- It appears that the Government is aware of the delay in implementing this regulation and thus has shifted the withholding tax obligation to the recipients/employees. Therefore, employees are expected to self-report BIK in their individual tax return (SPT 1770 or 1770S) and settle the tax payable individually via ID Billing by the end of March.
- Nevertheless, some employers have chosen to report BIKs and withhold the tax payable for BIK in the employee income tax return (SPT 1721). In that case there is no further reporting required from the employees.
- Given that the new top marginal rate for an individual is 35%, and most BIKs in any form are now taxable to the employee, it could easily push many top executives into paying the new top marginal rate.
- Given that BIKs are now taxable to the employees, companies need to review their HR policy, their budget and their cash flow.
- The deductibility of the expenses in the employer's corporate tax return depends on whether their BIKs are related to obtaining, collecting, and maintaining taxable revenue.
- One would expect that it won't take as long to prepare corporate tax returns given that there are no fiscal adjustments on BIKs.
- It is yet to be seen if this change will bring in more tax revenue.

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