

Tax News Flash

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Implementing regulation for benefits-in-kind

The Minister of Finance has finally issued implementing regulations related to benefits-in-kind (“BIK”) in its regulation No. 66 Year 2023 (“PMK-66”) dated 27 June 2023. This became effective on 1 July 2023.

PMK-66 provides comprehensive guidelines on the tax treatment of BIK for employers and employees, encompassing aspects such as the deductibility of BIK expenses, the definition and scope of BIK as a taxable object, exclusion criterias for specific BIK categories, valuation and calculation methods for BIK, special considerations for certain areas, and transitional provisions.

PMK-66 also revokes PMK No. 167/PMK.03/2018 (“PMK-167/2018”), which previously governed the provision of food and drinks for all employees as well as reimbursement or compensation in-kind and facilities in specific areas and related to the work performance all of which can be deducted from an employer’s gross income for corporate tax payable computation.

Here are some key points of PMK-66:

Deductibility of BIK expenses for employers

BIK expenses can be deducted from gross income to determine taxable income if the following conditions are met:

- BIK is related to expenses for obtaining, collecting, and maintaining income (“3M”).
- BIK (in connection with work) is a cost related to the relationship between the employer and the employee.
- BIK (in connection with services) is a fee because of the inter-taxpayer service transactions.

The technical provisions for charging BIK are as follows:

- BIK with a useful life of more than one year is charged through depreciation or amortization.
- BIK with a useful life of less than one year is charged in the year the expenditure is incurred.
- Employers should report their BIK expenses in their Annual Income Tax Return.
- Effective starting 1 January 2022, for employers whose 2022 financial year commenced before 1 January 2022
- Effective from the start of the 2022 financial year, for employers whose 2022 financial year commenced on 1 January 2022, or afterwards.

Scope and definition of BIK as a tax object for recipients

Article 3 paragraph (1) of PMK 66 stipulates that BIK are subject to the provisions of Article 4 paragraph (1), letter a of the Income Tax Law (“ITL”), which covers the following scope and definition:

- BIK (in connection with work) is a cost related to the relationship between the employer and the employee.
- BIK (in connection with services) is a fee, because of the inter-taxpayer service transactions.
- PMK 66 defines “in-kind” as compensation other than money provided to the recipient/employees.
- 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.

The provision that stipulates BIK as taxable income for the employees or receiver who receives the BIK from their employer or grantor applies to the following periods:

- from 1 January 2022 onwards for employers whose 2022 financial year commenced before 1 January 2022, and
- from the 2022 financial year for employers whose 2022 financial year commenced on 1 January 2022 or afterwards.

BIK categories and limitations which are excluded as tax objects:

The BIK categories and limitations excluded from taxable income are as follows:

No	BIK categories	Limitation
1	a. Food/drinks provided for all employees at workplace b. Meal coupons for employees outside work activities (including in the form of reimbursement for food/drink expenses)	No value limit Maximum of IDR 2 million per employee per month or the value provided at workplace (whichever is higher)
2	BIK relates to work safety, health and safety standards as required by ministries or agencies based on provisions of laws and regulations including uniforms, employee shuttle, work safety equipment, accommodation for ship crews and similar purposes, medicines/vaccines in handling an endemic, pandemic, or national disaster	No value limit
3	Facilities, infrastructure and facilities for employees and their families who work in certain areas including remote areas include facilities, infrastructure and housing facilities, health services, education, transportation and sports (excluding golf, motorboat racing, horse racing, gliding, or automotive sports)	No value limit
4	a. Gifts for religious holidays include Idul Fitri, Christmas, Nyepi, Waisak, and Chinese New Year b. Gifts other than religious holidays	Received by all employees. No value limit. Received by employees. Maximum of IDR 3 million per employee per year.
5	Work equipment and facilities such as laptops, computers, cellphones, pulses, and the internet	Received by employees and to support the employees' work. No value limit.
6	Health and medical service facilities in handling work accidents, work-related diseases, emergencies, and their follow-up treatment	Received by employees. No value limit.
7	Sports facilities other than golf, horse racing, power boating, gliding, and automotive	Received by employees. Maximum of IDR 1.5 million per employee per year.
8	a. Communal housing facilities (dormitories, etc) b. Non-communal housing facilities (apartment/house rental)	Received by employees. No value limit. Received by employees. Maximum of IDR 2 million per employee per month.
9	Vehicle facilities	The employee/beneficiary is not a shareholder and the average gross income of the employee in last 12 months is not more than IDR 100 million per month.
10	Contribution facilities to pension funds whose establishment has been approved by the Financial Services Authority are borne by the employer	Received by employees
11	Religious facilities, among others, are in the form of prayer rooms, mosques, chapels, or temples	Solely for the purposes of worship activities
12	BIK received during the 2022 year	Received by employees or service providers

The excess of the above BIK value from the maximum limit received by the employee will be subject to income tax.

BIK value assessment and calculation

The value of BIK is assessed based on:

- the market value of such in-kind compensation
- the amount of the costs incurred (or that should have been incurred) by the grantor on the compensation in the form of facilities provided.

Withholding of the income tax payable on BIKs is carried out at the end of the month in which:

- There is a transfer or an accrual of the relevant income, according to an earlier event for reimbursement or compensation in kind; or
- There is a transfer of rights (or a part of the rights) for the use of a facility and/or service by the employer/provider for compensation or compensation in the form of facilities.

BIK received from 1 January 2023 to 30 June 2023 is exempt from withholding tax. The recipient/employee must calculate and pay for himself and report it in the recipient's annual Income Tax Return.

BIK treatment in certain areas

BIK provided in certain areas is exempt as an income tax object. This includes all facilities and infrastructure at the workplace for employees and their families, such as:

- a.residential accommodations, including housing
- b.healthcare services
- c.education
- d.places of worship
- e.transportation
- f. sports activities, excluding golf, motorboat racing, horse racing, paragliding, or automotive sports.

As long as the employer's business location has been designated as "a certain area" by the Director General of Taxes.

The designation of a business location as "a certain area" is determined by the absence of or inadequacy of at least 6 out of the 11 types of economic and public transportation infrastructure (not including those that have been built by employers).

The designation of certain areas can be granted:

- Until the validity period of specific mining permits expires, for employers holding specific mining permits; or
- For a period of five years, for employers other than those holding specific mining permits.

These specific mining permits include: (i) mining contracts (*Kontrak Karya*), (ii) coal mining cooperation agreements, (iii) permits in the mining sector in accordance with the provisions of mining and coal regulations.

The details of the procedures and a timeline for the application to approve the designation of certain areas is further stipulated in PMK-66.

Transitional provisions

- Decision letters approving the designation/extension of certain areas that were based on PMK 167/2018 (which is still in effect) are deemed to remain valid.
- The treatment of BIK in certain areas as stated in point a. is based on the provisions in Article 8 of PMK-66.

- The ongoing process of resolving applications for the designation/extension of certain areas shall be completed in accordance with the provisions of PMK-66.
- If applications for designation/extension have been declared incomplete according to the provisions in PMK-66, the Regional Office of the Central Status Employer must request that the document be completed within 15 days from the effective date of PMK-66.
- Applications for the designation/extension of certain areas that are currently under examination by the Regional Office of DGT Location (where a decision has not been issued after four months from the date of the reception of the complete application, or one month from the effective date of PMK-66) must be issued a decision no later than six months from the date of the complete application received or one month from the effective date of PMK-66, whichever occurs earlier.
- Employers holding specific mining permits whose designation of certain areas is due to expire after the effective date of PMK-66 must submit a reapplication for the extension of the certain area designation no later than four months before the expiration stated in the permit.

KPMG notes:

The absence of a clear definition and scope for facilities included in the list of exemptions for BIK as taxable income could potentially lead to disputes.

Please reach out to your KPMG contacts for any further guidance you may require in respect to this regulation.

Contact us

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