

July 2023

# Tax Update



**Tax Update:** Minister of Finance Regulation Number 66 of 2023 regarding the Income Tax Treatment of Compensation or Remuneration Received or Obtained in the Form of Benefits In-Kind.

## Adjustment of Income Tax Treatment in the Form of Benefits In-Kind

The Ministry of Finance issued Minister of Finance Regulation Number 66 of 2023 (MoFR 66) regarding the Income Tax Treatment of Compensation or Remuneration from Works or Services Received or Obtained in the Form of In-kinds and Benefits (BIKs). MoFR 66 was effective in force as of July 1, 2023 and to replace MoF Reg No. 167/PMK.03/2018<sup>1</sup>, which was unable to accommodate the necessary adjustments in the treatment of Income Tax for BIKs.

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<sup>1</sup> Minister of Finance Regulation Number 167/PMK.03/2018 regarding the Provision of Food and Beverage to All Personnel as well as Compensation in the Form of Benefit or in Kind in Certain Regions in Connection with Performance of Work that May Be Deducted from Employer's Gross Income

The background of the issuance of MoFR 66 is to provide greater legal certainty and fairness in the treatment of Income Tax of compensation or remuneration from works or services received in the form of BIKs, as well as to implement the provisions of Article 31 of Government Regulation Number 55 of 2022 (GR 55) regarding Adjustment of Regulations in the Field of Income Tax.

This tax update highlights the principal substance set forth in MoFR 66, which includes:

1. Deductibility of BIKs expenses.
2. Taxable BIKs.
3. Non-taxable BIKs.
4. Determination of taxable value of BIKs.
5. Income tax withholding.

## **DEDUCTIBILITY OF BIKs EXPENSES**

Before Law Number 7 of 2021 concerning the Harmonization of Tax Regulations (HPP Law) was effective in force, BIK expenses were not deductible for the employers and not taxable income for the employees/recipients. However, since the implementation of the HPP Law, BIK expenses have been deductible for employers and taxable income for employees/recipients.

### **Scope of deductibility**

BIK expenses are deductible as long as they are incurred by employers in connection with the business which is to generate, collect, and maintain taxable income, consisting:

- a. Related to works  
Expenses incurred related to the employment.
- b. Related to services  
Expenses incurred due to service transactions between taxpayers.

### **Technical deduction of BIK expenses:**

BIKs with a useful life of more than 1 year shall be depreciated/amortized, while BIKs with a useful life less than and up to 1 year shall be expensed fully in the fiscal year

concerned. In addition, the employers shall also report BIK expenses in the Annual Income Tax Return.

### **Deduction of BIK provided in 2022**

Employers whose fiscal years start before January 1, 2022 are subject to MoFR 66 since January 1, 2022. Meanwhile, for employers whose fiscal years start after January 1, 2022, MoFR 66 should be applicable for the fiscal year 2022.

### **TAXABLE BIKs**

#### **The scope/definition of in-kind**

Compensation in the form of in-kinds refers to goods other than money the ownership of which are transferred by employers to employees/recipients. For example: former official vehicles granted to employees.

#### **The scope/definition of benefits**

Compensation in the form of benefits refers to facilities and/or services derived from assets of: (a) employers and/or; (b) third-party which are leased and/or funded by employers for the consumption of employees. For example: company's car facility.

#### **BIKs earned in 2022 and onward**

It should be noted that BIKs earned by employees/recipients during the year 2022 are treated as non-taxable income. In accordance with GR 55, withholding of Income Tax must be carried out by employers for taxable BIKs earned by employees/recipients starting from January 1, 2023. However, according to MoFR 66, BIKs received from January to June 2023 in which withholding of Income Tax has not been conducted by employers, are still subject to Income Tax and employees/recipients shall self-calculate and pay the Income Tax and report it in the Annual Income Tax Return for the Tax Year 2023.

### **NON-TAXABLE BIKs**

MoFR 66 regulates the categories/types of non-taxable BIKs, which include:

- a. Food, beverages, food ingredients, and/or beverage ingredients for all employees;
- b. Benefits in-kind provided in certain regions;
- c. Benefits in-kind that must be provided by the employer in the course of employment;
- d. Benefits in-kind sourced or funded by the state, regional, and/or village budgets; and
- e. Benefits in-kind with specific types and/or limitations.

**a. Food, beverages, food ingredients, and/or beverage ingredients for all employees**

In accordance with MoFR 66, food and/or beverages provided by employers in the workplace, meal vouchers, and/or reimbursement for expenses on food and/or beverages for employees unable to consume in the workplace due to the nature of their work, and food and/or beverages with specific limitations, are exempted from Income Tax.

Regarding meal vouchers and/or reimbursement for food and/or beverages, MoFR 66 applies the following tax-exempt limitations:

1. Not exceeding IDR 2 million per month per employee.
2. Not exceeding the value of expenses for providing food and/or beverages in the workplace per month per employee, if the employer's expenses for the said purpose exceed IDR 2 million per month per employee.

The types and limitations applied for food and/or beverage ingredients that are non-taxable BIKs, include:

1. Gifts given to all employees by employers on religious holidays.
2. Gifts given to employees by employers for the purposes of other than religious holidays, not exceeding IDR 3 million within a Tax Year per employee.

## **b. BIKs provided in certain regions**

As it is known, MoFR 66 revoked the previous regulation, Minister of Finance Regulation Number 167/PMK.03/2018 (MoFR 167). In MoFR 167, BIKs provided in certain regions were intended to support the government's policies in promoting development in those regions. Unlike MoFR 66, under MoFR 167, the facilities, infrastructure, and/or workplace amenities must be provided from the asset built/owned by employers, whereas in MoFR 66, they can be provided from the asset built/owned by other parties in collaboration with employers in which employers bear the cost of providing such facilities, infrastructure, and/or workplace amenities. The facilities, infrastructure, and/or workplace amenities provided by other parties also include healthcare and/or education services located in the regency/city where the employer's business resides or neighboring regions.

The facilities, infrastructure, and/or workplace amenities for employees and their families, include:

- a. Residential facilities, including housing;
- b. Healthcare services;
- c. Education;
- d. Worship facilities;
- e. Transportation; and/or
- f. Sports activities, excluding golf, motorboat racing, horse racing, hang gliding, or motorsports, as long as the employer's business location is designated as a certain region by the DGT.

Similar to MoFR 167, in MoFR 66, the Director General of Taxes is authorized to determine a region as a certain region.

## **c. BIKs that must be provided by employers for performing works**

In this category, BIKs are provided in relation to the security, health, and/or safety of employees, as required by the relevant ministry or institution based on the prevailing legislation, including:

- Uniform clothing;
- Safety equipment;
- Employee transportation facilities;
- Accommodation for ship crew and similar purposes; and/or
- Benefits in-kind received in the context of handling endemics, pandemics, or national disasters.

**d. BIKs sourced from or funded by the state, regional, and/or village budgets**

Further details regarding the above BIKs are not set forth in MoFR 66.

**e. BIKs with specific types and/or limitations.**

Specific limitations may include:

- In-kinds: recipients and/or value criteria; or
- Benefits: recipients, value, and/or function criteria.

BIK value with the value exceeding the threshold is taxable income for employees.

The Appendix of MoFR 66 provides the list of types and value threshold of BIKs exempted from Income Tax, as shown in the following table:

No.	Types	Limitations
1.	Gifts from the employer, including food ingredients, beverage ingredients, food and/or beverages for religious holidays such as Eid al-Fitr, Christmas, Holy Nyepi, Vesak Day, or Chinese New Year	Received or obtained by all employees
2.	Gifts from the employer provided other than religious holidays	a. Received or obtained by employees; and b. Overall value not exceeding IDR 3 million per employee per Tax Year.

3.	Work equipment and facilities provided by the employer, including computers, laptops, or mobile phones, along with supporting means such as credit or internet connection	<p>a. Received or obtained by employees; and</p> <p>b. Support the employees' work</p>
4.	Healthcare and medical services facilities provided by the employer	<p>a. Received or obtained by employees; and</p> <p>b. Provided in the context of:</p> <ol style="list-style-type: none"> <li>1. Occupational accidents;</li> <li>2. Work-related illnesses;</li> <li>3. Life-saving emergencies; or</li> <li>4. Advanced treatment and medical care resulting from occupational accidents and work-related illnesses.</li> </ol>
5.	Sports facilities provided by the employer, excluding golf facilities, horse racing, motorboat racing, hang gliding, and/or motorsports	<p>a. Received or obtained by employees; and</p> <p>b. Overall value not exceeding IDR 1.5 million per employee per Tax Year.</p>
6.	Communal residential facilities provided by the employer, such as dormitories, hostels, boarding houses, or barracks	Received or obtained by employees.
7.	Individually held residential facilities provided by the employer, such as apartments or landed houses	<p>a. Received or obtained by employees; and</p> <p>b. Overall value not exceeding IDR 2 million per employee per month.</p>
8.	Vehicle facilities provided by the employer	Received or obtained by employees who:

		<p>a. Do not have any equity participation in the employer; and</p> <p>b. Have an average gross income in the last 12 months up to IDR 100 million per month from the employer.</p>
9.	Contributions to pension funds established and approved by the Financial Services Authority (Otoritas Jasa Keuangan) borne by an employer	Received or obtained by employees.
10.	Worship facilities, such as prayer rooms, mosques, chapels, or temples	Exclusively intended for religious activities.
11.	All benefits in-kind received or obtained during the year 2022	Received or obtained by employees or service providers.

### **DETERMINATION TAXABLE VALUE OF BIKs**

BIK value are assessed based on:

- a. Market value for in-kind; and/or
- b. The amount of expenses incurred or should have been incurred by employers for benefits.

#### **Compensation in the form of in-kinds:**

- a. Market value for land and/or buildings; or
- b. Cost of goods sold for other than land and/or buildings

#### **Compensation in the form of benefits:**

For benefits with a utilization period exceeding one month, the value is determined monthly throughout the utilization period. For the facility/services provided to more than employees, the total benefits value is allocated proportionally per employee per month based on the record of benefits utilization.



## Income Tax Withholding

Income Tax withholding on taxable BIKs shall be conducted at the end of the month when:

- a. transfer occurs or the relevant income are owed, whichever earlier, for compensation or remuneration in the form of in-kinds; or
- b. transfer of rights or part of rights for the utilization of the facility and/or service are exercised by employers, for compensation or remuneration in the form of benefits.

The compensation or remuneration in the form of BIKs received or obtained by employees related to works or services during the Tax Period from January 2023 to June 2023 are exempted from the Income Tax. As explained above, BIKs earned from January 1, 2023, to June 30, 2023, withholding of which have not been conducted by employers, are subject to the Income Tax, but employees must:

- a. self-assess and pay the income tax liability, and
- b. report them in the Annual Income Tax Return.

### THINGS TO BE CONSIDERED

MoFR 66 indeed provides clear guidelines regarding the implementation of tax treatment changes for BIKs as regulated in the HPP Law and later reinforced in GR 55. Employers must promptly identify taxable and non-taxable BIKs as well as their respective type and threshold value. They should also prepare everything necessary for the implementation of MoFR 66, including administrative tasks and supporting documents. Employers should also disseminate MoFR 66 to their employees, so employees could understand the tax treatment change of BIKs which were previously non-taxable income, now taxable income according to the provisions of the HPP Law.

## Our Advisors

**Soewito**

[soewito@taxprime.net](mailto:soewito@taxprime.net)

**Machfud Sidik**

[machfudsidik@taxprime.net](mailto:machfudsidik@taxprime.net)

**Emanuel Dewo Adi W.**

[dewo@taxprime.net](mailto:dewo@taxprime.net)

**Saut Hotma H. Sibarani**

[saut@taxprime.net](mailto:saut@taxprime.net)

**Prio Saptomo**

[prio@taxprime.net](mailto:prio@taxprime.net)

**Henny**

[henny@taxprime.net](mailto:henny@taxprime.net)

**Awalludin Anthon B.**

[awal@taxprime.net](mailto:awal@taxprime.net)

**Nur Yadin**

[nuryadin@taxprime.net](mailto:nuryadin@taxprime.net)

**Bayu Rahmat Rahayu**

[bayu@taxprime.net](mailto:bayu@taxprime.net)

**Alvian Yanuar**

[alvian@taxprime.net](mailto:alvian@taxprime.net)

**Lita Hanifa R.**

[lita@taxprime.net](mailto:lita@taxprime.net)

**Muhamad Fajar Putranto**

[fajar@taxprime.net](mailto:fajar@taxprime.net)

**Robert Pakpahan**

[robert.pakpahan@taxprime.net](mailto:robert.pakpahan@taxprime.net)

**Nurul Chalik Wardoyo**

[chalik@taxprime.net](mailto:chalik@taxprime.net)

**Aries Prasetyo**

[ariesprasetyo@taxprime.net](mailto:ariesprasetyo@taxprime.net)

**Teguh Wisnu Purbaya**

[teguh@taxprime.net](mailto:teguh@taxprime.net)

**Firman Muttaqien**

[firman@taxprime.net](mailto:firman@taxprime.net)

**Suharno**

[suharno@taxprime.net](mailto:suharno@taxprime.net)

**Penni Arumdati**

[penni@taxprime.net](mailto:penni@taxprime.net)

**Bobby Savero**

[bobby@taxprime.net](mailto:bobby@taxprime.net)

**Dwi Prasetyo**

[prasetyo@taxprime.net](mailto:prasetyo@taxprime.net)

**Muh. Fahri**

[fahri@taxprime.net](mailto:fahri@taxprime.net)

**Wawan Setiyo Hartono**

[wawan@taxprime.net](mailto:wawan@taxprime.net)

**Isnaeni**

[isnaeni@taxprime.net](mailto:isnaeni@taxprime.net)

**Abdurahman**

[abdurahman@taxprime.net](mailto:abdurahman@taxprime.net)

**Aries Iskandar**

[ariskandar@taxprime.net](mailto:ariskandar@taxprime.net)

**Mandra Komara**

[mandra@taxprime.net](mailto:mandra@taxprime.net)

**Januar Ponco**

[ponco@taxprime.net](mailto:ponco@taxprime.net)

**Muhamad Noprianto**

[noprianto@taxprime.net](mailto:noprianto@taxprime.net)

**Anang Febita K.**

[anang@taxprime.net](mailto:anang@taxprime.net)

**Eneng Shopuroh**

[eneng@taxprime.net](mailto:eneng@taxprime.net)

**Dinda Natasha**

[dinda@taxprime.net](mailto:dinda@taxprime.net)

**Ridho Atma Mulia**

[atma@taxprime.net](mailto:atma@taxprime.net)

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