TaxPrime Newsletter

Navigating New Benefit in Kind (BIK) Taxation Under Minister of Finance Regulation Number 66 Year 2023

Table of Contents

The Minister of Finance Regulation No. 66 of 2023 (MoFR 66/2023), effective from 1 July 2023, complements significant transformation of benefit and/or in-kind tax treatment as firstly mandated in the Harmonization of Tax Regulations (HPP Law). The HPP Law revolutionized taxation of BIK by making BIK-related expenses deductible for employers and taxable for employees. MoFR 66/2023, eagerly awaited for almost 2 (two) years since the foundation of BIK tax treatment in HPP Law enacted on 29 October 2021, provides detailed guidelines for BIK taxation. This newsletter delves into the implications of these changes for both employers and employees, aiming to elucidate the complexities and guide stakeholders through the transition.

Important Highlights

A. Principal Treatment and Historical Context

The HPP Law sets the principal tax treatment for BIK from a regime where BIK-related expenses are non-deductible for employers and non-taxable for employees, to one where these expenses are deductible for employers and constitute taxable income for employees. This fundamental change prompted concerns regarding the concrete implementation. 1 (one) year after enactment of HPP Law, on 20 December 2022 the Government issued Government Regulation Number 55 year 2022 (GR 55/2022), clarifying types of BIKs exempted from income tax including food/beverages provided to all employees, BIKs provided as part of work execution, BIKs provided in designated areas, BIKs with certain types and limits, and valuation of BIKs for tax purposes. MoFR 66/2023, following GR 55/2022, further detailed the implementation of these frameworks.

B. Deductibility of Costs for Employers and Scope of Taxable Income for Employees/Recipient

For all costs incurred by employers in providing Benefits in Kind (BIKs) to be deductible, the sole requirement is their direct relation to the business's efforts in generating, collecting, and preserving taxable income. This applies irrespective of whether the costs originate from the employers' internal provision of BIKs or from transactions with third parties designated to supply these BIKs.

Non-monetary compensation or rewards in the form of benefits and/or in-kind, considered taxable income, encompass not only those arising from an employment relationship between employers and employees, but also those stemming from service transactions between taxpayers.

C. Definition of Benefit and In-Kind

In-kind compensation or rewards are provided as tangible goods, non-monetary forms, where ownership is transferred from the provider to the recipient. Benefits, conversely, are defined as the entitlement to utilize facilities and/or services derived from the assets of the compensation or reward providers. These may be directly owned, leased, or financed by the providers for the use of the recipients.

D. Exemption

Acknowledging the practical challenges of encompassing all Benefits in Kind (BIKs) without exceptions, MoFR 66/2023 introduces exemptions based on specific criteria, including the type, amount, and location of BIK provision. These exemptions cover:

1) Food, Food Ingredients, Beverage Ingredients, and/or Beverages for All Employees:

The exemptions for food and beverage related BIKs for all employees, as outlined in the regulation, include food/beverages provided directly at the workplace, food/beverage coupons for employees who, due to their job nature, cannot access the directly provided food/beverages, and food/beverage ingredients for employees, subject to a specified value limit. Reimbursements for food/beverage expenses by employers are treated akin to coupons, with exemptions up to IDR 2 million per month per employee or actual employer expenses for direct provision of food/beverage at the workplace if higher. Amounts exceeding these thresholds are taxable.

Regarding the specific limit for food/beverage ingredients, the attachment of MoFR 66/2023 specifies exemptions for the related BIKs, with no threshold limit when provided to employees for religious holidays and limitation up to IDR 3 million annually per employee for outside these occasions.

2) BIK provided in certain areas:

Employers providing BIK in the designated areas, characterized as regions with economic potential but hindered by limited economic infrastructure and remote access including deep marine zones over 50 meters deep with valuable mineral reserves, are eligible for BIK provision exemption under this regulation. This incentive acknowledges the substantial risks and prolonged investment return periods, aiming to stimulate economic growth and enhance investment attraction while ensuring the provision of crucial BIKs to improve employees' living and working conditions in underdeveloped areas. The comprehensive exemption is offered covering everything such as: housing, health, education, worship, transportation, and sports regardless of whether these BIK are provided by employers or parties assigned by employers. To get such an exemption, employers must seek approval from the Director General of Taxes (DGT) and the decision on designated areas as well as the exemptions will be valid until the end of the mining license for the mining license holders or up to five years for other businesses.

3) Mandatory BIK for job execution as provided by employers:

The regulation also exempts specific mandatory BIKs related to job execution, emphasizing employee safety, health, and security of employees mandated by legal or regulatory requirements. It includes in-kind/benefits like uniforms, safety equipment, shuttle services, and lodging for certain professions. Treatment as non-taxable income is important to facilitate employer's compliance with health, safety, and security mandates.

4) BIK derived from or financed by the State and Regional Budget:

As the government bodies are not taxable subjects, BIKs sourced from or funded by the State and Regional Budget are exempt from taxable income. This approach upholds the taxable-deductible and non-taxable – non-deductible principles, ensuring that benefits financed through public funds do not contribute to an individual's taxable income.

5) BIK with certain types and limitations:

The regulation also addresses specific types of BIKs exempted from taxable income focusing on the types of in-kind or benefits, the specific limitations applied to them, which could include the criteria of recipients and/or the value of BIKs. Although the provision sets forth applicability on BIKs by employees during fiscal year 2022, the attachment of MoFR 66/2023 introduces otherwise in which BIKs earned/received by employees during year 2022 are exempted. Limitation on food/beverage ingredients as per number 1) with further guidance are included in this attachment. Any surplus value of BIKs received or earned by employees, after considering the specific limitations (criteria of recipients, value, and functions of the benefit), will be considered a taxable income.

Such limitations based on recipients, types, and values are detailed in the table on the next page:

No	Type	Limitation
1	Gift in the form of food/beverage ingredients and food/drinks provided to employees for the religious holidays	Earned/ received by all employees
2	Gift provided to employees other than for religious holidays	Earned/received by employees and the value in total up to IDR 3 million per employee/year.
3	Work equipment and facilities provided by employers include, among others, computers, laptops, or mobile phones along with supporting amenities such as credit for calls or internet connectivity.	Earned/received by employees and supporting their works
4	Healthcare and medical treatment facilities provided by the employer	Earned/received by employees; and provided in the context of handling: (1) work accidents; (2) occupational diseases; (3) life-saving emergencies; or (4) continued care and treatment as a result of work accidents and/or occupational diseases.
5	Sports facilities provided by the employer, excluding golf facilities, horse racing, motorboat racing, hang gliding, and/or automotive sports.	Earned/received by employees; and the total value does not exceed IDR 1,500,000.00 (one million five hundred thousand Indonesian Rupiah) per employee for each Fiscal Year.
6	Communal housing facilities provided by the employer (used collectively), including dormitories, hostels, lodges, or barracks	Earned/received by employees
7	Housing facilities from the employer, the right of use of which is held by individuals, including apartments or landed houses:	a. Earned/received by employees; and b. in total valued at no more than IDR 2,000,000.00 (two million Indonesian Rupiah) per employee for 1 (one) month.
8	Vehicle facilities from the employer	Earned/received by employees who: a. do not have ownership participation in the employer; and b. have an average gross income in the last 12 (twelve) months up to IDR 100,000,000.00 (one hundred million Indonesian Rupiah) per month from the employer.
9	Pension fund contributions facility, the establishment of which has been approved by the Financial Services Authority (OJK), covered by the employer	Earned/received by employees
10	Worship facilities, including prayer rooms, mosques, chapels, or temples	Designated solely for worship activities
11	All BIKs earned/received during the year 2022	Earned/received by employees/service providers

Challenges and impacts

The enactment of MoF Regulation No. 66 of 2023, while aimed at streamlining the taxation of BIKs, has raised several challenges and impacts as further explained.

A. BIKs received from January to June 2023

The exemption from withholding tax for BIKs between January to June 2023 is not meant to exempt BIKs from income tax, but to shift the tax responsibilities to the employees/recipients. This situation could lead to reluctance among employees/recipients to fulfill their tax obligations due to unfamiliarity with the BIK's value, unawareness of BIKs being taxable, and the burden of independently covering tax payments. This could heighten the risk of non-compliance, while it is still uncertain whether employers should be responsible in audit situations if employees fail to comply. To prevent the shift of this risk to them, employers may opt to withhold income tax on BIKs between January to June 2023, later in the following months (e.g. July to December 2023), but this option will raise questions about penalties for late payments. This revised approach emphasizes the need for strategic planning to shift these tax obligations effectively while considering potential implications for both employers and employees.

B. Challenges to identify and appraise taxable BIKs

Under the previous regime, BIK-related expenses were non-deductible for employers and non-taxable for employees, requiring the tax department of employers to identify for fiscal adjustment in Corporate Income Tax Returns (CITR). MoFR 66/2023 introduces a shift, making these expenses deductible for employers and taxable for employees. This change complicates the Withholding Tax Article 21 (WHT Art 21) computation, usually managed by the HR department of employers. Expenses related to BIKs should be tracked across various departments, for BIK identification and valuation and WHT Art 21 imposition. In addition, the allocation and split of expenses or facilities used collectively by employees present great challenges as HR is not familiar with these works. These circumstances necessitates strategic coordination and system to accurately identify and value all BIKs provided cross-departmentally ensuring compliance and accurate tax reporting.

Contact Us






Wawan Setiyo Hartono	Aries Prasetyo	Awalludin Anthon B.	Nur Yadin	Alvian Yanuar Yasin	Adinda Octory Pramadisto
wawan@taxprime.net	ariesprasetyo@taxprime.net	awal@taxprime.net	nuryadin@taxprime.net	alvian@taxprime.net	disto@taxprime.net

TaxPrime Publications

Taxprime.net: Uncover limitless access to our latest insights, tax updates, and comprehensive analyses. Stay at the forefront of industry trends and regulatory changes as our platform offers you an expansive reservoir of information, empowering you with the most recent developments in the intricate world of taxation.

Connect with Us on LinkedIn:
id.linkedin.com/company/taxprime

Watch us on YouTube:
bit.ly/taxprimeyoutube

Insights: Delve into our extensive insights, where you can gain a nuanced understanding of the intricacies of both local and international taxation, providing you with valuable knowledge to navigate the complexities of tax systems worldwide

Tax Updates: Curated to deliver the latest and most pertinent updates on tax regulations. Stay informed and empowered with the freshest insights into the dynamic landscape of tax changes and regulation.

taxprime®