



Indonesia Tax Info July 2023

Implementing regulation on new tax treatment of benefits in kind issued

On 27 June 2023, Indonesia's Minister of Finance (MoF) issued Regulation Number 66 of 2023 (PMK-66) as the implementing regulation for the income tax treatment of benefits in kind (BIK) in terms of both the liability to tax on the BIK of employees and other recipients of BIK (referred to hereafter as "recipients") and the tax deductibility for employers or other BIK providers (referred to hereafter as "providers"). PMK-66 acts as the further implementing regulation on this topic that was stipulated in Government Regulation Number 55 of 2022 (PP-55) (please refer to [Tax Info January 2023](#)). PP-55 was issued by the Indonesian government to implement the income tax provisions of Law Number 7 of 2021 regarding the Harmonization of Tax Regulations (*Harmonisasi Peraturan Perpajakan* (HPP Law)). A key measure in the HPP Law was the change in the taxation treatment of BIK, which, prior to fiscal year 2022, were not taxable on employees and not tax deductible for employers.

PMK-66 came into effect as from 1 July 2023 and revokes MoF Regulation Number 167/PMK.03/2018 (PMK-167). This article highlights some of the significant matters covered in PMK-66 and some of Deloitte Indonesia's initial observations on those topics, including:

- BIK as tax deductible expenses;
- BIK as taxable incomes; and
- Valuation and calculation of BIK for income tax purposes and withholding of tax from BIK.

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As a reminder, BIK comprise:

- In kind (*natura*): Remuneration in the form of goods other than money, e.g., food, beverages. In kind are valued based on their market value.
- Benefits/enjoyments (*kenikmatan*): Remuneration in the form of rights to use a facility and/or service, e.g., housing, transportation. Benefits are valued based on the amount that is paid/should have been paid by providers.

BIK as tax deductible expenses

Previously, under PMK-167, expenses related to remuneration in the form of BIK (with certain exceptions) were nontax deductible for providers.

Under PMK-66, expenses related to remuneration in the form of BIK are tax deductible for providers, provided that the BIK are related to the activities of earning, collecting, or maintaining income. The remuneration can arise either as a result of work (an employment relationship between an employer and an employee) or service (service transactions between taxpayers). The expenses of BIK that have a useful life of less than one year are directly expensed in the year they are incurred. Other BIK expenses must be depreciated or amortized in accordance with prevailing tax regulations. All BIK expenses must be reported in the providers' annual income tax returns.

In line with PP-55:

- Where the provider's financial year 2022 started before 1 January 2022, BIK provided are tax deductible as from 1 January 2022; and
- Where the provider's financial year 2022 starts on or after 1 January 2022, BIK are tax deductible as from the start of its financial year 2022.

Deloitte Indonesia's initial observations

- Under PMK-167, BIK were, in general, nontax deductible for providers, mirroring the nontaxable treatment for recipients. In contrast, under PMK-66, BIK expenses are tax deductible for providers as long as the expenses are related to earning, collecting, or maintaining income. Consequently, the tax deductibility and taxability of BIK now have to be analyzed separately as the tax treatment is no longer symmetrical.
- PMK-66 refers to a requirement for providers to report the BIK in their annual income tax returns, but does not elaborate further on this matter. In the absence of any further information on the reporting procedures for BIK, providers may wish to start compiling the data in advance to minimize the additional work required when preparing the tax returns.

BIK as taxable incomes

As from financial year 2022, BIK are, in principle, taxable incomes of the recipient.

However, the following BIK are exempted:

- Food and beverages provided to all employees;
- Certain facilities, infrastructure, and/or facilities at the employer's work site for employees and their families, provided that the work site has been approved as a remote area by the Directorate General of Taxation (DGT);
- Certain BIK necessary to carry out work assignments;
- Certain BIK funded by state, regional state, or village budgets; and
- Certain other BIK subject to specific limitations.

Food and beverages provided to all employees

The following items within this category are not taxable on employees:

Item	Income tax treatment/Deloitte Indonesia's initial observations
Food and/or beverages provided by employers at the workplace	Tax treatment is similar to PMK-167, i.e., they are nontaxable.
Food and/or beverage coupons for employees who, due to the nature of their work, are unable to take advantage of the provision of food and/or beverages at the workplace	<ul style="list-style-type: none"> • Under PMK-66, coupons include reimbursement of food/beverage expenses of employees who, due to the nature of their work, are unable to take advantage of the provision of food and/or beverages at the workplace. • The amount of coupons that may be exempted from income tax is limited to the greater of: <ul style="list-style-type: none"> - IDR 2 million per month per employee; or - The amount of food and/or beverages provided by the employer at the workplace per month per employee, where this exceeds IDR 2 million. • Any excess is taxable on the employees. <p>The limit on the tax-exempt amount will create an additional administrative burden for employers, particularly those in industries with high levels of employee travel, such as logistics.</p>
Ingredients for food and/or beverages for all employees (up to a certain value limit)	See <i>"Certain other BIK subject to specific limitations"</i> below.

Certain facilities, infrastructure, and/or facilities at an employer's work site that has been approved as a remote area by the DGT

In general, the facilities, infrastructure, and/or facilities in a remote area that may be exempted from income tax are similar to those in PMK-167, and include:

- Accommodation, including housing;
- Health services;
- Education;
- Worship facilities;
- Sports facilities, excluding golf, power boating, horse racing, paragliding, or motorsports; and
- Transport, including transport for employees and their families in carrying out a work assignment.

PMK-66 requires that, for an area to be designated as a remote area, at least six out of the 11 types of infrastructure listed in the table below must be deemed to be unavailable or unfeasible, and at least one of the unavailable/unfeasible items must relate to public transport infrastructure.

Type of infrastructure	Indicator	
	“Available” condition	“Unfeasible” condition
Economic infrastructure		
Electricity	Electricity is supplied by the state electricity company (<i>Perusahaan Listrik Negara</i> (PLN)) at the business location.	Blackouts of electricity supplied by PLN occur on average for more than 40 hours per week.
Clean water	Clean water is supplied by the local regional drinking water company at the business location.	Clean water supplied by the local regional drinking water company is unavailable on average for more than 40 hours per week.
Housing rental by employees	Located within a radius of five kilometers from the business location.	Number of rental houses is not proportionate to the number of employees working at the business location, including the number of accompanying family members.
Hospital and/or polyclinic	Located within a radius of five kilometers from the business location.	Available hospitals and/or polyclinics cannot serve patients participating in the national health insurance program.
Schools	Primary, junior secondary, and senior secondary schools are located within a radius of five kilometers from the business location.	Available primary, junior secondary, and senior secondary schools are not managed by the government (i.e., are nonpublic schools).
Permanent sports and/or entertainment venue	Located within a radius of five kilometers from the business location.	Less than three locations for permanent sports and/or entertainment venues.
Worship venue	Located within a radius of five kilometers from the business location.	Not available for public use.
Market	Located within a radius of five kilometers from the business location.	Less than three locations for local markets and they are managed by nongovernmental organizations.
Public transportation infrastructure		
Public roads and/or bridges	Located within a radius of five kilometers from the business location.	<ul style="list-style-type: none"> Public roads: Unpaved or paved but with potholes and dangerous. Bridges: Temporary.
<ul style="list-style-type: none"> Sea port/pier; River port/pier; or Airport 	Located within a radius of 50 kilometers from the business location.	Not registered as an official port/pier with the authorized ministry or agency.
Public land, sea, or air transport	Public transport routes exist through the business location which can be accessed by employees and their families, and are scheduled.	The routes are only through the business location or can be accessed by employees less than four times per month.

Where an item of economic or public transport infrastructure has been built independently by employers, it is considered as “unavailable” when assessing whether the required conditions are met.

The remote area status generally may be granted for five years. For certain mining license holders, the status may be granted until the mining license ends.

PMK-66 updates the provisions and procedures for obtaining remote area status. It also contains transitional provisions as follows:

- Existing areas that have been approved as remote areas under PMK-167 remain valid until their expiration date. However, the tax treatment of the BIK in these remote areas should now follow PMK-66.
- All ongoing requests for remote area approval will be processed in accordance with the provisions in PMK-66, and the decisions for approval/rejection must be issued by the earlier of six months after the request is received with all the necessary information or one month after PMK-66 comes into force. Where any details were incomplete, the relevant tax authority was able to request the additional information from taxpayers by 15 July 2023.
- Taxpayers with existing remote area approvals that expire after 1 July 2023 must request reapproval at least four months before the existing approvals end.

Deloitte Indonesia's initial observations

- PMK-66 provides a checklist of conditions to determine what constitutes a remote area. This gives more certainty and objectivity in evaluating whether an area is considered a remote area and is eligible for the income tax exemption treatment stipulated by the regulation.
- Taxpayers that have already obtained remote area approvals must analyze the regulation carefully as the tax treatment of BIK provided in the areas is now governed by PMK-66.
- Taxpayers currently seeking approval for remote area status, either via a new application or an extension, must observe this regulation as the approval process will be carried out following PMK-66.

Certain BIK necessary to carry out work assignments

The list of BIK items that are exempted from income tax is aligned with PP-55:

- Uniforms;
- Safety equipment;
- Shuttle services for employees;
- Lodging and similar facilities for crew members; and
- BIK (e.g., vaccines, virus detection tools) received in the context of handling endemics, pandemics, or national disasters as determined by the Ministry of Health.

Certain BIK funded by state, regional state, or village budgets

PMK-66 does not cover the tax treatment for employees of certain BIK funded by state, regional state, or village budgets.

Certain other BIK subject to specific limitations

The table below provides a non-exhaustive list of other BIK that are nontaxable:

Type of BIK	Limitation	Deloitte Indonesia's initial observations
Gifts from employers in the form of food and/or beverages and/or its ingredients for religious celebrations, i.e., <i>Eid al-Fitr</i> , Christmas, Silence Day (<i>Nyepi</i>), <i>Vesak</i> , or Chinese New Year	Received or earned by all employees	-
Gifts from employers for nonreligious celebrations	<ul style="list-style-type: none"> Received or earned by employees; and Maximum IDR 3 million per employee per fiscal year. 	Employers will now have to maintain a detailed list of gifts provided to employees since gifts in excess of the permitted accumulated amount will be subject to income tax.
Work equipment and facilities provided by employers, i.e., computers, laptops, or mobile phones and associated facilities such as phone credits or internet connection	<ul style="list-style-type: none"> Received or earned by employees; and To support employee's work. 	PMK-66 is silent on the treatment for, e.g., phone bills, that is reimbursed by the employer to employee.
Health and medical treatment facilities provided by employers	<ul style="list-style-type: none"> Received or earned by employees; and Provided in connection with: <ul style="list-style-type: none"> A work accident; An occupational illness; A life-saving emergency; or Continued care and treatment as a result of a work accident and/or occupational illness. 	<ul style="list-style-type: none"> Based on the limitation stated in the regulation, it appears that if employees utilize the facilities for reasons other than work-related illness or accidents, or the facilities are utilized by the employees' dependents, the provision will now be treated as BIK subject to income tax. Presidential Regulation Number 7 of 2019 provides the list of illness considered as "occupational illness".
Sports facilities from employers, excluding golf, power boating, horse racing, paragliding, and motorsports	<ul style="list-style-type: none"> Received or earned by employees; and Maximum IDR 1.5 million per employee per fiscal year. 	If the facilities are not utilized by the employees personally or the BIK exceed the threshold, the entire BIK or the excess amount, respectively, will be subject to income tax. Based on the example of the BIK's valuation and calculation, if the facilities are provided to more than one recipient, the BIK have to be allocated to each recipient on proportional usage basis, creating an additional administrative burden for employers.
Communal residential facilities provided by employers, e.g., dormitories, lodges, barracks	Received or earned by employees.	PMK-66 does not define communal residential facilities.
Residential facilities provided by employers where the rights to use the facilities are held by individuals, e.g., apartments or landed houses	<ul style="list-style-type: none"> Received or earned by employees; and Maximum IDR 2 million per employee per month. 	There will be a significant increase in the taxable income of high-ranking employees that receive housing facilities valued at more than IDR 2 million per month, e.g., directors or expatriates.
Vehicle facilities provided by employers	<p>Received or earned by employees who:</p> <ul style="list-style-type: none"> Do not have a capital investment in the employer (i.e., nonbusiness owners and non-shareholders); and Have an average gross income from the employer not exceeding IDR 100 million per month in the previous 12 months. 	<ul style="list-style-type: none"> Employers must recalculate the gross income threshold every month since the threshold applies on a rolling 12-month basis. PMK-66 does not explicitly regulate the composition of gross income.
Contribution to a pension fund that has been approved by the Financial Services Authority (<i>Otoritas Jasa Keuangan</i>) that is borne by the employer	Received or earned by recipients.	<p>It is unclear whether this refers to:</p> <ul style="list-style-type: none"> Employers' contribution to the pension fund; or Employees' contribution to the pension fund that is borne by the employers.

Type of BIK	Limitation	Deloitte Indonesia's initial observations
Religious facilities in the form of prayer rooms, mosques, chapels, or temples	Intended solely for religious activities.	-
All BIK received or earned in 2022	Received or earned by recipients.	<ul style="list-style-type: none"> In general, BIK are taxable on recipients as from 1 January 2022 (for employers whose financial year 2022 started before 1 January 2022) or as from the start of their financial year 2022 (if the employer's financial year 2022 starts on or after 1 January 2022). This is already in line with PP-55. There may be recipients who have already calculated the income tax on the BIK received during 2022 in their individual annual income tax returns. It is currently unclear whether these recipients will have to amend their annual income tax returns due to this provision. Such a change in tax treatment may result in some individuals being in a tax overpayment position.

Valuation and calculation of BIK for income tax purposes and withholding of tax from BIK

Type of BIK	Limitation	Deloitte Indonesia's initial observations
Valuation and calculation of BIK	<ul style="list-style-type: none"> In kind are determined based on market value whereas benefits/enjoyments are determined based on the actual amount incurred by the providers. If the in kind are in the form of goods that are traded by the providers, the value of the BIK is determined as: <ul style="list-style-type: none"> Market value—for land and buildings; or Cost of goods sold—for in kind other than land and buildings. The valuation and calculation of the benefits/enjoyments with a useful life of more than one month must be calculated on a monthly basis. If the benefits/enjoyments are provided to more than one person, the amount must be apportioned to each BIK recipient based on the utilization record of the facilities. 	<ul style="list-style-type: none"> Issues may arise for service recipients who pay for services using their traded products, because the service recipients would have to withhold income tax using its cost of goods sold rather than the selling price as the withholding tax base. Since the valuation and calculation of the benefits/enjoyments must be calculated in detail, this will impose a significant administrative burden on the providers.
Tax withholding	<ul style="list-style-type: none"> The providers must withhold income tax on the BIK at the end of the month when: <ul style="list-style-type: none"> The in kind is transferred or payment for the service becomes due, whichever is earlier; or The rights for the benefits/enjoyments are transferred to the recipients 	<ul style="list-style-type: none"> Since the tax treatment of BIK is not only limited to work relationships but also to service transactions between taxpayers, the withholding tax obligation will refer to the relevant income tax regulations. PMK-66 provides examples where the BIK are subject to employee income tax, Article 23 income tax, and Article 4(2) income tax. Although providers are exempted from the withholding tax obligation for BIK provided between January and June 2023, they must

Type of BIK	Limitation	Deloitte Indonesia's initial observations
	<ul style="list-style-type: none"> Providers are exempted from withholding tax obligations for BIK provided between January and June 2023. However, the recipients themselves would have to report and settle the income tax on the BIK received during these periods. 	still calculate, maintain, and provide the BIK data to each recipient to enable the latter to calculate and settle the income tax due.

Closing remarks

PMK-66 is complex when put in practice because BIK can be provided in different forms and conditions. BIK provided by one provider may differ from those provided by other providers. However, since most providers provide some sort of BIK, at least, to their employees, providers are encouraged to analyze PMK-66 in detail, revisit their existing tax arrangements, and plan carefully for the necessary action to take and policies to adopt. This includes proper communication to recipients.

Customs Focus

Regulations on audit compliance procedures for excisable goods entrepreneurs

In order to improve the users' compliance on customs facilities, the government issued Regulation of Director General of Customs and Excise Number PER-10/BC/2023 (PER-10) concerning Audit Compliance Procedures for Entrepreneurs of Excisable Goods. PER-10 aims to tighten the utilization of customs facilities, especially the compliance of excisable goods (*barang kena cukai* (BKC)) entrepreneurs.

The salient points of PER-10 are as follows:

Audit subjects and objects

The targets of audit includes:

1. Manufacturers of ethyl alcohol;
2. Manufacturers of beverages containing ethyl alcohol;
3. Manufacturers of tobacco products;
4. Importers of ethyl alcohol;
5. Importers and/or exporters of beverages containing ethyl alcohol;
6. Importers and/or exporters of tobacco products;
7. Storage place entrepreneurs;
8. Distributors;
9. Retail sales place entrepreneurs;
10. End-product entrepreneurs; and/or
11. People associated with the compliance of BKC entrepreneurs.

PER-10 stipulates provisions related to the audit of compliance of BKC entrepreneurs, to tighten the utilization of customs facilities for excisable goods.

Scope of audit

There are two types of audit which can be carried out regularly or at any given time by the customs and excise authorities:

1. Scope of an Administration Audit, includes:
 - a. Data and information collection;
 - b. Document classification and research;
 - c. Inspection of excise documents, excise complementary documents, and other related documents;
 - d. Enumeration of BKC;
 - e. Inspection of compliance with excise permits;
 - f. Inspection of compliance with the implementation of excise facilities;
 - g. Inspection of means of transportation;
 - h. Analysis of the results of inspections with excise laws and regulations;
 - i. Analysis of alleged non-compliance with excise laws and regulations;
 - j. Analysis of the implementation of excise laws and regulations by BKC entrepreneurs; and/or
 - k. Field audit in the form of physical inspection of BKC, office space, warehouse, stockpiling field, and other places related to the excisable goods; and/or
2. Scope of a Field Audit, includes:
 - a. BKC, end products, and other goods related to the BKC;
 - b. People associated with the compliance of BKC entrepreneurs;
 - c. Means of transportation; and/or
 - d. Stockpiling field, stockpiling/storage room, and business space.

Scope of audit

The audit may result in the following recommendations:

1. Fulfillment of excise-related requirements if only partially met;
2. Issuance of excise collection letter in the event of underpayment;
3. Revocation of excise facilities;
4. Administrative sanctions where excise violations are found;
5. Suspension/revocation of BKC entrepreneur permits;
6. Policy changes in the field of excise;
7. Changes in the profile of excisable goods entrepreneurs; and/or
8. Other actions related to the fulfillment of compliance of excisable goods entrepreneurs.

PER-10 takes effect as from 29 May 2023.

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