

TAX ALERT

INCOME TAX TREATMENT OF BENEFITS IN KIND OBTAINED FROM EMPLOYMENT OR SERVICE ACTIVITIES

Based on **Minister of Finance (“MoF”) Regulation No. PMK-66/2023**

DISCUSSION POINTS

- 1 Benefits In Kind (“BIK”) as Tax Deductible Expenses
- 2 BIK that are not included as Taxable Income
- 3 Determining the Value and Calculating the Amount of BIK

BACKGROUND

The timeline for the enactment of Income Tax on Benefits In Kind is as follows:

1 January 2022

1 January 2023

1 July 2023

HPP Law No. 7 Year 2021 Article 3 (eff. 1 Jan 2022)

- BIK as taxable income and the expense becomes deductible.

Government Regulation No. 55 Year 2022 (eff. 20 Des 2022)

If the employers did not withhold tax on BIK in 2022, then the recipients was required to calculate and report the BIK in their Annual Tax Returns FY 2022.

MoF Regulation No. 66 Year 2023 (eff. 1 Jul 2023)

- a. Employer was exempted from withholding tax on BIK provided from January to June 2023;
- b. The recipients of BIK are required to calculate and report the BIK in their Annual Tax Returns FY 2023, if condition a) occurs;
- c. Detail explanations of BIK that are not taxable income.

RECORDING OF EXPENSES

The BIK expenses must be related to an employment; OR a service transaction between Taxpayers.

Expenses related to provision of BIK related to employment or service activities **can be deducted from gross income as long as they are incurred to obtain, collect and/or maintain income.**



Expenditure for BIK that has a useful life of more than 1 year shall be deducted through depreciation or amortization.



Expenditure for BIK that has a useful life less than 1 year shall be deducted in the year when the expenditure occurred.

BIK AS OBJECT OF INCOME TAX

Reimbursement/compensation pertaining to employment or provision of services that is received or accrued in the form of BIK is an **Object of Income Tax**, as referred to Income Tax Law Article 4 paragraph (1) subparagraph a.

Reimbursement/compensation in the form of **In-Kind (Natura)** is reimbursement/compensation received in the form of goods, instead of money, which ownership is transferred from the provider to the recipient.

- Unilever gives a set package of their products to all of Unilever's employees (related to an employment).
- Sariayu gives a makeup set to an Influencer for the service she provides (reimbursement or compensation related to a service).

Reimbursement/compensation in the form of **Facilities (Kenikmatan)** is reimbursement/compensation received in the form of right to use facilities or services derived from assets.

- Car facility for an employee that has a certain position.

**) Article 3*

EXEMPTION OF BIK AS TAXABLE INCOME



Foods and drinks provided for all employees.

For more detail explanation, please refer to Article 5.

BIK provided in Certain Areas (remote areas).

For more detail explanation, please refer to Article 8.



BIK that are required by law to be provided to employees to carry out their work. *For more detail explanation, please refer to Article 6.*

BIK sourced/funded by the State and/or Local Government Budgets. *No more detail explanation in the MoF Regulation.*



Certain types and/or limits of BIK.

For more detail explanation, please refer to Article 7.

***) Article 4**



1) Food, Food Ingredients, Drink Ingredients, and/or Drinks for all employees.

- Food and/or drink provided by employers to all employees at the workplace.
- Coupons or reimbursement for employees of marketing division, transportation division, or other staff with external duties.
 1. Coupons
 2. Reimbursement
- Food/drink ingredients provided to all employees within certain value limits.



Coupons = non-cash transaction



The amount of coupons should be \leq Rp. 2 million/employee/month OR \leq maximum value of spending on food/drinks for each employee in a month period provided by the employer in the workplace. If the amount is over Rp. 2 million or over the maximum spending, the excess between the actual coupon value less the maximum coupon value exempted = taxable income



1) Food, Food Ingredients, Drink Ingredients, and/or Drinks for all employees.

PT X provides food and drinks to all employees in the workplace at the amount of Rp. 2.500.000/employee/month.

PT X decided to provide food and beverage coupons at the amount of Rp. 2.800.000 for the marketing division because most of the time their work is outside the office.

As a result, the coupon value that is excluded from income tax must be less than the value of the food and drinks provided at PT X office at the amount of Rp. 2.500.000. Therefore, the difference of Rp. 300.000 is taxable income and not exempted from income tax.

****Example***



2) BIK that are Required by Law to be Provided to Employees to Carry Out Their Work

BIK that are required to be provided by the employer for the employee's safety, health, and/or security as per **applicable laws and regulations issued by a relevant government authority or institution**. The types of this BIK are:



Uniforms

Equipment for Work Safety



Employee Shuttle Service

Lodging for Ship Crew



BIK that are received in the context of handling endemics, pandemics, or national disaster.



3) Certain Types / Limits of Benefits in Kind

These are BIK provided in certain types, at a certain limit as determined by the regulation (negative list). The limitations are as follows:

- a. For BIK in the form of In-kind (Natura), the limitations may be the recipient and/or the value of the In-kind;
- b. For BIK in the form of facilities/services (Kenikmatan), the limitations may be the recipient, value of the facilities, and/or the function of the facilities.

The value of BIK that was received



Limits



Taxable Income
(the excess value from BIK
that was received)



3) Certain Types / Limits of Benefits in Kind

No.	Type of BIK	Detail / Limit
1.	Gifts from the employer including food/drink ingredients, food and/or drinks for religious holidays, i.e., Idul Fitri, Christmas, Nyepi, Vesak, or Chinese New Year.	Received or earned by all employees
2.	Gifts from employers that are given other than for religious celebrations as referred to number 1.	a. Received or earned by employees; and b. Subject to a maximum of Rp. 3 million/tax year per employee
3.	Work equipment and facilities from employers to employees that are used for work including computers, laptops, or cellular phones, as well as supporting services such as phone credit or an internet connection.	a. Received or earned by employees; and b. To support the employee's work.



3) Certain Types / Limits of Benefits in Kind

No.	Type of BIK	Detail / Limit
4.	Health and medical treatment facilities provided by the employer.	a. Received or earned by all employees; and b. The facility is provided for handling: 1) Work Accidents; 2) Occupational Diseases; 3) Life-saving Emergencies; or 4) Follow-up Care and Treatment Due to Work Accidents or Occupational Diseases.
5.	Sports facilities provided by the employer, other than golf, horseracing, motorized boat racing, gliding, and/or automotive sports.	a. Received or earned by employees; and b. To a maximum of Rp. 1,5 million/tax year per employee.
6.	Communal residential facilities provided by employers, including dormitories, lodges, or barracks	Received or earned by employees.



3) Certain Types / Limits of Benefits in Kind

No.	Type of BIK	Detail / Limit
* 7.	Residential facilities provided by employers which utilization rights are held by individuals, including apartments/landed houses.	a. Received or earned by employees; and b. Subject to a maximum of Rp. 2 million/month per employee.
** 8.	Vehicle facilities provided by employer.	Received or earned by employees who: a. Do not have capital investment in the employer; and b. Have an average gross income from the employer of no more than Rp. 100 million/month in the last 12 months.
9.	Employer-borne contributions to pension funds which establishments have been approved by the Financial Services Authority (Otoritas Jasa Keuangan).	Received or earned by employees.

* Attachment to MoF Regulation No. 66/2023 Part J No.3 for an example of calculation;

** Attachment to MoF Regulation No. 66/2023 Part J No.4 for an example of calculation.



3) Certain Types / Limits of Benefits in Kind

No.	Type of BIK	Detail / Limit
10.	Religious Facilities, including prayer rooms, mosques, chapels, or temples.	No limit, if provided solely for religious activities.
11.	All BIK received or earned during year 2022.	All amounts received or earned by employees or service providers during 2022.

**) Attachment for part A*



4) Benefits in Kind provided in Certain Areas ("Remote Areas")

Provided the area of the employer's business has been stipulated as a certain area by the Director-General of Taxation.

Benefits in Kind provided in Certain Areas ("remote areas") are as follows:



Residences



Places of Worship



Health Services



Carriage



Education



Sports

Except golf, motorboat racing, horse racing, gliding, or automotive.

***) Article 8**



4) Benefits in Kind provided in Certain Areas ("Remote Areas")

Certain areas = areas that economically have potentials that are feasible to be developed, but the condition of economic infrastructure is generally inadequate and difficult to be reached by public transportation. Therefore, to convert the available economic potential into real economic strength, investors bear a significant risk, and the payback period is relatively long. These include areas of seawater that have a depth of more than 50 (fifty) meters where the seabed has mineral reserves, including remote areas.

Economic Infrastructure:

1. Electricity;
2. Fresh water;
3. Residences available for rent by employees;
4. Hospital and/or polyclinic;
5. Place of Education;
6. Permanent sports and/or entertainment venues;
7. Places of worship;
8. Market.

Public Transportation:

1. Public roads and/or bridges;
2. Seaport/dock, riverport/dock, or airport;
3. Public transportation by land, sea or air.

** Based on the unavailability & inadequacy of 6 of the 11 types of infrastructures above. From the 6, at least 1 must be public transportation infrastructure.*

**) Pasal 9*



4) Benefit In Kind (BIK) Provided in Certain Areas ("Remote Areas")

**Certain Mining
Companies
(Employers)**

1. Application
2. Completeness Check
3. Audit

**Other than Certain
Mining Companies
(Employers)**

- Benefit In Kind can be given with Certain Regional Approval Decree that is valid for 5 years, with extension up to end of the validity period of the relevant mining permit (if the employer is a certain mining permit holder).
- Benefit In Kind can be given with Certain Regional Approval Decree that is valid for 5 years, if the employer does not hold a certain mining permit.

- If Mining Permits remaining years ≤ 5 years, is given at once up to the end of the validity period of the relevant permits.
- If Mining Permits remaining years > 5 years, permits are given every 5 years.

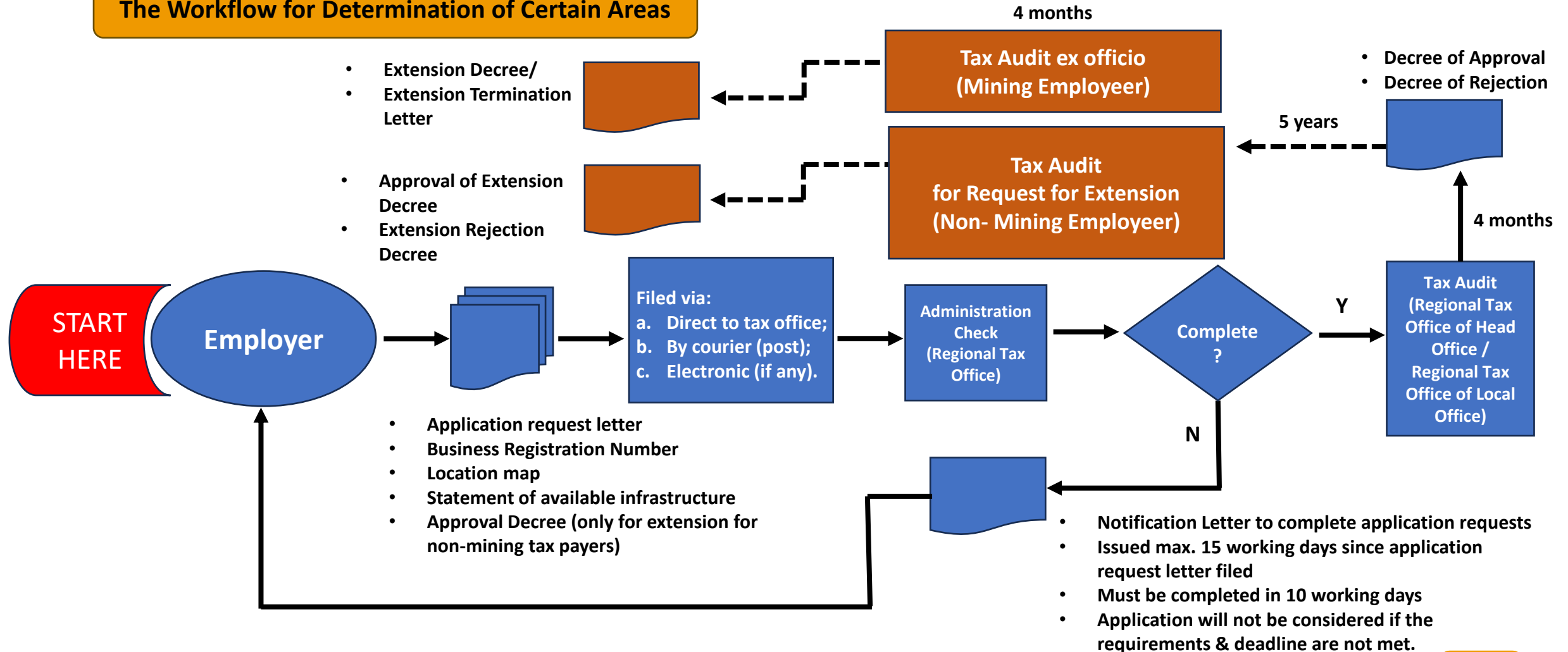
* Extension granted ex officio

* The determination as a Certain Area can be extended through submitting application



4) Benefits In Kind (BIK) Provided in Certain Areas ("Remote Areas")

The Workflow for Determination of Certain Areas





4) Benefits In Kind (BIK) Provided in Certain Areas (“Remote Areas”)

Conditions of Infrastructure Considered as Available or Not Eligible (Appendix Part D)

NO	Types of Economic Infrastructure and Public Transportation	Available If	Not Eligible If Conditions
1	Electricity	There is PLN electricity at the business location	PLN service goes out on average 40 hours/week
2	Fresh Water	There is a PDAM supply at the business location	PDAM service goes out on average 40 hours/week
3	Residences available for rent by employees	Radius ≤ 5 km from the business location	The number of residences that can be rented is not proportional to the number of employees + family
4	Hospital and/or polyclinic	Radius ≤ 5 km from the business location	Hospitals/Polyclinics do not serve the National Health Insurance program
5	Place of Education	There are Elementary School, Junior High School and High School within a radius of ≤ 5 km from the business location	There are no Elementary School, Junior High School and High School.
6	Permanent sports and/or entertainment venues	Radius ≤ 5 km from the business location	<3 permanent places for sports/entertainment
7	Place of worship	Radius ≤ 5 km from the business location	There are no places of worship open for public
8	Markets	Radius ≤ 5 km from the business location	<3 Locations and markets are managed by non governmental organizations
9	Public roads and/or bridges	Radius ≤ 5 km from the business location	Public roads: unpaved/paved but having potholes & dangerous; Bridge: non permanent
10	Seaport/dock, riverport/dock, or airport	Radius ≤ 50 km from the business location	Not registered in the related Ministry/Institution
11	Public transportation by land, sea or air	There are public transportation routes through the business location, accessible to employees & their families on a regular basis	Transportation routes only go through business locations/accessible to employees <4 times/per month

VALUATION AND CALCULATION OF BIK

***) Article 22**

The valuation of income from BIK must be based on:

- 1 The market value for In-kind (Natura).**
- 2 The amount that is spent or should have been spent by the employer for Facilities/Services (Kenikmatan).**

If the BIK is provided in the form of goods that are originally intended to be traded by the provider, the value is based on:

- 1 The market value, for land and/or buildings; or**
- 2 The cost of goods, for other than land and/or buildings.**

VALUATION AND CALCULATION OF BIK

***) Article 22**



For BIK with utilization period of > 1 month, the taxable value is calculated every month during the utilization period. If there is more than one recipient for a Facility provided, the taxable amount is allocated proportionally based on the utilization of the Facility.



WITHHOLDING AND REPORTING OF THE BIK



The employer that gives BIK has to withhold the income tax on BIK, as required by the prevailing tax laws and regulations.

Tax on the BIK should be withheld at the end of the month based on when:

- a. the In-Kind (Natura) is transferred or earned, whichever is earlier; or
- b. the right or part of the right to utilize a facility/service (Kenikmatan) is given.



Employers are exempted from withholding tax on BIK which is provided from January to June 2023.

If the employer that provides the BIK has not withheld tax on BIK, then the recipient is required to separately calculate and pay the tax, and report the BIK in his/her Annual Income Tax Return FY 2023.

CLOSING PROVISION

1

Revocation MoF Regulation 167/PMK.03/2018

2

MoF Regulation 66/2023 is effective on **1 July 2023**



If you have questions or want to know more about
MoF Regulation No.66/2023, please contact us at:



info@salaki-salaki.com



021 – 290 49905 / 49906 / 49908



Associated worldwide with



A B A C U S

This content is for general information purposes only,
and should not be used as a substitute for consultation with professional advisors.

© 2023 Persek Salaki & Salaki
For further information, visit : www.salaki-salaki.com