



Tax Newsletter

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Implementation Rules on the Income Tax Law
for Benefits-in-Kind

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The Government issued Regulation Number 55 Year 2022 (GR-55) on 20 December 2022 as implementation guidelines for the Income Tax Law (ITL) amended by the Law on Harmonization of Tax Regulations in 2021 (Refer to Tax Newsletter). One of the topics covered in GR-55 are the rules for benefits-in-kind (BIK)'s fiscal treatment.

In GR-55, BIK are taxable to the employee (with some exceptions) and the costs of BIK are deductible to the employer (providing of course that those costs relate to obtaining, collecting, and maintaining income). The BIK categories excluded from taxable income are as follows:

- a) food and beverages provided for all employees.
- b) facilities, infrastructure, and/or facilities when working in certain areas.
- c) BIKs necessary to carry out the employees' work activities, in the context of requirements regarding security, health and/or employee safety as required by Government.
- d) BIKs sourced or financed from the regional/state revenue budget.
- e) BIKs of certain types and/or thresholds, the PMK should provide guidance on the type or value of the BIK in question and the relevant criteria.

GR-55 differentiate "benefit" and "in-kind". 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. While "in-kind" defines as compensation in goods other than money. The taxable value for "in-kind" is determined based on the market value, "benefit" is based on the actual cost incurred (or what should have been incurred) by the employer.

Transitional provisions related to BIKs are as follows:

- a) that the rules for employers (presumably around deductibility) apply from 1 January 2022 and onwards.
- b) that the withholding tax obligations for employers do not however start until 1 January 2023.
- c) that the Income Tax due on BIKs received for FY 2022 must be calculated, paid, and reported by employees in their 2022 Annual Income Tax Return if the tax has not been withheld by the employer.

This Newsletter is a summary of Regulation Number 55 Year 2022 (GR-55). It is therefore not comprehensive and does not constitute professional advice. Prevailing laws and regulations are subject to changes. For any inquiries regarding this newsletter, do not hesitate to contact us

Contact

Sebastien Gautier, Managing Partner
+62 21 2902 6677
sebastien.gautier@mazars.id

Leahlyn Tapaon Afan, Director - Outsourcing
+62 21 2902 6677
leahlyn.tapaon@mazars.id

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