



# Tax Newsletter

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## New tax rule on benefits-in-kinds

**mazars**

## What is new?

The long-awaited tax implementation rule on benefits-in-kinds (BIKs) is finally released through the issuance of the Minister of Finance Regulation No. 66 Year 2023 (“MoFR 66/2023”) concerning the income tax treatment on remunerations in the form of BIKs for employment or services. The regulation was issued on 27 June 2023 with enactment on 1 July 2023.

MoFR 66/2023 applies retroactive for employer (as deductible expense) since FY2022 and employee (as taxable income) since FY2023. It revokes MoFR 167/2018.

Under the HPP Law which is further implemented by Government Regulation No. 55 Year 2022 and MoFR 66/2023 for BIKs, the tax treatment for BIKs is changed. BIKs are deductible expenses in the hands of employer to the extent relate to the business activity, and generally taxable in the hands of employee with certain areas of exceptions. In the past, BIKs expenses were generally not deductible by employer as well as not taxable by employee.

## Key highlights of new tax rule on BIKs

BIKs are defined as remuneration in-kinds (goods) and in the form of benefits (facility) derived from employment and provision of services. Benefits are defined further as remuneration in the form of right to utilize facility and/or service sourced from assets owned by employer and/or third party’s assets through leasing.

### Deductibility of BIKs

BIKs derived from employment or provision of services are deductible expenses to the extent incurred in obtaining, collecting, and maintaining the revenues. Employers are required to report the BIKs as well as employees and/or recipients in their annual corporate income tax return.

### Non-taxable BIKs income in the hands of recipient

BIKs are generally taxable in the hands of recipients. Nonetheless, certain BIKs are non-taxable income, as follows:

- Food and beverages provided to all employees.
- BIKs in certain areas including remote areas.
- BIKs with regards to security, health and/or safety as regulated by ministry or institution.
- BIKs sourced or funded by state and/or regional budget.
- BIKs of certain types and/or limits.

The negative list of BIKs of certain types and/or limits as outlined by MoFR 66/2023 is depicted below.

Type of BIKs	Limitation
Gifts provided by employer in the form of food ingredients, beverage ingredients, food and/or beverages during religious holidays including Eid-ul-Fitr, Christmas, Nyepi, Vesak, or Chinese New Year.	Received by all employees.
Gifts provided by employer during periods other than religious holidays.	Received by employee with threshold Rp 3 million per annum (p.a.) per one employee.
Work equipment and facilities provided by employer including computer, laptop, or cellular phone as well as supporting facilities such as phone credits or internet connection.	Received by employee and support the employees' work activities
Health and medical benefits	Received by employee in the course of work accident, occupational illness, life-saving emergency, or follow-up medical care due to work accident and/or occupational illness.
Sports facilities other than golf, horse races, motorboats races, skydiving and/or automotive sports.	Received by employee with threshold Rp 1.5 million p.a. per one employee
Co-living facilities such as dormitory, boarding house or barrack.	Received by employee
Residential facilities provided to individual, including apartment or landed house.	Received by employee with threshold Rp 2 million per one month per one employee
Vehicle facilities	Received by employee with no share ownership in the employer, and whose average gross income does not exceed Rp 100 million per month from the respective employer.
Contributions to authorized pension funds	Received by employee
Religious facilities	Solely for purpose of religious activities
BIKs incurred in FY2022	Received by employees or service providers

BIKs incurred beyond the threshold or not within the limitations described in the table above will be treated as taxable income to the recipient with the obligation of withholding tax lies with employers.

## Food and beverages coupon provided to certain employees.

Food and beverages (F&B) coupons are non-taxable income to the extent it is provided to certain employees who are not able to enjoy F&B provided at work location due to the nature of their work activities, comprising divisions of marketing, delivery, and other out-of-office divisions. F&B coupon includes reimbursement to employees for F&B expenses incurred outside of the work location.

Non-taxable F&B coupon income has threshold value at Rp 2 million per month per one employee, or at the value of the F&B provided at the work location per one employee per one month, whichever is higher. Any excess value will be treated as taxable income to the recipient with the obligation of withholding tax lies with the employer.

## BIKs provided in certain areas.

MoFR 66/2023 outlines the criteria in determining a work location as 'certain area' as follows:

- Minimal 6 (six) conditions, out of the 11 (eleven) conditions indicated by the economic and public transportation infrastructures, are not available or inadequate; and
- Minimal 1 (one) condition, inside the 6 (six) conditions above, is due to public transportation infrastructure.

The economic infrastructure as well as the condition of 'available' and 'inadequate' are defined below.

Area	Condition as available	Condition as inadequate
Electricity	There is electricity supplied by PT PLN	Electricity supply interruption by PLN for more than 40 hours within one week.
Clean water	There is clean water supplied by the regional drinking water companies (PDAM) at the work location	Water supply interruption by PDAM for more than 40 hours within one week.
Accommodation	Available within 5 kilometers from the work location	The number of houses available for lease is not comparable to the number of employees and their family members.
Hospital and/or clinic	Available within 5 kilometers from the work location	Not available for patients of national social security
School	Available within 5 kilometers from the work location for primary, junior and senior levels.	Private school instead of state school

Area	Condition as available	Condition as inadequate
Permanent sports and/or entertainment venues	Available within 5 kilometers from the work location	Less than 3 venues
Religious facility	Available within 5 kilometers from the work location	Not publicly available
Market	Available within 5 kilometers from the work location	Less than 3 locations and are managed by non-governmental society

The public transportation infrastructure as well as the criteria of 'available' and 'inadequate' are depicted below.

Area	Condition as available	Condition as inadequate
Roads and/or bridges	Available within 5 kilometers from the work location	Unpaved roads or paved roads, however with potholes that affect the safety ride.
Sea harbor, river harbor, or airports	Available within 50 kilometers from the work location	Not officially registered under the respective ministry or institution.
Public transportation of land, sea, or air	Publicly available routes to work location, accessible by employees as well as their family members, and available on routine basis.	Available less than 4 times in a month.

In the event the infrastructures have been established by employer; they will be treated as not available in determining the criteria for certain areas.

Under MoFR 66/2023, the eligibility of certain area is granted by the DGT for duration up to the expiry of the mining license or 5 years, whichever is earlier. The grant is extendable for every 5 years up to the expiry of the mining license. In the past, grant for certain area for mining license holder was provided for duration of 10 years and was extendable for another 10 years.

### BIKs measurement

Remuneration in kinds (goods) is measured by market value whilst remuneration in the form of benefit (facility) is measured by expense incurred or should be incurred. In the event goods are taken from inventory intended for sale, BIKs is measured by cost of sales except for land and/or building which is measured by market value.

BIKs with useful life of more than one year are expensed through depreciation or amortization.

Remuneration in benefits for shared facility or service will be allocated to each recipient proportionately based on its level of utilization on the benefits.

## Timing of withholding tax

BIKs as taxable income is withheld by employer at the end of month when:

- Goods are transferred or liability arise, whichever is earlier.
- Benefits or part of benefits on utilization of facility and/or service is transferred.

## How will the new tax treatment on BIKs impact your company's remuneration policy?

The new tax rule is intended to build a fair tax system in improving employee welfare whilst to reduce tax evasion loophole for those with higher income. Deductibility of BIKs by employer is highly dependent upon the nature of the expense incurred and on the other hand excess of BIKs remuneration threshold is taxable to employee. Employers will need to understand, evaluate and model the impacts of the new tax rule on its employees' remuneration policy. This includes, but not limited to, evaluating the existing remuneration policy, assessing the reporting/compliance requirements, and managing communication with employees.

*The content of this newsletter is for the purpose of general guidance on matters of interest and is not meant as advice. The implementation and impact of laws/regulations can vary widely based on the specific facts involved. Readers are advised to consult their tax advisors before making any business decisions.*

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