

Effective on 1 July 2023, Tax Provision on Benefit in Kind Finally Released

Minister of Finance Sri Mulyani Indrawati has finally released technical provisions regarding the taxation of Benefit in Kind (BIK) and/or fringe benefit, through Minister of Finance Regulation (PMK) Number 66 Year 2023.

This regulation has indeed been awaited by taxpayers, considering the incomplete rules related to BIK or fringe benefits regulated in the Law on Harmonization of Tax Regulations (HPP Law) and Government Regulation (PP) Number 55 of 2022.

In principle, the newly released rule, which will take effect on 1 July 2023, stipulates that every gift of in-kind and/or fringe benefit is an object of income tax other than in-kind and/or fringe benefit that is exempted from the object of income tax.

The Definition is Sharpened

In terms of definitions, the government has sharpened them. For example, the definition of BIK or in-kind in PMK 66 Number 2023 is defined as compensation in the form of goods other than money whose ownership is transferred from the provider (company) to the recipient (employee).

Meanwhile, the definition of fringe benefit in this regulation remains the same as the previous provision in PP 55/2022, namely, as compensation in the form of rights to the utilization of a facility/service sourced from the assets of the provider or a third party.

Differences in Validity Period

In general, the in-kind provisions contained in PMK Number 66 Year 2023

are affirmative and more detailed. However, several technical matters are different from the previous regulation.

One of the differences that taxpayers need to pay attention to is the validity period of the regulation when the company is obliged to withhold income tax on BIK/fringe benefits.

In the previous regulation, PP 55/2022, companies were obliged to withhold income tax on in-kind services since 1 January 2023. Meanwhile, in PMK 66/2023, the obligation to withhold income tax in-kind is effective from 1 July 2023. Meanwhile, during 1 January – 30 June 2023, the provision of BIK/ fringe benefits is not required to be deducted from income tax.

The difference in the validity period will have implications for companies that have already deducted income tax on BIK/ fringe benefits during the period 1 January- 30 June 2023.

Another difference is that in PP 55/2022 companies are not obliged to withhold income tax on the in-kind gifts given in 2022, but the employees who receive them are still obliged to pay income tax on the in-kind gifts. However, in PMK 66/2023 the provision of BIK in 2022 is excluded from the tax object, meaning that employees are also not required to pay income tax.

The implication of this difference is that employees who have calculated, paid, and reported it in the 2022 Annual Income Tax Return on a self-assessment basis, must make adjustments to the tax return.

Period of Providing BIK/Fringe Benefits	Employer		Employee
	Imposition	Withholding Tax	
2022	Deductible Expenses starting from the 2022 fiscal year	No Withholding	Not an Income Tax Object
1 January 2023 to 30 June 2023	Deductible Expense	No Withholding	The object of income tax, calculation, and payment of income tax payable is done by the employee himself when reporting in the Individual Income Tax Return.
1 July 2023 to 31 December 2023	Deductible Expense	Required to make Income Tax Withholding	Income Tax object and reported in Individual Income Tax Return

Benefit in Kind/Fringe Benefits That Are Not Income Tax Objects

In PMK 66/2023, the government regulates in more detail the types of BIK or fringe benefits that are exempted from Income Tax Objects. There are five criteria for the exempted BIK/fringe benefits.

- Food, food ingredients, beverage ingredients, and/or beverages for all employees, include:
 - Food and/or drinks provided by the employer at the workplace
 - Food and/or beverage coupons for employees working outside the office are worth a maximum of IDR 2 million per month for each employee. The value of the coupon can be more than IDR 2 million if the value of the cost of food/drink provided at the workplace is above IDR 2 million per employee/month.
 - Food and/or beverage ingredients for all employees up to a maximum of IDR 3 million per year for each employee.
- BIK/fringe benefits provided in designated areas, including; facilities, infrastructure, or facilities at the workplace for employees and their families in the form of:
 - residence, including housing;
 - health service;
 - education;
 - place of worship;
 - transportation is included in carrying out the assignment; and/or
 - Sports, excluding golf, power boating, horse racing, gliding, or motorsports

Determination as a designated area is carried out by the DGT and the implementation of the facility can be conducted independently by the company or in collaboration with other parties.
- BIK/fringe benefits that must be provided by the company to support work, including uniforms, work safety equipment for work safety, employee shuttle facilities, lodging for crew members and the like, and/or facilities in the context of handling endemics, pandemics, or national disasters.

The provision of in kind/fringe benefits must comply with the conditions required by the ministry or agency based on the provisions of the laws and regulations.
- BIK/ fringe benefits funded by State/Regional/Village budget
- BIK/fringe benefits of certain types and/or thresholds.

Benefits in Kind of Certain Types and Thresholds

The following are details of BIK and/or fringe benefits with certain types and thresholds that are exempted from the object of Income Tax:

No	Types of BIK/Fringe Benefits	Thresholds
1	Gifts in the form of food ingredients, beverage ingredients, food and/or beverages related to religious holidays (Eid al-Fitr, Christmas, Nyepi, Vesak, and Chinese New Year)	Received or obtained by all employees
2	Gifts from employers that are given other than in the context of religious holidays	Received by employees with a maximum value of IDR 3 million per tax year/employee
3	Work equipment and facilities from the employer such as laptops, computers, and cell phones along with supporting facilities such as credit and internet.	Received by employees and used to support work.
4	Health and medical service facilities from the employer	Provided to employees related to the handling of work accidents,

No	Types of BIK/Fringe Benefits	Thresholds
		occupational diseases, life-saving emergencies or treatment, further treatment due to work accidents or occupational diseases.
5	Sports facilities (excluding golf, horse racing, power boating, gliding atau motorsport)	Employees receive a maximum of IDR 1.5 million/employee/one tax year.
6	Communal living facilities such as mes, dormitories, boarding houses, or barracks	For employees
7	Residential facilities whose utilization rights are held by individuals such as apartments or landed houses	For employees, a maximum of IDR 2 million/employee/month
8	Vehicle facility	For employees who do not have equity participation with an average gross income of IDR 100 million per month in the last 12 months.
9	Pension fund contribution facility (authorized by OJK) borne by the employer for employees.	For employees
10	Worship facilities such as prayer rooms, mosques, chapels, or temples.	For worship activities
11	All BIK received or accrued during 2022	Received by employees or service providers

Determining Value dan Deducting Benefits in Kind/Fringe Benefits

To be able to calculate the amount of Income Tax payable on BIK or fringe benefits, taxpayers must first determine the value of the BIK or fringe benefits.

In PMK 66/2023, it is stated that in kind can be valued based on market value (including for land and buildings that become inventory) or based on the value of the Cost of Goods Sold (COGS) on the merchandise of the BIK provider.

Meanwhile, in determining the value of fringe benefits, it must be based on the amount of costs incurred or that should have been incurred by taking into account its benefit period and the number of recipients.

If the benefit period is more than 1 month, the determination of the fringe benefit value is carried out every month during the benefit period.

Meanwhile, if the fringe benefit is received by more than one person, the value determination is made based on the amount of costs incurred or should have been incurred proportionally by each recipient.

Furthermore, Income Tax payable on the provision of in-kind services shall be withheld by the employer at the end of the month in which the transfer occurs or the income becomes payable, whichever occurs first.

While income tax withholding on fringe benefits is made at the end of the month in which the right or part of the utilization of a facility is transferred. (ASP/KEN)

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