

Benefits in Kind as Tax Deduction of Taxable Income

Ministry of Finance affirms the regulation of benefits in kind (BIKs) provision that may be deducted from the gross income of an employer (deductible expenses). This affirmation is stipulated in Minister of Finance (MoF) Regulation Number 167/PMK.03/2018 that was issued and valid effectively on 19 December 2018.

This policy declares that BIKs that may be deducted from gross income of employer are in the following forms:

1. provision of food and drink for all employees;
2. reimbursement or remuneration in the form of BIKs in certain region and related to the performance of works in order to support the government's development policy; and
3. the obligation of a company to provide the facilities of work safety or due to the condition that such work naturally requires such facilities.

Food and Drink

The regulation of food and drink provision by the company for all employees—related to the performance of works—includes:

- food and/or drink provided in workplace;
- food and/or drink coupon for employees whose work makes them unable to utilize the facility of food/drink in workplace, e.g. employees in marketing division, transportation division, and other business travel.

Importantly, the value of the food and/or drink coupon may be deducted from gross income of the employer as long as the value is reasonable or does not exceed the spending of food and/or drink provision per employee in workplace.

Certain Region

Meanwhile, the reimbursement or remuneration in the form of BIKs given in connection with the performance of work in certain region shall be for the purpose of supporting the government's development policy in the region.

It is related to the infrastructure and facility in work location for the employees and their families—as far as such infrastructure and facility are unavailable in the region, so that the employers shall solely provide them—covering:

- residence, including housing;
- health service;
- education;
- religious service;
- transportation; and/or
- Sports, excluding golf, power boating, horse racing, and gliding.

The facility of employees and families in the form of transportation provided by the company shall be related to the beginning and the end of an assignment.

In connection with the provision of infrastructure and facility related to the work in certain region, MoF Regulation Number 167/PMK.03/2018 states certain region criteria that become the requirements of such policy.

The certain region is an area that has economically proper potential to be developed but the condition of economic infrastructures in general are insufficient and hardly accessible by public transportation—either through land, sea, and air—so that investors bear quite high risk and relatively long payback period.

In this case, it also includes maritime area with more than 50 meter depth in which the seabed has mineral reserve.

However, the government sets a period limitation for the determination of a certain region for Taxpayers, which is five years. Such time limit can be extended for the next five years as long as the Taxpayer's business location still meets the criteria of certain region.

Special Mining

Especially for the holders of Special Mining Business License (Izin Usaha Pertambangan Khusus/IUPK) of Production Operation (PO), the period of certain region determination is longer, which is ten years under the requirement that the holders of IUPK:

1. has changed its business form to mining from their former business in the form of work contract or coal mining operation work agreement; and
2. in its work contract or coal mining operation work agreement, has recognized BIKs expense during such contract or agreement term (nailed down).

The period of certain region determination for the holders of IUPK can be extended for the next ten years as long as the Taxpayer's business location is still deemed meeting the criteria of certain region.

To obtain determination of certain region and extension, the Taxpayers must make a request to Director General of Taxes (DGT), in which the decision issuance is entrusted to the Head of Regional DGT Office.

The decision of certain region determination is applicable since the month of the decision issuance, while for the status extension is effective since the date when the decision period of certain region determination ends.

Work Safety

The provision of BIKs, which is an obligation in the performance of work, shall be related to the workers' security or safety obliged by governmental institution handling manpower affairs.

In addition, the tools and facilities of work safety that must be provided by every company shall cover:

- clothing and equipment for work safety;

- uniform for security;
- shuttle for employees;
- lodging for ship crew and such; and/or
- vehicles owned and used by the company for certain employees due to its position or work.

Expense Recognition

Ministry of Finance through MoF Regulation Number 167/PMK.03/2018 also regulates the recognition of expense based on the useful life of BIKs provision in certain region and in connection with work safety.

For the useful life of more than one year, the expense shall be recognized through depreciation, under Article 11 of Income Tax Law. Meanwhile, as for the useful life of less than one year, the expense shall be imposed in the year when the spending is incurred.

Notably for the provision of vehicles owned and used by the company for certain employees due to its position or work, the expense recognition shall consider several things below:

- upon major acquisition and repair of vehicles having useful life of more than one year, the expense shall be recognized through depreciation in the amount of 50% of such depreciation under Article 11 of Income Tax Law;
- upon the expense of routine maintenance or repair of vehicles, it shall be recognized at 50% of the amount of such expense in the year when the spending is incurred.

The more detailed provision of MoF Regulation Number 167/PMK.03/2018 is summarized in the following table:

Facility	Types of BIKs/Remuneration	Provision of Expense Recognition
Food and/or drink for employees	<ul style="list-style-type: none"> • food/drink in workplace; • food/drink coupon outside workplace. 	<ul style="list-style-type: none"> • Coupon is only given for employees whose work makes them unable to utilize the facility of food/drink in workplace; • The value of coupon must be reasonable or does not exceed the expense of food and/or drink provision in workplace.
BIKs related to work in certain region	<ul style="list-style-type: none"> • residence, including housing; • health service; • education; • religious service: • transportation; and/or • sport facilities (excluding golf, power boating, horse racing, and gliding). 	<ul style="list-style-type: none"> • For useful life of more than one year, the expense shall be recognized through depreciation. • For the useful life of less than one year, the expense shall be recognized in the year when the spending is incurred. • The period of certain region determination is five years and can be extended for the next five years. • Especially for the holders of IUPK, the period of certain region determination is ten years and can be extended for the next ten years.

<p>Obligation of work safety facility provision</p>	<ul style="list-style-type: none"> • clothing and equipment for work safety; • uniform for security; • shuttle facility for employees; • lodging for ship crew and such; • vehicles facility for employees with certain position/work. 	<ul style="list-style-type: none"> • For the useful life of more than one year, the expense shall be recognized through depreciation. • For the useful life of less than one year, the expense shall be recognized in the year when the spending is incurred. • Upon the major acquisition and repair of vehicles with useful life of more than one year, the expense shall be recognized through depreciation at 50%. • For the expense of routine maintenance or repair of vehicles, it shall be recognized at 50% of the amount of such expense in the year when the spending is incurred.
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