

Benefits in kind and enjoyments

Former tax treatment completely upended

Non-cash remuneration for employment or service, in the form of either benefits in kind (BIKs) or enjoyments (*kenikmatan*), used to be non-deductible to the provider and non-assessable as an income tax object to the recipients. The Tax Regulations Harmonization Law (UU HPP) which came into force for income tax on 1 Jan. 2022, completely has upended the treatment. It has become deductible to providers and assessable to recipients since.

There are a few exemptions though. Certain BIKs and enjoyments, if incurred to secure, collect, and maintain income, under certain conditions, remain deductible to providers without being assessable to recipients. Yet, employers have been left wondering for a year and a half about how to put the new rule into practice. Only recently did things become clear when Finance Minister Regulation No. 66/2023 (Reg. 66) was issued on 27 Jun. 2023 with immediate effect on 1 Jul 2023.

The most affected groups have been rewarded for their patience though. Employers are exempt from tax withholding obligation for all BIKs and enjoyments granted in 2022 and afterwards up to 30 Jun. 2023. Recipients are yet rewarded more in substance: complete exemption of income tax in respect of BIKs and enjoyments received in 2022. However, they have to settle by themselves the income tax due on those received in January-June 2023, just a day before Reg. 66 came into effect.

A few other points of Reg. 66 are highlighted below.

Food and drink for all

Food and drink made available to *all* employees at working premises is fully deductible to employers without being assessable to employees. This extends to staple and other food and drink materials provided to *all* employees (outside working premises) up to a certain amount.

Employees who have to work out of office, and hence unable to benefit from the food and drink provided in-house, may be given coupons exchangeable to food and drink outsourced from third parties. These include food and drink reimbursements which employees have previously spent during outside assignments. All are deductible to providers and not assessable to employees for any amounts up to IDR2 million a month a person. This can increase up to any amount at par with that provided in-house. Any amount in excess over the average of that provided in-house remains deductible to providers but assessable to employees.

BIKs and enjoyments provided in certain designated areas

BIK and enjoyments provided by employers in “certain designated areas”, including facilities, infrastructure at work locations for employees and their families, are deductible to employers and not assessable to employees. These include:

1. Residential facilities and housing
2. Health services;
3. Education
4. Worship facilities
5. Transportation; and/or
6. Sports not including golf, boat racing, horse racing, gliding, or automotive sports.

The Director General of Taxation (DGT), through the Regional Office heads, is to decide on a “designated area” status upon request by the relevant employer. A company with several work/business locations (branches), may apply for the status for each of the qualifying locations. An application should be submitted by the head office, designated as the “employer of a central status”, to the regional office head whose working area covers the head office’s location through the relevant district tax office (“KPP”).

The DGT, through the regional office head, is to issue a decision letter for each application within a maximum of 4 months of the completion of the application. Beyond 4 months, if no decision letter is issued, the application is considered approved and the DGT is required to issue an approval decision letter within 5 days of the deadline.

To qualify for a designated area status, a business location should lack certain specified public facilities and infrastructure. Reg. 66 specifies three types of infrastructure and eight types of facilities for consideration.

Work requirement

BIKs and enjoyments provided to employees because of work requirement, typically for health, security, and safety reasons, in accordance with law and regulations, are fully deductible to providers and not assessable to recipients. These include:

- Uniform
- Work safety devices/equipment
- Employee shuttle equipment/service
- Lodging for crew members and the like; and/or
- BIKs and enjoyments provided in the course of handling endemic, pandemic, and national disasters.

BIKs and enjoyments of “certain types and/or amounts”

BIKs and enjoyments of “certain types and/or amounts” provided by employers to employees are deductible to employers and not assessable to employees. These include:

1. Gifts including food and beverage and ingredients, provided in the course of religious holidays;
2. Gift provided in the course other than religious holidays up to IDR3 million per person a year;
3. Work equipment and facilities such as computers, laptops or cellular phones along with the supporting facilities such as pulses or internet connection;
4. Health care and treatment facilities related to occupational accidents, occupational illness, emergency lifesaving, and further treatments;
5. Sports facilities other than those for golf, horse racing, motorized boat racing, gliding, and/or automotive sports up to IDR 1.5 million a person a fiscal year;
6. Communal residential facilities such as dormitories, dormitories, hostels, or barracks;
7. Residential facilities with utilization rights held by individuals, such as apartments or landed houses up to IDR2 million a person a month;

8. Vehicle facilities provided to employees with monthly average gross income for the last 12 months amounting max. IDR100 million and have no capital participation in the company (employer); and
9. Contributions to pension funds whose establishment has been approved by the Financial Services Authority.

Tax withholding on BIK and enjoyment remuneration

Taxpayers who provide BIKs or enjoyments as remuneration for employment or service should withhold income tax on the amount incurred. Tax withholding should be done in accordance with Article 21 income tax (WHT21), for those provided to employees or other withholding tax, such as Article 23 income tax (WHT23) for those provided to service providers.

WHT is due at the time the BIK is transferred (delivered) or income comes due, whichever is earlier. With regard to enjoyments, WHT is due at the time the right to use the facility or service, or part of the right, is delivered.

BIKs should be measured or stated at their market value and enjoyments at cost, i.e. at the amount actually spent or that should be spent by the employer. Enjoyments (facilities) for use by more than a month should be measured on a monthly basis and those for use by more than one person should be allocated to the benefiting persons proportionally with their respective use.

Reg. 66 took effect on 1 Jul. 2023. It follows tax withholding should be made for BIKs and enjoyments provided in July 2023 onwards. Those provided in 2022 are completely exempt from income tax. Those provided in January- June 2023 are exempt from WHT with recipients liable for settling the income tax due by themselves through their own income tax returns.

Please contact us to get more insight about this matter.

PT PRECIOUSNINE CONSULTING

Cyber 2 Tower, 18th Floor
Jl. HR Rasuna Said Blok X-5 Kav. 13,
Jakarta Indonesia
Phone: +62 21 5799 8778, +62 21 2935 2500

Your PreciousNine Contacts

Anindita Hayuningtyas
anindita.hayuningtyas@preciousnine.com

Dian Kusuma
dian.kusuma@preciousnine.com

Fillyanto Sembiring
fillyanto.sembiring@preciousnine.com

Henny Nurhendrati
henny.nurhendrati@preciousnine.com

Inge Jahja
inge.jahja@preciousnine.com

Lili Tjitadewi
lili.tjitadewi@preciousnine.com

Lina Rosmiana
lina.rosmiana@preciousnine.com

Martias
martias@preciousnine.com

Michael Husni
michael.husni@Preciousnine.com

Nandha
nandha@preciousnine.com

Noviana Tan
noviana.tan@preciousnine.com

Randy Adirosa
m.adirosa@preciousnine.com

Robertus Winarto
robertus.winarto@preciousnine.com

The information in this publication is intended as a general update on particular issues for our partners, staff, and selected clients. Though every care has been taken in the preparation of this publication, no warranty is given regarding the correctness of the information covered herein and no liability is accepted for any misstatement, error, or omission. When a problem arises in practice, specific advice may need to be sought and reference to the relevant regulations may be required.