

## Analysing Indonesia's New Tax Regime for Benefit-in-Kind



The government, via the Ministry of Finance, recently issued Ministry of Finance Regulation No. 66 of 2023 ("**Regulation**"). The Regulation governs the income tax treatment of reimbursement or compensation in connection with employment or services that are given in-kind and/or in the form of enjoyment (typically referred to as "in-kind") ("**benefits-in-kind**").

The Regulation is an implementing regulation on the tax treatment of benefits-in-kind as mandated by the Income Tax Law and Government Regulation 55 of 2022. It details the types of benefits-in-kind, situations when employers can consider benefit-in-kind as deductible expenses, situations when employees can exempt benefit-in-kind from taxable income, and how benefits-in-kind are valued and taxed.

### What are Benefits-in-kind?

Benefits-in-kind are defined as any reimbursement or compensation in the form of in-kind or enjoyment relating to work or services. There are two types of benefits-in-kind:

1. Compensation-in-kind or "*natura*", which is compensation in the form of goods other than money, which ownership is transferred from the employer to the employee. Some examples are meals, uniforms, and safety equipment.

2. Compensation in the form of enjoyment or “*kenikmatan*”, which is compensation in the form of facilities and/or services from the employer and/or third parties. In the latter case, such compensation is typically leased and/or financed by the employer for the employee’s utilisation. Some examples are computers, cars, houses or apartments, and health or medical facilities.

## When can Employers consider Benefit-in-kind as Deductible Expenses?

Costs of the benefits-in-kind are deductible from the employer’s taxable income if:

1. The costs are related to the employment or services provided by the employee or service provider; and
2. The costs are the amount spent by the employer to earn, collect, and maintain its taxable income.

To consider benefits-in-kind as deductible expenses, the employer must ensure that:

1. The expenditures for enjoyment costs that have a useful life of more than one year are expensed through depreciation or amortisation;
2. The expenditures for in-kind expenses or enjoyment that have a useful life of less than or at least a year are expensed in the year the costs are incurred;
3. The employer reports the costs of the benefit-in-kind in its annual income tax return (*SPT Tahunan PPh Badan*).

Benefits-in-kind can be deemed as deductible expenses from 1 January 2022 for employers whose 2022 financial year starts before 1 January 2022, or from the beginning of the 2022 fiscal year for employers whose 2022 financial year starts on 1 January 2022 or later.

## Benefit-in-kind as Tax Object and Exemptions for Employees

While benefits-in-kind has always been a part of the employee or service provider’s taxable income, the Regulation introduces some exemptions. The table below details situations where a benefit-in-kind is not taxable:

No	Type of Benefit-in-kind	Requirements
1.	Meals	<ul style="list-style-type: none"> <li>The meals are provided to all employees at the workplace without any limit in value.</li> <li>On the other hand, if the employer provides meal coupons or reimbursement for employees' meals when they are on external duty, the value of such coupons or reimbursement does not exceed IDR2 million/employee/month or the value of meals at the workplace, whichever is higher.</li> </ul>
2.	Benefit in the form of security, health, and/or safety	<ul style="list-style-type: none"> <li>The benefit is required by the government based on the law and there is no limit in terms of value.</li> <li>Examples of this benefit are uniforms, shuttle for employees, safety equipment, and medicines/vaccines (especially relevant during the pandemic).</li> </ul>
3.	Facilities and infrastructure provided within a specified area	<ul style="list-style-type: none"> <li>The employer has obtained the Director General of Taxes' approval for the work location.</li> <li>This benefit can be provided either by the employer or another party in cooperation with the employer (where the employer bears the costs).</li> <li>Examples of this benefit are housing, healthcare, education, transportation, and sport facilities within an area. There is no limit in value.</li> </ul>
4.	Gifts for religious holidays and other events	<ul style="list-style-type: none"> <li>Can be in the form of food, drinks, and/or meal ingredients that are given to all employees.</li> <li>These cover gifts for religious holidays such as Eid Al-Fitr, Christmas, Nyepi, Vesak, and Chinese New Year, and there is no limit in value.</li> <li>Meanwhile, the value of gifts for non-religious purposes must not exceed IDR3 million/employee in one fiscal year.*</li> </ul>
5.	Working equipment or facilities	<ul style="list-style-type: none"> <li>The equipment or facilities are received or obtained by all employees and are necessary to support the employees' duties.</li> <li>Examples of this benefit are laptops, computers, cell phones, cell phone credit (<i>pulsa</i>), and internet and there is no limit in value.</li> </ul>
6.	Healthcare and medical treatment facilities	<ul style="list-style-type: none"> <li>The benefit must be received or obtained by all employees.</li> <li>The benefit must cover occupational accidents, occupational diseases, emergencies, and follow-up treatment, and there is no limit in value.</li> </ul>
7.	Sports facilities	<ul style="list-style-type: none"> <li>The benefit must be received or obtained by the employee.</li> <li>However, this benefit excludes golf, horsing, power boating, gliding, and/or automotive race, are a maximum of IDR1,5 million/employee in one fiscal year.*</li> </ul>
8.	Communal and non-communal living facilities	<ul style="list-style-type: none"> <li>The benefit must be received or obtained by the employee.</li> </ul>

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No	Type of Benefit-in-kind	Requirements
		<ul style="list-style-type: none"> <li>The benefit can be in the form of communal living facilities (dormitories, etc.) without any limit in value or non-communal living facilities (e.g. rented apartments/houses) with a limit of IDR2 million/employee/month.*</li> </ul>
9.	Vehicle facilities	The benefit must be received or obtained by an employee who has no equity participation in the employer and whose average gross income in the last 12 months does not exceed IDR100 million/employee/tax year.*
10.	Contribution to pension fund borne by the employer	<ul style="list-style-type: none"> <li>The benefit must be received or obtained by the employee.</li> <li>The benefit is paid to the pension fund supervised by the Indonesian Financial Services Authority (OJK).</li> </ul>
11.	Prayer facilities	<ul style="list-style-type: none"> <li>Examples of this benefit are <i>mushala</i>, mosque, chapel, or temple, which is designated for praying.</li> </ul>

\* Please note that any benefit-in-kind given after 1 July 2023 and exceeding the above threshold will be taxable for the employees and the employer will be responsible to withhold such tax.

## Valuation and Tax Calculation

Benefits-in-kind are valued based on their market value or the expenses incurred or should have been incurred by the employer.

The employer as the provider of the benefits-in-kind must withhold the income tax in accordance with the law. The procedure for withholding, paying, and reporting the income tax is as follows:

Year Received or Obtained	Employer	Employee (or Service Provider)
FY2022	Exempted from income tax withholding	Exempted as an income tax object
FY2023 (January to June)	Exempted from income tax withholding	Self-calculated, paid, and reported by the employee (service provider) in their Annual Income Tax Return
FY2023 (1 July onwards)	Withheld, paid, and reported by the employer in its Article 21/23/4(2) Monthly Tax Return	Reported by the employee (service provider) in their Annual Income Tax Return

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## Our Remarks

With the enactment of the Regulation, employers who offer their employees benefits-in-kind such as company cars facilities, living facilities, and other facilities must ensure that they understand the types of benefits-in-kind and how they are calculated. Moreover, both employees and employers are responsible to ensure that they are compliant with the law on benefits-in-kind, including the Regulation. For employees, they must be aware of the benefits that they receive from their employer, and how these may be subject to tax. On the other hand, employers should also keep up to date with the law and ensure that they have appropriately expensed the costs and correctly withheld the tax from the employees' salaries.

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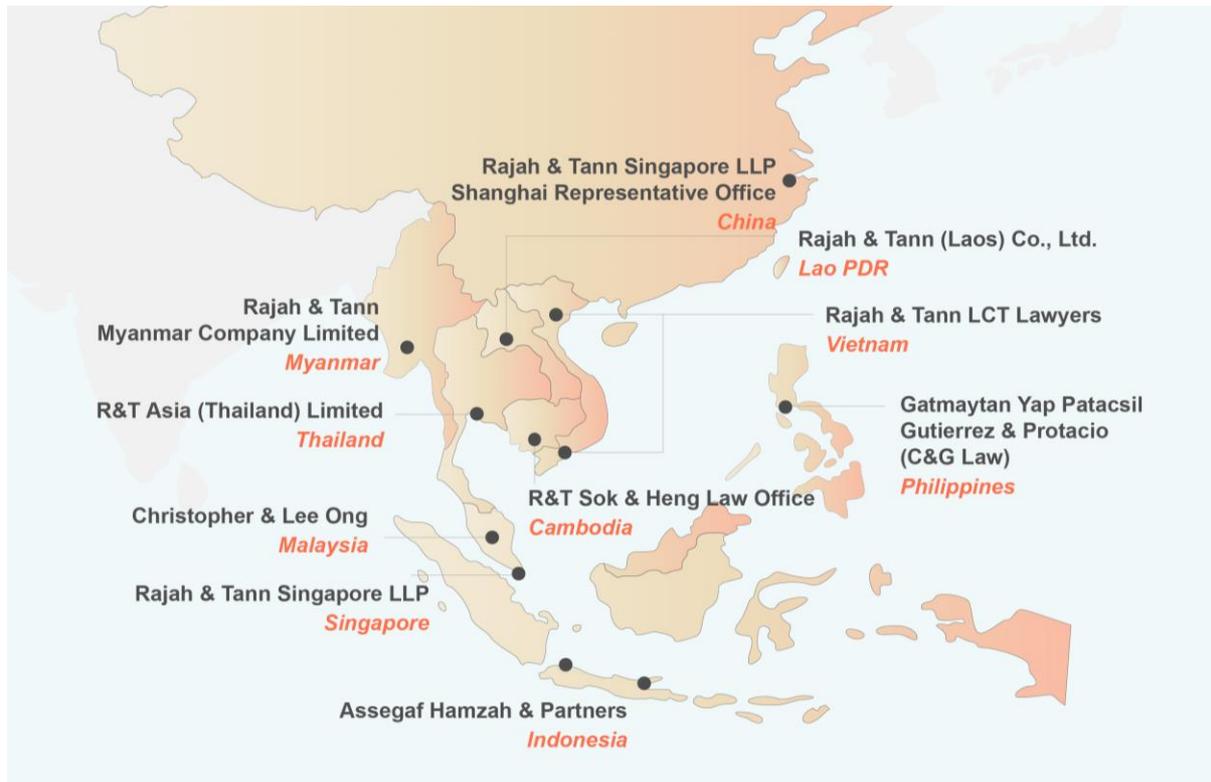
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