



INLAND REVENUE BOARD OF MALAYSIA

**TAX INCENTIVES FOR
BIONEXUS STATUS COMPANIES**

PUBLIC RULING NO. 1/2020

Translation from the original Bahasa Malaysia text

DATE OF PUBLICATION: 22 MAY 2020



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Published by
Inland Revenue Board of Malaysia

Second edition

First edition on 9.10.2018

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DIRECTOR GENERAL'S PUBLIC RULING

Section 138A of the Income Tax Act 1967 (ITA) provides that the Director General is empowered to make a Public Ruling in relation to the application of any provisions of the ITA.

A Public Ruling is published as a guide for the public and officers of the Inland Revenue Board of Malaysia. It sets out the interpretation of the Director General in respect of the particular tax law and the policy as well as the procedure applicable to it.

The Director General may withdraw this Public Ruling either wholly or in part, by notice of withdrawal or by publication of a new Public Ruling.

**Director General of Inland Revenue,
Inland Revenue Board of Malaysia.**

1. Objective

The objective of this Public Ruling (PR) is to explain the tax treatment in respect of tax incentives for a BioNexus Status Company (BNX) in Malaysia.

2. Relevant Provisions of the Law

2.1 This PR takes into account laws which are in force as at the date this PR is published.

2.2 The provisions of the Income Tax Act 1967 (ITA) related to this PR are sections 2, 8, 33, 34A, 43, 44, Schedule 3 and Schedule 7A.

2.3 The relevant subsidiary legislations referred to in this PR are as follows:

2.3.1 Income Tax (Exemption) (No. 17) Order 2007 [*P.U. (A) 371/2007*];

2.3.2 Income Tax (Exemption) (No. 18) Order 2007 [*P.U. (A) 372/2007*];

2.3.3 Income Tax (Exemption) (No. 2) Order 2009 [*P.U. (A) 156/2009*];

2.3.4 Income Tax (Industrial Building Allowance) (BioNexus Status Company) Rules 2007 [*P.U. (A) 374/2007*];

2.3.5 Income Tax (Exemption) (No. 2) 2009 (Amendment) Order 2018 [*P.U. (A) 381/2018*]; and

2.3.6 Income Tax (Exemption) (No. 17) 2007 (Amendment) Order 2018 [*P.U. (A) 395/2018*].

3 Interpretation

The words used in this PR have the following meaning:

3.1 “Qualifying activity” means an activity as set out in the Schedule of P.U. (A) 371/2007 and approved by the Minister, and the activities are-

(a) industrial biotechnology;

(b) healthcare biotechnology; and

(c) agricultural biotechnology.

- 3.2 “Resident” means resident in Malaysia for the basis year for a year of assessment by virtue of section 8 of the ITA.
- 3.3 “Intellectual property right” means a right arising from any patent, utility innovation and discovery, copyright, trade mark and service mark, industrial design, layout-design of integrated circuit, secret processes or formulae and know-how, geographical indication and the grant of protection of a plant variety and other like rights, whether or not registered or registrable.
- 3.4 “BioNexus Status Company” means a company incorporated under the Companies Act 2016 [Act 777] which is engaged in a business of life sciences.
- 3.5 “New intellectual property right” means an intellectual property right in relation to the qualifying activity of the BNX that -
- (a) comes into the ownership of the BNX on or after 1.7.2018; or
 - (b) comes into the ownership of the BNX after 16.10.2017 but before 1.7.2018 as a result of an acquisition by the BNX, directly or indirectly, from a related company.
- 3.6 “Chargeable income” in relation to a person and a year of assessment (YA), means chargeable income ascertained in accordance with the ITA.
- 3.7 “Statutory income” (SI) in relation to a person, a source and a year of assessment, means statutory income ascertained in accordance with the ITA.
- 3.8 “Adjusted income” in relation to a source and a basis period, means the adjusted income ascertained in accordance with the ITA.
- 3.9 “Qualifying Building Expenditure” (QBE) means capital expenditure incurred on the construction or purchase of a building under paragraph 3 of Schedule 3 of the ITA but does not include capital expenditure incurred on buildings used for storage or as living accommodation which are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff.
- 3.10 “Qualifying Capital Expenditure” (QCE) means capital expenditure incurred on an asset used in Malaysia for the purpose of a new business or an expansion project, as the case may be-
- (a) in relation to manufacturing or manufacturing based research, a factory, a building used for activity of research and development (R&D), plant and machinery; or

- (b) in relation to agriculture or agriculture based research, the clearing and preparation of land, the planting of crops (first planting or planting of trial crops), the provision of irrigation or drainage system, the provision of plant and machinery, the purchase or construction of a building used for the activity of R&D, or the activity of agriculture (including those provided for the welfare or living accommodation of persons who are working in the farm), construction of access roads, bridge and any permanent structure improvement on land which formed as part of the land used for the business:

Provided that such qualifying capital expenditure shall not include capital expenditure incurred on buildings used as living accommodation, plant and machinery which are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff.

3.11 “New business” means the first qualifying activity undertaken by a BNX.

3.12 “Expansion project” means a project undertaken by a BNX in expanding its existing qualifying activity and that business-

- (a) has not been granted [but conversely for P.U. (A) 374/2007, has been granted] exemption under P.U. (A) 371/2007 or P.U. (A) 372/2007; and
- (b) involves new investment.

3.13 “Life sciences” which fulfills the requirements in subparagraph 3(1A) of P.U. (A) 371/2007 means any of several branches of science, such as biology, medicine, anthropology or ecology, that deal with living organisms and their organisation, life processes, and relationships to each other and their environment.

3.14 “Related company” has the same meaning assigned to it in subsection 2(1) of the Promotion of Investments Act 1986 [*Act 327*].

4 Introduction

The National Biotechnology Policy (NBP) for sustainable biotechnology development in Malaysia was launched in 2005. Malaysian Bioeconomy Development Corporation Sdn Bhd (Bioeconomy Corporation), was established as a specialized and professional implementing agency to-

- (a) lead the development of the bio-based industry in Malaysia, under the purview of Ministry of Agriculture and Agro-Based Industry (MOA); and

- (b) execute the objectives of the NBP and acts to identify value propositions in both R&D and commerce, and also to support these ventures via financial assistance and developmental services.

5 BioNexus Status Companies

5.1 BioNexus Status

BioNexus Status is a special status awarded to qualified biotechnology companies undertaking value-added biotechnology or life sciences activities. A company which has been awarded the BioNexus Status would be able to enjoy fiscal incentives, funding assistance and other benefits to assist the growth of the company.

5.2 Application for BioNexus Status and tax incentives

All applications for the BioNexus Status and tax incentives must be submitted to Bioeconomy Corporation. Bioeconomy Corporation has been entrusted to assess and certify applications for tax incentives for BNX in accordance with the relevant income tax rules and exemption orders. The BioNexus status and tax exemption incentive is subject to the approval of the Minister of Finance.

For further information on Bioeconomy Corporation and the Guidelines for BNX Registration, please refer to the Malaysian Bioeconomy Development Corporation Sdn Bhd website at www.bioeconomycorporation.my.

5.3 Non-intellectual property incentives for BNX

(a) Tax exemption for an approved BNX

A company resident in Malaysia which has been approved as a BNX is exempted from the payment of tax, in relation to a new business or an expansion project either in respect of its—

- (i) SI under P.U. (A) 371/2007 and P.U (A) 395/2018; or
- (ii) SI equivalent to an allowance of 100% of the QCE incurred under P.U. (A) 372/2007,

for a specified number of years of assessment (YAs) in accordance with the relevant above-mentioned Income Tax (Exemption) Orders.

(b) Further exemption

After the exempt YAs as mentioned in paragraph 5.3 (a) above has ended, the approved BNX may be granted a further tax exemption on its SI from a qualifying biotechnology activity for a period of ten (10) consecutive YAs under P.U (A) 156/2009 P.U (A) 381/2018. The SI that is exempted is computed based on a formula.

(c) Industrial building allowance

A BNX may claim industrial building allowance for buildings used solely for qualifying activities at the rate of 10% annually under P.U. (A) 374/2007.

6. Tax Incentives

6.1 Tax exemption on SI

(a) SI from a new business or expansion project of an approved BNX

A company resident in Malaysia which is engaged in the business of life sciences and approved as a BNX may enjoy a tax exemption in relation to -

- (i) a new business, for a period of ten (10) consecutive YAs, in respect of the SI commencing from the first YA in which the company derived the SI from the new business; or
- (ii) an expansion project, for a period of five (5) consecutive YAs, in respect of the SI from its existing qualifying activity and expansion project, commencing from the first YA in which the company derived the SI from the existing qualifying activity and the expansion project, and that first YA shall not be earlier than the YA in respect of the basis period in which the date of approval from the Minister falls.

However, the exemption for the expansion project is only granted if the company has not been granted an exemption for its existing qualifying activity under P.U.(A) 372/2007 and that business involves new investment.

[The ten (10) consecutive YAs or five (5) consecutive YAs is referred to as “the exempt YAs”].

For the purpose of this PR, “new investment” means additional capital investment for existing qualifying activities that will increase

existing production capacity or produce related products in the same industry.

For more information, please refer to the Guidelines on Incentives Accorded to the BioNexus Status Companies and BioNexus Status 3.0 Framework Guideline (Non IP Income) issued by Bioeconomy Corporation.

(b) Substantial activities requirement

As a member of the Inclusive Framework under the Organisation for Economic Co-operation and Development (OECD) / G20 Base Erosion and Profit Shifting (BEPS) project, BNX companies in Malaysia must fulfil certain enhanced criteria in adhering to the Forum on Harmful Tax Practices (FHTP)'s requirements. As such, P.U. (A) 371/2007 has been amended by P.U. (A) 395/2018 and the substantial activities requirement was introduced for a BNX to be eligible for tax exemption. Effective 16.10.2017, a BNX must fulfil the following substantial activities requirement in order to enjoy a tax exemption:

- (i) has an approved adequate number of full time employees and knowledge workers in Malaysia to carry on a qualifying activity; and
- (ii) incurs an approved adequate amount of annual operating expenditure to carry on the qualifying activity or an approved adequate investment in fixed asset in Malaysia to carry on a qualifying activity.

A BNX would have to submit an application to Bioeconomy Corporation in relation to the substantial activities requirement that a BNX must fulfil in order to be eligible for a tax exemption.

(c) Grandfathering rules

For an existing BNX that is already enjoying a tax exemption, grandfathering rules have been provided for the commencement of the substantial activities requirement. These existing BNX would have to submit an application to Bioeconomy Corporation in relation to the substantial activities requirement to be able to continue enjoying the exemption after the grandfathering rules end. The application is to be made not less than six (6) months before the first day of the basis period of the year of assessment in which the substantial activities requirement takes effect. The date of commencement of the application of the substantial activities requirement is as follows:

- (i) where a BNX has been granted an exemption on or before 16.10.2017, the substantial activities requirement is not applicable to the BNX until 30.6.2021. In other words, the BNX which has been granted an exemption on or before 16.10.2017 would have to fulfil the substantial activities requirement effective 1.7.2021.
 - (ii) where a BNX carries on a new qualifying activity after 16.10.2017, the substantial activities requirement is not applicable and the BNX would be granted an exemption in relation to the new qualifying activity until 31.12.2018. In other words, the BNX which carries on a new qualifying activity after 16.10.2017 and has been granted an exemption until 31.12.2018, would have to fulfil the substantial activities requirement effective 1.1.2019.
 - (iii) where a BNX has been granted an exemption after 16.10.2017, the substantial activities requirement is not applicable to the BNX until 31.12.2018. In other words, the BNX which has been granted an exemption after 16.10.2017 would have to fulfil the substantial activities requirement effective 1.1.2019.
- (d) Exclusion of intellectual property (IP) income from the tax incentive

Generally, in adhering to the FHTP's requirements, royalties and other income derived from IP rights cease to be incentivised. In ascertaining, the SI of a BNX for the purposes of a tax exemption, royalty and other income which is derived from IP rights has been excluded from the scope of tax exemption. The date of commencement of the exclusion of IP income from the exempted SI of the BNX is as follows:

- (i) Effective from 1.7.2018 until 30.6.2021

Royalties and other income derived from new IP rights that the BNX owns or where the BNX is the licensee of the right.

- (ii) Effective 1.7.2021

Royalties and other income derived from all IP rights that the BNX owns or where the BNX is the licensee of the right.

In other words, the above IP income would not qualify for a tax exemption and would be subject to tax under the ITA.

- (e) Illustrations to show the tax exemption that is applicable to a new business and an expansion project

A. New Business Scenarios

Example 1 : Company commences business

Agro Sdn Bhd commenced its business in 2010 and was engaged in a qualifying biotechnology activity. The company was granted BioNexus Status in the YA 2010 and derived its first SI in YA 2013. The company's financial year ends on 31 December annually.

The tax exemption status is as follows:

(a) YA 2013

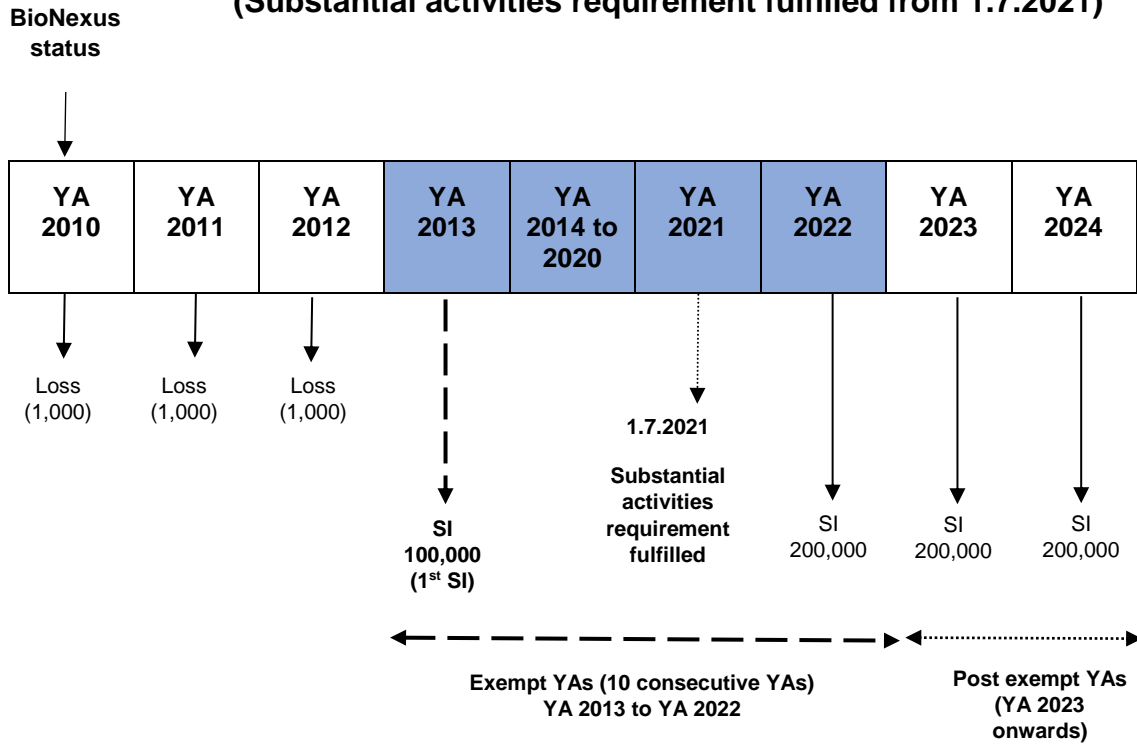
As Agro Sdn Bhd derived its SI from its new business, in relation to a qualifying biotechnology activity for the first time in the YA 2013, the ten (10) consecutive exempt YAs commences from YA 2013 to YA 2022. The post exempt YA is from YA 2023 onwards.

(b) Effective 16.10.2017 - Substantial activities requirement

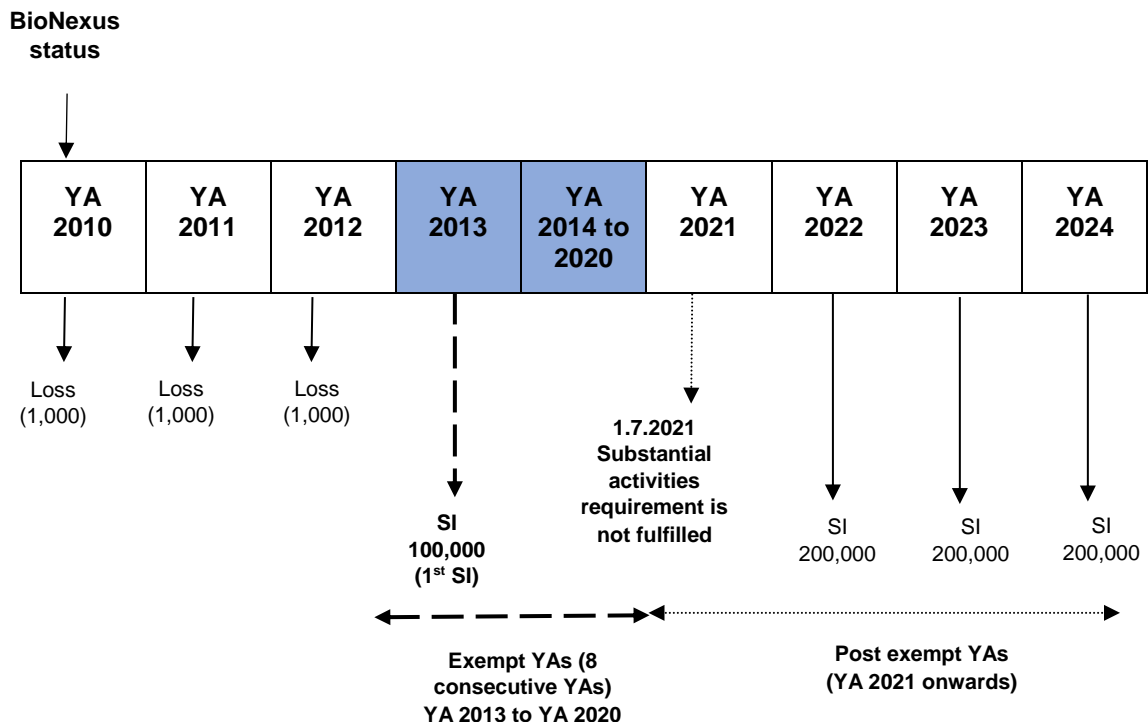
With the introduction of the substantial activities requirement, the grandfathering rules provide that where a tax exemption has been granted on or before 16.10.2017, the requirement is applicable effective 1.7.2021. Since the company was granted a tax exemption (from YA 2013 to 2022) prior to 16.10.2017, effective 1.7.2021 it has to comply with the substantial activities requirement as stated in paragraph 6.1(b) of this PR. The company would have to submit an application to Bioeconomy Corporation in relation to the substantial activities requirement that a BNx must fulfil in order to be eligible to continue the tax exemption until YA 2022. As 1.7.2021 falls within the basis period 1.1.2021 to 31.12.2021 (YA 2021), the company would be required to submit the application to Bioeconomy Corporation on or before 1.7.2020. If it does not fulfil the substantial activities requirement from 1.7.2021, the tax exemption ends in the YA 2020. The exempt YAs would be from YA 2013 to 2020. YA 2021 onwards would be considered the post exempt YAs.

Note : If the company closes its account on 31 March annually, the effective date of the substantial activities requirement i.e 1.7.2021 will fall within the basis period of 1.4.2021 to 31.3.2022 (YA 2022). Hence, the company would be required to submit its application to Bioeconomy Corporation on or before 1.10.2020.

**Exempt YAs and Post Exempt YAs
(Substantial activities requirement fulfilled from 1.7.2021)**



**Exempt YAs and Post Exempt YAs
(Substantial activities requirement is not fulfilled from 1.7.2021)**



Example 2 : Company commences a non-qualifying activity and subsequently undertakes R&D in a qualifying biotechnology activity

Same facts as in Example 1 except that Agro Sdn Bhd was not engaged in any qualifying biotechnology activity. In 2011, the company undertook R&D in a qualifying biotechnology activity and applied for BioNexus status which was granted in the YA 2012. The qualifying biotechnology activity would qualify as a new business and the company derived its first SI in YA 2013.

The tax exemption status is as follows:

(a) YA 2013

As Agro Sdn Bhd derived its SI from its new qualifying biotechnology activity for the first time in the YA 2013, therefore the ten (10) consecutive YAs commences from YA 2013 to YA 2022. The post exempt YAs is from YA 2023 onwards.

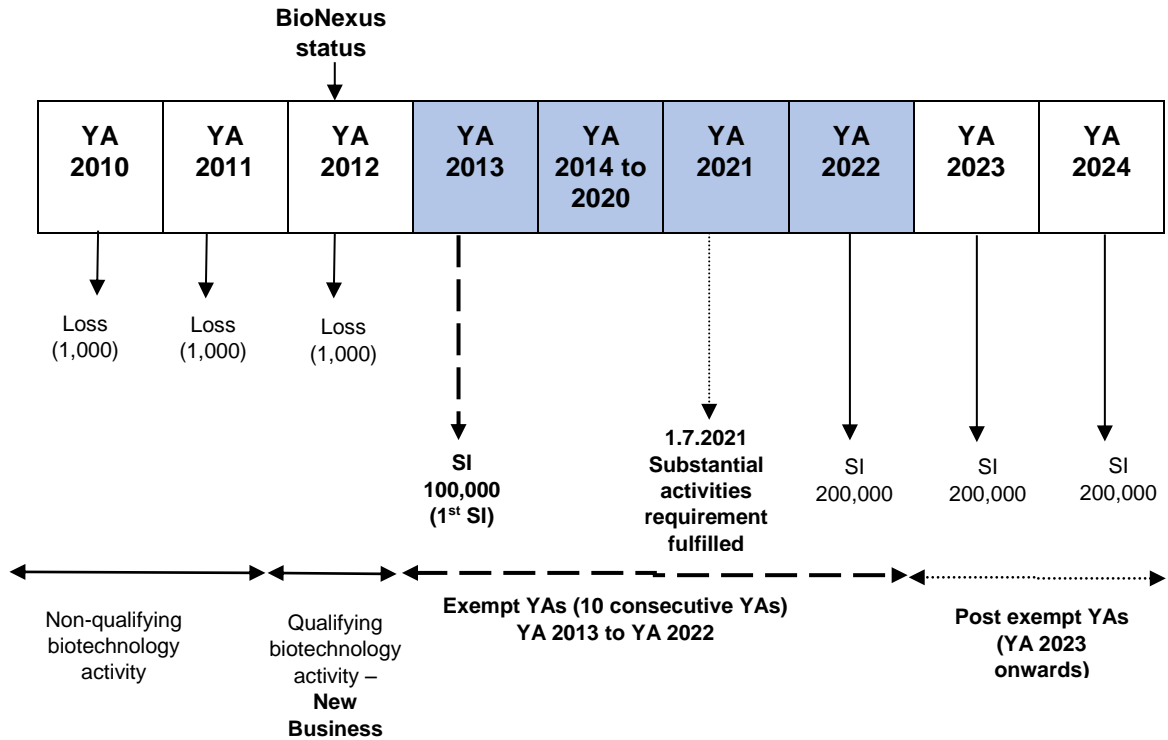
(b) Effective 16.10.2017 - Substantial activities requirement

With the introduction of the substantial activities requirement, the grandfathering rules provide that where a tax exemption has been granted on or before 16.10.2017, the requirement is applicable effective 1.7.2021. Since the company was granted a tax exemption (from YA 2013 to 2022) prior to 16.10.2017, effective 1.7.2021 it has to fulfil the substantial activities requirement as stated in paragraph 6.1(b) of this PR.

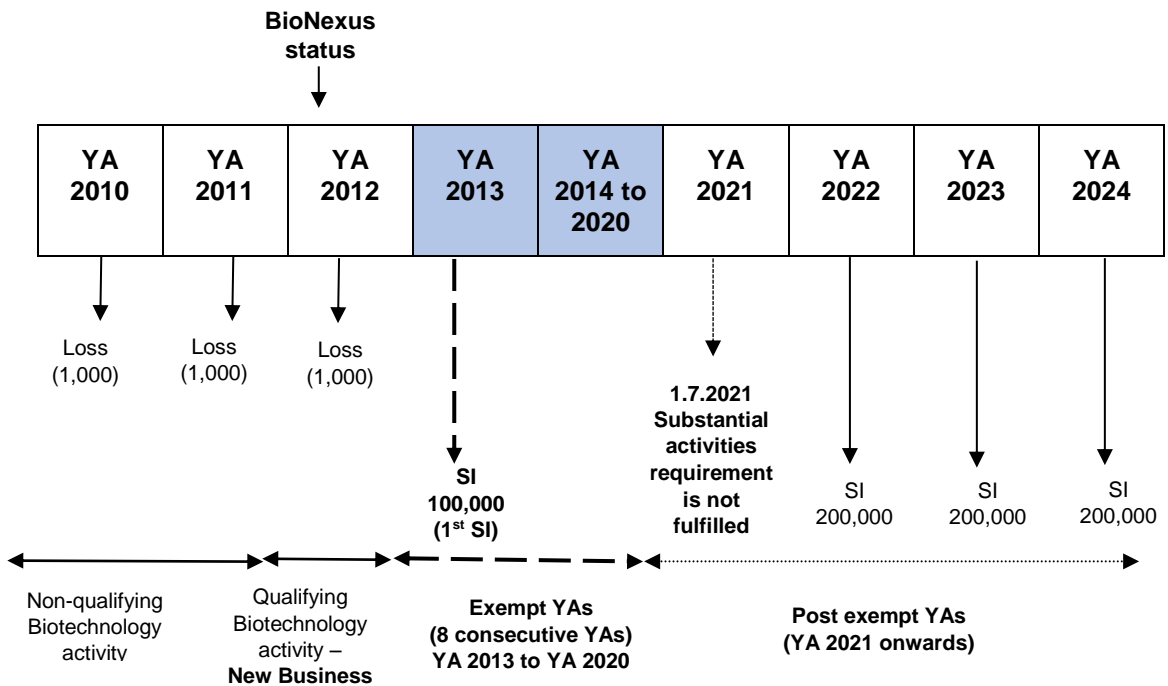
The company would have to submit an application to Bioeconomy Corporation in relation to the substantial activities requirement that a BNx must fulfil in order to continue to be eligible for the tax exemption until YA 2022. As 1.7.2021 falls within the basis period 1.1.2021 to 31.12.2021 (YA 2021), the company would be required to submit the application to Bioeconomy Corporation on or before 1.7.2020.

If it does not fulfil the substantial activities requirement from 1.7.2021, the tax exemption ends in the YA 2020. The exempt YAs would be from YA 2013 to 2020. YA 2021 onwards would be considered the post exempt YAs.

**Exempt YAs and Post Exempt YAs
(Substantial activities requirement fulfilled from 1.7.2021)**



**Exempt YAs and Post Exempt YAs
(Substantial activities requirement is not fulfilled from 1.7.2021)**



Example 3 : Company commences a qualifying biotechnology activity and subsequently undertakes a new additional qualifying biotechnology activity

Same facts as in Example 1 except that Agro Sdn Bhd was not granted BioNexus status in 2010 as it did not apply for the status. On 31.10.2017, the company carried on a new additional qualifying biotechnology activity and applied for BioNexus status. The company was granted the BioNexus status in the same year. The new additional qualifying biotechnology activity which is not related to the existing biotechnology activity constitutes the first qualifying activity and qualifies as a new business. The company derived its first SI in YA 2018.

The tax exemption status is as follows:

(a) Effective 16.10.2017 – Tax exemption for new qualifying activity

With the introduction of the substantial activities requirement, the grandfathering rules provide that where a tax exemption has been granted after 16.10.2017 for a new qualifying biotechnology activity, an exemption is only granted until 31.12.2018. The substantial activities requirement is applicable effective 1.1.2019.

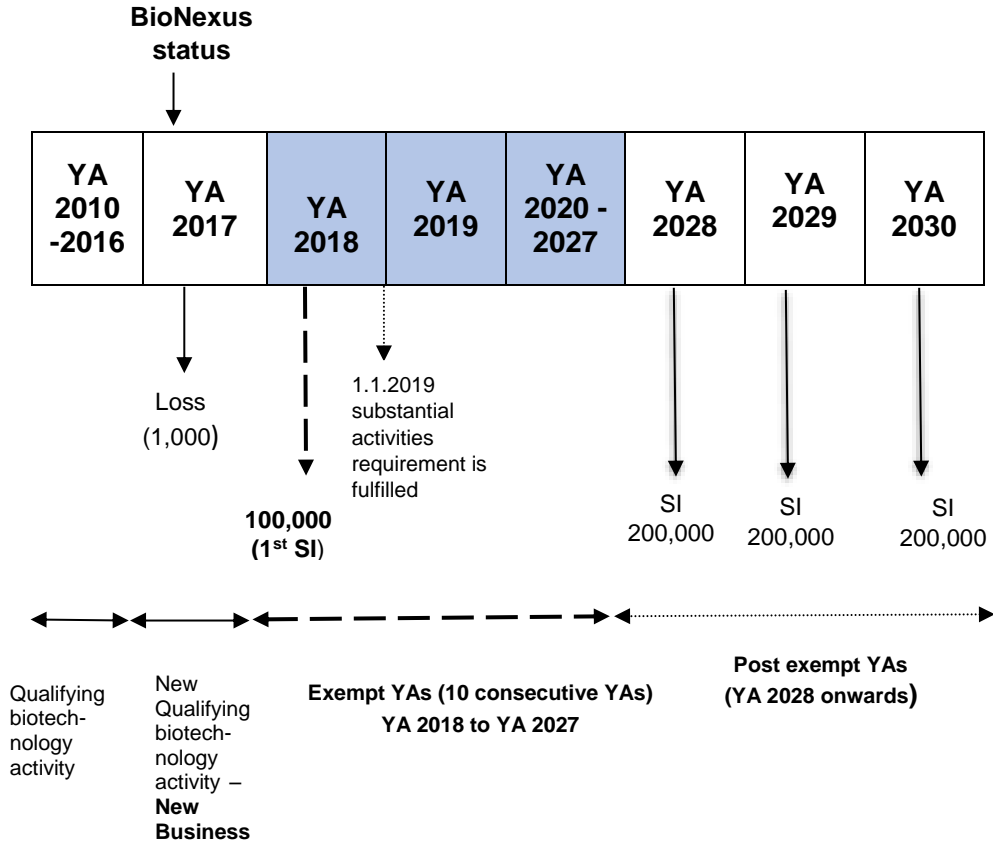
Since the company carried on a new qualifying biotechnology activity after 16.10.2017 and derived its first SI for the financial year end 31.12.2018, it was granted a tax exemption for YA 2018 only. The exempt YA would be for YA 2018 only.

(b) Effective 16.10.2017 - Substantial activities requirement

The company would have to submit an application to Bioeconomy Corporation in relation to the substantial activities requirement that a BNx must fulfil to enjoy the tax incentive in order to continue to be eligible for the tax exemption until YA 2027.

The substantial activities requirement is effective from 1.1.2019. As 1.1.2019 falls within the basis period 1.1.2019 to 31.12.2019 (YA 2019), the company would be required to submit the application to Bioeconomy Corporation on or before 1.7.2018. If it does not fulfil the substantial activities requirement from 1.1.2019, the tax exemption would be for YA 2018 only. YA 2019 onwards would be considered the post exempt YAs.

Exempt YAs and Post Exempt YAs
(BNX carries on a new qualifying biotechnology activity after 16.10.2017 and substantial activities requirement is fulfilled from 1.1.2019)



Example 5 : Company commences a qualifying biotechnology activity and subsequently expands its existing qualifying biotechnology activity

Same facts as in Example 4 except that Chromos Industries Sdn Bhd expanded its qualifying biotechnology activity on 18.10.2017 and was granted the BioNexus status in the same year. The company derived its first SI including IP income in YA 2018.

The tax exemption status is as follows:

(a) Effective 16.10.2017 – Tax exemption granted after 16.10.2017

With the introduction of the substantial activities requirement, the grandfathering rules provide that where a tax exemption has been granted after 16.10.2017 for a qualifying biotechnology activity, an exemption is only granted until 31.12.2018. The substantial activities requirement is applicable effective 1.1.2019.

Since the company expanded its qualifying biotechnology activity after 16.10.2017, and derived its first SI from its existing qualifying biotechnology activity and expansion project for the financial year end 31.12.2018, it was granted a tax exemption for YA 2018 only. The exempt YA would be for YA 2018 only.

(b) Effective 16.10.2017 - Substantial activities requirement

With the introduction of the substantial activities requirement, the grandfathering rules provide that where a tax exemption has been granted after 16.10.2017, the requirement is applicable effective 1.1.2019. Since the company was granted a tax exemption (i.e. for YA 2018) after 16.10.2017, effective 1.1.2019 it has to comply with the substantial activities requirement as stated in paragraph 6.1(b) of this PR.

The company would have to submit an application to Bioeconomy Corporation in relation to the substantial activities requirement that a BNx must fulfil in order to continue to be eligible for the tax exemption for 5 consecutive YAs until YA 2022. As 1.1.2019 falls within the basis period 1.1.2019 to 31.12.2019 (YA 2019), the company would be required to submit the application to Bioeconomy Corporation on or before 1.7.2018.

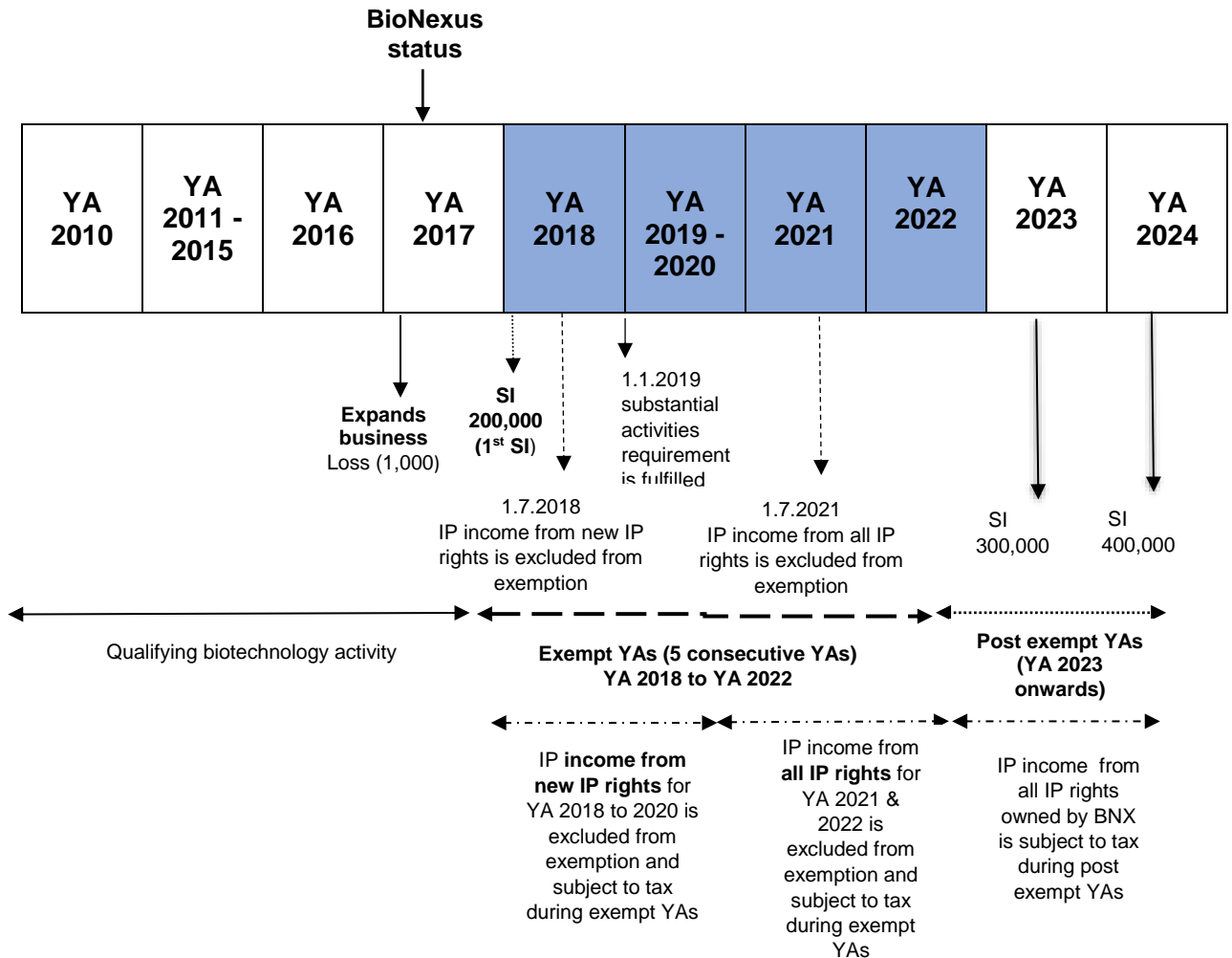
If it does not fulfil the substantial activities requirement from 1.1.2019, the tax exemption ends in the YA 2018. The exempt YA

would be for YA 2018 only. YA 2019 onwards would be considered the post exempt YAs.

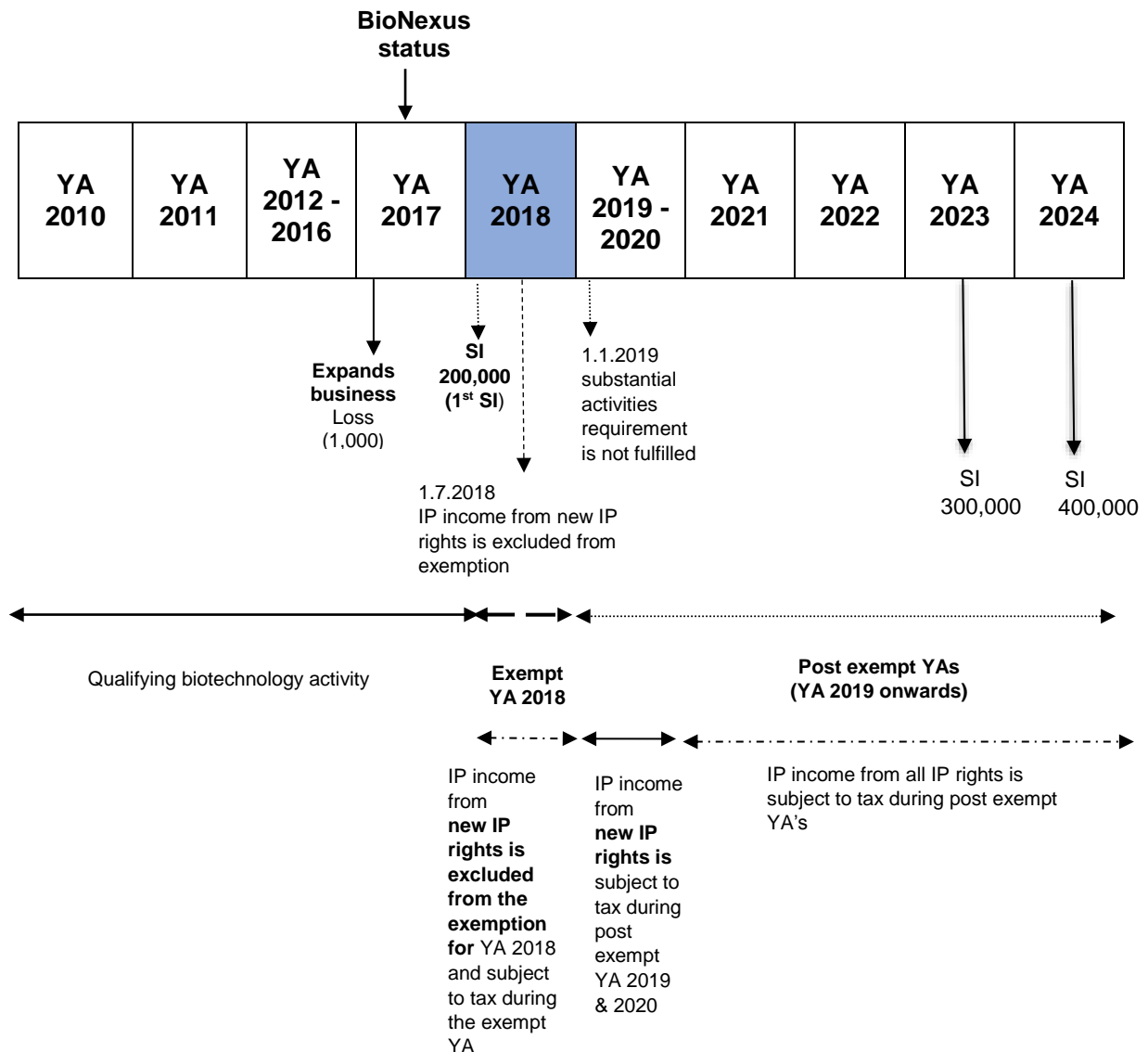
(c) Exclusion of IP income from tax incentive

Effective 1.7.2021, royalties and other income derived from all IP rights that the BNX owns or where the BNX is the licensee of the right is no longer exempted. As 1.7.2021 falls within the basis period of YA 2021, any IP income derived in YA 2021 and YA 2022 is excluded from the exemption enjoyed by the company. The IP income would be subject to tax under the ITA from YA 2021 onwards.

**Exempt YAs and Post Exempt YAs
(Substantial activities requirement fulfilled and
IP income is subject to tax)**



**Exempt YAs and Post Exempt YAs
(Substantial activities requirement is not fulfilled and
IP income is subject to tax)**



6.2 Tax exemption on SI equivalent to an allowance of 100% of the qualifying capital expenditure incurred

A company resident in Malaysia which is engaged in the business of life sciences and approved as a BNx may enjoy a tax exemption in respect of its SI from a new business or an expansion project, which is equivalent to an allowance of 100% of QCE incurred in the basis period for a YA within a period of five years.

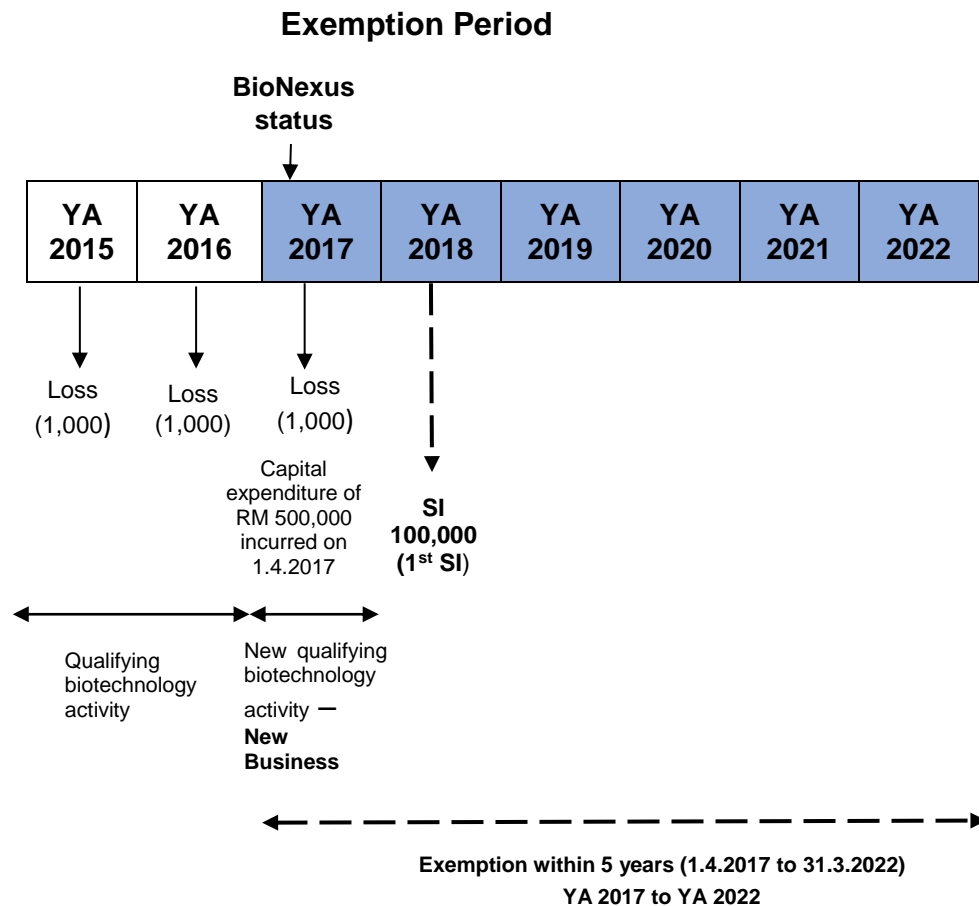
The date of commencement of the exemption period is determined by Bioeconomy Corporation and in relation to –

- (a) a new business, the date the first QCE has been incurred and that date is:
 - (i) not earlier than 1.5.2005; or
 - (ii) three years from the date of approval as a BNXwhichever is later; or
- (b) an expansion project, on the date the first QCE has been incurred and that date is not earlier than the date of application received by Bioeconomy Corporation.

However, the exemption for the expansion project is only granted if the company has not been granted an exemption for its existing qualifying activity under the P.U. (A) 371/2007 and that business involves new investment.

Example 6 : New business incurred capital expenditure

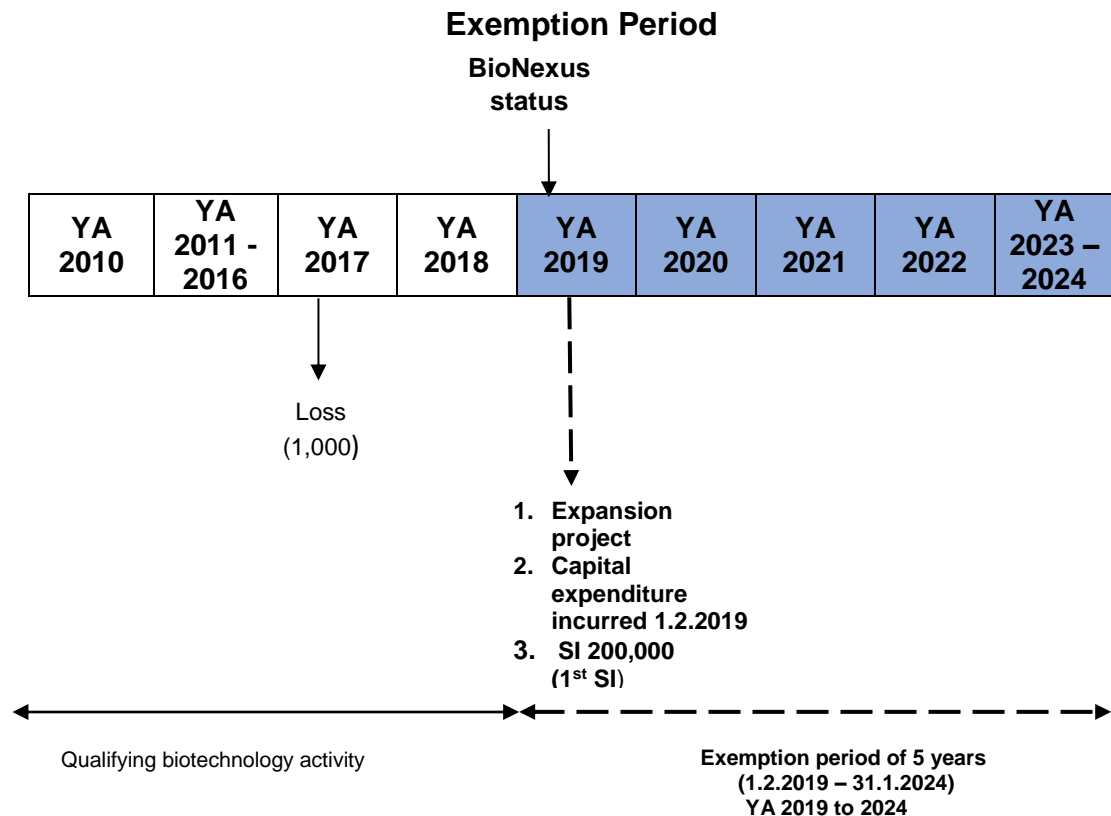
Same facts as in Example 3 but Agro Sdn Bhd did not apply and was not granted a tax exemption under the P.U. (A) 371/2007. The company has incurred capital expenditure amounting to RM500,000 on 1.4.2017. The company applied for BioNexus status and a tax exemption under the P.U.(A) 372/2007 on 15.4.2017 and was approved on 1.5.2017. Bioeconomy Corporation determined the date of the first QCE incurred is on 1.4.2017.



As Bioeconomy Corporation has determined the date of the first QCE incurred is 1.4.2017, the allowance of 100% of the QCE against the SI is granted for a five (5) year period i.e. from 1.4.2017 to 31.3.2022. As 1.4.2017 falls in the basis period for the YA 2017, therefore the exemption period falls within YA 2017 to 2022.

Example 7 : Expansion project

Same facts as in Example 4 except that Chromos Industries Sdn Bhd expanded its qualifying biotechnology activity in 2019 and was granted the BioNexus status in the same year. The company was not granted an exemption under the P.U. (A) 371/2007. The company applied for a tax exemption under the P.U.(A) 372/2007 on 15.2.2017 and was approved on 1.3.2017. The company has incurred capital expenditure amounting to RM600,000 on 1.2.2019. Bioeconomy Corporation determined the date of the first QCE incurred is on 1.2.2019.



As Bioeconomy Corporation has determined the date of the first QCE incurred is 1.2.2019, the allowance of 100% of the QCE against the SI is granted for a five (5) year period i.e. from 1.2.2019 to 31.1.2024. As 1.2.2019 falls in the basis period for the YA 2019, therefore the exemption period falls within YA 2019 to 2024.

Example 8

ABJZ Sdn Bhd (ABJZ) undertakes an approved biotechnology activity by purchasing plant and machinery on 1.4.2015. ABJZ applied for a BioNexus status on 2.1.2017. The company obtained approval as a BNx and has been granted a tax exemption under P.U. (A) 372/2007 on 1.6.2017. The company's financial year ends on 31 December annually. Bioeconomy Corporation determined the company's business commencement date on 1.3.2017 and the date of the first QCE incurred is on 1.4.2015.

ABJZ incurred capital expenditure as follows:

	Details	YA 2015 RM	YA 2016 RM	YA 2017 RM
(a)	Plant and Machinery	2,100,000 ¹	3,000,000 ²	2,000,000 ³
(b)	Furniture and Fittings	100,000	50,000	20,000
(c)	Motor Vehicles	300,000	250,000	200,000
	Total	2,500,000	3,300,000	2,220,000

ABJZ's adjusted income are as follows:

Details	YA 2017 RM	YA 2018 RM	YA 2019 RM
Adjusted income /(loss)	(2,500,000)	6,250,000	7,000,000
Capital allowance	364,000	580,000	324,000

	RM	YA 2017 RM	YA 2018 RM	YA 2019 RM
Adjusted income /(loss)		(2,500,000)	6,250,000	7,000,000
Less:				
Capital allowance			364,000	Nil
- b/f			580,000	324,000
- Current year		Nil		
Statutory income (SI)		Nil	5,306,000	6,676,000
Less:				
QCE for exemption purposes⁴			5,306,000 ⁵ <small>(restricted)</small>	1,794,000 ⁶
SI / Chargeable income			Nil	4,882,000
Tax payable @ 24%			Nil	1,171,680

⁴Computation of QCE (plant and machinery)				
YA 2015 ¹	2,100,000			
YA 2016 ²	3,000,000			
	5,100,000			
YA 2017 ³ (unabsorbed)	2,000,000			
	7,100,000			
Less:				
YA 2018 (restricted)	5,306,000 ⁵			
	1,794,000			
Less:				
YA 2019	1,794,000 ⁶			
	Nil			

^{1,2}Note

Bioeconomy Corporation has determined that the company's business commencement date is 1.3.2017 and the date of the first QCE incurred is on 1.4.2015. Therefore, the QCE is deemed incurred in YA 2017 (i.e. the YA in which the business commenced).

As Bioeconomy Corporation has determined the date of the first QCE incurred is 1.4.2015, the allowance of 100% of the QCE against the SI is granted for a five (5) year period i.e. from 1.4.2015 to 31.3.2020. As 1.4.2015 falls in the basis period for the YA 2015 and 31.3.2020 falls in the basis period for YA 2020, therefore the exemption period falls within YA 2015 to 2020.

6.3 Further tax exemption on SI

(a) Further exemption on the SI of another new qualifying activity

A BNX that has enjoyed either an exemption of SI or SI equivalent to an allowance of 100% of the QCE incurred during the period of exemption may enjoy a further incentive. The BNX may be further exempted from the payment of income tax by being subject to tax at a rate equivalent to 20% in respect of SI derived from a qualifying activity (new business or

expansion project) for a period of ten (10) consecutive YAs after the end of the period of exemption. The exempted SI is determined in accordance with the following formula:

$$\frac{A \times C}{B}$$

Where:

- A is the amount of tax charged on the chargeable income of the BNX from qualifying activities at the prevailing tax rate reduced by the amount of tax charged on such chargeable income at the rate of twenty per cent (20%);
- B is the amount of tax charged on such chargeable income from qualifying activities at the prevailing tax rate; and
- C is the amount of such chargeable income from qualifying activities.

Exempted SI is determined after deducting allowances which fall to be made under Schedule 3 of the ITA although no claim for such allowance has been made.

Where an asset used for the purpose of a qualifying activity is also used for the purpose of a business other than the qualifying activity, then the allowances which fall to be made under Schedule 3 of the ITA shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the qualifying activity.

Chargeable income in relation to a qualifying activity for a YA is the SI after deducting loss brought forward in relation to that activity [subsection 43(2) of the ITA].

(b) Grandfathering rules

Grandfathering rules have been provided for the substantial activities requirement as explained in paragraph 6.1(b) of this PR.

(c) Exclusion of IP income from the tax incentive

The date of commencement of the exclusion of IP income from the exempted statutory income is as explained in paragraph 6.1(d) of this PR.

Example 9

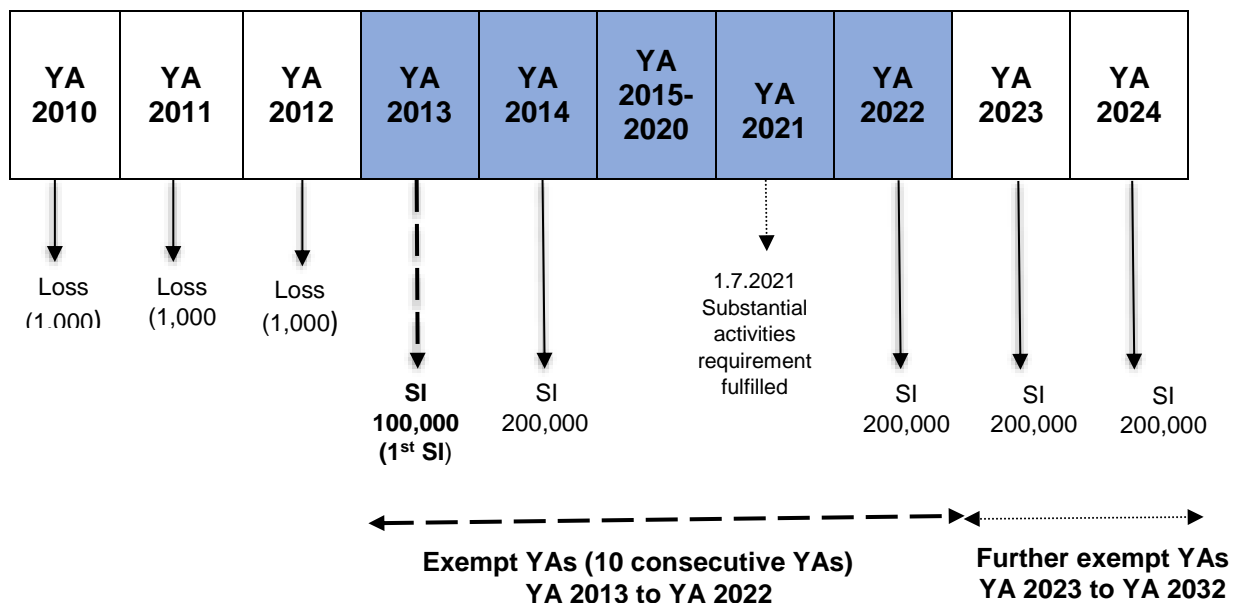
CPCB Sdn Bhd (CPCB) is a BNX and its exemption period under P.U. (A) 371/2007 ends in the YA 2022. CPCB has obtained a further tax exemption i.e. a concessionary tax rate under P.U. (A) 156/2009 from the Minister of Finance with effect from the YA 2023 for a new qualifying activity.

For the purpose of this example, it is assumed that the company –

- (a) fulfilled the substantial activities requirement effective 1.7.2021;
- (b) made the necessary application to Bioeconomy Corporation before the due date; and
- (c) enjoys the exemption under P.U. (A) 371/2007 until YA2022.

CPCB has been granted a further exemption from YA 2023 to 2032 as it had fulfilled the substantial activities requirement.

Exempt YAs and Further Exempt YAs



CPCB's adjusted income is as follows:

Details	YA 2023 RM	YA 2024 RM	YA 2025 RM
Adjusted income	2,500,000	3,250,000	5,000,000
Capital allowance	100,000	250,000	200,000

Computation of Chargeable Income

Details	YA 2023 RM	YA 2024 RM	YA 2025 RM
Adjusted income	2,500,000	3,250,000	5,000,000
Less:			
Capital allowance	100,000	250,000	200,000
SI	2,400,000 ⁸	3,000,000 ¹⁰	4,800,000 ¹²
Less:			
Tax exemption⁷	400,000⁹	500,000¹¹	800,000¹³
Chargeable income	2,000,000	2,500,000	4,000,000
Tax payable @ 24%	480,000	600,000	960,000

⁷Note

Current tax rate is 24%.

(a) **YA 2023**

$$\frac{[(RM2.4m^8 \times 24\%) - (RM2.4m^8 \times 20\%)]}{RM2.4m^8 \times 24\%} \times RM2.4m^8 = RM400,000^9$$

(b) **YA 2024**

$$\frac{[(RM3m^{10} \times 24\%) - (RM3m^{10} \times 20\%)]}{RM3m^{10} \times 24\%} \times RM3m^{10} = RM500,000^{11}$$

(c) **YA 2025**

$$\frac{[(RM4.8m^{12} \times 24\%) - (RM4.8m^{12} \times 20\%)]}{RM4.8m^{12} \times 24\%} \times RM4.8m^{12} = RM800,000^{13}$$

Example 10

CPC Sdn Bhd (CPC) obtained BioNexus status in YA 2010 and derived its first SI in YA 2011. CPC's exemption period under the P.U. (A) 371/2007 ends in the YA 2020. CPC then obtained a further tax exemption i.e. a concessionary tax rate under the P.U. (A) 156/2009 from the Minister of Finance with effect from the YA 2021 for a new qualifying activity. The company closes its accounts on 31 December annually and SI of the company includes IP income.

The further exemption status is as follows:

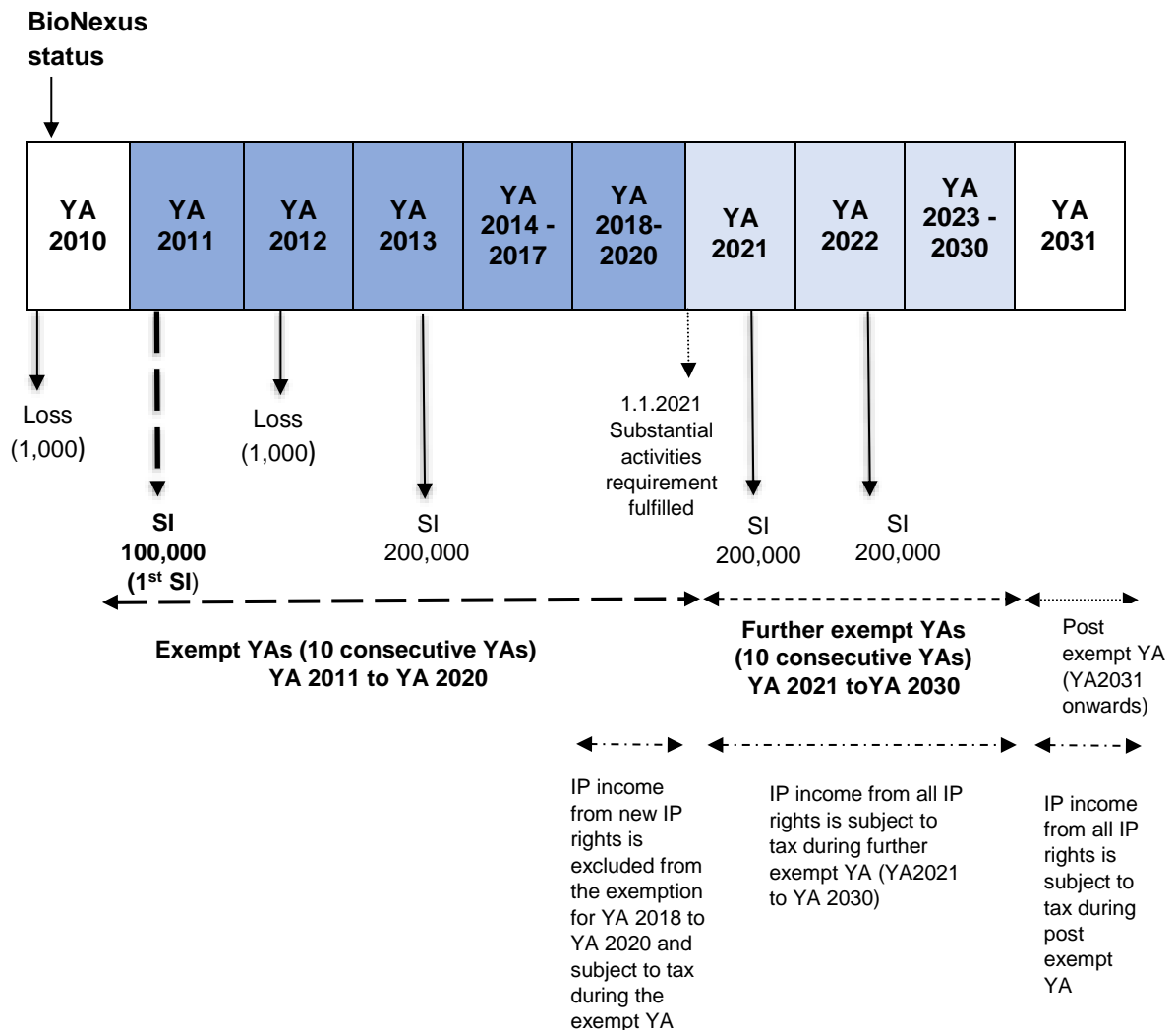
(a) YA 2021

CPC need not fulfil the substantial activities requirement for it to enjoy the exemption under the P.U. (A) 371/2007 until YA 2020. This is because CPC has been granted an exemption before 16.10.2017 and the substantial activity requirement is only effective from 1.7.2021, i.e. after the exempt YA 2020. For CPC to be granted a further exemption from YA 2021 to 2030, it has to fulfil the substantial activities requirement.

(b) Exclusion of IP income from tax exemption

Effective 1.7.2018, royalty and other income derived from new IP rights that a BNX owns or where a BNX is the licensee of the right is no longer exempted. As such, CPC's IP income is taxable under the ITA.

Exempt YAs and Further Exempt YAs



7. Capital Allowances / Industrial Building Allowances

7.1 Capital allowances

The SI of a new business or an expansion project in the basis period for each of the exempt YA is to be determined after deducting capital allowances notwithstanding that no claim for such allowances have been made.

Where an asset used for the purpose of the new business or the expansion project, as the case may be, is also used for the purpose of a business other than that new business or expansion project, then the capital allowances shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned new business or expansion project.

In the absence or lack of adjusted income for a YA, the amount of unabsorbed allowance may be carried forward and deducted in the:

- (a) first subsequent YA the company has SI from that new business or expansion project; and
- (b) subsequent YAs until that total amount is fully utilized.

7.2 Industrial building allowance

A BNX may also claim an industrial building allowance (IBA) at the rate of 10% on the qualifying building expenditures incurred in the basis period for a YA as specified in [P.U. (A) 374/2007].

If a QBE is incurred before the commencement of a new business or a new expansion project, it shall be deemed to have been incurred on the date of commencement of the business or project.

The date of the first QBE incurred is determined by Bioeconomy Corporation and the date shall not be earlier than 2.9.2006.

Where the BNX's QCE is incurred on assets or industrial building which are used for purpose of a new business or expansion project and the assets are disposed of at any time within two years from the date of completion or acquisition of the asset, the amount of allowance allowed for such assets or industrial building would be withdrawn in the year of disposal.

Example 11

On 15.4.2017, Ingrid Research Sdn Bhd (IRSB) an approved BNX had been granted an incentive as a BNX and the date of commencement of business for IRSB was on 19.10.2017. On 20.1.2016, IRSB purchased a completed laboratory building with equipment worth RM3.5 million for full use in R&D activities. IRSB accounts are closed on 31st December annually. On 31.12.2018, IRSB disposed of the building for RM5 million.

The computation of IBA is from the YA 2017 (year business commenced) and the IBA for YA 2017 is RM350,000 (10% x RM3.5 million). The qualifying building expenditure is deemed to have been incurred in the YA 2017 i.e. when the business commenced.

For YA 2018, IRSB is not eligible to claim the IBA. The IBA allowed in YA 2017 is withdrawn and taxed as part of IRSB's SI (by imposing a balancing charge in the YA 2018, that is the year when the building was disposed of).

8. Treatment on Losses Incurred by a BioNexus Status Company

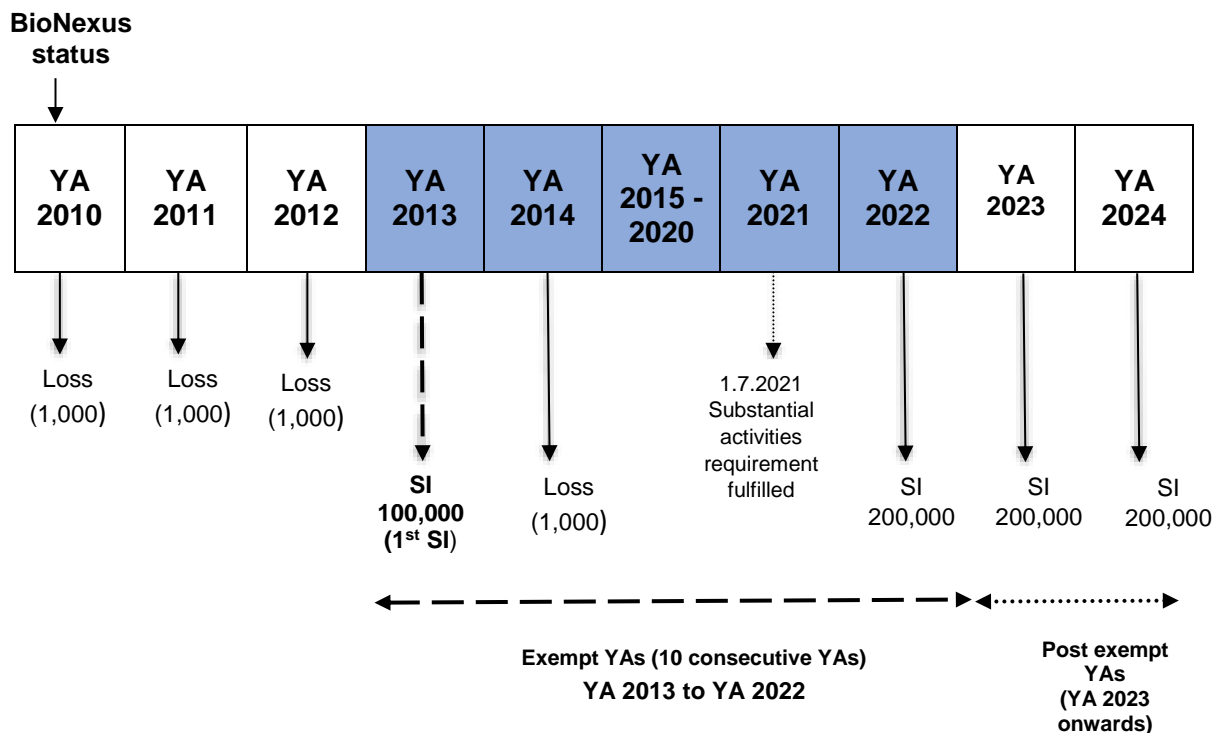
Any loss incurred before the exempt YA commences (i.e. after the commencement of a new business or expansion project) and within the period of exemption, may be carried forward to the YA after the exempt period ends and is to be deducted from the SI of the new business or expansion project until it is fully absorbed.

The treatment of brought forward losses under subsection 43(2) and current year losses under subsection 44(2) of the ITA shall not apply to BNx with regard to the losses that have been deducted.

Example 12

Same facts as in Example 1. Accumulated losses of RM3,000 (YA 2010 to YA 2012) before the exempt YA and the loss of RM1,000 (YA 2014) incurred during the exempt YA may be carried forward to the post exempt YA. The accumulated losses of RM4,000 is to be deducted against the SI from YA 2023.

Exempt YAs and Post Exempt YAs



9. Deductions for Promotion of Export

Any revenue expenditure under section 33 of the ITA incurred in relation to promotion of export under section 41 of the Promotion of Investments Act 1986 (PIA) is eligible for deduction and shall be claimed in the YA the expenditure is incurred.

For the purpose of BNX tax incentives, revenue expenditure under section 33 of the ITA in relation to the promotion of exports listed under section 41 of the PIA is eligible for additional deduction and shall be accumulated to be absorbed in the YA after the exempt period ends.

Example 13

Alexis Sdn Bhd has been granted BioNexus status for a new business on 1.1.2014. The 10 year tax exemption period under P.U. (A) 371/2007 starts in the YA 2014 and will expire in the YA 2023. The company qualifies for deduction for export promotion under section 41 of the PIA as follows:

YA	RM
2015	25,000
2017	50,000
2021	15,000
Total	90,000

For the purpose of this Example, it is assumed that the company has fulfilled the substantial activities requirement on 1.7.2021 to continue to be eligible for the exemption until YA 2023.

The company is allowed to deduct the above amounts under section 33 of the ITA in the relevant YA. The accumulated amount of additional deduction of RM90,000 may be utilised in the YA 2024, the first YA after the exempt YA and the subsequent YAs until the amount is fully absorbed.

10. Deductions for Research and Development Expenditure

Any R&D expenditure incurred in relation to a qualifying R&D activity approved by the Minister of Finance under section 34A of the ITA is entitled for double deduction and shall be claimed in the YA the expenditure was incurred.

For the BNX tax incentive purposes, deductions for R&D expenditure shall be accumulated and be eligible for deduction in the YA after the exempt period ends. This is to ensure that the benefits of tax deduction can be enjoyed by BNX as the

deduction given in the YA after the exemption expires will reduce the adjusted income for the YA. However, the amount of eligible expenditure deductible is equal to the amount of R&D expenditure incurred.

Example 14

Binbai Sdn Bhd was granted BioNexus status on 1.1.2013. The exempt YAs under P.U. (A) 371/2007 starts from the YA 2013 and will expire in the YA 2022. The company had incurred the following expenditure for R&D activities approved by the Minister:

YA	RM
2015	35,000
2017	10,000
2021	15,000
Total	60,000

For the purpose of this Example, it is assumed that the company has fulfilled the substantial activities requirement on 1.7.2021 to continue to be eligible for the exemption until YA 2022.

The company is not allowed to claim the above amounts in the relevant YA. The accumulated amount of RM60,000 may be used in the YA 2023, i.e. the first YA after the exempt YA and the subsequent YAs.

11. Non-application

The tax incentive under P.U. (A) 371/2007 and P.U. (A) 372/2007 shall not apply to:

- (a) a new business or an expansion project, as the case may be, that commences after one year from the date of approval or after such extended period approved by the Minister;
- (b) a company in the basis period for a year of assessment which has been granted—
 - (i) deduction under the Income Tax (Allowance for Increased Exports) Rules 1999 [*P.U. (A) 128/1999*];
 - (ii) deduction under the Income Tax (Deduction for Cost on Acquisition of a Foreign Owned Company) Rules 2003 [*P.U. (A) 310/2003*];

- (iii) deduction under the Income Tax (Deduction for Investment in an Approved Food Production Project) Rules 2006 [*P.U. (A) 55/2006*];
- (iv) exemption on the value of increased exports under the Income Tax (Exemption) (No. 17) Order 2005 [*P.U. (A) 158/2005*];
- (v) reinvestment allowance under Schedule 7A of the ITA;
- (vi) any incentives (except deductions for promotion of exports) under the PIA;
- (vii) exemption for an approved food production project under the Income Tax (Exemption) (No. 10) Order 2006 [*P.U. (A) 51/2006*];
- (viii) exemption under the Income Tax (Exemption) (No. 40) Order 2005 [*P.U. (A) 307/2005*];
- (ix) exemption under the Income Tax (Exemption) (No. 41) Order 2005 [*P.U. (A) 308/2005*];
- (x) exemption under the Income Tax (Exemption) (No. 42) Order 2005 [*P.U. (A) 309/2005*];
- (xi) exemption for venture capital company under the Income Tax (Exemption) (No. 11) Order 2005 [*P.U. (A) 75/2005*];
- (xii) deduction under the Income Tax (Deduction for Investment in a Venture Company) Rules 2005 [*P.U. (A) 76/2005*]; or
- (xiii) deduction under the Income Tax (Deduction for Investment in a BioNexus Status Company) Rules 2007 [*P.U. (A) 373/2007*].

12. Withdrawal of Tax Exemptions

If a BNX fails to comply with the stipulated conditions imposed by the Minister of Finance in relation to the tax exemptions, the Minister of Finance reserves the right to withdraw all income tax exemptions that have been granted.

13. Compliance with the Income Tax Act 1967

The approved company is not absolved from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the ITA.

14. Updates and Amendments

Amendments											
<p>This PR replaces the PR No. 8/2018 dated 9 October 2018.</p>	<p>The contents of this PR have been amended and updated as follows:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Paragraph</th> <th>Explanation</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">2</td> <td>Sub paragraph 2.2 is amended. New sub paragraphs 2.3.5 and 2.3.6 are inserted.</td> </tr> <tr> <td style="text-align: center;">3</td> <td>New sub paragraphs 3.3, 3.5, 3.12 and 3.13 are inserted. Previous sub paragraphs 3.7, 3.8 and 3.9 are amended and renumbered as sub paragraphs 3.11, 3.12 and 3.13 respectively. Previous sub paragraphs 3.5, 3.6 and 3.10 are renumbered as sub paragraphs 3.9, 3.10 and 3.4 respectively.</td> </tr> <tr> <td style="text-align: center;">5</td> <td>Sub paragraph 5.3(a) and 5.3(b) are amended.</td> </tr> <tr> <td style="text-align: center;">6</td> <td>Previous sub paragraph 6.1(a) and (b) renumbered as sub paragraph 6.1(a)(i) and 6.1(a)(ii) respectively New sub paragraphs 6.1(b), (c) and (d) are inserted. Examples 1 to 4 are amended. New Example 5 is inserted. Previous Examples 5, 6 and 7 are updated and renumbered as Examples 6, 7 and 8. New sub paragraphs 6.3(b) and (c) are inserted.</td> </tr> </tbody> </table>	Paragraph	Explanation	2	Sub paragraph 2.2 is amended. New sub paragraphs 2.3.5 and 2.3.6 are inserted.	3	New sub paragraphs 3.3, 3.5, 3.12 and 3.13 are inserted. Previous sub paragraphs 3.7, 3.8 and 3.9 are amended and renumbered as sub paragraphs 3.11, 3.12 and 3.13 respectively. Previous sub paragraphs 3.5, 3.6 and 3.10 are renumbered as sub paragraphs 3.9, 3.10 and 3.4 respectively.	5	Sub paragraph 5.3(a) and 5.3(b) are amended.	6	Previous sub paragraph 6.1(a) and (b) renumbered as sub paragraph 6.1(a)(i) and 6.1(a)(ii) respectively New sub paragraphs 6.1(b), (c) and (d) are inserted. Examples 1 to 4 are amended. New Example 5 is inserted. Previous Examples 5, 6 and 7 are updated and renumbered as Examples 6, 7 and 8. New sub paragraphs 6.3(b) and (c) are inserted.
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		Previous Example 8 is amended and renumbered as Example 9. New Example 10 is inserted.
	7	Previous Example 9 is updated and renumbered as Example 11.
	8	Previous Example 10 is amended and renumbered as Example 12.
	9	Previous Example 11 is amended and renumbered as Example 13.
	10	Paragraph 10 is amended. Previous Example 12 is amended and renumbered as Example 14.

15. **Disclaimer**

The examples in this PR are for illustration purposes only and are not exhaustive.

**Director General of Inland Revenue,
Inland Revenue Board of Malaysia.**