

TECHNICAL

Direct Taxation

PUBLIC RULING NO. 10/2018 – TAX INCENTIVE FOR INVESTMENT IN BIONEXUS STATUS COMPANY

The Inland Revenue Board of Malaysia (LHDNM) issued [Public Ruling \(PR\) No.10/2018 \(First Edition\) on 4/12/2018](#) (reported in our [e-CTIM TECH-DT 91-2018](#) dated 10 December 2018).

A summary of its Contents is given below.

Para. #	Summary
1	Objective The objective is to explain the tax incentives available to an investor who has invested in a BioNexus Status company (BSC) in Malaysia.
2	Relevant Provisions of the Law This PR refers to the following legislations: <ol style="list-style-type: none"> <i>Income Tax (Deduction for Investment in a BSC) Rules 2016 [P.U.(A) 306/2016]</i> (referred to below as the “2016 Rules”) <i>Income Tax (Deduction for Investment in a BSC) Rules 2007 [P.U.(A) 373/2007]</i> (referred to below as the “2007 Rules”) (revoked and replaced by the 2016 Rules from year of assessment (YA) 2016.)
3	Interpretation Provides definitions of terms used in this PR. The meanings of words underlined below are found under this paragraph.
4	Introduction This incentive is for an investor who has made an <u>investment</u> in an approved <u>BSC</u> at the <u>initiation of commercialization stage</u> . Prospective investors are required to submit an application to the Malaysian Bioeconomy Development Corporation (Bioeconomy Corporation) (“BCorp”) to ensure that the eligibility criteria are met and to accredit them as approved investors. (Visit www.bioeconomycorporation.my for more information.)
5	Criteria for Investor An investor may be a company or an individual. The following are the eligibility criteria for – <ol style="list-style-type: none"> a company – <ol style="list-style-type: none"> Must be incorporated under the Companies Act 2016 including those incorporated under the Companies Act 1965; Its <u>related company</u> has not been allowed the deduction under the 2016 Rules or the 2007 Rules. an individual – <ol style="list-style-type: none"> Must be a Malaysian citizen, <u>resident</u> and has a business source of income; Only 3 applications are allowed for the purpose of approval of deductions

	<p>under the 2016 Rules.</p> <p>iii. Each approval would be granted in respect of an investment made in 3 different activities of a <u>new business</u> which are agriculture, healthcare and industrial; and</p> <p>iv. The investments are to be made in a BSC, the paid-up capital of which (or any of it) is not owned by any relation which is specified in items (A) to (G) of paragraph 5(b)(iv). (See Example 1)</p> <p>v. An individual who has obtained approval under the 2007 Rules may apply for the incentive under the 2016 Rules, provided that an investment to be made must be in a different activity (refer item iii. above) from the previous approval.</p> <p>The application to invest in a BSC must be submitted to the Minister of Finance (the Minister) through BCorp for approval on or after 1.1.2016.</p>
6	<p>Tax incentive</p> <p>- A deduction is allowed in the basis period for a (YA) in determining <u>adjusted income</u> from a business source in an amount equal to the actual investment made by the investor in the basis period, in a BSC approved by the Minister.</p> <p>The investment by the investor–</p> <ul style="list-style-type: none"> • must be made not earlier than 1.1.2016 and not later than 31.12.20120, for the value approved by the Minister and for the sole purpose of financing activities at the initiation of commercialization stage of a new business approved by the Minister. • if made prior to the commencement of a new business, is deemed to be made on the date the new business commences as determined by BCorp. (See Example 3.) <p>- <u>Investments in the form of holding of paid-up capital</u> should not be disposed of within 5 years from the date of the last investment. If a disposal takes place within that 5 year period, the consideration for the disposal will be added on in ascertaining adjusted income of the investor for the YA in the basis period in which the consideration is received. The amount added back shall not exceed the deduction allowed in respect of the investment. (See Example 4.)</p>
7	<p>Cessation of tax incentive</p> <p>The incentive allowed under the 2016 Rules ceases in the basis period for a YA when the –</p> <p>(a) amount of approved investment has been fully claimed, or</p> <p>(b) BSC commences the commercialization of the activities in respect of which the investment was made (based on the date of the first invoice);</p> <p>whichever is earlier.</p>
8	<p>Non-application</p> <p>The 2016 Rules do not apply to an investor in the basis period for a YA if the investor has been granted an incentive/ exemption or claimed a deduction under the provisions of any of the legislations specified under paragraph 8 (items (a) to (e)) of this PR.</p>
9	<p>Any deduction for an investment which has been approved under the revoked 2007 Rules shall continue to apply as if the Rules have not been revoked.</p>
10	<p>Disclaimer</p> <p>The examples in this PR are illustrative and not exhaustive.</p>
11	<p>This PR has to be read together with PR No. 8/2018 on Tax Incentives for BSC.</p>

Please read the PR in full at the websites of the [Institute](#) and the [LHDNM](#).

You may write to the Institute at technical@ctim.org.my or secretariat@ctim.org.my in respect of any suggestions, concern or comments you may have on the [PR No. 10/2018](#).

Disclaimer

This document is meant for the members of the Chartered Tax Institute of Malaysia (CTIM) only. CTIM has taken all reasonable care in the preparation and compilation of the information contained in this e-CTIM. CTIM herein expressly disclaims all and any liability or responsibility to any person(s) for any errors or omissions in reliance whether wholly or partially, upon the whole or any part of this e-CTIM.