

## IP and Non-IP Regimes

IP Incentives	Non IP Incentives
<b>Nexus Approach</b>	<b>Substantial Activities</b>
<p>The IP income of a taxpayer can be exempted only to the extent that the taxpayer itself incurred qualifying R&amp;D expenditure (money) that gave rise to such IP (to be filed in Malaysia) income.</p> <p>i) Segregate embedded technology IP income from manufacturing/trading income.</p> <p>ii) Segregate embedded marketing IP income from manufacturing/trading income (marketing IP income cannot be incentivised).</p>	<p>I. Adequate investment amount or annual business operating expenses incurred in Malaysia; and</p> <p>II. Adequate number of fulltime job employment in Malaysia.</p> <p><b>Ring Fencing</b> No distinction on tax treatment including transaction and currency restrictions between residents and non-residents, i.e., the tax result for a wholly domestic transaction should not be different from that arising for a cross border transaction.</p>
Legislation to amend existing IP incentives has already being done since 1 <sup>st</sup> July 2019.	Legislation to amend existing IP incentives has already being done since 1 <sup>st</sup> July 2019.
Effective 1 <sup>st</sup> January 2019, IP incentives are subject to Nexus Approach criteria. No new approval will be granted for existing IP incentives that do not comply with Nexus Approach criteria.	
Existing IP incentives approved on or before 30 June 2018 that do not comply with FHTP criteria – grandfathering will be allowed until 30 June 2021. Need to comply with Nexus Approach criteria beyond 30 June 2021, to continue enjoying tax incentive.	<p>I. Incentive approved on or before 16 October 2017 - grandfathering period is up to 30 June 2021; or</p> <p>II. Incentive approved after 16 October 2017 - grandfathering period is up to the date of gazette or 31 December 2018, whichever earlier.</p>