

BIOTECH / By Ron Leuty

Biotechs say tax break means more money for R&D

Past the accountant speak and legislative language, Exelixis Inc. CFO Frank Karbe quickly summed up the impact of a not-so-simple piece of state legislation: More money for biotechs to invest.

The legislation, signed by Gov. Schwarzenegger as he approved the 2008-09 state budget, extends the net operating loss carryforward from 10 years to 20 years.

Think about it this way: If a company lost \$10 million in the first year of a product's 10-year development cycle, it can apply that in years 11 through 20 to decrease its tax burden, assuming the product starts generating revenue.

Under the old legislation, the company was out of luck after the initial 10 years — and it often takes more than 10 years to bring a drug to market.

But it's not so much about an 11th-year tax savings, Karbe said. The extension could help companies decide to move programs forward early in the drug development cycle.

"There are drugs with enormous promise but only a small patient population. If commercially it



Karbe

doesn't make sense (to move the drug forward) because the amount of money is never earned back, the projects won't go forward," Karbe said. "This (legislation) helps increase the profitability of the product."

In a perfect trickle-down world, that means biotechs — especially small ones bringing their first products to market — can plow revenue from those products back into things like research and development, equipment or hiring.

For Exelixis, the legislation means that parts of "several hundred million dollars" in NOL carryforwards — north of \$300 million, Karbe said — can be turned

back into R&D instead of tax payments.

"That's important for companies that are turning revenue-generating for the first time," Karbe said.

There is a caveat. The carryforward is suspended for two years and limits the state's R&D tax credit to 50 percent of tax liability for two years, according to industry trade group BayBio.

Unused losses or credits, however, still can be carried forward.

What's important, BayBio President Matt Gardner said, is the legislation's bottomline impact on the bottom line of the biotech industry.

"This is a miracle that this happened in a year with a deficit like this," Gardner said. "It's a signal to life sciences (companies) that the Legislature and governor want to support what the industry's doing — the growth and the investment."