



Technology Transfer Contract shall be registered, audited and complied with Vietnamese regulations on assigned price from 1st July, 2018 onwards

On 19th June 2017, the National Assembly has issued the Law No. 07/2017/QH14 on Technology Transfer taken into effect since 01st July 2018 and replaced Law on Technology Transfer No. 80/2006/QH11. Grant Thornton Vietnam would like to summarise some notable points for the Clients' reference and consideration of preparing proper supporting documents under the current regulations, as follows:

1. Transferred Technology

Transferred Technologies include among the following:

- a) Technical know-how, technological know-how;
- b) Technological plans, processes; technical solutions, parameters, drawings or diagrams; formulae, computer software and database;
- c) Solutions for production optimization and renovation of technology;
- d) Machinery/ equipment attached among the objects regulated at above Points a, b and c.

2. Technology Transfer Contract (“TTC”)

According to this Law, TTC shall be concluded in a written form or in other forms considered as a written transactions regulated by Civil Code. The contract must be: (i) signed and sealed (if any) by the relevant parties; (i) initialed and sealed across all pages of the contract and its appendixes (if any).

The TTC has to include the following contents:

- a) Name of transferred technology.
- b) Technology objects to be transferred, products created by the transferred technology, and their quality standards.
- c) Transfer of the ownership and/or the right to use technology.
- d) Method of technology transfer.
- e) Rights and obligations of the parties.
- f) Price and method of payment.

The price for transferred technology is agreed by the parties. The price of transferred technology shall be audited and complied with prevailing Laws on taxations and prices in the following cases:

- Technology is transferred between or among the parties in which at least a party has State Owned Capital;
- Technology is transferred between or among the parties having parent -subsidiary company relationship;
- Technology is transferred between or among the parties having affiliate relationship as prescribed by the laws on taxations.

Based on this provision, **Grant Thornton Vietnam** recognises that the concern of the Vietnamese Government on technology transfer from a Parent Company to its Subsidiary Company and among their affiliate companies to tighten the transfer pricing issues can be conducted under method of technology transfer activities which might cause losses to the state budget. Grant Thornton Vietnam recommends Companies to prepare and review the Transfer Pricing Documentation demonstrating the arm’s length price of the transferred technology carefully before entering into a TTC among the parties.

The payment shall be made by adopting any of the following modes:

- One-off payment or payments in instalments in money or by goods;
- Transfer of the technology value as capital contribution to the investment project or enterprise under prevailing regulations;
- Payment by the percentage (%) of the net selling price;
- Payment by the percentage (%) of the net revenue;
- Payment by the percentage (%) of the earnings before income taxes of the transferee;

Other payment methods as agreed upon by the parties.

g) Duration and effective date of the TTC.

Effective date of a TTC is agreed by the parties; In case the parties do not deal the effective date, the TTC shall become effective as from the TTC signing date.

For the TTC subject to compulsory registration under current regulations, it shall become effective from the date issuing the Registration Certificate of technology transfer. If a TTC is extended, supplemented or amended, it is the issuance date of adjusted Registration Certificate.

h) Definitions and terms used in the TTC (if any).

i) Plan and schedule for Technology transfer, and location for implementing technology transfer.

j) Warranty responsibility on transferred technology.

k) Penalty for breach of contract.

l) Liability for breach of contract.

m) Dispute resolution authority.

n) Other contents agreed by the parties.

3. Registration of technology transfer

A TTC is mandatorily required to register with the science and technology authorities in the following cases, excluding the transfer of restricted technologies which have been granted technology transfer permit:

- **Transfer of technology from a foreign country to Vietnam;**

- Transfer of technology from Vietnam to a foreign country;
- Domestic technology transfer with use of state fund/ budget, excluding cases where Registration Certificate of Outcomes Implementing Tasks on Science and Technology Tasks has been already granted.

Within 90 days from the signing date of the TTC, the party obliged to technology transfer registration shall submit an application for a Technology Transfer Registration Certificate to the science and technology authority.

4. TTC entered into and effected prior to 1st July 2018

For TTC concluded prior to the effective date of this Law, if it requires an extension after this Law's effective date, it is compulsorily complied with procedure of registration and extension stipulated at this Law.

Any applications for registration of TTC submitted before the effective date of this Law but not settled yet shall be treated in accordance with regulations of the Law on Technology Transfer No. 80/2006/QH11.

Should the Companies need any assistance/ support in: preparation of the TTC, determination of the arm's length price of the transferred technology in compliance with the current transfer pricing laws in Vietnam; registration of TTC with Science and Technology Authority, please feel more than welcome to contact [Grant Thornton Vietnam](#).



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