

Ghana Tax News Flash

Ghana enacts new Investment Law substantially affecting technology transfer arrangements

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Ghana enacts new Investment Law substantially affecting technology transfer arrangements

1.0 Executive summary

The Ghana Investment Promotion Authority Act, 2026 (Act 1173) (GIPA Act or the Act) is now in force, effective 15 July 2026. The Act positions the Ghana Investment Promotion Authority (GIPA) as Ghana's one-stop shop for investment facilitation and, among other functions, makes the GIPA responsible for promoting and regulating technology transfer agreements in a manner that ensures fair value, strengthens local capacity, enhances innovation and contributes to sustainable development of the Ghanaian economy. In carrying out this mandate, the GIPA is required to coordinate its activities with other relevant entities and government agencies to achieve its objects.

The GIPA Act introduces new requirements and reinforces existing regulatory obligations for multinational enterprises (MNEs) operating (incorporated or registered) in Ghana. The conditions precedent that trigger registration of a technology transfer agreement have been heightened to require entities in Ghana that engage foreign entities or enterprises for technology transfer to register the related agreement. This Tax Alert highlights the principles and requirements underpinning the trigger for registration of qualifying agreements and outlines the consequences for failure to register as provided for by law.



2.0

Heightened requirements for registering technology transfer agreements



Broadened scope of what constitutes a technology transfer agreement (TTA)

Qualifying transactions fall within four categories:

Category 1 – Industrial property rights

Under the previous regime, trademarks, service marks and trade names were generally excluded from the definition of industrial property rights for technology transfer purposes. The GIPA Act expands the scope by expressly bringing all industrial property rights within its ambit. As a result, the assignment, sale or licensing of foreign patents, trademarks, service marks, trade names and other industrial property rights to persons in Ghana may qualify as technology transfer and trigger the TTA registration requirement. These rights must be registered or otherwise recognized and enforceable under the laws of the foreign country from which they originate.

01

EY Point of View

Businesses should review the scope of their industrial property rights arrangements to assess whether the expanded coverage creates additional obligations under the GIPA.

Category 2 – Foreign technology knowledge

This category is distinct from industrial property rights. While Category 1 relates to the transfer or licensing of legally protected intellectual property rights, Category 2 concerns the transfer of technological knowledge, expertise and know-how. Under the GIPA Act, the definition has been broadened from the more prescriptive approach under the previous regime to an inclusive one.

02

EY Point of View

Arrangements involving software, instructions, guides, models, formulae, feasibility studies and similar forms of technological knowledge may constitute technology transfer, even if no intellectual property right is assigned, sold or licensed.

Category 3 – Technical services

The GIPA Act expands the scope of this category beyond the previous references to foreign technical advisory services and technical assistance to include “any other technical service” provided by a foreign enterprise. The form in which the services are provided does not determine whether they fall within the scope of technical services.

03

EY Point of View

The GIPA Act broadens the range of services that may qualify as technology transfer and reduces the uncertainty that existed under the previous regime as to the types of services captured. Accordingly, where a foreign enterprise provides specialized technical services, expertise, or support to a Ghanaian enterprise, the arrangement may constitute a TTA and require registration with the GIPA, subject to the facts and circumstances of the particular arrangement.

Continued

Heightened requirements for registering technology transfer agreements

Category 4 – Management services:

The GIPA Act limits "management services" to providing managerial personnel in Ghana for day-to-day management or administration of the entity in Ghana. There is a new exclusive clause that permits such provision of managerial personnel to be excluded from the "management services" category if the foreign enterprise owns 60% of the equity capital in the Ghana entity.

04

EY Point of View

Transactions which will ordinarily fall under management services may now be categorized as technical services under the GIPA Act. This is in consideration of the broader definition given to technical services

Duration

Under the GIPA Act, an agreement must have a duration of at least 12 months, rather than 18 months as currently required. Therefore, investors with agreements lasting 12 months or more may now be subject to TTA registration requirements, increasing their compliance obligations.



Validity period

Initial: The initial registration period for a TTA has been reduced from up to 10 years under the previous regime to five years under the GIPA Act, necessitating more frequent renewals and increasing compliance requirements for investors.

Renewal: Under both old and new regimes, renewal is required every five years.

EY Point of View

Because enforceability remains prospective, businesses should timely register the agreement to help prevent cashflow and tax leakages.

Monitoring compliance with technology transfer agreement

The Act has now introduced the establishment of national reporting system to undertake activities that, in part, assesses compliance of foreign entities in Ghana with regard to technology transfer.

EY Point of View

The expectation is that the GIPA will conduct regular audits on entities to ensure full compliance with the law. Thus, entities that procure technology transfer support from nonresident persons for their operations in Ghana must review their transaction-flow framework to address any noncompliance risk.

3.0 Exposure for noncompliance

Administrative sanctions

01

A new administrative penalty allows the GIPA to sanction enterprises for specific noncompliance matters. Under technology transfer, sanctions exposure crystallizes under two scenarios – specifically, if a person or enterprise either: (1) transfers fees and charges for technology transfers that are unregistered or ultra vires with the terms under technology transfers; or (2) facilitates such transfers. Thus, aiding and abetting transfer of funds out of Ghana to make payment of unapproved technology transfer is administratively sanctionable.

The administrative penalties are as follows:

- Administrative penalty ranging from 10,000 to 20,000 penalty units (i.e., 120,000 Ghana cedi (GHS 120,000) to GHS 240,000).
- Additional penalty of 1,000 to 2,000 penalty units (i.e., GHS 12,000 to GHS 24,000) for each month the non-compliance continues.

EY Point of View

The risks are especially significant for entities in Ghana that engage foreign entities for any ongoing professional advisory services, management advisory services, technical services, technology knowledge support and use of intangible assets as monthly exposure for non-compliance can be significant should it crystallize.

Criminal offenses

02

Relevant penalties in the context of TTAs include:

- General breach: Contravening a provision of the Act, including by failing to register a TTA, constitutes an offense and attracts a fine of 2,000 to 4,000 penalty units (GHS 24,000 to GHS 48,000) upon summary conviction.
- Breach for failure to provide information: Failure to provide information requested during GIPA's monitoring activities attracts a fine of 3,000 to 5,000 penalty units (GHS 36,000 to GHS 60,000) upon summary conviction.
- Breach for false or misleading information: Submitting false or misleading information, whether knowingly or negligently, attracts a fine of 5,000 to 10,000 penalty units (GHS 60,000 to GHS 120,000) upon summary conviction.

For continued offenses relating to any of the criminal breaches outlined above, an additional fine of 100 to 200 penalty units (GHS 1,200 to GHS 2,400) may be imposed upon summary conviction for each month that the contravention continues.

EY Point of View

Unlike the previous Act which largely provided general penalties for offenses, the GIPA Act prescribes specific penalties for certain contraventions. Further, the fines are more punitive under the GIPA Act relative to the previous Act.

Exposure for noncompliance (Cont'd)

Denial of tax benefit

03

The GIPA Act provides that fees paid under a TTA are not deductible for corporate income tax purposes unless the TTA is registered.

EY Point of View

Payment made under an unregistered TTA may be disallowed as an income tax deduction, potentially increasing the taxpayer's taxable profits and corporate tax liability.

Cash repatriation risk

04

The GIPA Act specifically requires licensed banks to verify that a TTA is duly registered before processing any payments relating to fees under the agreement.

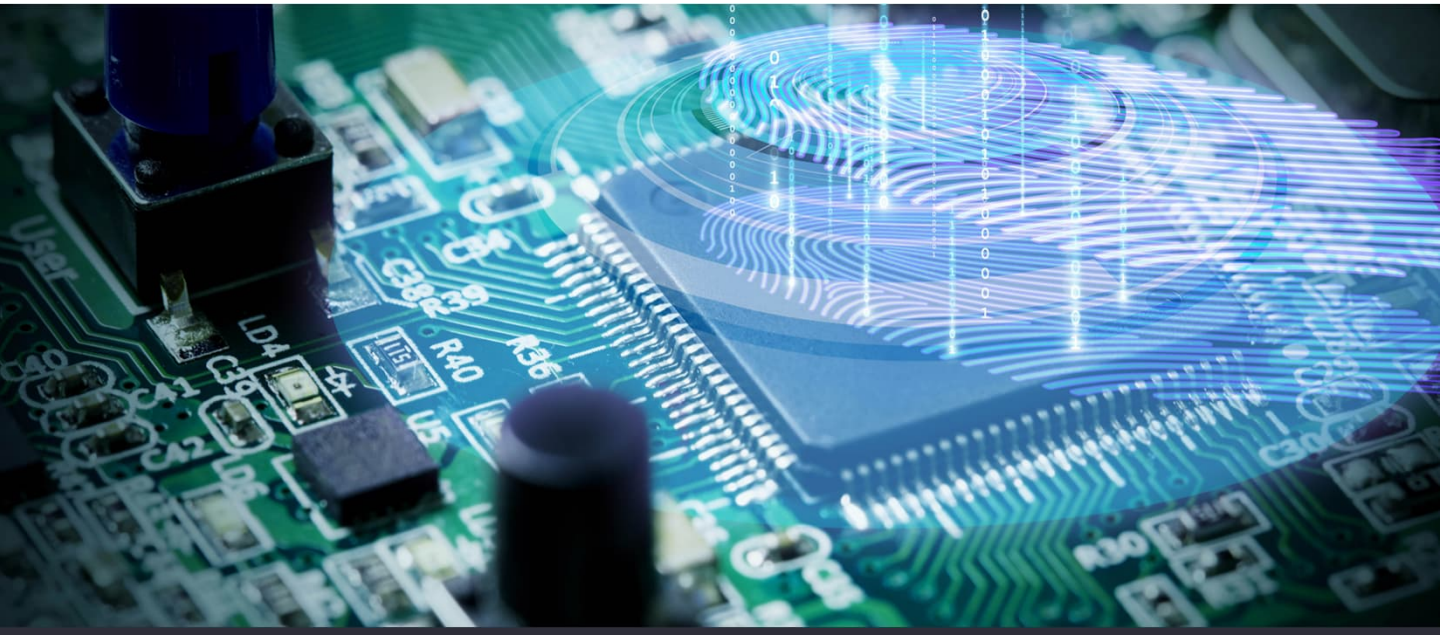
EY Point of View

Foreign investors, licensors and other service providers risk being unable to receive payments for services rendered, royalties, management fees and other TTA-related charges if the TTA has not been registered. Licensed banks in Ghana may now face GIPA administrative sanctions if they allow funds to be repatriated in breach of the TTA requirements.

Additional sanctions

In addition to the above penalties, the GIPA may, in consultation with the relevant government institution:

- **Require payment of any tax arising from fees deducted under an unregistered TTA**
- **Direct the Bank of Ghana to suspend remittances, including transfers of capital, profits, and dividends by the enterprise**
- **Take any other action the Board of GIPA considers appropriate**



4.0 Next steps for businesses

Given the scope and impact of the GIPA Act, businesses with presence in Ghana should proactively consider the following actions.

Identify affected arrangements

Affected businesses should consider reviewing all existing and proposed cross-border agreements involving technology transfers procured from foreign entities. These may include advisory services, management services, technical services, industrial property rights, technology knowledge support and any other technical services.

Assess whether agreements qualify as TTAs

When an entity in Ghana procures services from a nonresident person in any form, it is important to assess TTA compliance by looking at the contract's duration, the nature of services provided and the substance of the transaction – not just at contract labels. The requirement to comply applies regardless of whether payment is made from Ghana.

Evaluate financial and tax exposure

Entities must assess whether their circumstances require compliance with rules governing tax deductibility, withholding tax, cash repatriation and other related issues.

Regularize and register where required

Early registration can help address penalty issues and preserve enforceability.

The Technology Transfer Regulations, 1992 (LI 1547), which set fee thresholds for technology transfer transactions, remain enforceable.





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