

3. Export proceeds

A simple form (KPW X) must be completed for all exports, the value of which exceeds M\$20,000 f.o.b per shipment. This form does not require any authorisation and is given to the customs authorities at the time of shipment.

Export proceeds which may be in any foreign currency (other than the currencies of South Africa and Israel) or in ringgit from an external account must be repatriated to Malaysia within the period of payment specified in the export contract. The period should not exceed a maximum period of six months from the date of export.

4. Inter-company accounts

No permission is required from the Controller for a company in Malaysia to maintain inter-company accounts with associated companies, branches or other companies outside Malaysia, provided monthly returns as specified by the Controller are submitted to the Controller and the following are excluded from the inter-company accounts:-

- (a) proceeds from the export of Malaysian goods; and
- (b) proceeds from loans extended to the Malaysian companies.

With the prior written permission of the Controller, companies located in a free trade zone or licensed manufacturing warehouses are allowed to offset the export proceeds through inter-company accounts against payables to their affiliated or parent companies overseas for the supply of raw materials, parts, components, and other items. This would enable the companies concerned to repatriate to Malaysia only the value added in the form of services performed by the Malaysian companies.

Where the companies have been given permission for the above off-setting arrangements, they are required to observe certain procedures in reporting and lodging monthly returns to enable the Controller to monitor their inter-company accounts and to ensure that the value added in their exports are repatriated to Malaysia in the prescribed manner.

5. Domestic borrowing by Non-resident Controlled Companies (NRCC) operating in Malaysia

A Non-resident Controlled Company (NRCC) in Malaysia may borrow up to a total of M\$10 million from all sources in Malaysia without the permission of the Controller provided it obtains at least 60% of its credit facilities from financial institutions which are incorporated in Malaysia. The limit for exchange control approval applies to all forms of credit, including trade financing facilities.

For borrowing in Malaysia in excess of M\$10 million, the permission of the Controller is required and such approval will be given based on the genuine needs of these NRCCs, the credit situation in the country and the amount of net shareholders' funds and long-term loans from abroad with an original maturity of at least five years, obtained by the NRCCs.

NRCCs are encouraged not to resort to the maximum use of borrowed funds in Malaysia, while bringing in only a nominal amount of capital of their own for their projects in Malaysia. This is to ensure that a NRCC brings in a relatively significant amount of funds of its own to finance its project in Malaysia as a long-term proposition and not merely as a venture for quick profits without any semblance of permanence.

6. Borrowing in foreign currency from banks in Malaysia

Residents may borrow in foreign currency from banks in Malaysia to supplement their financial requirements for business and productive purposes in Malaysia. The foreign currency borrowed may be used to finance payments for imports, or it may be sold for ringgit to a bank in Malaysia and the proceeds used for similar purposes. The foreign currency may not be retained for temporary investment abroad except with the permission of the Controller.

7. Borrowing from non-residents

The permission of the Controller is required for borrowing from abroad where the total foreign borrowing exceeds the equivalent of M\$1 million. Foreign borrowing in ringgit, regardless of the amount, requires the prior approval of the Controller and such approval is generally not granted.

Approval for remittances of loan repayments and interest on previously approved foreign borrowing may be given by authorised banks on behalf of the Controller, provided such repayments and interest payments are in accordance with the terms approved for the borrowing.

Transfer of Technology

1. Policy

All manufacturing projects licensed by the Ministry of Trade and Industry should obtain the prior written approval of the Ministry before entering into any agreement involving foreign partners.

This is done to ensure that:

- (i) the agreement will not impose unfair and unjustifiable restrictions or handicaps on the local party
- (ii) the agreement will not be prejudicial to national interest; and
- (iii) the payment of fees (if applicable) will commensurate with the level of technology to be transferred.

2. Type and nature of agreements

Technology transfer agreements cover licence rights over specific processes, formulae or manufacturing technology (may be patented or unpatented); other knowledge and expertise necessary for the setting up of a plant; and provision of various technical assistance and supporting services.

Under these arrangements, specific agreements entered could be in the form of:-

- (i) **Joint Venture Agreement -**
An agreement to set up a joint venture company between two or more parties involving local and foreigners.
- (ii) **Technical Assistance -**
An agreement between two or more parties where one party will provide the technical assistance and know-how for the manufacture of certain products for a certain amount of fee/royalty.
- (iii) **Know-how Agreement -**
Basically the same as in (iii) above.
- (iv) **Licence Agreement -**
An agreement between Licensee and Licensor where the latter grants licence/right to the Licensee to use its patents, trademarks and other industrial/intellectual properties for