

ROMANIAN TRANSFER PRICING LEGISLATION



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OVERVIEW OF ROMANIAN TRANSFER PRICING LEGISLATION

- Romania is not a member of the OECD, however the OECD Transfer Pricing Guidelines are applicable in the local legislation;
- Romania has been a member of the European Union (EU) since 2007, and the European Union is Romania's most important trading partner;
- Romania is an inbound investment country.

Applicable legislation

Romanian Fiscal Code (art. 11(4) of Law 227 / 2015)

Methodological Norms for the application of the Fiscal Code

Double Tax Treaties

OECD Transfer Pricing Guidelines

Order No. 222/2008 regarding the content of the Transfer Pricing documentation (for transactions up to January 1st, 2016)

Order 442/2016 regarding Transfer Pricing thresholds, deadline and content of the Transfer Pricing file and the adjustment procedure (for transactions after January 1st, 2016)

Order 3735/2015 regarding the issuance and amendment of advance pricing agreements

Fiscal Procedure Code – Law 207/2015

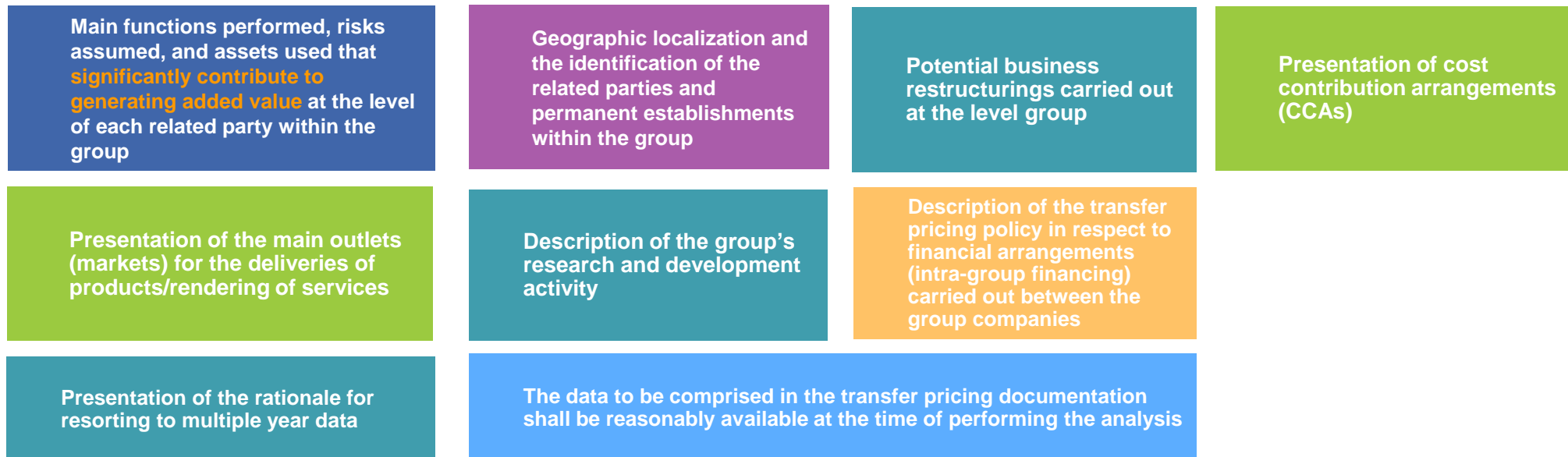
OVERVIEW OF ROMANIAN TRANSFER PRICING LEGISLATION - ORDER 442/2016

Type of taxpayer	Significance thresholds (annual total value, excluding VAT)	Minimum significance thresholds (annual total value, excluding VAT)	Submitting obligations	Deadline for preparing the transfer pricing file
Large taxpayers	<ul style="list-style-type: none"> • 200.000 EUR for interests received/paid; • 250.000 EUR for services received/rendered; • 350.000 EUR for acquisitions/sales of goods. 	<ul style="list-style-type: none"> • 50.000 EUR for interests received/paid • 50.000 EUR for services received/rendered; • 100.000 EUR for acquisitions/sales of goods. 	<p>If the annual value of the transactions exceeds the significance thresholds, the deadline for preparing the file is the legal term for submitting form 101 for annual corporate income tax;</p> <p>If the annual value of transactions does not exceed the significance thresholds, the transfer pricing file shall be presented only upon the request of the tax authorities.</p>	<p>Maximum 10 calendar days from the date of the request from the tax authorities but not less than 10 days from the submission deadline.</p> <p>Between 30 and 60 calendar days from the date of the request from the tax authorities, with the possibility of one deadline extension of maximum 30 calendar days.</p>
Other categories of taxpayers	No significance thresholds are provided	<ul style="list-style-type: none"> • 50.000 EUR for interests received/paid • 50.000 EUR for services received/rendered; • 100.000 EUR for acquisitions/sales of goods. 	Only upon the request of the tax authorities.	Between 30 and 60 calendar days from the date of the request from the tax authorities, with the possibility of one deadline extension of maximum 30 calendar days.

IMPLEMENTATION OF BEPS' MEASURES IN THE LOCAL LEGISLATION

NEW TRANSFER PRICING REQUIREMENTS APPLICABLE FROM 2016 (2/3)

- Mandatory transfer pricing file for all categories of taxpayers with transactions above the minimum significance thresholds. Large taxpayers have the obligation to prepare the transfer pricing file at the legal term for submitting form 101 for annual corporate income tax;
- Additional information to be included in the local file:

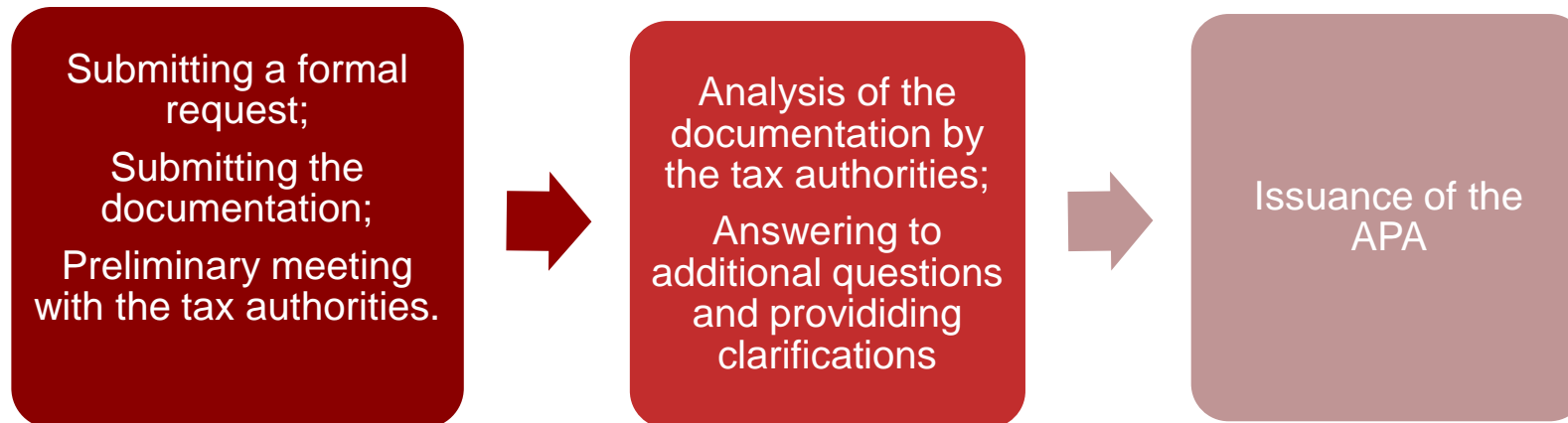


The preparation of Masterfiles and CbC reporting are not required under the local transfer pricing requirements at this time

OVERVIEW OF ROMANIAN TRANSFER PRICING LEGISLATION - ADVANCE PRICING AGREEMENTS (APAs)

Agreement concluded between tax authorities and taxpayers concerning the transfer pricing methodology for one or several intra-group transactions (GR no. 529/2007, Order no. 3736/2015 and Fiscal Procedure Code)

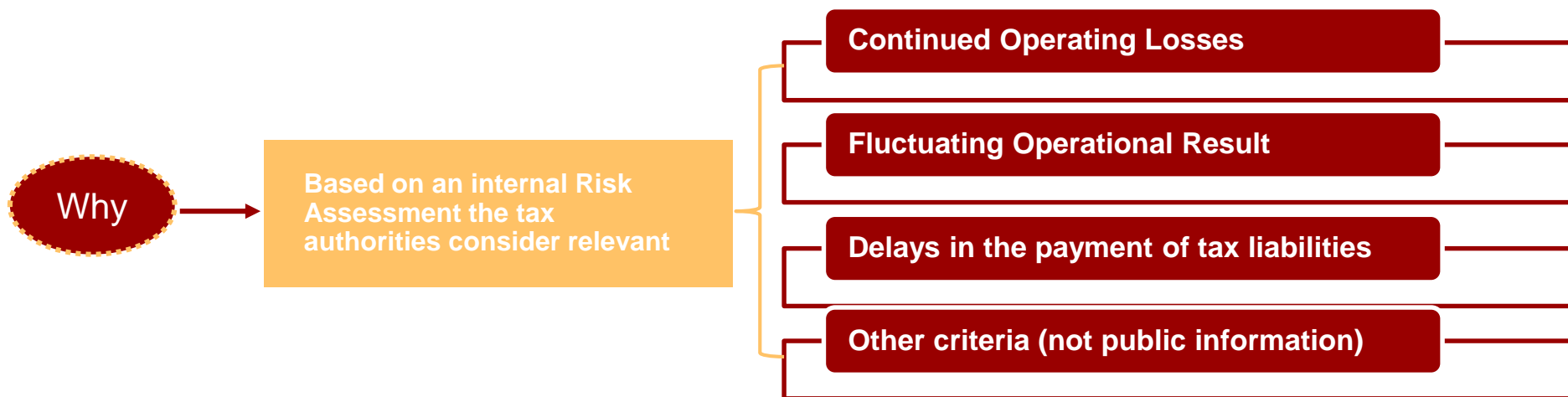
The taxpayer is no longer required to prepare the transfer pricing file for the transaction/(s) which is/are subject to the APA during the period in which the APA is applicable as the tax authorities have agreed upon the transfer price to be used in the envisaged transaction/(s).



- Issuance cost of an APA: 20.000 EUR for large taxpayers/ 10.000 EUR for other categories of taxpayers;
- APA unilateral / bilateral;
- Valid for: maximum 5 years with the possibility of extending the covered period up to 7 years.

TRANSFER PRICING AUDITS IN ROMANIA (1/4)

(a) Initiation of a transfer pricing audit on a standalone basis



(b) Sector wide thematic audits

(c) During a VAT refund inspection

(d) Following an unannounced tax audit

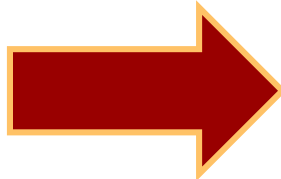
TRANSFER PRICING AUDITS IN ROMANIA (2/4)

Masterfile not accepted “per se” for local purposes

The documentation and all supporting information must be in Romanian language

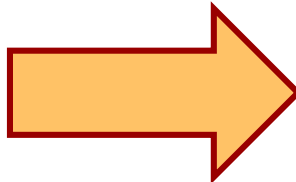
Local thresholds for related/non-related status (i.e. 25% in Romania)

Focus on intra-group services – intersection of transfer pricing with corporate tax issues



Extensive documentation required

Increased transparency and access to information by the tax authorities



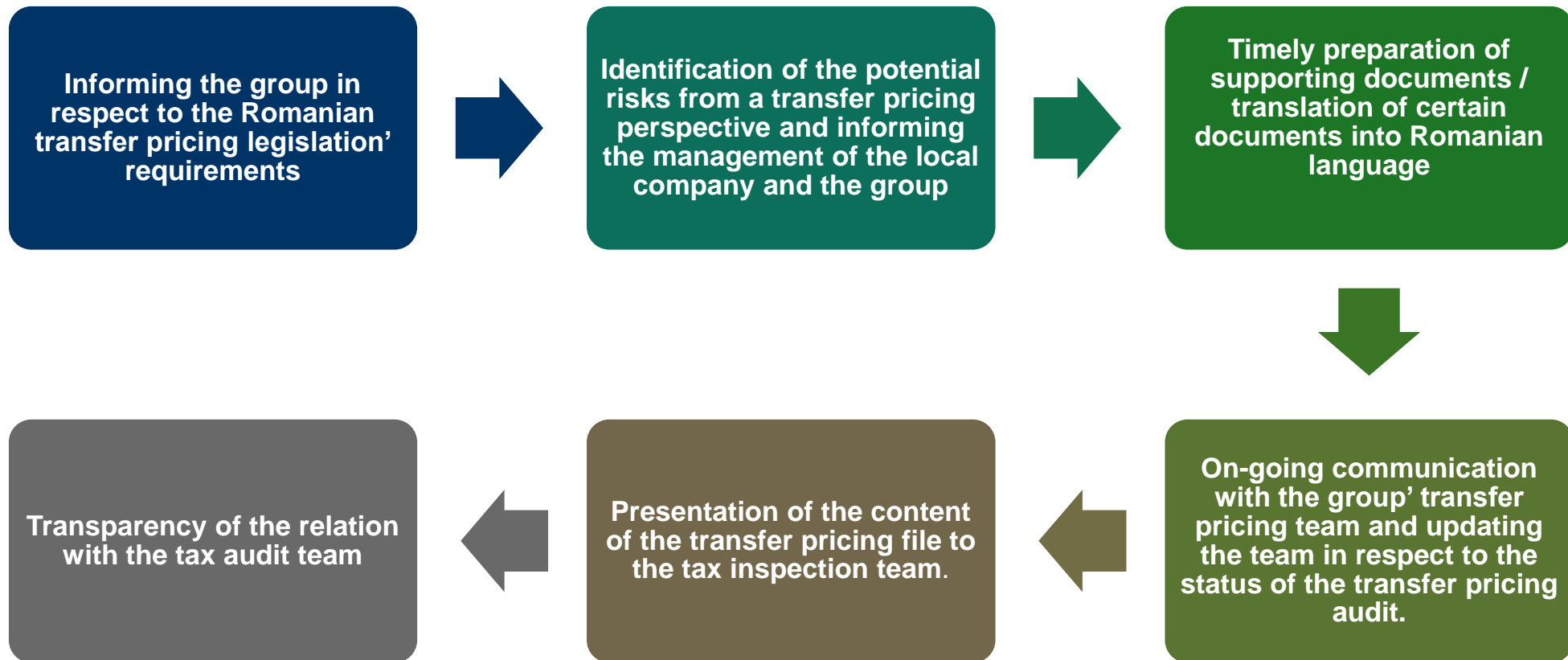
Analysis of related counterparties, especially with respect to profitability

Challenges with respect to the functional profile

Focus on restructuring and how they affect the local business and profitability

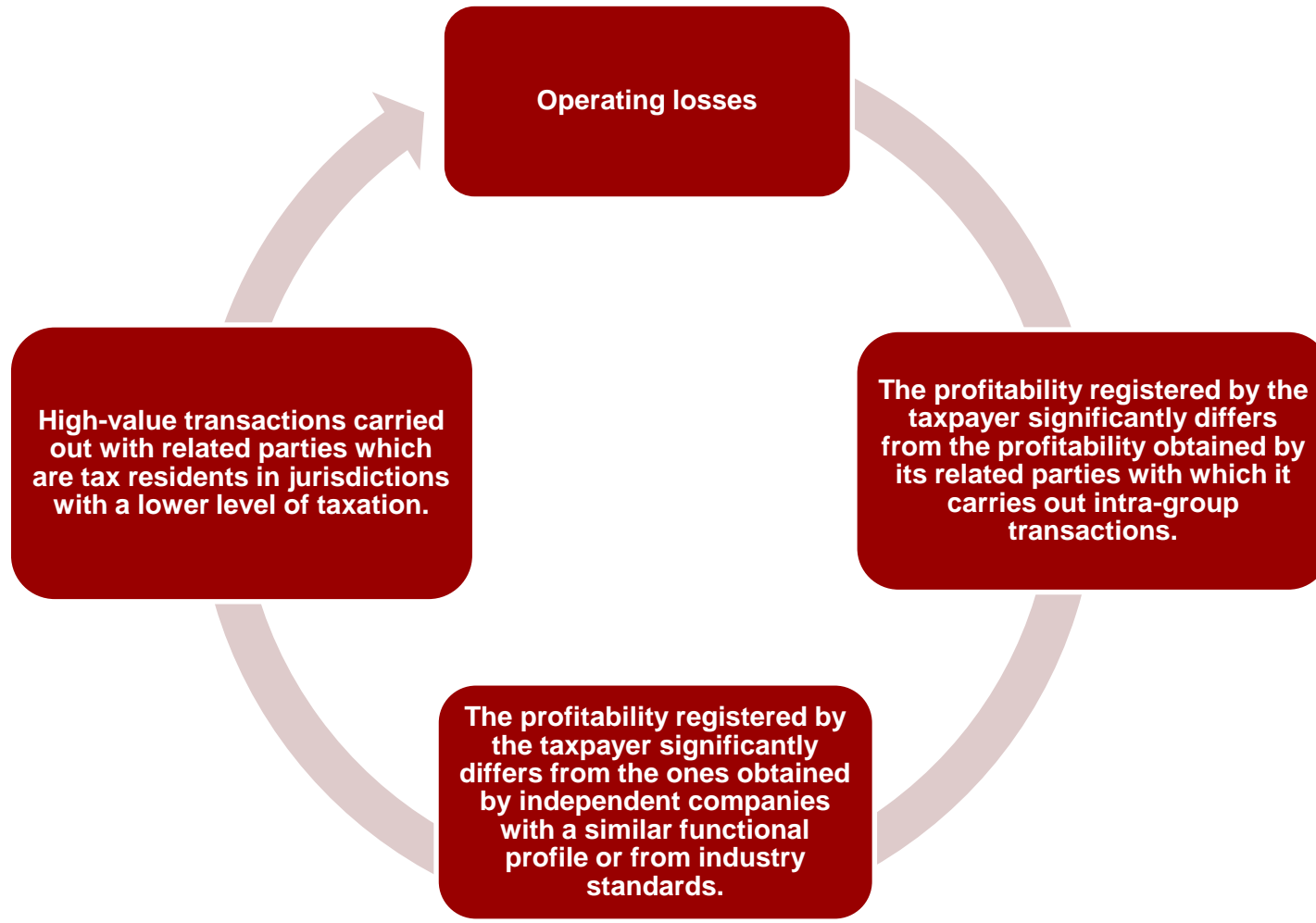
TRANSFER PRICING AUDITS IN ROMANIA (3/4)

Recommended process for relevant stakeholders/responsible of a company under a transfer pricing audit



TRANSFER PRICING AUDITS IN ROMANIA

- RISK AREAS (4/4)



Thank you for your attention !

CONTACT

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