

HUNGARIAN TRANSFER PRICING LEGISLATION

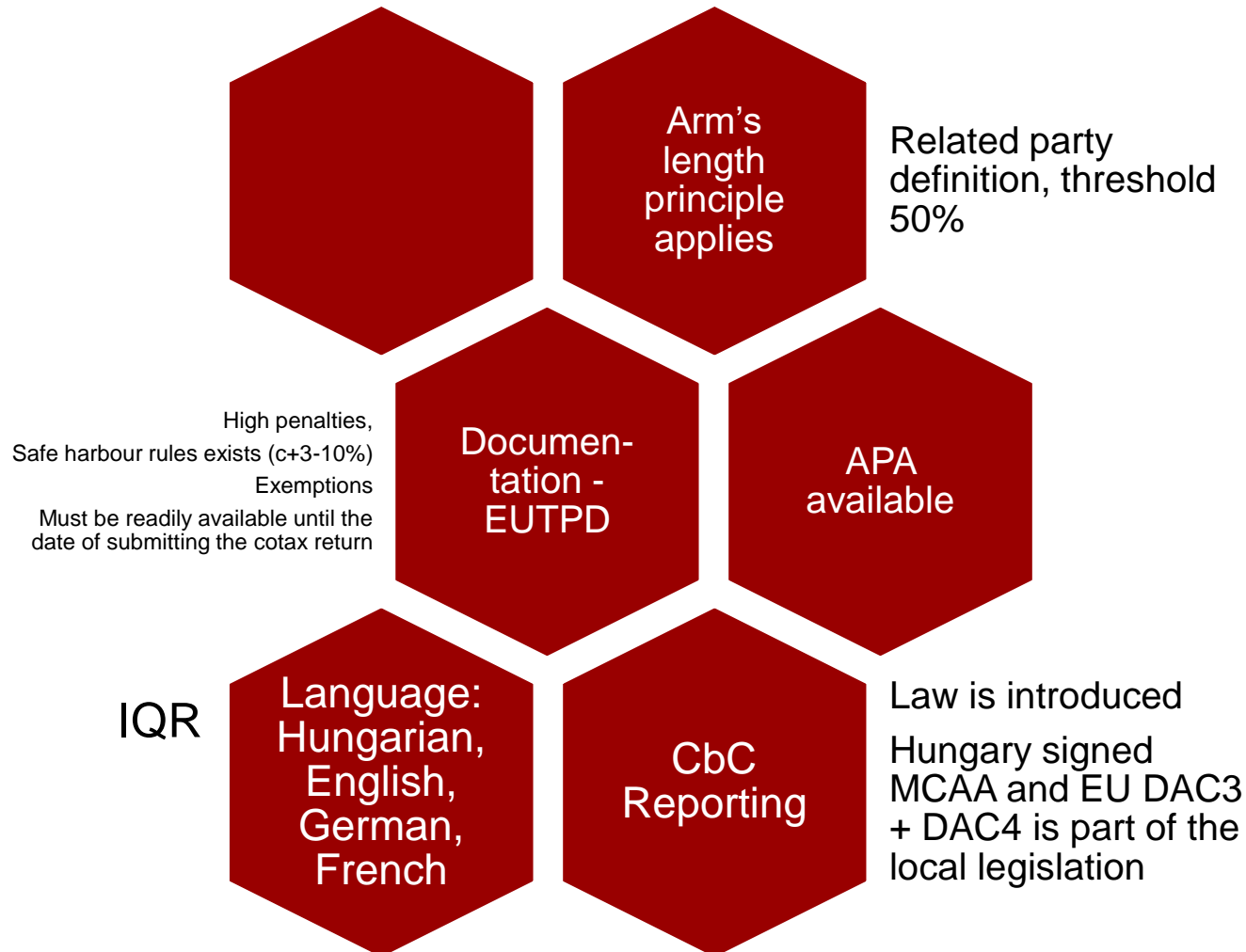


Sándor Szmicsek, Partner - Mazars, expert witness
Gabriella Nagy, Director, Transfer Pricing

11th May, 2017

OVERVIEW OF THE HUNGARIAN TRANSFER PRICING LEGISLATION

- Hungary is member of the OECD and the EU. We follow strictly the developments of the BEPS Actions





TRANSFER PRICING RELATED TAX RISKS

Lack of / Improper documentation

Default fine up to MHUF 2 (~ EUR 6500) per transaction or group of transactions

Transfer pricing adjustments

Non-deductibility of additional payment

50% penalties on taxable profit adjustment

Late payment interest twice National Bank of Hungary base rate (0.9% x 2 = 1.8%)

Risk of Double Taxation

Corresponding Adjustment

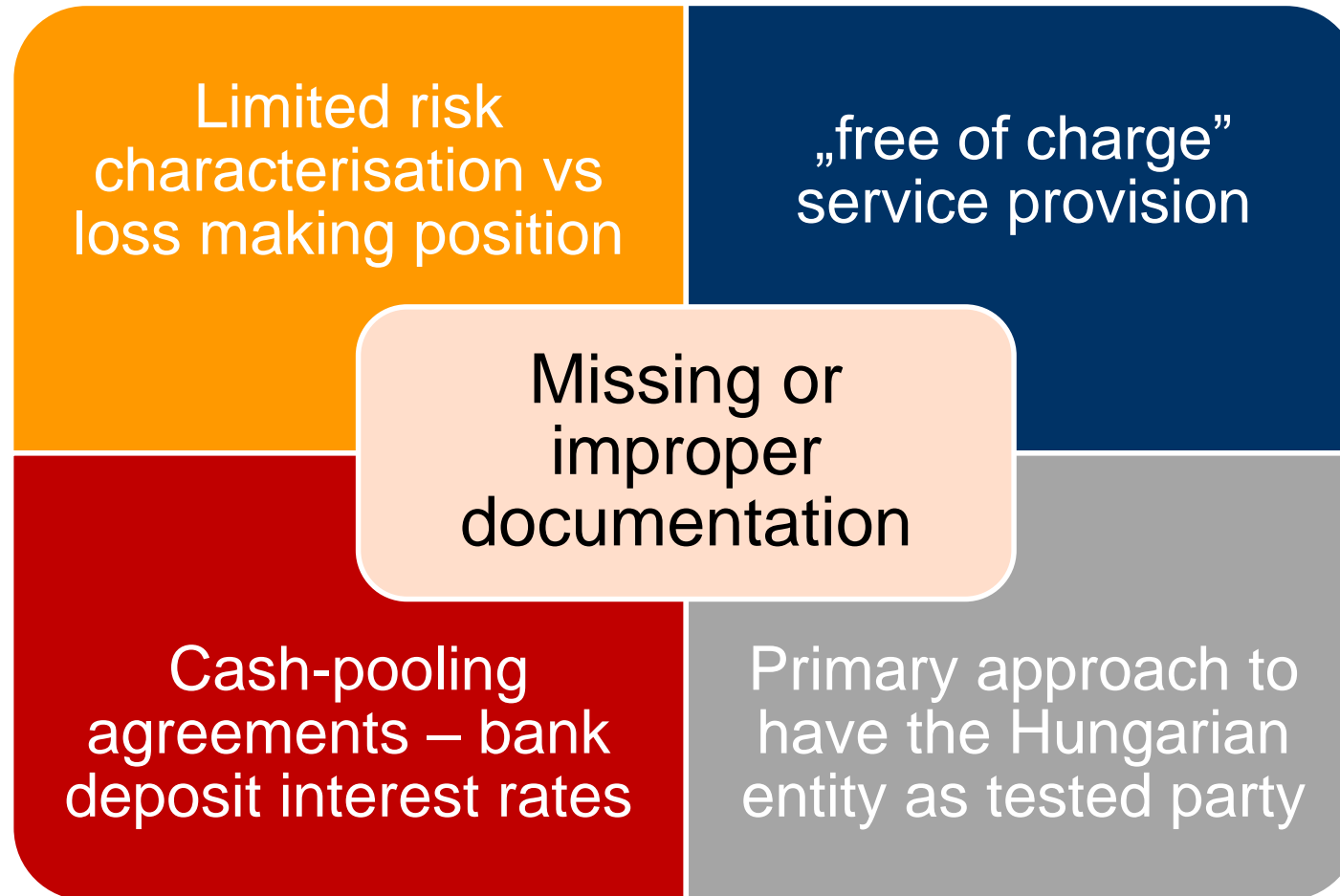
Mutual Agreement Procedures (MAPs)

Arbitration (Sándor Szmicsek is listed as EU TP independent expert)

NO MUTUAL AGREEMENT OR ARBITRATION YET IN HUNGARY

TRANSFER PRICING AUDITS

Mainly part of the overall audits, separate team arrives



TRANSFER PRICING COURT CASES

SÁNDOR SZMICSEK

- expert witness designated by the court in tp lawsuits
- eu tp expert designated by the eu commission

Using industry averages

Recharacterisation of the transaction

Low quality TP studies of the taxpayers

Judges – limited experience and knowledge

Tax Office: no manual screening, refusing the designation of the expert witness

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Thank you for your attention!

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ROMANIAN TRANSFER PRICING LEGISLATION



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11th May, 2017

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

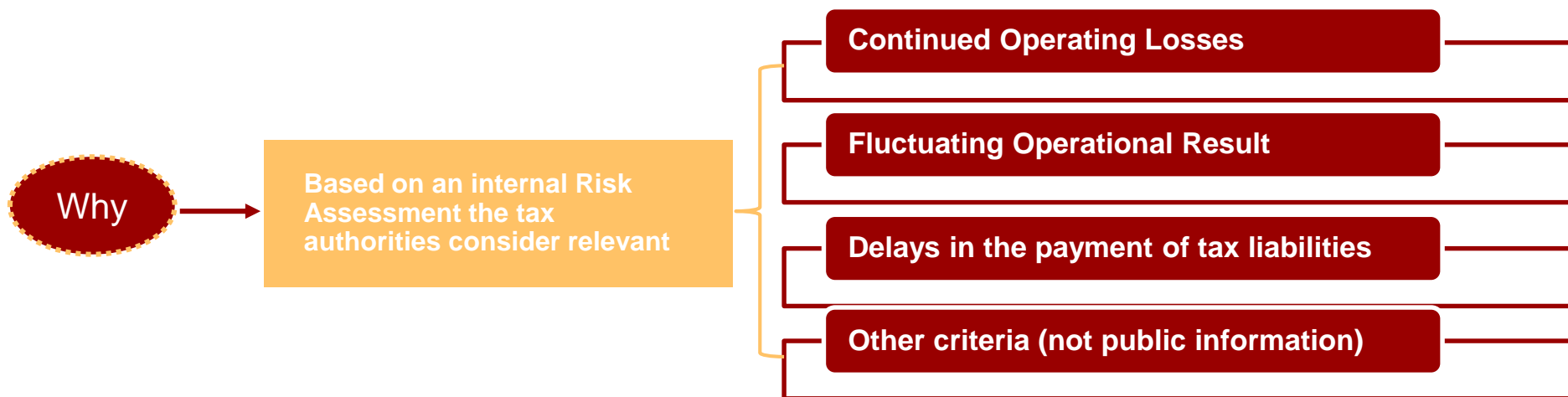
Fiscal Procedure Code – Law 207/2015

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.

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

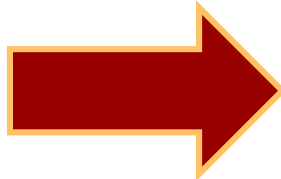
TRANSFER PRICING AUDITS IN ROMANIA (2/4)

Masterfile not accepted “per se” for local purposes

The documentation and all supporting information must be in Romanian language

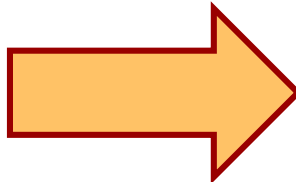
Local thresholds for related/non-related status (i.e. 25% in Romania)

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

Thank you for your attention !

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