

TP Audit support & Controversy

15 June 2016

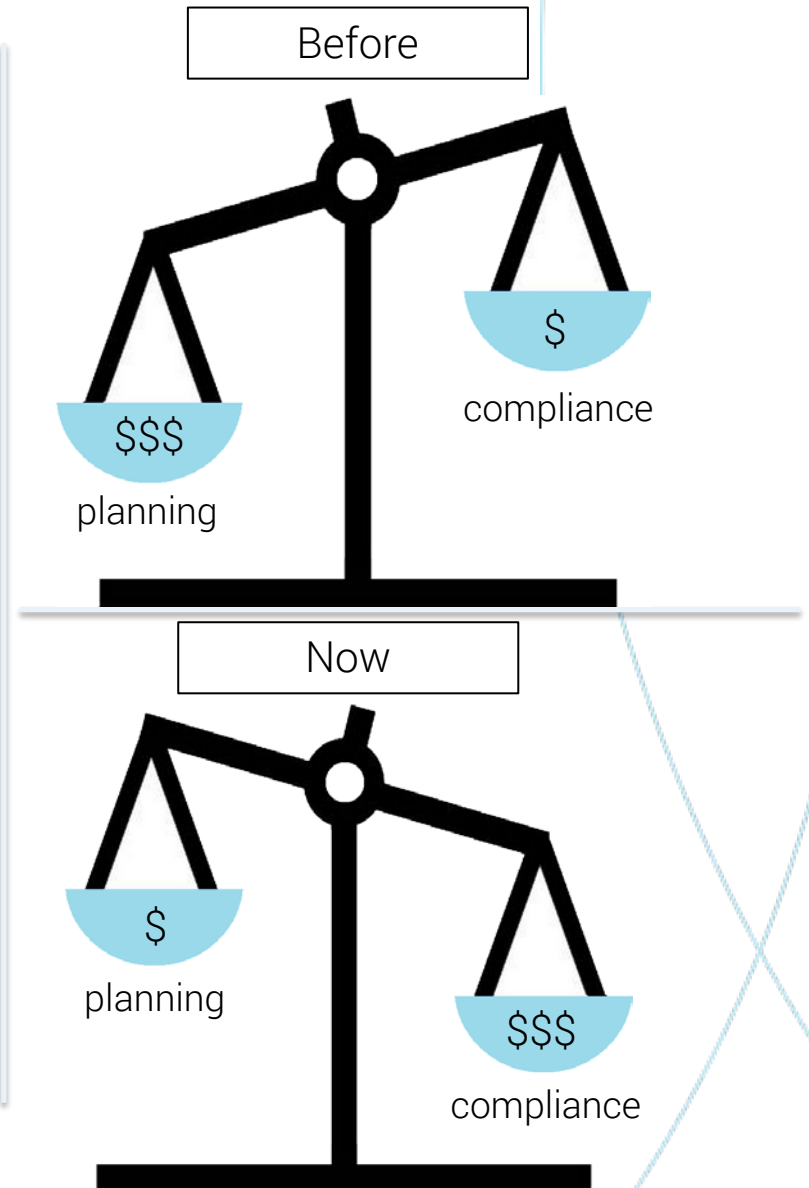
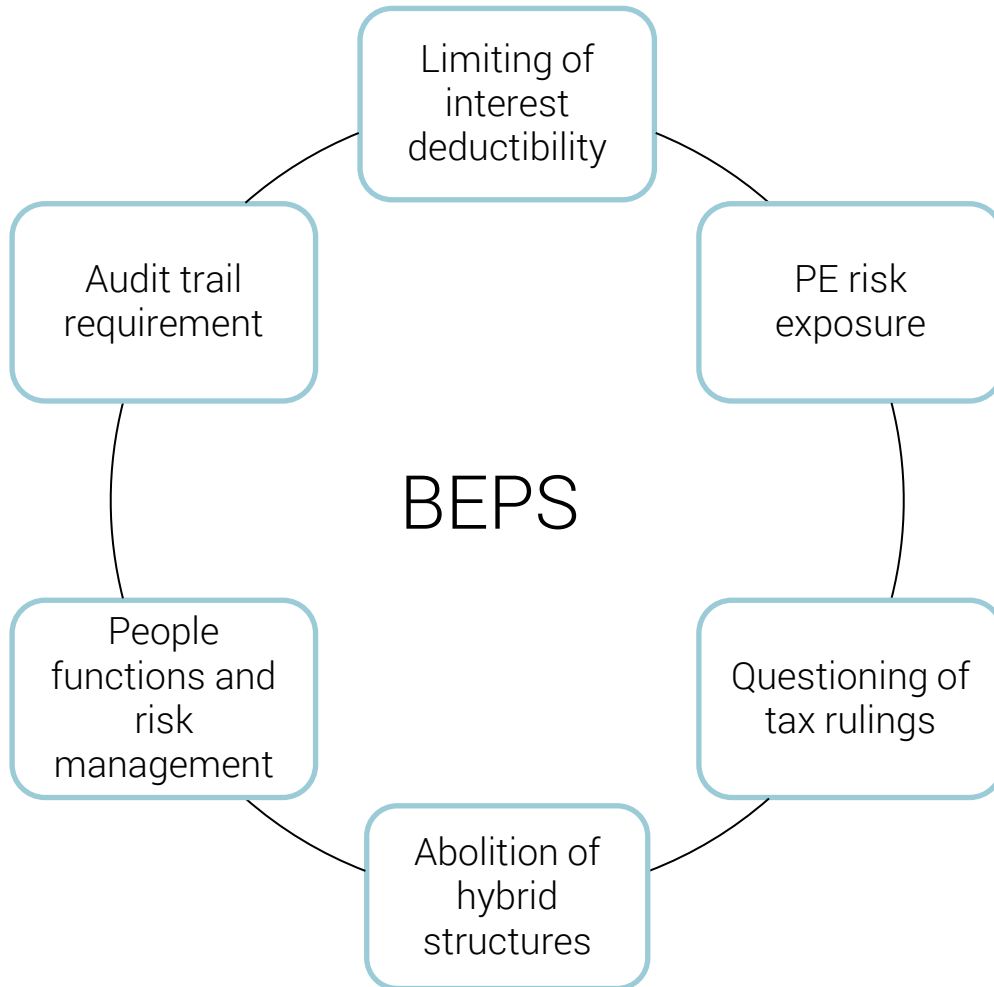
A presentation by

- Margie van der Valk, Partner, TPA Global
- Igor Peters Partner, TPA Global

Contents

1. Public scrutiny and transparency
2. Timeline of disputes
3. Are you in control?
4. Dispute avoidance and dispute resolution tools
5. Case selection and audit: example
6. Preparation for a transfer pricing audit
7. Regional specifics – Americas
8. Regional specifics – Asia-Pacific
9. Regional specifics – Europe
10. Pan-European APA request process
11. Q&A

Public scrutiny and transparency



Timeline of disputes

Dispute avoidance

1. Safe harbors
2. ISO certification
3. G20/OECD listings
4. Multilateral/Unilateral APAs
5. MAP/MEMAP
6. Mediation
7. Pre-audit settlement

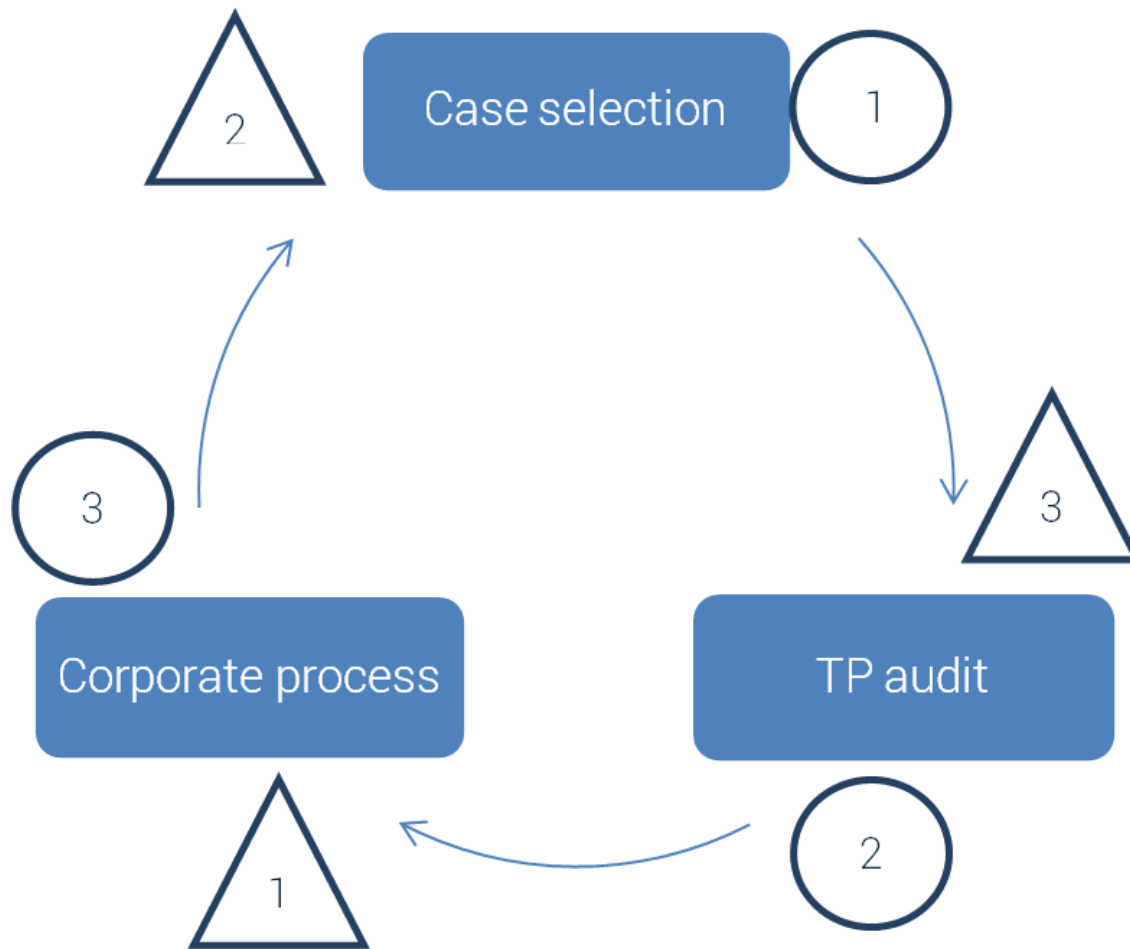
Turning point

1. Filing of tax return
2. Horizontal supervision
3. Case selection

Dispute resolution

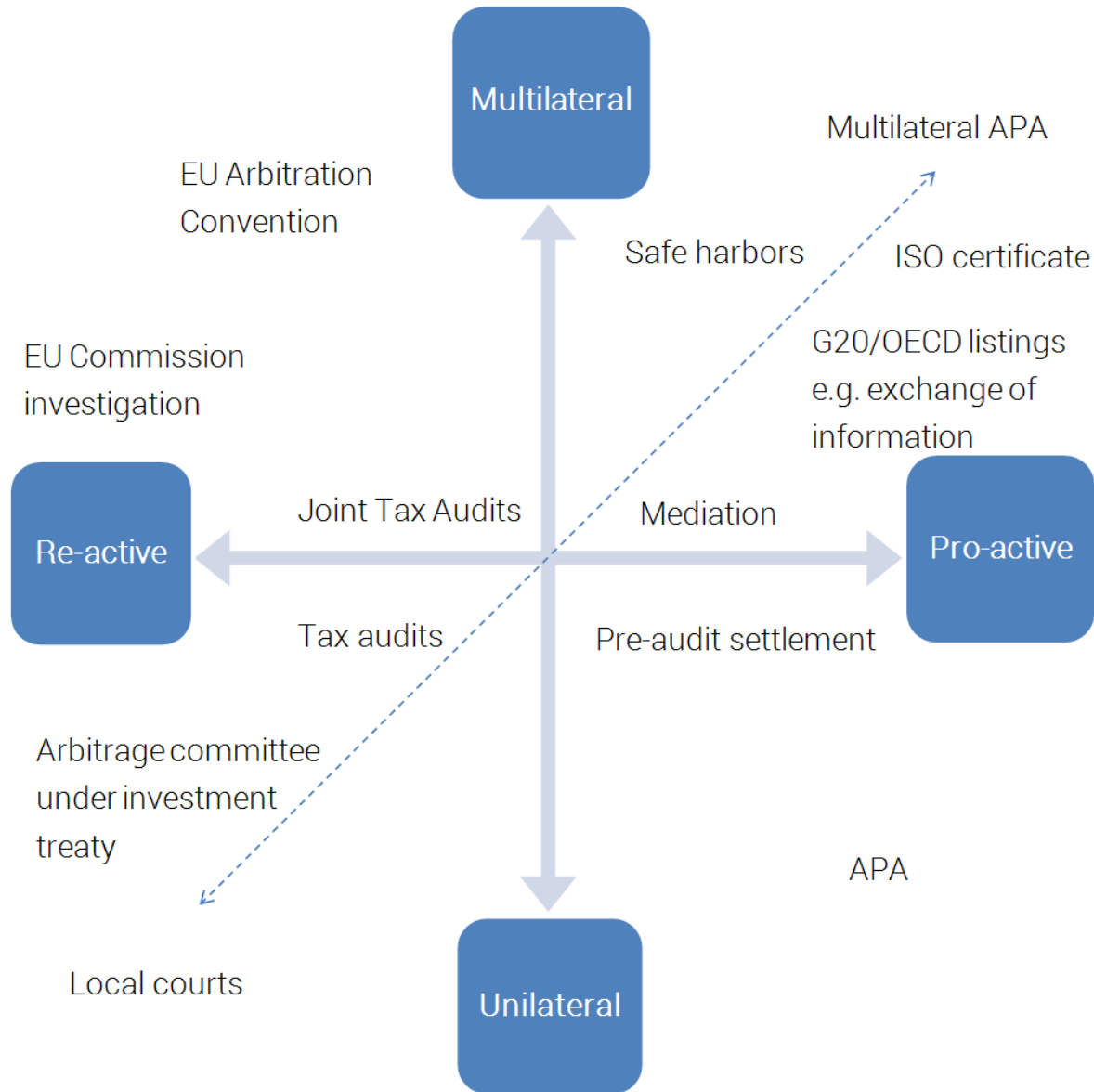
1. Phase A: Tax audit
2. Phase B: Commission or Tribunal Investigation*
3. Phase C: Local court or Local arbitration
4. Phase D: International court or international arbitration

Are you in-control?

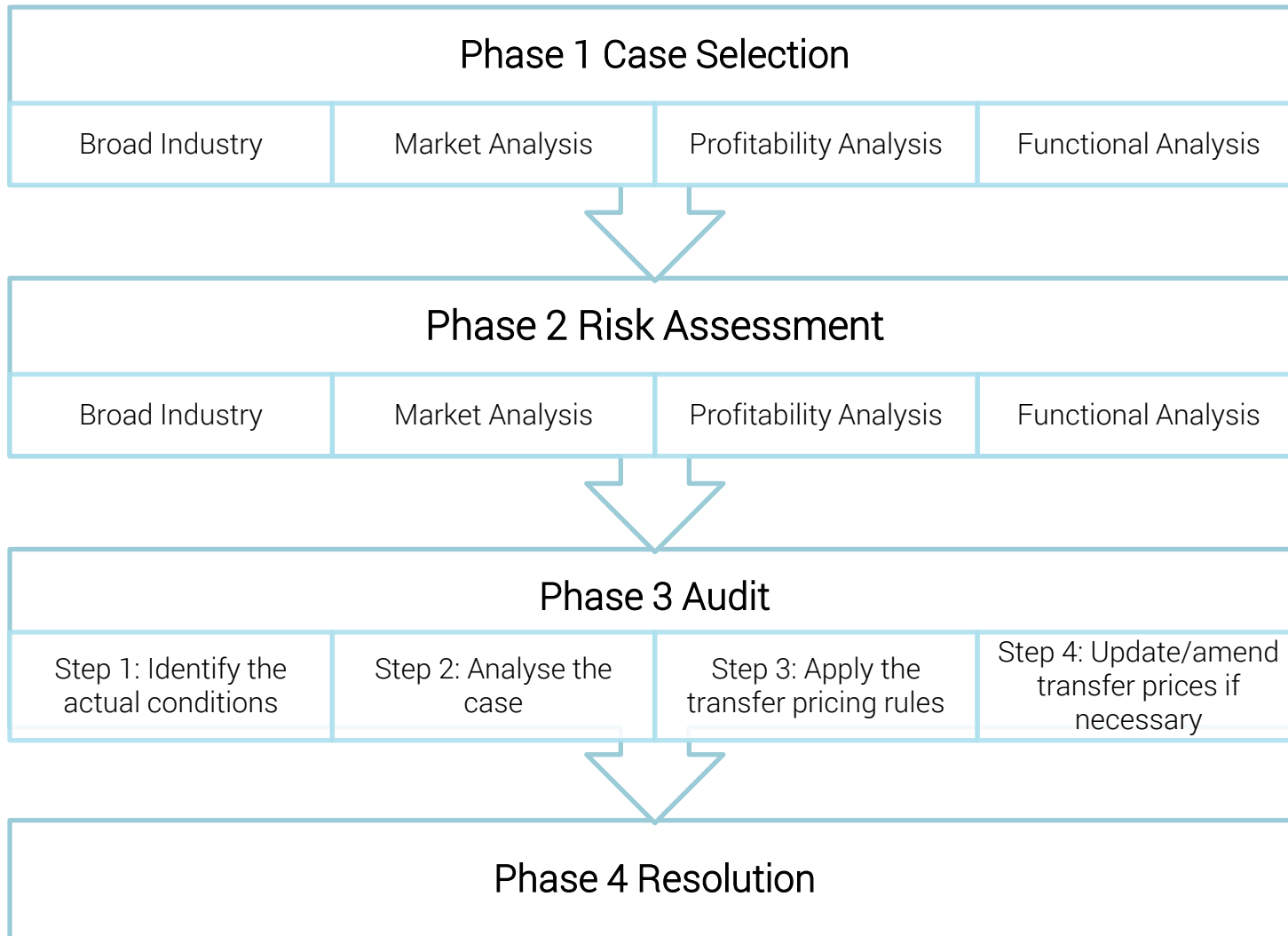


Legend: ○ steps for company that is not in control; △ steps for company that is in control

Dispute avoidance and dispute resolution tools

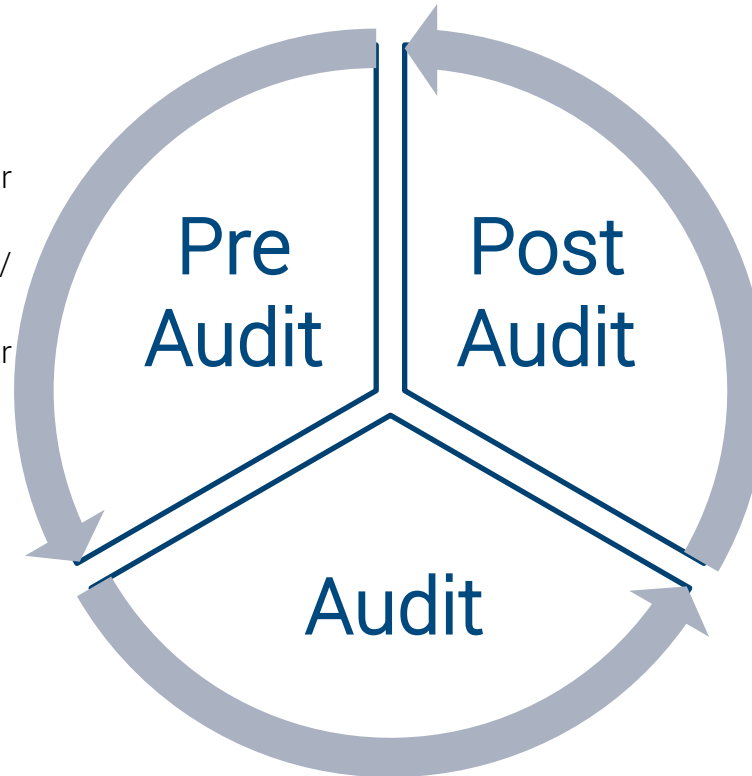


Case selection and audit: example



Preparation for a transfer pricing audit

- Manage TP risks proactively
- Develop controversy strategy
- TP Documentation
- Rulings and/or APAs
- Post Audit knowledge transfer and implementation
- Global Audit monitoring/dashboard
- Consider industry and other developments



- Evaluate audit results
- Evaluate TP policy
- Evaluate controversy strategy
- Consider impact for other countries
- APA/litigation
- MAP and competent authority procedures (if necessary)

- Develop and apply audit strategy (adopt if necessary – i.e. APA + roll back)
- Audit process management
 - Presentations
 - Negotiations
 - Settlement

Regional specifics – Americas

North America

- Solutions outside the traditional judicial system are widely applied as a faster, simpler solution to resolving a dispute, particularly, negotiation, mediation/nonbinding arbitration, and binding arbitration.
- Audit selection
 - Random selection and computer screening - sometimes returns are selected based solely on a statistical formula.
 - Document matching - when payor records, such as Forms W-2 or Form 1099, don't match the information reported.
 - Related examinations - returns may be selected for audit when they involve issues or transactions with other taxpayers, such as business partners or investors, whose returns were selected for audit.
- Audits are focussed on large MNEs rather than on SMEs.

South America

- A significant number regulations has recently emerged what lead to increase number of audits and disputes.
- The desolate attitude of the governments towards dispute resolution practices and their implementation

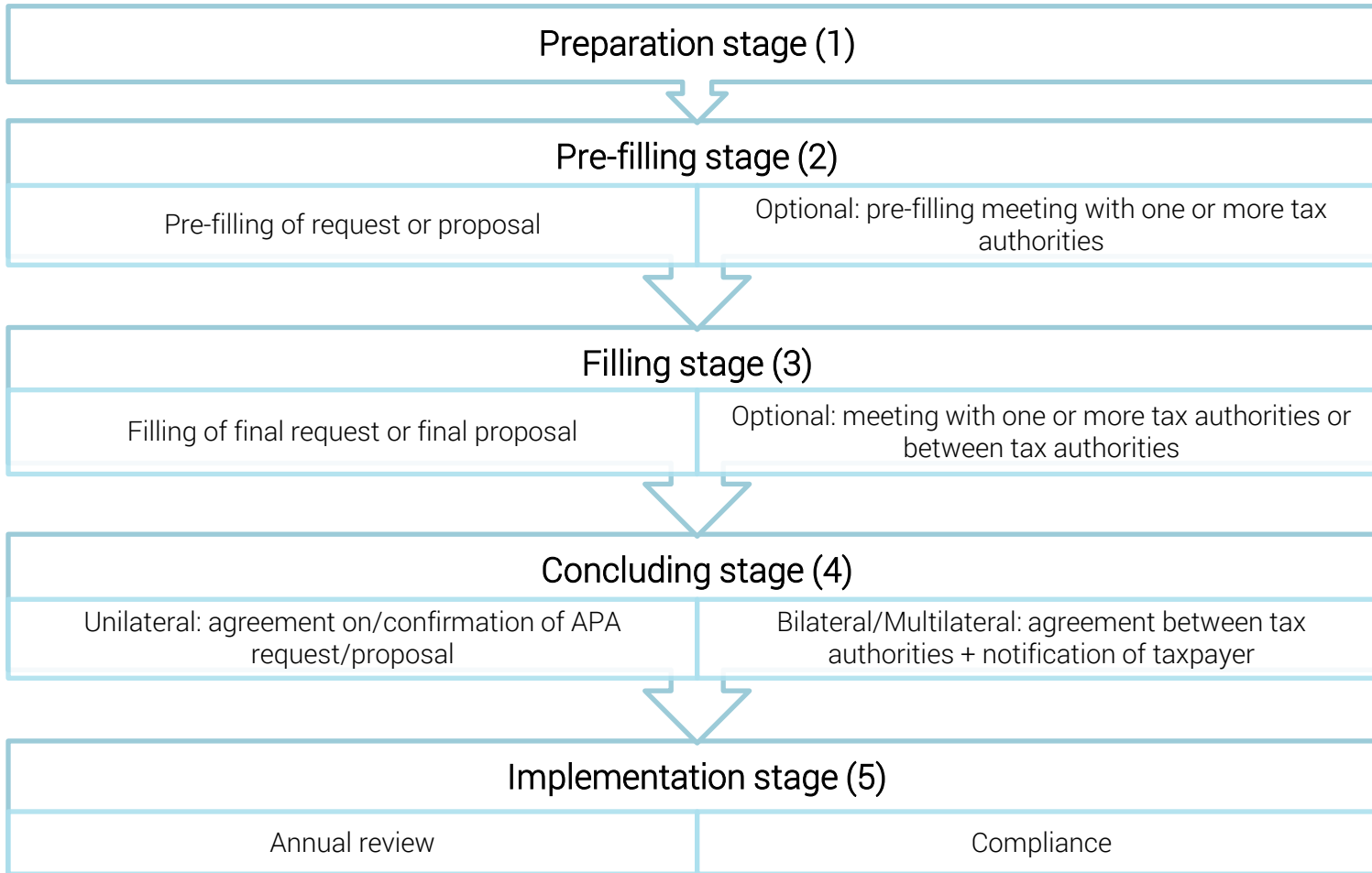
Regional specifics – Asia-Pacific

- The competent authorities in this region are known to be the most aggressive in ensuring that no taxable income escapes the country without sufficient proof and documentation.
- Alternative dispute resolution procedures have been recently updated towards harmonisation with international standards.
- Pre-assessment reviews and pre-audit settlements are available as an option of dispute avoidance.

Regional specifics – Europe

- Alternative dispute resolution has been introduced all over across Central and Eastern Europe .
- An uplift is seen in the number of cases selected for a tax and/or transfer pricing audit due to individual regulations brought in by many EU countries, as well as, EU Commission.
- Some initiatives by the European Commission have recently come to light such as the Council Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market, the public consultations on Improving Double Taxation Dispute Resolution Mechanisms etc.

Pan-European APA request process



Q & A

Margie van der Valk

Partner

TPA Global

m.vandervalk@tpa-global.com

+31 20 218 2231

Igor Peters

Partner

TPA Global

i.peters@tpa-global.com

+31 20 894 2556