

TRANSFER PRICING IN ROMANIA: GAPS & BEPS IMPACT

Cornelia NASTASE

Bucharest University of Economic Studies, Bucharest, Romania
cornelia.nastase@cctax.ro

Abstract

Although transfer prices are a growing topic of discussion in the international literature and tax inspections in Romania are a major debate subject in the tax field, the number of studies approaching these two aspects is reduced. Transfer prices and the practices of eroding the taxable base and profit transfer have an impact on the entire society, from small and medium-sized companies that could be affected by the unfair competition, to the tax administrations that must ensure the fair taxation of profits, multinational companies that must observe arm's length and should be able to document this fact and up to the citizens of the emerging states. Romanian legislation has gaps that make it difficult for all parties involved in the analysis and documentation of transfer prices and procedures regarding tax inspections requiring modifications for the improvement of the tax obligations' collection. The effects are major and include tax litigations, additional costs and an impaired collaboration with tax bodies.

Keywords: Transfer prices, ANAF, Tax inspections, Affiliated parties, Aggressive tax planning.

DOI: <https://doi.org/10.24818/beman/2025.15.2-02>

1. INTRODUCTION

This article will analyse the tax inspections performed by the National Agency for Fiscal Administration (ANAF), especially those focused on transfer prices, starting from the selection of the targeted taxpayers, the actual performance of a tax inspection up to the completion of the tax inspection. The second chapter represents a summary of the tax inspections' regulations and specific procedures, and the third chapter highlights the challenges encountered when drafting the transfer prices, both by taxpayers as well as specialists on the one hand and also by tax inspection bodies.

The last chapter presents a retrospective and prospective analysis of the tax inspection activity considering that specialists in the field foresee the intensification of tax inspections in the field of price transfer in Romania in the following years.

The transfer price is defined by the Organization for Economic Cooperation and Development (OECD, n.d.a) as the price adopted for accounting purposes, used to evaluate transactions between affiliated

companies, for the performance of transactions of an income nature or in order to transfer capital between them.

The arm's length principle represents the international standard in the analysis of transfer prices from the tax perspective, provided by the Model Tax Convention of OECD (OECD, 2019) at the article 9 indicating that in case transactions are performed between two affiliated companies in conditions (commercial or financial) other than those that would have existed between independent companies, the profits that could have been made if those conditions did not exist and were not obtained because of them, may be included in profits and taxed as such.

OECD member states and non-OECD states have adhered to the Multilateral Convention (OECD, n.d.b) for the implementation in tax treaties of measures to prevent the erosion of the taxable base and the transfer of profits (as is the case in Romania), recognize and support this principle which has been introduced since the first publication of the OECD Report on Transfer Pricing and Multinational Enterprises published in 1979 (OECD, 1979).

Transactions between affiliated persons have begun to attract attention as the globalization of the world economy accelerates and the role of multinational companies in international trade increases, the main concerns being related to:

- Aggressive tax planning;
- Distortion of the international market and unfair competition;
- The volume of transactions between affiliated persons increased.

A recently published article (Brychta et al., 2020) shows that the phenomenon of transfer prices is a topic of great interest, a clue being the fact that in the last 10-15 years the number of publications from the Scopus database on this topic increased exponentially (Figure 1).

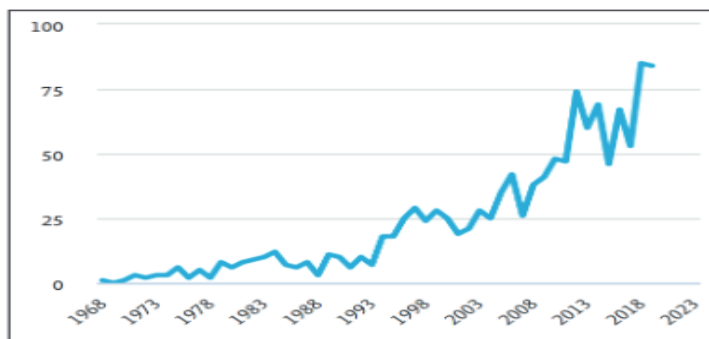


FIGURE 1. DEVELOPMENT OF THE NUMBERS OF ARTICLES DEALING WITH TRANSFER PRICING IN THE SCOPUS DATABASE WITHIN THE PERIOD 1968–2019

Source: Brychta et al., 2020: 25-26

The necessity of establishing rules that are internationally acknowledged was stated both by administrations as well as by companies. Tax administrations defend their legitimate right to tax profits that have been obtained in their jurisdictions. On the other hand, companies intend to avoid double taxation and additional compliance costs that may occur for example at a multinational company following an adjustment of the transfer prices, in the jurisdiction X but which is not accepted by the tax administration in the jurisdiction Y, thus resulting in double taxation.

According to the information published by OECD in 2015 (OECD/G20, 2015), the practices of aggressive tax planning had an estimated global impact of 240 billion USD, approximately 10% of the profit tax.

In the Romanian legislation (Law no. 227/2015), the market price is discussed as “the amount that would have been paid by an independent customer to an independent supplier at the same time and in the same place, for the same good or service or for a similar one, in conditions of fair competition” (Law no. 227/2015, Article 7, Point 32).

Also, according to the Law no. 227/2015 on the Romanian Tax Code, the conditions under which two persons are affiliated are determined:

- in case of natural persons, the affiliation is given by the kinship connection up to the third degree, husband / wife;
- a person (natural or legal) holds, directly or indirectly, at least 25% of the value or number of shares or voting rights of a legal person or if he/she effectively controls the legal person.

Regarding the transactions between affiliated persons, the Law no. 227/2015 on the Tax Code provides: “Transactions between affiliated persons are carried out according to the market value principle. In a transaction, of a group of transactions between affiliated persons, tax authorities may adjust, if the market value principle is not complied with, or may estimate, if the taxpayer does not provide the competent tax authority with the necessary data to determine whether the transfer prices charged in the analysed situation comply with the market value principle, the amount of the income or expenditure related to the tax result of any of the affiliated parties based on the level of the central market trend” (Law no. 227/2015, Article 11, Paragraph 4).

In order to document the observance of the market value principle, taxpayers have the obligation to prepare the transfer pricing file. It is regulated by ANAF Order no. 442/2016 and establishes the amount of transactions, the terms for preparation, the content and the conditions of requesting the file of transfer prices and the procedure of adjustment / estimation of transfer prices.

The determined significance thresholds are calculated by totalizing transactions, without VAT, performed with annual affiliated parties.

The drafting of the transfer prices file is mandatorily performed annually until the annual declaration regarding the profit tax is submitted by large taxpayers that exceed any of the significance thresholds set by the ANAF Order no. 442/2016 (ANAF, 2016) (Table 1).

TABLE 1. SIGNIFICANCE THRESHOLDS FOR LARGE TAXPAYERS

Transaction type	Collected/paid interests	Service provision	Purchase/sale of tangible or intangible assets
Significance threshold	€ 200,000.00	€ 250,000.00	€ 350,000.00

Source: ANAF, 2016

The request to present the transfer price file is usually made during a tax inspection, however the legislation provides the possibility of requesting it also following a tax inspection, in particular cases such as a tax inspection at a partner.

Large taxpayers that do not exceed the above significance thresholds, together with the rest of taxpayers are obligated to draft the transfer price file at the request of the control bodies, only during the tax inspection if they exceeded any of the following significance thresholds (Table 2).

TABLE 2. SIGNIFICANCE THRESHOLDS FOR THE REST OF THE TAXPAYERS

Transaction type	Collected/paid interest	Service provision	Purchase/sale of tangible or intangible assets
Significance threshold	€ 50,000.00	€ 50,000.00	€ 100,000.00

Source: ANAF, 2016

The other taxpayers performing transactions with affiliated parties but who not exceed the significance thresholds provided by the ANAF Order no. 442/2016, are not obligated to compile the transfer price file but they are obligated to observe the market value principle and the documentation of this fact according to the general rules provided by the financial – accounting and tax regulations.

The documentation of observing the market price principle is performed by using certain specific methods, provided by the Law no. 227/2015 regarding the Tax Code at the art. 11, paragraph 4 and Guidelines on the transfer prices issued by OECD (Figure 2).

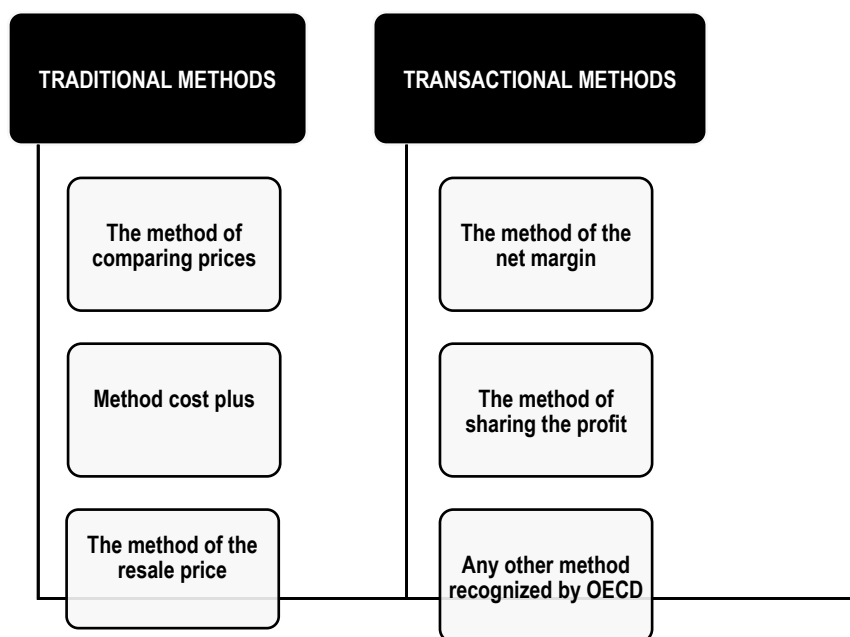


FIGURE 2. TRANSFER PRICING METHODS
Source: author's own analysis

Also, the ANAF Order no. 442/2016 determines in the Annex no. 3 the content of the transfer price file, which must include:

- A. Information about the group:
 - Organizational, judicial and operational structure of the group;
 - The general description of the group's activity, business strategy;
 - The general presentation of the transactions between affiliated persons and of the policy of determining the transfer prices;
 - Functional analysis (the description of the fulfilled functions, undertaken risks and used assets);
 - Other information depending on the documented types of transactions.
- B. Information about the taxpayer:
 - Organizational, judicial and operational structure of the taxpayer;
 - The general description of the taxpayer's activity, business strategy;
 - The presentation of the transactions performed with each affiliated person and of the policy of determining the transfer prices;
 - Functional analysis (the description of the fulfilled functions, undertaken risks and used assets);
 - Comparability analysis (the description of the search strategy of comparable societies and sources of information, the presentation of the financial indicators' values used in the

comparability analysis, the description of potential comparability adjustments performed, the presentation of the list of comparable societies and list of societies eliminated from the comparability sample, therefore of the manual search, by indicating the exclusion reasons, etc.)

- Other information depending on the types of documented transactions.

2. TAX INSPECTIONS IN ROMANIA

Tax inspections in Romania are mainly regulated by the Law no. 207 regarding the Code of Tax Procedure, Title VI where we can find the main aspects.

Art. 113 The definition of the tax inspection:

Tax inspection represents the activity with the purpose of verifying the legality and compliance of the tax declarations, correctness and accuracy of the obligations 'fulfilment regarding the determination of the tax obligations by the taxpayer/payer, observation of the provisions of the tax and accounting legislation, verifying or determining, as the case, of the taxation bases and actual related situations, determining the differences of the main tax obligations.

Art. 114 Targeted persons:

Tax inspection is exercised on any persons and entities, regardless of their organization form, with determination, retaining or payment obligations of the tax obligations provided by the law.

[...]

Art. 116, 117 and 118 Methods, period and rules:

For the performance of the tax inspection, the inspector evaluates the significant documents and operations and the following methods can be used:

- a) Inspection by survey, consisting in the selective verification activity of the taxable periods, significant documents and operations, which are the basis of the calculation, highlighting and payment mode of the tax obligations;
- b) Exhaustive inspection consisting in the verification activity of all the taxable periods, as well as significant documents and operations, which are the basis of the calculation, highlighting and payment mode of the tax obligations;
- c) Electronic inspection, consisting in the verification activity of the accounting and its sources, electronically processed by using analysis, evaluation and testing methods assisted by specialized information instruments.

The tax inspection is performed during the prescription term of the right to determine tax receivables. The tax inspection activity is organized and performed based on certain annually, quarterly and monthly

programs and are performed so as to affect as little as possible the current activity of the taxpayer/payer and to efficiently use the time set for the performance of the tax inspection.

2.1 Selecting the taxpayers which are about to be subject to the tax inspection

The Law no. 207/2015 regarding the Tax Procedure Code by the article 121 indicates that the selection is performed by the competent tax inspection body depending on the risk level and this level is determined based on a risk analysis.

This risk analysis is defined as the activity performed by the tax body for the identification of the noncompliance risks regarding the fulfilment of the taxpayer/payer of the obligations provided by the tax legislation, to evaluate, manage them, as well as to use them for the performance of the tax administration activities.

Also, based on the risks analysis, the tax body determines the type of the general or partial tax inspection (only for a certain tax obligation for example).

One of the Romanian taxpayers' dissatisfactions related to tax inspections is constituted by the lack of transparency in this risk analysis process, the criteria or methodology are not published.

However, in practice there are certain presumed risk factors which are about to be used in the analysis performed by tax bodies, namely:

- Financial indicators, such as negative own capital or accounting and/or tax loss for more than 3 consecutive years, fluctuations of profitability or profitability outside the average of the activity field;
- Tax indiscipline, such as submitting the tax declarations with delay, their rectification with delay, outstanding tax obligations;
- Transactions with affiliates. Starting with 2020, this fact is even easier to be noticed by tax bodies from the content of the 394 declaration;
- Transactions with foreign companies, residing in a tax paradise;
- Special events such as the initiation of the insolvency proceedings, merging, divisions, modification of the structure of associates / shareholders and administrators;
- The lack of correlation of the accounting results with the level of the declared tax obligations.

However, a transparent procedure for the evaluation of the tax risk might be beneficial and might determine the taxpayers to voluntary comply. By knowing the criteria, taxpayers may adopt a proactive attitude, would pay more attention to the accounting and tax reports and even be more cautious in their operational activity.

2.2 The actual performance of the tax inspections

Following the selection of the taxpayer to be subject to the tax inspection, the following step is to receive the tax inspection notice. It is communicated in writing to the taxpayer before commencing the inspection with 30 days for large taxpayers, respectively 15 days for the other taxpayers.

The notice contains essential elements related to the tax inspection which is about to be performed as well as the legal ground, the commencement date of the tax inspection, tax obligations, the period corresponding to the tax inspection and indicates the right of the taxpayer to postpone the commencement date of the tax inspection for justified reasons.

The Law no. 207/2015 regarding the Tax Procedure Code indicates both the rights as well as the obligations of the taxpayer, the main ones being illustrated in Figure 3.

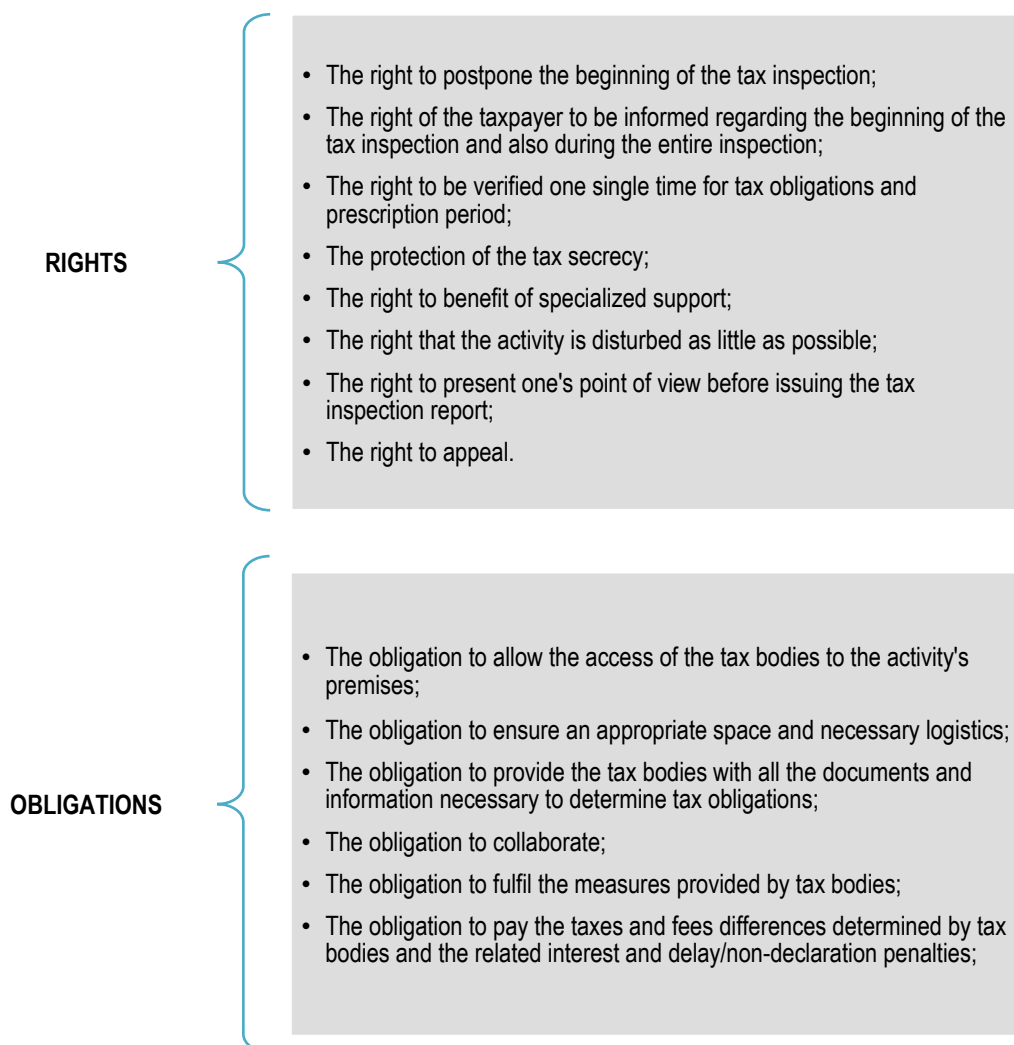


FIGURE 3. RIGHT AND OBLIGATIONS

Source: author's own analysis

The taxpayer may waive the 30/15 days available until the commencement date of the tax inspection or may request in writing, for justified reasons, the postponement of the tax inspection and the control bodies will approve or reject the request, as the case. In practice, usually the taxpayer's request is accepted and may even request the modification of the inspection's location if the taxpayer does not have an appropriate space.

The commencement date of the tax inspection is always the date registered by the inspection in the Control Ledger. It is essential to remember this aspect as the maximum completion term of the tax inspection is reported at this date, namely:

- a) 180 days in case of large taxpayers or with secondary headquarters;
- b) 90 days in case of medium-sized taxpayers;
- c) 45 days in case of the other taxpayers.

During the tax inspection, the control bodies analyse the financial-accounting documents, tax records, verifies the legality and compliance of the economic operations and the way they were reflected in the accounting and tax records, verifies the correctness of determining the taxable basis during the period which is subject to the inspection and, especially for transactions performed in relation with affiliated entities, may also request the transfer price file,

The request is made according to the ANAF Order no. 442/2016, annex 1 and will indicate the period and transactions for which the compilation and presentation of the transfer price file is required, as well as the presentation deadline.

The presentation term of the transfer prices file is 10 calendar days for large taxpayers who have exceeded the significance thresholds provided by table 1.1., respectively between 30 and 60 calendar days for the rest of taxpayers with the obligation of compiling the transfer price file. Also, taxpayers are entitled to request the extension of the term with maximum 30 calendar days.

In addition to the transfer price file, control bodies may also request in writing other additional information, relevant for the analysis of the transfer price file.

The fine for not presenting the transfer price file can reach up to 14.000 lei but the major consequence is that the failure to present the transfer price file or its incomplete presentation, entitles the tax body to proceed to the estimation of the transfer prices' amount and consequently adjust the taxable basis (by correcting the incomes or expenses) of any of the affiliated parties.

2.3 The completion of the tax inspections

The first step in the inspections' completion is represented by the communication of the tax inspection report project and of the date set for the final discussion. The taxpayer is entitled to express its opinion in writing on the report project and the right to express its point of view in the final discussion. The date set for

the final discussion cannot be earlier than 3 business days from the communication date of the tax inspection report project (5 days in case of large taxpayers) and it is considered the completion date of the tax inspection. The presentation of the point of view can be made within 5 business days from the conclusion date of the tax inspection (7 days for large taxpayers).

The tax inspection is ended by a tax inspection report in which the tax body presents its findings regarding the tax obligations of the Tax inspection notice and regarding other tax and/or accounting obligations which represented the verification's object. Also, the tax inspection report will also refer to the taxpayer's point of view if it was expressed.

Based on the tax inspection report, within 25 business days, for each tax obligation which was the verification's object, the tax body is obligated to issue:

- a) The tax decision, for differences in addition or minus of the main tax obligations related to differences in tax bases;
- b) The decision to not modify the taxation bases if no differences of the taxation bases are found and respectively, main tax obligations;
- c) The decision to modify the taxation bases if differences are found on the taxation bases, but without determining differences of the main tax obligations.

In case the taxpayer does not agree with the findings of the tax body from the tax inspection report, it is entitled to administratively appeal by submitting a complaint against the tax inspection report together with the tax decision or the decision to not modify the taxation basis.

The complaint's submission term is 45 days from the communication date of the tax decision or decision to not modify the taxation basis and is submitted at the issuing tax body.

By the Law no. 295/2020 for the amendment and completion of the Law no. 207/2015 regarding the tax procedure code, as well as the approval of certain tax-budgetary measures, the art. 272 was amended and it was decided that the complaints' settlement will be made by a specialized structure for settling complaints within the Ministry of Finances and not by the issuing tax body as before.

The amendment was requested and welcomed by the business sector so as to ensure an objective treatment in the complaints' settlement and will become effective until June 30 this year.

If the tax inspection lead to adjustments of the transfer prices for transactions performed with Romanian affiliated persons, the tax body that performed the tax inspection issues according to OPANAF no. 3737/2015, the adjustment or estimation decision of the expenses or incomes for each company, other than the one where the tax inspection was performed and it is notified both to the company as well as to the tax body competent for the administration of the receivables due by it (OPANAF Order no. 3737, 2015).

3. CHALLENGES ENCOUNTERED IN TAX INSPECTIONS FOCUSED ON TRANSFER PRICES

Among the main problems encountered in the performance of tax inspections in the field of transfer prices, reported by taxpayers and professionals in the field are:

- The interpretation of the materiality thresholds;
- Drafting terms;
- The ignorance by the tax bodies of the compiled transfer price files, mostly because they are incomplete;
- Faulty communication;
- Excessive documentation requirements;
- Performance of erroneous calculations;
- The use of data that are not comparable.

In practice, the first difficulties occur even since the phase of compiling the transfer price file. There is one the one hand the Romanian legislation where different interpretation situations occur, the lack of regulation and technical difficulties and on the other hand, the taxpayer's approach of the justification of observing the market value principle.

The ANAF Order no. 442/2016 provides significance thresholds for compiling transfer prices but, as we do not have many indications regarding the interpretation of such thresholds, situations occur in which the taxpayer and tax body have different interpretations (OPANAF Order no. 442, 2016).

For example, in case a large taxpayer who exceeded the significance threshold for only one of the three transactions category, it may consider that it has the obligation of drafting the transfer price file only for that transaction category and not for all the three categories. If it will be subject to a tax inspection and the tax body has a different interpretation, it may be sanctioned for the incomplete presentation of the transfer price file.

A particular situation is the one of the interest. When determining the significance thresholds in the ANAF Order no. 442/2016, the legislator uses the phrase "collected/paid interest" but the aspect of the interest payment is irrelevant as based on the commitment accounting, interest costs are periodically recorded in the accounting records, as they are due and their tax impact is not linked to the moment of the actual payment. At the interpretation of this phrase, a taxpayer who registered costs with the related interest of a financial service provided by an affiliate but did not actually paid the interest, it might consider that it is not obligated to compile the transfer price file as the interest was not paid.

Another interpretation problem is the one related to the paragraph 5, art. 2 of the ANAF Order no. 442/2016: "(5) Taxpayers/Payers falling within the provisions of the paragraph (4) and who perform

transactions with affiliated persons with a total annual value, calculated by summing the value of the transactions performed with all the affiliated persons, without VAT, under any of the significance thresholds set by the paragraph (4) will document the observance of the market value principle within a tax inspection, according to the general rules provided by the financial-accounting and tax regulations in force."

The general rules provided by the financial-accounting and tax regulations do not provide guidelines regarding the way a taxpayer can or must document the observance of the market value principle and the lack of regulation can lead to abuse in tax inspections.

Professionals in the field of transfer price field also draw the attention on the technical difficulties when compiling the transfer price file considering its complexity and relatively short terms provided by the legislation.

Large taxpayers obligated to annually compile the transfer price file are usually part of a multinational group, so in their case, the preparation of the transfer price file is not a special event, many times they have also transfer price files already drafted at the group level and assisted by advisers with experience in the field.

One of the technical difficulties claimed by large taxpayers is the compiling term of the transfer price file, in their case being at the latest by the submission date of the annual declaration for profit tax which is previous to the submission term of the annual financial situations. Thus, the documentation of the transfer prices for the transactions of the previous year, in the situation when the society has not completed yet the audit procedures and financial situations may lead to the unpleasant situation in which, subsequently to the compilation of the transfer price file, but until the submission date of the financial situations, to identify transactions which were not (correctly) reflected in the accounting and tax records of the previous year and which should have been taken into consideration at the compilation of the transfer price file.

Another difficulty encountered in the compilation of the transfer price file by large taxpayers in due time is represented by the availability of data. Usually, annual financial situations are submitted following the date of March 25th and the update of the databases from the specialized software is performed even a few months later, in the period August-September although specialists do not have another solution than use data from the year previous to the one analysed and adjust them. The problem occurs at these adjustments because in the lack of clear procedures, agreed by tax bodies, there is the danger of not being accepted.

For the rest of the taxpayers, the compilation of a transfer price file can be a challenge given the material resources and information necessary for its compilation. In practice, many times, taxpayers who are not obligated to compile the annual transfer price file do not consider it is necessary to compile the transfer price file previous to the tax inspection. Once the tax inspection began, the granted term for the presentation of the transfer price file may prove to be too short if we talk about complex or multiple transactions.

For them, it can be difficult to document the descriptive sections of the transfer price file, they do not have internal presentations or formalized activity reports.

For the documentation of observing the market value principle, at the compilation of the transfer price file information available in international databases are used (Orbis, Amadeus, TP Catalyst, etc.) but when selecting the data that will be used, taxpayers and tax bodies must pay more attention. Due to the accounting regulations differences it is possible for example that the operational profit margin of a French company cannot be compared with the margin of a Romanian company.

The Law no. 227/2015 regarding the Tax Code provides that at the analysis of the transfer prices the most appropriate method should be selected and that the method's selection must consider aspects such as the circumstances of the particular case, the accuracy degree of the data adjustment, available data, and financial conditions of the analysed transaction.

But the analysis of the transfer prices is not an exact science but it represents an estimation of the market price and considering the diversity and particularity of the transactions performed by the taxpayers, the legislation that leaves room for interpretation, it is not surprising that approximately 80% of the tax inspections where transfer price files were requested/presented are followed by the adjustment of the transfer prices and subsequently by a litigation between the tax body and taxpayer.

Although taxpayers are able to express their opinion in writing and most of the times they do, the tax inspection report in its final form does not shed much light on the reasons for which the arguments of the point of view are not admitted but only resumes the incomplete explanations from the inspection report project. Thus, many times appeal do not reach their purpose and end in a tax litigation.

Tax authorities also do not provide support to taxpayers in documenting the transfer prices. Although ANAF elaborates and periodically publishes guides on different tax topics of interest, the only information related to the transfer price file found on the institution's website is the one provided in the presentation of the country profile (ANAF, 2018), the most recent update is from April 2018. This document does not bring additional clarifications but rather represents a summary of the legal provisions in the transfer prices field.

4. THE ACTIVITY OF THE TAX AUTHORITY IN THE LAST YEAR

The last modification with impact on transactions with affiliated persons is represented by the modification of the declaration 394 starting with September 2020 by OPANAF no. 3281/2020 (OPANAF Order no. 3281, 2020). Taxpayers are obligated to report by this form if they performed operations with affiliated persons in the reporting period but without indicating the transactions or partners concerned.

ANAF indicates in the Report regarding the macroeconomic situation for 2025 (Ministry of Finance, 2025: 75) that for the increase of the tax compliance, prevention and combat of tax evasion, during 2024, it

identified affiliated persons at the national level, has inventoried transactions susceptible of being verified in the field of transfer prices and notified these taxpayers for the correction/rectification of tax declarations. The tax authorities have established a difference in the tax base in the amount of 1,788.99 mil. lei. Thus, the additional difference in the tax base determined: profit tax established additionally for payment – 89.66 mil. lei; reduction of fiscal loss - 269.57 mil. Lei.

By analysing reports regarding the macroeconomic situation for 2021 – 2023 (Ministry of Finance 2020, 2019, 2018), together with the performance reports of ANAF (ANAF, 2024, 2023, 2022) it is obvious that in the last years transfer prices were a subject of interest for tax bodies:

TABLE 3. THE ANALYSIS OF THE TAX AUTHORITY ON THE TRANSFER PRICES SUBJECT

Year/Period	APAs Issued	Amicable Procedure Solved	Individual Anticipated Tax Solutions Approved	Verified Transaction Value (mil. lei)	Difference in Taxable Base (mil. lei)	Additional Profit Tax (mil. lei)	Reduction in Tax Loss (mil. lei)
2023	20	8	N/A	N/A	939.66	83.85	453.87
2022	2	3	2	N/A	864.8	58.6	458.5
2021	14	9	13	64,931.3	1,717.6	191.2	299.6

Source: author's own analysis

In the performance report of ANAF for 2023 it is mentioned that significant progress was made in the implementation of 3 actions:

- BEPS Action 13 – which aims to get multinational corporations to reconsider how transfer pricing details are reported to local as well as worldwide tax authorities. In particular, the issues related to the proper use of CbC reports (country-by-country reporting) and the improvement of the information exchange framework were addressed. The results obtained in the evaluation process show that Romania meets the specific conditions of this action;
- Action 14 – regarding the effectiveness of dispute resolution mechanisms. This measure contains a "Minimum Standard for Action 14" which was proposed for review by the Secretariat of the Amicable Procedure Forum (MAP Forum) and in relation to which constant support was offered to the Romanian Competent Authority;
- BEPS Action 5 - Combating harmful tax practices more effectively, taking into account transparency and substance - so that this year's self-assessment was completed with the adoption of a positive final report in the framework of the FHTP/OECD (Forum of Harmful Tax Practices) plenary in April 2023.

5. CONCLUSIONS

In Romania, the transfer prices were also regulated before 2016, however, only after the publication of the Order no. 442/2016 and after the Multilateral Convention was signed for the implementation in the tax treaties of measures related to the prevention of the taxable basis' erosion and transfer of profits, they became a subject of interest for tax authorities.

The United Nations published in 2013 a Practical Manual on Transfer Pricing for Developing Countries (United Nations, 2013). This manual provides important guidelines regarding the way tax administrations can organize and develop the tax inspection activity for transfer prices. A few of the key aspects of this manual, on which Romanian tax authorities should focus, are:

- The orientation towards the taxpayer. The education, guidance and a better communication with the taxpayer can only lead to the increase of the voluntary compliance and reduction of the tax administration's costs;
- Collaboration of the tax bodies with professional associations and professionals in the tax field so as to provide guidance regarding the documentation of the transfer prices and also to understand the economic reality;
- Reducing excessive bureaucracy as much as possible, this causing a negative image of the country in the perspective of investors;
- Reasonable control actions and proportional measures;
- Avoiding disputes or ensuring a fair and transparent process for their settlement;
- Training tax inspectors and providing the resources necessary for the tax inspection activity.

For example, the UN recommend that the department specialized on transfer prices within tax administrations should include economists, legal advisers, accountants, auditors, experts in databases and experts in public communication.

Among small and medium-sized taxpayers, a change of attitude towards transfer pricing is also needed. They should pay more attention to this subject because large taxpayers benefit of the advantage of the group's experience but they are exposed to the risk of adjustment due to the performance of transactions without a transfer price policy. A documentation of the transfer prices post-factum can lead to price adjustments.

It is also necessary that professional bodies get involved in the problem of transfer prices by improvement proposals of regulations and ensure the professional training of specialists in transfer prices from the public and private environment.

It is understood that the implementation of such complex regulations such as those in the field of transfer prices and organization of specialized departments in tax administrations are far-reaching processes

requiring a longer period of time but the number of tax litigations is alarming and shows that sustained efforts are necessary from all the involved parties to fulfil the target: the protection of the state's legitimate right to tax the profit obtained in Romania.

REFERENCES

- ANAF (2018). România. Profil de țară – Prețuri de transfer. Retrieved April, 15, 2025, from: https://static.anaf.ro/static/10/Anaf/Prezentare_R/PrezentareTP_11042018.pdf.
- ANAF (2022). Raport de performanță 2021. Retrieved April, 15, 2025, from: https://static.anaf.ro/static/10/Anaf/Informatii_R/Raport_performanta_ANAF_08072022.pdf
- ANAF (2023). Raport de performanță 2022. Retrieved April, 15, 2025, from: https://static.anaf.ro/static/10/Anaf/Informatii_R/Raport_performanta_2022_V6.pdf.
- ANAF (2024). Raport de performanță 2023. Retrieved April, 15, 2025, from: https://static.anaf.ro/static/10/Anaf/Informatii_R/Raport_de_performanta_2023.pdf.
- Brychta, K., Ištók, M., Sulik-Górecka, A. & Poreisz, V. (2020). Transfer pricing in V4 countries. Brno: VUTIUM Press of Brno University of Technology.
- Law no. 207/2015 on the Tax Procedure Code, with methodological application norms (2015). Bucharest: Official Monitor.
- Law no. 227/2015 on the Tax Code, with methodological application norms (2015). Bucharest: Official Monitor.
- Law no. 295/2020 for the amendment and completion of Law no. 207/2015 regarding the Tax Procedure Code, as well as the approval of certain tax-budgetary measures (2020). Bucharest: Official Monitor.
- Ministry of Finance (2018). Raport privind situația macroeconomică pe anul 2019 și proiecția acesteia pe anii 2020-2022. Bucharest: Ministry of Finance. Retrieved April, 15, 2025, from: <https://mfinante.gov.ro/documents/35673/78782/Raportbuget2019.pdf>.
- Ministry of Finance (2019). Raport privind situația macroeconomică pe anul 2020 și proiecția acesteia pe anii 2021-2023. Bucharest: Ministry of Finance. Retrieved April, 15, 2025, from: http://www.cdep.ro/pdfs/buget/2020/raport/Raport_buget_2020.pdf.
- Ministry of Finance (2025). Raport privind situația macroeconomică pe anul 2025 și proiecția acesteia pe anii 2026-2028. Retrieved April, 15, 2025, from: https://mfinante.gov.ro/static/10/Mfp/transparenta/proiectbuget2025/raportproiectLegeBuget2025_30012025.pdf.
- Ministry of Finance. (2020). Raport privind situația macroeconomică pe anul 2021 și proiecția acesteia pe anii 2022-2024. Bucharest: Ministry of Finance. Retrieved April, 15, 2025, from: <https://sgg.gov.ro/new/wp-content/uploads/2021/02/Raport-buget-2021.pdf>.
- OECD (1979). Transfer pricing and multinational enterprises. Paris: OECD. Retrieved April, 15, 2025, from: https://read.oecd-ilibrary.org/finance-and-investment/transfer-pricing-and-multinational-enterprises_9789264167773-en.
- OECD (2019). Model tax convention on income and on capital 2017 (Full Version). Paris: OECD Publishing. Retrieved April, 15, 2025, from: <https://doi.org/10.1787/g2g972ee-en>.
- OECD (n.d.a). Glossary of statistical terms. Paris: OECD. Retrieved April, 15, 2025, from: <https://stats.oecd.org/glossary/detail.asp?ID=2757>.

-
- OECD (n.d.b). BEPS multilateral instrument. Retrieved April, 15, 2025, from: <https://www.oecd.org/en/topics/sub-issues/beps-multilateral-instrument.html>.
- OECD/G20 (2015). Base erosion and profit shifting project. Paris: OECD. Retrieved April, 15, 2025, from: <https://www.oecd.org/ctp/beps-explanatory-statement-2015.pdf>.
- OPANAF Order no. 3281/2020 (2020). Amendment of the Order of the President of the National Agency for Fiscal Administration no. 3.769/2015 regarding the declaration of deliveries/provisions and purchases performed on the national territory by persons registered for VAT, and the approval of the model and content of the informative declaration on such transactions. Bucharest: OPANAF.
- OPANAF Order no. 3737/2015 (2015). Approval of the model and content of the form "Adjustment/Estimation Decision of the Income or Expense of one of the Affiliated Persons." Bucharest: OPANAF.
- OPANAF Order no. 442/2016 (2016). Regarding the transaction amounts, compilation terms, content, and conditions for requesting the transfer pricing file and the adjustment/estimation procedure for transfer prices. Bucharest: OPANAF.
- United Nations (2013). Practical manual of transfer pricing for developing countries. Retrieved April, 15, 2025, from: https://www.un.org/esa/ffd/wp-content/uploads/2014/08/UN_Manual_TransferPricing.pdf.