

Transfer Pricing in Asia.



TRANSFERPRICING
SOLUTIONS ASIA

■ ABOUT **TRANSFER PRICING SOLUTIONS**

Transfer Pricing Solutions (or TPS) is a boutique firm that specialises in providing Practical, Proactive and Cost Effective transfer pricing advice from our experienced team to a global list of clients.



**PRACTICAL,
PROACTIVE &
COST EFFECTIVE**



**25+ YEARS
EXPERIENCE**



**FLEXIBLE
TEAM**

WHY TRANSFER PRICING SOLUTIONS

'SHIELD' 6-POINT GUARANTEE

- **SECURITY**
Security of your commercial information
- **HIGH QUALITY**
Team with 5 years or more of TP advisory experience
- **INTEGRITY**
Every quote we provide is final, fixed and all-inclusive
- **EXECUTION**
Seamless execution
- **LEADERS**
Thought leaders
- **DIRECTORS**
Director involvement in projects and available.



TRANSFER PRICING FRAMEWORK IN ASIA

IMPORTANCE OF TRANSFER PRICING DOCUMENTATION

TOP TIPS TO MITIGATE TRANSFER PRICING RISKS

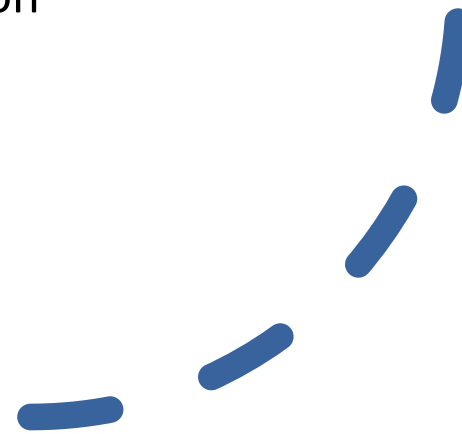




TRANSFER PRICING FRAMEWORK THE REGION

Why managing transfer pricing is key?

- Almost all countries have implemented transfer pricing legislation
- Compliance obligations for taxpayers: forms disclosing related party transactions, transfer pricing documentation (CbC Reporting, Master File or Local File)
- Tax Authorities have more visibility due to new reporting requirements e.g. CbC reporting, new reporting form
- Tax Authorities are actively sharing information



What are the key compliance requirements?

Tax Return Forms

Provide related party transactions information to the tax authority.

Three Tiered approach for TP Documentation

- Master File
- Local File
- Country-by-Country Reporting
- Other local documents depending on country

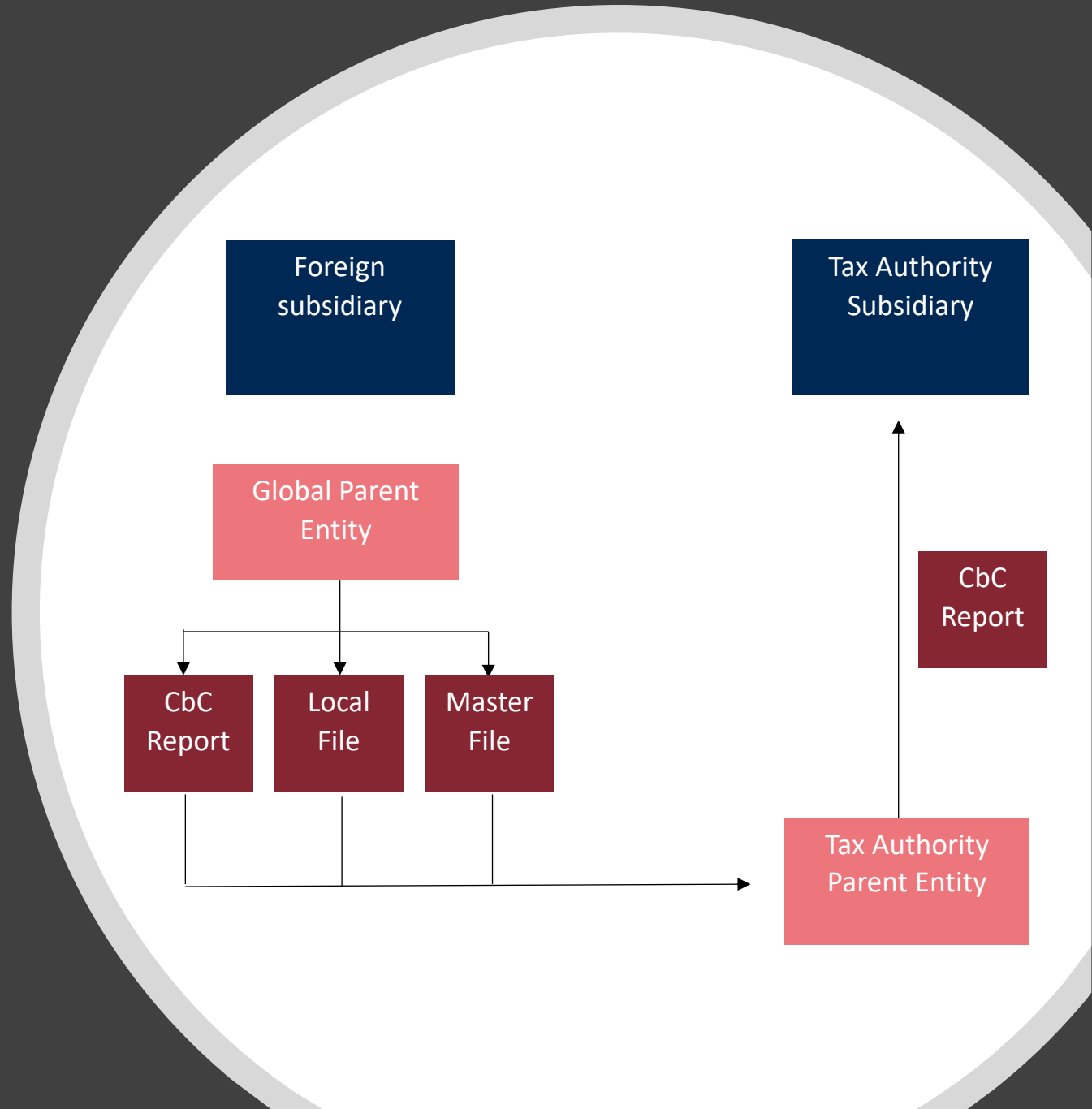
What is the impact of the three-tiered approach?

- Global MNE's with global revenue greater than EUR 750 million – CbC Reporting, Master File and Local File
- Global MNE's with global revenue less than EUR 750 – Master File and Local File
- Each country has adopted their own interpretation and requirements increasing the compliance burden for clients
- Examples: Vietnam, Indonesia, China



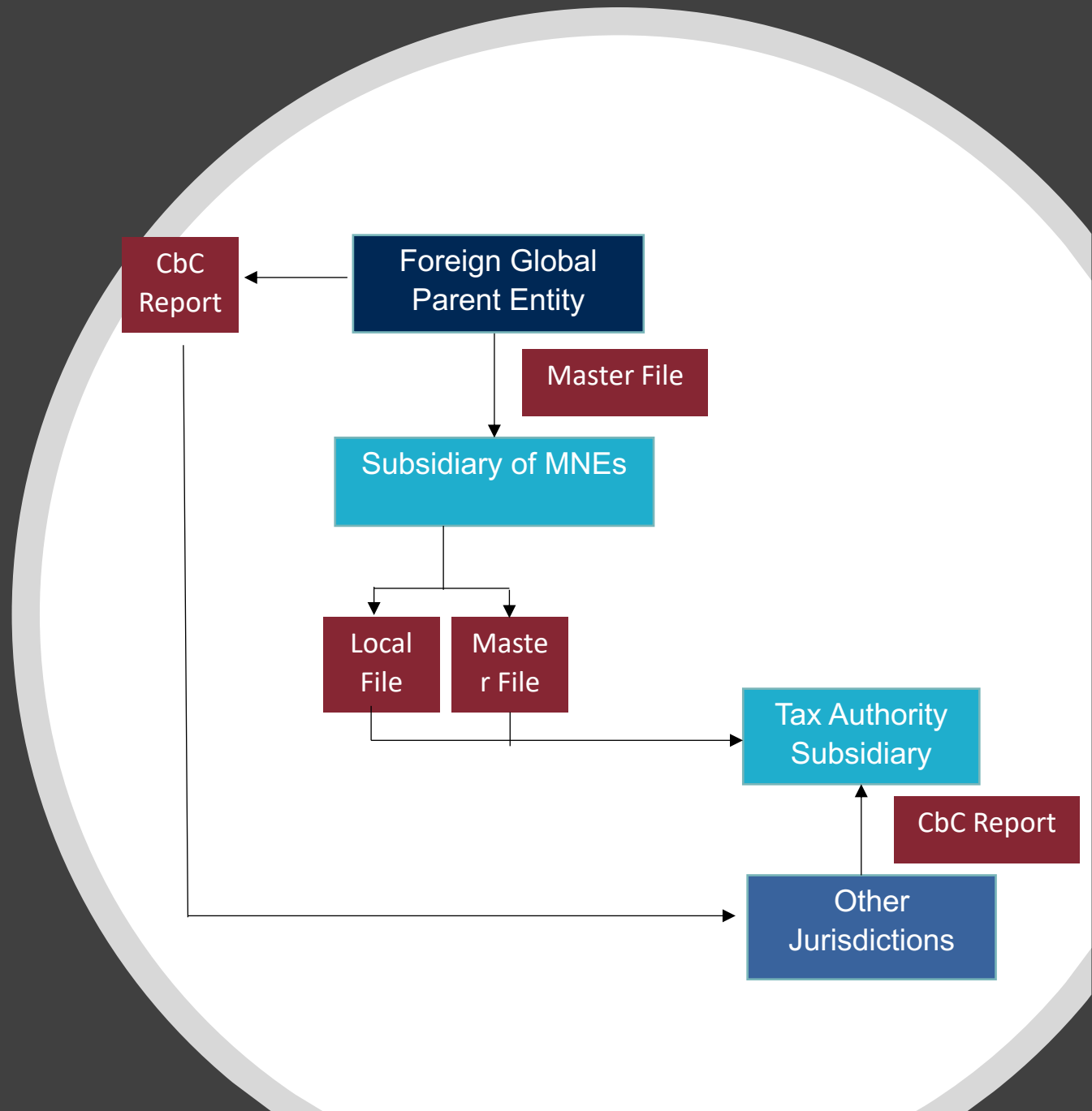
'Theory' behind the Three-Tiered Approach

Head Office point of view



'Theory' behind the Three-Tiered Approach (cont'd)

Subsidiary point of view



Key questions to answer

Where do you have to comply?

- Which countries have safe harbour/ thresholds for compliance?
- Does my company exceeds the thresholds?

What do you have to prepare?

- Complete Tax Return Forms
- CbC Reporting – Consistent OECD Threshold
- Master File – Look at local country threshold
- Local File – Look at local country threshold
- Other files depending on local legislation e.g. Australia Local File Form, China Special issue file.



IMPORTANCE OF TRANSFER PRICING DOCUMENTATION

Why is TP documentation important?

- TP documentation is mandatory in most countries in the region
- Critical to demonstrate compliance with the arm's length principle
- Risk mitigation and assurance similar to an 'insurance policy'
- TP documentation is seen as good practice by Tax Authorities and audit defense mechanism tool



When are taxpayers expected to prepare TP Documentation?



TP documentation should be contemporaneous to the related party transaction.



Ideally, the documentation should be prepared prior or at the time of entering the transaction.



But no later than at the time of completing and filing the tax return for the financial year in which the transaction takes place.

How often does a taxpayer has to prepare TP Documentation?

- Most countries every year as a minimum update the financial data of comparable companies.
- If changes to business model or transaction the document.
- Comparable searches: new every three years, update every year.
- Why? Because TP Documentation supports the tax return for the basis period for the taxpayer.

What type of comparable companies are accepted?

- Most countries prefer local comparables in the region
- Some countries are willing to accept regional comparables if local comparables are not acceptable
- Some countries already have local databases e.g. India, Malaysia.



Centralised vs Decentralised TP Documentation

Centralised Documentation

Parent company manages and control the process.



Follows BEPS three tiered approach: (1) Master File (2) Local File (3) CbC Reporting.



Allows consistency globally, important now due to exchange of information between authorities.



Challenges:

Collating of information from all the subs

Subsidiaries have duty to ensure they are also covered

Subsidiaries may still have to localise the documentation

Decentralised Documentation

Parent Company and Subsidiaries share control and management of the documentation.

Challenges

Inconsistent information between the parent company and subsidiaries around the world.

It could be a one sided documentation that doesn't consider the other country.

Not suitable if the MNE is required to complete CbC Reporting.



TOP TIPS TO MANAGE TP RISK

Common Drivers of Transfer Pricing Risks

2 Key issues

- (1) Substance
- (2) Pricing

Type of Risk	How To Manage
Structures/Transactions with lack of substance	<p>Most difficult challenge – not a quick fix as it is not possible to create substance with TP Documentation</p> <p>Profits should be taxed where value is created Ensure matching substance and form Robust Functional Analysis</p>
Incorrect pricing/ Pricing not supported with benchmarking	If possible support with benchmarking before filing tax return
Changes in pricing as a result of TP analysis	TP Risks of previous years not corrected has existed before the analysis. Most cases companies just amend for future years.



Common Drivers of Transfer Pricing Risks

Type of Risk	How To Manage
Recurrent loss makers	Ensure explanation of losses and how they are not related to the related party transactions
Local vs Regional comparables	Local comparables are preferred. Regional comparables are also acceptable but KEY to show local comparables were not found.
What point in the arm's length range is acceptable?	Median is the preferred point. Deviations from median need to be explained.
Pricing that suits two countries	If possible support with benchmarking before filing tax return

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