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Tax Newsflash

ANAF Order No. 827/2026 – New Advance Pricing Agreement Rules

ANAF Order No. 827/2026, published in the Official Journal of Romania No. 543 of 2 July 2026, introduces a revised framework governing the issuance and amendment of Advance Pricing Agreements ("APAs") in Romania.

The Order updates the procedural rules applicable to APAs and aims to enhance tax certainty for taxpayers engaged in related-party transactions. It also provides additional clarity in relation to the content of APA applications and supporting documentation, while further aligning the Romanian APA framework with OECD Transfer Pricing Guidelines.

Scope of the New Procedure

An APA remains a mechanism through which taxpayers may obtain confirmation from the Romanian tax authorities of the transfer pricing methodology applicable to controlled transactions.

The new procedure applies to APA applications submitted after the entry into force of the Order, while applications filed before this date continue to be governed by the rules applicable at the time of submission.

Importantly, the Order expressly states that its provisions should be interpreted in conjunction with the OECD Transfer Pricing Guidelines. This is particularly relevant for taxpayers seeking APAs covering complex transactions, multi-jurisdictional operating models or bilateral and multilateral arrangements.

Amendment of Existing APAs

A significant clarification introduced by the Order concerns the amendment of existing APAs.

Upon the taxpayer's written request, an APA may now be modified through:

- Extension of its validity period;
- Expansion of its scope; or
- Revision of its terms, where appropriate.

This development is particularly relevant where economic, operational or legal circumstances have changed since the issuance of the original APA.

In practice, taxpayers which hold or are considering an APA should continuously monitor critical assumptions, functional profiles, transaction flows and financial indicators to identify potential circumstances that may require an amendment to the agreement.

APA Application and Supporting Documentation

The Order provides detailed guidance on the content of both APA issuance and APA amendment requests, as well as the supporting documentation to be submitted.

The application should enable the tax authorities to understand clearly:

- The covered transactions;
- The related parties involved;
- The proposed transfer pricing methodology; and
- The economic analysis supporting the proposed approach.

In addition, the taxpayer must declare that no ongoing administrative procedure is currently being conducted in relation to the transactions for which the APA is requested or amended.

The quality and consistency of the application package remain critical, as they may directly influence:

- The duration of the APA process;
- The number of clarification requests issued by the tax authorities; and
- The likelihood of obtaining an APA providing meaningful tax certainty.

Expanded Transfer Pricing Documentation Requirements

The Order introduces more comprehensive documentation requirements and provides detailed guidance in relation to:

- The transaction under review;
- The corporate group;
- The taxpayer;
- The functional analysis;
- The transfer pricing method applied;
- The benchmarking study; and
- Other transfer pricing elements relevant to the analysis.

Similarly to the recently updated transfer pricing documentation requirements, the Order includes specific provisions in relation to the selection of the tested party and the preparation of comparability analyses.

Particular attention is given to situations where a non-Romanian taxpayer is selected as the tested party.

In such cases, taxpayers are expected to provide additional supporting documentation justifying the tested party's profitability indicator and may, on an optional basis, submit independent certification supporting the analysis. These requirements are intended to strengthen the transparency and robustness of transfer pricing analyses carried out within the APA framework.

Overall, the new provisions align APA documentation requirements with international standards and the Romanian Fiscal Procedure Code, placing increased emphasis on transparency, early engagement with the tax authorities and comprehensive transfer pricing support.

Applications and supporting documentation may be submitted electronically through the Romanian Virtual Private Space (SPV) or by post.

Roll-Back to Prior Fiscal Years

One of the most notable developments introduced by the Order is the possibility for an APA also to produce effects for prior fiscal years, subject to the conditions established by Article 52 of the Romanian Fiscal Procedure Code and the procedure approved by the Order.

The legislation refers to this mechanism as the extension of the APA's validity to a period preceding the period originally covered by the agreement.

This may be particularly relevant where taxpayers have undertaken comparable controlled transactions in prior years and seek to reduce transfer pricing adjustment risks or potential double taxation exposures.

However, the roll-back mechanism should not be viewed as automatic. Its applicability requires an assessment of whether the relevant transactions, economic circumstances and critical assumptions remain sufficiently comparable across the periods concerned.

Impact on Taxpayers

The revised framework may increase taxpayer interest in APAs, particularly for:

- High-value intra-group transactions;
- Recurring transactions;
- Transactions involving significant transfer pricing complexity; and
- Arrangements exposed to an elevated risk of tax controversy.

By obtaining an APA, taxpayers may reduce uncertainty associated with future tax audits and improve the management of transfer pricing risks.

At the same time, the procedure requires significant preparation efforts. Taxpayers must develop robust documentation supporting:

- The covered transactions;
- Critical assumptions;
- The functional analysis;
- The transfer pricing methodology;
- The selection of the tested party; and
- The benchmarking analysis.

Notably, the level of detail required for APA applications has increased considerably, and the content of APA documentation is now largely aligned with the enhanced documentation requirements introduced under the new transfer pricing file regulations.

Recommended Actions

Taxpayers should consider whether recurring, material or high-risk intra-group transactions could benefit from the certainty provided by an APA.

Before initiating the process, we recommend that a preliminary feasibility assessment should be conducted covering:

- The suitability of the transactions for an APA;
- Expected benefits and risk mitigation;
- Anticipated timing and resource requirements; and
- The availability of supporting documentation.

To ensure that any future APA application is supported by a consistent and OECD-aligned transfer pricing position, taxpayers should also review their:

- Transfer pricing policies;
- Intercompany agreements;
- Benchmarking studies; and
- Relevant financial information,

Given the increased level of detail required under the new rules, early preparation will be critical to facilitating an efficient APA process and improving the likelihood of obtaining meaningful tax certainty.

We remain available to discuss whether an APA may be appropriate for your organisation and to assist in the preparation of the application and supporting documentation.

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