



Intra-group Services Cost Contribution Arrangements

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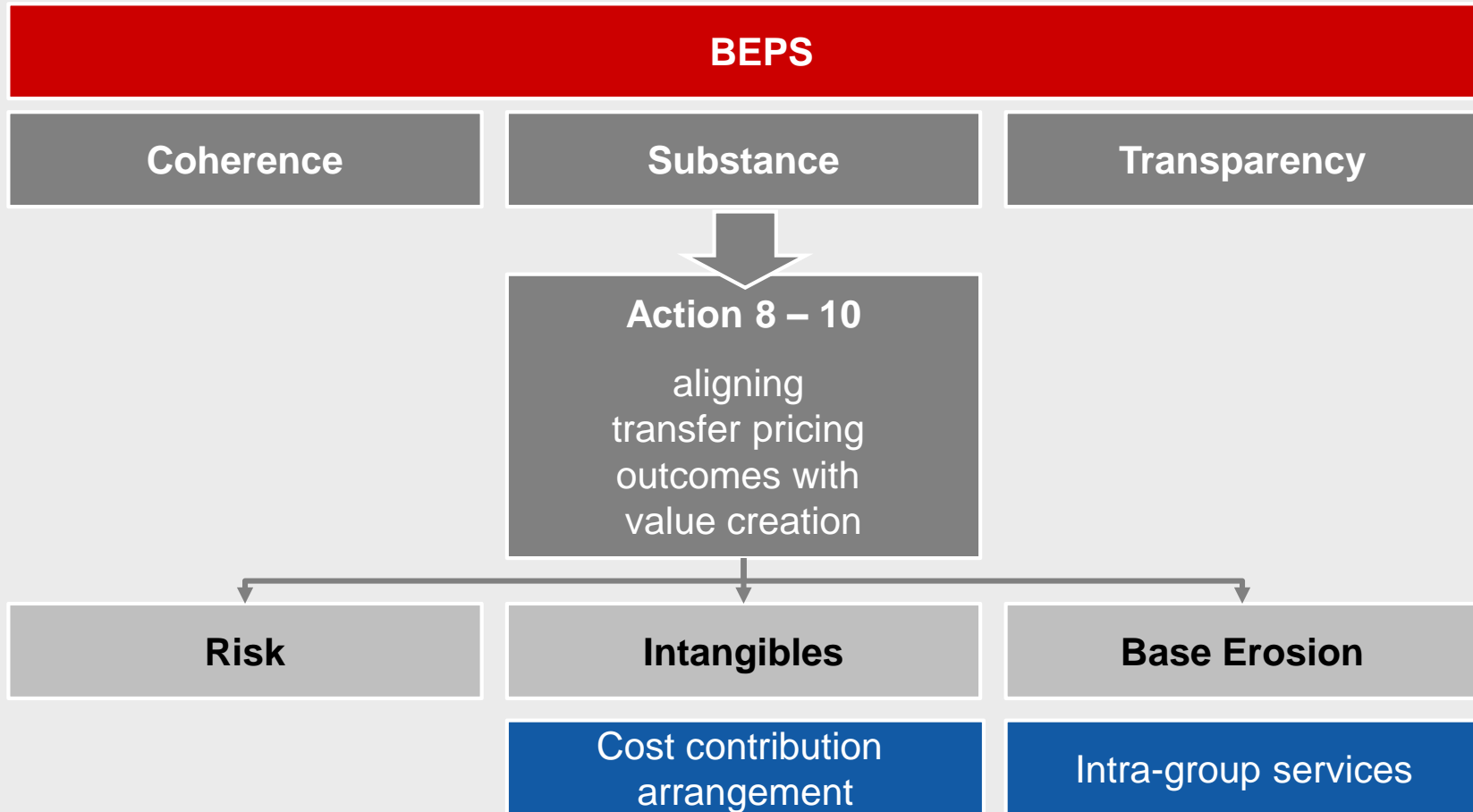
18 May 2017

Agenda

- **BEPS – aligning transfer pricing outcomes with value creation**
- Low value-adding intra-group services
- Cost contribution arrangements



BEPS – aligning transfer pricing outcome with value creation

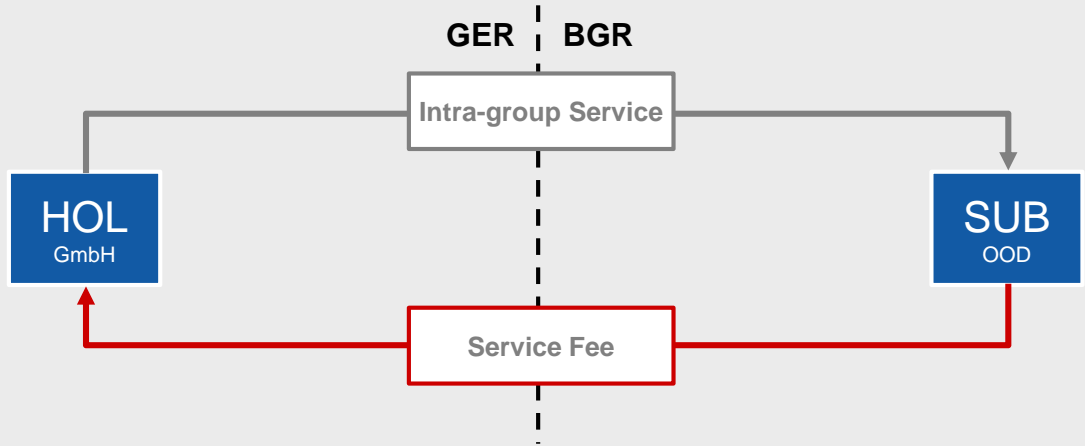


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- BEPS – aligning transfer pricing outcomes with value creation
- **Low value-adding intra-group services**
- Cost contribution arrangements

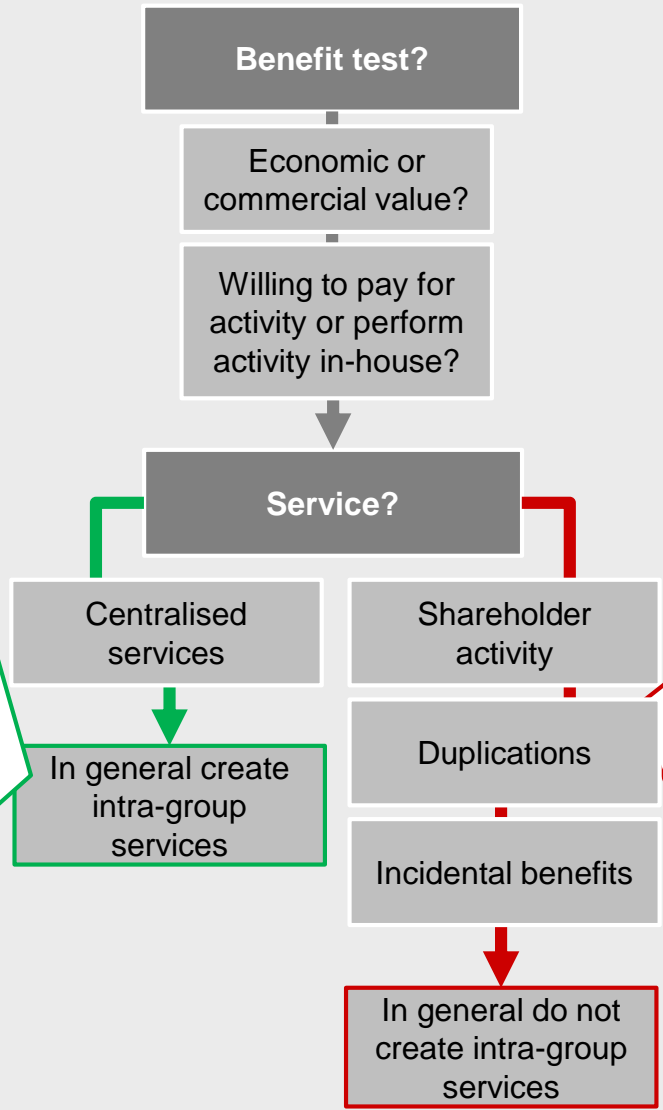


Main issues of intra-group services



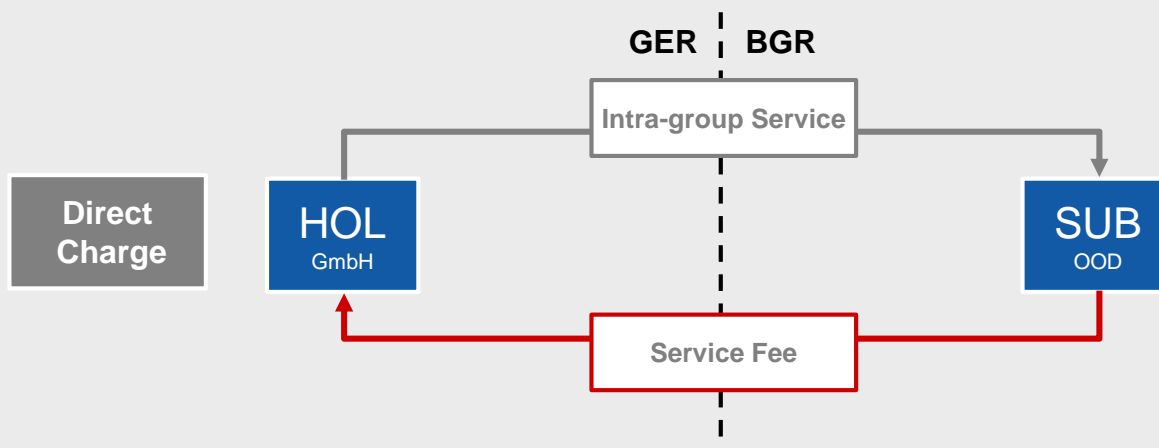
Determining whether intra-group services have been rendered

- Administrative services such as planning, coordination, budgetary control, financial advice, accounting, auditing, legal, factoring, computer services;
- financial services such as supervision of cash flows and solvency, capital increases, loan contracts, management of interest and exchange rate risks, and refinancing;
- assistance in the areas of production, buying, distribution and marketing;
- services in staff matters such as recruitment and training;
- group service centres executing orders management, customer service and call centres, research and development or administration and production of intangible property.

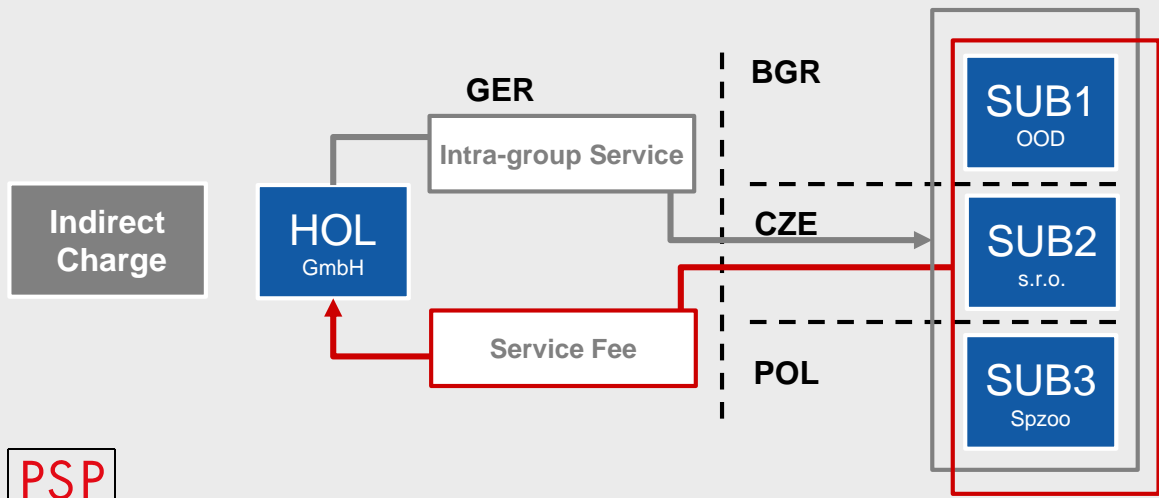


- Costs relating to juridical structure of the parent company (shareholder meetings, issuing shares in the parent company, stock exchange listing of the parent company etc.);
- costs relating to reporting requirements (financial reporting and auditing of the parent company, especially consolidated financial statements);
- costs of raising funds for the acquisition of its participations and costs relating to the parent company's investor relations;
- costs relating to the compliance of the parent company with the relevant tax laws;
- costs which are ancillary to the corporate governance of the MNE as a whole.

Identifying actual arrangements



Convenience for tax administrations since services performed and basis for payments can be clearly identified.



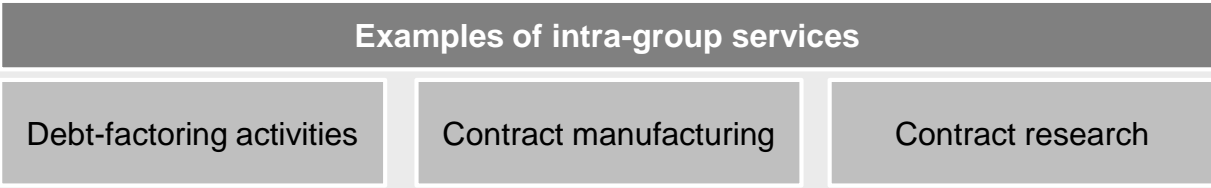
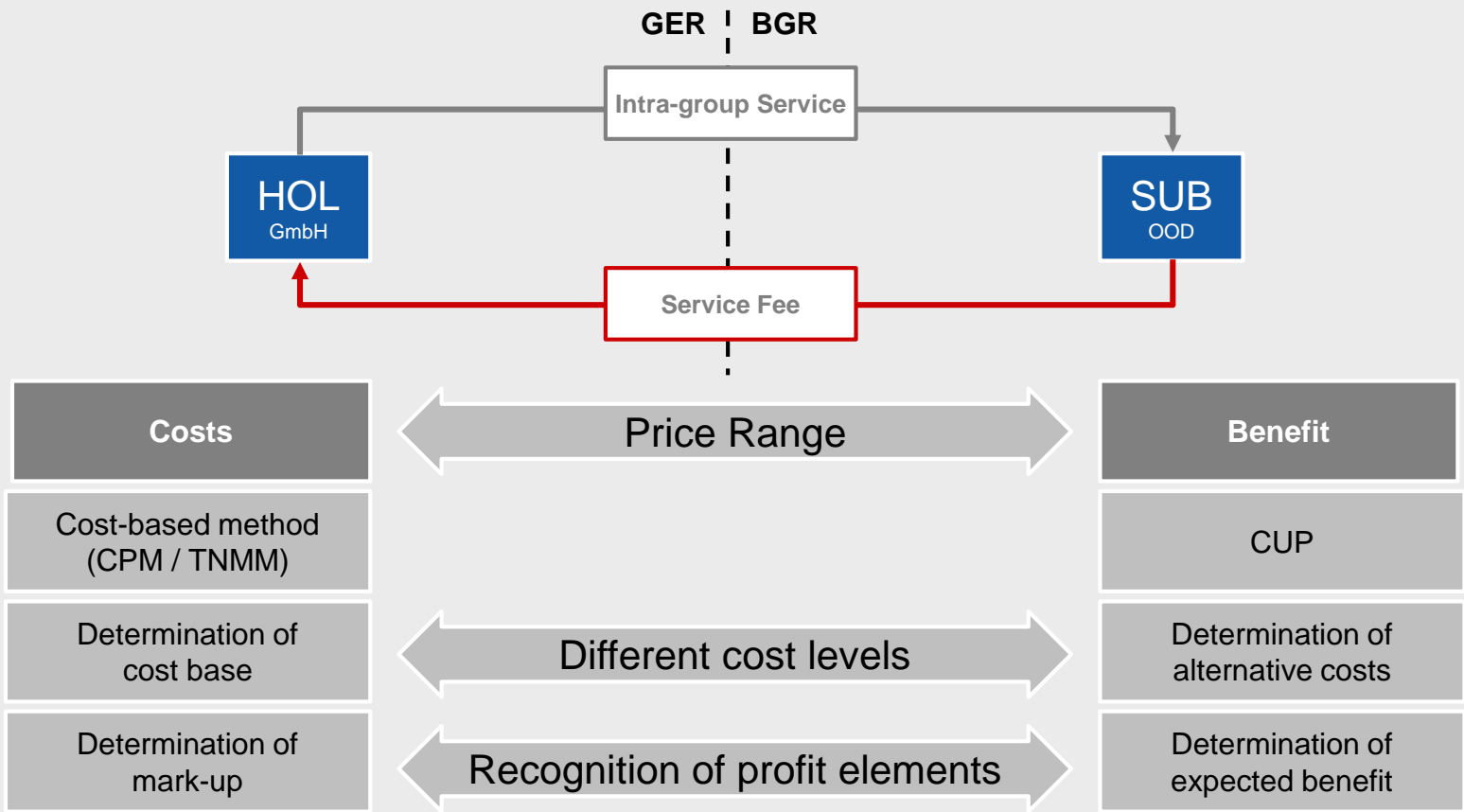
Risk of double taxation since services performed and basis for payments can not be clearly identified.

Not acceptable where service is part of main business activity.

Benefit of service cannot be quantified accurately.

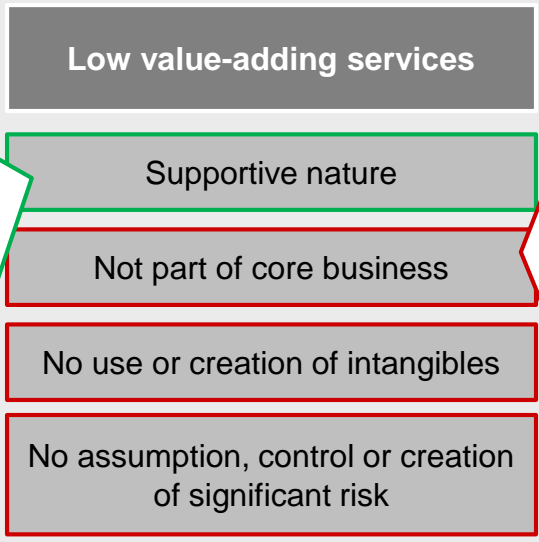
Challenge of finding a proper allocation key.

Calculating the arm's length compensation



Low value-adding intra-group services

- Accounting and auditing;
- processing and management of accounts receivable and accounts payable;
- human resources activities (staffing and recruitment, training and employee development, remuneration services, developing and monitoring of staff health procedures etc.);
- information technology services (installing, maintaining and updating IT systems, information system support, training on the use of application etc.);
- internal and external communications and public relations support;
- legal services;
- activities with regard to tax obligations;
- general services of an administrative or clerical nature.



- Services constituting the core business of the MNE Group;
- research and development services;
- manufacturing and production services;
- purchasing activities relating to raw materials or other materials that are used in the manufacturing or production process;
- sales, marketing and distribution activities;
- financial transactions;
- extraction, exploration, or processing of natural resources;
- insurance and reinsurance;
- services of corporate senior management (other than management supervision of services that qualify as low value-adding services).

Simplified determination of an arm's length charge

Introduction of elective, simplified approach for low value-adding services

Reducing tax compliance costs

Reducing risk of double taxation

Reducing tax enforcement costs

Benefit test

Benefit test only based on a category of services, not on a specific charge basis

Determination of cost pools

+ Direct cost
 + Indirect cost
 + Operating expense
 ∴ Cost from shareholder activity

Remove „one on one“ costs

Allocation of costs

Allocation key should depend on nature of service and reflect share of benefit expected.

Examples:
 People: headcount
 IT: user
 Accounting: transactions

Profit mark-up

Same mark-up irrespective of category of service
 Mark-up shall be equal to 5%
 No need for benchmark study

Documentation

Description of categories and qualification as low value-adding service
 Identification of beneficiaries
 Rationale of provision and description of benefit
 Adequateness of allocation key
 Written contract
 Calculation showing cost, mark-up, allocation key

Practical challenges applying the simplified approach

Introduction of elective, simplified approach for low value-adding services

Reducing tax compliance costs

Reducing risk of double taxation

Reducing tax enforcement costs

Benefit test

Determination of cost pools

Allocation of costs

Profit mark-up

Documentation

No documentation of specific individual acts undertaken necessary.

When should operating expense be included in the cost basis?

How detailed must the description of the applicability of the allocation key be?

Reduction of tax compliance costs if no benchmark study is needed.

How detailed must the description of the benefit be?

How are different cost levels taken into account?

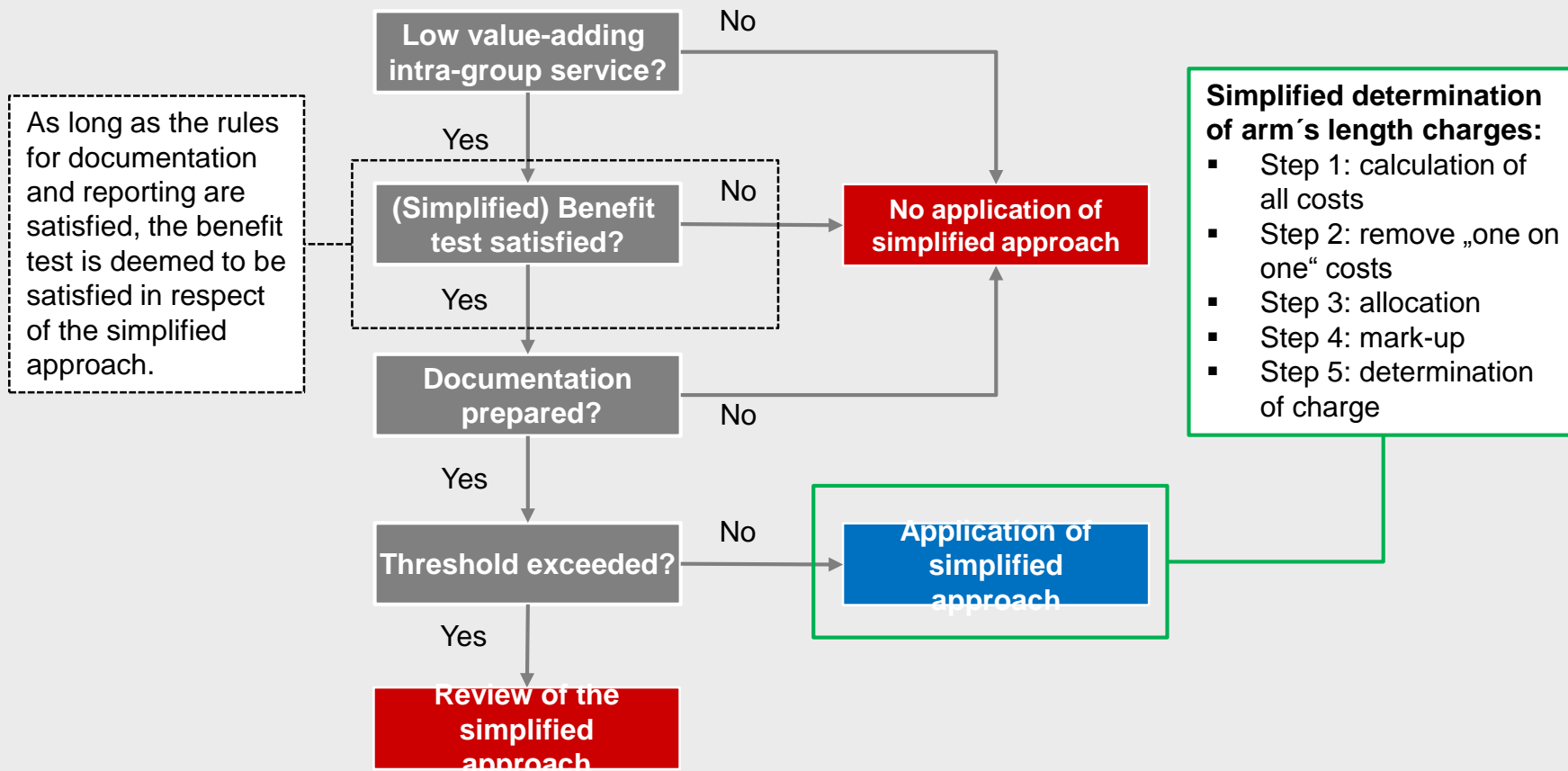
How are "one to one" costs determined?

Simplification vs. arm's length profit allocation?

Is the profit mark-up limited by the expected benefit?

Should location specific cost advantages be reflected in mark-up?

Overview simplified approach

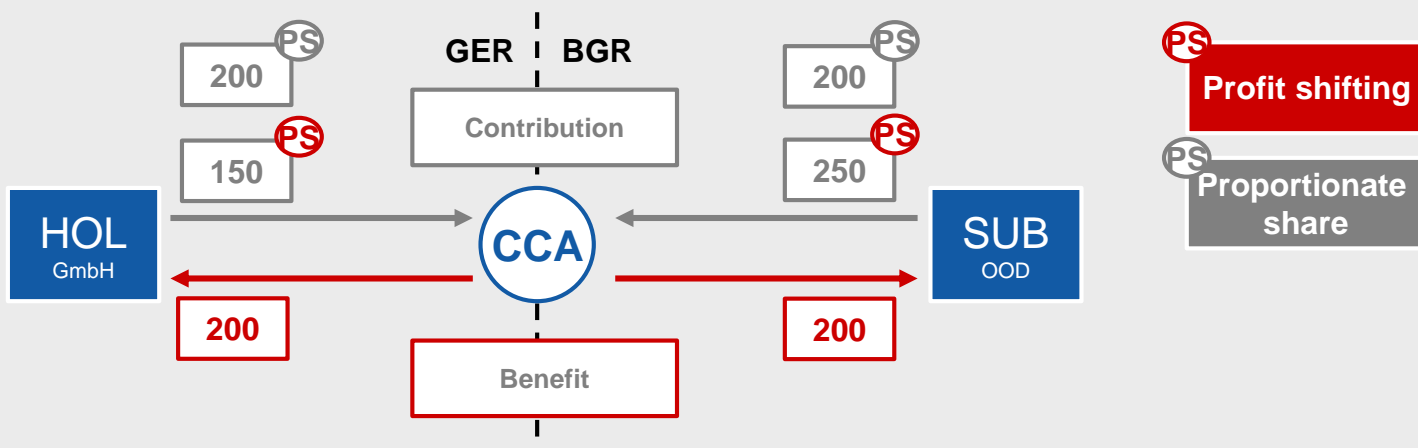


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Main issues of cost contribution arrangements



Simplification of multiple transactions

Idea of a CCA

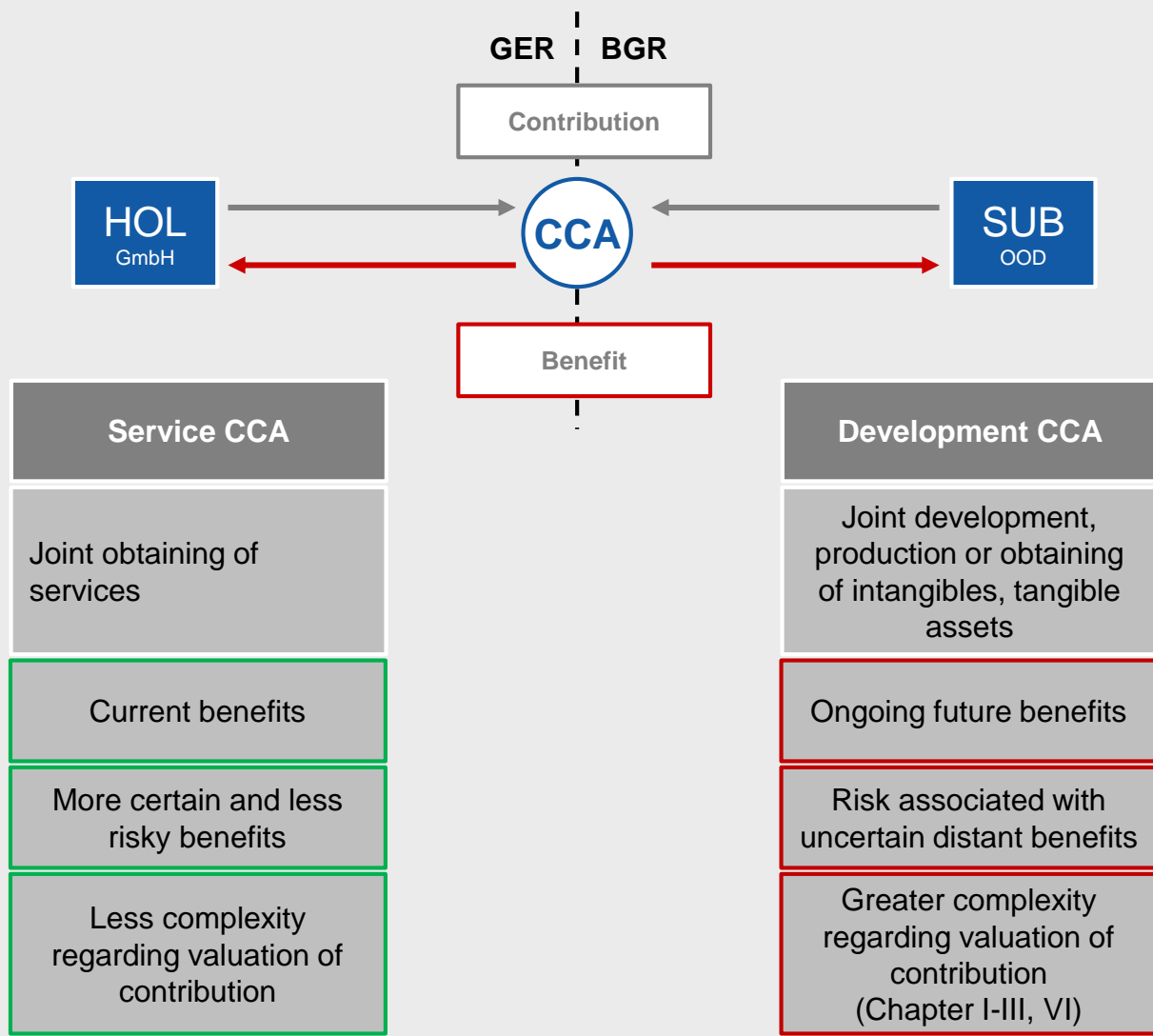
- Participants
- share contributions and risks
 - to joint development, production or obtaining of intangibles, tangible assets or services
 - which create benefit for the participants

Profit shifting?

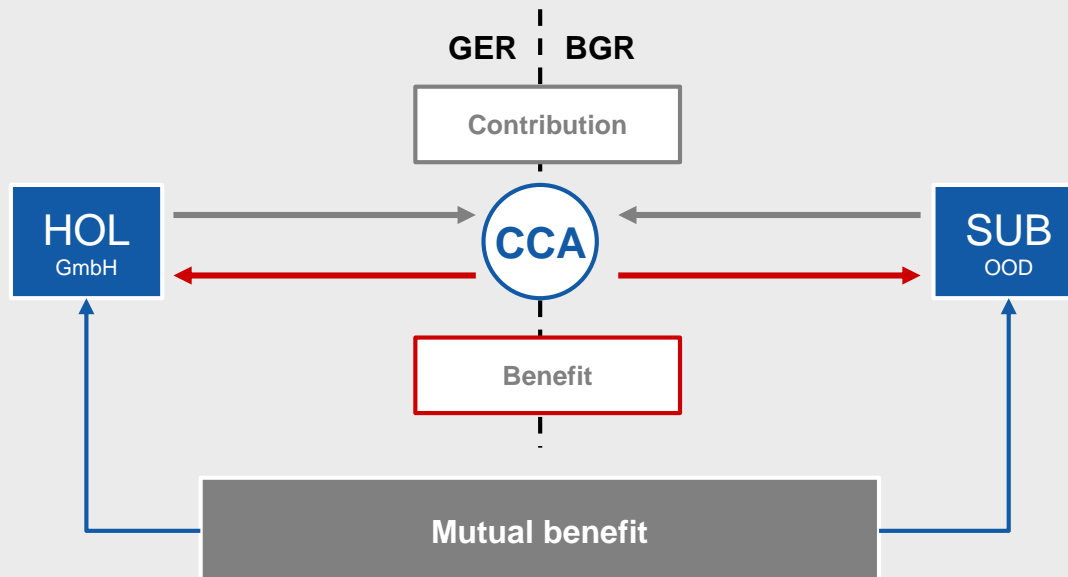
Assumption of a CCA

- Participant's
- proportionate share of overall contributions must be consistent with
 - proportionate share of overall benefit, Transfer pricing analysis is based on actual transaction and if no deviation on contractual arrangements.

Types of cost contribution arrangements



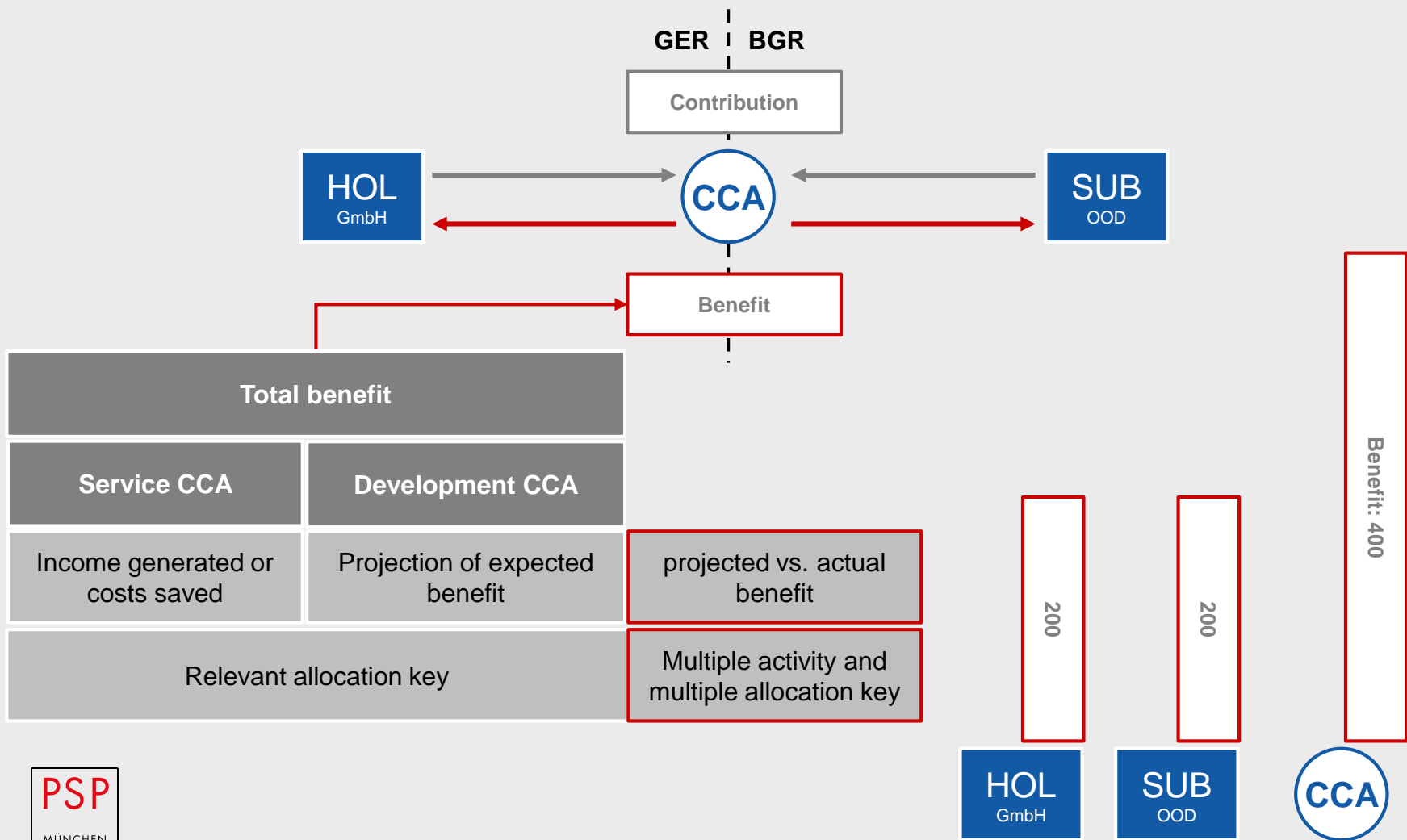
Participants of cost contribution arrangements



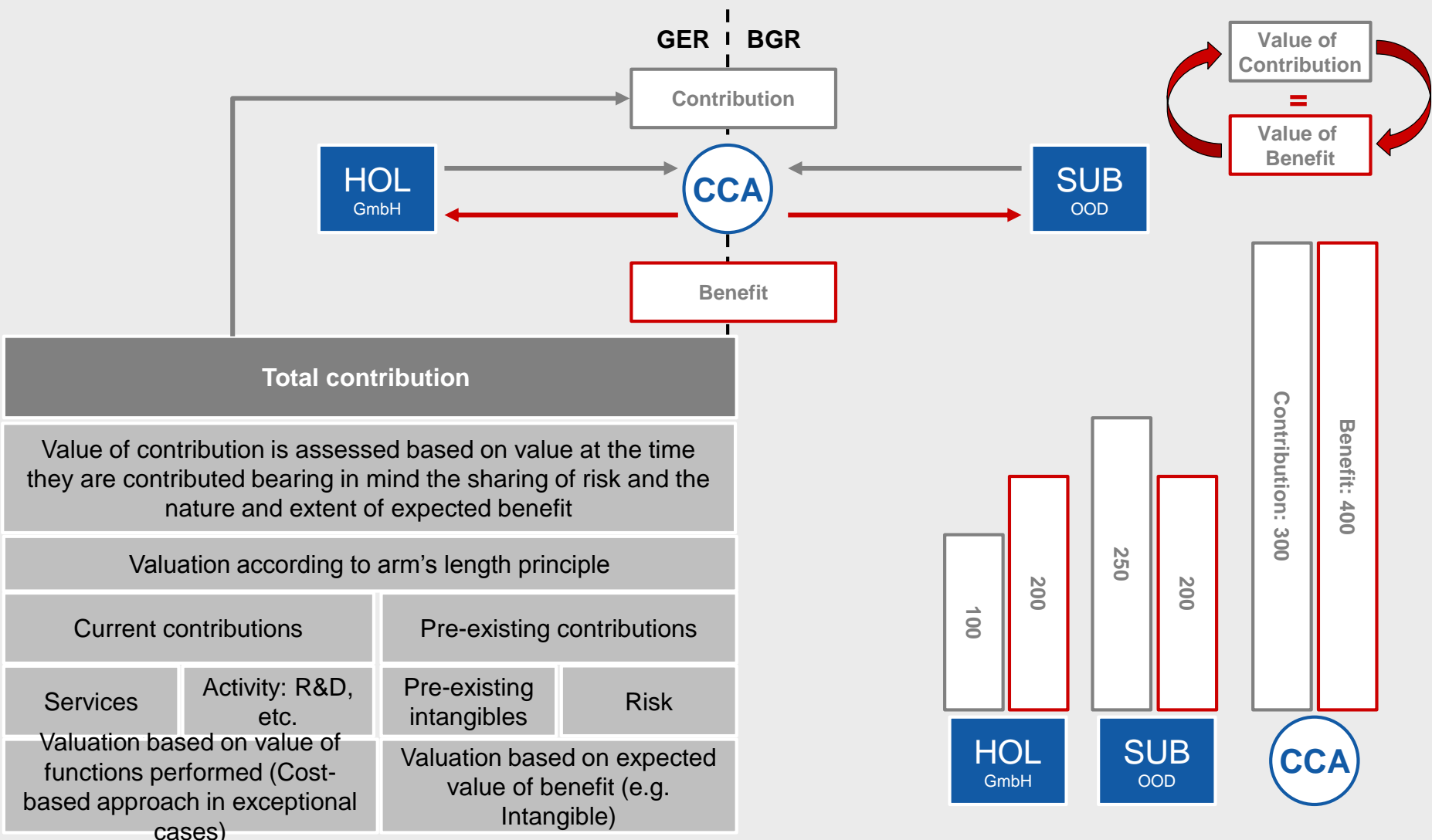
No participation:

- party makes no or very little contribution
- party has no expected benefit
- party only performs services
- party does not exercise control over the specific risk assumed under the CCA
- party does not have the financial capacity to assumed risks
- party does not have capability to make decisions or does not perform that decision-making function

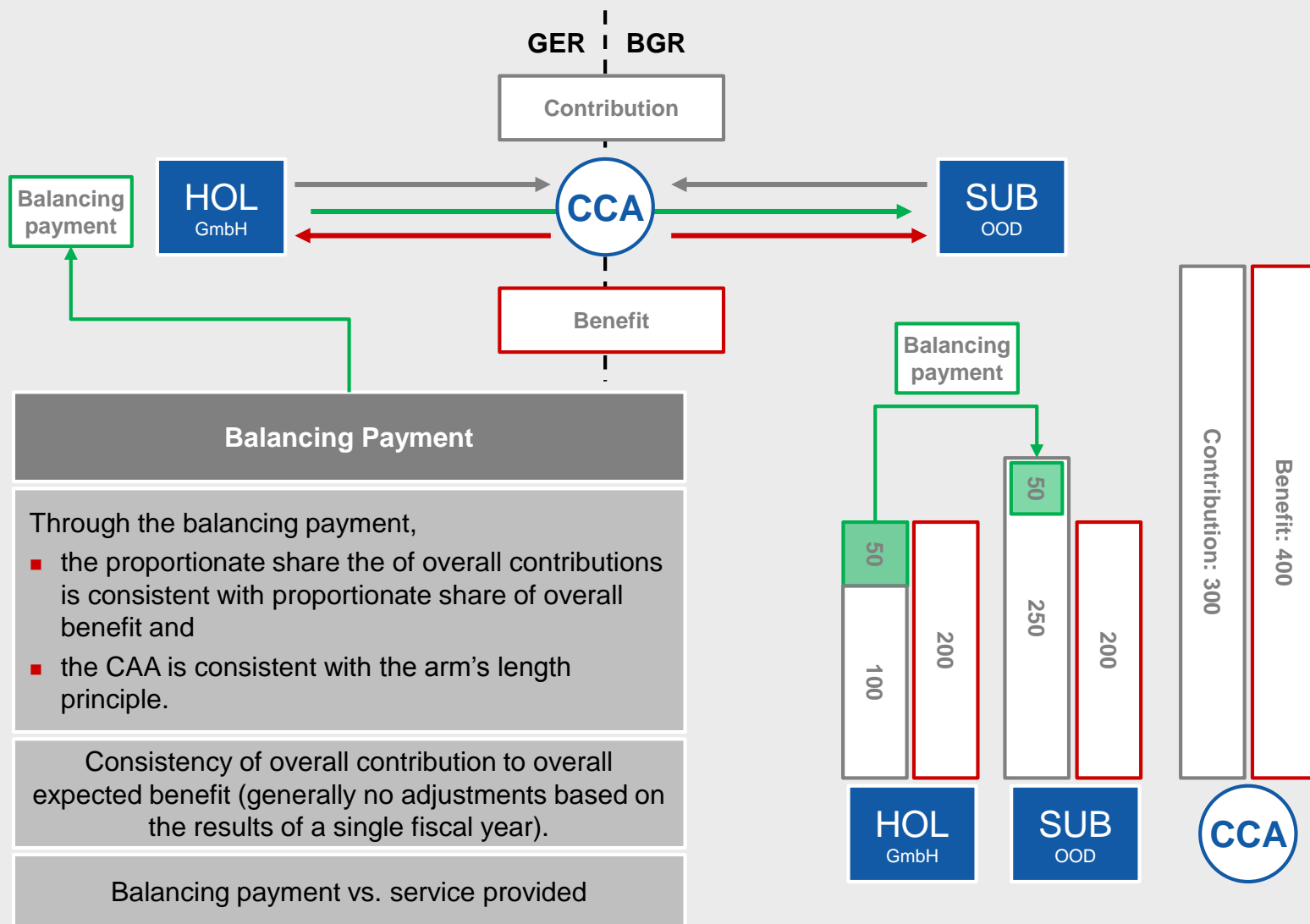
Expected benefit from cost contribution arrangements



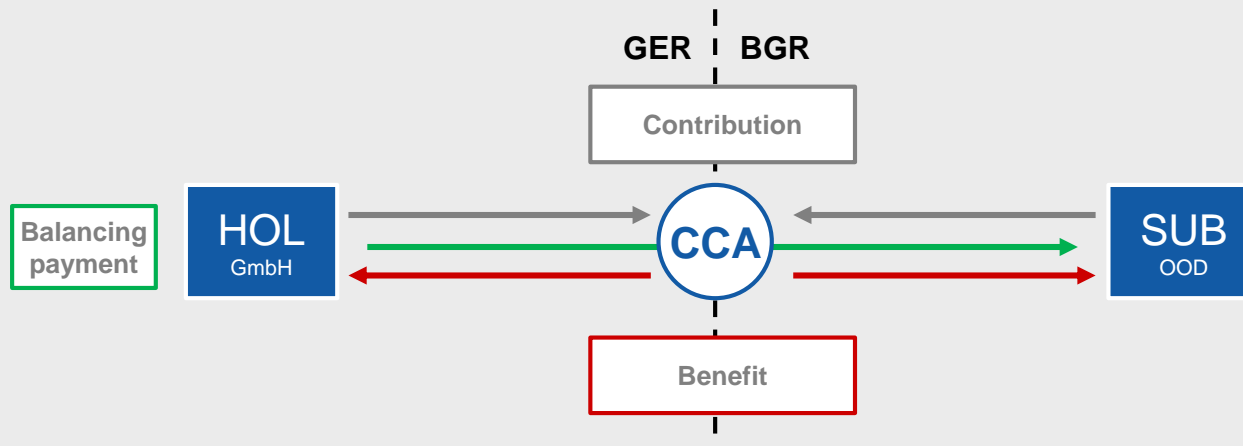
Value of contribution to cost contribution arrangements



Value of contribution to cost contribution arrangements



Entry, withdrawal, termination



Entry	Withdrawal	Termination
Reassessment of proportionate shares of participants' contribution and expected benefit		
Party entering might obtain an interest in any results of prior CCA (completed or work-in-progress intangible)	Party leaving might transfer an interest in any results of prior CCA (completed or work-in-progress intangible)	Participant retains an interest in the results of the CCA consistent with their proportionate share of contributions
Transfer part of respective interest in results of prior CCA: arm's length buy-in-payment	Transfer part of respective interest in results of prior CCA: arm's length buy-out-payment	or Participant is appropriately compensated for any transfer of interest

Conclusion regarding cost contribution arrangements

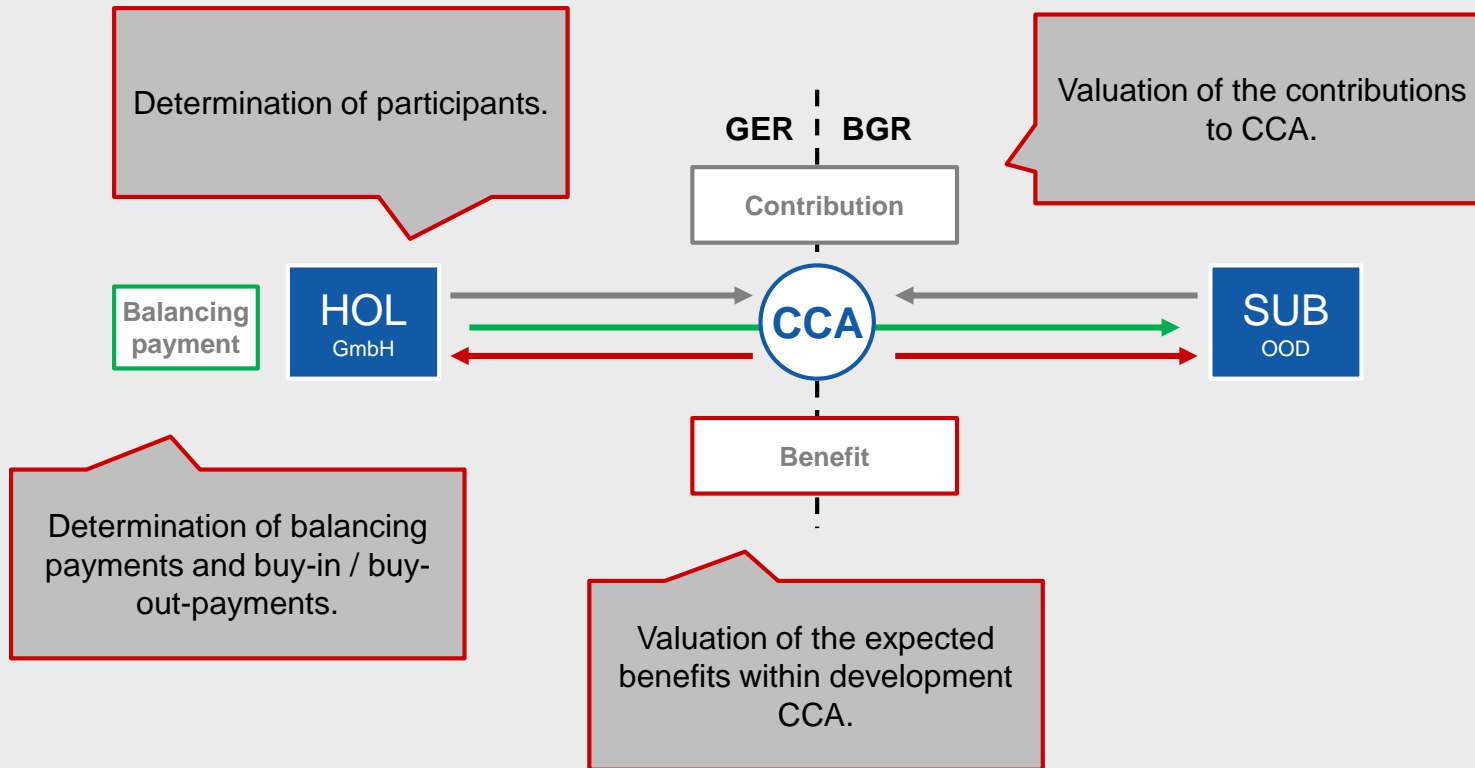
Recommendations for documenting

- Participants: only enterprises expected to derive mutual and proportionate benefits from the CCA activity itself (not just from performing part of or all of that activity),
- nature and extent of each participant's interest in the results of the CCA and expected respective share of benefit,
- no payment other than the contributions, appropriate balancing payments and buy-in payments,
- determination of value of participants' contributions and balancing payments,
- arrangement how to reflect material changes in proportionate shares of expected benefits among the participants,
- adjustments necessary upon the entrance or withdrawal of a participant and upon termination of the CCA.

Recommendations for documenting

- List of participants,
- list of any other associated enterprises that will be involved with the CCA,
- scope of the activities and specific projects covered and how the activities are managed and controlled,
- duration of the arrangement,
- determination of proportionate shares of expected benefits,
- exploitation of future benefits,
- form and value of each participant's initial contributions,
- anticipated allocation of responsibilities and tasks,
- consequences of a participant entering, withdrawing or terminating,
- balancing payments to reflect changes in economic circumstances,
- changes to the arrangement,
- comparison between projection of expected benefits and actual share of benefit,
- annual expenditure, form and value of contributions and description of valuation of contributions.

Practical challenges applying cost contribution arrangements



Thank you very much for your attention

Speaker



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