



Goods & Services Tax

The main differences to Germany's system
- and the need to communicate differences

Communication- case

The new German CEO Mr. Max Müller in India...

... is dreaming of a nice German Car and looking for a nice new office building, he wants to build in Noida. His company is working in the service industry and for their services 18 % GST are due.

Car: **50 Lakh** + GST 28% + 15 % Cess Construction of Office Building: **10 Crore** + 18% GST (own land)

What are the „prices“ for the supply of this good and the services in his mind?

Main differences

**material
tax law**

**Refund
procedure**

Assessment

**Tax
Compliance
and process
description**



material TAX Law

GST in India / Germany

issue	India	Germany	Differences
Tariff	5%, 12%, 18%, 28%	7%, 19%	No Cess in Germany
Option	-	10 years	For big investment in agriculture, renting out of office space, clinics...
Tax credit	Limited and Silos	unlimited	Silos for credits need to be explained
Reverse Charge	yes	yes	clear
Tax Return	monthly, annually	monthly or quarterly, annually	Invoice level credit procedure in India demanding
Reciprocity for foreign credit	no	yes	Credit in Germany not only for EU states
Procedural law part of material law	yes	No, separate law (AO)	Every tax law in India has own procedural rules
Interstate (EU) supply	yes	yes	IT traceable supply with tax authorities (Here systems are comparable)

GST in Europe I

Member State	Country Code	Normal Tariff	Reduced Tariff	Low Tariff	Middle Tariff
Österreich	AT	20	10 / 13	-	13
Belgien	BE	21	6 / 12	-	12
Bulgarien	BG	20	9	-	-
Zypern	CY	19	5 / 9	-	-
Tschechische Rep.	CZ	21	10 / 15	-	-
Deutschland	DE	19	7	-	-
Dänemark	DK	25	-	-	-
Estland	EE	20	9	-	-
Griechenland	EL	24	6 / 13	-	-
Spanien	ES	21	10	4	-
Finnland	FI	24	10 / 14	-	-
Frankreich	FR	20	5,5 / 10	2,1	-
Kroatien	HR	25	5 / 13	-	-
Ungarn	HU	27	5 / 18	-	-

GST in Europe II

Member State	Country Code	Normal Tariff	Reduced Tariff	Low Tariff	Middle Tariff
Irland	IE	23	9 / 13,5	4,8	13,5
Italien	IT	22	5 / 10	4	-
Litauen	LT	21	5 / 9	-	-
Luxemburg	LU	17	8	3	14
Lettland	LV	21	12	-	-
Malta	MT	18	5 / 7	-	-
Niederlande	NL	21	6	-	-
Polen	PL	23	5 / 8	-	-
Portugal	PT	23	6 / 13	-	13
Rumänien	RO	19	5 / 9	-	-
Schweden	SE	25	6 / 12	-	-
Slowenien	SI	22	9,5	-	-
Slowakei	SK	20	10	-	-
Vereinigtes Königreich	UK	20	5	-	-



Refund procedure

Refund in Germany

- Account data and all characteristics of a company are known to the tax department
- Monthly self assessed return
- Taxes have to be paid immediately, with return filing
- Refund comes immediately generally within a month
- Huge refunds induce regularly „special tax assessment“
- Problem of so called „missing trader“ in scrap industry and small high value products like mobiles.
- No adjustment between supplier and customer needed
- Sole exemption: INTER EU TRANSACTIONS



Assessment

- Assessing officer generally not specialized in GST
- Recycling business, Financial Institutes, Real Estate and Export main focus sectors

But in Special GST assessments:

- Special GST tax assessment led to surplus in taxes of EUR 1.72 billion in 2016. The results from regular tax assessment or from tax investigation are not included in this result.
- In 2016 **85,681** special GST tax assessments were carried out. The annual average was **1,873** GST tax assessing officers.
- Each auditor conducted an average of **46 special audits**. This means an annually average surplus of **0.92 million EUR** for each auditor employed.

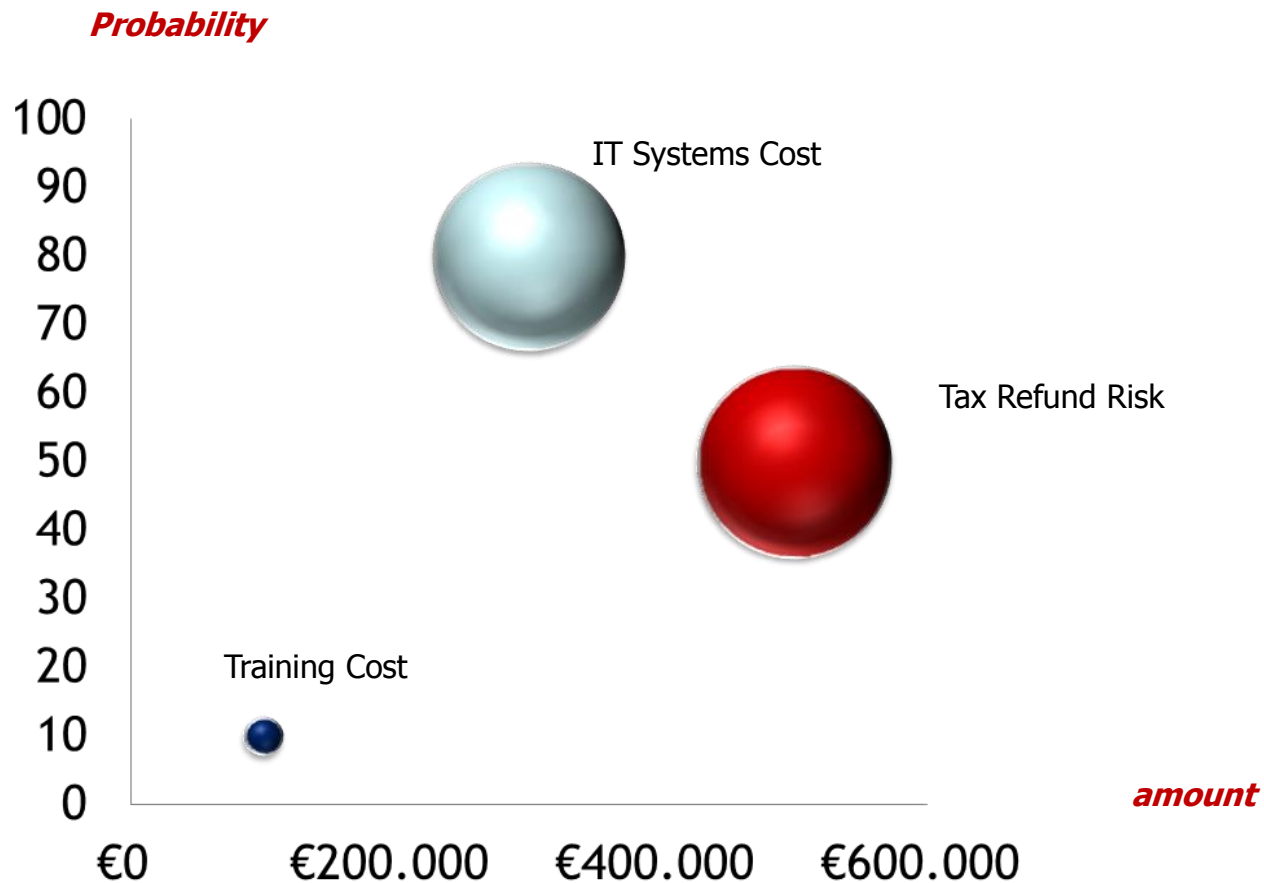
Comparison Assessment India and Germany	India				Germany
	Income Tax			GST	income-, GST-, tax municipality tax
	Corporate or Individual Tax Return	TDS Returns	Transfer Pricing	Goods and Services Tax	one long assessment for all taxes and 3-5 years' returns
Notice	Yes	Yes	Yes	Yes	Yes
Authority	Assessing Officer	Assessing Officer	Transfer Pricing Officer	Proper Officer	Assessing Officers (several)
Place of Audit	Tax Office	Tax Office	Tax Office	Tax Office, but for scrutiny premises for audit	in the taxpayer's premises
Name of Audit	Assessment Order	Assessment Order	Transfer Pricing Order	scrutiny , audit	Assessment
Initiation/ Beginning	Within six months from the end of year in which return filed	7 years from the end of financial year	Reference given to TPO once the case is selected for assessment	notice (3 months prior to completion of audit)	within 4 years after ending of year in which tax return is filed, the assessment has to start
Completion	33 months from the end of tax return's financial year (exemption TP)	7 years from the end of financial year	45 months from the end of the tax return financial year	within 5 Years from due date of furnishing annual return	generally no time limit, with exceptions
Result	Tax return may be accepted or enhanced	Interest on late payment of TDS	ALP of transactions may be accepted or enhanced	assessment order or audit order	Assessment Report and changed Tax Returns
Penalty/ Prosecution Risk	Yes	Yes	Yes	yes	Yes
Whether appealable	Yes	Yes	Yes	Yes	only Tax Return is appealable
Time Limit of payment	30 days from the date of receipt of tax demand	30 days from the date of receipt of tax demand	TP Order becomes part of assessment order	within three month of service (receipt) of an order	one month after receiving changed tax return
Reopening limitation	7 years back 17 years back in cases of foreign income	None	7 years back 17 years in cases of foreign income	not mentioned in law, but 72 month after filing annual return the data records have to be kept	very clear rules: 10 years back



Tax Compliance and process description

- Big shift in Germany
- Tax Compliance Management **System** needed, as rules for correcting of tax returns were changed in Germany
- Also Tax Compliance in India becomes part of Compliance Management System in Germany.
- Especially applicable for listed companies and strong impact on family run businesses
- Risk Reporting- regarding GST very demanding now
- Creating an appropriate System versus outsourcing
- Thoughts of TMCS mainly influenced by US
- Procedure description and documentation very important
- Controlling, internal audit, and regular adjustments have to be shown in case of „correction“

Tax Compliance Risk analysis



धन्यवाद !

Saskia Bonenberger

Mohinder Puri & Co.
1 F Vandhna, 11 Tolstoy Marg
New Delhi 110001
India
T: +91 (0) 11 4710 3388
F: +91 (0) 11 2331 3908
Mobile Indien: +91 88 0094 7373
Mobile Germany: +49 170 92077585
Email: smlb@mpco.in