

Tax Treaty Interpretation – Focus on Royalties and Fees for Technical Services



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12 December 2019

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Basics of treaty interpretation

Royalty

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2. Definition of Royalty
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3. Illustrative cases on major controversies

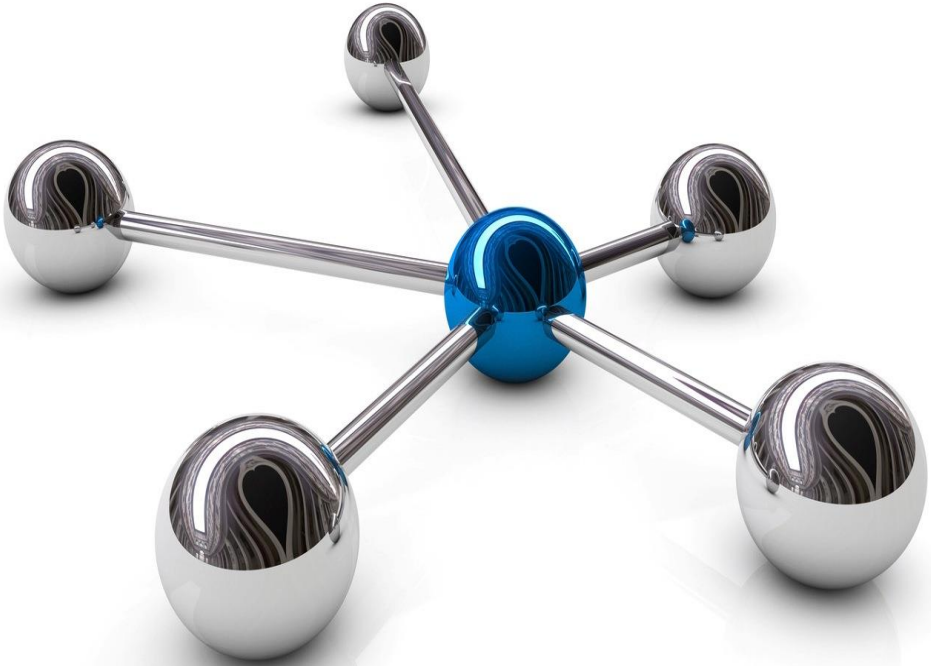


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Fee for Technical Services (FTS)

1. FTS under the Act
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Introduction to tax treaties

Introduction to tax treaties

- **What are tax treaties**
- Agreements between countries with respect to taxes on income and on capital, wherein countries agree to:
 - Be restricted from taxing
 - Provide relief for taxes paid in the other treaty country
- **Types of Treaties**
 - Bilateral / Multilateral (e.g. Nordic treaty)
- **Why are tax treaties**
 - Promotion of cross border trade through elimination of double taxation
 - Providing clarity of fiscal situation of a taxpayer
 - Exchange of information to combat tax avoidance / tax evasion
 - Sharing of tax revenues
- **Legal effect of tax treaty**
 - Treaties do not impose taxation since they are not given the function of being tax instruments.
 - Treaty are given effect by domestic legislations. Hence, applicability of Tax Treaty is conditional to the applicability of the Domestic legislations.

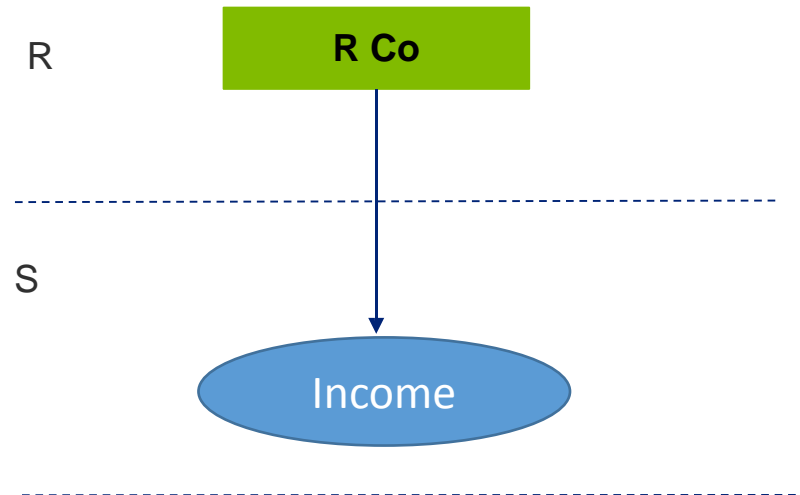
Introduction to tax treaties

- **Basic principles of tax treaties**
 - Residence – connects to Tax Payer
 - Source – connects to income
 - State R (Resident) has basic rights to tax global income of its Resident
 - State S (Source) shall also levy tax, however, generally lower than normal tax
- **Allocation of taxation rights to countries**
 - Full rights to tax only in one jurisdiction either to Source state or Residence State
 - Full rights to tax by both jurisdictions but with tax in the source state limited to a specified level and residence state give credit for tax paid in Source state
 - Full right to tax by both jurisdictions without limitation and the Residence state giving a credit for tax paid in the Source State
- **Treaties can be Limited or Comprehensive**
 - Comprehensive Double Taxation Avoidance Agreement ('DTAA') cover all income flows
 - Limited DTAA covers only shipping / transport related income

Juridical Vs Economic Double Taxation

- Double taxation is Juridical when the **same person** is taxed twice on the **same income** by **more than one state**.
- Double taxation is Economic if **more than one person** is taxed on the **same item of income**.

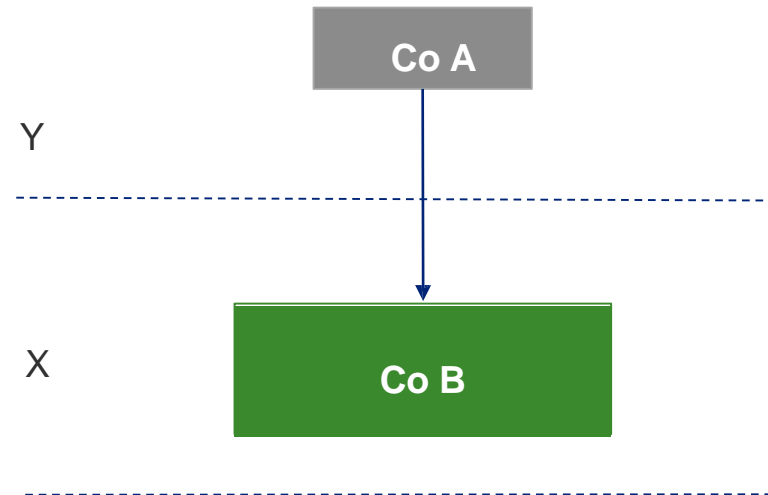
Juridical Double taxation



Income is subject to tax in two countries
–Shared taxing rights

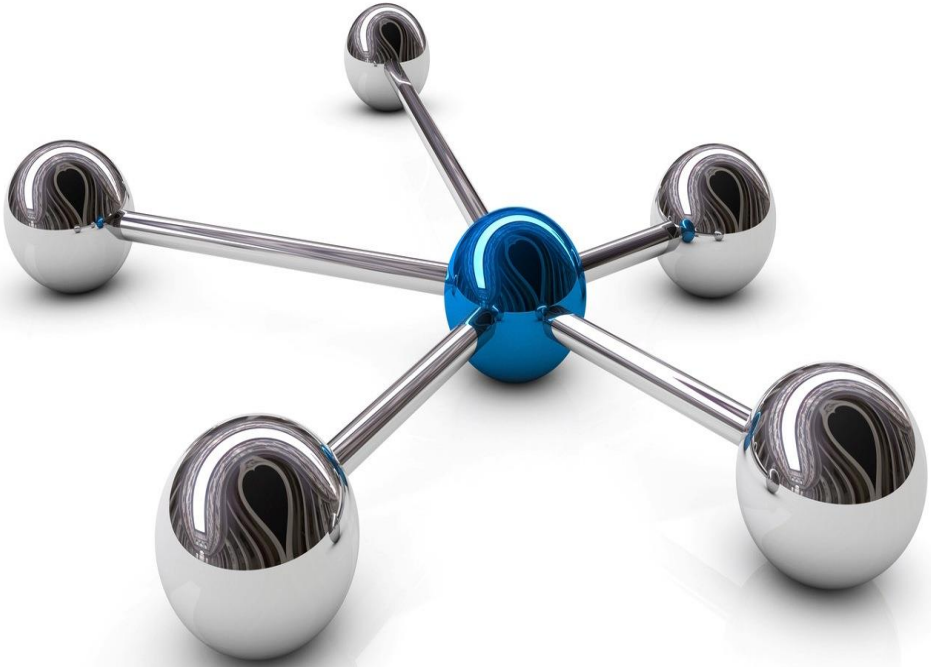
E.g., Fees for technical services,
Royalty

Economic Double Taxation



Two legal entities are subject to tax on same income
in two countries –

E.g., Unilateral Transfer Pricing adjustment



Basics of treaty interpretation

Basics of Treaty Interpretation

- **Article 1** generally defines the scope of treaty:

“This convention shall apply to **persons** who are **residents** of **one or both** of the Contracting States.”

- **Article 2** generally contains definitions of ‘Taxes’ or treaty terms like ‘person’:
 - The term “person” includes an individual, a company and any other body of persons which is treated as a taxable unit under the taxation laws in force in the respective Contracting State
 - Taxes – not to include surcharge or cess?
- **Article 3** generally contains definitions of other treaty terms
 - Article 3(2) – reference to domestic law
- **Article 4** of OECD / UN Model Convention usually considers with minor modifications, the term “resident of a Contracting State” means
 - any person
 - who under the laws of that state
 - is **liable to tax** therein
 - by reason of his domicile, residence, place of management, nationality or
 - any other criterion of similar nature.

Transparent partnership qualifies for treaty benefits?

Interpreting a Treaty (Vienna Convention)

- The purpose of the Vienna Conventions is basically to codify existing rules of international law rather than create new provisions.
- Article 31 and 32 of Vienna Convention, provides a broad guideline as to what could be an appropriate manner of interpreting a tax treaty.
- A Treaty shall be interpreted *“in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in light of its object and purpose.”* (Art. 31(1)) (Look for object and purpose in preamble & overall structure)
- The context for the purpose of the interpretation of a treaty includes Preamble, annexes, text itself, agreements, treaty instrument, other international law provisions, etc.
- Parties’ own interpretations reflected in subsequent agreements
- History of the negotiation of the treaty (as supplementary means of interpretation)

Overview of Tax Treaty – Articles of Treaty

Scope Provisions

Article 1 : Personal Scope
Article 2 : Taxes Covered
Article 29: Entry into force
Article 30: Termination

Definition Provisions

Article 3: General Definitions

Article 4: Residence

Article 5: Permanent Establishment

Substantive Provisions

Article 6 : Immovable Property
Article 7 : Business Profits
Article 8: Shipping etc
Article 10: Dividend
Article 11: Interest
Article 12: Royalty & FTS
Article 13: Capital Gains
Article 14: Independent Personal Services
Article 15: Dependent Personal Services
Article 16: Directors
Article 17: Artists & Sports persons
Article 18: Pensions
Article 19: Government Service
Article 20: Students
Article 21: Other Income
Article 22: Capital

Elimination of double taxation

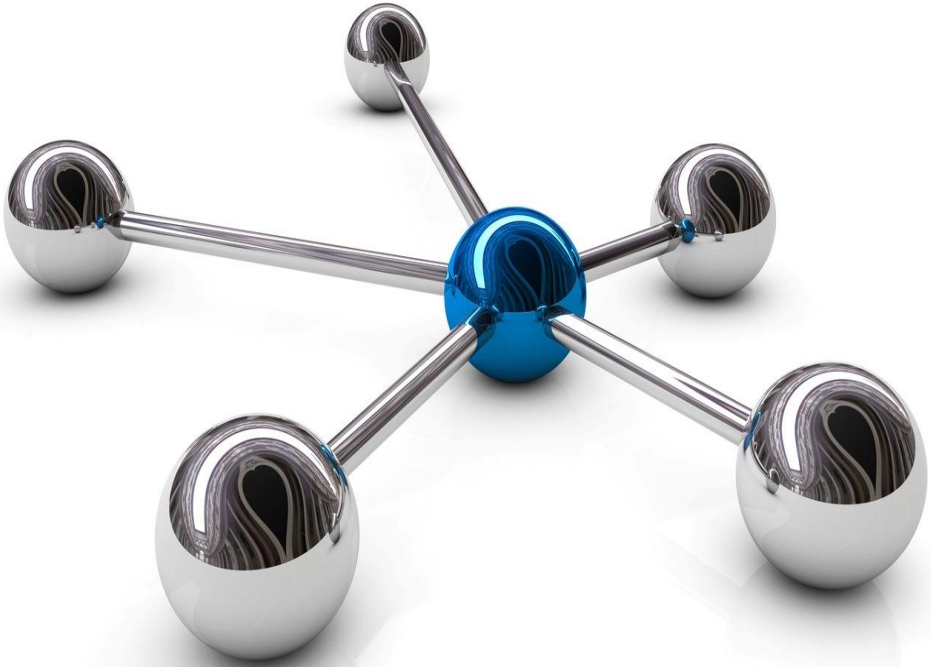
Article 23 : Elimination of double taxation
Article 25: Mutual agreement

Anti - avoidance

Article 9: Associated Enterprise
Article 26: Exchange of Information

Miscellaneous Provisions

Article 24: Non –Discrimination
Article 27: Diplomats
Article 28: Territorial Extension



Royalty

Article 12 – UN Model

Basic Structure

12(1)	12(2)	12(3)	12(4)	12(5)	12(6)
Rights of the Contracting States to tax	Maximum Gross taxation that can be done by Source State	Royalty' / FTS' – definitions	Taxation, if a PE exists in source State	Rules to construe where Royalty / FTS arise	Related party transactions

Most of the Indian Treaties based on UN Model Convention

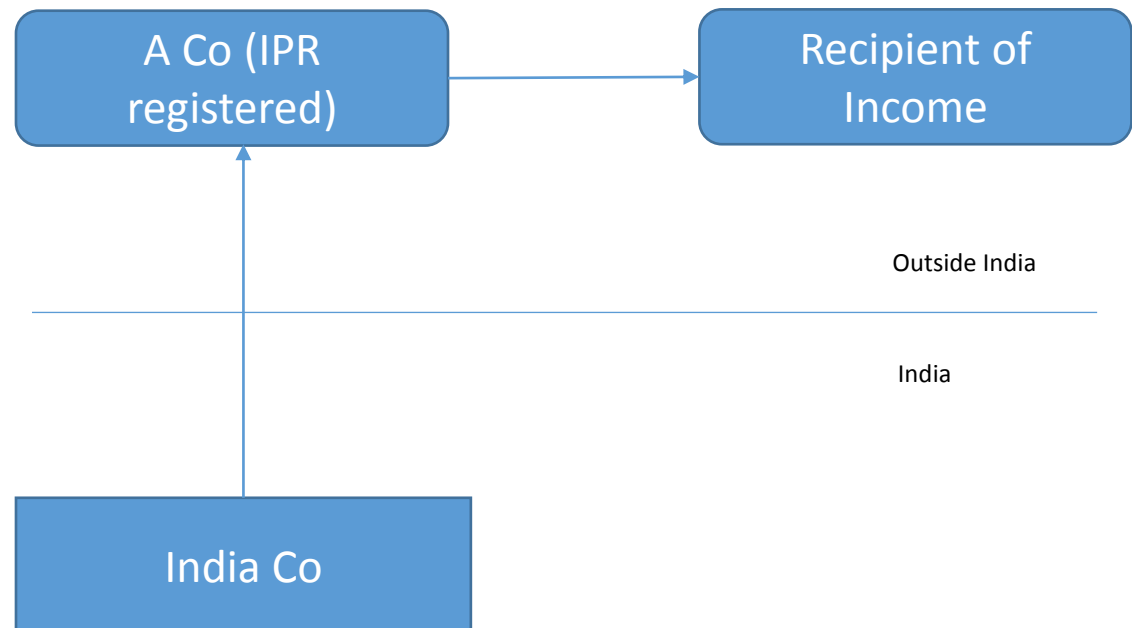
Beneficial Ownership

Article 12(2) –

However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the recipient is the **beneficial owner** of the royalties the tax so charged shall not exceed xx per cent of the gross amount of the royalties.

Key Tests:

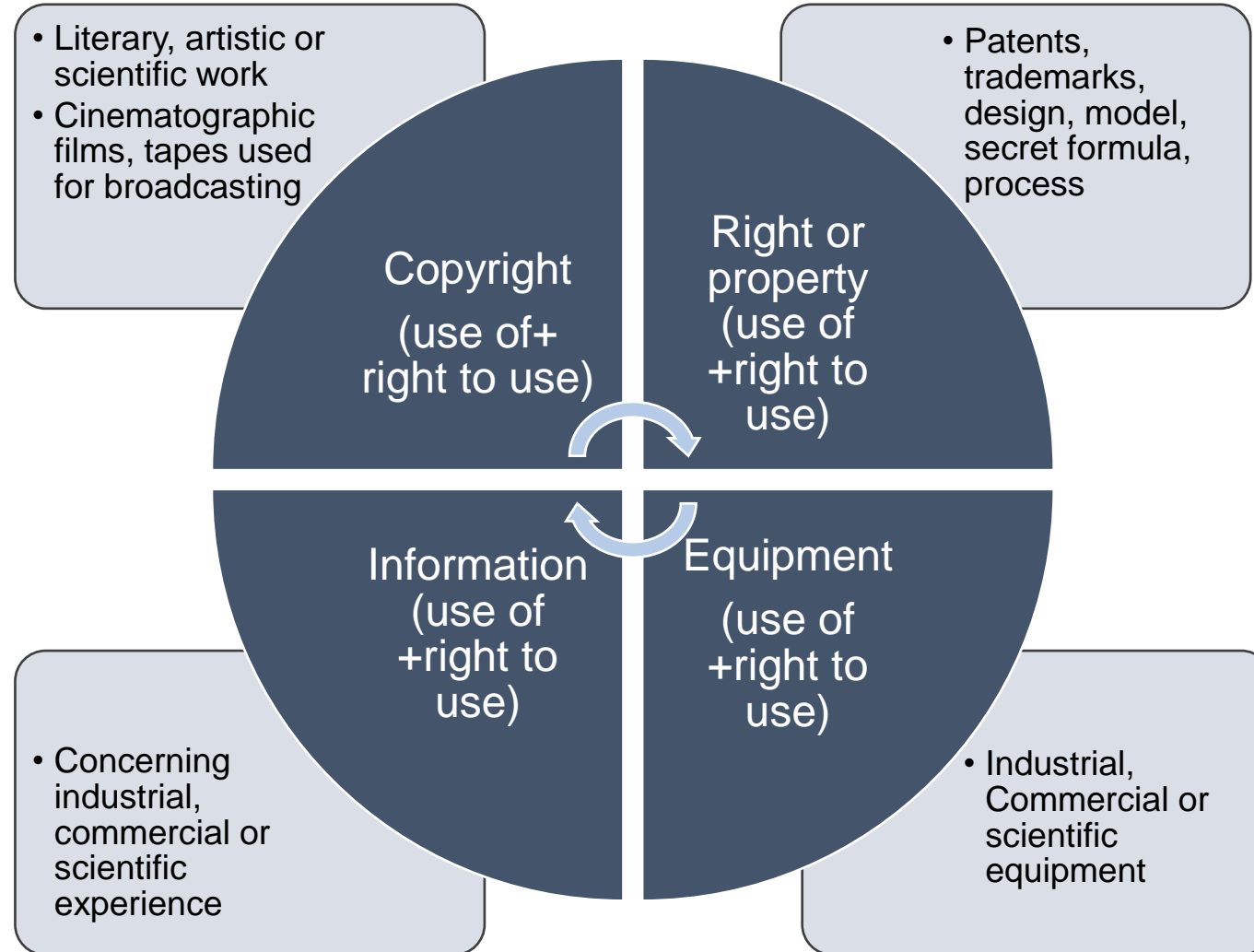
- Legal vs beneficial ownership
- Obligation to pass over income to anyone?
- Ultimate consumption of income?



Meaning of the term royalty – 12(3)

OECD MC	UN MC	US MC
<p>Payments received as a consideration for the use of, or the right to use, any copyright of literary, artistic, or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience</p>	<p>Payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for <u>the use of, or the right to use, industrial, commercial or scientific equipment,</u> or for information concerning industrial, commercial or scientific experience</p>	<p>Consideration for the use of, or the right to use, any copyright of literary, artistic, or scientific or other work (including computer software, cinematograph films, audio or video tapes or disks, and other means of image or sound reproduction), any patent, trade mark, design or model, plan, secret formula or process, or other like right or property, or for information concerning industrial, commercial or scientific experience; <u>and gain derived from the alienation of any property described in subparagraph (a), provided that such gain is contingent on the productivity, use or disposition of the property.</u></p>

Components of Royalty



Royalties under the treaties

Peculiar features	Countries (Illustratively)
Specific inclusion of computer software	Malaysia, Russia, Morocco
Does not include equipment royalty	Greece, Israel, Sweden, Netherlands
Penal Clause – If the main purpose is to take advantage of the Article, the Article shall not apply	UK
Gains from alienation	USA, Singapore (Singapore however does not make it contingent upon productivity or use)
MFN Clause	Netherlands, France, Sweden, Finland

Each treaty will have its own definition of Royalty

Royalty – Definition under the Act

Consideration (including lumpsum consideration) for:

- Transfer of all or any rights (including license) in:
 - Patent, invention, model, design, secret formula or process or trademark, etc. ('IP')
 - copyright, literary, artistic or scientific work including films or video tapes/tapes for use in TV/radio broadcasting

(Expl 2(i) & (v) of sec 9(1)(vi))

- Imparting of any information concerning
 - the working of or use of IP
 - technical, industrial, commercial or scientific knowledge, experience or skill

(Expl 2(ii) & (iv) of sec 9(1)(vi))

- Use of
 - any IP
 - or right to use any industrial, commercial or scientific equipment

(Expl 2(iii) & (iva) of sec 9(1)(vi))

including rendering of any services in connection with above *(Expl 2(vi) of sec 9(1)(vi))*

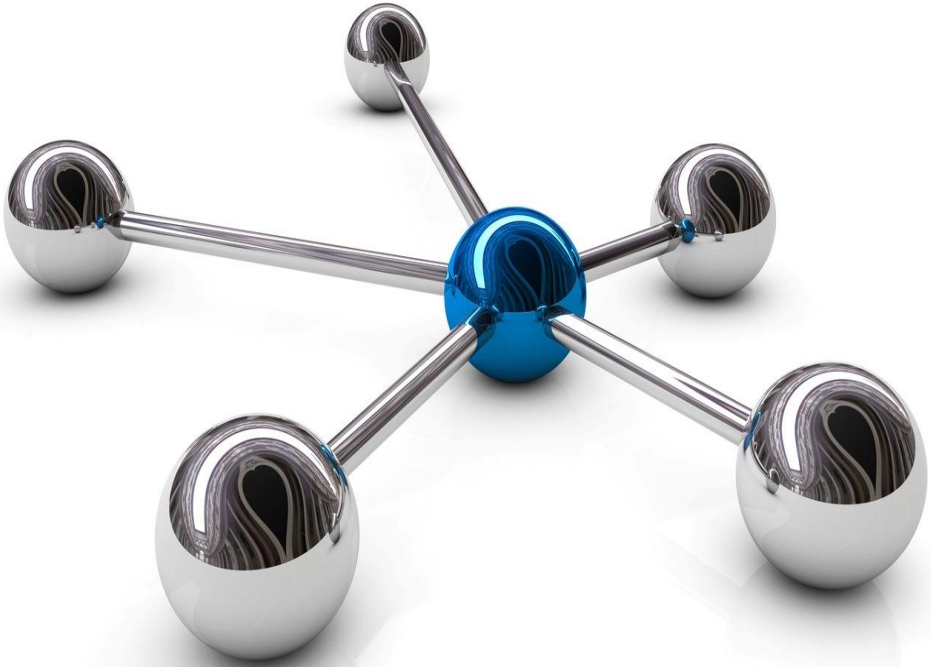
Capital Gains and consideration for sale, distribution and exhibition of cinematographic films excluded

Royalty definition – retrospective amendment by Finance Act, 2012

Explanations added to Section 9(1)(vi) of the Act

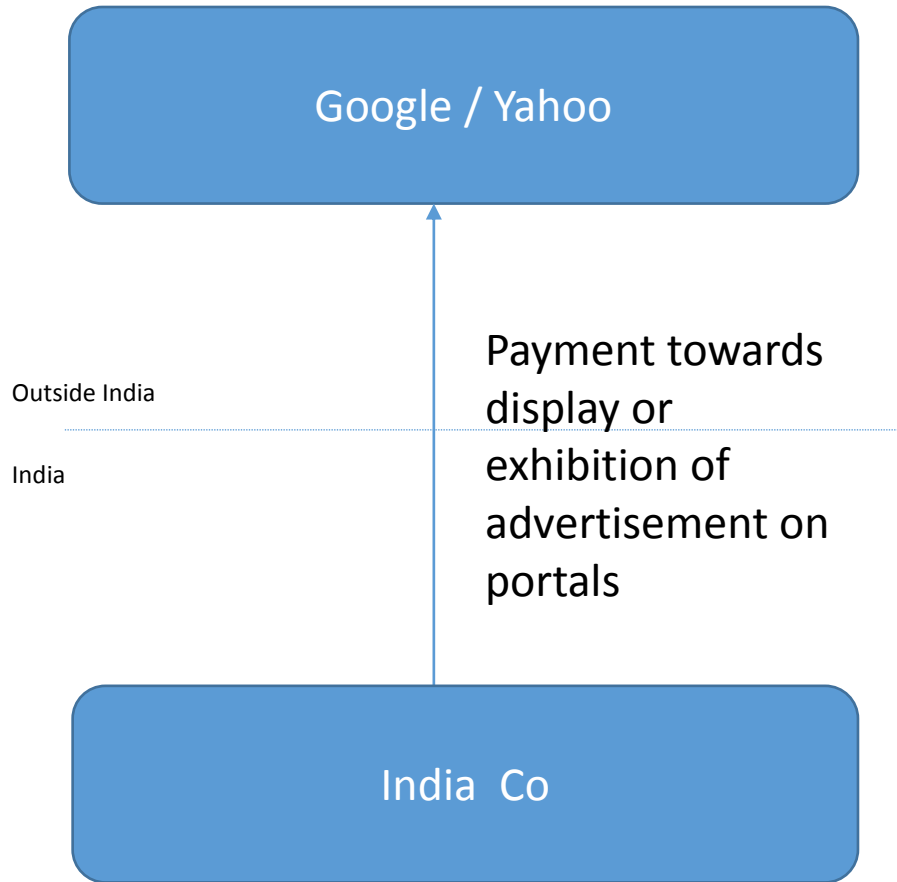
- Explanation 4: Consideration for transfer of all or any right for **use or right to use a computer software**, (including grant of a license) irrespective of medium of transfer, constitutes royalty u/s 9(1)(vi)
- Explanation 5: Royalty u/s 9(1)(vi) includes consideration in respect of any right, property or information, **whether or not its possession or control** is with the taxpayer, it is used directly by the taxpayer, or its location is in India.
- Explanation 6: Term 'Process' u/s 9(1)(vi) includes transmission by satellite (including up-linking, amplification, conversion for down-linking of any signal), cable, optic fiber or by any other similar technology, **whether or not such process is a secret.**

Several judicial precedents in favour of the assessee



Advertisement Services

Advertisement Services



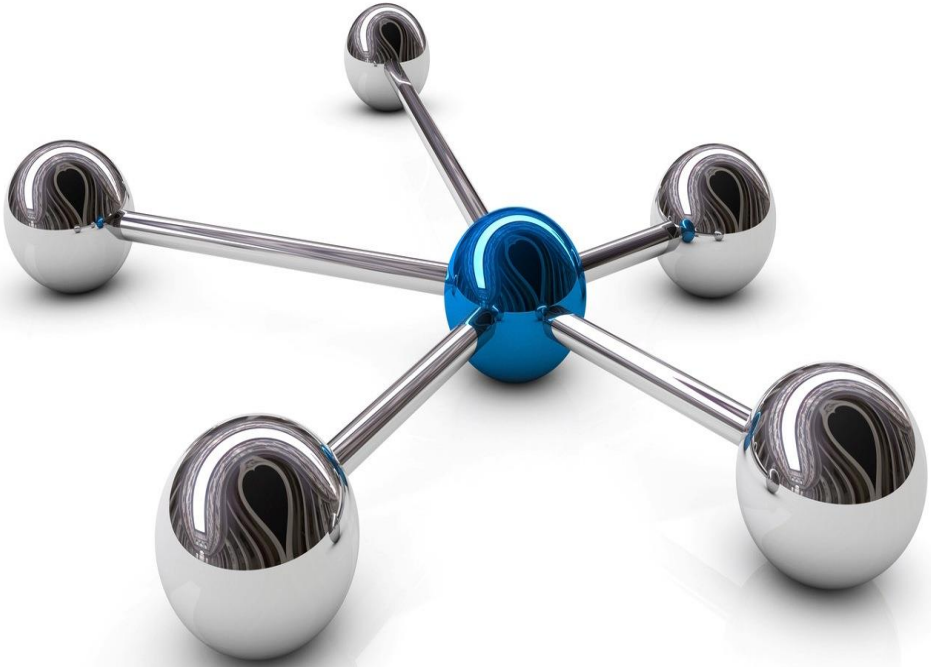
OECD Technical Advisory Group

Payment towards advertisement taxable as business profit and in absence of PE, not taxable in source country

Rights Florists (Kolkata ITAT) 143 ITD 445 – No Royalty

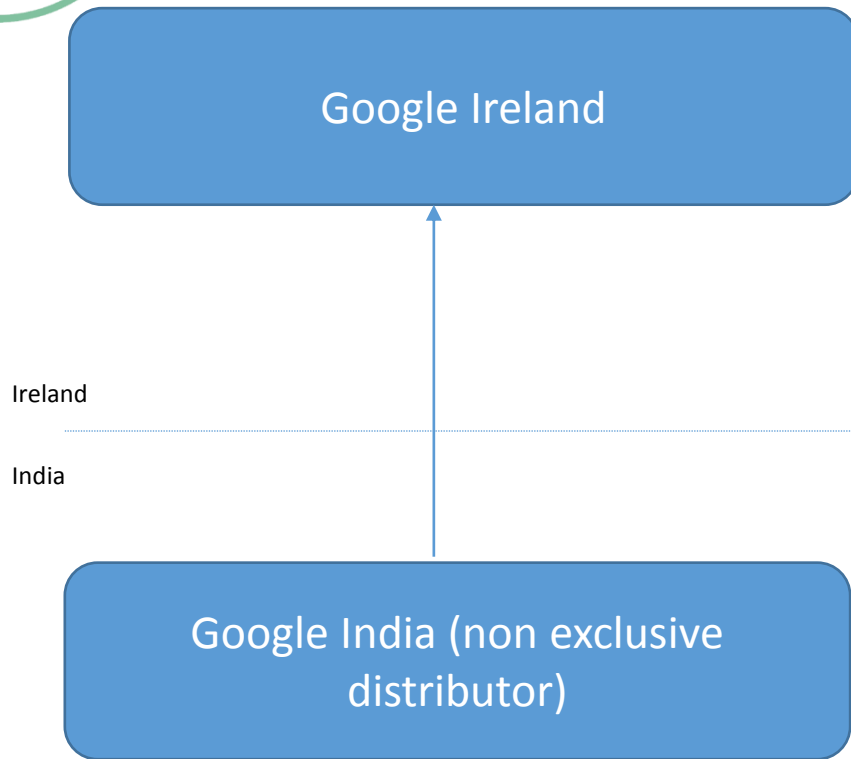
Services of banner hosting did not involve the use or the right to use any industrial, commercial or scientific equipment by the Indian entity and that there was no positive act of utilization of these portals by the Indian entity

Similar views in Mumbai ITAT cases of Pinstorm Technologies and Yahoo India



**Distribution Rights using
Technology**

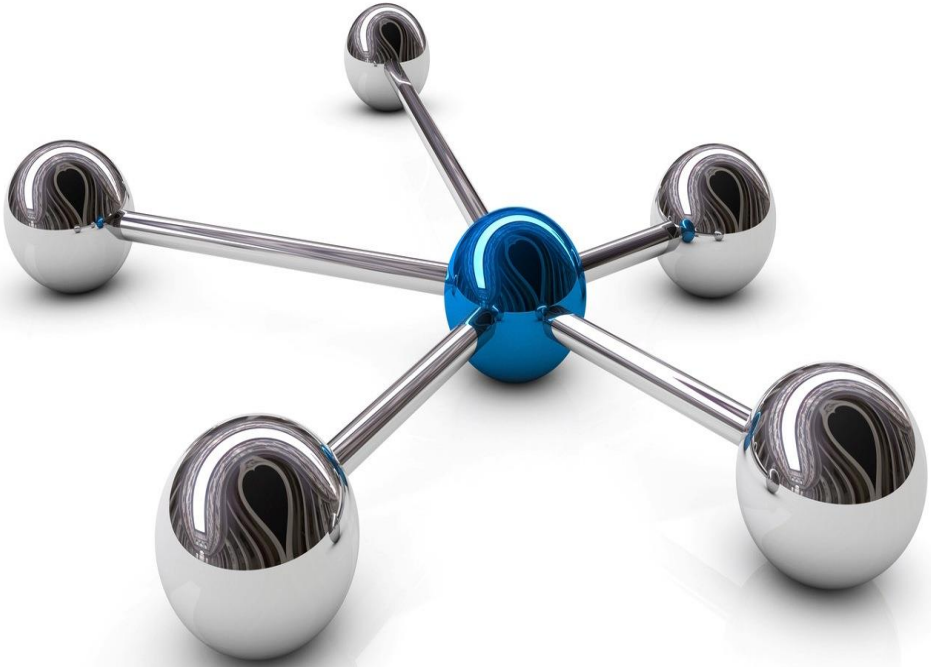
Distribution Rights using Technology – Google India Pvt Ltd (Bangalore ITAT)



- Agreement for Google Adwords Program Distribution – resale of online advertisement space for India region to facilitate display and publishing of advertisement to targeted Customer
- No control over server of Google or infrastructure or process of running of Adwords program
- Payment not only towards sale of advertisement space, but a targeted advertisement program – search engine results to suit commercial needs to advertisers
- Payment entails payment for use of copyrighted information, patented technology, secret process (of determining target audience based on various criteria) etc owned by Google Ireland and used in the Adwords Programme, though the process of placing the ad on the search engine by the advertiser seems to be a highly automated process.
- Distributor for advertisement space, can it be considered to be use of technology?

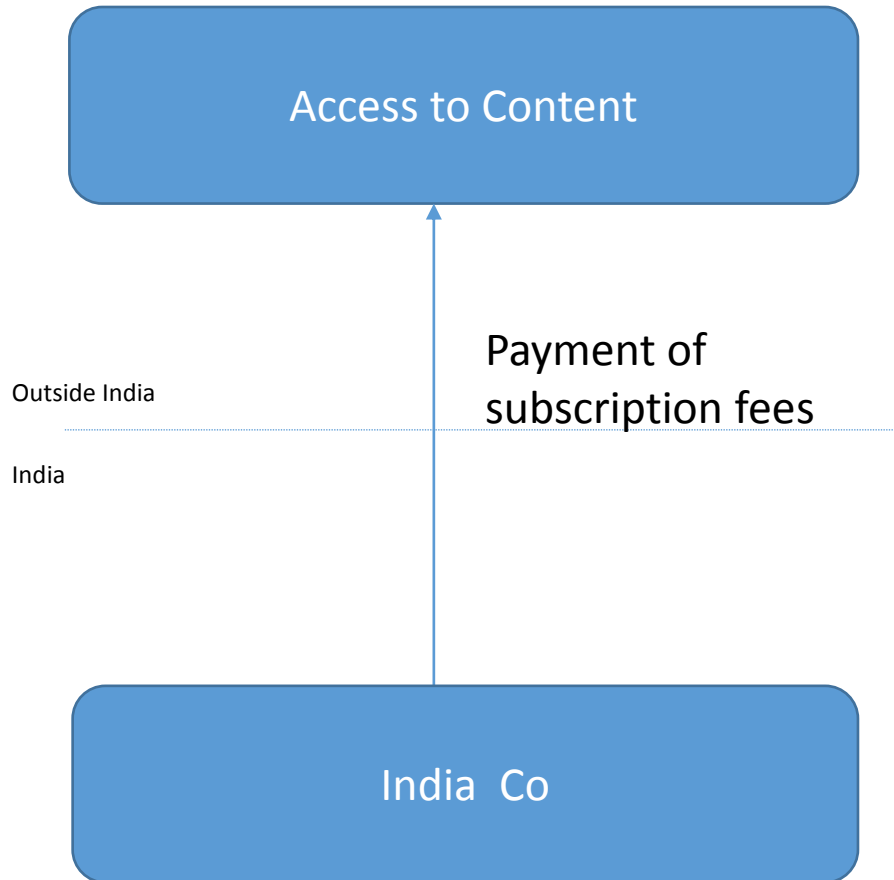
Royalty under Indo – Ireland treaty:

*Payments of any kind received as a consideration for the **use of, or the right to use, any copyright of literary, artistic or scientific work** including cinematograph film or films or tapes for radio or television broadcasting, **any patent, trade mark, design or model, plan, secret formula or process** or for the **use of or the right to use industrial, commercial or scientific equipment, ... or for information concerning industrial, commercial or scientific experience***



Online subscription Charges

Subscription Fees Payment



Payment towards subscription fees to include use of any experience, skill or expertise involved or not secret and confidential information?

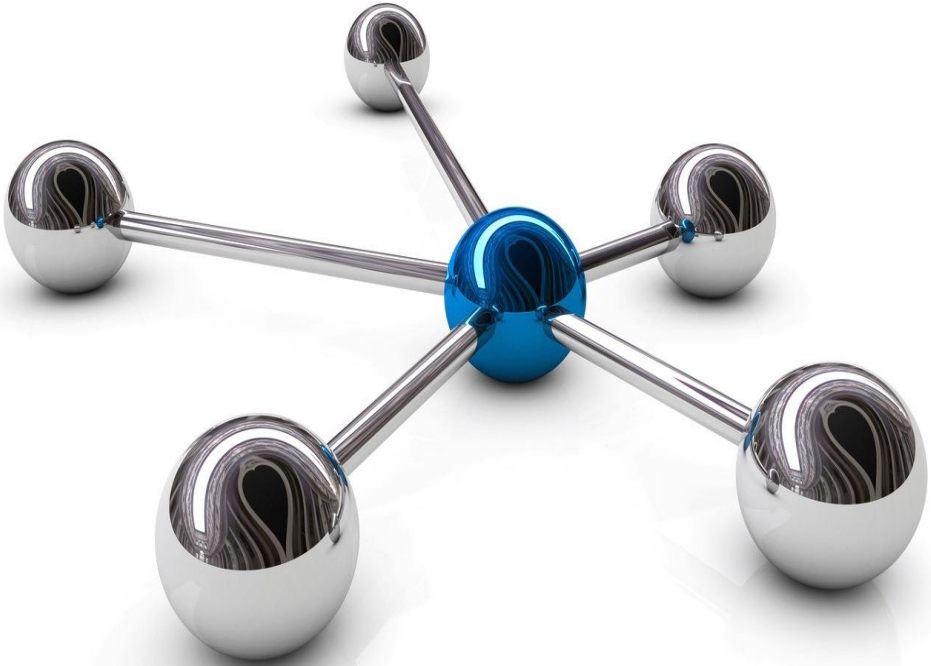
HEG Ltd (MP High Court), Factset Research System Inc (AAR) and Dun and Bradstreet (AAR), Elsevier Information Systems (Mumbai ITAT) – not royalty

- No sharing of experience, techniques or methodology employed in evolving the database with the subscribers
- No right to use copyright of any literary, artistic or scientific work to subscribers

On other hand...

Thoughtbuzz (P) Ltd., In re (AAR), ONGC Videsh (Delhi ITAT), Wipro Ltd (Karnataka HC) – held as royalty

- Use of information, concerning industrial and commercial knowledge, experience and skill



Software Taxation – Debate on Copyright vs Copyrighted Article

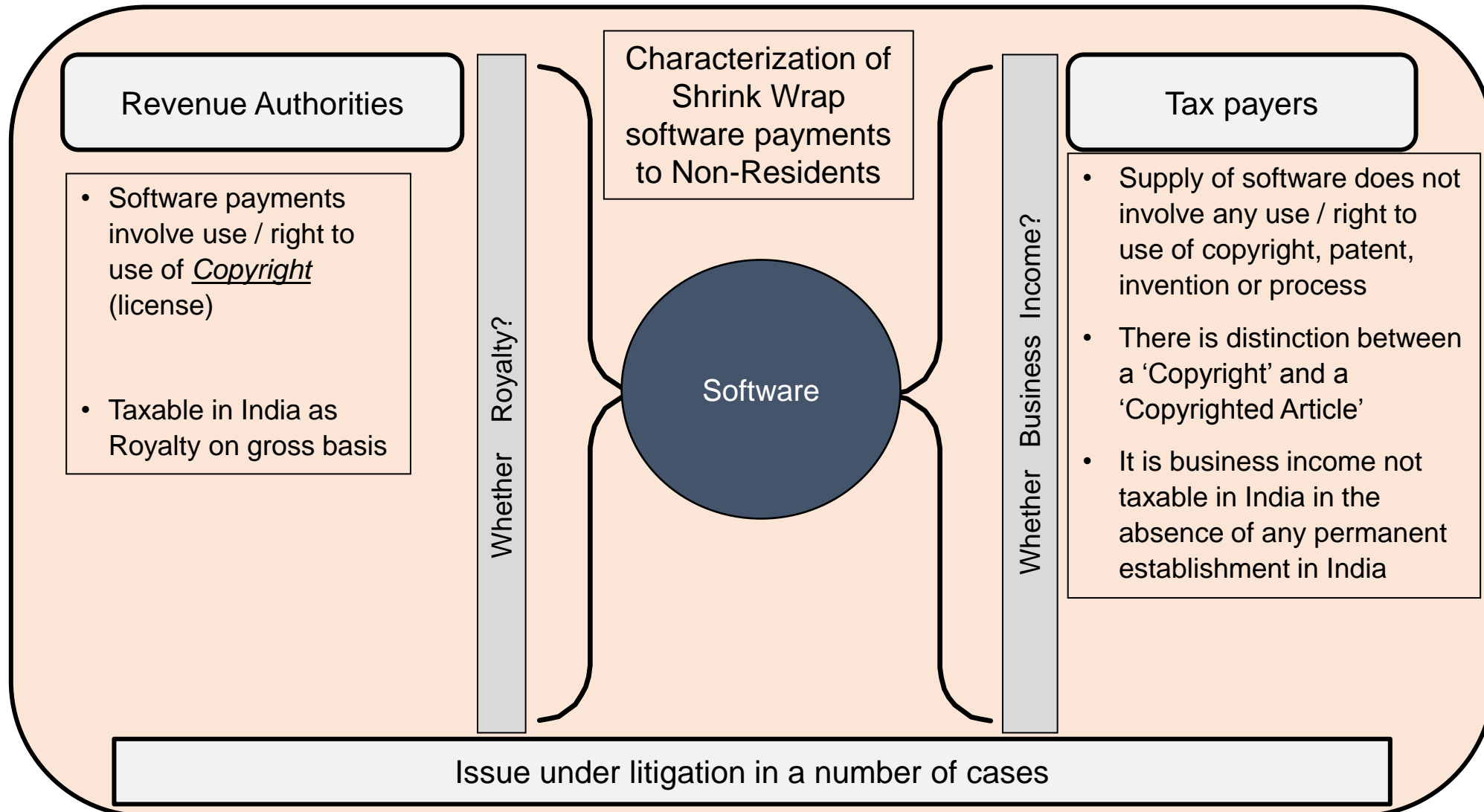
Understanding the concept of IPR (Copyright vs Copyrighted Article)

Underlying product	IPR	What does Licensee of IPR get?	What does Purchaser of product get?
Medicines	Patent	Licence to manufacture	Ownership of drugs
Books	Copyright	Publishing house gets right of reproduction	Ownership of book
Packaged drinking water	Trademark	Franchisee gets right to manufacture and sell under trademark	Ownership of product
Washing machine	Know-how / experience	License to manufacture and sell.	Ownership of machine

Payment for license constitutes Royalty

Payment constitutes price

Vexed Issue – Battle with Revenue authorities



Software Taxation – Conflicting decisions



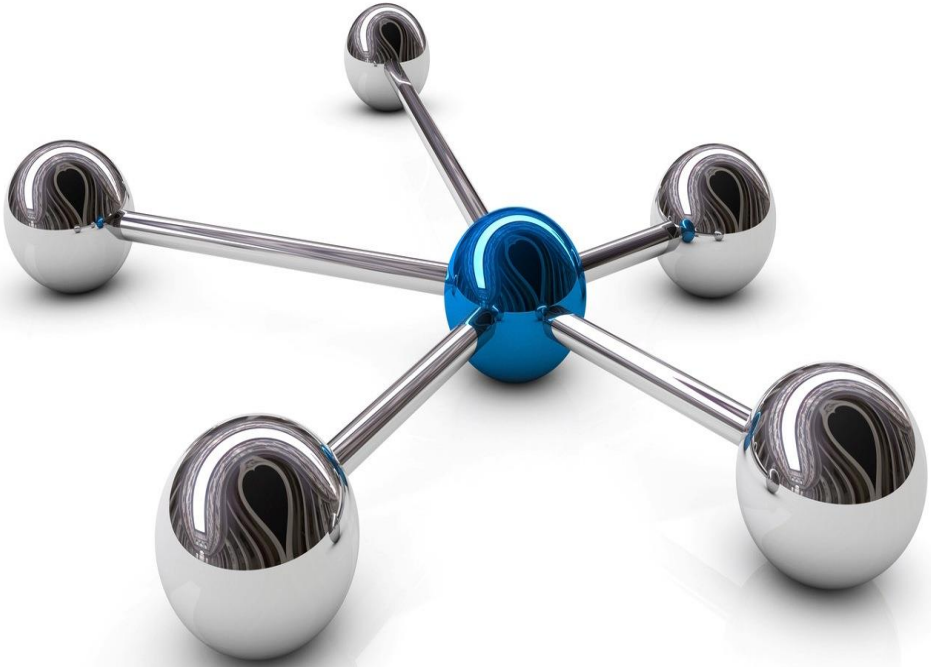
Pre amendment scenario	After Finance Bill, 2012 but before enactment	Post enactment
<ul style="list-style-type: none"> - Ericsson (2011) (Del HC) - Novell Inc (2011) (Mum ITAT) - Motorola Inc. (Delhi SB) - Tata Communications Ltd. (ITAT, Mum) - Dassault Systems K.K. - Solid Works Corporation (2012) (Mum ITAT) 	<ul style="list-style-type: none"> - Allianz SE (2012) (ITAT, Pune) - Siemens Aktiengesellschaft ITAT, Mumbai (2013) 	<ul style="list-style-type: none"> - Nokia Networks Oy (2012) (Del HC) - Johndeere (Pune ITAT) - Cummins Inc (Pune ITAT) - Infracore (2013) (Del HC)
<ul style="list-style-type: none"> - Samsung Electronics (2011) (Kar HC) - Sunray Computers (2011) (Kar HC) - Synopsys International Old Ltd (Kar HC) 	<ul style="list-style-type: none"> - Citrix Systems Asia Pacific Pty Ltd (2012) (AAR) - Acclerys K. K. (2012) (AAR) - BEA Systems Inc. (2012) (ITAT Bang) 	<ul style="list-style-type: none"> - P.S.I. Data Systems (2012) (Kar HC) - relied on Samsung - Reliance Infocom Ltd. (2013) (Mum ITAT) - Microsoft Regional Sales (2013) (Del ITAT)

The Basic Principle on which various adverse and favorable rulings are adjudged:

Favorable → 'Copyrighted article' is different from 'Copyright' itself. (Ericsson)

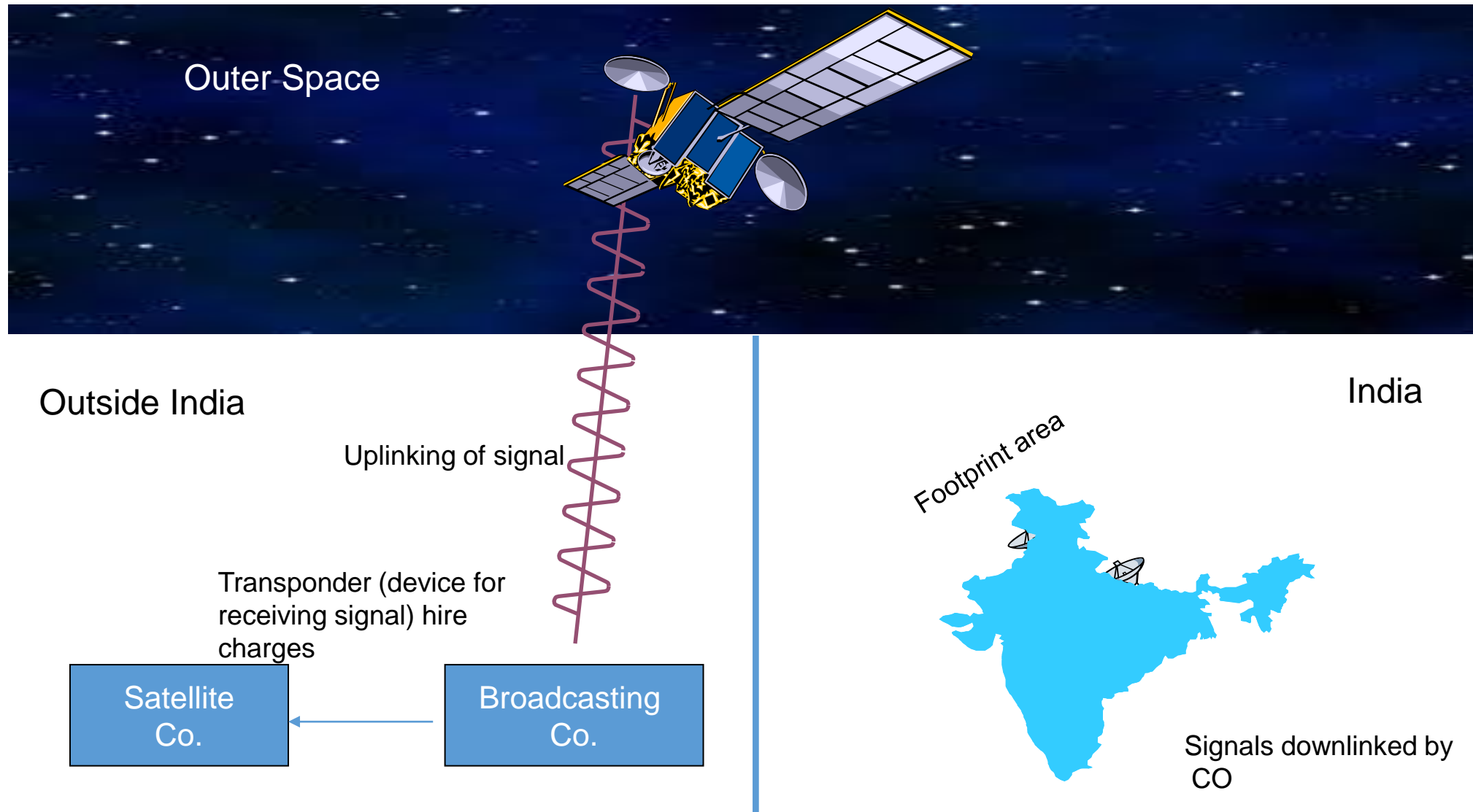
Adverse → Right to make a copy is part of the Copyright itself. (Samsung)

Currently being heard in Supreme Court

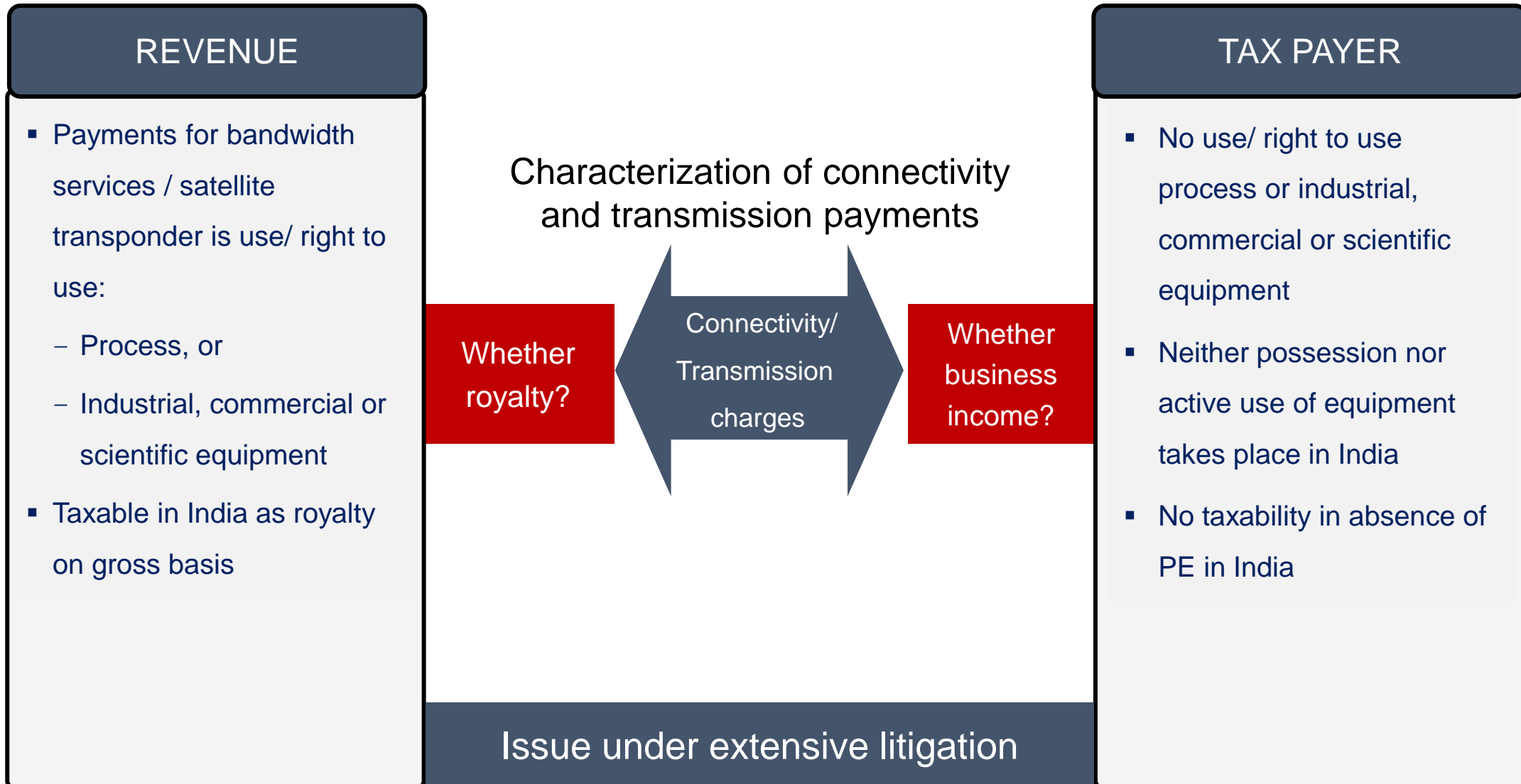


Transponder charges/ Transmission and leased line Charges

Taxation of Satellite/ Transponders payments – Mechanics

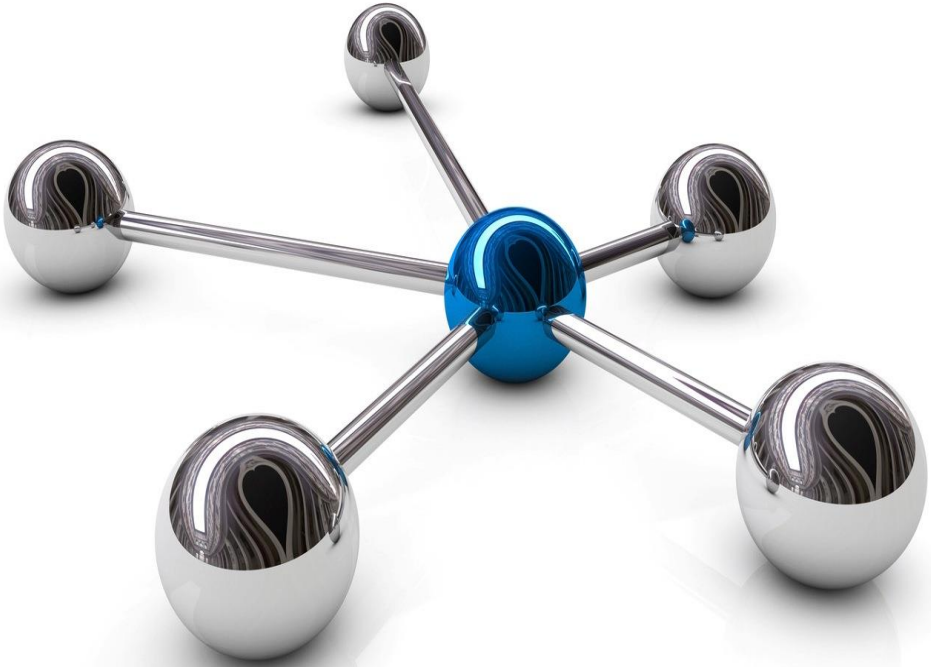


Connectivity and transmission charges – Controversy so far



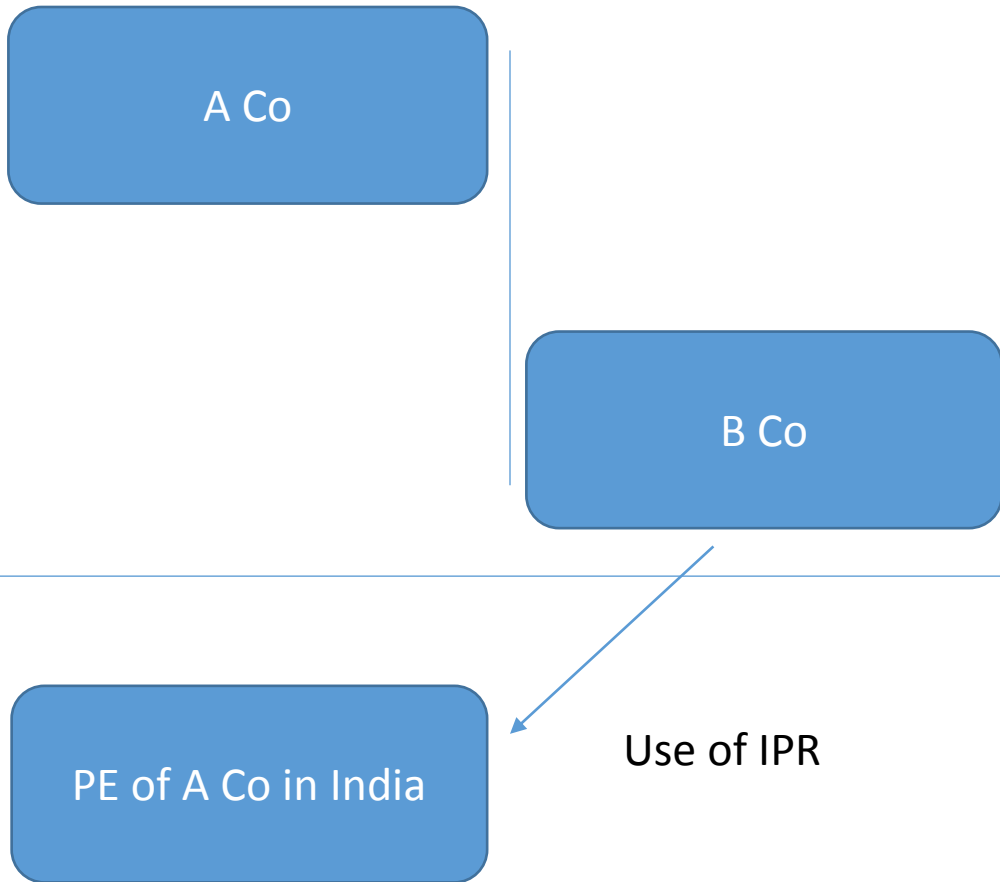
Connectivity and transmission charges – Key decisions (1/2)

Judgment	Principle laid down
Asia Satellite (2011) Delhi HC	Payment was not for the use of any <u>process</u> or equipment, since control over the process or equipment was with Asia Sat only (<u>pre amendment scenario</u>)
B4U International Holdings (2012) (Mum ITAT)	In order to constitute “royalty”, the payer must have the right to control the equipment. Payment for a standard service would not constitute “royalty” merely because equipment was used to render that service.
Convergys Customer (2013) (Delhi ITAT)	Payer does not have control or possession over the equipment hence not taxable in India. DTAA is not impacted by amendment in FA, 2012
Viacom 18 Media (2014) (Mum ITAT)	The use of transponder by the assessee involves use of a process. As the term process is not defined under the US treaty, the same is to be interpreted as per Explanation 6 of s. 9(1)(vi). The payment in question therefore qualifies as royalty.
New Skies Satellite BV (2016) (Delhi HC)	The payment for leasing of transponder facilities to broadcasters is not for use of any process; Amendments under the Act cannot be read into DTAA



Effectively connected to PE

Effectively Connected to PE

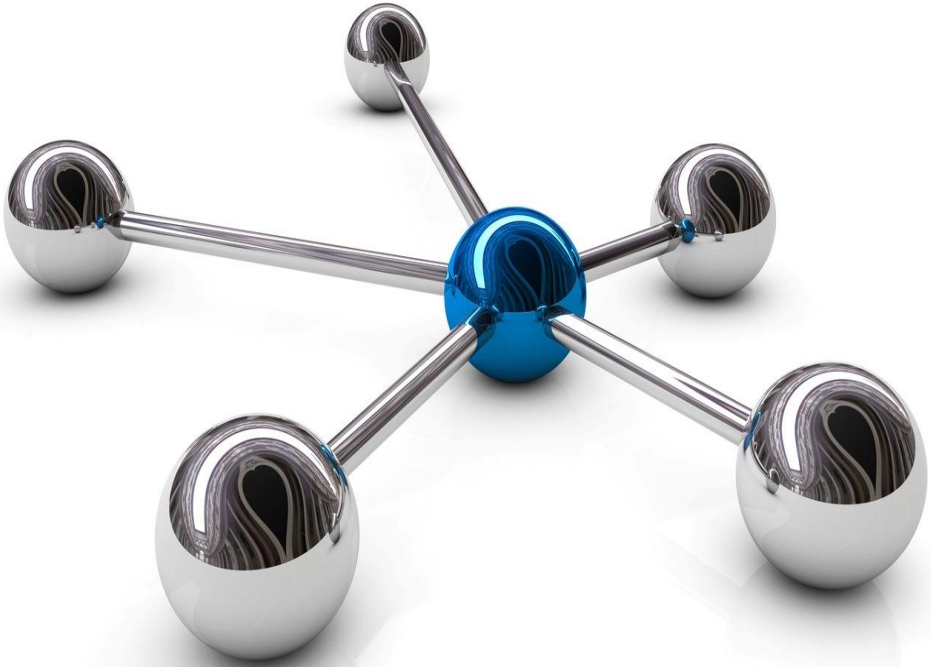


Article 12(1) Royalties **arising** in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

Article 12(2) However, such royalties may also be taxed in the Contracting State in which they **arise**, and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed xx per cent of the gross amount of the royalties.

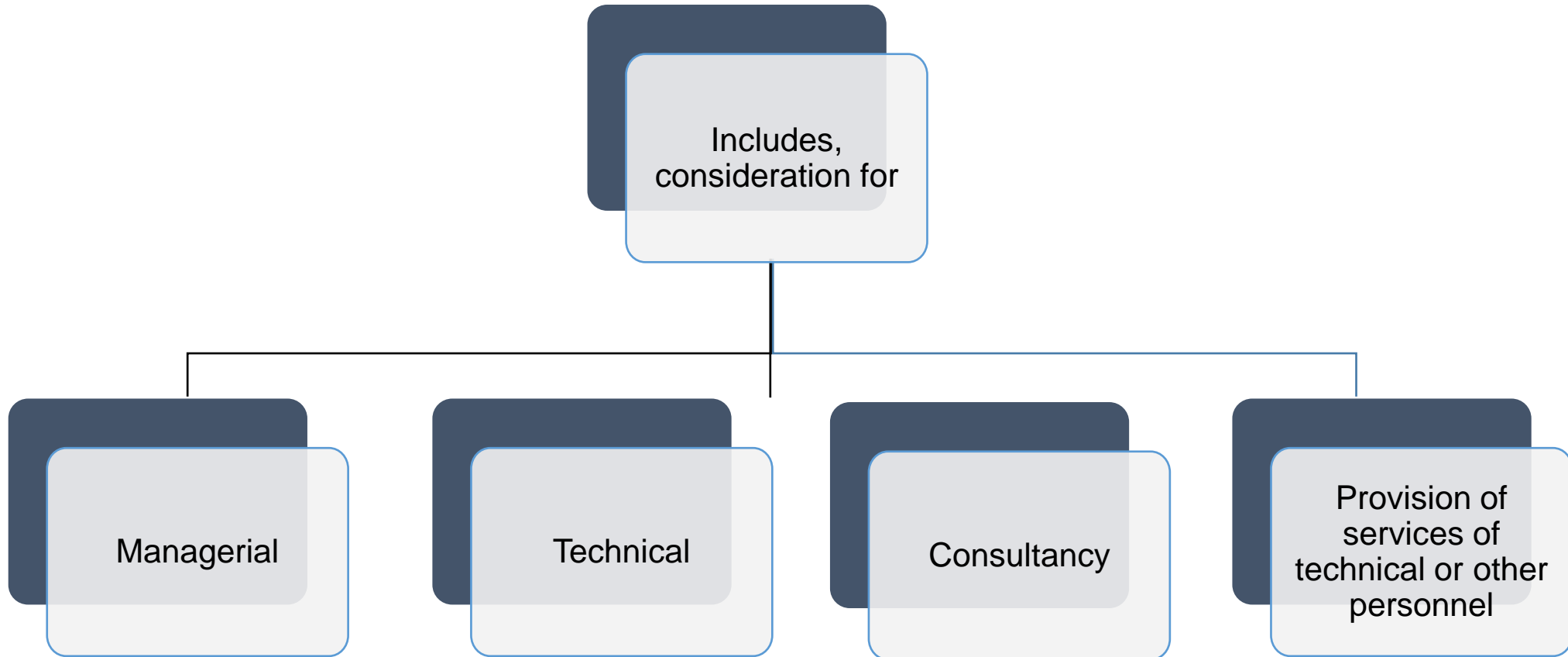
Article 12(6) - Royalties shall be **deemed to arise** in a Contracting State when the **payer** is that State itself, a political sub-division, a local authority or a **resident of that State**.

Where, however, the person paying the royalties, **whether he is a resident of a Contracting State or not**, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties arise and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

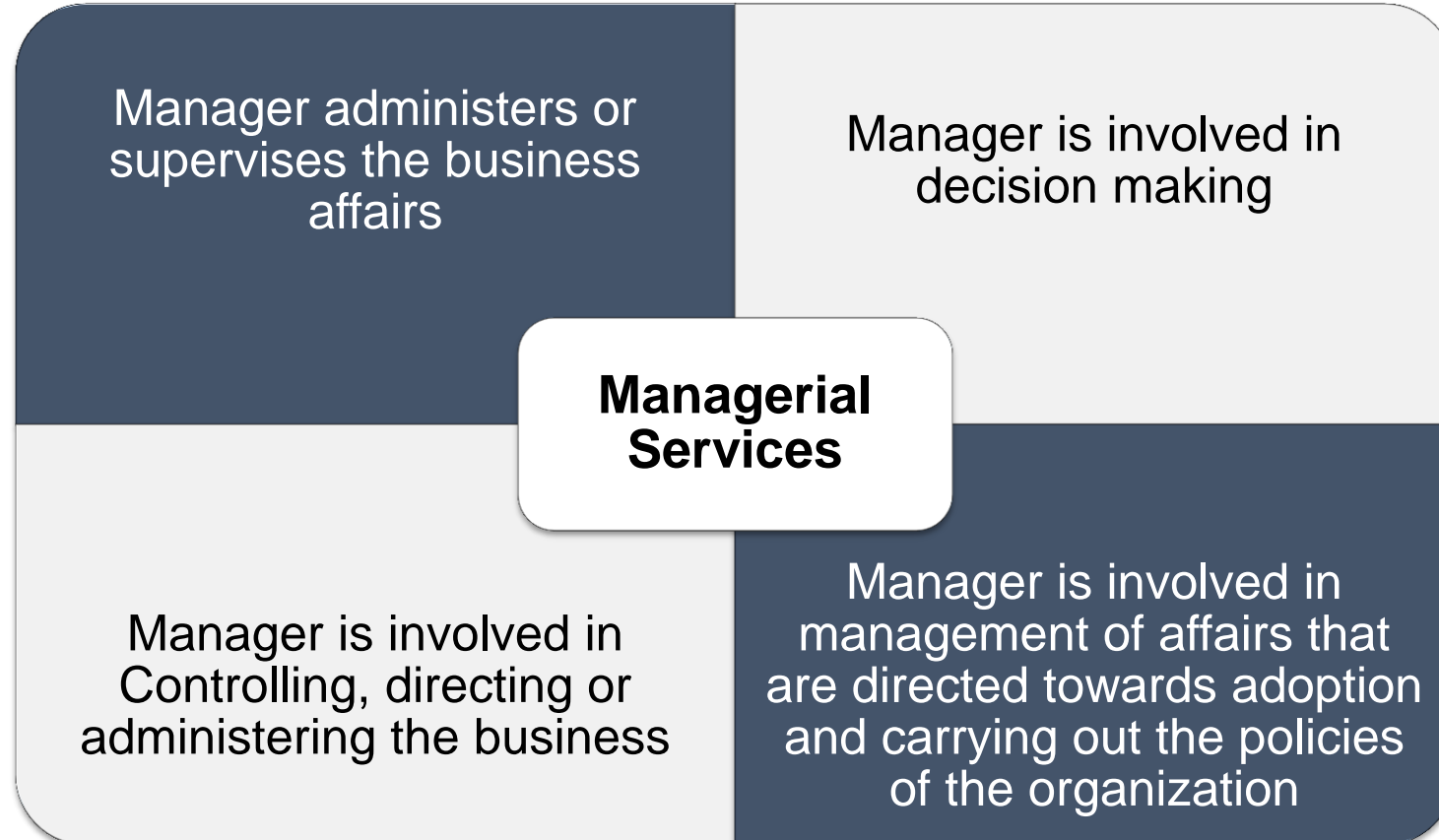


Fees for Technical Services

Fee for technical services – IT Act - inclusions



Managerial Services



Technical Services

Oxford's dictionary
"Involving or concerned with
the mechanical arts and
applied sciences"

Need of special skills or
knowledge related to a
technical field for provision
of services

Technical Services

Cannot be restricted to
engineering or scientific
areas of knowledge

Should be construed in a
narrow sense by applying
the rule of *Noscitur Sociis*

Consultancy Services

Seek advice or opinion or recommendations of someone

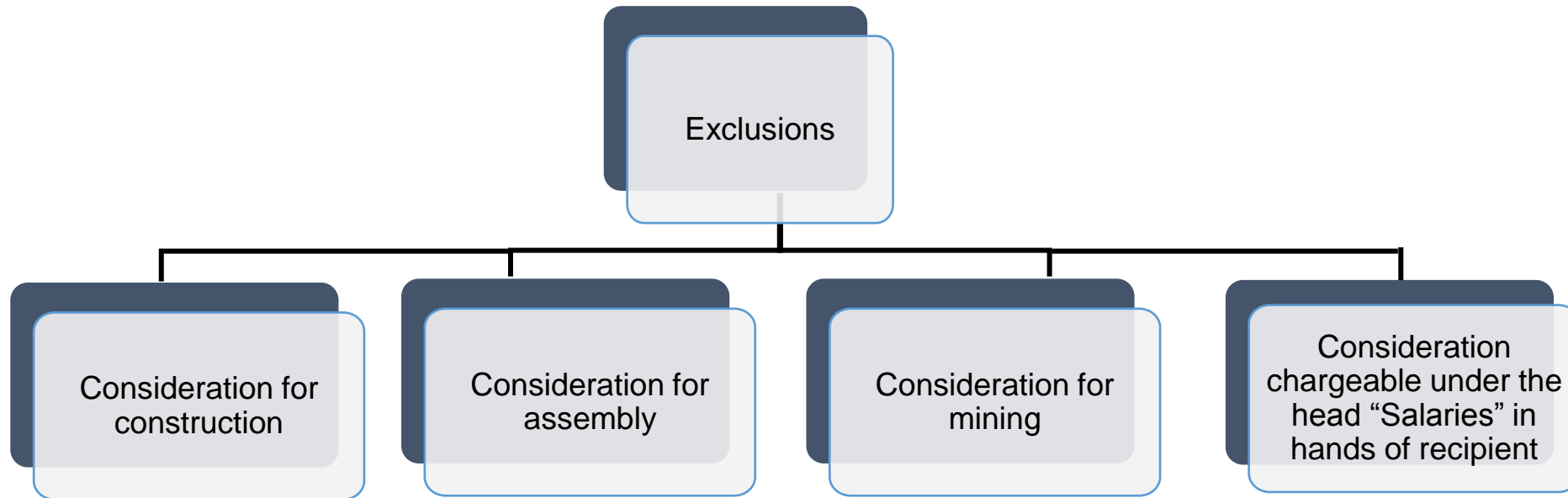
Advice by someone like a professional, having special qualifications

Consultancy Services

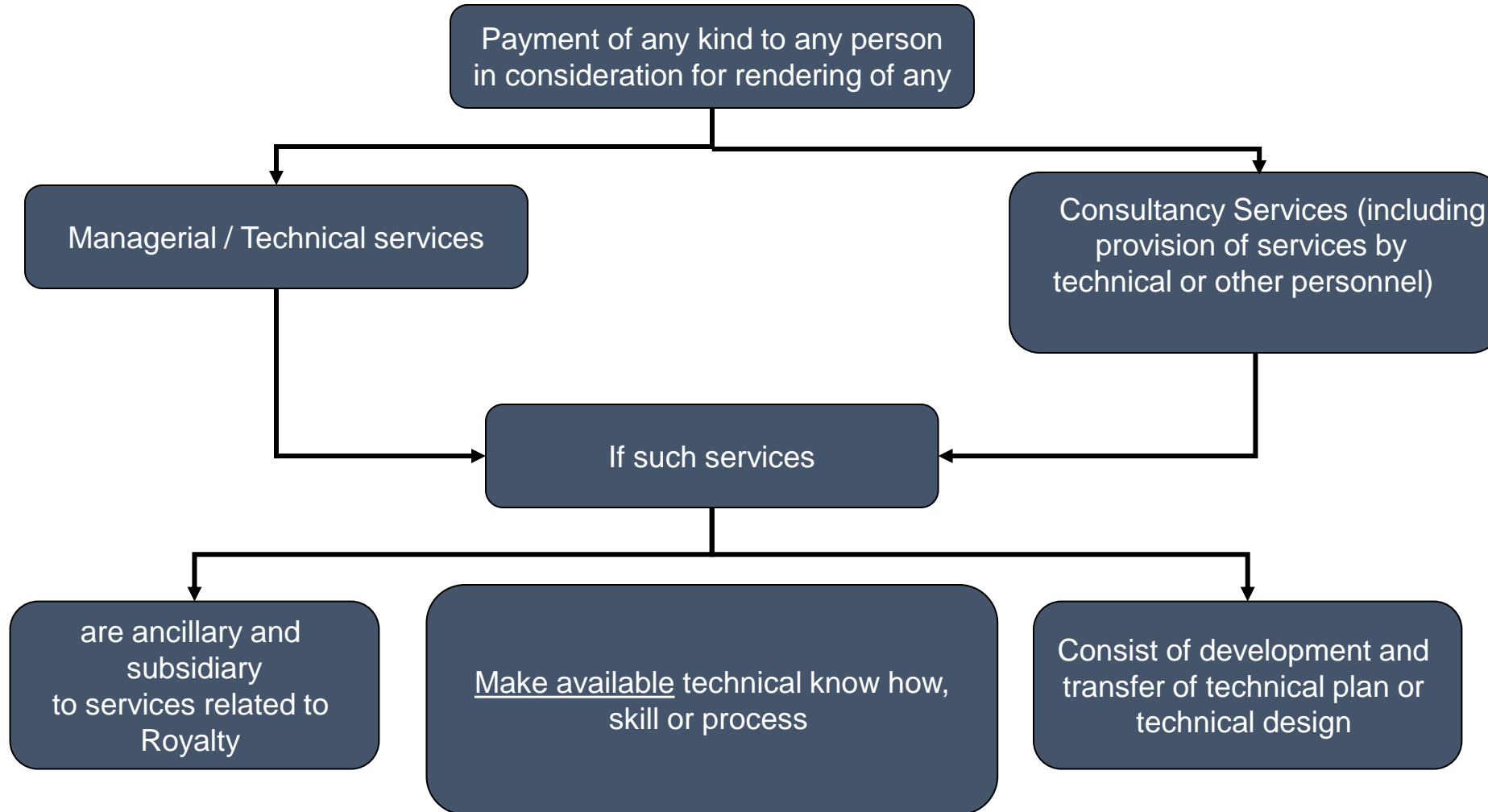
Consultancy services may overlap with 'technical' and 'managerial' services

Technological expertise/special knowledge essential

FTS Exclusions under IT Act



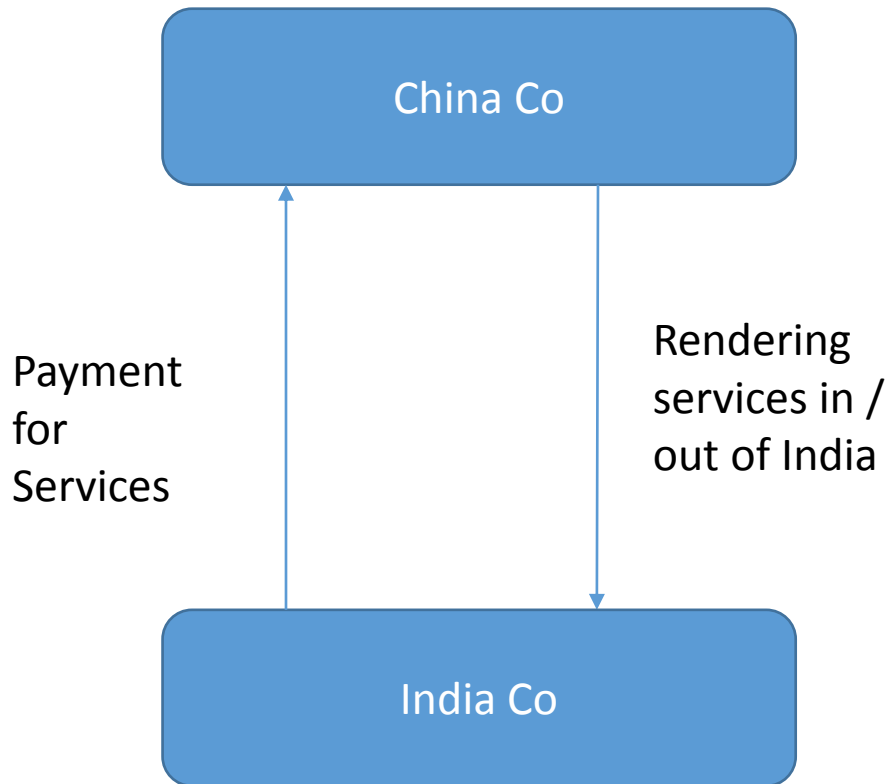
FTS definition – as per a typical DTAA



FTS Clause as per Different DTAA's

Peculiar features	DTAA's
No FTS Clause	Brazil, Thailand, Greece, Mauritius, UAE, Sri Lanka (No FTS clause in old India-Sri Lanka treaty)
Separate Article for Royalty and FTS	Malaysia, Israel, Oman
FTS and Royalty Clause in same Article	Austria, Belgium, China, Germany, Netherlands
Fees for Included Services (FIS)	USA, Canada, Cyprus, Singapore, Netherlands
Managerial Services not included in FTS	Australia, Netherlands, Canada, UK, USA
Restrictive definition of FTS- presence of 'Make Available' clause	USA, UK, Singapore, Netherlands, Cyprus
'Make available' imported through Most Favored Nation clause	France, Spain, Belgium, Switzerland, Sweden

Indo – China DTAA



Article 12(4) of Indo – China DTAA

The term "fees for technical services" as used in this Article means any payment for the **provision of services** of managerial, technical or consultancy nature **by a resident of a Contracting State in the other Contracting State**, but does not include payment for activities mentioned in paragraph 2(k) of Article 5 and Article 15 of the Agreement

- Ashapura Minichem v ITO (Mumbai ITAT)
- Guanzhou Industries (AAR)

FTS – Definition under the Treaties

FTS as per India-Germany Tax Treaty

- Consideration for the services of managerial, technical or consultancy nature, including the provision of services by technical or other personnel excluding :
 - payments dependent for personal services

No “Make Available Clause”

FTS as per India-US Tax Treaty

- Consideration for rendering of any technical or consultancy services, if such services:
 - Ancillary and subsidiary to the application or enjoyment of the right, property or information,
 - Make available technical knowledge, experience, skill, know-how, or processes, or consist of the development and transfer of a technical plan or technical design.

Managerial Services not included

Some treaties in which FTS clause is not there at all

- Bangladesh
- Greece
- Indonesia
- Kenya
- Mauritius
- UAE
- Nepal
- Philippines

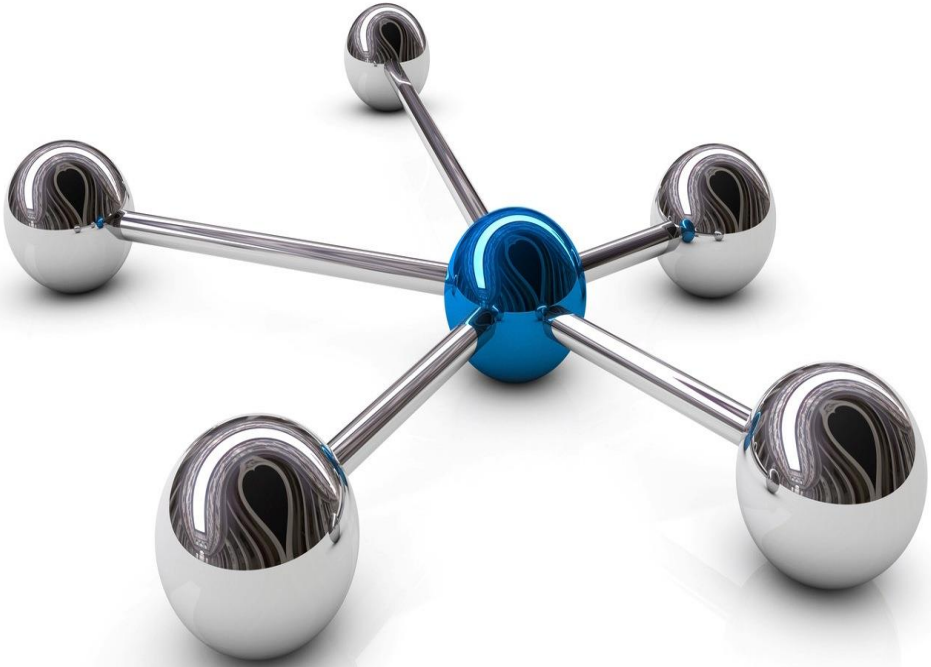
Conflicting Views exist on taxability

FTS Definition – varies from treaty to treaty
“Make Available” clause if present – significantly narrows down the scope

Absence of Article on FTS in DTAA

- In DTAA's which do not contain FTS clause:
 - Whether income would be taxed as business income under Article 7?
 - Whether income would be taxed under the residuary Article 'Other Income'? Or
 - Whether income would be taxed as per provisions of the Act?

View	Decision	Held
1st View	Channel Guide India Ltd vs ACIT (2012) (Mum); Mckinsey & Co (Thailand) Co. Ltd. vs DDIT(2013) (Mum); Bangkok Glass Industry Co Ltd vs ACIT(2013) (Mad)	In absence of FTS clause in the DTAA, income governed as per Article on Business Profits and would be taxed in India only if the taxpayer had a PE in India.
2nd View	Lanka Hydraulik Institute Ltd, In Re (2011) (AAR); XYZ, In Re (2012) (AAR)	In absence of FTS clause, income to be taxed under the 'Other Income' Article.
3rd View	CIT vs TVS Electronics (2012) (Chennai) – subsequently overruled by High Court	In absence of FTS clause, income cannot be construed as business profits and reference should be made to provisions of the Act



Make Available Clause

Meaning of “make available”

- Some of the DTAA’s contain a restrictive definition of FTS/FIS requiring satisfaction of make available condition- USA, UK, Singapore, Netherlands, Cyprus etc.
- Is the term ‘Make Available’ defined ?

MOU to India-US Treaty explains the term ‘Make-Available’

- Person acquiring the service is enabled to apply the technology.
- Use of a product which embodies technology cannot be considered to make technology available.
- Several principles discussed by way of examples in the MOU

Relevant Tests

'Make Available' clause in a treaty narrows down the scope of definition of FTS

➤ Relevant Test # 1

P-1 supplies / transfers:

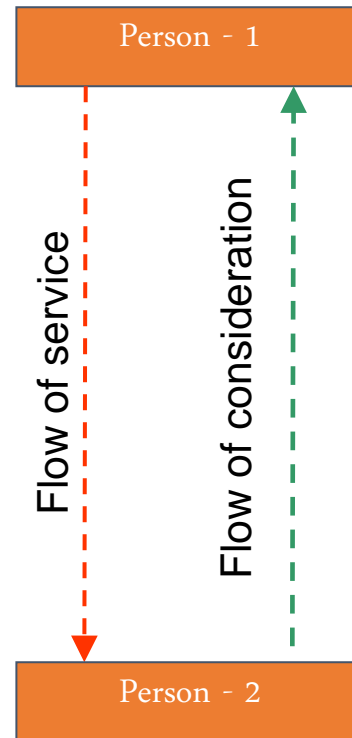
- Technology; or
- Technical knowledge

➤ Relevant Test # 2

P-2 is enabled to apply the technology

➤ Relevant Test # 3

Services must have some technical knowledge.



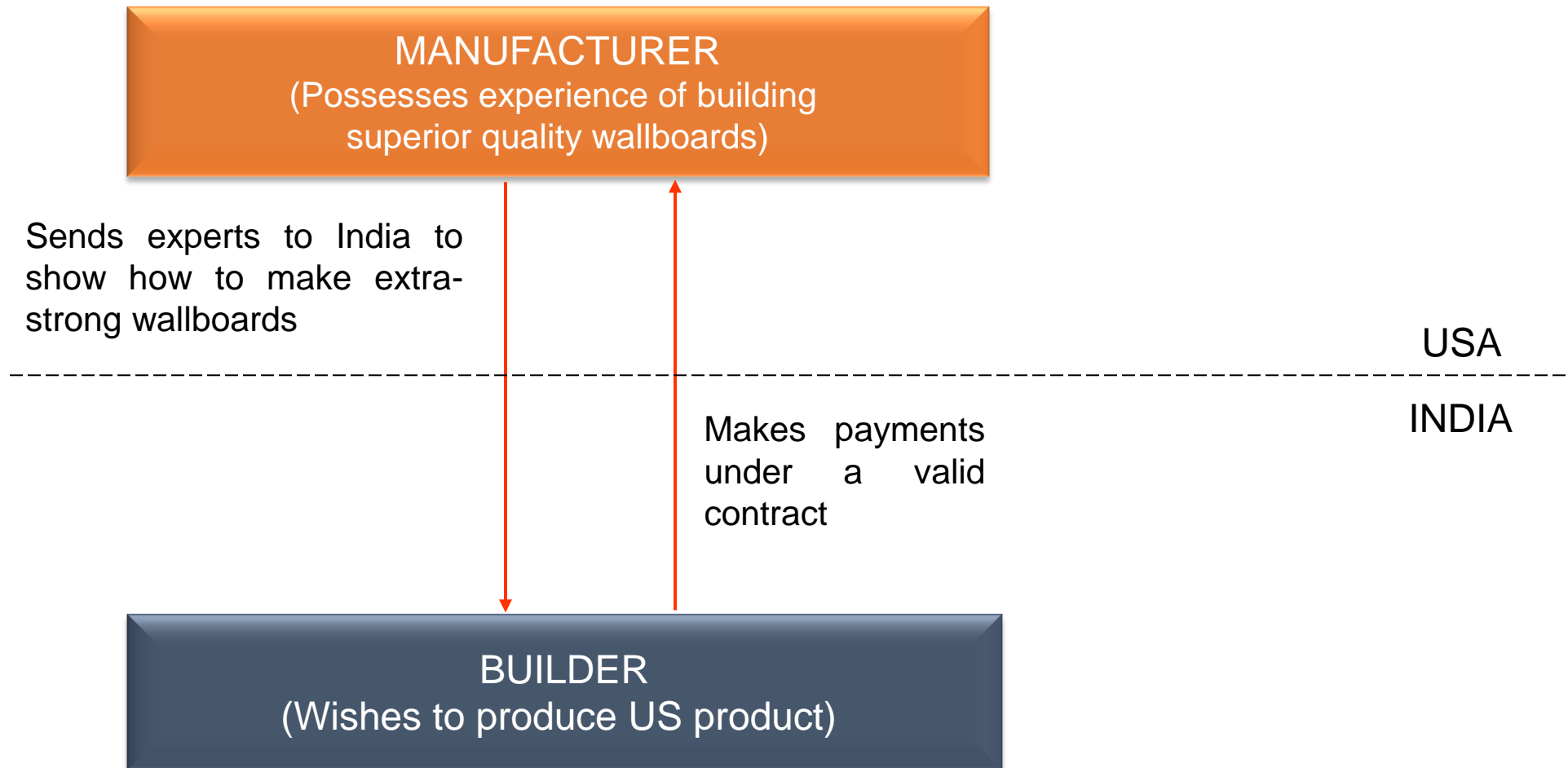
➤ Relevant Test # 4

- P-2 is able to make use of knowledge, skill by himself in his business.
- Knowledge must remain with P-2, once service has ended.
- Some sort of durability or permanency of the result must remain once service is rendered.

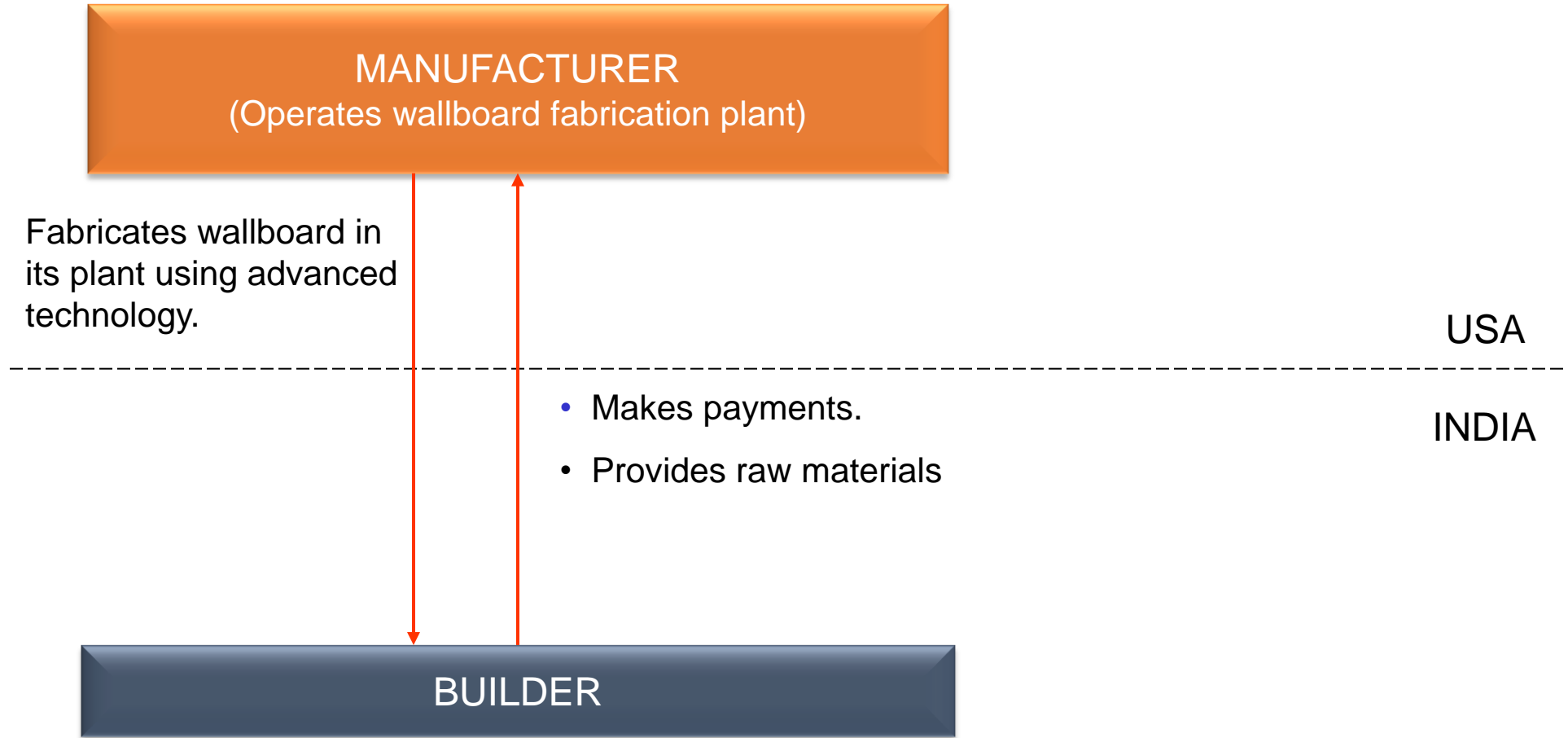
➤ Relevant Test # 5

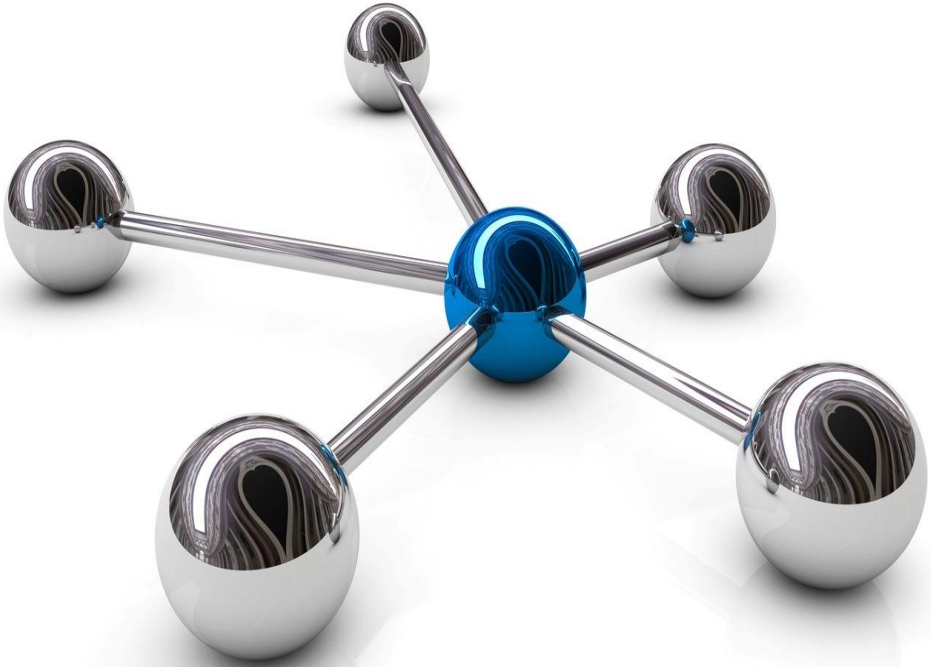
P-2 is at liberty to use the technical knowledge, skill, know-how and processes.

Case Study 1 - Are these “Included Services



Case Study 2 - Are these “Included Services”





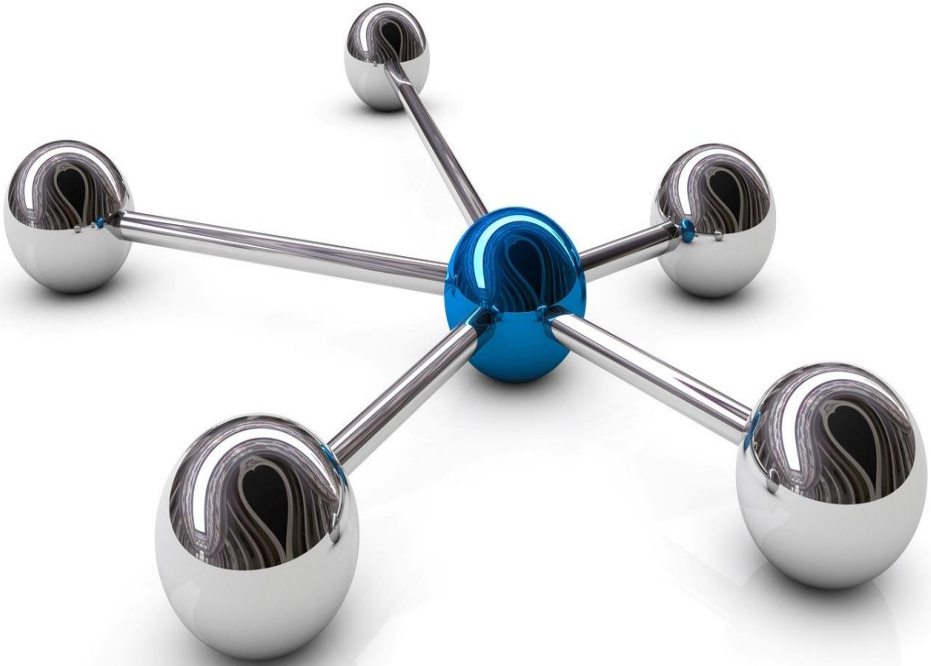
FTS Implications of Secondment of Employees to India

Secondment of Employees to India

- The term 'secondment' describes where an employee or a group of employees is assigned on a temporary basis to work for another, 'host' organisation, or a different part of their employer's organisation.
- On expiry of the secondment term, the employee (the 'secondee') will 'return' to their original employer.
- From company perspective, the essence is to establish whether the "employer – employee relationship" lies with Indian entity (ICo) or that with the Foreign entity (FCo).
- Where the employment is established to be held by FCo, it will be difficult to argue against taxability of payments being done by ICo to FCo, as FTS.
- Judicial pronouncements have laid down certain key aspects to differentiate between economic employer and real employer.

FTS Implications of Secondment – Key Decisions

Judgment	Held
Centrica India Offshore (Delhi HC) – SC SLP dismissed	<ul style="list-style-type: none">• The nature of services performed by the seconded employees i.e. quality control and management, falls clearly within the hold “technical or consultancy”.• The seconded employees are imparting technical expertise and know-how onto the regular employees, or in other words, “make available” their know-how of the field for future consumption.
Panasonic Corporation (ITAT Chennai)	<ul style="list-style-type: none">• The deputed employees have come to India to ensure group policies / other group culture.• Once the policies / processes are retained, no need for personnel again coming to India, hence the services have “made available” technical knowledge, skill and experience.



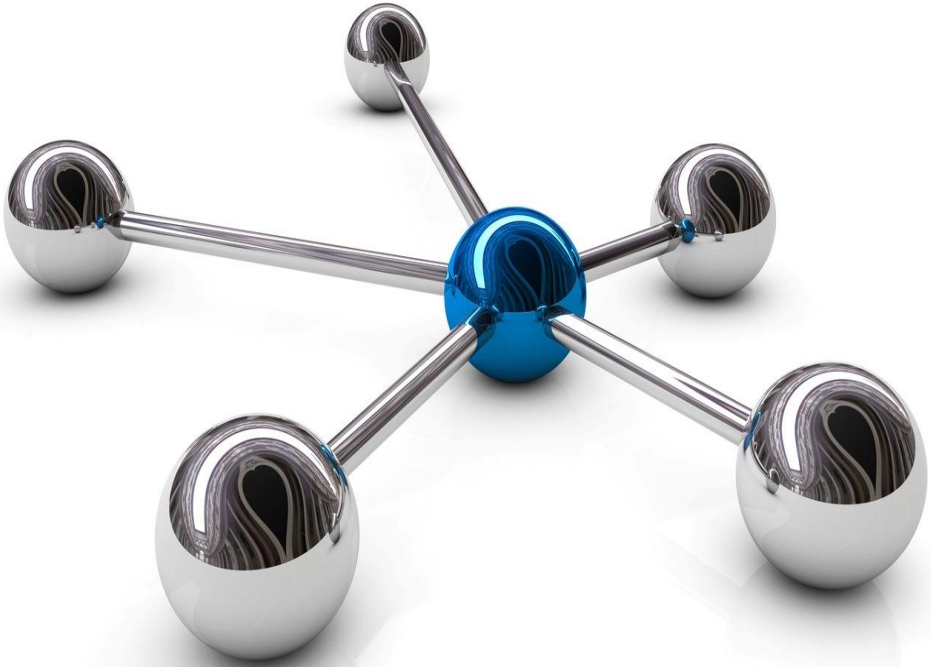
Most Favored Nation (MFN) Clause

India-France DTAA – FTS / Royalty clause

- The term "royalties" as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
- The term "fees for technical services" as used in this Article means payments of any kind to any person, other than payments to an employee of the person making the payments and to any individual for independent personal services mentioned in Article 15, in consideration for services of a managerial, technical or consultancy nature.
- The term "payments for the use of equipment" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, industrial, commercial or scientific equipment.

India-France DTAA – MFN Clause

- In respect of articles 11 (Dividends), 12 (Interest) and 13 (Royalties, fees for technical services and payments for the use of equipment), if under **any Convention, Agreement or Protocol signed after 1-9-1989**, between India and a third State which is a member of the OECD, India limits its taxation at source on dividends, interest, royalties, fees for technical services or payments for the use of equipment **to a rate lower or a scope more restricted than the rate of scope provided for in this Convention** on the said items of income, the **same rate or scope as provided for in that Convention, Agreement or Protocol** on the said items income **shall also apply under this Convention**, with effect from the date on which the present Convention or the relevant Indian Convention, Agreement or Protocol enters into force, whichever enters into force later.



Taxability of Royalty and FTS

Basis of Charge

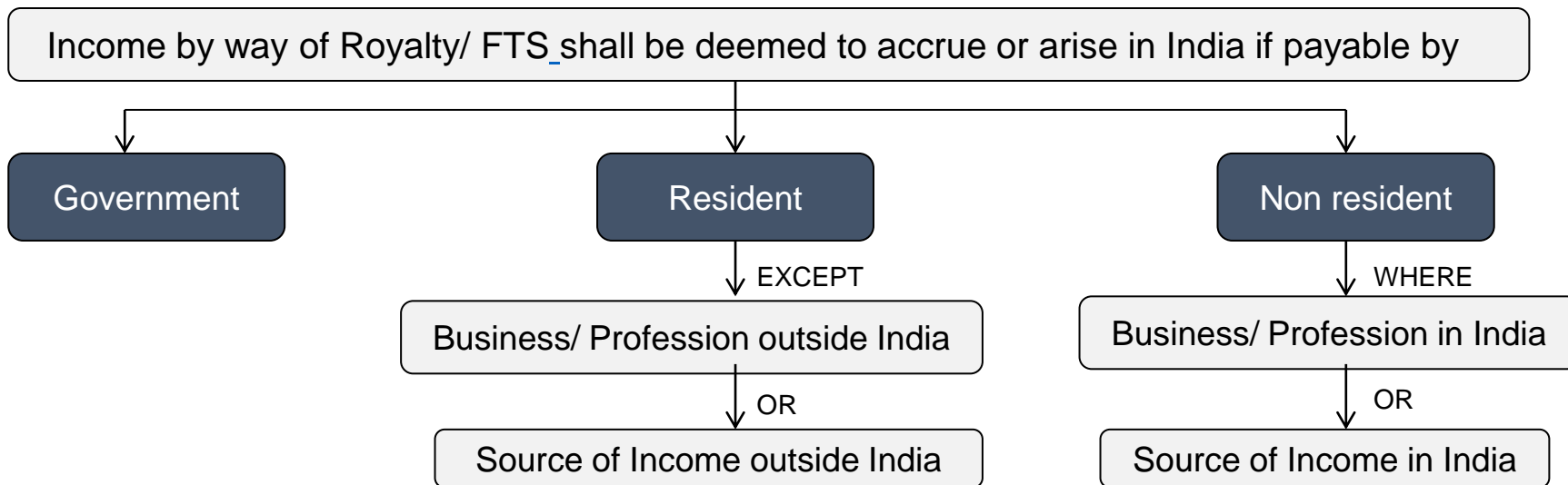
➤ **Section 5 : Scope of Total Income for Non Residents**

- Income received / deemed to be received in India
- Income accruing / arising in India or deemed to accrue or arise in India

➤ **Section 9 : Income deemed to accrue or arise in India**

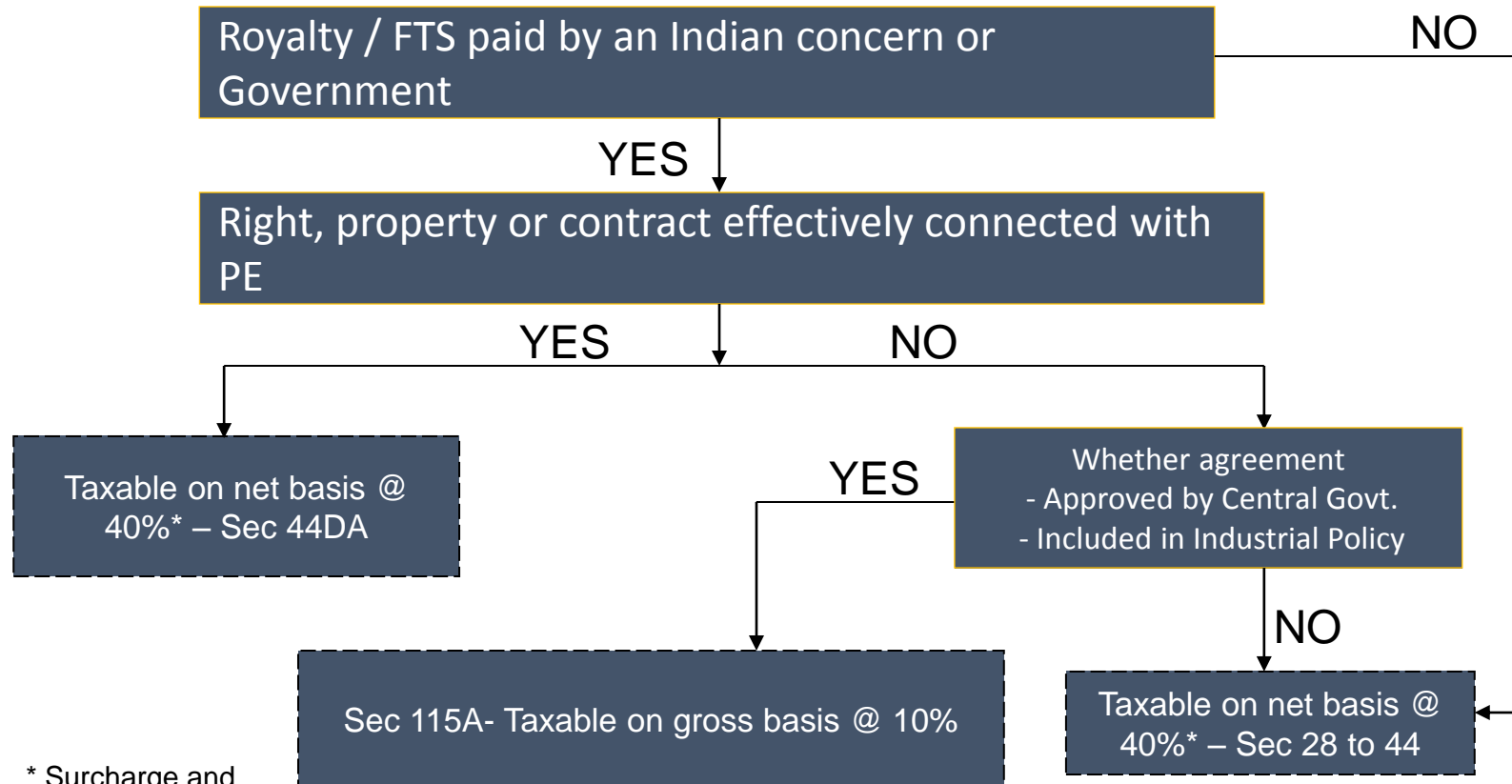
- Royalty - Section 9(1) (vi) / Explanation 2
- FTS - Section 9(1) (vii) / Explanation 2

Section 9(1) of the Act



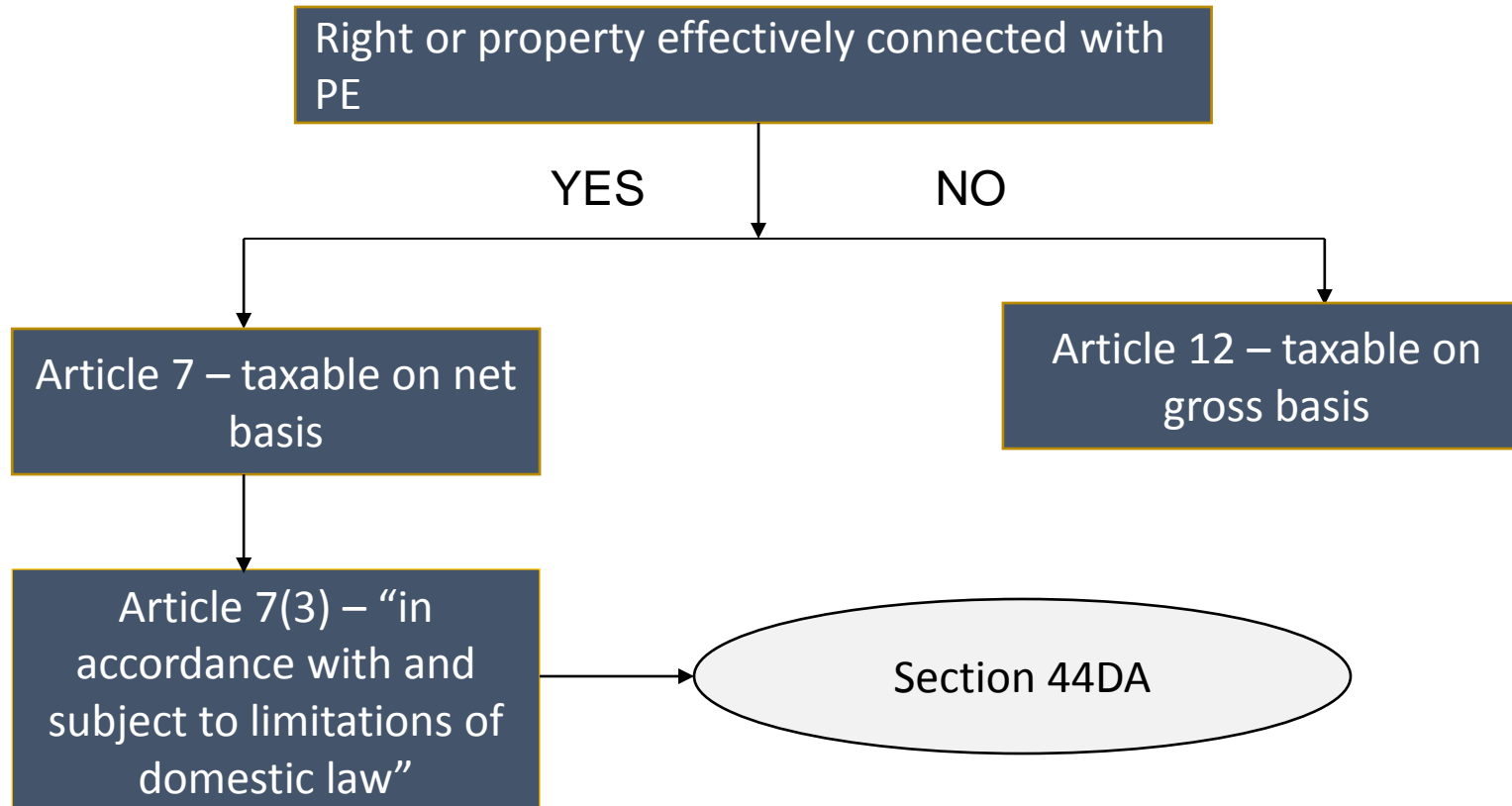
Havells (Delhi HC) – Exception outside India

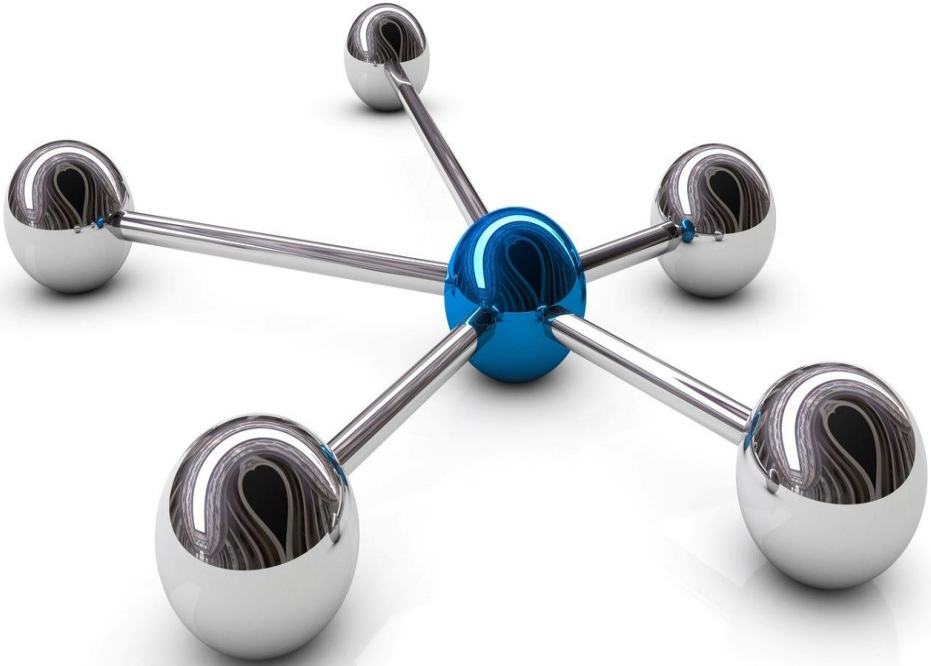
Taxability of Royalty/FTS under the Act



* Surcharge and cess, as applicable

Taxability of Royalty/FTS as per DTAA





Thank You