

## Royalty: Indian Perspective

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In the realm of taxation, the concept of royalty refers to the remuneration made for the utilization of intellectual property, natural resources. Various corporations compensate individuals or entities who possess these rights by means of royalties as a mode of offsetting the use of their assets. These payments are determined based on agreements and can be structured in different manners, such as a percentage of sales or a fixed sum per usage. The matters encompassing royalty payments in taxation are multifaceted. One concern arises from the intricacy involved in ascertaining fair and precise sums of royalties, particularly in international transactions where dissimilar tax regulations and transfer pricing can trigger disputes and potential tax avoidance. Nations may also encounter difficulties in ensuring that royalties are adequately taxed, as multinational corporations may employ strategies to relocate profits to jurisdictions with low tax rates, thereby diminishing their overall tax obligations. Additionally, an ongoing debate exists regarding the equity of royalty arrangements, specifically in relation to natural resources. Detractors argue that certain corporations may negotiate agreements for resource extraction that undervalue said resources, resulting in minimal royalty payments to governments and depriving nations of their rightful portion of revenue derived from their own resources. Endeavours to address these concerns frequently entail international cooperation, the establishment of clearer tax guidelines, and transparency in royalty agreements. Some proponents advocate for heightened disclosure requirements, enhanced monitoring mechanisms, and standardized practices to ensure that nations receive equitable compensation for the utilization of their resources or intellectual property. All in all, the taxation of royalties remains a complex and evolving matter, necessitating ongoing assessment and collaboration among nations to guarantee a just distribution of income and counteract potential exploitation or tax evasion. The present study highlights various issues related to Royalty Payment in India and perspectives and viewpoint associated to it.

**Keywords:** Royalty, Tax, India, IPR, Payment

Royalties, which are payments for the use of intellectual property (IP) such as copyrights, patents, or trademarks, are essential for a nation's economic progress. Authors<sup>1</sup> contend that empirical evidence regarding the impact of varying international patent protection levels on trade flows is scant; however, intellectual property catalyzes innovation and knowledge transfer, thereby nurturing a dynamic creative and technological ecosystem.<sup>2</sup> assert a positive correlation between the resources allocated for new knowledge creation and innovation output, specifically in terms of a national economy's contribution to the production of scientific and technical journal articles, patents, royalty payments, and internationally traded high-tech goods and services.

It is crucial to achieve a delicate equilibrium in securing an equitable portion of these payments for

the government via taxation. This paper examines the intricacies of royalties and their taxation in India. India's historical strategy of taxing royalties has proved contentious. In 1995, a Supreme Court ruling elucidated that royalties are not taxes in themselves but rather constitute income for the intellectual property owner and an expense for the licensee. This distinction is crucial as it permits the licensee to categorise the royalty payment as a business deduction for determining taxable income. The Indian government levies taxes on inhabitants and non-residents receiving royalties. Under Income Tax Act<sup>3</sup>, citizens, encompassing people and corporations, are liable for income tax on their global income. The tax rate on royalties depends on the type of intellectual property and the residency status of the receiver. Authors may utilise a deduction under Section 80QQB, enabling them to claim a tax benefit on a

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segment of their royalty income. This increased tax burden has ignited a controversy. The government seeks to augment its revenue; nevertheless, others contend that the elevated tax rate could dissuade international investment and the transfer of knowledge. Foreign corporations may hesitate to license their intellectual property to Indian firms if post-tax returns are reduced. This may obstruct innovation and impair India's technological advancement. Nonetheless, the government's viewpoint certainly merits attention. The prior, reduced tax rate may have been utilised for tax evasion purposes. Companies may have exaggerated royalty payments to transfer revenues to regions with reduced tax rates. The elevated withholding tax rate mitigates such tactics and guarantees a more equitable allocation of tax revenue for India. Traversing this complex terrain necessitates a dual strategy. The government can seek methods to encourage genuine royalty payments, especially those that foster innovation and information transfer. This may entail forming tax treaties with designated partner nations that offer reduced withholding tax rates on royalties. Furthermore, establishing explicit criteria for ascertaining equitable market value "arm's length" royalty rates may avert conflicts and promote openness. A strong tax administration is essential. The government must optimise the procedure for citizens to seek tax benefits on royalties, particularly for authors and artists. Moreover, instituting robust strategies to counter tax evasion might facilitate the identification and rectification of instances when royalty payments are exaggerated to evade taxation. The emergence of the digital economy has introduced additional complexity in royalty payments and taxation. Studies<sup>4</sup> asserts that royalty issues have garnered the attention of numerous state governments due to substantial projections suggesting significant losses to government finances. The advent of digital products, including e-books, music streaming services, and internet content, has obfuscated the conventional methods of ascertaining income sources. Thus, this creates challenges in ascertaining the suitable jurisdiction for taxing royalties and establishing which nation holds the authority to impose such taxes. Numerous global projects are under underway to address these concerns, notably the Base Erosion and Profit Shifting (BEPS) Project by.<sup>5</sup> The principal outcome of the BEPS Project is the "Two-Pillar Approach," designed to resolve the distribution of taxing rights for highly successful multinational corporations (MNEs) within the digital

economy, regardless of their physical presence in a jurisdiction. Furthermore, it aims to establish a global minimum corporate tax rate to avert tax base erosion and profit shifting by multinational enterprises. India has engaged in these debates and is endeavouring to adopt measures that guarantee an equitable distribution of tax revenue from digital royalties, while concurrently preserving competitiveness in the global digital economy. Expertise from tax consultants and legal professionals is essential for navigating the complex realm of royalty agreements and their tax implications. These individuals are essential in aiding businesses and individuals by structuring commercially viable royalty agreements that comply with pertinent tax regulations, offering tax planning and compliance counsel on domestic and international royalty payments, and ensuring adherence to tax laws. Additionally, they are tasked with representing customers in disputes with tax authorities on royalty taxation. Comparing India's tax treatment of royalties with that of other major economies provides essential background. The United States (US) generally levies a 30% withholding tax on royalties disbursed to non-residents, which closely resembles the newly established rate in India. Nevertheless, the United States possesses a more comprehensive network of tax treaties that provide reduced rates for particular countries and categories of royalties. The United Kingdom (UK) often enforces a 20% withholding tax on royalties disbursed to non-residents, consistent with the prevailing Indian rate. Similar to the United States, the United Kingdom possesses an extensive array of tax treaties that offer diminished rates. Conversely, Singapore imposes a reduced withholding tax rate of 7% on royalties, rendering it a more attractive jurisdiction for international entities aiming to license their intellectual property.

Royalties and their taxation in India are crucial for fostering innovation, attracting foreign investment, and ensuring fair revenue generation for the government. Attaining equilibrium among these conflicting interests necessitates a sophisticated strategy. Establishing targeted incentives, enhancing transparency in royalty rates, and fortifying tax administration can foster a mutually advantageous situation for both the knowledge economy and India's fiscal health. As the digital economy progresses, India must modify its regulatory framework to efficiently tackle the distinct issues of taxing digital royalties, while preserving its global competitiveness. The idea of "No consideration, no contract" encapsulates the

essential legal doctrine that a contract necessitates the presence of consideration. In the realm of intellectual property, royalty payments are crucial in licensing agreements. It functions as the means by which the intellectual property owner obtains monetary remuneration for its utilisation. Legal thinker<sup>6</sup> contended that each right entails a commensurate duty. This indicates that when someone possesses a right, another individual is obligated to uphold that right. The proprietor of intellectual property rights possesses the authority to utilise, enjoy, and regulate their intellectual property. This signifies that they possess the authority to prohibit others from utilising their intellectual property without their consent. Third parties are obligated to refrain from violating the rights of the intellectual property owner. This indicates that they cannot utilise the IP owner's intellectual property without authorisation, unless permitted by law. Fair use clauses in copyright law let anyone to utilise copyrighted content without the copyright owner's consent under specific, restricted conditions. In the realm of intellectual property rights, owners own specific privileges, including the capacity to utilise and transfer their intellectual property, either in full or in part. Conversely, third parties are obligated not to violate these rights unless authorised by law, as exemplified by fair dealing regulations. Conflicts may emerge between licensors and licensees concerning royalty payments due to the lack of standardised metrics and criteria. This article will analyse many concerns pertaining to royalty payments, encompassing disagreements regarding computations, insufficient transparency, and supplementary legal and contractual requirements. Authors<sup>7</sup> assert that more robust intellectual property rights regimes typically result in increased royalty payments flowing from poor to industrialised nations. The advantages for poor nations resulting from these augmented payments, aside from the direct information transfer, are negligible; it is improbable that these payments will substantially influence the volume or trajectory of research.

Royalty payments are essential for the efficient management of intellectual property, an intangible asset that can yield significant revenue for its proprietor. Nonetheless, proprietors frequently lack the requisite resources to properly capitalise on their intellectual property. Consequently, licensing agreements are frequently employed, permitting other parties or people to exploit the intellectual property in return for a royalty fee. This structure allows

intellectual property owners to capitalise on their assets while reducing risks. Moreover, royalty payments facilitate the advancement of innovation and creativity. The royalty system incentivises innovators and creators financially, promoting the allocation of time and resources towards the development of novel items or concepts. Study<sup>8</sup> define royalty as a periodic payment generally contingent upon the licensee's production, use, or sale of a licensed product or service. It may manifest as a novel pharmaceutical, a literary work, or an action figure. Furthermore, the royalty system cultivates a just competitive landscape by providing smaller enterprises access to valuable intellectual property, thereby allowing them to contend with larger entities. Royalty payments facilitate the dissemination of information and technology. Through the licensing of intellectual property, entities can disseminate their ideas, potentially fostering further progress and advancement across many domains<sup>9</sup>. In summary, royalty payments are a fundamental component of the intellectual property framework. They provide the efficient management, monetisation, and distribution of intellectual property, concurrently fostering innovation and creativity. This study thoroughly examines the several facets of royalty in India. The study examines many prominent instances from the Supreme Court of India and their interpretations regarding tax and royalty.

### **History Development of Royalty Payment in Intellectual Property Rights**

The inception of royalty payments in intellectual property rights (IPR) can be linked to the initial phases of the Industrial Revolution in Europe. Authors<sup>1</sup> posits that numerous laws and systems, especially those concerning royalty and privileges, can likely be traced to the mediaeval European tradition of conferring royal privileges. As corporations began to innovate and create new technologies, a necessity emerged to safeguard their discoveries and concepts from replication by others. This resulted in the creation of the patent system, which conferred exclusive rights to inventors for their inventions for a specified duration. In return for this exclusivity, inventors were obligated to reveal their creations to the public, thus fostering creativity and advancement. As patent acceptance increased, inventors commenced licensing their patents to others in exchange for royalty payments. This allowed them to derive revenue from their patents without the necessity of participating in manufacturing or

distribution directly. In the 20<sup>th</sup> century, the taxation of royalty payments and other revenue derived from intellectual property became increasingly prevalent. Governments acknowledged the significance of intellectual property in fostering economic growth and innovation, perceiving the opportunity to collect revenue through the taxation of such income. Currently, the majority of nations have implemented legislation that requires the taxation of revenue generated from intellectual property, encompassing royalty payments. The taxes regulations for these payments differ based on the jurisdiction and the specific type of intellectual property concerned. In general, royalty payments are treated as ordinary income and are subject to taxation. Royalty payments have extended beyond patents to encompass many forms of intellectual property, including trademarks and copyrights.

This resulted in the establishment of licensing agreements permitting corporations to employ intellectual property owned by others in return for a fee. Studies<sup>10</sup> asserts that the introduction of royalty payments in intellectual property rights has been significant in fostering innovation and economic development. It has provided inventors and companies with the opportunity to monetize their inventions and ideas, thereby incentivizing further investment in research and development. Moreover, royalty payments have facilitated business expansion into new markets and the introduction of new products or services without substantial research and development costs. This has stimulated heightened competitiveness, resulting in additional innovation and economic progress. Hence, the emergence of royalty payments in intellectual property rights can be traced back to the early days of the Industrial Revolution. Today, they serve as a vital mechanism for driving innovation and economic growth by allowing inventors and companies to capitalize on their inventions and ideas.

### **Classification of Royalty**

Royalties are generally categorized by the type of intellectual property, the payment structure, and the industry. Different scholars have proposed frameworks to capture this variety. In music,<sup>11</sup> outline four main forms, mechanical, performance, synchronization, and print while<sup>12</sup> explains how they are negotiated and calculated. In publishing,<sup>13</sup> distinguishes royalties based on list price or net receipts and highlights the role of advances, with<sup>14</sup>

expanding on their place in the wider rights market. Patent royalties, according to<sup>15</sup>, are usually structured as a percentage of sales or a fixed per-unit fee. For natural resources,<sup>16</sup> identify ad valorem, unit-based, and profit-based royalties. Together, these approaches show how royalties operate differently across sectors, reflecting both their economic and creative value.

### **Classification According to Type of Intellectual Property**

This method classifies royalties based on the type of intellectual property that produces the income. Every type of intellectual property possesses distinct legal safeguards, commercial uses, and royalty structures. The primary classifications encompass:

#### ***Patent Royalties***

Patent royalties are compensations paid to the proprietor of a patented invention or technology. The licensee acquires the rights to produce, employ, or market the innovation. Payments are typically organised as a percentage of product sales or a predetermined amount per unit. Patents, often last for 20 years, safeguard inventions and promote innovation. Royalties enable inventors to earn revenue, while licensees gain lawful access to and use of patented innovations.

#### ***Copyright Royalties***

Copyright royalties are compensated to creators, whether writers, musicians, filmmakers, artists, or software developers, when their work is utilised, disseminated, or sold. Royalty sources encompass book sales, music licensing, digital downloads, and performances. Copyright protection often extends for the duration of the creator's life plus an additional 50 to 70 years, contingent upon the jurisdiction. These royalties guarantee that creators persist in profiting from their intellectual and artistic contributions.

#### ***Trademark Royalties***

Trademark royalties are paid for the commercial use of distinct brand elements, such as names, logos, graphics, or slogans. These deals are common in licensing agreements and franchising, where brand value is a key asset. Payments reflect the strength and recognition of a trademark. Trademark rights can last forever, as long as the mark is used continuously and legally protected.

#### ***Franchise Royalties***

Franchise royalties are continuous payments made by franchisees to franchisors as stipulated in a franchise agreement. The franchisee is permitted to

operate under the franchisor's business model and recognised brand in return. Payments may be predetermined sums or contingent upon sales or profit percentages. These royalties generally encompass training, marketing, and business support, while facilitating brand expansion for the franchisor without direct control of individual shops.

#### ***Royalties from Mineral or Natural Resource***

These royalties occur when an entity is authorised to harvest natural resources, whether oil, minerals, lumber, or water. Payments are typically associated with the quantity or worth of resources extracted. They function to remunerate resource proprietors (private or governmental) and to oversee extraction in accordance with sustainability considerations.

#### ***Software Royalties***

Software royalties are payments made for the licensing of proprietary software. They may be predicated on per-user licensing, installation quantity, usage period, or income distribution. These royalties ensure sustained revenue for developers, fund upgrades and maintenance, and provide protection against piracy.

#### ***Performance Royalties***

Performance royalties are generated when original works, including musical compositions, are publicly performed, broadcast, or streamed. Performance rights organisations collect these royalties and subsequently distribute them to composers, publishers, and performers to guarantee that creators receive compensation anytime their work is exhibited or broadcast.

#### ***Royalties from Publications***

Book royalties are compensations disbursed by publishers to authors contingent upon the sales or licensing of their works. Typically, authors obtain a portion of the retail or net sales price, generally between 5% and 15%. This approach motivates authors by correlating their income with the success of their creations.

#### **Classification Based on Payment Structure**

##### ***Running Royalties***

Running royalties are calculated as a percentage of the revenue earned from selling or using licensed products or services. They align the licensor's financial rewards with the licensee's commercial success. For example, if sales total \$1 million with a 5% royalty rate, the licensor receives \$50,000. This structure motivates both parties to maximize market performance.

##### ***Fixed Royalties***

Fixed royalties involve predetermined payments at regular intervals (monthly, quarterly, or yearly) regardless of actual sales or usage levels. They provide predictability and steady income for licensors, but licensees may overpay if sales underperform. For example, a flat \$10,000 fee every quarter might be required for the use of a trademark.

##### ***Minimum Royalties***

Minimum royalties ensure license holders are guaranteed a certain baseline level of payment even if sales are low. For instance, if an agreement mandates \$20,000 annually as the minimum, the licensee must pay this amount regardless of performance. This structure safeguards the licensor's financial interests.

##### ***Lump-Sum Royalties***

Lump-sum royalties are one-time upfront payments made in exchange for IP usage rights, often for a specified duration. This approach is useful when licensors want immediate cash flow or when licensees prefer avoiding ongoing payments. For example, a one-time payment of \$100,000 could secure rights to a patent for a five-year term.

The choice of payment structure depends on industry standards, expected performance, negotiation preferences, and the parties' risk appetite. A well-drafted license agreement will clarify the payment model, calculation method, reporting obligations, and audit rights to ensure fair and transparent royalty distribution.

#### **Classification of Royalty by Industry or Context**

##### ***Manufacturing Royalty***

Manufacturing royalties are payable when products are made using patented processes, proprietary technology, or trademarks. For instance, if a producer uses patented machinery or design in manufacturing, they must compensate the patent holder based on either sales revenue or units produced. This structure allows inventors to profit from their innovation without directly engaging in production activities. The rate charged often reflects the commercial value of the patent, its exclusivity, and the business risks undertaken by the licensee. Such royalties are particularly common in technology, pharmaceutical, and consumer goods sectors where intellectual property enhances competitiveness.

##### ***Service Royalties***

Service royalties relate primarily to service-oriented industries, especially franchises where the

use of branded systems and trademarks is critical. A franchisee pays ongoing royalties to the franchisor for the right to use the brand name, business model, and infrastructure support. The fee structure may be revenue-based or a pre-decided fixed amount. Unlike manufacturing royalties, the emphasis here lies on business standards, customer service, and consistent brand experience. This format provides the licensor with recurring earnings while enabling franchisees to benefit from established goodwill and expertise.

#### *Natural Resource Royalties*

Royalties in natural resource industries are paid for the right to extract resources such as oil, coal, minerals, gas, or timber. Typically, payments are based on either the quantity of extraction or the value of resources sold. These royalties are often collected by governments or landowners as compensation for depleting natural reserves. The rates depend on resource characteristics, reserve size, and prevailing market prices. Besides providing revenue, such royalties play a regulatory role by encouraging sustainable extraction and balancing environmental concerns with commercial exploitation.

#### *Creative Industry Royalties*

This category encompasses all royalties arising from the arts, media, publishing, and entertainment industries. Authors, musicians, filmmakers, and digital creators earn royalties whenever their work is sold, broadcast, performed, or streamed. Payment streams come from licensing, distribution, subscriptions, or performance rights organizations. Creative royalties ensure that artistic efforts generate continuous income linked to consumer demand and content popularity. They are essential for sustaining cultural and creative industries while rewarding originality and innovation.

#### **Functional Classification (Economic Perspective)**

##### *Licensing Royalties*

Licensing royalties are compensation paid by a licensee to a licensor in return for permission to use intellectual property such as patents, copyrights, or trademarks. These are governed by licensing agreements that clearly specify the extent of use, payment structure, and validity period. Licensing royalties are often recurring and calculated as a percentage of sales revenue or product units generated from the use of IP. For example, a manufacturer producing goods under a patented design pays a

portion of their income to the patent holder. Such royalties help IP owners commercialize their rights while providing businesses with lawful access to innovations and brands.

##### *Revenue-Sharing Royalties*

In revenue-sharing arrangements, payments are directly tied to the revenue or profits generated by the licensee. This flexible model ensures that the licensor's income rises and falls with the success of the licensed product or service. For instance, a content creator may earn a percentage of advertising or subscription revenue from a streaming platform using their media. This approach provides mutual benefit: licensees can manage risk with variable payments, while licensors receive compensation proportionate to commercial success. Industries like publishing, entertainment, and franchising often rely on this method.

##### *Incentive Royalties*

Incentive royalties are linked to performance milestones or specific business achievements. These may include tiered rates, bonuses, or additional payments when certain sales targets, market expansions, or innovative benchmarks are reached. For example, a franchisor may charge a base royalty but introduce higher rates once the franchise surpasses particular sales thresholds. Such structures are designed to motivate licensees to achieve stronger results while granting licensors a larger share of profits from business expansion. Incentive royalties thus balance risk and reward while supporting strategic business growth.

These royalty systems provide flexibility to suit different industries, business models, and risk preferences. They form a vital part of licensing frameworks, ensuring performance-driven and equitable compensation for the utilization of intellectual property.

#### **Concept and Significance of Royalty Payment**

A royalty payment is the fee paid by a licensee to a licensor for the right to use a defined intellectual property asset. Commonly, this fee is made periodically and may be linked to the revenue or usage of the licensed IP. In simple terms, royalty represents the price of accessing another party's intellectual effort, invention, or brand. While it compensates the creator or innovator in return for commercial use of their work, royalty in the commercial sense covers a much wider field.

Royalties apply to a variety of intangible assets, including patents, trademarks, trade secrets, technical know-how, service marks, brand rights, software, literary works, films, music, cultural content, and more. Essentially, it is a form of payment for the legal “user right.” Depending on the agreement, this can be structured as annual, quarterly, or lump-sum settlements.

Within the domain of intellectual property rights, royalties are critically important in licensing agreements. They allow owners of IP to monetize their rights without being directly involved in manufacturing or distribution. For licensees, royalties open opportunities to use valuable IP without incurring substantial R&D costs, enabling them to enter new markets faster or expand their product lines efficiently.

Royalties also create strong incentives for creativity and innovation by rewarding inventors, artists, and businesses financially for their contributions. As highlighted by<sup>17</sup> royalty-based payment systems have characteristics similar to profit-based taxation but are easier to enforce and less prone to exploitation. Therefore, royalty payments serve multiple purposes. They ensure fair compensation for creators and IP owners, provide businesses with access to established innovations and brands, promote economic and cultural growth, and ultimately encourage sustained cycles of creativity, innovation, and industrial advancement.

#### **Calculation of Royalties**

Royalty calculation methods have been studied in detail by scholars and professionals in intellectual property and valuation. For example,<sup>18</sup> outlines several approaches for determining royalty rates such as transactional methods like the Comparable Uncontrolled Price (CUP) model, income-based approaches, and market value assessments, offering a structured way to set royalty rates.<sup>19</sup> in their study commissioned by the KPMG Global Valuation Institute, examine how profitability influences royalty structures across different industries, showing the strong link between profit margins and royalty benchmarks.<sup>20</sup> highlights the taxation aspects of royalty calculation, explaining the balance between fair payments to creators and compliance with tax regulations. Similarly,<sup>21</sup> provides case-specific guidance on calculating royalty damages, particularly for patent disputes, helping courts and businesses define fair compensation in infringement cases. Collectively, these analyses present a robust framework for royalty determination, stressing that the

chosen rate depends on profitability, market value, industry practices, and the outcome of negotiations between parties. Royalty payments represent the agreed financial consideration paid by the licensee to the licensor for access to intellectual property (IP), resources, or other commercial assets. These payments allow creators, inventors, or asset owners to earn for the authorized use of their work or rights. For instance, a company licensing a patent, a franchisee operating under a major brand, or a music service streaming copyrighted songs must compensate the rights holders. In practice, the licensee declares sales, revenues, or usage data and then pays royalties based on the terms set in the agreement. A licensing or royalty contract clearly defines payment schedules, reporting duties, the scope of usage rights, and applicable rates. Royalty rates differ across industries for example, music royalties often range between 10–15% of revenue, while software royalties may be determined per license or installation. Several factors influence these rates, including industry standards, exclusivity of the IP, market potential, risk-sharing terms, and conditions such as minimum guarantees or tiered payments. Payments may be structured in different ways: as a fixed percentage of gross or net revenue, as a per-unit fee, as a minimum guaranteed base plus additional royalties, or by sharing profits directly. Other models include tiered structures where percentages increase at higher sales thresholds. Royalties are usually paid periodically monthly, quarterly, or annually and contracts specify reporting cycles, payment deadlines, and audit rights to ensure transparent and fair practices. This process ensures compliance, provides predictable income for licensors, and enables licensees to legally use valuable IP.

#### **Royalty Calculation Methods**

Royalty calculation methods determine the amount a licensee pays the licensor for using intellectual property. The choice of method depends on the nature of the asset, industry patterns, potential market value, and the terms reached in negotiations.

##### ***Percentage of Sales or Revenue***

This widely used method calculates royalties as a fixed percentage of the sales or revenues generated by products or services using the IP. For instance, music streaming platforms typically pay artists based on the revenue collected from streams of their content.

##### ***Per Unit or Per Use***

Here, royalties are calculated on the basis of units sold or instances of use. This model is common in manufacturing, software licensing, and digital media.

For example, software developers may charge royalties according to the number of licenses sold by the licensee.

#### *Fixed Fee*

In this approach, royalties are paid as a predetermined, stable amount, typically on a periodic basis. This is frequent in trademark agreements or exclusive licensing contracts where predictable payments are preferred. For example, a company may agree to pay a fixed annual amount for exclusive brand rights.

#### *Minimum Guarantee with Advances*

Commonly seen in creative industries like publishing and music, this method ensures creators a minimum income regardless of sales. The licensor often receives an upfront advance, which is later adjusted against earned royalties. For instance, book authors receive an advance before sales performance determines additional payouts.

#### *Profit Sharing*

Unlike revenue-based approaches, profit-sharing models calculate royalties as a percentage of net profits rather than gross sales. This model is practical in high-risk ventures such as biotech collaborations, where both parties share risks and rewards.

#### *Tiered Royalties*

Tiered structures adjust royalty percentages depending on performance thresholds. For example, royalties may start at 5% of sales until \$1 million is achieved, then rise to 7% for sales beyond that figure, motivating higher sales volumes.

#### *Benchmarking and Valuation Approaches*

Market-based techniques such as comparable license analysis examine royalty rates in existing agreements within the same sector, ensuring fairness by using real-world comparisons. Professional valuation approaches like the income method or discounted cash flow (DCF) estimate future financial benefits to arrive at a suitable royalty rate. Heuristic guidelines, such as the “25% rule” (allocating roughly a quarter of product profits to licensors), are also used in some negotiations as a starting reference point. These models are implemented through comprehensive agreements specifying payment obligations, schedules, audit rights, and usage restrictions. Choosing the right method depends on balancing risk, ensuring fair compensation, and achieving alignment between licensors and licensees.

Table 1 summarizes different types of royalties, explaining the typical payment methods and providing real-world examples for each. It shows how royalties vary according to the type of intellectual

Table 1 — Types of Royalties & common payment methods

Types of Royalties	Common Payment Methods Used	Explanation
Patent Royalties	Percentage of Sales, Per Unit, Fixed Fee, Tiered Royalties	Technology firms such as Intel grant patent licenses and receive royalties as a percentage of sales or fixed fees for each unit sold, e.g., fees per chip
Copyright Royalties	Percentage of Sales, Minimum Guarantees, Advances, Per Use	Musicians may earn about 10% of streaming revenues, while authors receive advances offset against future book royalties
Trademark Royalties	Percentage of Sales, Fixed Fee	Brand licensing deals, such as with Starbucks, typically involve fixed fees and profit-based royalties for the use of trademarks in franchises
Franchise Royalties	Percentage of Sales, Fixed Fee, Tiered Royalties	Fast food chains like McDonald’s charge franchisees through a percentage of revenue and fixed annual fees, sometimes with tiered rates for higher sales
Mineral/Natural Resource Royalties	Percentage of Production or Revenue, Fixed Fee, Minimum Guarantee	Oil companies pay royalties to landowners or governments based on the extracted volume or revenue from resource sales
Software Royalties	Per Unit, Percentage of Sales, Fixed Fee	Firms such as Microsoft license software by charging fees per license or offer fixed annual fees for enterprise-wide usage
Performance Royalties	Percentage of Revenue, Flat Fees	Performing Rights Organizations like ASCAP/BMI distribute royalties to musicians based on performance or broadcast revenue, sometimes through fixed payments
Book Royalties	Percentage of Sales, Advances with Minimum Guarantee	Publishers like Penguin Random House provide authors with advances as minimum guarantees, followed by additional royalties pegged to book sales

property or asset involved. For example, patent royalties often involve fees based on sales percentages or fixed amounts per unit, as seen with tech companies like Intel. Copyright royalties include sales percentages and advance payments, which musicians and authors commonly receive. Trademark and franchise royalties involve fixed fees and revenue sharing, illustrated by brands like Starbucks and McDonald's. Similarly, natural resource royalties depend on the volume or value of extracted resources, while software royalties are usually per license or fixed fees. Performance royalties compensate artists through organizations based on usage revenues, and book royalties combine advances with sales-based payments. It reflects how royalties are tailored to industry standards, asset types, and commercial practices. They provide fair compensation for IP owners while allowing licensees to use assets legally and efficiently. Overall, royalties incentivize innovation, creative output, and sustainable resource use across sectors.

### Royalty Valuation Methods (RVM)

Royalty valuation methods for intellectual property (IP) typically fall under three main approaches: income, market, and cost.<sup>22</sup> outline all three methods, linking them to IP exploitation and tax cases.<sup>23</sup> refines income-based tools with practices like the 25% Rule and Monte Carlo simulations, especially for technology licensing.<sup>24</sup> offer a practical introduction, adding non-traditional methods such as incremental benefit analysis.<sup>25</sup> stresses defensible valuations through due diligence, benchmarking, and case law. Collectively, these authors advocate using a triangulated approach, combining methods to produce reliable, context-specific royalty valuations across industries. RVMs are essential for determining the fair value of intellectual property (IP) in various business and legal contexts. Royalty valuation methods are important tools used to estimate the monetary value of intellectual property (IP) for purposes such as licensing agreements, transfer pricing, tax assessments, and legal disputes. These methods help establish fair and appropriate royalty rates and payment frameworks based on the economic benefits that the IP is expected to generate. Royalty Valuation Methods can be broadly classified into three types (Fig. 1).

#### Market-Based Method

This approach determines the value of IP by comparing it with similar IP assets or licensing

agreements available in the market. It uses data from comparable transactions to set benchmark royalty rates. The market-based method is straightforward and grounded in actual market data, but it requires access to relevant and reliable comparable information. It is often used for well-established brands, patents, or technologies with publicly available licensing information.

#### Income-Based Method

The income approach values IP by estimating the present value of future financial benefits expected from the IP. Common tools include the Discounted Cash Flow (DCF) model and the Relief-from-Royalty method, which calculates the economic savings from avoiding royalty payments if the IP were licensed instead of owned. This method is widely applied to patented inventions, established products, or revenue-generating assets, focusing on projected cash flows and associated risks.

#### Cost-Based Method

The cost approach calculates IP value by estimating the cost required to recreate or replace it. It considers historical development costs, replacement expenses, and potential obsolescence. This method is particularly useful for early-stage IP assets or proprietary technologies lacking sufficient market or income data. However, it may not adequately reflect the IP's potential future economic benefits.

### Role of Royalty in the Indian Tax System

In India, royalty payments are subject to taxation.<sup>26</sup> provides various sections related to royalty and its execution in India and the taxability of royalty payments depends on whether the payment is made to a resident or non-resident and whether it pertains to the use of a patent, trademark, copyright, or other forms of intellectual property. If the royalty payment

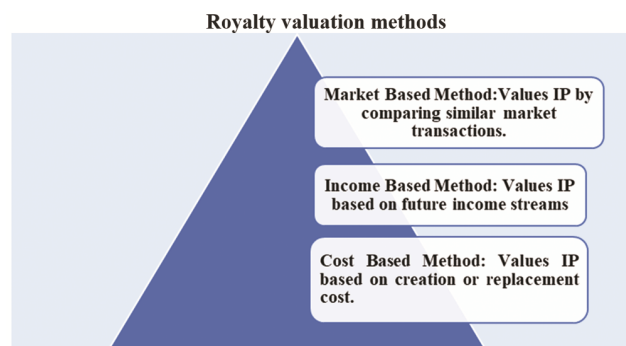


Fig. 1 — Classification of Royalty valuation methods

is made to a non-resident, it is subject to withholding tax at a rate of 10% (plus applicable surcharge and cess) under Section 115A of the Income Tax Act. However, the tax rate may be reduced as per the provisions of tax treaties between India and other countries. If the royalty payment is made to a resident, it is treated as income and subject to tax at the normal rates applicable to the recipient. However, in the case of a registered patent owner receiving payment for the use of the patent, the taxability of the payment may depend on whether the patent is categorized as a product or process patent. Furthermore, if the royalty payment is made for the usage of a trademark or brand name, it is subject to Central Goods and Services Tax Act<sup>27</sup> under the provisions of the Finance Act.<sup>28</sup> A recent amendment in the Act<sup>29</sup> has had a remarkable outcome on royalties paid to non-residents. The withholding tax rate on royalties and fees for technical services (FTS) has doubled from 10% to 20% (including surcharge and cess). This change aims to boost tax revenue and potentially discourage excessive royalty payments that could erode India's tax base. The current GST rate for services related to the use of intellectual property is 18%. Overall, the role of royalty in the Indian tax system is to ensure that income generated from the use of intellectual property is appropriately taxed. This helps generate revenue for the government and ensures that taxpayers contribute their fair share of taxes on income derived from intellectual property.

### **Legal Perspective of Royalty Payment in India**

In India, the legal framework governing royalty payments in intellectual property is established by several laws and regulations, including,<sup>30-33</sup> and other relevant legislation.

According to Indian law, a royalty payment represents compensation provided by a licensee to a licensor for the authorized use of a licensed property. This encompasses the utilization of patents, trademarks, copyrights, and other forms of intellectual property.

To ensure the legal enforceability of a royalty payment in India, it must be based on a valid licensing agreement between the licensor and the licensee. This agreement should clearly outline the terms of the license, including its scope, duration, and the specified amount of royalty payments.

Additionally, the licensing agreement should define the conditions under which royalty payments will be

made, including the frequency of payments, the methodology for calculating royalty amounts, and any other mutually agreed-upon terms and conditions.

Income tax is typically applicable to royalty payments under Indian law. The taxability of these payments is contingent upon various factors, such as the nature of the intellectual property, the provisions within the licensing agreement, and the residency status of both the licensor and the licensee. Furthermore, the Indian government has established regulations pertaining to royalty payments made by Indian companies to foreign entities. These regulations mandate that Indian companies must obtain approval from the Reserve Bank of India before executing royalty payments to foreign companies. This requirement ensures compliance with international taxation norms and helps prevent tax evasion.

Overall, adherence to the legal framework surrounding royalty payments in India, as governed by the aforementioned acts and regulations, is crucial for ensuring the validity and compliance of such transactions.

Therefore, the legal perspective of royalty payments in India is complex and subject to a range of laws and regulations. Companies seeking to engage in royalty payments should carefully review the applicable laws and regulations to ensure compliance with all legal requirements.

### **Supreme Court's Viewpoint on Difference Between 'Royalty' and 'Tax'**

While deciding the case of *India Cement Ltd. v. State of Tamil Nadu & Ors*<sup>34</sup>, the Supreme Court of India had laid down that royalty was a tax. Over the next decade, this ruling affected several high courts and Supreme Court decisions, resulting in a drastic change in judicial thinking on the subject as to whether 'royalty' and 'tax' are synonyms or antonyms of each other".

In 2004, the Supreme Court while deciding the case of *The State of West Bengal v Kesoram Industries Ltd. & Ors*.<sup>35</sup> disagreed with its decision in the above-mentioned case stating that the decision was a typographical error and as the Court had "constitutional, legal and moral" obligation to rectify the said error, it decided that royalty was not a tax".

It is to be noted that while deciding the case<sup>35</sup>, the Apex Court could not reverse its earlier decision made in the Indian Cement case owing to a smaller

bench in the former case as compared to the latter. Therefore, a nine-judge bench was constituted by the top Court who in an order passed on 30 March 2011 adopted the fact that royalty was not tax and that both are different from each other". In the case of *Jindal Stainless Ltd. & Anr. v State of Haryana & Ors*<sup>36</sup> while distinguishing between 'royalty' and 'tax', which are as follows:

The term '**royalty**' has always been seen as compensation given for the grantee's rights and privileges, and it usually has its origins in the agreement between the grantor and the grantee. Whereas a 'tax' is levied by the statutory authority without regard to any unique advantage that would be given to the taxpayer. The royalty would be determined by the parties' agreement and would usually be proportional to the benefit or privilege granted to the grantee".

A 'tax' is a legally enforceable and obligatory exaction of money by a public body for public purposes. It is not remuneration for services provided. Whereas, in a deed, the term 'royalty' is used in a broad meaning to express the obligation to make periodic payments to the assignor for the duration of the lease. The essential traits of a 'tax' are provided hereunder.

"The essence of taxation is a compulsion it is imposed under statutory power without the taxpayer's consent, and the payment is enforced by law.

A tax is imposed for a public purpose without regard for any specific advantage to be given to the taxpayer. This is indicated by stating that the tax is imposed for the purpose of generating general income which once collected, becomes part of the state's public finances.

As tax is a shared burden, the amount imposed on the taxpayer is normally determined by their ability to pay.

The appellants' argument that the charges levied were compelled exaction and so adopted the features of a tax was dismissed by the Court for being wrong and unsustainable. It was held to be a straightforward contractual connection between the parties, and the Division Bench was correct in dismissing CUMI and INDSIL's arguments.

While there is a complete absence of 'quid pro quo' (consideration) in the case of 'tax' between the taxpayer and the public authority, the scenario is just the opposite when it comes to 'royalty'.

The Supreme Court of India found that the demand in the current instances cannot be deemed to be constituting a tax while taking into consideration some notable precedents surrounding similar circumstances. The observations made by the Supreme Court of India in the well-known case of *Indsil Hydro Power & Manganese Ltd. v State of Kerala & Ors*<sup>37</sup> the contentious issue emanated from the fact that Income Tax Department treats payments made to non-residents for software purchase as "Royalty". Eliminating the confusion, The Apex Court put an end to long debate vindicating the non-taxability stand on software payment. The Supreme court upheld the taxpayer's contention that these transactions are simple sales and do not entail licensing of any copyrights, which would have attracted royalty payment u/d the Income Tax Act". Therefore, this present case thereby setting a good precedent to be followed by courts across India.

#### **Present Era of Royalty and Tax in India**

The present era of royalty and tax in India is characterized under several laws and regulations that govern the payment of royalty and taxes in relation to intellectual property.

Royalty payments made by Indian companies to non-resident companies are subject to withholding tax under the Income Tax Act, 1961. The rate of withholding tax depends on the nature of the payment, the terms of the agreement, and the residency status of the payee. The current rate of withholding tax on royalty payments is 10%.

In addition to taxes, royalty payments are subject to other legal obligations in India, such as compliance with the terms of the licensing agreement, protection of the intellectual property rights of the licensor, and ensuring that the royalty payments are made in accordance with applicable laws and regulations. The Indian government has established regulations concerning royalty payments made by Indian companies to foreign counterparts. These regulations mandate that Indian companies must obtain approval from the Reserve Bank of India before proceeding with royalty payments to foreign entities. Additionally, the regulations provide guidelines outlining the maximum permissible royalty payments based on factors such as the nature of the intellectual property and the industry in which the licensee operates.

Furthermore, recent changes to the tax regime in India, including the implementation of the Goods and Services Tax (GST), have impacted the taxation of royalty payments. Under the GST regime, royalty

payments are now subject to a GST rate of 18%, which represents an increase from the previous tax rate of 15%.

Henceforth, the current landscape of royalty and taxation in India is characterized by a multifaceted and evolving legal framework. It is imperative for companies involved in royalty payments to remain vigilant and stay informed about any changes in the law. Adherence to all applicable laws and regulations is crucial to ensure compliance and avoid any potential legal or financial consequences.

### Challenges with Royalty Payment in India

Several challenges exist with royalty payments in India, including:

- (i) **Withholding Tax:** The current withholding tax rate on royalty payments in India is 10%, which can be burdensome for companies, especially those with narrow profit margins.
- (ii) **Regulatory Approval:** Indian companies must secure approval from the Reserve Bank of India before making royalty payments to foreign entities. The approval process can be time-consuming and lead to payment delays.
- (iii) **Maximum Permissible Royalty Payments:** Government regulations establish limits on the maximum allowable royalty payments based on the type of intellectual property and the industry of the licensee. This can restrict the amount of royalties companies can pay, particularly for those heavily reliant on intellectual property.
- (iv) **Interpretation of Royalty Payments:** The Indian tax authorities' interpretation of royalty payments may lack consistency, resulting in disputes and potential litigation.
- (v) **Lack of Clarity:** Indian tax laws lack clarity regarding the tax treatment of royalty payments, particularly in cross-border transactions. This uncertainty can create confusion for companies engaged in royalty payments.

These challenges make royalty payments in India complex for companies. Understanding the legal and regulatory requirements is crucial, and compliance with applicable laws and regulations is necessary to avoid legal and financial repercussions.

### Government of India's Stand on royalty payments

The Indian government has enacted policies and regulations to ensure compliance with laws and regulations regarding royalty payments. Key

government policies and regulations pertaining to royalty payments in India include:

**Foreign Exchange Management Act (FEMA):** FEMA governs cross-border transactions, including royalty payments. Indian companies must obtain approval from the Reserve Bank of India before making royalty payments to foreign entities. According to notification<sup>38</sup>

*“In terms of item No.14 of Schedule III, RBI's prior approval is required if the agreement for technical collaboration has not been registered with RBI. Henceforth, ADs may allow remittances for royalty and payment of lump-sum fee provided the payments are in conformity with the norms as per item No.8 of Schedule II i.e. royalty does not exceed 5 per cent on local sales and 8 per cent on exports and lump-sum payment does not exceed USD 2 million”.*

**Income Tax Act:** The Income Tax Act governs the taxation of royalty payments in India. Royalty payments made by Indian companies to non-resident companies are subject to withholding tax.

Under the provisions stated in Section 80QQB of the Income Tax Act, any remuneration acquired from the publication of journals, diaries, guides, newspapers, pamphlets, textbooks, or any other related literature does not qualify for deductions. Furthermore, it is imperative that any income received as royalties from foreign sources must be repatriated and brought into the country within a designated time frame in order to be eligible for the advantages associated with deduction under Section 80QQB.

**Guidelines for Royalty Payments:** The government of India has established guidelines for royalty payments made by Indian companies to foreign entities. These guidelines determine the maximum permissible royalty payments based on the nature of the intellectual property and the licensee's industry.

**Goods and Services Tax (GST):** Under the GST regime implemented in 2017, royalty payments are subject to GST at a rate of 18%.

**National Intellectual Property Rights (IPR) Policy:** The National IPR Policy, introduced in 2016, aims to create an environment that fosters the protection, creation, and commercialization of intellectual property. The policy recognizes the

significance of royalty payments in promoting innovation and creativity in India.

Government policies and regulations concerning royalty payments in India aim to ensure compliance with applicable laws and regulations while fostering innovation and creativity. To avoid legal and financial consequences, companies involved in royalty payments should adhere these laws and regulations<sup>39</sup> are of the opinion that low-income nations that adopt tax treaties based on the OECD model convention are incapable of imposing a tax on royalties that originate within their jurisdiction.

### **National and International Aspects of Royalty Payments**

From a national perspective, India has implemented policies and regulations to ensure compliance with laws, promote innovation, and protect intellectual property. The government has enacted regulations such as FEMA, Income Tax Act, GST, and National IPR Policy, which govern royalty payments in India. These regulations aim to ensure adherence to applicable laws, foster the creation and commercialization of intellectual property, and safeguard the rights of Indian companies. As per the customary transfer pricing methods, the mispricing of royalty payments has no effect on investment behaviour.

According to Juranek S, Schindler D & Schjelderup G<sup>40</sup> transactional Profit Split Method, which is endorsed by the OECD for evaluating companies in the digital economy, encourages a higher level of investment to facilitate increased profit shifting. Furthermore, the implementation of royalty taxation has proven to be effective in mitigating abusive profit shifting; however, it inevitably leads to a decrease in investment. Moreover, when the royalty tax rate falls below the corporate tax rate within a tax system that provides for corporate equity allowance, it leads to excessive investment.

On an international scale, various treaties and conventions govern the royalty payment system. The WIPO<sup>41</sup> administers treaties like<sup>42-44</sup> which regulate the international patent system. WIPO also plays a role in harmonizing intellectual property laws and regulations worldwide, including those related to royalty payments.

Additionally, the Organization for Economic Cooperation and Development (OECD) has published guidelines on the taxation of multinational enterprises, including guidance on the tax treatment of royalty

payments in cross-border transactions. These guidelines promote consistency and transparency in royalty payment taxation across different countries.

Overall, the national and international aspects of royalty payments are interconnected. National policies and regulations in India must align with international treaties and conventions. Harmonization of national and international frameworks is crucial to ensure consistency, transparency, and fairness in the royalty payment system, while also fostering innovation and protecting intellectual property rights.

### **Outflow of Royalty Payments in the Present Scenario**

According to RBI<sup>45</sup>, the outflow of royalty payments from India to foreign countries is significant. The outflow of royalty and technical fees from India reached \$12.5 billion in the fiscal year 2020-21, marking a 1.5% increase from the previous year. This outflow primarily stems from licensing agreements involving technology, patents, trademarks, and copyrighted content. Key sectors contributing to the outflow of royalty payments from India include pharmaceuticals, IT, automotive, and media industries.

While royalty payments facilitate technology transfer, innovation, and collaboration, the significant outflow of payments can pose challenges for the Indian economy. It may deplete valuable foreign exchange reserves and impact the balance of payments. To address this concern, the Indian government has implemented various policies and regulations. These measures include imposing restrictions on royalty payments for the use of trademarks and brand names. Additionally, the government encourages domestic companies to invest in research and development, reducing reliance on foreign technologies and promoting the growth of indigenous technology.

Managing the outflow of royalty payments requires a balanced approach that fosters innovation and collaboration while safeguarding the country's economic interests. By implementing appropriate policies, India seeks to optimize the benefits of royalty payments while reducing their potential negative impact on the economy.

### **Analysis between Inflow and Outflow of Royalty**

The analysis of the inflow and outflow of royalty payments in India shows that there is a significant disparity between the two. According to the latest data available, India's outflow of royalty payments is much higher than the inflow of royalty payments. The

outflow of royalty payments from India increased from USD 2.2 billion in 2016-17 to USD 3.6 billion in 2018-19, while the inflow of royalty payments decreased from USD 3.5 billion in 2016-17 to USD 3.3 billion in 2018-19. According to a report/opinion from Financial Express, published online, between 2012 and 2019, royalty pay-outs for 31 companies doubled to ₹8,300 crores, with the top five MNCs responsible for 80% of the total. However, in FY21, MNC royalty payments decreased by 10%, despite a 5% decline in pre-tax profits, and a 9.5% decrease in FY20, attributed to high dividends during the pandemic.

As per IMF Balance of Payments data, India paid \$8.63 billion for use of foreign IP in 2021, 56,862% more than \$15.1 million in 1981. In comparison, IP owned by Indian entities netted merely \$870.1 million. This underlines the need to improve IP protection laws and systems to encourage creation of IP by Indian entities. In 2021, the Parliamentary Standing Committee on Commerce said a mere 1% improvement in copyright protection increases foreign direct investment (FDI) by 6.8%. The same improvement in protection for patent and trademark increases FDI by 2.8% and 3.8%, respectively. There has been some improvement in the situation, though. Four decades back, India paid 80 times more for use of foreign IP than what it earned from its own IP. Though this fell to 10 times in 2021, it's clear that the country continues to pay a heavy price for not creating enough IP assets. The main reason for this disparity is that India is heavily dependent on foreign technology, which requires payment of royalty fees to foreign companies. In contrast, Indian companies have not been successful in licensing their technologies to foreign companies, resulting in a lower inflow of royalty payments. India's complex taxation system and cumbersome regulatory procedures make it challenging for foreign companies to invest and operate in the country, resulting in a reduction in the inflow of royalty payments.

To address this issue, India should prioritize the promotion of domestic innovation and technology development. This can be achieved by simplifying royalty payment procedures, facilitating technology transfer, and providing incentives for innovation and technology development. These measures will help reduce reliance on foreign technology and attract more foreign investment, leading to a more balanced inflow and outflow of royalty payments.

### **Methods and Measures for IP Owners, Beneficiaries, and the Government**

- (i) **Promotion of Domestic Innovation:** IP owners should focus on developing domestic innovations and technologies that can be licensed to foreign companies, ensuring a steady inflow of royalty payments.
- (ii) **Simplification of Royalty Payment Procedures:** The government should streamline royalty payment procedures and simplify the complexities involved in licensing technologies to foreign companies. This will make it easier for foreign companies to invest and operate in India, resulting in increased royalty inflows.
- (iii) **Promotion of Technology Transfer:** The government should encourage technology transfer from foreign companies to Indian companies by providing incentives and support. This will enhance the capabilities of Indian companies and reduce their dependence on foreign technology.
- (iv) **Incentives for Innovation and Technology Development:** The government should offer incentives such as tax breaks, grants, and subsidies to foster innovation and technology development in India. This will promote domestic innovation and increase the inflow of royalty payments.
- (v) **Enforcement of IP Laws:** IP owners should ensure the proper protection and enforcement of their IP rights to prevent unauthorized use of their technology. This will increase the value of their IP assets and lead to higher royalty payments.
- (vi) **Collaboration with Foreign Companies:** IP owners should collaborate with foreign companies to license their technologies in foreign markets. This will expand the reach of their technologies and result in higher royalty payments.
- (vii) **Encouraging FDI:** The government should create a favorable environment for foreign direct investment (FDI) in India, facilitating the investment and operation of foreign companies. This will generate new opportunities for Indian companies to license their technologies to foreign counterparts, leading to increased royalty inflows.

### **Recommendations**

Some of the recommendations to address the issues related to royalty payments in India:

- (i) **Establishing a transparent and objective mechanism for determining royalty rates.** This will ensure that royalty rates are fair and

reasonable, and that multinational companies cannot charge excessive fees for the use of patented technology.

- (ii) Regulating transfer pricing of royalties. This will prevent multinational companies from shifting profits to low tax jurisdictions, and help to ensure that royalty payments are taxed fairly.
- (iii) Promoting domestic innovation. This can be done by providing incentives for research and development, and by encouraging domestic firms to invest in intellectual property. This will help to create new technologies and industries that can generate royalty income for India.
- (iv) Strengthening the regulatory framework for intellectual property rights. This will ensure that intellectual property rights are protected effectively, and that both licensors and licensees have their rights respected.
- (v) Facilitating technology transfer. This can be done by promoting collaborations between domestic and foreign firms, and by establishing technology transfer offices in academic and research institutions. This will help to ensure that India benefits from the latest technologies and innovations.
- (vi) Enhancing government capacity. This will ensure that the government has the resources and expertise to effectively manage intellectual property rights and handle disputes related to royalty payments.

These recommendations require collaborative efforts among the government, industry, academia, and civil society. By implementing these measures, India can foster innovation, protect intellectual property rights, ensure fair taxation, and promote a conducive environment for royalty payments.

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