



The tax regime in India applicable to taxation of intellectual property rights (IPR) has seen significant developments in the past few years – be it the retrospective amendment to the definition of ‘royalty’ under the Income-tax Act, 1961 (IT Act), the introduction of the patent box regime, or the landmark decision in Engineering Analysis² case regarding the long-drawn software taxation issue. From a practical perspective, there could be several IPR related tax nuances in M&A deals involving businesses where IP is one of the key value drivers. These would typically include aspects such as situs and valuation of IP, availability of depreciation on IPR / goodwill which impacts the effective tax outgo requiring attention in the initial stages of a deal, how the IP has been valued and recorded in any intra-group service arrangements. Additionally, in cross border service arrangements, the service recipient’s versus service provider’s ownership r.....