



INTRODUCTION The taxability of income from software licensing has been a subject matter of significant litigation in India for over 20 years. The controversy revolved around the issue as to whether cross-border payment for use of standardized computer software (such as operating systems like Windows, etc.) without permission to copy, modify, alter, etc. the computer program is in the nature of royalty under the Income-tax Act, 1961 ('the Act') or under the applicable tax treaty. The retrospective amendment to the definition of royalty under the Act (by inserting Explanation 4 to Section 9(1)(vi) by Finance Act 2012 with retrospective effect from 1 June 1976) was made with a specific objective of bringing the income from software licensing under the tax net. Thus, after the amendment, payment towards software licensing is taxable as royalty under the domestic tax law. While insertion of Expla.....