Customs (exclusive of any freight, insurance, and applicable duty), and
(ii) in the case of a domestic product, the manufacturer’s transfer price (FOB the manufacturer, and exclusive of any direct sales taxes or excise taxes incurred in connection with the sale); and
(B) shall, in a case in which the transferor and transferee are related entities or within a single entity, not be less than a reasonable arms-length price under the principles of the regulations adopted pursuant to section 482 of the Internal Revenue Code of 1986, or any successor provision to such section.
(13) A “writer” is the composer or lyricist of a particular musical work.


Editorial Notes
References in Text
Section 482 of the Internal Revenue Code of 1986, referred to in par. (12)(B), is classified to section 482 of the title.

Statutory Notes and Related Subsidiaries
Effective Date

SUBCHAPTER B—COPYING CONTROLS

§ 1002. Incorporation of copying controls

(a) Prohibition on importation, manufacture, and distribution.—No person shall import, manufacture, or distribute any digital audio recording device or digital audio interface device that does not conform to—
(1) the Serial Copy Management System:

(c) Filing of quarterly and annual statements of account.—
(1) Generally.—Any importer or manufacturer that distributes any digital audio recording device or digital audio recording medium that it manufactured or imported shall file with the Register of Copyrights, in such form and content as the Register shall prescribe by regulation.

(2) Certification, verification, and confidentiality.—Each such statement shall be certified as accurate by an authorized officer or principal of the importer or manufacturer. The Register shall issue regulations to provide for the verification and audit of such statements and to protect the confidentiality of the information contained in such statements. Such regulations shall provide for the disclo-
sure, in confidence, of such statements to interested copyright parties.

(3) Royalty Payments.—Each such statement shall be accompanied by the royalty payments specified in section 1004.


§ 1004. Royalty payments

(a) Digital Audio Recording Devices.—

(1) Amount of Payment.—The royalty payment due under section 1003 for each digital audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 2 percent of the transfer price. Only the first person to manufacture and distribute or import and distribute such device shall be required to pay the royalty with respect to such device.

(2) Calculation for Devices Distributed with Other Devices.—With respect to a digital audio recording device first distributed in combination with one or more devices, either as a physically integrated unit or as separate components, the royalty payment shall be calculated as follows:

(A) If the digital audio recording device and such other devices are part of a physically integrated unit, the royalty payment shall be based on the transfer price of the unit, but shall be reduced by any royalty payment made on any digital audio recording device included within the unit that was not first distributed in combination with the unit.

(B) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have been distributed separately at any time during the preceding 4 calendar quarters, the royalty payment shall be based on the average transfer price of such devices during those 4 quarters.

(C) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have not been distributed separately at any time during the preceding 4 calendar quarters, the royalty payment shall be based on a constructed price reflecting the proportional value of such device to the combination as a whole.

(3) Limits on Royalties.—Notwithstanding paragraph (1) or (2), the amount of the royalty payment for each digital audio recording device shall not be less than $1 nor more than the royalty maximum. The royalty maximum shall be $8 per device, except that in the case of a physically integrated unit containing more than 1 digital audio recording device, the royalty maximum for such unit shall be $12.

During the 6th year after the effective date of this chapter, and not more than once each year thereafter, any interested copyright party may petition the Copyright Royalty Judges to increase the royalty maximum and, if more than 20 percent of the royalty payments are at the relevant royalty maximum, the Copyright Royalty Judges shall prospectively increase such royalty maximum with the goal of having no more than 10 percent of such payments at the new royalty maximum; however the amount of any such increase as a percentage of the royalty maximum shall in no event exceed the percentage increase in the Consumer Price Index during the period under review.

(b) Digital Audio Recording Media.—The royalty payment due under section 1003 for each digital audio recording medium imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 3 percent of the transfer price. Only the first person to manufacture and distribute or import and distribute such medium shall be required to pay the royalty with respect to such medium.


Editorial Notes

References in Text

The effective date of this chapter, referred to in subsec. (a)(3), is Oct. 28, 1992. See Effective Date note set out under section 1001 of this title.

Amendments


1993—Subsec. (a)(3). Pub. L. 103–198 substituted “Librarian of Congress” for “Copyright Royalty Tribunal” after “may petition the” and for “Tribunal” before “shall prospectively”.

Statutory Notes and Related Subsidiaries

Effective Date of 2004 Amendment


§ 1005. Deposit of royalty payments and deduction of expenses

The Register of Copyrights shall receive all royalty payments deposited under this chapter and, after deducting the reasonable costs incurred by the Copyright Office under this chapter, shall deposit the balance in the Treasury of the United States as offsetting receipts, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest under section 1007. The Register may, in the Register’s discretion, 4 years after the close of any calendar year, close out the royalty payments account for that calendar year, and may treat any funds remaining in such account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the succeeding calendar year.