

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.

(Added Pub. L. 102-563, §2, Oct. 28, 1992, 106 Stat. 4241; amended Pub. L. 103-198, §6(b)(1), Dec. 17, 1993, 107 Stat. 2312; Pub. L. 108-419, §5(i)(1), Nov. 30, 2004, 118 Stat. 2368.)

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

2004—Subsec. (a)(3). Pub. L. 108-419 substituted “Copyright Royalty Judges” for “Librarian of Congress” in two places.

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

Amendment by Pub. L. 108-419 effective 6 months after Nov. 30, 2004, subject to transition provisions, see section 6 of Pub. L. 108-419, set out as an Effective Date; Transition Provisions note under section 801 of this title.

§ 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.

(Added Pub. L. 102-563, §2, Oct. 28, 1992, 106 Stat. 4242; amended Pub. L. 103-198, §6(b)(2), Dec. 17, 1993, 107 Stat. 2312.)

Editorial Notes

AMENDMENTS

1993—Pub. L. 103-198 struck out at end “The Register shall submit to the Copyright Royalty Tribunal, on a monthly basis, a financial statement reporting the amount of royalties under this chapter that are available for distribution.”

§ 1006. Entitlement to royalty payments

(a) **INTERESTED COPYRIGHT PARTIES.**—The royalty payments deposited pursuant to section 1005 shall, in accordance with the procedures specified in section 1007, be distributed to any interested copyright party—

(1) whose musical work or sound recording has been—

(A) embodied in a digital musical recording or an analog musical recording lawfully made under this title that has been distributed, and

(B) distributed in the form of digital musical recordings or analog musical recordings or disseminated to the public in transmissions, during the period to which such payments pertain; and

(2) who has filed a claim under section 1007.

(b) **ALLOCATION OF ROYALTY PAYMENTS TO GROUPS.**—The royalty payments shall be divided into 2 funds as follows:

(1) **THE SOUND RECORDINGS FUND.**—66⅔ percent of the royalty payments shall be allocated to the Sound Recordings Fund. 2⅕ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians or any successor entity) who have performed on sound recordings distributed in the United States. 1⅓ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation of Television and

Radio Artists or any successor entity) who have performed on sound recordings distributed in the United States. 40 percent of the remaining royalty payments in the Sound Recordings Fund shall be distributed to the interested copyright parties described in section 1001(7)(C), and 60 percent of such remaining royalty payments shall be distributed to the interested copyright parties described in section 1001(7)(A).

(2) THE MUSICAL WORKS FUND.—

(A) 33 $\frac{1}{3}$ percent of the royalty payments shall be allocated to the Musical Works Fund for distribution to interested copyright parties described in section 1001(7)(B).

(B)(i) Music publishers shall be entitled to 50 percent of the royalty payments allocated to the Musical Works Fund.

(ii) Writers shall be entitled to the other 50 percent of the royalty payments allocated to the Musical Works Fund.

(C) ALLOCATION OF ROYALTY PAYMENTS WITHIN GROUPS.—If all interested copyright parties within a group specified in subsection (b) do not agree on a voluntary proposal for the distribution of the royalty payments within each group, the Copyright Royalty Judges shall, pursuant to the procedures specified under section 1007(c), allocate royalty payments under this section based on the extent to which, during the relevant period—

(1) for the Sound Recordings Fund, each sound recording was distributed in the form of digital musical recordings or analog musical recordings; and

(2) for the Musical Works Fund, each musical work was distributed in the form of digital musical recordings or analog musical recordings or disseminated to the public in transmissions.

(Added Pub. L. 102–563, §2, Oct. 28, 1992, 106 Stat. 4242; amended Pub. L. 103–198, §6(b)(3), Dec. 17, 1993, 107 Stat. 2312; Pub. L. 105–80, §12(a)(24), Nov. 13, 1997, 111 Stat. 1535; Pub. L. 108–419, §5(i)(2), Nov. 30, 2004, 118 Stat. 2368.)

Editorial Notes

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–419 substituted “Copyright Royalty Judges” for “Librarian of Congress shall convene a copyright arbitration royalty panel which” in introductory provisions.

1997—Subsec. (b)(1). Pub. L. 105–80 substituted “Federation of Television” for “Federation Television” before “and Radio Artists or any successor entity”.

1993—Subsec. (c). Pub. L. 103–198 substituted “Librarian of Congress shall convene a copyright arbitration royalty panel which” for “Copyright Royalty Tribunal” in introductory provisions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–419 effective 6 months after Nov. 30, 2004, subject to transition provisions, see section 6 of Pub. L. 108–419, set out as an Effective Date; Transition Provisions note under section 801 of this title.

§ 1007. Procedures for distributing royalty payments

(a) FILING OF CLAIMS AND NEGOTIATIONS.—

(1) FILING OF CLAIMS.—During the first 2 months of each calendar year, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Judges a claim for payments collected during the preceding year in such form and manner as the Copyright Royalty Judges shall prescribe by regulation.

(2) NEGOTIATIONS.—Notwithstanding any provision of the antitrust laws, for purposes of this section interested copyright parties within each group specified in section 1006(b) may agree among themselves to the proportionate division of royalty payments, may lump their claims together and file them jointly or as a single claim, or may designate a common agent, including any organization described in section 1001(7)(D), to negotiate or receive payment on their behalf; except that no agreement under this subsection may modify the allocation of royalties specified in section 1006(b).

(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—After the period established for the filing of claims under subsection (a), in each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Copyright Royalty Judges determine that no such controversy exists, the Copyright Royalty Judges shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a). The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred under this section.

(c) RESOLUTION OF DISPUTES.—If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred under this section.

(Added Pub. L. 102–563, §2, Oct. 28, 1992, 106 Stat. 4244; amended Pub. L. 103–198, §6(b)(4), Dec. 17, 1993, 107 Stat. 2312; Pub. L. 105–80, §§9, 12(a)(25), Nov. 13, 1997, 111 Stat. 1534, 1535; Pub. L. 108–419, §5(i)(3), Nov. 30, 2004, 118 Stat. 2368; Pub. L. 109–303, §4(f), Oct. 6, 2006, 120 Stat. 1483.)

Editorial Notes

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–303, §4(f)(1), substituted “Copyright Royalty Judges” for “Librarian of Congress” in second sentence and struck out “by the Librarian” after “administrative costs incurred” in last sentence.