

## **Royalty Rates Schedule VR-T-H-2**

**for the reproduction of works from GEMA's repertoire on sound recordings for distribution for private use as supplements to magazines or other products or services, for promotion of sound recording releases, and for distribution via special distribution channels**

Net amounts plus value-added tax at the current rate of 7%

### **I. Scope of application**

1. The royalty rates apply exclusively to sound recordings distributed as supplements to magazines or other products or services, sound recordings intended for the promotion of sound recording releases, and sound recordings published for distribution via special distribution channels (distribution channels other than the sound recording retail trade) for private use.

2. The royalty rates apply to vinyl records, audio cassettes, compact discs, minidisks and digital compact discs.

### **II. Royalties**

#### **1. Percentage royalties**

Per sound recording, the royalty shall amount to 13.75% of the manufacturer's highest published price for retailers excluding value-added tax (PPD: published price to dealers) for the sound recording in question. No bonuses, discounts, rebates in kind or other similar discounts, commissions or agency fees, etc., shall be deducted from the selling price.

If the manufacturer uses fixed or recommended retail prices and these prices are generally paid by the public, the royalty is calculated as 10% of these prices (excluding value-added tax).

The highest published prices for retailers and the fixed or suggested retail prices are based on the published list prices that are in effect at the time of delivery of the sound recording.

If no PPD or other published prices for retailers or fixed or suggested retail prices are available, other comparable list prices shall be taken as a basis. If the manufacturer is unable to provide the above-mentioned list prices, or there is any doubt as to the price to be taken as a basis, the manufacturer shall reach an agreement with GEMA in due time about the calculation of the royalties, the outcome of which shall be consistent with the first paragraph above.

#### **2. First release or parallel release of sound recordings**

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If first releases of sound recordings in the sound recording retail trade or parallel releases relating to first releases in the sound recording retail trade are distributed as supplements to products or services or via special distribution channels, a PPD of €12.50 shall be used as the basis for calculating the royalty for the CD album (standard sound recordings) in cases where sales in the sound recording retail trade are usually in the high-end price segment. The relevant PPD is reviewed each year with regard to the usual PPDs for marketing CD albums in the high-end price range.

The minimum royalties referred to in Section III (3 to 6) shall not apply in such cases.

### 3. Minimum royalties

The minimum royalty per work applies in cases where the percentage royalty referred to above in Point 1, taking account of the pro rata calculation as per Section III (1e), is lower than the minimum royalty per work.

The minimum royalty per work from GEMA's repertoire and per sound recording shall amount to €0.032 for a playing time of up to five minutes. If the playing time of the work from GEMA's repertoire is longer than five minutes, an additional royalty of €0.0064 shall be payable per work for each additional minute.

### 4. Alternative minimum royalties

The alternative minimum royalties apply in cases where the percentage royalties calculated in accordance with Point 1 above are lower than the minimum royalties.

The manufacturer can demand the use of the following minimum royalties if this is more beneficial to it in individual cases.

Category	Number of protected works per sound recording	Minimum royalty per sound recording in €
Single/maxi single (playing time of up to twelve parts of works and up to 23 minutes)	Up to five works or twelve parts of works	0.248
Standard sound recording (playing time of up to 80 minutes)	Up to 20 works or 40 parts of works	0.6199

### Minimum budget royalties

The following minimum budget royalties shall be payable on standard sound recordings no earlier than one year after the original date of release of the recordings, calculated from the accounting period in which the first release was made.

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Category	Number of protected works per sound recording	Minimum budget royalty per sound recording in €
Standard sound recording (playing time of up to 80 minutes)	Up to 20 works or 40 parts of works	0.3534

### 5. Minimum royalties for parts of works in the case of sound recordings intended for the promotion of sound recording releases

In the case of free sound recordings intended for the promotion of sound recording releases, a minimum royalty of €0.0160 shall be payable for parts of works with a playing time of up to 30 seconds.

The minimum royalty for parts of works with a playing time of up to 30 seconds shall not apply to supplements to magazines or other products or services or to sound recording releases intended for distribution via special distribution channels.

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### **6. Special minimum royalties for supplements to magazines containing parts of works with a limited playing time for the purpose of providing information about sound recording releases**

Sound recordings that are distributed as supplements to magazines for the purpose of providing information about sound recording releases shall be subject to the following special minimum royalties, provided that the following conditions are met:

The magazine supplements may only contain parts of works with a playing time of up to 30 seconds. The relevant parts of works must be discussed in the magazine and the sound recordings must have copy protection.

Minimum royalties

Sound recordings with a playing time of up to 30 minutes €0.1375 per sound recording

Sound recordings with a playing time of more than 30 minutes and less than 40 minutes €0.20 per sound recording

If the sound recordings have a playing time of more than 40 minutes or if they contain more or longer parts of works or works, or if the relevant parts of works or works are not discussed in the magazine, or if the sound recording does not have copy protection, the minimum royalty stated in Section II (4 or 5) shall apply.

### **7. Scope**

The royalties apply to distribution in Germany.

### **III. General Provisions**

#### **1. Calculation of the royalties and/or minimum royalties as per Section II (1 and 4)**

##### a) Compilations

Twenty-four protected works or 48 protected parts of works may be reproduced in a compilation album, provided that re-released recordings of protected works or parts of works account for at least 50% of the compilation's contents.

##### b) Exceeding the number of works and/or parts of works

If the manufacturer wishes to reproduce more protected works or parts of works than the amount mentioned in Section II (4), the royalty due for the sound recording in question shall be increased in the same proportion in accordance with Section II (1) while the minimum royalty shall be increased in the same proportion in accordance with Section II (4), except in the case of repeated reproduction of the same work with the same copyright owners or of parts of works involving the same copyright owners on the same sound recording, which are to be regarded as part of a work or as one work, depending on the particular case.

##### c) Complete works and parts of works

When complete protected works and protected parts of works are reproduced on a sound recording, each work shall count as two points and each part of a work as one point. The total number of points permitted is equal to the number of parts of works indicated in Section II (4) and Section III (1a) above. Medleys published in printed form shall be regarded as complete works. Reproductions of parts of works involving the same copyright owners, and repeated reproductions of the same work with the same rights owners as referred to in paragraph b) above, shall be regarded as a complete work or as part of a work, depending on the particular case.

Any reproduction of a work with a playing time not exceeding one minute and 45 seconds shall be deemed to be a part of a work, unless this duration means that the whole work has been reproduced.

##### d) Exceeding the playing time

If in accordance with Section II (4) the total permitted playing time is exceeded by more than 60 seconds, the royalty payable shall be increased in the same proportion in accordance with Section II (1 and 4).

##### e) Pro rata royalties

Where works from GEMA's repertoire and works not belonging to its repertoire are reproduced simultaneously, GEMA shall receive a pro rata royalty in line with Section II (1) or a pro rata minimum royalty in line with Section II (4) according to the proportion of the playing time of each work from its repertoire to the total playing time.

The share of the royalty thus attributable to a work or part of a work from GEMA's repertoire shall never be less than the share corresponding to the number of works or parts of works indicated in Section II (4) and Section III (1a).

#### **2. Scope of authorization**

The authorization covers only the rights vested in GEMA for reproduction and distribution for private use.

The authorization does not cover any other rights, in particular rights pertaining to printed publication, rights for sheet music or printed lyrics, rights of public performance (communication to the public),

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broadcasting rights and manufacturing rights for broadcasting purposes. The rights of third parties shall remain unaffected in the case of rented or loaned works.

The royalty rates do not take account of any compensation for the use of copies rented to the public in the licensee's own name and on its own account or by third parties who (re-)rent the recordings.

The copyright holders' right of publicity must not be violated, particularly not by supplements to products or services. Any alterations made to a work, in particular by abridging the work, must comply with any requirements of Sections 14 and 39 of the German Copyright Act.

The copyright holders' authorization must be obtained whenever advertising is directly or indirectly associated with the use covered by the tariff.

### **3. Obtaining authorization in due time**

The royalty rates only apply if authorization has been obtained from GEMA in due time prior to reproduction.

### **4. Delimitation**

The royalty rates do not apply to sound recordings offered by manufacturers in their catalogs or comparable lists or generally offered as a standard practice to the sound recording retail trade and distributed to the public via the sound recording retail trade (commercially available sound recordings), or to music video recordings, video recordings or multimedia recordings.

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### 5. Conclusion of agreements

Manufacturers that have regularly recurring publications of sound recordings falling within the scope of application of the royalty rates and enter into an agreement with GEMA are granted a discount of 20% on the royalty rates under the agreement.

Further information on GEMA's tariffs and registration forms are available at [www.gema.de](http://www.gema.de).  
**www.gema.de**

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