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If a whole or part of a paragraph has been amended, the date of the amending regulation appears in square brackets at the end of the paragraph. If a whole paragraph or sub-paragraph has been deleted, the date of the deletion appears in square brackets beside the deleted paragraph or sub-paragraph.

Republic of Latvia
Cabinet

Regulation No. 321

Adopted 10 May 2005

Regulations Regarding the Amount of the Blank Tape Levy and the Levy of Equipment Used for Reproduction and the Procedures for the Collection, Repayment, Distribution and Payment Thereof

*Issued pursuant to
Section 34, Paragraph seven of the
Copyright Law*

I. General Provisions

1. This Regulation prescribes the amount of a levy for blank recording media and for the equipment used for reproduction (hereinafter - the levy), the procedures for the collection, repayment and payment thereof, as well as the procedures by which the levy shall be proportionally distributed among authors, performers and phonogram and film producers.

2. The levy shall be collected, distributed and paid by one collective management organisation (hereinafter - the Organisation), which has received a permit from the Ministry of Culture.

II. Amount of the Levy

3. The blank tape levy shall be determined as a percentage rate from the first alienation price in the territory of Latvia without value added tax and paid in the following amount:

3.1. for all types of CDs - 6%;

3.2. for all types of DVDs - 6%;

3.3. USB flash drives - 4%.

[23 October 2012]

4. The levy for the equipment used for reproduction shall be paid for all types of personal computers, including laptops and tablet computers, in the amount of EUR 2.85 per unit.

[23 October 2012; 24 September 2013]

III. Administration

5. The Organisation shall register the Manufacturers of blank recording media and equipment used for reproduction, including merchants which assemble computers in Latvia (hereinafter - the Manufacturer) and merchants who import blank recording media or equipment used for reproduction (hereinafter - the Importer) in the Payers Register, indicating the name and legal address of the person. The Organisation shall update the information included in the Payers Register each month and keep it accessible to the public.

6. At the end of each month, but not later than the fifteenth day of the following month, a Manufacturer or Importer shall submit a submission to the Organisation, indicating therein:

6.1. the type, quantity and the combined nomenclature code of the manufactured or imported blank recording media and equipment used for reproduction and in relation to the blank recording media referred to in Paragraph 3 of this Regulation - the first alienation price in the territory of Latvia;

6.2. the country from which blank recording media and equipment used for reproduction have been imported;

6.3. the name, registration number and legal address of a person registered in the Manufacturer Register or the Professional Users Register referred to in Paragraph 10 of this Regulation, the date of transaction, and the type, quantity and the combined nomenclature code of alienated blank recording media and equipment used for reproduction;

6.4. the type, quantity and the combined nomenclature code of exported blank recording media and equipment used for reproduction;

6.5. the country to which blank recording media and equipment used for reproduction have been exported.

[23 October 2012]

7. *[23 October 2012]*

8. If a Manufacturer or Importer has alienated (transferred) the blank recording media or equipment used for reproduction from merchants included in the Professional Users Register referred to in Paragraph 10 of this Regulation, the Manufacturer or Importer shall not have to pay the levy for the blank recording media and equipment used for reproduction.

9. If a Manufacturer or Importer exports blank recording media or equipment used for reproduction from Latvia, the Manufacturer or Importer shall:

9.1. not pay the levy for them;

9.2. be repaid if the levy has been paid.

10. The Organisation shall establish a Professional Users Register, indicating the name and legal address of a person. The Organisation shall update the information included in the Professional Users Register each month and keep it accessible to the public. The following shall be registered in the Professional Users Register:

10.1. broadcasting organisations, which import or purchase blank recording media or equipment used for reproduction from an Importer or Manufacturer and use them in professional activities;

10.2. merchants, who import or purchase blank recording media or equipment used for reproduction from an Importer or Manufacturer and use them for the reproduction of works and objects of neighbouring rights for commercial

purposes;

10.3. merchants and State or local government institutions (agencies), which use blank recording media and equipment used for reproduction in their activities, not using them for reproduction for personal use and not alienating them.

11. In order to become registered in the Professional Users Register, persons referred to in Paragraph 10 of this Regulation shall indicate their type of activities, name, registration number, legal address, telephone and fax number, e-mail address and contact person in their registration application.

12. The Organisation is entitled to delete a person from the Professional Users Register if:

12.1. this person does not submit the information referred to in Paragraph 15 of this Regulation by the specified time limit;

12.2. this person does not fulfil the duties prescribed in Paragraph 26 of this Regulation;

12.3. the utilisation of blank recording media and equipment used for reproduction does not comply with the requirements of Section 34 of the Copyright Law and this Regulation.

13. A person who has been deleted from the Professional Users Register has the right to dispute the decision of the Organisation in the Ministry of Culture within one month from the day of exclusion.

14. A responsible official of the Ministry of Culture (appointed by the State Secretary of the Ministry of Culture) shall examine a person's submission in accordance with the procedures prescribed by regulatory enactments and take a decision regarding the renewal of a person in the Professional Users Register or leave the decision of the Organisation unchanged. A person has the right to dispute the decision in an administrative district court within a period of one month from the day the decision was received.

15. A person registered in the Professional Users Register shall submit to the Organisation information regarding the utilisation of blank recording media or equipment used for reproduction at the end of each month, but not later than by the twentieth day of the next month, indicating therein:

15.1. the Manufacturer or Importer from which the blank recording media and equipment used for reproduction have been purchased;

15.2. the type and quantity of the purchased blank recording media and equipment used for reproduction;

15.3. the utilisation of the blank recording media and equipment used for reproduction (for each unit).

16. If a person included in the Professional Users Register does not submit information to the Organisation regarding the utilisation of blank recording media and equipment used for reproduction or if the utilisation thereof does not comply with the provisions of Section 34 of the Copyright Law and this Regulation, the referred to person shall pay the levy.

17. After receiving the submission referred to in Paragraph 6 of this Regulation, the Organisation shall calculate the amount of the levy and issue a bill to a Manufacturer or Importer. In the case specified in Paragraph 16 of this Regulation, the Organisation shall calculate the amount of the levy according to the utilisation of blank recording media or equipment used in recording. The Manufacturer, Importer and the persons specified in Paragraph 16 of this Regulation have a duty to collect the bill from the Organisation and to pay it within 15 days.

18. If an Importer or Manufacturer does not submit a submission within the time period specified in Paragraph 6 of this Regulation or the levy is not paid within the time period specified in Paragraph 17 of this Regulation, the amount of the levy shall be doubled.

19. In the case referred to in Sub-paragraph 9.2 of this Regulation, the Organisation shall reimburse the levy within 15 days time after receiving the submission referred to in Paragraph 6 of this Regulation.

20. The levy shall be distributed among the rightholder groups in the following percentages:

20.1. to authors - 38.66%;

20.2. to performers - 30.67%;

20.3. to phonogram producers - 24%;

20.4. film producers - 6.67%.

[23 October 2012]

21. [23 October 2012]

22. [23 October 2012]

23. The Organisation has the right to deduct from the total collected royalty only those costs, which are related to the management of the collection, distribution and payment of the royalty.

24. Collective management organisations have a duty to mutually co-ordinate by 15 December of the current year the expenditure estimates for the next year of the Organisation administering the levies.

25. After withholding of the administrative costs, the Organisation shall pay the levy to collective management organisations on a collective basis, which represent authors, performers, phonogram producers and film producers, by 1 March of the current year.

26. Upon a request of the Organisation, a Manufacturer, Importer, or persons included in the Professional Users Register have the duty to provide the Organisation with an opportunity to become acquainted with the documents which allow the verification of the information referred to in Paragraphs 6 and 15 of this Regulation, as well as to present the blank recording media and equipment used for reproduction which are at their disposal.

27. Upon a request of the Organisation, a seller of blank recording media and equipment used for reproduction has the duty to immediately provide the Organisation with information regarding:

27.1. the Manufacturer or Importer from which the blank recording media and equipment used for reproduction have been purchased;

27.2. the type and quantity of purchased blank recording media and equipment used for reproduction.

28. Upon a request of the Organisation, the State authorities have a duty to provide the Organisation with information regarding the type, quantity and the combined nomenclature code of the imported blank recording media and equipment used for reproduction.

29. The Organisation is entitled to use the information referred to in Paragraphs 26, 27 and 28 of this Regulation only for the collection, payment or repayment of the levy.

IV. Supervision

30. By April 1 of the current year, the Organisation shall submit to the Ministry of Culture an overview of the previous year, indicating:

30.1. information regarding the registers referred to in Paragraphs 5 and 10 of this Regulation;

30.2. the collected levy;

30.3. the repaid levy;

30.4. the distribution of the levy among collective management organisations;

30.5. administrative costs;

30.6. the royalty paid to collective management organisations.

31. By 1 May of the current year, the collective management organisations, which represent authors, performers, phonogram producers and film producers, shall submit an overview to the Ministry of Culture, indicating:

- 31.1. the levy received in the previous year;
- 31.2. the justification for the distribution of the levy;
- 31.3. administrative costs;
- 31.4. the plan for the payment of the levy.

32. The Ministry of Culture has the right to become acquainted with the accounting records related to the collection, distribution and payment of the levy, as well as the administrative costs related thereto, of the Organisation and the collective management organisations (which represent authors, performers, phonogram producers and film producers).

V. Closing Provisions

33. Persons, who had the duty to pay the levy until the coming into force of this Regulation, but who have not paid it, shall pay the debt in accordance with those provisions, which were in force when the debt was incurred.

34. Cabinet Regulation No. 443 of 27 April 2004, *Regulations regarding the Amount of the Blank Tape Levy and the Procedures for the Collection, Distribution and Payment Thereof (Latvijas Vēstnesis, 2004, No. 69)* is repealed.

Informative Reference to European Union Directives

This Regulation contains legal norms arising from Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and neighbouring rights in the information society.

Prime Minister A. Kalvītis

Acting for the Minister for Culture,
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