

# Summary of “Producer’s Gross/Accountable Receipts”

## Supplemental Markets:

When a theatrical or television motion picture is released into “Supplemental Markets” (e.g. Videocassettes, DVD’s, television programs on “In Flight,” or theatrical films on Pay TV) the Producer or other obligated party (e.g. Distributor or other buyer) must pay 1% of the “Producer’s Gross” receipts (from those exhibitions only) less “Accountable Receipts” to the SPF.

### “Producer’s Gross” is:

- For Videocassettes/DVD’s and similar devices:
  - a) If the Producer is the Distributor, or the Distributor is owned or affiliated with the Producer--20% of the worldwide wholesale receipts derived by Distributor (*i.e.* Producer pays 1% of 20% of monies received from such exhibition).
  - b) If the Distributor is not the Producer and is not owned by or affiliated with the Producer, 100% of the worldwide gross receipts received by Producer from licensing the right to distribute
- For Pay Television, the worldwide total gross receipts derived by distributor and/or sub-distributor

### Items Deducted (not counted towards “Producer’s Gross”):

- Sums paid to any advertising agency in connection with any exhibition in supplemental markets
- Rebates, credits or repayments for cassettes returned (Producer may set up a *reasonable* reserve for returns)
- Sums realized or held by way of deposit as security, until and unless earned, other than non-returnable sums
- Frozen foreign currency until the Producer shall either have the right to freely use such foreign currency or transmit to the United States
- Sums required to be paid or withheld as taxes (turnover taxes, sales taxes or similar taxes based on the actual receipts to be remitted to or by the Producer. NOTE: *net income tax, franchise tax or excess profit tax or similar tax payable by Producer or Distributor on its net income or for the privilege of doing business shall not be excluded from Producer’s Gross*).

## Free Television:

With respect to the application of the 1% of Producer’s Gross for “free TV,” the following applies:

When a theatrical motion picture is released to “free TV,” the Producer or other obligated party (e.g. Distributor or other buyer) must pay 1 2/3 % of the “Producer’s Gross” receipts (from the television exhibition) less “Accountable Receipts” to the SPF.

“Producer’s Gross” is:

- The total receipts derived by the distributor minus 40%. to cover distribution fees and expenses
- The total gross receipts derived by the sub-distributor minus 40%. to cover distribution fees and expenses if the distributor does not distribute directly to free TV but employs a sub-distributor
- The total receipts derived by the distributor or sub-distributor minus 10% in the event of an outright sale

Other Items Deducted:

- Sums paid to any advertising agency in connection with any exhibition on free television
- Sums realized or held by way of deposit as security, until and unless earned, other than non-returnable sums
- Frozen foreign currency until the Producer shall either have the right to freely use such foreign currency or transmit to the United States
- Sums required to be paid or withheld as taxes (turnover taxes, sales taxes or similar taxes based on the actual receipts to be remitted to or by the Producer. NOTE: *net income tax, franchise tax or excess profit tax or similar tax payable by Producer or Distributor on its net income or for the privilege of doing business shall not be excluded from Producer’s Gross*).

**Other Useful Information Regarding Producer’s Gross**

Non-returnable Advances:

Non-returnable Advances are include in Producer’s Gross when a picture is "available" and "identifiable" and the amount of the advance is "ascertainable"

- ❑ A picture is *available* when it first may be exhibited or otherwise exploited, or when it first may be sold or rented by a retailer.
- ❑ A picture is *identifiable* when the Producer first knows or reasonably should have known that a given picture is covered by a particular license or distribution agreement
- ❑ The amount of the advance is *ascertainable* if the advance is for one picture, means of exhibition, and territory.
- ❑ If the total amount of the advance is for **more** than one picture, means of exhibition and/or territory, the Producer shall reasonably and fairly allocate such advance among the licensed pictures, exhibition markets and/or territorial markets (NOTE: *as each of these pictures becomes identifiable and available, the allocated portion shall be included in Producer’s Gross for that quarter*)

Outright Sales:

- ❑ In the case of an outright sale for the entire world or any territory or country, the income derived by the seller, but not the income realized by the purchaser of such rights, shall be the Producer’s Gross.