

Producer's Gross Summary Guide

When a theatrical motion picture is released into a secondary market (i.e., cassettes/ DVD's, pay TV, new media or free TV which includes basic cable), or a television program is released into a secondary market (e.g., cassettes/DVD's, pay TV, new media, in-flight or limited theatrical showings), the Producer or other obligated party (e.g., distributor or other buyer) generally must pay 1% of the "Producer's Gross" receipts. (Applicable percentages may vary as explained below in more detail).

The calculations involved to determine the residuals to be paid vary depending upon the primary market of product: Is it made for theatrical, made for television or made for streaming media? And there are differences depending upon the agreement in question: Was it produced under the Basic Theatrical Agreement? Basic Television Agreement? Television Videotape Agreement?

In order to calculate residuals, the first step is to understand what constitutes "Producer's Gross" for each type of product. The second step is to apply the correct percentage against the Producer's Gross for that type of product, which will result in the residual payable to FMSMF. "FMSMF" refers to the Film Musicians Secondary Markets Fund.

A guide to residuals payable to the LTVF is also contained herein. "LTVF" refers to the Live Television Videotape Supplemental Markets Fund, a sub-fund of the FMSMF. Residuals for product produced under the AFM's Television Videotape Agreement (variety shows, late night talk, award shows and similar live programs) are payable to the LTVF.

THEATRICAL MOTION PICTURES

AFM Basic Theatrical Agreement Articles 15, 16 and New Media Sideletter

- A. **Release to Free TV:** When a Theatrical Motion Picture is released to Free TV (including Basic Cable) the percentage will be applied against "Producer's Accountable Receipts". But in order to determine Producer's Accountable Receipts, one must first determine Producer's Gross. (Residuals for release to free TV only apply to theatrical motion pictures whose principal photography began after 1/31/1960. See Article 15 of Theatrical Agreement)

Producer's Gross equals:

The worldwide total receipts derived by the distributor (and/or sub-distributors), from licensing the right to show the picture on free television. It includes monies received from AGICOA (<https://www.agicoa.org/>). Note: 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, is the Producer's Gross.

- Not included in determining Producer's Gross:
 - o Sums paid to any advertising agency in connection with any exhibition on free television;
 - o 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 either has 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 are not excluded from Producer's Gross.*

Producer's Accountable Receipts equal:

- Producer's Gross, minus 40% of Producer's Gross (except in the case of an outright sale, in which case the deduction is 10% of Producer's Gross)

The residual payable to the FMSMF is 1.67% of Producer's Accountable Receipts

B. Release to Pay TV and Cassette/DVD: When a Theatrical Motion Picture is released to Pay TV (services such as HBO, Starz, Showtime) or in Cassette/DVDs, the percentage will be applied against "producer's gross". (Residuals for release to pay TV or cassettes/DVDs only apply to motion pictures whose principal photography began after 7/1/1971. See Article 16 of the Basic Theatrical Agreement).

Producer's Gross equals:

- For release to pay television, the worldwide total receipts derived by the distributor (and/or sub-distributors), from licensing the right to show the picture on pay television. Note: 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, is Producer's Gross.
- In the case of release in cassettes/DVDs and similar devices:
 - a) If the Producer is the Distributor, or the Distributor is owned by or affiliated with the Producer, Producer's Gross = 20% of the worldwide wholesale receipts derived *by Distributor*.
 - b) If the Distributor is not the Producer and is not owned by or affiliated with the Producer, Producer's Gross = 100% of the worldwide gross receipts received *by Producer* from licensing the right to distribute in cassettes/DVDs.
- Not included in determining Producer's Gross:
 - Sums paid to any advertising agency in connection with any exhibition in pay television of cassette/DVDs;
 - Rebates, credits or repayments for cassettes/DVDs 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 either has 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).

The residual payable to the FMSMF is 1% of Producer's Gross

- C. **Release to "new media"**: When a Theatrical Motion Picture is released to any new media platform: a consumer paid (subscription) streaming service (a/k/a SVOD), or an advertiser-supported free streaming service (a/k/a AVOD) or released in paid permanent downloads, the percentage will be applied against Producer's Gross.

Producer's Gross equals:

- For release to paid (subscription or limited exhibition) streaming services and advertiser-supported free streaming services: The worldwide total receipts derived by the distributor (and/or sub-distributors), from licensing the right to show the picture on new media platforms.
 - In the case of release in paid permanent downloads (a/k/a Download to Own or Electronic Sell Through/EST): 20% of the worldwide wholesale receipts derived by Distributor.
- Not included in determining Producer's Gross:
- Sums paid to any advertising agency in connection with any exhibition in new media;
 - Rebates, credits or repayments for returns (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 either has 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).*
- ***The residual payable to the FMSMF in the case of paid (subscription or limited exhibition) streaming services and advertiser-supported free streaming services is 1% of Producer's Gross.***
- ***The residual payable to the FMSMF in the case of paid permanent downloads is 1.5% of Producer's Gross (as defined for downloads) for the first 50,000 units and 2.7% of Producer's Gross (as defined for downloads) for each unit above 50,000¹***

¹ For motion pictures with principal photography before 1/26/2020, the percentages are 1% on the first 50,000 units and 1.8% for each unit thereafter.

TELEVISION MOTION PICTURES
AFM Basic TV Agreement Article 14 and New Media Sideletter

- A. Release to Pay TV, Cassette/DVD and In-Flight:** When a television motion picture is released to Pay TV (services such as HBO, Starz, and Showtime) or in Cassette/ DVDs or to “In-flight”, the percentage will be applied against Producer’s Gross. (Residuals for release to pay TV, cassettes/DVDs or in-flight only apply to television programs whose principal photography began after 7/1/1971. See Article 14 of Basic Television Agreement)

Producer’s Gross equals:

- For release to pay television and in-flight, the worldwide total receipts derived by the distributor (and/or sub-distributors) from licensing the right to show the picture on pay television or on a commercial carrier (a/k/a in-flight). Note: 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.
- In the case of release in cassettes/DVDs and similar devices:
 - a) If the Producer is the Distributor, or the Distributor is owned or affiliated with the Producer, Producer’s Gross = 20% of the worldwide wholesale receipts derived *by Distributor*.
 - b) If the Distributor is not the Producer and is not owned by or affiliated with the Producer, Producer’s Gross = 100% of the worldwide gross receipts received *by Producer* from licensing the right to distribute in cassettes/DVDs
- Not included in determining Producer’s Gross:
 - Sums paid to any advertising agency in connection with any exhibition in pay television of cassette/DVDs;
 - Rebates, credits or repayments for cassettes/DVDs 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 either has 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*).

The residual payable to the FMSMF is 1% of Producer’s Gross

- B. Release to “new media”:** When a television motion picture is released to a consumer paid (subscription or limited exhibition) streaming service or released in paid permanent downloads, the percentage will be applied against Producer’s Gross. Note: residuals are not required for release of a television motion picture onto an advertiser-supported free streaming service (AVOD).

Producer's Gross equals:

- In the case of release to paid (subscription or limited exhibition) streaming services: The worldwide total receipts derived by the distributor (and/or sub-distributors), from licensing the right to show the picture on new media platforms.
 - In the case of release in paid permanent downloads (a/k/a Download to Own or Electronic Sell Through/EST): 20% of the worldwide wholesale receipts derived by Distributor.
- Not included in determining Producer's Gross:
- Sums paid to any advertising agency in connection with any exhibition in new media; (but includes advertising revenue if the license, distribution or other agreement provides for sharing in those revenues) or ;
 - Rebates, credits or repayments for returns (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 either has 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*).
- *The residual payable to the FMSMF in the case of paid (subscription or limited exhibition) streaming services is 1% of Producer's Gross.*
- *The residual payable to the FMSMF in the case of paid permanent downloads is 1.5% of Producer's Gross (as defined for downloads) for the first 100,000 units and 2.9% of Producer's Gross (as defined for downloads) for each unit above 100,000²*

C. **Limited Theatrical Release:** When a television motion picture is released to theaters under certain limited circumstances, the percentage will be applied against Producer's Gross. *This theatrical exhibition residual only applies to scoring performed after January 26, 2020 and applies only in limited circumstances – the union office should be consulted to confirm whether the theatrical exhibition in a given case meets the requirements of the CBA. (See Paragraph 15(b) of the Basic TV Agreement).*

Producer's Gross equals: The worldwide total receipts derived by the distributor (and/or sub-distributors), from licensing the theatrical exhibition rights.

The residual payable to the FMSMF is 2.5% of Producer's Gross.

² For motion pictures with principal photography before 1/26/2020, the percentages are 1% on the first 100,000 units and 1.9% for each unit thereafter.

**MOTION PICTURES MADE FOR ORIGINAL SHOWING ON “NEW MEDIA”
Made for New Media Sideletter attached to both the AFM Basic Theatrical and Basic
Television Agreements.**

Secondary Market Residuals only apply to “covered” made for new media product. The determination of whether a new media product is covered for purposes of residuals is dependent upon two differing budget criteria for “original” product or whether it falls within the category of “derivative” product. If there is a question about coverage and whether residuals apply, consult the AFM’s West Coast office or the AFM Director of the Electronic Media Services Division (EMSD) in New York for a ruling.

- A. Release to Pay TV or Cassette/DVD or In-Flight:** When a covered motion picture originally made for new media is released to Pay TV (services such as HBO, Starz, and Showtime) or in Cassette/ DVDs, the percentage will be applied against Producer’s Gross.

Producer’s Gross equals:

- For release to pay television and in-flight, the worldwide total receipts derived by the distributor (and/or sub-distributors) from licensing the right to show the picture on pay television or on a commercial carrier (a/k/a in-flight). Note: 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.

- In the case of release in cassettes/DVDs and similar devices:
 - a) If the Producer is the Distributor, or the Distributor is owned or affiliated with the Producer, Producer’s Gross = 20% of the worldwide wholesale receipts derived *by Distributor*.
 - b) If the Distributor is not the Producer and is not owned by or affiliated with the Producer, Producer’s Gross = 100% of the worldwide gross receipts received *by Producer* from licensing the right to distribute in cassettes/DVDs

- Not included in determining Producer’s Gross:
 - Sums paid to any advertising agency in connection with any exhibition in pay television of cassette/DVDs;
 - Rebates, credits or repayments for cassettes/DVDs 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 either has 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*).

The residual payable to the FMSMF is 1% of Producer’s Gross

B. Release to “new media”: Residuals are only applicable to “covered” product that was originally exhibited on an advertiser-supported free streaming service (AVOD) as its primary market (or is first released to both a free and a consumer pay service simultaneously), if such product is subsequently released to a consumer paid (subscription or limited exhibition) streaming service or released in paid permanent downloads. The percentage will be applied against Producer’s Gross.

Producer’s Gross equals:

- In the case of release to paid (subscription or limited exhibition) streaming services: The worldwide total receipts derived by the distributor (and/or sub-distributors), from licensing the right to show the picture on new media platforms.
 - In the case of release in paid permanent downloads (a/k/a Download to Own or Electronic Sell Through/EST): 20% of the worldwide wholesale receipts derived by Distributor.
- Not included in determining Producer’s Gross:
- Sums paid to any advertising agency in connection with any exhibition in new media; (but includes advertising revenue if the license, distribution or other agreement provides for sharing in those revenues) or ;
 - Rebates, credits or repayments for returns (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 either has 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*).

The residual payable to the FMSMF is 1% of Producer’s Gross generated after 26 weeks following the release to the secondary new media market.

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LIVE OR VIDEOTAPED TELEVISION PROGRAMS
AFM Television Videotape Agreement Article 13 and New Media Sideletter
This agreement covers television programs that are non-dramatic in nature: talk shows, variety shows, award shows, etc.,

Release to Pay TV, Basic Cable, and Cassette/DVD and In-Flight: When a television program is released to Pay TV (services such as HBO, Starz, and Showtime) or in Cassette/DVDs or Basic Cable (services such as BET, TBS, TNT, AMC) or to In-flight, the percentage will be applied against Distributor's Gross.

Distributor's Gross equals:

- For release to pay television, basic cable and in-flight, the worldwide total receipts derived by the distributor (and/or sub-distributors) from licensing the right to show the program on pay television, basic cable or on a commercial carrier (a/k/a in-flight).
- In the case of release in cassettes/DVDs and similar devices:
 - a) If the Producer is the Distributor, or the Distributor is owned or affiliated with the Producer, Distributor's Gross = 20% of the worldwide wholesale receipts derived *by Distributor*.
 - b) If the Distributor is not the Producer and is not owned by or affiliated with the Producer, Producer's Gross = 100% of the worldwide gross receipts received *by Producer* from licensing the right to distribute in cassettes/DVDs
- Not included in determining Distributor's Gross:
 - o Sums paid to any advertising agency in connection with any exhibition in pay television of cassette/DVDs;
 - o Rebates, credits or repayments for cassettes/DVDs returned (Producer may set up a *reasonable* reserve for returns);
 - o Sums realized or held by way of deposit as security, until and unless earned, other than non-returnable sums;
 - o Frozen foreign currency until the Producer either has the right to freely use such foreign currency or transmit to the United States;
 - o 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 Distributor's Gross*).
 - o Receipts attributable to distribution for educational use.
- ***The residual payable to the LTVF in the case of release to Pay Television is 1% of Distributor's Gross***
- ***The residual payable to the LTVF in the case of release to Basic Cable or to In-Flight is 1.2% of Distributor's Gross***
- ***The residual payable to the LTVF in the case of release in Cassettes/DVDs is 2% of Distributor's Gross.***

B. Release to “new media”: When a television program is released to an advertiser-supported free streaming service (AVOD), or a consumer paid (subscription or limited exhibition) streaming service or released in paid permanent downloads, the percentage will be applied against Distributor’s Gross.

Distributor’s Gross equals:

- In the case of release to paid (subscription or limited exhibition) and advertiser-supported free streaming services: The worldwide total receipts derived by the distributor (and/or sub-distributors), from licensing the right to show the program on new media platforms.
 - In the case of release in paid permanent downloads (a/k/a Download to Own or Electronic Sell Through/EST): 20% of the worldwide wholesale receipts derived by Distributor.
- Not included in determining Distributor’s Gross:
- Sums paid to any advertising agency in connection with any exhibition in new media; (but includes advertising revenue if the license, distribution or other agreement provides for sharing in those revenues) or ;
 - Rebates, credits or repayments for returns (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 either has 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 Distributor’s Gross*).
 - Receipts attributable to distribution for educational use.
- *The residual payable to the LTVF in the case of release to paid (subscription or limited exhibition) streaming services is 1% of Distributor’s Gross.*
- *The residual payable to the LTVF in the case of release in paid permanent downloads is 1.5% of Distributor’s Gross (as defined for downloads) for the first 100,000 units and 2.9% of Distributor’s Gross (as defined as defined for downloads) for each unit above 100,000³*
- *The residual payable to the LTVF in the case of release to an advertiser-supported free streaming service (AVOD) is 1.2% of the Distributor’s Gross generated after one year following the close of the “free streaming window” on the free service. [During that first year of release to AVOD services, a flat residual payment is due the musicians, which is reported through the union office.] In case of questions, confirm with the union office the start/end date of the free streaming window.*

Made for New Media Sideletter attached to the Television Videotape Agreement.

³ For motion pictures produced after April 2013 but before December 2020, the percentages are 1% on the first 100,000 units and 1.9% for each unit thereafter.

Secondary Market Residuals only apply to “covered” made for new media product. The determination of whether a new media program is covered for purposes of residuals is dependent upon two differing budget criteria for “original” product or whether it falls within the category of “derivative” product. If there is a question about coverage and whether residuals apply, consult the AFM’s West Coast office or the AFM Director of the Electronic Media Services Division (EMSD) in New York for a ruling.

- A. Release to Pay TV or Cassette/DVD:** When a covered program originally made for new media is released to Pay TV (services such as HBO, Starz, and Showtime) or in Cassette/ DVDs, the percentage will be applied against Producer’s Gross.

Producer’s Gross equals:

- For release to pay television, the worldwide total receipts derived by the distributor (and/or sub-distributors) from licensing the right to show the program on pay television.

- In the case of release in cassettes/DVDs and similar devices:
 - a) If the Producer is the Distributor, or the Distributor is owned or affiliated with the Producer, Producer’s Gross = 20% of the worldwide wholesale receipts derived *by Distributor*.
 - b) If the Distributor is not the Producer and is not owned by or affiliated with the Producer, Producer’s Gross = 100% of the worldwide gross receipts received *by Producer* from licensing the right to distribute in cassettes/DVDs

- Not included in determining Producer’s Gross:
 - Sums paid to any advertising agency in connection with any exhibition in pay television of cassette/DVDs;
 - Rebates, credits or repayments for cassettes/DVDs 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 either has 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*).
 - Receipts attributable to distribution for educational use.

- ***The residual payable to the LTVF in the case of release to Pay TV is 1% of Producer’s Gross***

- ***The residual payable to the LTVF in the case of release in Cassettes/DVDs is 2% of Producer’s Gross.***

- B. Release to “new media”:** Residuals are only applicable to “covered” product that was originally exhibited on an advertiser-supported free streaming service (AVOD) as its primary market⁴, if such product is subsequently released to a consumer paid (subscription or limited exhibition) streaming service or released in paid permanent downloads. The percentage will be applied against Producer’s Gross.

Producer’s Gross equals:

- In the case of release to paid (subscription or limited exhibition) streaming services: The worldwide total receipts derived by the distributor (and/or sub-distributors), from licensing the right to show the program on the streaming services.
- In the case of release in paid permanent downloads (a/k/a Download to Own or Electronic Sell Through/EST): 20% of the worldwide wholesale receipts derived by Distributor.
- Not included in determining Producer’s Gross:
 - Sums paid to any advertising agency in connection with any exhibition in new media; (but includes advertising revenue if the license, distribution or other agreement provides for sharing in those revenues) or ;
 - Rebates, credits or repayments for returns (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 either has 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*).
 - Receipts attributable to distribution for educational use.

The residual payable to the LTVF is 1% of the Producer’s Gross generated after 26 weeks following the release to the secondary new media market.

⁴ Or if the program was initially released *simultaneously* on both free and pay streaming services.