

Establishment of Collection and Payment of Remuneration for Private Use of Audiovisual Works and Sound Recordings of Works

Government of the Republic of Estonia Regulation No. 40 of 26 January 1995

(Repealed - 05.02.2002 entered into force 16.02.2002 - RT I 2002, 18, 99)

(RT* I 1995, 13, 154),

amended by the following Regulations:

30.03.1999 entered into force 16.04.1999 - RT I 1999, 37, 471

25.03.98 entered into force 09.04.98 - RT I 1998, 33, 433

28.05.96 entered into force 13.06.96 - RT I 1996, 41, 798

26.03.96 entered into force 10.04.96 - RT I 1996, 23, 462

31.03.95 entered into force 01.04.95 - RT I 1995, 38, 506.

Pursuant to §§ 26 and 27 of the Copyright Act (RT 1992, 49, 615), the Government of the Republic resolves:

1. To establish the payment of remuneration for the use of audiovisual works and sound recordings of works to authors, performers, and producers of phonograms as of 1 January 1996.

(31.03.95 entered into force 01.04.95)

2. In order to compensate for the use of works specified in clause 1 of this Regulation, remuneration shall be collected from the manufacturers and importers of recording devices for reproduction for private use (audio tape recorders, video tape recorders, etc.) and of blank (not containing a record) audiovisual recording media (tapes, cassettes, etc.).

3. The basis for determination of the amount of remuneration collected to compensate for the use of audiovisual works and sound recordings of works shall be the issue price without value added tax, as determined by the manufacturer, of devices and media manufactured in Estonia and specified in clause 2 of this Regulation, or the cost of import (without value added tax) of imported devices and media specified in clause 2 of this Regulation.

4. To approve the annexed "Procedure for Collection and Payment of Remuneration to Compensate for Use of Audiovisual Works and Sound Recordings of Works".

5. The Ministry of Culture and Education, the Customs Board and the Statistical Office shall make preparations for commencement of the collection of remuneration at the time prescribed in clause 1 of this Regulation.

Approved by Government of the Republic Regulation No. 40 of 26 January 1995

Procedure for Collection and Payment of Remuneration to Compensate for Use of Audiovisual Works and Sound Recordings of Works

1. In order to compensate authors, performers, and producers of phonograms for the use of audiovisual works and sound recordings of works, the manufacturers and importers of recording devices for reproduction for private use (audio tape recorders, video tape recorders, etc.), blank (not containing a record) audiovisual recording media (tapes, cassettes, etc.) and technical means which enable reproduction for private use of other works shall pay remuneration.

For the purposes of this Procedure, cassettes, tapes, etc. on which the recording is shorter than 50 per cent of the possible recording time are also deemed to be blank audiovisual recording media.

Natural persons shall pay the specified remuneration if the imported quantities of goods exceed the quantitative limits exempt from value added tax and established by the Ministry of Finance for goods imported into the Republic of Estonia.

The list of the specified devices and means (chapters) together with the commodity codes from the "Estonian Nomenclature of Commodities" is annexed to this Procedure.

2. This Procedure does not apply to devices, media and means set out in clause 1 which, due to their technical characteristics, do not enable the reproduction of works as single copies.

3. The amount of remuneration to be collected to compensate for the use of audiovisual works and sound recordings of works shall be determined annually by the Ministry of Culture by 1 December after approval by organisations representing the manufacturers and importers of devices, media and means set out in clause 1 of this Procedure and the organisation representing authors which, pursuant to clause 9 of this Procedure, is appointed as the collector and payer of remuneration.

(28.05.96 entered into force 13.06.96)

4. Pursuant to subsection 27 (4) of the Copyright Act, remuneration shall not be collected on recording devices and blank (not containing a record) audiovisual recording media which are exported, which are used for professional recording or for making recordings for the benefit of visually-impaired or hearing-impaired persons, or for which remuneration is not collected pursuant to the procedure prescribed by law.

For the purposes of this Procedure, professional recording means:

1) legal enterprise for the manufacture of audio or video recordings meant for placement at the disposal of the public;

2) an activity in the case of which the result of the main activity of the person who makes the recording requires the manufacture of an audio or video recording as an intermediate stage (broadcasting organisations);

3) recording activities in educational and research institutions for the sole purpose of teaching or scientific research.

The organisation specified in clause 9 shall refund remuneration paid upon the purchase of devices, media and means purchased for the purposes prescribed in the first paragraph of this clause to the users of the devices, media and means on the basis of a certified application from such users.

5. Manufacturers shall pay remuneration within seven days after the manufacture of recording devices, media and means.

Devices, media and means are deemed to be manufactured if:

1) they have been removed from the place of manufacture;

2) the manufacturer of the media is no longer the legal possessor thereof.

6. If devices, media and means are exported by the manufacturer, the collector of remuneration shall refund the paid remuneration according to this Procedure.

7. The devices, media and means set out in clause 1 of this Procedure are deemed to be imported if the customs authorities release them for free circulation in the customs territory of Estonia.

Devices, media and means are deemed to be exported if an export declaration has been prepared concerning the export thereof and if the declaration contains a notation "Released from customs" which confirms that the goods actually crossed the border; in the case of delivery by post, devices, media and means are deemed to be exported as of the receipt of the postal item in a post office.

8. An importer is required to pay remuneration before the import of devices, media and means and to certify payment of remuneration to the Customs Board. Upon declaration of the goods for free circulation, the Customs Board shall cancel the submitted document with a notation.

The organisation which is appointed as the collector of remuneration may exempt the importer from payment of remuneration before import of devices, media and means if there is a sufficient guarantee or if the importer has previously paid remuneration in the correct amounts and in good time. The importer is required to submit a certificate issued by the collector of remuneration to the Customs Board and the certificate shall be cancelled by the Customs Board with a notation upon declaration of the goods for free circulation. The collector of remuneration has the right to withdraw the benefit specified in this paragraph at any time if the conditions of payment are not complied with, including delays in the payment of remuneration, upon payment of remuneration.

9. The Ministry of Culture shall appoint an organisation representing authors as the collector of remuneration and the organisation has the right only to deduct expenses related to the collection and payment of remuneration and previously approved by the Ministry of Culture from the remuneration collected.

The specified organisation shall pay the remaining remuneration to authors, performers, and producers of phonograms annually by 1 March on the basis of a distribution plan developed and approved by the Ministry of Culture. With the consent of authors, performers, and producers of phonograms or organisations representing them, foundations may also be paid for the development of music, film, video, radio and television, and in order to finance educational and research programmes and for use thereof for other similar purposes, but only in an amount not exceeding 10 per cent of the remuneration subject to distribution between authors, performers, and producers of phonograms.

(28.05.96 entered into force 13.06.96)

10. The organisation representing authors which is appointed as the collector of remuneration has the right to obtain all necessary information from customs authorities and statistical bodies and manufacturing and importing organisations for the collection of remuneration.

Information obtained for the specified purpose is confidential and the collector of remuneration has the right to use and disclose the information only in connection with the collection of remuneration.

11. The organisation representing authors which is responsible for the collection of remuneration is required to submit an annual report on the collection and payment of remuneration established by this Procedure to the Ministry of Culture during a specified term and in a specified format.

(28.05.96 entered into force 13.06.96)

12. Pursuant to clause 9 of this Procedure, the Ministry of Culture has the right to inspect the accounting of the organisation collecting remuneration at any time in respect of the collection and payment of remuneration and expenses related thereto.

(28.05.96 entered into force 13.06.96)

13. The Ministry of Culture has the right to give explanations which specify the provisions of this Procedure.

(28.05.96 entered into force 13.06.96)

Annex to the

"Procedure for Collection and Payment of Remuneration to Compensate for Use of Audiovisual Works and Sound Recordings of Works"

(30.03.1999 entered into force 16.04.1999)

Chapters upon Importation of which Remuneration Is Collected for Use of Audiovisual Works and Sound Recordings of Works

Commodity code in "Estonian Nomenclature of Commodities"	Name of goods
8520	Magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device: other magnetic tape devices for sound recording and reproduction:
8520 33	other, cassette-type: with an in-built amplifier and one or more in-built loudspeakers:
8520 33 11 00	used without an external power supply
8520 33 19 00	other
8520 33 90 00	other
8520 39	other:
8520 39 10 00	on magnetic tape disks, either with one recording or reproduction speed of 19 cm/s or with different speeds of no greater than 19 cm/s
8520 39 90 00	other
8520 90	other:
8520 90 90 00	other
8521	Video recording or reproducing apparatus, whether or not incorporating a video tuner:
8521 10	with a magnetic tape:
8521 10 10 00	for use in civil aviation other: tape of width not exceeding 1.3 cm, upon recording or reproduction

	of a tape at a speed of up to 50 mm/s
8521 10 30 90	new
8521 10 30 99	used
	other:
8521 10 80 90	new
8521 10 80 99	used
8521 90 00 00	other
8523	Prepared blank media for sound recording or similar recording of other phenomena (other than products of Chapter 37):
	magnetic tapes:
8523 11 00 00	of width not exceeding 4 mm
8523 12 00 00	of width exceeding 4 mm, but not exceeding 6.5 mm
8523 13 00 00	of width exceeding 6.5 mm
8523 20	magnetic disks:
	rigid:
8523 20 11 00	covered with thin metal film, the magnetisation of which exceeds 600 oersteds, and with an external diameter not exceeding 231 mm
8523 20 19 00	other
8523 20 90 00	other
8523 90 00 00	other
8527	Reception apparatus for radio-telephony, radio-telegraphy and radio-broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a time indicator:
	radio-broadcast receivers which work without an external energy supply (including apparatus which also receives radio-telephony or radio-telegraphy signals):
8527 13	combined with sound recording or sound reproducing devices:
8527 13 10 00	with a laser-reading device

other:

8527 13 91 00 cassette-type, with an analogue and digital system

8527 13 99 00 other

other radio-broadcast receivers (including apparatus which also receives radio-telephony or radio-telegraphy signals):

8527 31 combined with sound recording or sound reproducing devices:

with one or more loudspeakers in the same housing:

8527 31 11 00 cassette-type, with an analogue and digital reading system

8527 31 19 00 other

other:

8527 31 91 00 with a laser-reading device

other:

8527 31 93 00 cassette-type, with an analogue and digital reading system

8527 31 98 00 other