

# A Guide for Persons Liable to Pay the Levy on the Provision of On-demand Audiovisual Media Services for the Transitional Period until the Launch of the PORT 2.0 System

Pursuant to Section 10(1)(a) of the Act, audiovisual levies are administered by the Czech Audiovisual Fund (Státní fond audiovizí – SFA). According to Section 27 of the Act, the levy on the provision of on-demand audiovisual media constitutes one of the audiovisual levies. The collection of this levy pursuant to Section 27 of the Act is related to direct investments referred to in Section 27a of the Act. The administration of this levy is regulated by Sections 27b and 29 of the Act.

## Definitions

- **VOD – for the purposes of this Guide, this acronym designates all possible forms (types) of the provision of on-demand audiovisual media services.**

The VOD levy includes:

- Electronic Sell-Through (EST) –electronic sale of multimedia content, which typically allows the purchaser to download and store the sold content;
  - Transactional VOD (TVOD or also Pay-per-view) – sale of audiovisual content, typically for 24 to 48 hours. This resembles a type of a video rental service;
  - Subscription VOD (SVOD) – provision of exclusive audiovisual content upon payment of a subscription fee,
  - Premium VOD (PVOD) – the possibility to watch audiovisual content before it becomes available to SVOD and TVOD users. PVOD service is subject to a higher subscription fee;
  - Premium –various hybrid models of the provision of audiovisual content, e.g. a part of the titles is provided for free while the other part of the offered content is subject to a subscription fee, the content including embedded advertising is provided free of charge while the content without embedded advertising is subject to a fee etc.
- The VOD levy does not include:
    - Advertising-based VOD (AVOD) – provision of audiovisual media content free of charge, typically including embedded advertising;
    - Free VOD (FVOD) – provision of audiovisual content free of charge
  - **Person liable to pay the levy = a VOD provider:**
    - established in the Czech Republic,
    - established outside the Czech Republic but providing its service to viewers in the Czech Republic.
  - **Operators of television broadcasting established under a special law regulating their activities (Act No. 483/1991 Coll. on Czech Television) are not liable to pay the levy.**
  - **The levy is paid on the revenue generated by:**
    - the provision of VOD in the Czech Republic;
    - audiovisual commercial messages displayed to Czech viewers as a part of the provision of VOD (e.g. within the viewed film).
  - An audiovisual commercial message means a sequence of images, with or without sound, designed to directly or indirectly promote the goods or services of a person engaged in an economic activity, or their public image, which accompanies a program or is included in a program in return for payment or similar consideration, or for the purposes of self-promotion; in particular, an audiovisual commercial message may take the form of advertising, sponsorship, or product placement (Act No. 132/2010 Coll. on on-demand audiovisual media services and on the amendment to certain laws).
  - **The subject of the levy does not include revenues from an audiovisual commercial message that is not directly related to the viewing of the offered content.** Hence, product placement is not subject to the levy. The term “product placement” means any form of an audiovisual commercial message that consists in the inclusion, or a reference to, a product, service or a trademark relating to a product or service within a program in return for payment or similar consideration.
  - **Direct investment** – means solely an expense (physical payment – monetary expense) of the person liable to pay the levy on VOD that is not fully exempt from such fee, in respect of:

- the acquisition of the right to use in the original Czech language the audiovisual work in the original language version (purchase of a licence to use the work);
- the production of:
  - an audiovisual work in the original language version in the Czech language; or
  - a Czech version of a foreign audiovisual work; or
  - a foreign language version of a Czech audiovisual work.
- The base of the audiovisual levy is rounded upwards to whole crowns.
- Period of collection of the levy = a period (calendar year) for which the relevant amount of the VOD is due to be paid to the SFA.

#### **General information regarding the levy**

- The levy constitutes a tax and the Statute stipulates that the entity authorized to collect the levy is the SFA. Based on this authority, the SFA occupies a position similar to a tax authority; therefore, it conducts identical tax proceedings under the TC, i.e. the full administration of the levy beginning with receipt of the PP, through verification of the declared amount of the levy, settlement of any overpayment or underpayment, up to and including an on-site tax audit at the premises of the person liable to pay the levy. For the purpose of verifying the correctness of the levy amount, the SFA is entitled to use information provided by the Council for Radio and Television Broadcasting (verification of payers established in the Czech Republic). The RRTV, as an entity processing data necessary for tax administration, is obliged under Section 57 of the TC to provide such data to the SFA.
- Hence, the person liable to pay the levy is a tax subject with all rights and obligations arising from the Act and the TC.

#### **Registration of the person liable to pay the levy**

- The person liable to pay the levy must register with the SFA.
- This duty does not apply to persons liable to pay the levy that were registered to the original PORT before 1 January 2026.
- The person liable to pay the levy that has not registered to PORT 2.0 shall register solely in writing on a **RF**, which shall be sent to the SFA through a DB or by post, with a handwritten signature of the authorised person.
- **Registration with the RRTV does not replace this registration!**

#### **Declaration of the levy**

- **Since the levy constitutes a tax, the PP is a declaration of tax (similar to the income tax return), by means of which the person liable to pay the levy presents to the SFA information relating to the calculation of the amount of the levy and submits it together with payment of the calculated (declared) levy.**
- Pursuant to Section 29(4) of the Act, the period of collection of the levy is one calendar year. The PP shall be filed after the end of the calendar year within the deadline set forth by the TC and in the manner specified hereinbelow:
  - within 3 months after the expiration of the period of collection of the levy, i.e. within 3 months after the end of the calendar year;
  - within 4 months after the expiration of the period of collection of the levy, i.e. within 4 months after the end of the calendar year, but only if:
    - the PP was not filed within 3 months after the expiration of the period of collection of the levy; and
    - the PP was filed thereafter electronically – through the DB;
  - within 6 months after the expiration of the period of collection of the levy, i.e. within 6 months after the end of the calendar year in the case that:
    - the payer is obliged by the law to have its financial statements audited; or
    - the PP was not filed within 3 months after the expiration of the period of collection of the levy and was filed subsequently by a tax advisor.
- Regular PP – a declaration filed within the statutory deadline.

- Amended PP – will be filed if the payer finds an error in the regular PP that has already been submitted and submits the amended declaration within the statutory deadline.
- Additional PP – every declaration filed after the statutory deadline.
- A PP shall be also filed by a person liable to pay the levy that is exempt from payment of the levy under Section 27(4) and (5) for the following reasons:
  - reporting low turnover;
  - reporting low audience.
  - The terms and definitions of low turnover and low audience are laid down in the Commission Communication 2020/C 223/03 — Guidelines pursuant to Article 13(7) of the Audiovisual Media Services Directive on the calculation of the share of European works in on-demand service catalogues and on the definition of low audience and low turnover, with the provision that the threshold for low turnover shall be based on the definition of a micro-enterprise as laid down in Recommendation 2003/361/EC.

The above-mentioned Guidelines and Recommendation stipulate that:

- a VOD provider with low turnover is an entity that meets the definition of a microenterprise, i.e. has less than 10 employees and its annual turnover (the financial amount generated within a specific period) or balance sheet (statement of the company's assets and liabilities) does not exceed EUR 2 million; a VOD provider with low audience means a provider whose share in the audience in the Czech Republic is less than 1%.

*Note:*

*The FORM used by the Fund to calculate low audience is as follows:*

$$\frac{\text{active number of users of the provider's service in the Czech Republic}}{\text{total number of users in the Czech Republic}} \times 100 = \% \text{ of audience}$$

- The offered VOD service contains a negligible number of audiovisual works that may become the object of selective support or production incentives in accordance with the Act. A negligible number of works means a maximum of 3% of those works.
- The VOD service does not contain any audiovisual works that maybe the object of selective support or production incentives under the Act.
- The service offers solely a thematically exceptional VOD content. A thematically exceptional VOD is a VOD which offers audiovisual works that:
  - deal solely with a single topic; or
  - use solely the procedures of a single genre or a single unique production technology and, at the same time, do not deal with any topic or genre and do not use any production technology that is used by the other VOD providers offering a wide range of audiovisual works.
- The above-mentioned entitlement to the exemption from the levy shall be claimed by the person liable to pay the levy in the PP.
- The deadline for submission of the declaration may not be extended.
- **The VOD levy** is specific in that it consists of a sum of two partial levies and its amount equals the aggregate of those levies, i.e. of:

#### 1) Partial Levy 1

- consisting of the sum of prices that constitute the base of this levy, i.e. of the prices:
  - paid by end users (viewers) for the VOD – see the definition above; and
  - agreed by the person liable to pay the levy with the party ordering the commercial message where such a message must be displayed together with the provision of the VOD content;
- the base of Partial Levy 1 does not include VAT;
- the rate of Partial Levy 1 corresponds to 2% of the sum of prices after deduction of VAT;
- Partial Levy 1 may be reduced by a discount for direct investment (pursuant to Section 27a of the Act and in accordance with the definition of this term in this Guide):

- the maximum discount may not exceed 50% of this levy (the discount may only be claimed up to the amount equal to the sum of supplementary direct investments realized in the period of collection of the levy, i.e. for the calendar year for which the PP is submitted),
- the discount may only be claimed in the regular (i.e. the first) PP submitted for the relevant calendar year;
- if the discount is not claimed in the regular (amended) PP, it cannot be claimed later.

#### Calculation of Partial Levy 1:

**(revenue from subscription fees paid by end users + revenue from commercial messages – VAT) x 0.02%**

#### 2) Partial Levy 2

- if the person liable to pay the levy decides not to realize any DI, i.e. does not use (claim) any discount for DI in the regular (amended) PP, it shall pay together with Partial Levy 1 the amount of unrealized direct investment equal to 1.5% of the base of Partial Levy 1; hence, the total VOD levy paid to the SFA for the relevant calendar year shall amount to 3.5% of the base of Partial Levy 1,
- if the person liable to pay the levy uses (claims) the discount, i.e. makes use of the opportunity to invest funds in expenses pursuant to Section 27a) of the Act, Partial Levy 2 will amount to a positive difference between an amount equal to 1.5% of Partial Levy 1 and the sum of claimed direct investments pursuant to Section 27a(1).

#### Calculation of Partial Levy 2:

**1.5% of the base of Partial Levy 1 x 0.15% - the sum of claimed basic direct investments**

- **Levy on VOD = Partial Levy 1 + Partial Levy 2**
- If the person liable to pay the levy pays a wrong amount which results in overpayment, the overpayment will not be automatically returned to it but such person must apply for refund in writing via the DB. A person liable to pay the levy that does not have a DB shall send the relevant application by post to the SFA's address, with the handwritten signature of the authorized person.
- In case of an underpayment, the SFA shall proceed in accordance with the TC and shall enforce the levy.
- **The PP shall be submitted even in cases where the duty to pay the levy for the calendar year is zero, i.e. in cases where the entity exists, the domestic entity is registered with the RRTV but does not operate the service.**
- If a registered active payer (the identity of a payer established in the Czech Republic is verified in cooperation with the RRTV) fails to submit a PP within the regular deadline, its levy shall be automatically assessed by the SFA as zero. Thereafter, the SFA shall ask the payer to submit an additional PP, i.e. to calculate the levy, and shall enforce its payment. Default interest shall accrue to the payer from the due date of the levy calculated in the additional PP to the actual payment date of the levy. The default interest shall be assessed by the SFA in accordance with the TC.
- Until the launch of the agenda management system PORT 2.0, PPs shall be filed through the DB. If the person liable to pay the levy has not got a DB (this applies particularly to persons not established in the Czech Republic), the PP shall be submitted by post to SFA's address, with a handwritten signature of the authorized person.
- The PP is available on SFA's website under the link → [Poplatky \(Levies\)](#) → [Dokumenty a formuláře \(Documents and Forms\)](#).
- The PP should be downloaded and completed. Details of the completion of individual lines can be found in [Pokyny k vyplnění poplatkového přiznání \(Guidelines for Completion of the Declaration\)](#).
- The PP shall be submitted through the payer's DB. If the payer uses a third party's DB, the form must bear the signature (either electronic or handwritten s) of the authorized person. Payers who do not have a DB shall send their PPs by post to the SFA with a handwritten signature of the authorized person.

## Payment of the levy

- **The levy shall be paid solely in CZK (Czech crowns)** by cashless transfer to SFA's sub-account no. **50008-29720001/0710**. A payer who is not established in the Czech Republic and does not have an account in CZK shall pay the levy by means of a SWIT transfer, BIC (SWIFT): CNBCZPP, IBAN: CZ34 0710 0500 0800 2972 0001. For the purpose of covering bank charges, the SHA (Share) method will be used – the payer will cover the charges of their bank, and SFA will cover the charges of its bank and any intermediary bank charges. A SWIT payment should be initiated sufficiently in advance in order to meet the deadline for payment of the levy.
- The payment will be identified by a variable symbol in the format 1 plus the year of the period of collection of the levy. The first (regular) PP submitted under the amendment of the Act shall bear the variable symbol 12025. All further declarations (amended, additional) relating to that period will be marked by the continuing number series, i.e. 2, 3, 4 etc. plus the year of the period of collection of the levy, e.g. 22025, 32025, etc.
- The basis for payment of the levy consists of the PP. The SFA will not issue any invoice or payment receipt.
- The person liable to pay the levy must keep all underlying documents, i.e. documents relating to the provided service, for the purpose of SFA's tax audits. These records must include, in particular:
  - the number of end users of the VOD in the Czech Republic;
  - the price paid by individual end users for VOD subscription in Czech crowns (CZK),
  - expenses of the person liable to pay the levy related to DI.
- If an audiovisual commercial message generating revenues that are subject to the levy is displayed within the provided VOD, the person liable to pay the levy must also keep the records of:
  - the date of provision of the media space for the audiovisual commercial message;
  - the name and surname of the natural person or the name of the legal entity and the tax identification number of the person/entity to which the person liable to pay the levy provided the media space for its commercial message;
  - the total monetary value of the media space provided to the commercial message as of the date of provision of such a space.
- The payer is obliged to keep these recorded for the period stipulated by the VAT Act and the Act on Accounting.
- **Pursuant to Section 52 of the TC, the SFA is obliged to keep confidential all information obtained in connection with the collection of the levies. Only those SFA employees who are responsible for the agenda of audiovisual levies and whose job description includes this agenda have access to this information and authorized to handle it.**
- The VOD levy paid by the payer to the SFA is not related to any other fee or tax payment duties of the payer.
- The SFA's data box ID: ng8unnb.
- If the payer's revenue of income is at least partly subject to more than one levy (levies on VOD, on television rebroadcasting, on broadcast advertising), the payer must divide such revenue or income into separate parts allocated to each of these levies, prepare a PP for each such levy and pay the levy.

*Example: a person liable to pay the levy on an on-demand audiovisual media service that provides at the same time the television rebroadcasting service shall submit two PPs and the amount of the levy shall be set in accordance with the applicable provision of the Act relating to each such levy.*

## Direct investment

- DI is an expense (a physical payment – monetary expense) of the person liable to pay the levy on VOD that is not fully exempt from the levy, which is paid in respect of:
  - the acquisition of the right to use in the original Czech language the audiovisual work in the original language version;
  - the production of:
    - an audiovisual work in the original language version in the Czech language; or

- a Czech version of a foreign audiovisual work; or
  - a foreign language version of a Czech audiovisual work.
- A nonmonetary expense, such as nonmonetary performance in the form of provided work, provision of technology, set-off of invoices, etc., is not deemed DI under the Act.
- If the expense is incurred only for a part of the object of the DI, the DI shall only consist of such part of the incurred expense.
- The relevant calendar year in which the direct investment is claimed means the period of collection of the levy (the calendar year). The first year for which a PP shall be submitted and in which the DI may be claimed and spent is identical and means the year 2025.
- DI = its actual realization and funding, i.e. payment for it. The payment may be split among a maximum of three years. The first year will be identical with the period of collection of the levy in respect of which the DI is claimed; thereafter, it can be used in the following two years.

*Example:*

*A DI claimed for the levy period 2025 which will be fully used thereafter may be claimed until 2027 at the latest and the final settlement will be presented within the deadline for submission of the regular PP for 2027 in 2028. A similar procedure will be applied in the following years. Thereafter, an additional PP/settlement will be submitted depending on the year when the amount for the realization of the DI is spent.*

Examples of the realization and settlement of a DI:

- in case of claiming and physical spending of the DI amount in the year identical with the period of the levy, a settlement of the DI will be also attached to the PP;
- in case of claiming and physical spending of the DI amount in the year identical with the period of the levy and in the following year together with partial settlement, a regular PP will be submitted in the first year and an additional PP will be submitted in the following year together with final settlement;
- in case of claiming and physical spending of the DI amount in the year identical with the period of the levy and in the following two years, a regular PP will be submitted in the first year and an additional PP will be submitted in each of the following two years. The final settlement will be submitted together with the additional PP for the last year.

Hence, the DI must be claimed in the regular (amended PP) and an additional PP and a settlement will be submitted thereafter upon physical disbursement until the entire DI will be used up;

- In case that the whole claimed amount of DI has not been used up, the unused amount must be stated in the final settlement, an additional PP with the calculation of the outstanding fee must be submitted and such unused amount will be remitted to SFA.
- A DI uncured jointly by more persons that are at the same time liable to pay the levy on VOD may only be claimed by one of them.
- Only the following DI may be claimed for the period of collection of the levy (the calendar year for which the PP is submitted):
  - at least 50% of the total sum of such claimed DI must be spent on (used for) the acquisition of rights of (licences for) use of audiovisual works created by producers or co-producers who meet the condition stipulated in Section 39(1)(b) of the Act, i.e. who are independent producers. An independent producer means a producer that is not a television broadcasting operator or provider of an on-demand audiovisual media services, is not a capital-related party with a television broadcasting operator or provider of an on-demand audiovisual media service, or its deliveries of works for one television broadcasting operator or provider of an on-demand audiovisual media do not exceed within 3 years 90% of its total production; a person who is capital-related to the television broadcasting operator or provider of an on-demand audiovisual media service means a person participating in voting rights or registered capital of such television broadcasting operator or provider of an on-demand audiovisual media service, or a person in which the television broadcasting operator or provider of an on-demand audiovisual media service hold a share in voting rights or registered capital;
  - the DI may only be claimed by persons that are, under the Income Taxes Act:

- 1) tax residents in the Czech Republic; or
  - 2) tax non-residents in the Czech Republic that have a permanent establishment in the Czech Republic and are, at the same time, tax residents in a Member State of the European Union or in one of the states forming the European Economic Area;
- the DI may be claimed in respect of the production of audiovisual works the co-producer of which is a person that meets the condition of a selective support recipient under Section 39(1)(b), which is, pursuant to the Income Taxes Act):
    - 1) a tax resident in the Czech Republic; or
    - 2) a tax non-resident in the Czech Republic that had a permanent establishment in the Czech Republic and is, at the same time, a tax resident in a Member State of the European Union or in one of the states forming the European Economic Area,;
  - not more than 10% of the total sum of the DI claimed for such calendar year, reduced by the DI spent on the licence and production subject to the fulfilment of the above-mentioned conditions, may be spent for purpose of the production of language versions (dubbing or subtitles) subject to the above-mentioned conditions for use of the DI for their production.

Hence

*Total DI – licence fee – production expenditure = x*  
*x × 10% = maximum expense for dubbing and subtitles*

- The total sum of basic DI claimed for the relevant period of collection of the levy – the calendar year (the year for which the PP is submitted) may not exceed 1.5% of the base of the partial levy based on the sum of prices for such calendar year. Hence, the claimed amount will range between 0 and 1.5% and amount of the paid levy and the possibility of using the discount will be based on the claimed percentage.
- The total sum of supplementary direct investments claimed for the relevant calendar year consists of the amount exceeding the sum of the claimed basic direct investments (i.e. exceeding 1.5% of the base of the partial levy on the sum of prices for the relevant calendar year), but not more than 1% (the maximum possible discount). Hence, this represents a positive difference between the sum of claimed direct investments and the sum of claimed basic direct investments.
- If the presented settlement indicates that any one of the conditions for claiming the DI has not been met, the SFA shall reduce the DI by such amount and shall ask the person liable to pay the levy for submission of an additional PP and payment of the underpaid levy.

*A model example of spending the maximum amount of funds on a DI, i.e. 2.5%:*

<i>The base of the partial levy on the sum of prices under Section 27(6)(a):</i>	<i>= CZK 5,000,000</i>
<i>Partial levy on the sum of prices (2%)</i>	<i>= CZK 100,000</i>
<i>Maximum 50% discount on the partial levy on the sum of prices</i>	<i>= CZK 50,000</i>
<i>Basic direct investment claimed (1.5%)</i>	<i>= CZK 75,000</i>
<i>Total possible direct investment</i>	<i>= CZK 125,000</i>

*Hence, the maximum direct investment amount is CZK 125,000 and if claimed, the person liable to pay the levy will remit the levy in the amount of CZK 50,000.*

If some expenses exceeding the amount of the claimed direct investment are not deemed eligible, the discount on the partial levy on the sum of prices will be also reduced.

#### **Used abbreviations:**

Act – Act No. 496/2012 Coll. on audiovision, as amended

SFA - Czech Audiovisual Fund (*Státní fond audiovize*)

Statute – Statute of the Czech Audiovisual Fund

Guide - Guide for Persons Liable to Pay the Levy on the Provision of On-demand Audiovisual Media Services for the Transitional Period until the Launch of the New PORT 2.0 System

VOD – provision of a digital service (online distribution) in the form of video-on-demand

Levy – a levy on the provision of an on-demand audiovisual media service

Partial Levy 1 – a partial levy based on the price summary

Partial Levy 2 – a partial levy on unrealized direct investment

DI – direct investment

VAT – value added tax

PP – the form of declaration of the levy

Period – period for which the levy is collected

DB – data box

TC – Taxation Code

PORT – a state-owned agenda management system designated for the administration of audiovisual levies, support and incentives

RF – registration form (identity check)