



# KENYA COPYRIGHT BOARD



## FREQUENTLY ASKED QUESTIONS ON BLANK TAPE LEVY

Prepared by Kenya Copyright Board (KECOBO)

**1. What is a Blank Tape Levy?**

A private copying levy is a nominal fee imposed on the sale of blank media and devices, such as CDs, DVDs, USB drives, and smartphones, which can be used to make personal copies of copyright content.

**2. Why is Blank Tape Levy?**

This levy is imposed by the Copyright law to compensate copyright holders for potential revenue lost when individuals make private copies of their copyrighted works, such as music, movies, or software. Private copying allows individuals to make personal backups or copies of copyrighted material for their own use, such as making a backup of a music CD or copying a movie to a personal device.

**3. Who pays the Blank Tape Levy?**

Typically, the levy is paid by the manufacturers or importers of the blank media or devices.

**4. What types of media and devices are subject to blank Tape Levy?**

The types of media and devices subject to levies vary by country, but they often include but are not limited to CDs, DVDs, Blu-ray discs, USB drives, external hard drives, and smartphones.

The following items are covered under the Copyright Regulations 2020;

S/NO.	ITEM DESCRIPTION	LEVY
1	Audiocassette, audiocassette minidisc, audio-CD-R/RW	Sh. 5
2	Video cassettes (VHS, Hi8, Mini DV, Vide08)	
3	DVD-R, DVD+ RW, DVD+ R, DVD + RAM, DVC, mini-DVD, Blu-Ray disk, PC diskettes, DDS tapes, Travan disc; CD-R, CD-RW	Sh. 10
4	DVD writer external (PC), CD-ROM recorder external (PC); and any other recording device for audio-CD	3% of cost price net of taxes
	RJRW whether or not integrated with a hard disc	
5	Television with HD recorder, DVD-HD recorder, Video-HD recorder (cameras), Digital recorders (MP3, 1- pods, MP4, etc.	Sh. 100

6	VHS recorders, digital receiver with HD (PVR), hard drive media players, Blu-Ray recorder external, digital camcorders, digital cameras with SD cards, digital recorders for IPTV and VOD services	5% of purchase price net of taxes
7	Game consoles, media box, minidisc, compact flash memories, memory stick, smart media memory cards, portable hard disc (external), ZIP drive, data, USB Flash disk	Sh. 200
8	Audio recorders and video recorders	4% of cost price net of taxes
9	Photocopy/printing Paper per ream	Sh. 20
10	Personal Laptops/computers, mobile phones, smart watches	1.5% of purchase price net Taxes
11	Modulators, decoders/signal receivers, digital jukeboxes	3% of purchase price net of taxes
12	Photocopying machine, printing plates, printers/printing machines	2% of purchase price net of taxes
13	Computer external hard drives	Sh. 300

**5. Who administers and collects the levies?**

The Collective Management Organizations responsible for the distribution of the incomes received from the levy to copyright holders.

**6. How are the collected levies distributed to copyright holders?**

Collective Management Organizations are responsible for the management and distribution of amounts collected to copyright holders subject to their distribution rules.

**7. Are private copying levies the same in all countries?**

No, the specifics of private copying levies, including the types of media and devices subject to them and the rates, vary widely.

**8. What is the legal framework for blank tape levy?**

The **Copyright Act (No.12 of 2001)** is the enabling legislation on blank tape Levy in Kenya.

Copyright Act defines it as the making of a single copy for the personal or private use of the person making the copy.

**Sections 28 (3)(6) and 30(6) of the Copyright Act** and the Second Schedule, Part B of Copyright Regulations 2020 deals with blank tape levy.

## **Section 28:** Nature of copyright in sound recordings

(1) Subject to subsections (2) and (3), copyright in sound recordings shall be the exclusive right to control the doing in Kenya of any of the following acts in respect of the sound recording, namely—

(a) the direct or indirect reproduction in any manner or form; or

(b) the distribution to the public of copies by way of sale, rental, lease, hire, loan or any similar arrangements;

(ba) the making available of the sound recording in whole or in part either in its original form or in any form recognizably derived from the original; or

(c) the importation into Kenya; or

(d) the communication to the public or the broadcasting of the sound recording in whole or in part either in its original form or in any form recognizably derived from the original.

(2) The provisions of paragraphs (a), (f), (j) and (h) of section 26(1) shall apply mutatis mutandis to the copyright in a sound recording.

(3) The rights of an owner of a copyright in a sound recording are not infringed by the making of a single copy of the recording for the personal and private use of the person making the copy; and in respect of such use the owner of copyright in the sound recording shall have the right to receive fair compensation consisting of a royalty levied on audio recording equipment or audio blank tape suitable for recording and other media intended for recording, payable at the point of first manufacture or entry in Kenya by the manufacturer or importer for commercial purposes of such equipment or media.

(6) Any person who, for commercial purposes, makes available any audio recording equipment for the purposes of enabling any other person to make single copies of any sound recording for his personal or private use, without payment of the royalty levied under subsection (3) shall be guilty of an offence and shall be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding four years or to both.

### **Section 30(6) provides that:**

The rights of an owner of a copyright in a fixation of their performance are not infringed by the making of a single copy of the performance for the personal and private use of the person making the copy and in respect of such use the owner of a related right in the performance shall have the right to receive fair compensation consisting of a royalty levied on audiovisual recording equipment or audio-visual blank media suitable for recording and other media intended for recording, payable at the point of first manufacture or entry in Kenya by the manufacturer or importer for commercial purposes of such equipment or media.

### **9. When will the collection of Blank Tape Levy commence?**

The collections are expected to commence on September 15,2023.

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