

PROPOSED TARIFF

Filed with the Copyright Board by Re:Sound on 2022-10-13 pursuant to subsection 67(1) of the *Copyright Act*

Proposed Tariff Title: *Re:Sound Tariff 6.A – Use Of Recorded Music To Accompany Dance (2024-2028)*

For the performance in public or the communication to the public by telecommunication, in Canada, of published sound recordings embodying musical works and performers’ performances of such works.

Proposed Short Title: *Re:Sound Dance Tariff (2024-2028)*

Effective Period: 2024-01-01 – 2028-12-31

RE:SOUND TARIFF 6.A – USE OF RECORDED MUSIC TO ACCOMPANY DANCE (2024-2028)

*Short Title*

1. This tariff may be cited as the *Re:Sound Dance Tariff (2024-2028)*.

*Application*

2. (1) This tariff sets the royalties to be paid for the performance in public or the communication to the public by telecommunication, in Canada, for the years 2024 to 2028, of published sound recordings embodying musical works and performers’ performances of such works, in any indoor or outdoor venue, including nightclubs, dance clubs, bars, restaurants, hotels, halls, clubs, schools, and campuses, for the purposes of dancing or any similar activity.

(2) This tariff does not apply to any venue operated by a not-for-profit religious institution or not-for-profit educational institution, if the dancing is primarily made available to participants under the age of 19.

(3) This tariff does not apply to the use of published sound recordings to accompany adult entertainment, to dancing at receptions, conventions, assemblies or fashion shows, to dance performances, or to dance or fitness instruction.

*Royalties*

3. (1) A venue accommodating no more than 100 patrons shall pay an annual royalty as follows:

	<b>Days of operation</b>	
<b>Months of operation</b>	1 – 3 days	4 – 7 days
Six months or less	\$920	\$2,525

More than six months	\$2,360	\$6,500
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(2) A venue accommodating more than 100 patrons shall pay 10 per cent more than the fees set out in subsection (1) for each capacity increase of up to 20 patrons.

(3) All royalties payable under this tariff are exclusive of any applicable federal, provincial or other governmental taxes or levies of any kind.

4. For the purposes of this tariff, the number of patrons that a venue can accommodate is:
- (a) the number of persons that can be present at any time under the venue's liquor licence;
  - (b) where the venue is not licensed to serve liquor, the number of persons that can be present at any time under any other document issued by a competent authority for this type of venue; or
  - (c) otherwise, the total number of persons in attendance.

#### *Reporting Requirements*

5. No later than January 31, the operator of the venue shall pay the royalty for that year and shall provide, for that same year:
- (a) the name and address of the venue;
  - (b) the name and contact information of the person operating the venue;
  - (c) the number of patrons that the venue can accommodate, with supporting documentation; and
  - (d) the days and months of operation, as used to calculate the royalties.

#### *Records and Audits*

6. (1) A person subject to this tariff shall keep and preserve, for a period of six years after the end of the year to which they relate, records from which the information set out in section 5 can be readily ascertained.
- (2) Re:Sound may audit these records at any time during the period set out in subsection (1), on reasonable notice and during normal business hours.
- (3) Re:Sound shall, upon receipt, supply a copy of the report of the audit to the person that was the subject of the audit and to any other Canadian collective society with a tariff applicable to dancing.
- (4) If an audit discloses that royalties owed to Re:Sound during any period have been understated by more than 10 per cent, the subject of the audit shall pay the reasonable costs of the audit to Re:Sound within 30 days of the demand for such payment. The amount of any understatement shall be paid within 30 days of the demand for such payment.

#### *Confidentiality*

7. (1) Subject to subsections (2), (3) and (4), information received pursuant to this tariff shall be treated in confidence, unless the person who supplied the information consents in writing to the information being treated otherwise.
- (2) Information received pursuant to this tariff may be shared:

- (a) with Re:Sound’s agents and service providers, to the extent required by the service providers for the service they are contracted to provide;
- (b) in connection with the collection of royalties or the enforcement of a tariff, with any other Canadian collective society that has a tariff applicable to dancing;
- (c) with the Copyright Board;
- (d) in connection with proceedings before the Copyright Board, if it is protected by a confidentiality order;
- (e) to the extent required to effect the distribution of royalties; or
- (f) if required by law.

(3) Where confidential information is shared with a service provider pursuant to subsection (2)(a), that service provider shall sign a confidentiality agreement.

(4) Subsection (1) does not apply to information that is publicly available, to aggregated information, or to information obtained from someone other than the person who supplied the information and who is not under an apparent duty of confidentiality to that person with respect to the supplied information.

#### *Adjustments*

8. Adjustments in the amount of royalties owed as a result of the discovery of an error or otherwise, shall be made on the date the next royalty payment is due. No adjustments to reduce the amount of royalties owed may be made in respect of an error discovered by the person subject to this tariff which occurred more than 12 months prior to notification to Re:Sound.

#### *Late Payments and Reporting*

9. (1) In the event that a person subject to this tariff does not pay the amount owed under the tariff by the due date, the person shall pay to Re:Sound interest calculated on the amount owed from the due date until the date the amount is received by Re:Sound.

(2) In the event that a person subject to this tariff does not provide the reporting information required under the tariff by the due date, Re:Sound may provide notice of that default (“Default Notice”). If the person does not cure the default within 30 days of receipt of a Default Notice by providing the reporting information that is past due and that is specified in the Default Notice, the person shall pay to Re:Sound interest calculated on the amount payable in respect of the period for which the reporting information is due, from the due date to the date that the reporting information is received by Re:Sound, less any interest paid pursuant to subsection (1).

(3) Interest shall be calculated daily, at a rate equal to one per cent above the Bank Rate effective on the last day of the previous month (as published by the Bank of Canada). Interest shall not compound.

#### *Addresses for Notices, etc.*

10. (1) Anything addressed to Re:Sound shall be sent to 1235 Bay Street, Suite 900, Toronto, Ontario M5R 3K4, email: [licensing@resound.ca](mailto:licensing@resound.ca), or to any other address or email address of which the sender has been notified in writing.

(2) Anything addressed to a person subject to this tariff shall be sent to the last address or email address of which Re:Sound has been notified in writing.

*Delivery of Notices and Payments*

11. (1) A notice may be delivered by hand, by postage-paid mail, by email, or by file transfer protocol (FTP). A payment may be made by credit card or delivered by hand, by postage-paid mail, or by electronic bank transfer (EBT). Where a payment is delivered by EBT, the associated reporting required under section 5 shall be provided concurrently to Re:Sound by email.

(2) Anything mailed in Canada shall be presumed to have been received four business days after the day it was mailed.

(3) Anything sent by email, by FTP or by EBT shall be presumed to have been received the day it was transmitted.