



Producer-Writers Guild of America Pension Plan Writers' Guild-Industry Health Fund



Jim Hedges, Chief Executive Officer

TO: PARTICIPATING COMPANIES THAT ARE OR WILL BECOME SIGNATORY TO THE WGA 2011 THEATRICAL AND TELEVISION MINIMUM BASIC AGREEMENT

**RE: PRODUCER-WRITERS GUILD OF AMERICA PENSION PLAN
WRITERS' GUILD-INDUSTRY HEALTH FUND**

On May 2, 2013, we will enter the third period of the 2011 Minimum Basic Agreement (MBA).

- 3rd period May 2, 2013 through May 1, 2014

Minimums, including theatrical, network prime time, other than network prime time and daytime serial script fees will increase **1.75%** per year, compounded.

PENSION PLAN

The signatory Employer is required to contribute to the Plan an amount equal to **8%*** of all "gross compensation" (as that term is defined in Article 17 of the MBA) earned, paid, or due to writers. This rate is applicable to week-to-week and term reportable amounts as well as flat-deal contracts dated 5/2/13 or later. Optional services are reportable at the rate and ceiling in effect on the date the optional service is exercised (default to pay date if unknown). **The rate for all pilots and the first season of a new one-hour series will increase to 6.5%.**

**In each of the 2nd and 3rd periods of the contract, the Guild will have the sole discretion to divert 0.25% from minimums to the Pension Plan. The Guild exercised this option effective May 2, 2012, and May 2, 2013. The compensation minimum increase of 2% is reduced to 1.75%. The .25% is added to the pension contribution rate.*

The Employer must identify contributions related to pilots and the first season of a new one-hour series using either:

- the Project Type field on the Report of Contributions (Field 19)** using either code PILOT or NEW, as appropriate (whether submitted manually or electronically)
- Some other notification (e.g., email or correspondence) which accompanies the check or Report of Contributions (ROC) and clearly indicates the line items on the ROC which are exceptions from the 8% rate.

Failure to comply with this procedure will result in the Employer being charged interest on the delinquent contribution.

*** See Contribution Reporting Guide. If you need a copy, please contact Employer Compliance at employercompliance@wgaplans.org.*

For flat-deal contracts dated on or after February 13, 2008, the reportable ceiling for theatrical motion pictures and long-form television motion pictures and multi-part, closed-end series (MOW's, mini-series), which are 120 minutes or more in length, remains at **\$225,000** for a single writer or *bona fide* team of two writers or **\$450,000** for a team of three writers. Theatrical residuals are not reportable.

HEALTH FUND

The signatory employer is required to contribute to the Health Fund an amount equal to **8.5%*** of all "gross compensation" (as that term is defined in Article 17 of the MBA) earned, paid, or due to writers for guaranteed flat-deal writing services covered under the terms of a WGA Collective Bargaining Agreement, provided the writer's employment contract is dated on or after November 1, 2004 or is employed on a week-to-week or term deal. Optional services are reportable at the rate and ceiling in effect on the date the optional service is exercised (default to pay date if unknown).

For flat-deal contracts dated on or after February 13, 2008, the reportable ceiling for long form television motion pictures and multi-part, closed-end series (MOW's, mini-series), which are 120 minutes or more in length, remains at **\$250,000** for a single writer or *bona fide* team of two writers or **\$500,000** for a team of three (3) writers. The Health Fund reportable ceiling for theatrical motion pictures remains at \$250,000 for contracts dated on or after November 1, 2004. Theatrical residuals are not reportable.

**In the 2nd and/or 3rd periods of the contract, the Trustees may agree to increase or reduce the Health Fund contribution rate by up to 0.5%, in increments of not less than one-quarter (0.25%), by reducing or increasing minimums a corresponding percentage if they determine that additional contributions are needed/not needed to maintain the level of benefits in existence on May 1, 2011.*

TELEVISION REPORTING LIMITS (does not apply to MOW, mini-series as shown above)

Contributions are due and payable on **the greater of** (i) the aggregate of 2 ½ times the applicable minimum as set forth in the MBA, or (ii) the initial compensation agreed upon in the individual employment contract. The applicable minimum is the "Other than Network Prime Time" rate for the services being rendered. (See Article 13.B.7. of the MBA). Residuals are reportable up to the ceiling per project. Supplemental market residuals are not reportable unless the project was originally made for a Supplemental Market.

RATES AND CEILINGS

Guaranteed flat-deal employment (screenplays, episodic scripts, MOW's, etc.) is reportable at the contribution rate and ceiling in effect on the writer's contract date. **Optional services** are reportable at the contribution rate and ceiling in effect on the date the optional service is exercised (default to pay date if actual date is unknown).

WEEKLY AND TERM EMPLOYMENT

The Health Fund contribution rate payable on week-to-week and term employment is the rate in effect during the work week (see charts below for Article 14.K. "Writers Employed in Additional Capacities" a/k/a Writer-Producers/Showrunners/Hyphenates and Article 14.E.2. "Additional Capacity Television Development Writers").

ARTICLE 14.K. – 20 or more weeks	Weekly Reportable Pension and Health Amount	Pension Plan Rate	Health Fund Rate
May 2, 2011 – May 1, 2012	\$5,830	7.5%	8.5%
May 2, 2012 – May 1, 2013	\$5,932	7.75%	8.5%
May 2, 2013 – May 1, 2014	\$6,036	8%	8.5%

ARTICLE 14.E.2. – Additional Capacity Television Development Writers	Weekly Pension Reportable (\$250,000/year) Effective 5/2/11	Weekly Health Reportable (\$250,000/year)	Pension Plan Rate Effective 5/2/11	Health Fund Rate
May 2, 2011 – May 1, 2012	\$4,807.69	\$4,807.69	7.5%	8.5%
May 2, 2012 – May 1, 2013	\$4,807.69	\$4,807.69	7.75%	8.5%
May 2, 2013 – May 1, 2014	\$4,807.69	\$4,807.69	8%	8.5%*

SIDELETTER TO ARTICLE 14.E.2.

When a writer is employed under a development deal as stated in Article 14.E.2. and, under the same contract, is employed to perform Article 14.K. services on a series for which the writer receives additional money which is not creditable, contributions shall be payable as set forth in Article 14.E.2. for the full term of employment and shall be paid on the non-creditable Article 14.K. services, except for those periods of time when the writer is not performing development services and is receiving Article 14.K. compensation on the series outside of the Article 14.E.2. guarantee (a/k/a fresh cash). In that case, contributions shall be payable on the non-creditable Article 14.K. minimum, script fees, program fees and on 50% of the amount otherwise due under Article 14.E.2.

WHEN IS COMPENSATION REPORTABLE

Generally, **the writer's initial compensation is reportable in the month in which it is earned, not the month in which it is paid.** Residuals are reportable in the month in which the program re-airs, default to the month paid if air date unknown or not applicable. **Salary advances are reportable when the writer is paid. The Trusts will not bill for contributions unless we discover a delinquency. It is the responsibility of the Signatory Employer to make contributions in**

a timely manner. Please note, under ERISA, the Trusts are required to charge and collect interest on delinquent contributions.

PURCHASE OF LITERARY MATERIAL - IRC Section 401(a)(17)

Compensation for the purchase of literary material from a "professional writer" is reportable up to the IRS limit (\$245,000, effective 1/1/09) if the same writer is also hired to perform additional writing services such as a rewrite or polish on the project. Compensation for the purchase and hired services are reportable up to the ceiling per project.

NOT REPORTABLE

Options, clips, royalties, character payments, separated rights, interest, late fees, expenses, publication fees, trainee salary.

REPORTABLE

Story Editors, regardless of title (e.g. Story Supervisor, Creative Consultant, etc.) are 100% reportable.

Please contact the Trusts for more information.

BONUS

A bonus is reportable up to the ceiling per project (ceiling and rates determined by writer's contract date).

TEAMS

A *bona fide* two person writing team usually shares the compensation and ceiling equally. An unequal division of compensation requires the approval of the Writers Guild of America. The percentage of compensation paid to each writer will determine the allocation of the ceiling. For example, if a writer earns 75% of the reportable compensation, he/she is reported on 75% of the ceiling. A *bona fide* team of two writers is considered one writer for the ceiling calculation.

MEMBERSHIP

Membership in the Guild is not required for compensation to be subject to contributions. Because we are a Taft-Hartley Trust Fund, any writer performing covered services for a signatory employer is reportable. Please contact the Guild for more information if your writer is performing services outside the United States.

SERIALS COVERED UNDER ARTICLE 13.B.5. OF APPENDIX A

For serials covered under Article 13.B.5. of Appendix A, the reportable ceiling for a single writer or *bona fide* team of 2 writers per Company per calendar year is \$350,000 or \$700,000 per Company per calendar year for a team of three (3) writers.

10% OWNER REPORTING REQUIREMENTS

In order to curtail practices which appear to circumvent the intent of the Trust Agreements and create a drain on the assets of the Trusts, on January 1, 2001, the Board of Directors/Trustees adopted the following revised rules of the Trusts governing eligibility for benefits thereunder:

- Contributions on the Writer's compensation do not count toward the Writer's eligibility for benefits when the Writer directly or indirectly owns ten percent (10%) or more of the equity of the contributing employer*, or where a contributing employer is a non-profit entity as defined under Internal Revenue code, for which a writer is an officer, board member, director (or serves in another similar capacity of such non-profit), and the employer hires the Writer to perform only writing services unless an unrelated third party directly utilized and paid for the Writer's services. In no event shall contributions be due on amounts in excess of the amounts paid by the third party to the contributing employer for covered services.
- Contributions on the Writer's compensation do not count toward the Writer's eligibility for benefits when the Writer directly or indirectly owns ten percent (10%) or more of the equity of the contributing employer*, and the Writer performs writing and other services (other than under Article 14 of the Basic Agreement). Contributions do not count toward eligibility under this provision even if the contributing employer is hired by an unrelated third party.

Notwithstanding the above, contributions will count toward eligibility for benefits if the contract with the unrelated third party specifically states the amount allocated for such Writer's covered writing services. In this case, contributions shall be due on the greater of the amount so specified or the Basic Agreement's minimum for such writing services.

In addition, if the contract with the unrelated third party does not specifically state the amount allocated for such Writer's covered writing services, contributions will count toward eligibility for benefits when contributions are based on the **lower** of one of the following:

- (a) five percent (5%) of the total compensation the contributing employer received from the unrelated third party for producing **non-dramatic programming**** or ten percent (10%) of the total compensation the contributing employer received from the unrelated third party for producing **dramatic programming**, or
- (b) at least \$125,000***

In either case (a) or (b), the employer must contribute on at least the collective bargaining agreement's minimum for writing services.

In order for the Administrative Office of the Trusts to determine if contributions can be accepted, additional documentation, including but not limited to the following items, may need to be submitted for review:

PROOF OF UNRELATED OUTSIDE FINANCING
(check copies / wire transfers / bank statements)

LICENSE AGREEMENT BETWEEN SIGNATORY AND FINANCIER
(license agreement should contain an allocation for the writing services, if not, see (a) and (b) above)

EMPLOYMENT CONTRACT BETWEEN SIGNATORY AND WRITER

BUDGET
(with allocation for writing services and contributions)

EVIDENCE OF PAYMENT TO WRITER
(copy of canceled check, wire transfer or bank statement)

SCRIPTS AND OTHER LITERARY MATERIAL

*The term "indirectly owns...the equity of the contributing employer," includes (a) equity ownership by the Writer's spouse, the Writer's (or spouse's) parent, sibling or lineal descendant, or (b) funding of the employer by the Writer or the Writer's spouse, the Writer's (or spouse's) parent, sibling or lineal descendant.

**For this purpose, "non-dramatic programming" includes all types of programming other than those that are specifically dramatic in nature (e.g., comedy-variety, documentary, quiz and audience participation).

***The Fund's actuary estimated that contributions on reportable earnings in the amount of \$125,000 were the amount necessary in 2001 to pay the cost of the annual Health Fund coverage for an eligible active participant. Periodically, this figure will be adjusted to approximate the annual cost to the Health Fund of coverage. Note – the compensation amount in 2012 was \$152,054.

New Media – 100% Self-Funded Owner/Writer

- If the Owner/Writer does not receive any outside financing and is **fully self-funded**, contributions on the Owner/Writer's compensation will count towards the Owner/Writer's eligibility for benefits when there is a legitimate project produced and distributed. Contributions are payable upon first receipt of revenues**** and are deemed earned and due at that time. The

writing fee reportable amount would be 10% for Dramatic programming or 5% for Non-Dramatic programming based on the actual production budget.

****Revenues are fees received from an unrelated third party for availability or exhibition of the project, *i.e.*, program(s) or series, on New Media, including but not limited to, the internet and mobile devices (such as cell phones and PDA's).

Note: If the New Media Owner/Writer's project is not 100% self-funded, the "10% Owner Reporting Requirements" and "Other Reporting Requirements" provided herein will apply.

OTHER REPORTING REQUIREMENTS

- Contributions on the Writer's compensation do not count toward the Writer's eligibility for benefits when the Writer is employed for writing and other services (other than under Article 14 of the Basic Agreement) and the Writer's contract does not separate writing compensation from compensation for other services unless the employer contributes on the lower of:

(a) one hundred percent (100%) of the Writers' total compensation under the contract, or

(b) \$125,000***

***The Fund's actuary estimated that contributions on reportable earnings in the amount of \$125,000 were the amount necessary in 2001 to pay the cost of the annual Health Fund coverage for an eligible active participant. Periodically, this figure will be adjusted to approximate the annual cost to the Health Fund of coverage. Note – the compensation amount in 2012 was \$152,054.

If a project is strictly development, earnings may not be reportable. New projects that are created without a license agreement and/or budget may not be reportable.

Any questions as to whether certain earnings are "covered" should be directed to the Employer Compliance Department

Please call the Employer Compliance Department for more information on the Owner/Writer reporting requirements to confirm that your project is covered under these rules.

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Please contact the Contribution Processing Department for information regarding electronic submission of your Report of Contributions at (818) 846-1015, press "3", then "2" when prompted or at contributions@wgaplans.org.

You can obtain a copy of the reporting rules and report of contributions on the Contributions tab at wgaplans.org

If you have any questions, please feel free to contact the Administrative Office at (818) 846-1015, press "3", then "1" when prompted or at employercompliance@wgaplans.org.

Your call may be monitored or recorded for quality assurance.

Thank you.