



Royalty Distribution Policy Office of Research and Development Department of Veterans Affairs

Consistent with the objectives of the Stevenson-Wydler Technology Innovation Act of 1980, as amended, and the Technology Transfer Program's (TTP's) mission to Bring Research Advancements for Veterans to Everyone (BRAVE), this royalty distribution policy promotes the development and transfer of VA technologies and provides appropriate incentives to VA employees who participate in the technology transfer process through the distribution of royalty revenues and other payments to inventors and research centers within VA.

Royalty revenue or other payments ("Royalty Income") to the US Department of Veterans Affairs (VA) generated under licenses and assignments of inventions will be received, monitored, and distributed by the Veterans Health Administration (VHA) Technology Transfer Program ("TTP" or "Program"). Centralized compilation of royalty revenue data is required for evaluating and reporting on Program effectiveness and to ensure compliance with applicable Federal laws.

1. Royalty Income. Royalty Income includes any money, including running royalties, alternate or periodic minimum royalties, milestone payments, and licensing or assignment fees. Royalty income does not include reimbursements for the payments of patent prosecution costs or patent maintenance fees.
2. Government Ownership. For a VA inventor to receive royalties, the Government must have obtained an ownership interest to the invention, which interest may be made by a direct assignment or other determination of rights.¹
3. Royalty Distribution. VA may distribute royalties only to VA inventors (and their VA Medical Center (VAMC)) who were VA employees at the time of invention.² Each VA fiscal year, all Royalty Income received from a VA licensing agreement for an invention with a Government ownership interest shall be distributed to the VA inventor(s) until each inventor has received \$2,000. Thereafter, fifty percent of the remaining dollars will be distributed to the VA inventor(s) subject to a \$150,000 annual cap per inventor, unless the President approves a larger award.³ The remainder will be distributed to the VA inventors' VA Medical Center (VAMC) research budget. If the VA inventors' affiliations include multiple VAMCs, the remainder will be split among those VAMCs in proportion to the number of inventors affiliated with each at the time of the invention disclosure.
4. Multiple Inventors and VAMCs. Among multiple inventors or for multiple inventions that are licensed as a package, personal royalties will be allocated among the inventors in equal shares. Where inventorship differs across multiple inventions, royalties may be distributed either *pro rata* based on the number of inventions licensed, or according to individual royalty terms for an invention as written in the licensing

¹ See 37 C.F.R. 501.6.

² Only a VA employee can be a VA inventor. VA Employees include Full-Time, Part-Time, Intergovernmental Personnel Act (IPA), and Without Compensation (WOC) employees of VA.

³ See 15 U.S.C. § 3710c(a)(3).



agreement. Inventorship is based on US Patent Law. Any disputes regarding royalty distribution shall be resolved by TTP.

5. Leaving VA. Personal royalty distributions continue after the inventor departs or retires from VA. The VAMC portion continues to go to the VAMC where the invention originally took place. If an inventor is deceased, the personal royalties will be distributed to the inventor’s estate or trust. TTP will make reasonable efforts to obtain the necessary information to distribute royalties to the estate. Subject to applicable law, if TTP is unable to obtain the necessary information from the inventor’s personal representative or estate, the royalties to be distributed shall be recalculated without participation of the inventor’s estate. If the necessary information is provided later, the inventor’s estate will be included in future royalty distributions, but past royalties will not be restored. It is the responsibility of the inventor’s personal representative or estate to provide TTP with the required information.
6. Vendors. Inventors must become a VA vendor to receive royalty distributions. Employees should contact their VA facility finance office or TTP to file the necessary paperwork to become “vendorized.” Distributions shall be made only via Electronic Funds Transfer (EFT).
7. Affiliates. A VA inventor who also holds an appointment at a VA academic affiliate may also receive a royalty payment in their role as an employee of the affiliate. These payments are separate and distinct from any payment made to VA employees by VA. In some cases, the affiliate may manage patenting and commercialization of an invention jointly owned with VA. In such cases, the affiliate will directly transfer payments to VA for VA’s share of royalties from invention commercialization. VA will pay VA employees (full-time, part-time, Intergovernmental Personnel Act, and Without Compensation) in accordance with this policy.
8. Rights. Inventors may voluntarily waive their right to receive any royalties. Inventors may not be entitled to royalties if the inventor has an equity stake or other significant financial interest in the licensee. In such cases, the inventor’s VA Medical Center shall additionally receive the VA inventor’s share.

Example 1	Example 2
<p>FY 20: \$10,000, 3 VA Inventors, 1 Licensed Patent</p> <p><u>Step 1:</u> First \$2,000 to each inventor + 50% of the remainder: \$2,000 plus $(\\$4,000 * .50)/3 = \\$2,000 + \\$666.67$ per inventor. Each inventor receives a total of \$2,666.67.</p> <p><u>Step 2:</u> 50% of the remainder to the VA Medical Center research budget: $\\$4,000 * .50 = \\$2,000$ for VAMC</p> <p><u>Summary:</u> Each inventor receives \$2,666.67. The VAMC receives \$2,000.</p>	<p>FY 20: \$10,000, 2 Patents with different inventorship. Patent 1: Inventors A, B. Patent 2: Inventor A only.</p> <p><u>Step 1:</u> First \$2,000 to each inventor of a licensed invention.</p> <p><u>Step 2:</u> Divide the remainder (\$6,000) equally across Patent 1 and Patent 2 (\$3,000 each) and distribute for each as in Example 1.</p> <p><i>For Patent 1:</i> 25% to Inventor A, 25% to Inventor A’s VAMC, 25% to Inventor B, 25% to Inventor B’s VAMC.</p> <p><i>For Patent 2:</i> 50% to Inventor A, 50% to Inventor A’s VAMC.</p> <p><u>Summary:</u> Inventor A receives \$4,250 and Inventor A’s VAMC receives \$2,250. Inventor B receives \$2,750 and Inventor B’s VAMC receives \$750.</p>