

## Getting the Royalties You Deserve

Finally, the day you've been waiting for! You are now a published author! It's time to sit back and watch the royalties roll in.



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While this may be the case for some authors, I have yet to meet an author who can easily determine whether the payments on his or her royalty statements are accurate. I have rarely seen actual suspicion of fraud on the part of an author, but rather I have witnessed a sense of "not knowing." The imbalance in power between author and publisher seems to begin with the complexities of the publishing agreement. Unless an attorney is involved in the process, authors often accept the terms in the agreement as standard without questioning specific terms.

Royalty calculations should be relatively straightforward. That is, the royalties should be as simple as the royalty rate agreed on in a publishing contract for the per-unit sale multiplied by the number of books sold by the publisher. However, nothing is ever simple in the publishing industry these days. These days, it is necessary to add in escalation clauses, various rates for different sales categories or channels, co-authorship, packaged products, electronic materials, abridgements, agreed-upon deductions, returns for reserves, and specific definitions of earnings. The calculation of royalties is now much more complicated. Adding to the complexity is that legacy reporting systems inside publishing houses may not be sufficiently equipped to handle complicated royalty calculations, leaving more of the work subject to human error.

A detailed analysis of the royalty statement, even by an accounting professional, will not help an author determine whether a royalty statement is accurate. Royalty statements do not include all the information needed to determine their accuracy.

To test the veracity of royalty statements, authors need detailed information that is not traditionally included on a royalty statement, including the following:

## INSIGHTS

- Inventory information related to the printing and ultimate sale or disposal of books.
- Information related to the sale and distribution of electronic content.
- Underlying sales and return records.
- The publisher's list of all ISBNs associated with an author and an indication of which ones bear royalties.
- Subsidiary-rights agreements and records of monies received for these contracts.
- Information related to the allocations of components (e.g., a DVD with a book or a study guide with a textbook) included in packaged or bundled sales.

Authors may find themselves in a situation where the publisher with which they are working is not providing timely or satisfactory answers to these relevant questions. A disconnect between what is reported on the royalty statements and the author's understanding of sales in the market is the result. Authors may notice unexplained trends on their royalty statements with respect to units, territories, or types of sales. There may also be unexplained deductions on the royalty statements, or royalty payments may simply grow smaller each reporting period, despite strong praise from the publisher's marketing department.

## What can authors do?

They can continue to lose money or they can engage a third party to perform a royalty audit.

A royalty audit is the review of a publisher's underlying books, records, and systems used to calculate the royalties an author is paid. Royalty audits are performed by specialized auditors, often accountants, who have experience in this type of examination. The overall purpose of a royalty audit is to ensure that an author's royalties have been calculated and paid in accordance with the terms of the publishing agreement. After the examination, the auditor will write a report of their findings, including, if applicable, a calculation of amounts due to the author.

Authors should select an auditor they trust. A CPA designation is a good indication as to an auditor's level of skill and training. If the author suspects large amounts of unreported sales, a CPA with a focus in forensic accounting may be required to go beyond the scope of an audit and perform an investigation. If an author believes that the relationship with the publisher may become contentious and/or lead to litigation, an accountant with a background in litigation support and expert testimony may be the best choice. The auditor should always be objective and independent. Selecting such an auditor will ensure that the results of the audit "hold up" and will be accepted by the publisher.

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**IN MY EXPERIENCE,  
AUTHORS' ROYALTY UN-  
DERREPORTING AVERAGES  
FROM 10 TO 20 PERCENT  
OF REPORTED EARNINGS.**

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Many auditors provide their services on a contingent-fee basis. This means that the auditor's fee will be based on a percentage of the audit findings and no payment is due until the payment is made by the publisher to the author. In situations where an audit is not expected to result in large findings, but the initiation of an audit is sought for strategic or other business reasons, auditors may choose to work with clients by charging an hourly rate or a fixed fee. Discussions between authors and auditors will need to happen to review both royalty statements and publishing agreements, and are usually free of charge in advance of an audit.

## INSIGHTS

Authors may be hesitant to assert their audit rights for fear of upsetting the relationship they have with their publisher, but they should remember that their publishing agreement serves as the codification of a business relationship. Publishers are regularly faced with audit requests as part of the normal course of business. Authors should not fear retaliation, as they are legally entitled to a review of the underlying books and records supporting their royalty payments. Authors can be sure of the accuracy of their payments after they ask the questions they have the legal right to ask and receive the right information.

## ABOUT US

Ankura is an expert services firm defined by *HOW* we solve challenges. Whether a client is facing an immediate business challenge, trying to increase the value of their company or protect against future risks, Ankura designs, develops, and executes tailored solutions by assembling the right combination of expertise. We build on this experience with every case, client, and situation, collaborating to create innovative, customized solutions, and strategies designed for today's ever-changing business environment. This gives our clients unparalleled insight and experience across a wide range of economic, governance, and regulatory challenges. At Ankura, we know that **collaboration drives results**.