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Artists' resale royalty scheme: art trade checklist

6 May 2010



More information

Copyright Agency Limited
Level 15, 233 Castlereagh Street,
Sydney NSW 2000

Tel: 1800 066 844
Fax: +612 9394 7601

Email: resale@copyright.com.au
Website: www.copyright.com.au

This checklist is for people and companies in the business of dealing in artworks, including commercial galleries, auction houses, art dealers, operators of online art auctions and people in the business of selling artworks online. It is also for bodies such as public galleries and museums that sell artworks that they have acquired through purchase, gift or bequest. We have referred to all these bodies as “art market professionals” (the term used in the resale royalty legislation).

This information sheet is for guidance only. It is not legal advice.

Commencement date and engagement of CAL

The artists' resale royalty scheme comes into effect on 9 June 2010.

The government has engaged Copyright Agency Limited (CAL) to administer the scheme. CAL has two main roles:

- to collect information about all commercial resales that take place after 8 June 2010 (whether or not a royalty is payable); and
- to collect and distribute royalties for the resales on which a royalty is payable.

How does the resale royalty scheme affect art market professionals?

From 9 June 2010, you need to:

- ensure that sellers know what information they must report to CAL following a resale, or report that information yourself;
- respond to requests from CAL for information about resales; and
- if a royalty is payable, ensure that it is paid (by you, the buyer or the seller).

What information must be reported?

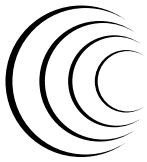
Sellers – directly or through you – must report, within 90 days of a resale:

- a description of the work (so CAL can check that it is an “artwork” eligible for the royalty);
- the date it was sold;
- when the seller acquired the work (this is relevant to determining whether or not the royalty is payable); and
- the sale price; and
- the art market professional involved.

You or the seller will also need to report other information if you know it, such as:

- the title of the work;
- the artist;
- whether the artist is living or dead and, if dead, the date of death; and
- the artist's nationality.

CAL can also ask you for information about the buyer and/or seller in order to ensure payment of royalties. This will not be necessary if the royalty has been paid.



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Make a list of stock held at 8 June 2010

We suggest that you make a list of stock held as at 8 June 2010. The list should at least include a description of the work, and (if known) its title. Other information, if you know it, would include:

- artist's name;
- date you acquired the work;
- whether you own the work or hold it on consignment; and
- any features to assist with identification (e.g. dealer's identification mark on back of painting).

We suggest that on, or accompanying the list, there is a statement by the director along the following lines:

I [name of director], Director of [name of organisation] state that this is a list of stocks held by [name of organisation] on [date].

This statement should be signed and dated. You may also want to have the signature witnessed (for example, by your accountant), and you may want to provide the original to someone like your accountant for safekeeping.

You are not obliged to provide the list to CAL, but if you do, it will help CAL determine which transactions require payment of the resale royalty.

We suggest your clients make similar lists.

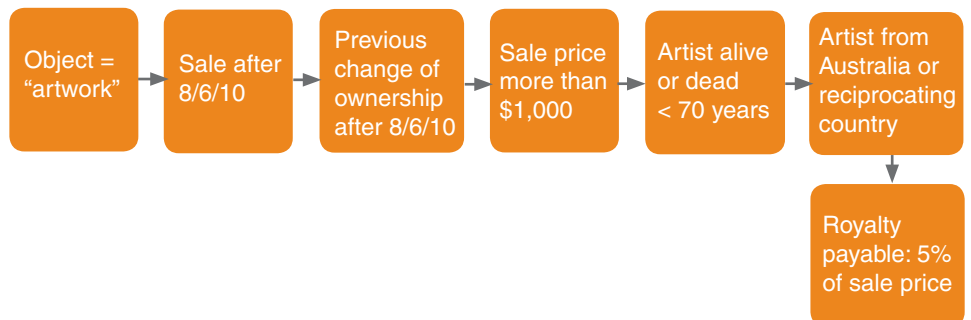
How will art market professionals report?

By 9 June, CAL will have launched the resale royalty website, www.resaleroyalty.org.au. The website will, amongst other things, enable art market professionals to provide information to CAL online. The website will allow for both individual reporting of sales and for upload of documents with information about multiple sales, such as spreadsheets.

There may be more efficient ways, from your point of view, to report this information to CAL. If so, please contact CAL so we can talk to you about the best way for you to meet your obligations having regard to your existing business systems.

When is the royalty payable?

The following is a summary of when the resale royalty is payable on a resale. There is information about each of these criteria in our information sheet *Artists' resale royalty: what it means for the art trade*, available at http://www.copyright.com.au/Latest_News/Resale_Royalty_Scheme_Information_for_Art_Dealers__1.aspx.



Who has to pay the royalty?

The buyer, seller and art market professional are jointly responsible to ensure the royalty is paid. If the royalty is not paid, CAL can take enforcement action against one or all of these.

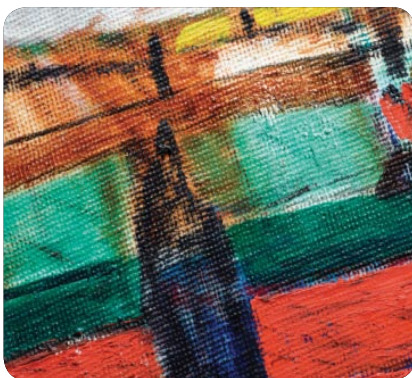
More information

See CAL's webpage for the art trade at http://www.copyright.com.au/Latest_News/Resale_Royalty_Scheme_Information_for_Art_Dealers__1.aspx.

You can also ask us for more information by:

- emailing us at resale@copyright.com.au; or
- phoning 1800 066 844

Contact people at CAL for the resale royalty scheme include Arlene Adams, Zoë Rodriguez and Libby Baulch.



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