

Artists' resale royalty scheme: information for artists

14 December 2011

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

About the resale royalty scheme

- the scheme started on 9 June 2010
- a 5% royalty is payable on certain resales of artworks for \$1,000 or more (including GST)
- the Australian government has appointed Copyright Agency to manage the scheme

What do I need to do?

Check that we have current contact and payment details for you, so that we can easily find and pay you if we collect a royalty for you.

You can register your details online at www.resaleroyalty.org.au.

Otherwise contact our Visual Arts Manager, Tristan Chant, at resale@copyright.com.au, or phone 1800 066 844.

What artworks are covered?

The types of artworks covered include batiks, carvings, ceramics, collages, digital artworks, drawings, engravings, fine art jewellery, glassware, installations, lithographs, multimedia artworks, paintings, photographs, pictures, prints, sculptures, tapestries, video artworks and weavings.

Limited editions are covered, provided each copy is original and authorised by the artist.

Which artists are covered?

The scheme applies to living artists, and artists who have died in the last 70 years.

When is a royalty payable?

A royalty is payable if:

- the seller did not own artwork on 8 June 2010;
- the work resells for \$1,000 or more (including GST);
- the resale was not a private sale from one individual to another;
- the artist is an Australian citizen or resident;
- if the artist has died:
 - it was less than 70 years ago; and
 - there is a beneficiary or estate with a connection to Australia.

At the moment, the scheme only applies to artists who are Australian citizens or residents. It will be extended, however, to artists from other countries that also have resale royalty schemes.

What about resales overseas?

We are establishing reciprocal arrangements with other countries that have resale royalty schemes, such as France, Germany and the United Kingdom. When the arrangements are in place, royalties will be payable on Australian works sold in those countries.

What is Copyright Agency's fee?

By arrangement with the government, our administrative fee is up to 10% of the royalty collected. We are required to pay GST on our administrative fee, which we deduct from the royalty. An artist who is registered for GST can claim that GST on their tax return.

What information is available about resales?

Under the legislation for the scheme, we have to display information about recent resales on the resale royalty website. You can see recent resales by clicking the 'View resales' button.

We display the name of the artist, the title of the work, and a description of the work.

What if I don't want to receive resale royalties?

Each time one of your works is resold, we display information about it on our website. When we upload that information to our website, we wait 21 days before sending an invoice. In that 21 day period, you can instruct us not to collect the royalty for you.

What if I want to collect a resale royalty myself?

If you want to collect a royalty yourself, you must instruct us to not to collect the royalty for you, within 21 days of our displaying information about the resale on our website. Provided you know who is responsible for paying the royalty (that is, the seller and/or the art market professional), you can approach them for payment of the royalty.

We have strict obligations under the legislation in relation to information we receive about resales. We need the permission of the people to whom the information relates to disclose that information to anyone else.

You must notify us each time you do not want us to collect a royalty for you. The legislation does not allow us to act on a notification for all future resales.

What if copyright has expired?

In some cases, yes. The resale royalty lasts for the artist's lifetime plus 70 years. This is also the period of copyright protection for most artworks, but not for all.

For example, copyright in all photographs taken before 1955 has expired, but a royalty could be payable on the resale of a limited edition of a photograph taken before 1955 if the photographer has been dead for fewer than 70 years. To give another example, copyright in a painting whose artist died in 1954 has expired, but resale royalties will be payable on the painting until 2024.

Use of this information sheet

Check www.resaleroyalty.org.au for the terms of use for this information sheet, and to make sure that this is the most recent version.