

Artists' resale royalty scheme: information for buyers and sellers

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

About the artists' 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 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.

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

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.

How does the scheme affect sellers?

If you sell an artwork, you must make sure that:

- certain information about the resale is reported to us; and
- if a royalty is payable, it is paid.

The only resales that don't have to be reported are:

- private sales between individuals, where no agent is involved; and
- resales for less than \$1,000.

What information must be reported?

Sellers must provide sufficient information to enable us to work out:

- if a royalty is payable; and
- if it is, who is liable.

To work out if a royalty is payable, we need information about some, and in some cases all, of the following:

1. the sale date;
2. whether the seller owned the work on 8 June 2010 or acquired it later;
3. the sale price;
4. a description and/or image of the work;
5. the title of the work;
6. the name of the artist;
7. whether the artist is living or dead and, if dead, the date of death; and
8. the artist's nationality or residency.

In some cases, sellers may not have information about some or all of the last four matters. Where we receive insufficient information, there is a presumption that a royalty is payable.

What is the process for reporting?

You can report the information:

- yourself; or
- via an agent (the gallery, dealer or auction house involved in the resale).

To report the information yourself:

1. Go to www.resaleroyalty.org.au;
2. Click the "Register" button, complete the online form with your contact details and register to set up a secure login;
3. Provide information about commercial resales by:
 - completing the online form; or
 - uploading a document, such as an Excel spreadsheet, with information about multiple sales.

If you report via an agent, you need to tell the agent whether you owned the work on 8 June 2010, or whether you acquired it later.

We do not need information about your identity provided we receive sufficient information from your agent about the resale, and any royalty is paid.

If necessary, however, we can seek additional information from sellers, buyers and art market professionals to help us work out if a royalty is payable and, if it is, who is liable to pay.

When is a royalty payable?

A royalty is payable if:

- you did not own the artwork on 8 June 2010;
- the work resells for \$1,000 or more;
- 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.

Who has to pay the royalty?

The seller and the seller's agent are jointly responsible to ensure the royalty is paid. If a royalty is not paid, we can take enforcement action against either of these.

In most cases, we receive royalty payments from the agents. However, if a seller provides inaccurate information that leads to a determination that a royalty is not payable, and we subsequently learn that a royalty is payable, we will seek payment of the royalty from the seller.

If there is no agent involved, the buyer is jointly responsible, with the seller, to ensure the royalty is payable.

Does a resale have to be reported if there's no royalty?

Yes, unless:

- the sale price (including GST) was less than \$1,000; or
- the resale was a private sale from one individual to another.

Is GST payable on the 5% royalty?

No.

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.

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.