

Information for artists

June 2015

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

About the resale royalty scheme

The artists' resale royalty scheme started on 9 June 2010. Under the scheme:

- commercial resales of artworks over \$1,000 (including GST) must be reported; and
- a 5% royalty is payable on some resales.

The Australian government appointed the Copyright Agency to manage the scheme.

Key features of the scheme are:

- it applies to resales of works created both before and after 9 June 2010;
- it applies to a range of original artworks, including limited edition prints authorised by the artist;
- all resales over \$1,000 must be reported, whether or not a royalty is payable;
- a royalty is not payable on the first transfer of title after 9 June 2010;
- a royalty is not payable on resales for under \$1,000 (including GST); and
- the scheme will be extended to artworks from countries that have similar schemes.

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, or our Indigenous Communications Coordinator, Trish Adjei, at resale@copyright.com.au, or phone 1800 066 844.

Which artworks?

Artworks covered include artists' books, 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.

Manuscripts, architectural drawings and plans are excluded.

The artwork must have been:

- created by the artist; or
- produced under the authority of the artist.

A limited edition reproduction, such as a numbered print, is covered if its production was overseen by the artist.

Mass-produced items, such as posters, are excluded.

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 the artwork on 8 June 2010 (i.e. acquired the artwork after that date);
- the work resells for \$1,000 (including GST) 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.

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 the Copyright Agency's fee?

By arrangement with the government, from 1 July 2015, our administrative fee is up to 15% of the royalty collected. We are required to collect GST on our administrative fee, payable to the Government, 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.