

Information for buyers and sellers

June 2015

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

About the artists' 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 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 artwork acquired before 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.

How does the scheme affect sellers?

If you resell 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 following don't have to be reported:

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

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.

What information must be reported?

Sellers must provide sufficient information about a resale to enable us to work out:

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

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

1. the sale date;
2. whether the seller acquired the work after 8 June 2010;
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 deceased and, if deceased, the year of death; and
8. the artist's nationality or residency.

In some cases, you or the seller 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.

Sellers can report through an agent, such as a gallery or auction house.

If we receive sufficient information from the agent, and any royalty is paid, then we do not need information about the seller or buyer.

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, by whom.

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:

- 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.

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.

The royalty is 5% of the sale price (including GST). There is no GST on the royalty itself.

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.

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.