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Artists' resale royalty scheme: information for art market professionals

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More information

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

The artists' resale royalty scheme, created by the *Resale Royalty Right for Visual Artists Act 2009* (the Act), started on 9 June 2010.

The Australian Government has appointed Copyright Agency Limited (CAL) to administer the scheme.

The scheme requires:

- Information to be reported to CAL about commercial resales of artworks (even if a royalty may not be payable); and
- payment of a 5% royalty on certain resales.

How does the resale royalty scheme affect you?

The scheme imposes legal obligations on "art market professionals", who include commercial galleries, auction houses, art dealers, online art auctions and sales, and other people in the business of selling artworks.

You need to:

- make sure that your sellers know that they need to report certain information about resales of artworks to CAL, or report that information yourself; and
- if a royalty is payable, make sure that it is paid (by you, the buyer or the seller).

What information must be reported?

Sellers must provide sufficient information to enable CAL to determine:

- if a royalty is payable; and
- if it is, who will pay it (if not the art market professional).

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

If CAL receives sufficient information from the agent, and any royalty is paid, then CAL does not need information about the seller or buyer.

If necessary, CAL can seek additional information from sellers, buyers and art market professionals to help determine if a royalty is payable and, if it is, who is liable to pay.

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, and 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 making was overseen by the artist.

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



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What information must be provided?

To determine whether the royalty is payable, CAL needs information about some, and in some cases all, of the following:

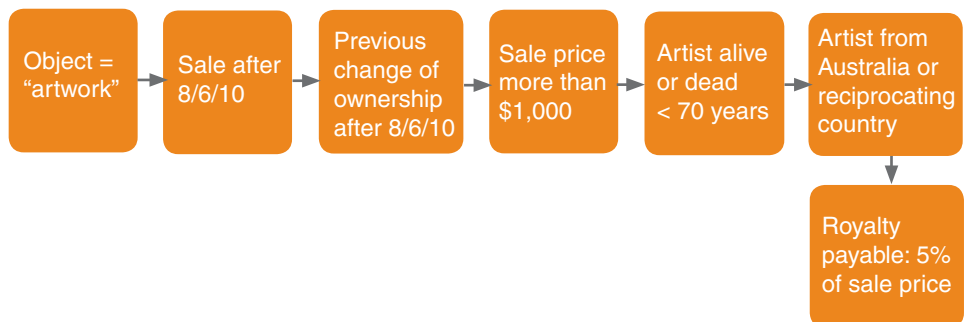
1. the sale date;
2. whether the seller acquired the work after 8 June 2010;
3. the sale price;
4. a description and/or image of the work;
5. the title of the work;
6. the name of the artist;
7. whether the artist is living or dead and, if dead, the date of death; and
8. the artist's nationality or residency.

In some cases, sellers may not have information about some or all of the last four issues, and CAL will need to seek that information from other sources.

What is the process for reporting?

1. Go to www.resaleroyalty.org.au;
2. Click the "Register" button, complete the form with your contact details and register; and
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.

When is a royalty payable?



There is more information about each of these criteria in CAL's *Artists' resale royalty scheme: guide for art market professionals* available from www.resaleroyalty.org.au.

Who has to pay the royalty?

The 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 both of these.

More information

More information available from www.resaleroyalty.org.au includes:

- *Artists' resale royalty scheme: guide for art market professionals*;
- *FAQs for art market professionals (currently only available online)*; and
- *Artists' resale royalty scheme: information for buyers and sellers of artworks*.

You can also ask us for more information by:

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

Use of this information sheet

Check CAL's website for the terms of use for this and other CAL information sheets, and to make sure that this is the most recent version of this information sheet.