



A guide to the Artist's Resale Right for visual artists

1. What is the Artist's Resale Right?

From 14 February 2006 visual artists are entitled to receive a resale royalty each time their work is resold by or to an art market professional. This law has been introduced in the UK following a European Directive. Certain conditions govern an artist's entitlement to benefit from this right.

2. Are all sales of art work covered?

No. Art works which are sold for the first time, such as your new work, will not qualify for the resale right (please see question 13). Also, sales which occur between private individuals, or between a private individual and a museum, will not qualify. The law is designed to cover only those art works which are sold in the secondary market by art market professionals.

3. Who pays the resale royalty?

The law says that the art market professional and the seller of the art work are "jointly and severally liable" for the payment of the resale royalty.

4. What is the qualifying threshold?

Art work must be resold for a certain value before it qualifies for the right. The qualifying threshold in the UK is €1000 (approx. £900). Because the threshold is defined in Euros, the equivalent in £s can vary daily according to the fluctuating exchange rate.

5. How much money will I get?

You will only qualify for this royalty if the sale price of your work reaches or exceeds the qualifying threshold of €1000 (approx. £900).

The rates are calculated as a percentage of the sale price and are set out in a sliding scale from 4% to 0.25%.

Portion of the sale price	Royalty Rate
From 0 to 50,000 €	4%
From 50,000.01 to 200,000 €	3%
From 200,000.01 to 350,000 €	1%
From 350,000.01 to 500,000 €	0.5%
Exceeding 500,000 €	0.25%

There are some important things to note about the royalty rates:

- The higher the value of the art work, the lower the overall rate
- The maximum royalty an artist can earn is capped at €12,500 which applies to works sold for €2million and above
- The scale is cumulative which means that where the sales price cuts across more than one royalty band, the royalty on each portion of the price must be calculated accordingly and added together to arrive at the final sum
- The royalty rates are dictated by the law and are not subject to negotiation
- The sale price and threshold are set out in the legislation in Euros, rather than in pounds sterling

If you want to make a quick calculation of resale royalties, you can use the royalties calculator which is available on our website. Any indication of the Artist's Resale Right royalty payable by DACS must be treated as an estimate until the actual sale price and exchange rate is known.

6. Will I receive money from sales abroad?

Yes. You are entitled to receive resale royalties generated from sales overseas wherever the resale right is recognised by the national legislation and applied.

DACS is part of a long-established network of agencies in 29 countries many of which are already collecting resale royalties relating to sales made in their country.

7. Will I get money from sales taking place via the internet?

Where the seller of the art work is acting as an art market professional and using websites such as eBay, a resale royalty will be payable to the artist. Art market professionals are required to supply information about these sales in order for royalties to be collected.

8. Which art works are covered by the Right?

Any work of graphic or plastic art which is protected by copyright. The law provides a list of examples which includes “picture, collage, painting, drawing, engraving, print, lithograph, sculpture, tapestry, ceramic, glassware, photograph”. However, this is not an exhaustive list, so if in doubt about whether or not your work qualifies, make sure you check with us.

9. Do art works made in limited editions qualify for the Right?

Yes. Any art work “which is one of a limited number made by the artist or under his/her authority” qualifies. The law does not state an upper limit on the number of items in an edition. Prints which are bought directly from a publishing house and then resold to the public do qualify for a resale royalty. Please refer to Categories A-C of the British Standards Classification of Prints (BS7876).

10. What about jewellery, silverware and furniture? Do these qualify for the Right?

If these pieces are unique and created by a named artist or craftsman they may qualify for resale royalties. If you work in any of these mediums please contact us. However it is unlikely that mass produced and branded

items will be covered by this Right. If in doubt, please check with us.

11. What happens if I make art work in collaboration with other artists?

The resale royalty is divided equally among artists that make work jointly (unless they agree different shares). For example, the artists Gilbert and George will each receive 50% of any royalties arising from the resale.

12. Why is my nationality important?

Artists must be “qualifying individuals” to benefit from the Resale Right. This is determined by nationality. Artists who are nationals of the UK, any other state within the European Economic area (EEA) or a number of other countries are entitled to receive resale royalties. If you have dual nationality you may also be entitled to a resale royalty.

If you are filling in a DACS registration form please ensure you enter both nationalities. For example if you are American yet also hold a British passport. DACS may require a copy of the relevant passport if or when required. For a list of qualifying nationalities visit www.dacs.org.uk

13. What is the “bought as stock exception”?

Art market professionals are not liable to pay royalties on the resale of a work bought directly from the artist and then resold within 3 years for a value of €10,000 (approx. £9,000) or less.

14. I am VAT registered. Does this affect me?

No. ARR is exempt from VAT so there are no VAT consequences of receiving a resale royalty. Any resale royalties you receive should not be included on your VAT return.

15. Can I waive or assign my Right?

No. The Right cannot be waived or assigned to anyone else. This means the Right will always be enforced when your works are resold, and the money cannot be paid to anyone other than yourself. What you do with the money once you’ve received it is entirely up to you.

16. Can I collect the resale royalties directly from the art market professional?

No. The law makes it clear that the "Resale Right may be exercised only through a collecting society". DACS is the leading collecting society managing the Artist's Resale Right in the UK.

17. Are art market professionals entitled to a share of resale royalties?

No. The law states that the Right is intended to benefit artists. Only the collecting society responsible for managing the royalties is entitled to deduct an administration charge from the royalty collected.

18. Will it damage my art dealer?

There is no evidence to suggest that the Resale Right will damage the art trade. Your dealer can choose whether to pay the royalty themselves or pass the cost on. DACS's system of collective management provides a simple administration system to help the art trade comply with the law without difficulties.

19. Why is it important to know if my art work is protected by copyright?

Only art works protected by copyright qualify for the Resale Right. Copyright is granted automatically to authors of original artistic works and lasts for the lifetime of the artist, plus 70 years after his/her death.

20. What happens to the Right when I die?

The Right lasts for as long as the copyright in your work (your life plus 70 years). You can leave the Right in your Will, but only to an individual or a charity. If you do not make a Will the Right will pass to your next of kin. Anyone inheriting the Right from you will not, be able to receive resale royalties until 2012.

21. Should I make provision for who is to inherit the Right after I die?

Even though the Right only applies to the estates of deceased artists in the UK from 2012, you should certainly consider making provision for the Right in your Will because of the requirement that the Right can only be left to an individual or a charity.

22. I am a beneficiary of a deceased artist. Will I qualify?

In the UK, not until 2012, when the Right will be extended to the beneficiaries of deceased artists whose work is still protected by copyright.

However, from February 14, 2006 legal beneficiaries of deceased artists whose works are still protected by copyright can receive royalties from sales that take place in a number of other qualifying countries, including France, Germany and Italy where the Right already applies to works of living and deceased artists.

In order to receive these royalties you need to register with DACS. Whether or not you qualify as a beneficiary will depend on whether you were left the resale Right in the artist's Will, or (if there was no Will) whether you are the artist's next of kin. You will also need to be a national of a qualifying country.

23. What is a collecting society?

Collecting societies are defined in law by the Copyright, Design and Patents Act 1988 and exist to manage copyright and related rights on behalf of creators such as artists, songwriters, authors and performers. Typically, collecting societies are membership organisations operating on a not for profit basis. The law makes it clear that only a collecting society, such as DACS, is entitled to manage the Artist's Resale Right on behalf of artists.

24. What is DACS?

Established by artists for artists, DACS (the Design and Artists Copyright Society) is the UK's leading visual arts rights management organisation. As a not for profit organisation, DACS translates rights into revenues and recognition for a wide spectrum of visual artists. We offer three rights management services – copyright licensing, Artist's Resale Right and Payback – in addition to lobbying, advocacy and legal advice for visual artists.

25. Do I have to register with DACS to receive resale royalties?

No. DACS is entitled to collect resale royalties for artists who have not mandated anyone to collect royalties on their behalf. However, we ask you to register to make it possible for us to pay your royalties within 30 days of collection as well as collect your resale royalties from eligible overseas sales. You can register at www.dacs.org.uk or call 020 7553 9057 if you require a registration form sent to you.

26. Do I have to join a collecting society?

You do not need to be a member of any collecting society to receive your resale royalty but you may join one if you wish. DACS is the only society legally entitled to collect resale royalties on behalf of artists we already represent, in addition to those artists who have not mandated any society.

27. What happens when there is more than one collecting society?

The law allows for more than one collecting society to collect the Resale Right and you can choose which society you wish to join. You will need to inform us in writing if you do decide to join an alternative collecting society as we will continue to collect for you until notified. You cannot join more than one collecting society.

28. My name doesn't appear on the Artist Search. What do I do?

In order for your name to appear on this database we need to know your nationality and date of birth. You can register these details with us at www.dacs.org.uk or call us on 020 7553 9057 if you require a registration form sent to you.

29. How does it work?

Our dedicated team monitor sales of art works that take place not just in London but throughout the UK and overseas. DACS sends out 'requests for information' to art market professionals on a quarterly basis asking them to declare the art works they have resold in that quarter. By law all art market professionals have 90 days to respond.

Once an art market professional submits a resale submission form we invoice them for the appropriate amount and on receipt of this money we pass this on to the artist.

30. When will I get my money?

DACS aims to pay artists who have registered with us within 30 days of collection. Visit www.dacs.org.uk for information about our next royalty payments.

31. What am I required to do?

Simply fill in a one page registration form and leave the rest to us. You do not need to track resales of your work through the art market.

32. Will the information I submit be treated confidentially?

Yes. DACS is registered with the information Commissioner as a data controller. All information submitted in the course of a resale right inquiry will be treated confidentially and subject to the provisions of the Data Protection Act 1998.

33. What does DACS charge artists for managing the resale right?

As a not-for-profit organisation, we retain a share of the royalties we collect on behalf of artists to cover our operating costs. For Artist's Resale Right royalties collected in the UK and overseas we retain 15%.

34. My question doesn't appear in this list. What do I do?

We will do everything we can to answer your question so do get in contact. Contact us on 020 7553 9057 or email arr@dacs.org.uk.

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