

Artists & Visual Creators

Artist's Resale Right

1. What is the Artist's Resale Right?

From 14 February 2006 living 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 the Artist's Resale 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 also see the answer to question 12). 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. In practice, we expect that the art market professionals will pay the royalty. However, the dealer, gallery or auction house selling your work may choose to pass some or all of the cost of the resale royalty on to the person selling or buying the art work.

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 which is approximately £680. Because the threshold is defined in Euros, the equivalent in £s will vary from day to day according to the fluctuating exchange rate.

5. How much money will I get?

You will only qualify for a resale royalty if the sale price of your work reaches or exceeds the qualifying threshold of €1000 (approximately £680). 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 euro	4%
From 50,000.01 to 200,000 euro	3%
From 200,000.01 to 350,000 euro	1%
From 350,000.01 to 500,000 euro	0.5%
Exceeding 500,000 euro	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

resale royalty payable by DACS must be treated as an estimate until the actual sale price and exchange rate are 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 32 agencies in 27 countries many of which are already collecting resale royalties relating to sales made in their country. We have collected similar royalties for artists for a number of years. Money is already coming in from around the world.

DACS will make no charge to artists when we pay these royalties but money from sales overseas will be subject to a charge by these agencies, whose rates may vary from time to time.

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?

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 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 of their work.

11. 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. See www.dacs.org.uk/arr for a list of qualifying nationalities.

12. 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 (approximately £6,800) or less.

13. I am VAT registered. How does this affect me?

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.

14. Can I waive or assign my resale 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. Of course, what you do with the money once you've received it is entirely up to you.

15. 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.

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

No. The law makes it clear 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.

17. 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. The system of collective management operated by DACS provides a simple administration system to help the art trade comply with the law without difficulties.

18. 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. If you want to know more about copyright see www.dacs.org.uk.

19. 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, however, be able to receive resale royalties until 2010 at the earliest.

20. 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 from 2010 at the earliest, 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.

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

In the UK, not until 2010 at the earliest, 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 should register with DACS at www.dacs.org.uk/arr or phone 0845 410 3 410.

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.

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22. 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.

23. What is DACS?

The Design and Artists Copyright Society is the leading collecting society which manages the rights of artists in the UK. DACS was established in 1984 and represents 52,000 artists and their beneficiaries. We are a genuinely not-for-profit organisation. This means we employ a paid staff and have as a primary objective, something other than the generation of a profit. We are governed by a board of directors which includes several artists. See www.dacs.org.uk for more information about DACS.

24. Do I have to be a member of 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. **Visit our website at www.dacs.org.uk/arr to register for Artist's Resale Right.** You may wish to consider the other artists' services DACS provides. To find out more see www.dacs.org.uk.

25. Do I have to join a collecting society?

Artists do not need to be a member of any collecting society to receive their resale royalties, but may join one if they wish. DACS is the only society legally entitled to collect resale royalties on

behalf of the 53,000 artists we already represent, in addition to those artists who have not mandated any society.

26. 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.

27. What is the Artist's Resale Right service?

This web-based service has been set up by DACS to provide information about the Artist's Resale Right to artists and art market professionals. The service helps art market professionals determine which artists are entitled to a royalty, using the Artist Search, and calculate how much that royalty will be by using the Royalty Calculator.

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 securely via our website at www.dacs.org.uk/arr or call us on 0845 410 3 410 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 all 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 is committed to paying you your resale royalties as soon as possible. We promise to pay artists who have registered with us within 30 days of collection. Visit www.dacs.org.uk/arr for information about our next royalty payments.

31. What am I required to do?

All you need to do is fill in a simple one page form and leave the rest to us. We do not require you 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?

DACS only charges what it costs us to collect and pay. Our experience tells us we will not be able to determine these actual costs until we have been operating for some time.

We have announced that for the time being our administration charge is 15%. Until the true costs are known, we will guarantee to match any other rate set by any other organisation for all UK resale royalties collected on or after 14 February 2006.

Our administration charge will be set once we have properly assessed the costs. We will give artists plenty of notice should our rate change. At that time they are welcome to join another collecting society should they wish to.

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

Contact DACS by email on arr@dacs.org.uk or by phone on 0845 410 3 410 and we will do everything we can to answer your question.

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Artist's Resale Right is administered by the Design and Artists Copyright Society (DACS)
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