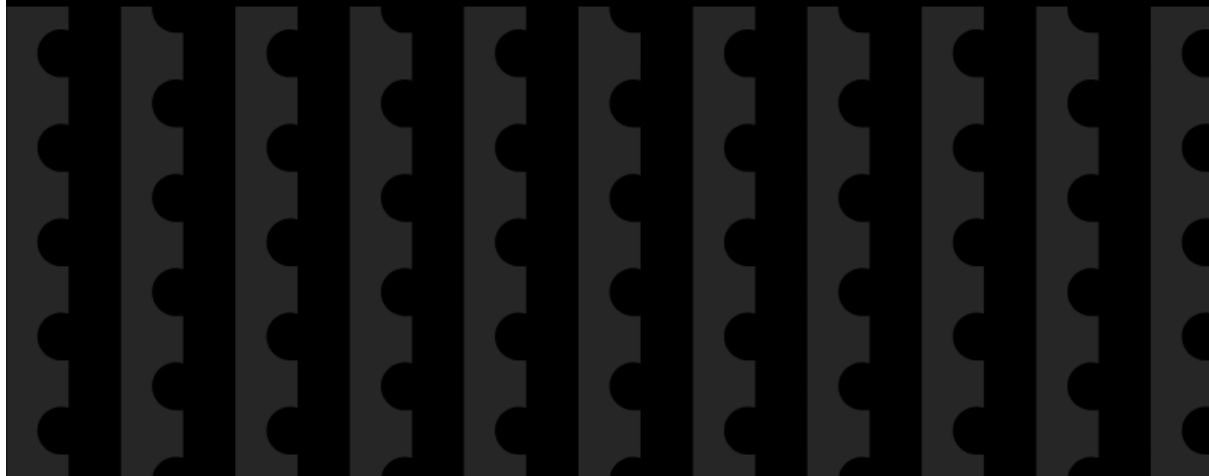


Artist Resale Royalty Guide for Artists & Successors



About this Guide

This Guide explains how the Artist Resale Royalty scheme is administered, including when a resale royalty is payable (see **Appendix 1** for a checklist), how RRA will collect & distribute the resale royalties, and what rights Artists & Successors have.

About the Artists' Resale Royalty scheme

The Minister for Arts Culture and Heritage has appointed Copyright Licensing New Zealand (**CLNZ**) as the collection agency for the purposes of the Artist Resale Royalty Scheme.

Resale Royalties Aotearoa Toi Huarau (**RRA**) is a wholly owned not-for-profit subsidiary of CLNZ. It will administer the scheme in accordance with the Resale Right for Visual Artists Act 2023 (**the Act**), its regulations.

Under the scheme, from 1 December 2024 a 5% resale royalty is payable to an “**eligible artist**” each time there is a “**qualifying resale**” of an “**original visual artwork**” by that artist. (see Appendix 1)

As the government appointed collection agency, RRA will:

- **help** Artists and Successors understand whether they are an “eligible artist” and how the Act and Regulations apply to them;
- **support** Artists and Successors to register with RRA; use its **best endeavours** to distribute the royalty to the eligible artists & successors in accordance with the Act and Regulations.

(see Part 3)

Part 1: How does the scheme affect Artists & Successors?

An “**eligible artist**” (or their successor) has a right to be paid a resale royalty each time there is a “**qualifying resale**” of an “**original visual artwork**” by that artist (provided the resale right has not “expired” at the time of resale).

Who is an “eligible artist”?

If you are:

- a New Zealand Citizen, or a person domiciled or resident in New Zealand; or
- a citizen or subject of, or a person domiciled or resident in, a “reciprocating country”

→ then you are an eligible artist.

At time of publication, this includes:

- Australia** and
- the **United Kingdom**.

Or, if the artist is *deceased* at the time the resale occurs but at the time of their death the artist was:

- a New Zealand Citizen, or a person domiciled or resident in New Zealand; or
- a citizen or subject of, or a person domiciled or resident in, a reciprocating country

→ then the deceased artist is an eligible artist. Although the eligible artist is deceased, the resale right is held by their successor(s) (meaning the successor(s) are entitled to receive payment of the royalty for a **qualifying resale**, provided the right has not expired and they meet the same criteria for eligibility (above) See Checklist 4 for more details of when the resale right expires for deceased artists.

Which “original visual artworks” are included in the scheme?

To be an “original”, the visual artwork must be one, or one of a limited number of copies, created by or under the authority of the (eligible) artist.

The work is a “visual artwork” if it is:

- cultural expressions of Māori or Pacific peoples;
- painting, drawing, carving, engraving, etching, lithography, woodcutting, printing (including a book of prints) ;
- sculpture, collage, modelling;
- craftwork, ceramics, glassware, jewellery, textiles, weaving, metalware, furniture;
- photography or video art;
- multimedia art;
- art created using computers or other electronic devices;
- ethnic or cultural art that is a variation of any type of work described above in the 2nd through final bullets.

See **Checklist 2**, in Appendix 1 for more details regarding “original visual artwork” in terms of the scheme.

What is a “Qualifying Resale” of an original visual artwork?

The scheme applies to all “Professional” resales, ie where one of the parties involved in the resale is either an “Art Market Professional”* or a publicly funded art gallery, library, archive or museum (GLAM), or is a “Voluntary qualifying resale”, ie where all parties involved in the resale agree to report the resale to RRA and pay an agreed upon royalty.

(Any sale after the initial transfer of ownership of the visual artwork, irrespective of whether the first sale was for money or not, is regarded as a resale under the scheme.)

If the “Professional” or “Voluntary qualifying” resale is for a value of NZ\$2,000 or more, and the resale occurs after December 1, 2024, then it is a “Qualifying Resale”

“Art Market Professionals” are responsible for reporting all qualifying resales of original visual artworks to RRA; and paying to RRA the resale royalty payable in respect of each qualifying resale. “Art Market Professionals” are defined as:

- (a) a person who carries on business as an auctioneer (within the meaning of [section 5\(3\)](#) of the Auctioneers Act 2013):
- (b) an art dealer:
- (c) an art consultant:
- (d) the owner or operator of an art gallery that deals in visual artworks:
- (e) any other person who is in the business of dealing in visual artworks.

See **Checklist 1**, in Appendix 1 for more information on “Qualifying Resales”.

Payment

When is the royalty distributed from Resale Royalties Aotearoa to the visual artist?

Once RRA has received the total royalty payment from the liable person(s) we are required to distribute to the right holder in a timely manner (provided the eligible artist or their successor can be found). We distribute 80% of the royalty collected to the eligible artist or their successor and retain 20% of the royalty for the purpose of funding RRA’s operations under the Scheme.

Tax Guidance

[Resale payments for artists \(ird.govt.nz\)](https://ird.govt.nz)

Artists are entitled to receive a payment each time their art is resold (a resale payment). These payments may be taxable. If you are an artist who was in business when your artwork first sold, you need to pay income tax on resale payments for that art. This is because resale payments are not taxed before they are paid to artists. RRA’s admin fee **“is a deductible expense”** for artists who are in business.

The current GST guidance from IRD is:

- The resale payment is exempt from GST when the art professional (for example an art dealer or gallery) passes it to the collection agency.
- The collection agency does not need to pay GST on the percentage of the resale payment that it keeps.
- The resale payment must include GST when the collection agency passes it to the artist, if the artist is registered for GST.

Full IRD Guidance is published here: [Resale payments for artists \(ird.govt.nz\)](https://ird.govt.nz)

Part 3: How will RRA engage with Artists & Successors?

Support Services

We offer **support services** to assist Artists & Successors to understand and exercise their rights under the Act and Regulations. This includes:

- **an email support service:** to assist Artists & Successors with questions regarding their rights under the Act. Please email our support service at kiaora@resaleroalties.co.nz. Query response time will aim to be within 3 working days in the case of New Zealand based eligible artists, and 10 working days for eligible artists based in a reciprocating country.
- **quick reference tools:**
 - for a visual flowchart of when a Resale Royalty is Payable (see Appendix 1).
 - for checklist definitions of important terms like “qualifying resale” (see Appendix 1).

Collecting & Distributing Royalties to Eligible Artists & Successors

RRA will:

- receive and verify reporting from respective Art Market Professionals of their qualifying resales;
- confirm and calculate the applicable resale royalty, and invoice respective Art Market Professionals;
- receive invoiced payment from respective Art Market Professionals;
- verify eligible artist(s) or their successor(s) and distribute royalty payments in accordance with the Act and Regulations.

More information

Additional information is available from www.resaleroalties.co.nz

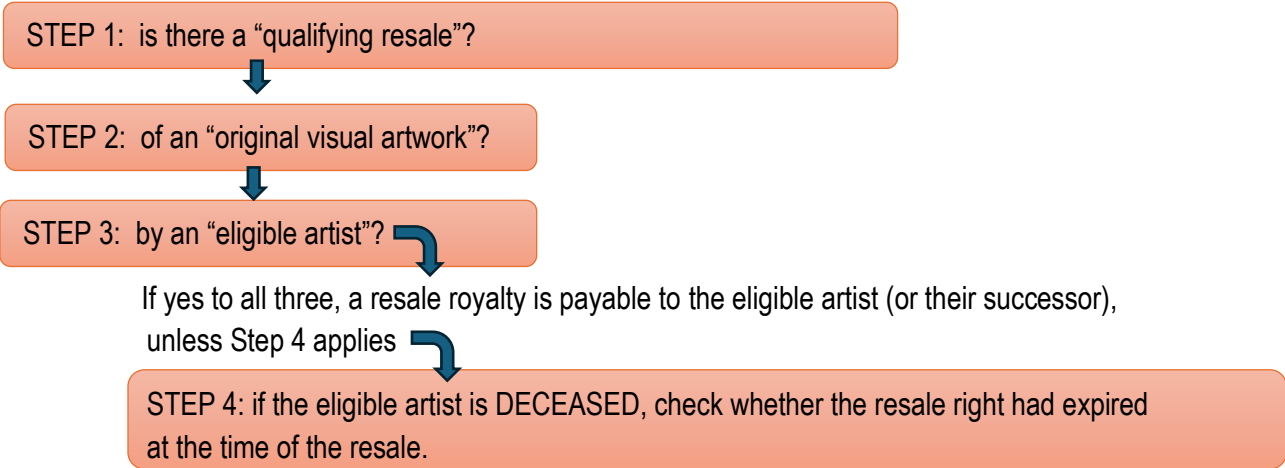
To talk to us please use the email address kiaora@resaleroalties.co.nz

APPENDIX 1 - FLOWCHART & CHECKLISTS:

When is a Resale Royalty Payable?

Summary: An “eligible artist” has a right to be paid a resale royalty each time there is a “qualifying resale” of an “original visual artwork” by that artist (provided the resale right had not “expired” at the time of resale).

Flowchart: Apply the above test in four steps:



Apply each step using the **checklists** below.

Additional support from RRA: If after applying these steps you’re uncertain or have questions:





- please email our support service at kiaora@resaleroyalties.co.nz;
- for eligible artists who consent, we will develop & publish a searchable directory of eligible visual artists on our website. (If an artist is not listed there, however, apply STEP 3 in the checklists below, or email us above).

STEPS 1 to 4: CHECKLISTS

STEP 1: Is there a “qualifying resale”?

Checklist 1: If all three boxes are checked, the resale is a “qualifying resale”

- The **resale value** must be \$2,000 NZD (excl. GST) or greater
- The contract for the resale must be entered into on or after the **commencement date** of the Act (1st December 2024)
- The sale must be **a “Professional Resale”** or **a “Voluntary Qualifying Resale”**

	
<input type="checkbox"/> at least 1 person involved in the resale is an “Art Market professional” (see p 3), or a publicly funded art gallery, museum, library, or archive that collects and displays artworks; and	<i>A “Voluntary Qualifying Resale” means that all parties to the resale agree the following in writing:</i>
<input type="checkbox"/> that person is either resident, incorporated, registered, or carrying on business in NZ; and	<input type="checkbox"/> what % of the resale value they agree will be payable to the artist as a resale royalty; and
<input type="checkbox"/> the resale relates to that person’s dealings in visual artworks that occur within New Zealand	<input type="checkbox"/> who will provide the relevant information to the Collection Agency.
 If you ticked all 3 boxes, the qualifying resale is a “Professional Resale”	 If you ticked all 3 boxes, the qualifying resale is a “Voluntary Qualifying Resale”

Note:

“Resale” does not include the first transfer of ownership of the artwork (irrespective of whether the first transfer of ownership was made for money or other consideration).

STEP 2: Of an “original visual artwork”?

Checklist 2.1: If any of the following boxes are checked, the work is a “visual artwork”:

- cultural expressions of Māori or Pacific peoples;
- painting, drawing, carving, engraving, etching, lithography, woodcutting, printing (including a book of prints) ;
- sculpture, collage, modelling;
- craftwork, ceramics, glassware, jewellery, textiles, weaving, metalware, furniture;
- photography or video art;
- multimedia art;
- art created using computers or other electronic devices;
- ethnic or cultural art that is a variation of any type of work described above in the 2nd through final bullets.

However, visual artwork **does not** include:

- a building* ; or
- a dramatic work* or musical work* ; or
- a literary work* , unless it is a compilation that includes a visual artwork.

*(*these terms are defined in s 2(1) of the Copyright Act 1993)*

Checklist 2.2: To be an “original”, the visual artwork must have been:

- Created by, or under the authority of, the artist; or
- One of a limited number of copies of visual artwork made by that artist or under their authority.

STEP 3: By an “eligible artist”?

Checklist 3.1: IF the artist is *alive* at the time the contract for resale is entered into: is the artist:

- a New Zealand Citizen, or a person domiciled or resident in New Zealand; or
- a citizen or subject of, or a person domiciled or resident in a “reciprocating country”

→ If you ticked either of these boxes, then the artist is an eligible artist.

At time of publication, this includes:

- Australia** and
- the **United Kingdom**.

Checklist 3.2: IF the artist is *deceased* at the time the contract for resale is entered into: at the time of their death was the artist:

- a New Zealand Citizen, or a person domiciled or resident in New Zealand; or
- a citizen or subject of, or a person domiciled or resident in, a reciprocating country

→ If you ticked either of the above, then the deceased artist is an eligible artist. Although the eligible artist is deceased, the resale right is held by their successor(s) (meaning the successor(s) are entitled to payment of the royalty, provided they meet the same criteria for eligibility (above).

STEP 4: if the eligible artist is DECEASED, check whether the resale right had expired at the time of the resale.

In the case of deceased eligible artists, their resale right may or may not have **expired**. A resale royalty will **only** be payable if the contract for the resale was entered into **on or before** the following **expiry dates** (as applicable):

- (where the artwork is by a single artist) - the expiry date is 50 years from the end of the calendar year in which the artist died
 - (where the artwork was created jointly by 2 or more artists) - the expiry date is 50 years passed from the end of the calendar year in which the last of those artists died.
- If the resale contract was entered on or before the expiry date, a resale royalty is payable.
→ If the resale contract was entered into after the expiry date, no resale royalty is payable.