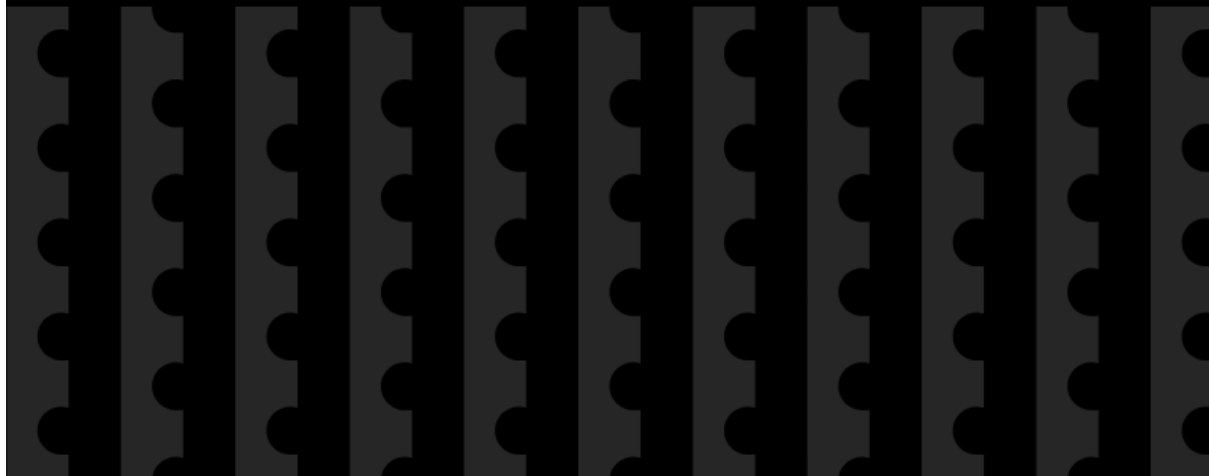


Artist Resale Royalty Guide for Artists & Successors



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 Resale Royalties Aotearoa Toi Huarau (**RRA**) as the collection agency for the purposes of the Artist Resale Royalty Scheme.

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 and its regulations (**the Act**).

Under the scheme, from 1 December 2024:

- **Resale Royalties are payable:** an “**eligible artist**” (or their successor) has a right to be paid a 5% resale royalty each time there is a “**qualifying resale**” of an “**original visual artwork**” by that artist.
(see Part 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 2)

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

When is a resale royalty payable?

An “**eligible artist**” (or their successor) has a right to be paid a resale royalty each time:

1. there is a “**qualifying resale**”;
2. of an “**original visual artwork**” by that artist;
3. provided the resale right has not “**expired**” at the time of resale.

➤ to see this represented as a **Visual Flowchart** please see **Appendix 1**.

Key Phrases:

➤ What is a “qualifying resale”?

Not every resale attracts a resale royalty. To see which resales are included, please follow **Checklist 1**, in Appendix 2.

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

To see if an artwork in question qualifies as an “original visual artwork”, please follow **Checklist 2**, in Appendix 2.

➤ Who is an “eligible artist”?

Only “eligible” artists (and successors) have a right to be paid a royalty. To know who qualifies as eligible please follow **Checklist 3**, in Appendix 2.

Deceased eligible artists:

An eligible artist can’t “alienate” (e.g. sell or transfer) their resale right during their lifetime.

However, after an eligible artist’s death, the resale right passes to their successor(s). This means successor(s) are entitled to payment of the royalty provided they meet the same criteria for **eligibility** and provided the resale right hasn’t **expired**.

➤ When does the resale right expire?

The expiry date is 50 years from the end of the calendar year in which the eligible artist dies.

A resale royalty will only be payable if the contract for resale was entered **into on or before the expiry date**.

→ If the original artist is deceased, then use **Checklist 4** to check **expiry dates**.

Part 2: Collecting and Distributing Payments

RRA will Collect & Distribute Royalties to Eligible Artists & Successors

All collection, administration, and distribution of royalties is managed by RRA.

RRA will:

- receive and verify **reports** from respective Art Market Professionals about their **qualifying resales**;
- confirm **eligibility** of artist(s) or their successor(s), and verify other criteria for a **resale royalty**;
- (if applicable) **calculate** the applicable resale royalty;
- **invoice** respective Art Market Professionals;
- **collect** invoiced payment from respective Art Market Professionals; and
- **distribute** royalty payments in accordance with the Act and Regulations.

How much is the resale royalty?

The amount is the same for both eligible artists and successors.

The royalty is calculated at 5% of the “resale value” (meaning the value given for the artwork under the contract for resale. See more about resale value in our FAQ [here](#)).

As a not-for-profit, RRA is required to retain 20% of the royalty for the purpose of funding its operations under the Act (e.g. verification, collection, and distribution), and distribute the remainder of the royalty to the visual artist or successor.

When is the royalty distributed from RRA 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 right holder can be found).

Registering your eligibility in advance greatly assists RRA to administer the scheme on your behalf. It assists RRA to identify, collect, & distribute your royalty payments to you in a timely fashion.

Please register your interest with RRA to ensure timely payment to you.

To register:

1. Click this [link](#) to complete the registration form, and confirm your contact details and eligibility; or
2. Go to www.resaleroyalties.co.nz, and select the ‘Register’ button,.

What responsibilities do Art Market Professionals have?

In summary, Art Market Professionals are responsible for:

- **Reporting**¹ any/all qualifying resales they are involved in, to RRA within 60 working days of the qualifying resale;
- **Paying**² to RRA the resale royalty payable in respect of each qualifying resale. (The **seller** is also jointly & severally liable for payment to RRA).

(For more information about how the scheme affects Art Market Professionals, see:

- our Guide [Information for Art Market Professionals](#); or
- additional resources and FAQ's available at <http://resaleroyalities.co.nz/art-market-professionals/>)

“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.*

¹ If there is no Art Market Professional involved in the resale, but the resale involves a publicly funded art Gallery, Library, Archive, or Museum (“GLAM”) then the GLAM must report the qualifying resale to RRA.

² This assumes that the Art Market Professional is acting as agent for the seller on the resale. In cases where there is no agent for the seller, then instead the buyer’s agent or the buyer will be jointly liable with the seller to make payment to RRA.

Additional support for 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@resaleroyalties.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:**
 - **Appendix 1: Visual Flowchart** of when a Resale Royalty is Payable.
 - **Appendix 2:** Checklists that explain important terms like:
 - **Checklist 1:** *What is a “qualifying resale”?*
 - **Checklist 2:** *Is the qualifying resale of an “original visual artwork”?*
 - **Checklist 3:** *is the original visual artwork by an “eligible artist”?*

Frequently Asked Questions for Artist’s and Successors:

Find answers to the most commonly asked questions here: <https://resaleroyalties.co.nz/artists/>

More information

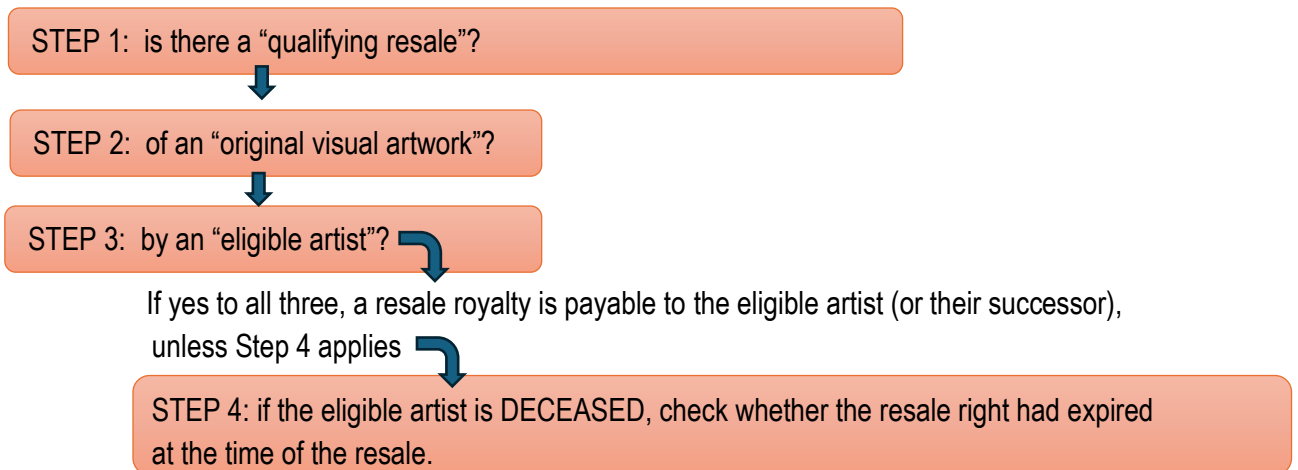
Additional information is available from www.resaleroyalties.co.nz

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

APPENDIX 1 – VISUAL FLOWCHART: 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 **four checklists** in Appendix 2 (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).

APPENDIX 2 – FOUR CHECKLISTS

Use these CHECKLISTS to apply STEPS 1 to 4



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”**

<ul style="list-style-type: none"> <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 	<p><i>Any resale other than a “Professional Resale” may be a “Voluntary Qualifying Resale” if all parties to the resale agree the following in writing:</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> that the resale is a qualifying resale for purposes of the Act; and
<ul style="list-style-type: none"> <input type="checkbox"/> that person is either resident, incorporated, registered, or carrying on business in NZ; and 	<ul style="list-style-type: none"> <input type="checkbox"/> what % of the resale value they agree will be payable to the artist as a resale royalty; and
<ul style="list-style-type: none"> <input type="checkbox"/> the resale relates to that person’s dealings in visual artworks that occur within New Zealand 	<ul style="list-style-type: none"> <input type="checkbox"/> who will provide the relevant information to the Collection Agency.
<p>If you ticked all 3 boxes, the qualifying resale is a “Professional Resale”</p>	<p>If you ticked all 3 boxes, the qualifying resale is a “Voluntary Qualifying Resale”</p>

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 resale royalty, provided the right has not **expired** (see Checklist 4), and provided they also meet the same **eligibility** criteria in Checklist 3.1).

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

Checklist 4: In the case of deceased eligible artists, their resale right may or may not have **expired** at the time of the resale. A resale royalty will **only** be payable if the contract for the resale was entered into **on or before** the following **expiry dates** (tick if 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, a resale royalty **is not** payable.