

## **The resale right was created in France in 1920.**

**A 2001 European directive, integrated by the act of 1 August 2006 and an order of 9 May 2007, extended it to galleries, antique dealers and on-line dealers, etc. from 1 June 2007.**

The resale right is the royalty received by creators of original graphic and plastic artworks when their works are resold by an art market professional.

This right is non-transferable which means that the artist cannot assign it, donate it or bequeath it.

Accredited by the French Ministry of Culture, ADAGP receives and handles declarations of sales covered by the resale right and collects and distributes the royalties to the artists and beneficiaries it represents.

Our website offers an informative and practical space for auction houses and various professionals to help them fulfil their obligations resulting from current legislation concerning the royalty right.

### **Legal provisions**

Article [L.122-8](#) [1] CPI

Articles [R. 122-2 to 122-12](#) [2] CPI

### Sales eligible for resale royalty

For a sale to be eligible for the resale royalty, it has to meet the following 7 cumulative conditions :

#### **Two conditions relating to artist :**

**1/** the artist must be a citizen of a member state of the European Union or a country that is part of the European Economic Area. However, other artists or their beneficiaries can benefit from the resale right if their country's legislation recognises the resale right of artists of the European Union (principle of reciprocity - See guide [list of countries](#) [3]) or if the artist has participated in French artistic life and lived in France for 5 years, with the agreement of the Culture Minister and after consulting a commission (assimilation).

**2/** the artist must be alive or have been dead for less than 70 years.

This is calculated from the end of the calendar year of the death. For example, the works of an artist who died on 22 March 1943 are covered by the resale right until 31 December 2013 inclusive.

In practice and if the date of death of the artist is not known, we can consider that works after 1860 are likely to be eligible for the resale royalty.

## **Two conditions relating to work :**

**3/** The resale royalty applies to graphic and visual artworks such as paintings, collages, paintings, drawings, prints (lithographs, engravings, ...), including those inserted into illustrated books, bindings, sculptures, tapestries, furniture and ornaments, ceramics, glassware, artistic jewellery, photographs and artistic creations on audiovisual and digital media.

**4/** Such works must be original in accordance with the resale right :

a) works created by the artist him/herself,  
b) limited copies, made by the artist him/herself or under his/her authority, in other words numbered or signed or otherwise duly authorised by the artist, for example :

- limited edition original prints produced from one or more plates.

There is no limit on the number of copies chosen. Prints appearing in books (modern illustrated, portfolio...) must also be taken into account

- sculptures limited to 12 copies, including numbered copies and artist's proofs

- tapestries and textile artworks, limited to 8 handmade copies, based on original designs provided by the artist

- enamelwork pieces, limited to 8 numbered copies and 4 artist's proofs, made entirely by hand and including the artist's signature

- photographs limited to 30 signed copies,

- artistic creations on audiovisual or digital media, limited to 12 copies.

## **Three conditions relating to sale :**

**5/** The resale royalty is due on any sale for 750 Euros or more, other than the first sale of the work, in which an art market professional – auction house, auctioneer, gallery, antique dealer, framer, on-line dealer – is involved as seller, buyer or broker.

**6/** However, as an exception to this, sales for a price under €10,000 made by a seller who bought the work directly from the artist less than three years before the sale are exempt.

**7/** The sale must have taken place in France or be liable for VAT there.

## Obligations of art dealers

### **Obligations relating to payment of royalty :**

The professional is liable for payment for a period of 5 years from declaring the sale to ADAGP (Article [2224](#) [4] of French civil code)

When it receives a payment demand from the beneficiary (artist, heir, collecting society), the professional must pay the resale royalty within 4 months from the sale or from receipt of the demand if this is after the sale.

If the professional does not receive a demand, it must inform ADAGP (which was accredited by the French Ministry of Culture on 10 August 2007) by registered letter, within 3 months after the end of the quarter during which the sale took place.

### **Information obligations :**

The art market professional must give the beneficiary or a collecting society all the information

necessary to the payment of the resale royalty, whether this relates to the artists or beneficiaries that have authorised the society to collect the resale royalty or to searches for unidentified beneficiaries (this last point was suspended on the publication of the ministerial order).

The authorised collecting society shall take all necessary measures to find the beneficiaries of the resale royalty.

In any event, the professional must keep this information for a period of 3 years after the sale.

#### Beneficiaries of resale royalty

The primary beneficiary is clearly the artist him/herself. Unlike other artist's property rights, the resale right is non-transferable, in other words the artist cannot sell, donate or bequeath this right.

However, he/she can authorise a collecting society to collect the amount of the resale royalty from art market professionals and then pay it to him/her.

On the death of the artist, the resale right is transferred to the artist's legal heirs (namely descendants, ascendants, collateral relations, excluding legatees, even universal) subject to the beneficial ownership awarded to the surviving spouse.

#### Amount of resale royalty

The sale price used as the base for collecting the resale royalty is, excluding tax, the price awarded by auction (for public auction sales) or the sale price received by the seller. It is calculated per work.

The rate applicable is:

- 4% for the prices up to 50,000 Euros
- 3% for prices between 50,000.01 Euros and 200,000 Euros
- 1% for prices between 200,000.01 Euros and 350,000 Euros
- 0.5% for prices between 350,000.01 Euros and 500,000 Euros
- 0.25% for prices over 500,000.01 Euros.

The amount of the resale royalty is limited to 12,500 Euros.

You can use our calculator to find out the amount of the resale royalty.

#### Procedure to be followed – Auction houses, Auctioneers

Send ADAGP the sale catalogue or, failing this, any information concerning the sale (at least the list of lots for sale and the name of the artists). This must be done before the date of the sale.

ADAGP will send you a sale declaration request, by email, for each sale.

You must make this declaration, by completing the [form](#) [5] provided and sending it to us at [droitdesuite@adagp.fr](mailto:droitdesuite@adagp.fr) [6] within four months of the sale.

Do not declare sales not eligible for the resale royalty.

The declaration relates to artists represented by ADAGP and artists not represented.

On receipt of the declaration, ADAGP will send you an invoice for the artists it represents, for payment within 30 days from its receipt.

#### Procedure to be followed – Gallery owners, On-line sales

Every three months, ADAGP will send you a declaration request for sales made during the past quarter. This may be done annually if your business is infrequently involved in such sales.

You must make this declaration, by completing the [form](#) [7] provided and sending it to us at [droitdesuite@adagp.fr](mailto:droitdesuite@adagp.fr) [6]:

- on 15 April for sales in the 1st quarter
- on 15 July for sales in the 2nd quarter
- on 15 October for sales in the 3rd quarter
- on 15 January for sales in the 4th quarter
- on 1 February for annual declarations.

Do not declare sales not eligible for the resale royalty.

The declaration relates to artists represented by ADAGP and artists not represented.

On receipt of the declaration, ADAGP will send you an invoice for the artists it represents, for payment within 30 days from its receipt.

#### Countries enforcing the resale right

See guide [list of countries](#) [3]

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#### Links

- [1] [http://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=85A369541D17337FAC09926CBA0DA0F4.tpdjo10v\\_1?idArticle=LEGIARTI000006278925&cidTexte=LEGITEXT000006069414&dateTexte=20130419](http://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=85A369541D17337FAC09926CBA0DA0F4.tpdjo10v_1?idArticle=LEGIARTI000006278925&cidTexte=LEGITEXT000006069414&dateTexte=20130419)
- [2] [https://www.legifrance.gouv.fr/codes/section\\_lc/LEGITEXT000006069414/LEGISCTA000006161709/2013-04-19/#LEGISCTA000006161709](https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006069414/LEGISCTA000006161709/2013-04-19/#LEGISCTA000006161709)
- [3] <https://www.adagp.fr/en/indicative-list-countries-whose-legislation-provides-resale-right>
- [4] [http://www.legifrance.gouv.fr/affichCode.do;jsessionid=CF1FE6BA2F3C5B53B1B117481B8258C7.tpdila14v\\_1?idSectionTA=LEGISCTA000019017116&cidTexte=LEGITEXT000006070721&dateTexte=20150415](http://www.legifrance.gouv.fr/affichCode.do;jsessionid=CF1FE6BA2F3C5B53B1B117481B8258C7.tpdila14v_1?idSectionTA=LEGISCTA000019017116&cidTexte=LEGITEXT000006070721&dateTexte=20150415)
- [5] <https://www.adagp.fr/sites/default/files/declaration-ds-svv.xls>
- [6] <mailto:droitdesuite@adagp.fr>
- [7] <https://www.adagp.fr/sites/default/files/declaration-ds-galerie.xls>