



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART VII

GENERAL PROVISIONS RELATING TO TAXATION OF INCOME OF INDIVIDUALS

CHAPTER III

[^{F1}ENTERPRISE INVESTMENT SCHEME]

298 Provisions supplementary to sections 293 and 297. ^{F1}

- (1) ^{M1}For the purposes of sections 293(9) and 297 a person has a controlling interest in a trade—
 - (a) in the case of a trade carried on by a company, if—
 - (i) he controls the company;
 - (ii) the company is a close company and he or an associate of his is a director of the company and the beneficial owner of, or able directly or through the medium of other companies or by any other indirect means to control, more than 30 per cent. of the ordinary share capital of the company; or
 - (iii) not less than half of the trade could in accordance with section 344(2) be regarded as belonging to him;
 - (b) in any other case, if he is entitled to not less than half of the assets used for, or the income arising from, the trade.
- (2) For the purposes of subsection (1) above, there shall be attributed to any person any rights or powers of any other person who is an associate of his.
- (3) References in this section and section 297 to a trade shall be construed without regard to so much of the definition of “trade” in section 832(1) as relates to adventures or concerns in the nature of trade; but the foregoing provisions do not affect the construction of references in section 297(2)(g) or subsection (1) above to a trade

Status: Point in time view as at 03/05/1994. This version of this provision has been superseded.
Changes to legislation: Income and Corporation Taxes Act 1988, Section 298 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

carried on by a person other than the company and those references shall be construed as including a reference to any business, profession or vocation.

[^{F2}(4) The Treasury may by order amend section 297 and this section in such manner as they consider expedient].

(5) ^{M2}In section 297—

“film” means an original master negative of a film, an original master film disc or an original master film tape;

“oil rig” means any ship which is an offshore installation for the purposes of the ^{M3}Mineral Workings (Offshore Installations) Act 1971;

“pleasure craft” means any ship of a kind primarily used for sport or recreation; and

^{F3}

“sound recording” means, in relation to a film, its sound track, original master audio disc or, as the case may be, original master audio tape,

[^{F4}and section 312(1A)(b) shall apply to determine the relevant period for the purposes of that section].

(6) ^{F5}

(7) ^{F5}

(8) ^{F5}

Textual Amendments

- F1** Ss.297-298 omitted by 1988(F) Sch.4 para.8 where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.
- F2** S. 298(4) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 11(a)**
- F3** S. 298(5): definition of "property development" repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 11(b), Sch. 26 Pt. 5(17)**
- F4** Words in s. 298(5) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 11(c)**
- F5** S. 298(6)-(8) repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 11(d), Sch. 26 Pt. 5(17)**

Marginal Citations

- M1** Source-1981 s.56(8)-(10); 1983 Sch.5 5(9), 6(2), (3), 6(5)-(7); 1986 Sch.9 1(2), 8(4)
- M2** Source-1983 Sch.5 6(2B), (10); 1984 s.37(2); 1985 s.44(5); 1986 Sch.9 4
- M3** 1971 c. 61.

Status:

Point in time view as at 03/05/1994. This version of this provision has been superseded.

Changes to legislation:

Income and Corporation Taxes Act 1988, Section 298 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.