



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART VII

#### GENERAL PROVISIONS RELATING TO TAXATION OF INCOME OF INDIVIDUALS

### CHAPTER III

#### [<sup>F1</sup>ENTERPRISE INVESTMENT SCHEME]

#### [<sup>F1</sup>289A Form of relief.

- (1) Where an individual eligible for relief in respect of any amount subscribed for eligible shares makes a claim, then, subject to the following provisions of this Chapter, the amount of his liability for the year of assessment in which the shares were issued (“the current year”) to income tax on his total income shall be the following amount.
- (2) That amount is the amount to which he would be so liable apart from this section less whichever is the smaller of—
  - (a) an amount equal to tax at the lower rate for the current year on the amount or, as the case may be, the aggregate of the amounts subscribed for eligible shares issued in that year in respect of which he is eligible for relief, and
  - (b) the amount which reduces his liability to nil.
- (3) Subject to subsection (4) below, if in the case of any issue of relevant shares, that is, shares—
  - (a) which are issued before 6th October in the current year, and
  - (b) in respect of the amount subscribed for which the individual is eligible for relief,

the individual so requests in his claim, subsection (1) above shall apply as if, in respect of such part of that issue as may be specified in his claim, the shares had been issued in the preceding year of assessment; and his liability to income tax for both years of assessment shall be determined accordingly.

*Status: Point in time view as at 22/07/2004. This version of this provision has been superseded.*

*Changes to legislation: Income and Corporation Taxes Act 1988, Section 289A is up to date with all changes known to be in force on or before 05 June 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)*

- (4) Not more than half of the relevant shares comprised in any issue may be treated by virtue of subsection (3) above as issued in the previous year; and the number of relevant shares (comprised in any issues) so treated as issued in a particular year shall not be such that the total amount subscribed for them exceeds [<sup>F2</sup>£25,000].
- (5) In determining for the purposes of subsection (2) above the amount of income tax to which a person would be liable apart from this section, no account shall be taken of—
- (a) any income tax reduction under Chapter I of Part VII of this Act or under section 347B,
  - (b) any income tax reduction under section 353(1A),
  - (c) any income tax reduction under section 54(3A) of the Finance Act 1989,
  - [ any income tax reduction under paragraph 19(2) of Schedule 16 to the Finance
  - <sup>F3</sup>(ca) Act 2002 (community investment tax relief),]
  - (d) any relief by way of a reduction of liability to tax which is given in accordance with any arrangements having effect by virtue of section 788 or by way of a credit under section 790(1), or
  - (e) any tax at the basic rate on so much of that person's income as is income the income tax on which he is entitled to charge against any other person or to deduct, retain or satisfy out of any payment.
- (6) [<sup>F4</sup>A claim for relief in respect of eligible shares issued by a company shall not be allowed unless subsection (7) below is complied with in relation to the issue of shares in question] but, where it is complied with, the relief may be given at any time when it appears that the conditions for the relief may be satisfied.
- (7) This subsection is complied with if—
- (a) in [<sup>F5</sup>a case where the money raised by an issue of eligible shares is raised wholly] for the purpose of a qualifying business activity falling within paragraph (a) of section 289(2), the [<sup>F6</sup>trade concerned has been carried on for four months by no person other than the qualifying company or a qualifying 90% subsidiary of that company], [<sup>F7</sup>and]
  - (b) in [<sup>F8</sup>a case where the money raised by an issue of eligible shares is raised wholly or partly] for the purpose of a qualifying business activity falling within paragraph (b) of that subsection [<sup>F9</sup>the research and development concerned has been carried on for four months by no person other than the qualifying company or a qualifying 90% subsidiary of that company]. <sup>F10</sup> . . .
  - (c) <sup>F11</sup> . . . . .
- (8) Where—
- <sup>F12</sup>(a) by reason only of the qualifying company or any other company being wound up or dissolved without winding up—
    - (i) the trade concerned is carried on as mentioned in subsection (7)(a) above, or
    - (ii) the research and development concerned is carried on as mentioned in subsection (7)(b) above,
for a period shorter than four months, and]
  - (b) <sup>F13</sup> . . . the winding up or dissolution [<sup>F14</sup>is for] bona fide commercial reasons and [<sup>F15</sup>is not] part of a scheme or arrangement the main purpose or one of the main purposes of [<sup>F16</sup>which is] the avoidance of tax,
- subsection (7)(a) [<sup>F17</sup>or, as the case may be, (7)(b)] above shall have effect as if it referred to that shorter period.

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[<sup>F19</sup> Where, by reason only of anything done as a consequence of the qualifying  
<sup>F18</sup>(8A) company or any other company being in administration or receivership—

- (a) the trade concerned is carried on as mentioned in subsection (7)(a) above for a period shorter than four months, or
- (b) the research and development concerned is carried on as mentioned in subsection (7)(b) above for a period shorter than four months,

subsection (7)(a) or, as the case may be, (7)(b) above shall have effect as if it referred to that shorter period.]

This applies only if—

- (a) [<sup>F20</sup>the entry into administration or receivership], and
- (b) everything done as a consequence of the company [<sup>F21</sup>concerned] being in administration or receivership,

is for bona fide commercial reasons and is not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.]

(9) <sup>F22</sup> . . . . . ]

#### Textual Amendments

- F1** Ss. 289-289B substituted for s. 289 (with effect in accordance with s. 137(2) of the amending Act) by Finance Act 1994 (c. 9), s. 137(1), **Sch. 15 para. 2**
- F2** Words in s. 289A(4) substituted (with effect in accordance with s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 2**
- F3** S. 289A(5)(ca) inserted (with effect in accordance with s. 57(4)(b) of the amending Act) by Finance Act 2002 (c. 23), s. 57(3), **Sch. 17 para. 2**; S.I. 2003/88, **art. 2**
- F4** Words in s. 289A(6) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(2)**
- F5** Words in s. 289A(7)(a) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(3)(a)(i)**
- F6** Words in s. 289A(7)(a) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(3)(a)(ii)**
- F7** Word after s. 289A(7)(a) inserted (with effect in accordance with Sch. 15 para. 40(2) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 3(a)**
- F8** Words in s. 289A(7)(b) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(3)(b)(i)**
- F9** Words in s. 289A(7)(b) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(3)(b)(ii)**
- F10** Word preceding s. 289A(7)(c) repealed (with effect in accordance with Sch. 15 para. 40(2) of the repealing Act) by Finance Act 2001 (c. 9), **Sch. 33 Pt. 2(3)**, Note 6
- F11** S. 289A(7)(c) repealed (with effect in accordance with Sch. 15 para. 40(2) of the repealing Act) by Finance Act 2001 (c. 9), Sch. 15 para. 3(b), **Sch. 33 Pt. 2(3)**, Note 6
- F12** S. 289A(8)(a) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(4)(a)**
- F13** Words in s. 289A(8)(b) repealed (with effect in accordance with Sch. 18 para. 21 of the repealing Act) by Finance Act 2004 (c. 12), Sch. 18 para. 2(4)(b)(i), **Sch. 42 Pt. 2(13)**, Note 6
- F14** Words in s. 289A(8)(b) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(4)(b)(ii)**
- F15** Words in s. 289A(8)(b) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(4)(b)(iii)**

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- F16** Words in s. 289A(8)(b) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(4)(b)(iv)**
- F17** Words in s. 289A(8) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(4)(c)**
- F18** S. 289A(8A) inserted (with effect in accordance with Sch. 17 para. 12 of the amending Act) by Finance Act 2000 (c. 17), **Sch. 17 para. 9(3)**
- F19** Words in s. 289A(8A) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(5)(a)**
- F20** Words in s. 289A(8A)(a) substituted (15.9.2003) by The Enterprise Act 2002 (Insolvency) Order 2003 (S.I. 2003/2096), art. 1(1), **Sch. para. 16** (with art. 6)
- F21** Word in s. 289A(8A)(b) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(5)(b)**
- F22** S. 289A(9) repealed (with effect in accordance with Sch. 15 para. 9(2) of the repealing Act) by Finance Act 2001 (c. 9), Sch. 15 para. 9(1), **Sch. 33 Pt. 2(3)**, Note 1

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