

Personal tax and trust planning

AF1: 2020–21 edition

Web update 1: 18 August 2020

Please note the following updates to your copy of the **AF1** case study workbook:

Part 1, section L2, page 35

Replace the third paragraph under the sub-heading 'Higher- and additional-rate taxpayers' with the following (amendment in **bold**):

The rules on the interaction of the tapering of the personal allowance and top-slicing calculations have recently been clarified. Previously, HMRC held the view that the full amount of chargeable gain (without top-slicing) had to be included in a taxpayer's income in order to calculate the availability of the personal allowance. HMRC's approach was challenged by a taxpayer, Marina Silver, who had income of £31,101 plus a gain of £110,722, subject to 21 years top-slicing. HMRC's view was that the full amount of her personal allowance was tapered away because her income was £141,823. Silver argued that she was entitled to a full personal allowance because only the top-sliced gain should be added to her income, leaving it below £100,000, so there was no tapering. Silver won her case in the First-tier Tribunal (Tax), and the Government has therefore legislated (for gains occurring from 2019/20 onwards) to the effect that only the top-sliced gain need be included when calculating **the amount of personal allowance which is available when calculating tax on the annual equivalent of the gain within the top-slicing relief computation**. The legislation makes it clear, however, that the personal allowance has to be set off against any other income in preference to the gain.

Case study 11, model answer to (c), page 11/8

Replace the fifth bullet point on this page with the following (amendment in **bold**):

- However, **when calculating top-slicing relief, only the top-sliced gain is included at step 4 to compute tax on the annual equivalent of the gain**. For a bond surrendered after being held for five years, only one-fifth of the gain will be included.

Case study 11, page 11/8

Replace the fifth bullet in the 'Reinforce' box with the following (amendment in **bold**):

- Previously, HMRC held the view that the full amount of chargeable gain (without top-slicing) had to be included in a taxpayer's income in order to calculate the availability of the personal allowance. HMRC's approach was challenged by a taxpayer, Marina Silver, who had income of £31,101 plus a gain of £110,722, subject to 21 years top-slicing. HMRC's view was that the full amount of her personal allowance was tapered away because her income was £141,823. Silver argued that she was entitled to a full personal allowance because only the top-sliced gain should be added to her income, leaving it below £100,000, so there was no tapering. Silver won her case in the First-tier Tribunal (Tax), and the Government has therefore legislated (for gains occurring from 2019/20 onwards) to the effect that only the top-sliced gain need be included when **calculating the amount of personal allowance which is available when calculating tax on the annual equivalent of the gain in step 4 of the top-slicing relief computation**. The legislation makes it clear, however, that the personal allowance has to be set off against any other income in preference to the gain.