HMRC - CG34751 - Settlor Trusts: Benefit

`Benefit’ is not defined. It should be regarded as embracing any situation where thesettlor or the settlor’s spouse or civil partner has the use of trust income or propertyon non- commercial terms, for example

a low or nil interest loan, or

rent-free occupation of trust property, or

outright appointments of trust income or capital, such as the writing off of a loan to the settlor.

Trust returns include a space in which trustees of settlements must report any benefitsprovided to the settlor or the settlor’s spouse or civil partner. In general any entry inthis section should be regarded as bringing Section 77 into play. However, a smallincidental benefit should be disregarded, see CG34752.

The meaning of indirectly in this context is not clear, as it was not discussed by theHouse of Lords in West v Trennery, see CG34750, although the Crown argued that thesettlor, by his interest in the second settlement was enjoying a benefit indirectlyderived from the shares, Lord Millett mentioned the argument and Lord Rodger said that thereasoning of the Court of Appeal was wrong without differentiating between the two basicarguments. . This approach seems consistent with the speeches in the House of Lords inMills v CIR 49TC367. The sentence in the Head Note to the STC report beginning “Itwas common ground” is not correct.

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