

Funding the Future

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There has been much discussion about why UK Uncut picked on Fortnum & Mason's for action on Saturday. [I've already said](#) that I think that action was a mistake, but I have now seen the information considered by those who analysed the accounts of Associated British Foods to suggest that it was undertaking tax avoidance activity - which is legal, of course.

Associated British Foods plc is under the control of a company called Witton Investments Ltd. Its accounts to [2009 are here](#). Witton also owns 100% of Fortnum & Mason's. Witton is in turn 79.2% owned by the [Garfield Weston Foundation](#) about which [there is more information here](#).

The information I have been sent does, I stress, relate to ABF. The only link as far as I can see to Fortnum's is the common control of the companies.

The alleged tax avoidance takes place through the Swiss branch of a Luxembourg partnership called ABF European Holdings & Co SNC. The partners in this structure are not yet quite clear: they may be Swiss, Irish or further Luxembourg based entities. What is clear though is that this structure is consolidated within the ABF accounts and so in turn by Witton. What also seems likely (but is as yet unproven) is that, according to my source, they reach that destination via an Irish intermediate holding company. If so then that structure may be the way in which UK controlled foreign company is avoided - in aggregation.

The accounts of the [partnership are here](#). I only have this one period.

As can be seen the business of the partnership is simple. It has £420 million of subscribed capital plus a little over £100 million in retained profits. It also has an interest free loan from Primark in Ireland. Primark is a part of Associated British Foods. The resulting £600 plus million of funds in the company is then lent very largely (£537 million) to the UK parent company - ABF.

On that and the other smaller loans the Luxembourg partnership generated income of £11.5 million in a three month period - annual equivalent about £39 million. Tax was paid on this at 5.3% in Luxembourg and in Switzerland (because there is a branch there

too). In the period to March 2008 the tax rate would have been 30% in the UK. Extrapolating the saving comes to about £9.7 million per annum.

Of course it could be argued that this arrangement might be within UK controlled foreign company rules. Maybe it is and maybe it has been taxed under them. If so, so be it. I am sure ABF will be happy to say so - and I am more than happy for them to do so. That would seem right and proper.

But whilst this entity does look *prima facie* like a UK controlled foreign company to me the arrangement also looks potentially like a structure hoping to avoid those rules - and it has to be said it looks rather hard to see why else such an arrangement has been created. But I stress, I'm more than happy for a correction to be posted. All I am saying now is that this is the basis of the advice as I understand it that UK Uncut used as the basis for their action.

And I stress:

- a) I am not suggesting any illegality;
- b) ABF may comment as they wish here;
- c) I am sure they are quite happy that advice has been secured on this arrangement;
- d) I presume disclosure has been made. The question in that case is, has HMRC acted? And has it the resources to act?

Two final points. First, this is exactly the sort of offshore treasury funding operation George Osborne now wants to overtly encourage in UK companies. He would charge 5.75% on them - just a tiny fraction above what is paid here. That would make the tax lost to the UK in future a guaranteed saving for any company doing this. It shows how generous he's being. That is itself very pertinent at this moment. How many public servants / nurses could this sum pay?

Second, the Garfield Weston Foundation is a charity. UK Uncut have been criticised for targeting a company owned by a charity. It gave away £51 million [in its last accounts](#) on its web site. But if some of that was funded by tax avoidance isn't that appropriately an issue of concern? This foundation [openly supports the Conservative Party](#). Should the Big Society be funded by tax avoidance? I doubt it. Others might disagree.

Others might also think UK Uncut might have been better off going for Primark - and I'd tend to agree. I'm just publishing some data - all of which is on the public record, I'd stress and suggesting how that was put together to support their claim that there was reason for targeting companies under the control of Wittington.