Funding the Future

Three ways to stop the Cadbury's tax abuse

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As the Guardian has reported:

Mondelez, which owns Cadbury, is facing controversy over its tax arrangements after it was reported that it had not paid UK corporation tax last year.

An investigation by the Sunday Times found the company was wiping out Cadbury's bills using interest payments on an unsecured debt, which is listed as a bond on the Channel Islands' stock exchange. The interest paid on the loan can be offset as a loss against gains made elsewhere in the company.

The arrangement, which is legal, meant Mondelez was able to pay no UK corporation tax despite accounts showing that Cadbury UK, its subsidiary, made profits of £96.5m in 2014 and £83.6m in 2013.

This is classic tax abuse. A US company buys a UK company, ladens it with debt incurred to buy it which has, as a consequence, nothing to do with the cost of doing business in the UK, and then pays interest on that debt out of the UK via the Channel Islands Stock Exchange, which for reasons that continue to dumbfound, is recognised as a stock exchange by HMRC despite the fact that most of the securities on it are not traded and that it has been surrounded by controversy throughout its recent history.

The situation that Mondalez is exploiting is, of course, legal. But there are options available to end this abuse.

First, HMRC could remove its recognition of the Chanel Islands Stock Exchange. If it did that then tax would have to be deducted at source on payments made on the securities listed on that exchange, removing their attraction over night and ending that possibility for abuse.

Second, all payments of interest on intra-group transactions could stop having tax relief allowed upon them. That would be a simple, effective, clear and, in the presence of persistent abuse, necessary change to the law. It would not impact profitability of any group either, except by stopping tax relief from which they should not profit so it is also neutral with regard to tax compliant business and provicdes them with a level playing field on which to compete.

Third, all interest paid by a business in connection with its acquisition by its current owners should be disallowed for tax. If those owners can make the claim, so be it; let them do so if it is appropriate, but the acquired company should have nothing to do with this.

To put it another way, this abuse could be stopped now. It's time it was done.