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20 January 2009

Mr John Hawkins
Committee Secretary
Senate Economics Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Email: economics.sen@aph.gov.au

Dear Mr Hawkins

Inquiry into the Tax Laws Amendment (Taxation of Financial Arrangements) Bill 2008

The Taxation Institute of Australia ('Taxation Institute') is pleased to provide its comments to the Senate Economics Committee in relation to the Committee's inquiry into the *Tax Laws Amendment (Taxation of Financial Arrangements) Bill 2008* ('TOFA Bill 2008').

The Taxation Institute acknowledges that the *TOFA Bill 2008* is the result of a substantial co-operative consultation process and appreciates the work undertaken by Treasury and the Australian Taxation Office in the course of developing this Bill. Whilst we have seen some shifts in policy and accompanying legislative drafting during this process in response to issues raised by the Taxation Institute and the other professional associations, there remain potential defects and shortcomings in the *TOFA Bill 2008* of varying degrees of importance as can be expected in any taxation legislation.

Notwithstanding this concern, we support the passage of this Bill in its current form without delay. We believe it is important bring closure to this lengthy consultation on the development of the TOFA regime and avoid any further unnecessary delay in settling the legislation.

However, at the same time, we recognise there is a need to address any potential shortcomings in the operation of this legislation, as with any taxation legislation. Some of these shortcomings are immediate and others will arise over the passage of time. To address these concerns, the Taxation Institute strongly recommends that the Government:

- address any further immediate issues of contention in appropriate amending legislation, ideally before 30 June 2009; and
- carry out a post-implementation review to ensure that the TOFA regime operates efficiently and in accordance with agreed policy in the medium to longer term.

Should you have any queries with respect to any of the matters raised above please do not hesitate to contact Joan Roberts on 03 9611 0178 or the Taxation Institute's Senior Tax Counsel, Dr Michael Dirkis on 02 8223 0011.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Joan Roberts', with a stylized flourish at the end.

Joan Roberts
President