



THE TAX INSTITUTE

10 August 2012

Ms Nan Wang
Manager
Finance Tax Unit
Business Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: financetax@treasury.gov.au

Dear Ms Wang

Discussion Paper: “The income tax treatment of certain Tier 2 Capital Instruments under the Basel III Capital Reforms”

The Tax Institute thanks you for the opportunity to provide this submission in response to Treasury’s Discussion Paper entitled “The income tax treatment of certain Tier 2 Capital Instruments under the Basel III Capital Reforms” (the “**Discussion Paper**”), which relates to the implementation of a measure announced by the Government in the 2012-13 Budget.

In response to the Discussion Paper, we note that the questions posed in relation to the upcoming changes to capital requirements for financial institutions (including authorised deposit taking institutions (“**ADIs**”) and insurers) generally seek views on particular kinds and amounts of regulatory capital that will be required in future.

Accordingly, The Tax Institute is of the view that industry associations that represent the views and interests of taxpayers in the banking and finance sector are best placed to provide feedback on such industry concerns.

Nonetheless we note that the relevant Budget announcement was limited to ADIs and their related regulated entities.

We further note that the paper further recognises that certain stand-alone financial institutions (in particular, insurers) who may be subject to the Basel III requirements from 1 January 2013 should also have access to the same treatment of Tier 2 Capital. We are broadly supportive of this consistency of approach proposed in the Discussion Paper. That is, we agree that any changes to Division 974 of the *Income Tax Assessment Act 1997* and/or the related Regulations that are necessary to address the proposed “loss absorbency” requirements under Basel III should be extended to all institutions that are subject to similar regulation by the Australian Prudential Regulation Authority.

The Tax Institute remains interested in further developments in relation to these proposals and will be please to provide comment on any draft regulations or legislation that is required.

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Should you wish to discuss any of the above, please do not hesitate to contact either me or Tax Counsel, Deepti Paton on 02 8223 0044.

Yours sincerely

A handwritten signature in black ink, reading "Ken Schurgott". The signature is fluid and cursive, with the first name "Ken" and last name "Schurgott" clearly legible.

Ken Schurgott
President