7 September 2011

Paul McCullough
The General Manager
Business Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Attention: Nan Wang

Dear Paul,

**Taxation of Financial Arrangements amendments Exposure Draft to ensure appropriate interaction with the pay as you go instalment provisions and to ease transition**

The Institute of Chartered Accountants in Australia, The Tax Institute and the Australian Bankers' Association Inc welcome the release of the exposure draft concerning the interaction between the taxation of financial arrangements (TOFA) and the pay as you go instalment (PAYGI) provisions.

On 15 April 2011 a joint submission by these bodies was made to the Australian Taxation Office regarding concerns about how the requirement to disclose gross, as opposed to net, TOFA transactions in the income tax returns have the ability to defeat the efficiencies intrinsic to the TOFA provisions. The exposure draft addresses concerns raised in this submission by extending the definition of instalment income in the PAYGI provisions to include TOFA net gains.

However, there is some uncertainty in the exposure draft with the attribution of the net TOFA gains to a PAYG quarterly period. While the explanatory material clarifies how a TOFA gain/loss is to be attributed to a quarter, the explanatory material often cannot be relied upon. Accordingly, we submit that the following provision be included after proposed subsection 45-120(2E):

> "(2F) For the avoidance of doubt, in determining whether you make a gain (or loss) from a financial arrangement in subsection (2C) the reference to a year of income in section 230-230 (fair value method), section 230-280 (foreign exchange retranslation method), 230-300 (hedging financial arrangements method) and 230-420 (financial reports) is taken to be a reference to the period."

The exposure draft will significantly reduce the compliance burden of affected taxpayers be ensuring that information that is currently not recorded is not required to be generated for tax compliance purposes. Accordingly, the bodies recommend that the exposure draft becomes law as soon as possible to ensure that the compliance costs are not unnecessarily incurred.

If you need any further information please contact in the first instance Susan Franks of the Institute of Chartered Accountants on 02 9290 5750 or Tamera Lang of The Tax Institute on 02 8223 0011.

Yours sincerely


Yasser El-Ansary
**Tax Counsel**
**The Institute of Chartered Accountants in Australia**

Ken Schurgott
**Vice President**
**The Tax Institute**

Tony Burke
**Director**
**Australian Bankers' Association Inc.**