TAXATION INSTITUTE OF AUSTRALIA

29 March 2004

The Secretary
Senate Economics Legislation Committee
Room SG.64
Parliament House
CANBERRA ACT 2600

Dear Secretary

NEW INTERNATIONAL TAXATION ARRANGEMENTS BILL 2003

The Taxation Institute of Australia welcomes the opportunity to make a submission to the Committee in its inquiry into the New International Taxation Arrangements Bill 2003, in particular the effect of the proposed increase in the "balanced portfolio exemption threshold" from 5% to 10%.

By way of background the Taxation Institute was established in 1943 and has a membership of 10,000 tax practitioners throughout Australia. Our members range from senior members of the bar specialising in tax, and senior tax advisors in the accounting and legal profession to small rural and suburban accountants.

The Taxation Institute broadly supports the entire package of measures announced by the Government, and is pleased to observe that the consultation process set in place appears to be operating very effectively.

In respect of the proposed increase in the "balanced portfolio exemption threshold" from 5% to 10%, the Taxation Institute supports the measure, although it will still be necessary to incur compliance costs associated with examining the portfolio at year end and ascertain what proportion does not qualify for exemption. Our support is based upon the measures delivering compliance cost savings in three ways.

First, under the current rules if it is found that non-exempt investments represent in excess of 5% of the portfolio it is either necessary to sell the excess prior to year-end or perform time consuming (and therefore costly) calculations on all non-exempt FIF investments and maintain the attendant records and attribution accounts. In the case of the year end sale approach, many of the valuable non-exempt investments in the portfolio are bought back immediately after year-end. Accordingly, these unnecessary so

For the Taxwise™ Professional

Taxation Institute of Australia
Level 9 64 Castlereagh Street Sydney NSW 2000 **Tel** (02) 8223 0000 **Fax** (02) 8223 0077
Email tia@taxinstitute.com.au **Website** www.taxinstitute.com.au ABN 45 008 392 372

called “bed and breakfast” arrangements (which bring to account the gain or loss on the investment) result in unnecessary transaction costs and often means that the CGT discount ordinarily available is foregone. We are informed by the investment fund industry that the extension from 5 to 10% will eliminate this end of year sell down or the compliance costs of attribution accounts for the vast majority of funds.

Second, as the 5% test is calculated using total foreign investments as the denominator, rather than the total value of the portfolio, a small non-exempt investment could fail the exemption where the overall foreign portfolio is also small. A larger percentage point again will reduce the compliance costs in these circumstances.

Finally, the increase will also reduce compliance cost on classification as given it is often difficult to classify investments, the percentage increase will mean that less “doubtful” investments will have to be further investigated, thereby reducing the compliance costs.

I hope the above comments are of assistance in the Committee’s review. If you would like to discuss any of the matters in this submission in more detail, please do not hesitate to contact the Tax Director, Michael Dirkis, on 02 8223 0011.

Yours sincerely

Gil Levy
President