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12 January 2009

Committee Secretary
Senate Economics Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Email: economics.sen@aph.gov.au

Dear Committee Secretary

Inquiry into the Tax Agent Services Bill 2008

The Financial Planning Association of Australia (FPA)¹ welcomes the opportunity to respond to the Senate Economics Committee inquiry on the Tax Agent Services Bill 2008.

The FPA welcomes the Bill as currently drafted as a helpful addition to the regulation of an important consumer-facing professional service. It provides an effective regulatory framework without restricting the ability to provide advice to financial planning clients.

Financial planning and tax agent services

The financial planning process requires financial planners to undertake a detailed consideration of a client's circumstances and financial position and to develop appropriate recommendations to deliver on the client's objectives. A key element of the regulatory obligations governing the provision of such advice is an obligation to consider the taxation position of the client and to discuss how this might affect or be affected by the recommended advice. However, this does not mean that financial planners are tax experts, nor Tax Agents, unless specifically qualified to perform such tax services.

The existing policy position enables financial planners to provide advice which includes the taxation implications of financial strategies and financial products, while ensuring that this advice does not relate to the fulfilment of taxation obligations. We agree that the latter responsibility should lie with appropriately qualified tax agents.

A key point relates to reliance. Reliance by a client on a financial planner's tax advice to plan their investments contrasts markedly to those of a tax agent, where the advice is provided to meet tax obligations. That is the key difference. Both will give tax advice to the same client who expects to rely upon what they are advised, but for the client it is for different reasons and purposes. This is an important distinction as, when dealing with a financial planner, a client will need to take into consideration

¹ The FPA is the peak professional organisation for the financial planning sector in Australia. With approximately 12,000 members organised through a network of 31 Chapters across Australia, the FPA represents qualified financial planners who manage the financial affairs of over five million Australians with a collective investment value of more than \$630 billion.

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tax implications to plan their investments. When receiving financial advice, whether or not the advice is related to a specific financial product, the client will rely on the financial planner's advice to plan their investment. While there may be a tax element to that advice, it is not the primary purpose to satisfy the liabilities or obligations or to claim entitlements that arise, or could arise, under a taxation law. The financial planner's clients are entitled to rely on information about the tax issues and to plan their investment futures around this advice.

Impact on consumers and the industry

The consequences of drawing financial planners into the tax agents regime was noted in detail in our submission to the earlier consultation on the Bill (attached with this letter). It would reduce the ability for the financial planning profession to provide an appropriate service to the end-client. Consumers would need to consult different professionals on connected aspects of their financial needs, which would entail them incurring additional costs for separate advice. A further concern was the impact on the efficiency of financial services providers which would see existing business models unnecessarily facing significant adjustments and additional compliance costs.

Senate Economics Committee Inquiry

The FPA recommends the Senate Economics Committee Inquiry report should maintain the current drafting of the Tax Agent Services Bill and related Explanatory Memorandum to ensure financial planning advice is not unintentionally or inappropriately captured under the tax agent regime.

The FPA would like to formally register its interest in appearing as a witness at the Senate Committee hearing on the Tax Agent Services Bill.

If you would like to discuss any of the issues raised in this submission, please contact Gerard Fitzpatrick General Manager Policy and Government Relations, (tel: 02 9220 4505; email gerard.fitzpatrick@fpa.asn.au).

Yours Faithfully

A handwritten signature in black ink, appearing to read 'Jo-Anne Bloch', with a long horizontal stroke extending to the right.

Jo-Anne Bloch
Chief Executive Officer

Enc: Tax Agent Service Bill 2008 Exposure Draft, Submission to Treasury, June 2008