



## FEDERAL ACTIVITIES

### • **Securities Issues**

**Court Strikes Down SEC Hedge Fund Rule.** On June 23<sup>rd</sup>, a unanimous U.S. Court of Appeals for the DC Circuit struck down the SEC rule requiring hedge fund advisers to register under the Investment Advisers Act in *Goldstein v. SEC*. This is the same court that will decide FPA's Broker-Dealer Rule lawsuit against the SEC. The controversial hedge fund rule was adopted by a 3-2 vote of the SEC in December 2004. Although the decision has no direct bearing on FPA's suit, it is worth noting that the court paid little deference to the SEC's interpretation of the Advisers Act. In response to the ruling, U.S. Rep. Barney Frank (D-MA), ranking minority member of the House Financial Services Committee, introduced legislation that would authorize the SEC to interpret the term "client" to require registration of advisers to funds with more than 15 investors.

**SEC Proposes IA-BD Study Specs.** The SEC has released a draft "Request for Information" in preparation for the long-anticipated investment adviser - broker-dealer study, first called for by former Chairman William Donaldson upon adoption of the Broker-Dealer Rule. Describing it as a "major study," the SEC said it would compare how the different regulatory systems that apply to BDs and IAs affect individual investors. The SEC said it released the document in draft form in order to solicit informal expressions of interest and comments from potential contractors, as well as from parties interested in the eventual results of the study. The contractor would consult with SEC staff with respect to collecting, categorizing, and analyzing empirical data from a wide variety of sources. The information studied would include marketing, sales, and delivery data about financial products, accounts, programs, and services offered to individual investors. FPA will be submitting its comments by the July 19<sup>th</sup> deadline.

**Senate Confirms Kathleen Casey as SEC Commissioner.** On June 15<sup>th</sup>, the U.S. Senate confirmed Kathleen Casey to be Commissioner of the SEC for a term expiring June 5, 2011. Casey succeeds Commissioner Cynthia Glassman, whose term expired June 5, 2006. Prior to her nomination, Casey served as Staff Director and Counsel of the Senate Banking Committee chaired by Sen. Richard Shelby (R-AL).

### **WEB LINK**

Click to read the 19-page Goldstein decision, go to <http://www.vlex.us/caselaw/U-S-Court-Of-Appeals-D-C-Circuit/Goldstein-Phillip-vs-SEC/2100-20768720.01.html>

### **WEB LINK**

The SEC Request for Information can be found at <http://www.sec.gov/rules/other/2006/34-54077.pdf>

- **Securities Issues Continued**

**Disagreement Stalls Form ADV Part II.** Discussions about the long-awaited Form ADV Part II have reportedly reached an impasse after the SEC suggested there should be separate versions of the form at the state and federal levels. FPA and the states are seeking a single form that would allow investors to make side by side comparisons of advisers. Form ADV Part II discloses advisers' fees, business practices and potential conflicts of interest.

**FPA® Government Relations  
Advocacy Web Site**

The GR web site contains recent FPA comment letters, links to important CFP® professional issues, securities, insurance, tax and compliance information. For the latest information on advocacy issues, click on this box and then bookmark the page.

[http://www.fpanet.org/member/govt\\_relation/index.cfm](http://www.fpanet.org/member/govt_relation/index.cfm)

- **Federal Tax Issues**

**Senate Debates Estate Tax.** The Senate rejected a vote for estate tax repeal in early June. There have since been several compromise proposals. The House passed Chairman Bill Thomas' bill (H.R. 5638) that would exempt estates worth less than \$5 million per spouse, tax those worth less than \$25 million at the capital gains rate, and tax wealthier estates at twice that rate. The bill (H.R. 5638) would index the \$5 million exemption for inflation, and assets beyond the exempted amount, up to \$25 million, would be taxed at the 15% capital gains tax rate. It would also reunify the estate, gift, and generation-skipping transfer taxes, repeal the deduction for state estate taxes, and provide a stepped-up basis for inherited property. Other proposals include Sen. Mary Landrieu's bill (S. 3626) that contains a \$5 million per-spouse exclusion amount and a 35 percent tax rate that would increase for estates over \$100 million. In this proposal, estates greater than \$100 million would be subject to a 5 percent surcharge.

**WEB LINK**

Click and enter HR 563 or S. 3626 in the search field to review the bills  
(<http://thomas.loc.gov/>)

**Pension Bill Remains in Conference Negotiations.** Pension legislation (H.R. 2830) remains in conference negotiations. House Majority Leader John Boehner (R-OH) has stated that the provision holding up the conference is the proposal to extend pension funding for financially troubled airlines. Although support appears to be waning, consideration is also being given to including the "trailer bill" package of expiring tax extensions in the pension bill.

**WEB LINK**

Click and enter HR2830 in the search field to review the bill  
(<http://thomas.loc.gov/>)

**IRS Announces Split Option Direct Deposit of Tax Refunds.** The IRS has announced that taxpayers will be able to divide their refunds via direct deposit into three separate accounts beginning in January 2007. The IRS will create a new form, Form 8888, that will allow taxpayers to select how they want to divide their refund. Options include splitting the money into a checking, savings, and/or retirement account.

**WEB LINK**

Click to the IRS news release announcement  
(<http://www.irs.gov/newsroom/article/0,,id=157853,00.html>)

**IRS Increases User Fees for Retirement Plan Practitioners.** The IRS is increasing user fees for retirement plan practitioners on July 1<sup>st</sup>. The new fees apply to Form 8717 and will vary according depending on the time and complexity of the issue.

**WEB LINK**

Click to the IRS news release for increase retirement plan fees  
(<http://www.irs.gov/charities/article>)

**WEB LINK**

Click to the IRS news release for the new address

(<http://www.irs.gov/newsroom/article/0,,id=159855,00.html>)

**WEB LINK**

Click and enter HR1499 in the search field to review the bill

(<http://thomas.loc.gov/>)

**WEB LINK**

Click and enter HR458 or S418 in the search field to review the bill

(<http://thomas.loc.gov/>)

- Federal Tax Issues Continued**

**IRS Postal Address Temporarily Changes Due to Flood Damage.**

The IRS headquarters in Washington, D.C. will remain closed at least until July 29<sup>th</sup> due to extensive flood damage. Despite the closure, the day-to-day tax administration continues, and most taxpayers will not see the impact of the closure. There has been a temporary change of address for certain hand-delivered documents, including complaints, subpoenas, public comments, requests for rulings, and requests for determination letters. The temporary address is 950 L'Enfant Plaza N.W., Fifth Floor, Washington, D.C. 20024.

**Rules Eased for Military IRA Contributions.** On Memorial Day, President Bush signed the Heroes Earned Retirement Opportunities Act (H.R. 1499) into law. This act allows military personnel serving in combat areas to contribute to their IRAs with relaxed rules. The new law allows typically nontaxable combat pay to count as taxable income for purposes of calculating allowable IRA contributions.

**Senate Banking Approves Bill to Curb Abusive Sales Tactics.** The Senate Banking Committee approved a bill (S. 418) that is designed to protect members of the military from abusive sales practices of financial products at military installations. The bill now goes to the full Senate for consideration. The House approved a similar measure in June 2005 (H.R. 458).

## STATE ACTIVITIES

**FPA Publishes "How to Host a Financial Planning Day at your State Capitol."** FPA has published "How to Host a Financial Planning Day at your State Capitol". This toolkit provides all the information and guidance that you need to host a financial planning day at your state capitol. For any questions on how to host this event in your state, please contact Mary Bell at [mary.bell@fpanet.org](mailto:mary.bell@fpanet.org)

**WEB LINK**

Click to view the Financial Planning Day toolkit

([http://www.fpanet.org/member/govt\\_relation/state/other/index.cfm](http://www.fpanet.org/member/govt_relation/state/other/index.cfm))

- Insurance and Trust Issues**

**Kentucky FPA Leaders to Meet with New Insurance Regulator.** Julie McPeak will become the new Executive Director of the Kentucky Office of Insurance on July 16<sup>th</sup>. The Office is currently reviewing state insurance consultant licensing requirements and their application to financial planners. FPA is working directly with the Office of Insurance regarding its interpretation of consultant licensing laws that could directly affect many financial planners. In late July, FPA chapter leaders Bob Cole and Steve Frank will meet with McPeak and her staff in Frankfort for a formal discussion of consultant licensing laws and their potential effects on FPA members statewide.

**Pennsylvania Legislators Support Strengthened Annuity Sales Suitability Laws.** On June 30<sup>th</sup>, Pennsylvania legislators approved H.B. 2178, legislation intended to protect elders from fraud in insurance sales by so-called "financial advisers." The bill increases look back periods for most annuity and insurance products to 45 days, allowing policyholders to review and return the policy for a refund during this period. The bill was also amended to require a suitability review in annuities sales transactions. The requirement is intended to ensure that the product is appropriate for the purchaser in light of the consumer's relevant financial information. The bill also includes penalties for violations of the new requirements. H.B. 2178 must still be approved by the PA Senate.

**WEB LINK**

Click to review H.B. 2178

(<http://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2005&ind=0&body=H&type=B&BN=2178>)

- **State Securities Issues**

**NASD Proposes New Variable Annuities Sales Rules.** The National Association of Securities Dealers has proposed NASD Rule 2821. The rule requires sellers of deferred variable annuities to ensure that the products are suitable for the buyers, that the buyers understand the products, and that a company principal reviews the suitability of all sales. The rule also requires a member firm and associated persons to include specific product features in analyses of the suitability of specific transactions. The proposed rule excludes immediate variable annuities because the NASD has found that most of the problems with sales practices and suitability have been associated with the purchase or exchange of deferred variable annuities. The deadline for comments on the rule is July 9<sup>th</sup>.

**WEB LINK**

Click to view the proposed variable annuity rule

<http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/06-5730.pdf>

**Arizona Updates Custody Rules.** The Arizona Corporation Commission has amended custody rules for state investment advisers to reflect the SEC's federal custody rules. Under the new rules, "custody" means holding, directly or indirectly, client funds or securities, or having any authority to obtain possession of them. Custody includes possession, permission to withdraw funds, and any capacity bestowing representative legal ownership of or access to funds. Advisers with custody must have client funds maintained by a "qualified custodian" defined to include banks or savings associations, broker-dealers, futures commission merchants, or certain foreign financial institutions. One notable change in the rule is the elimination of the requirement for an annual independent surprise audit for advisers using a qualified custodian to send out quarterly account statements. The audit is still required for advisers that send out their own quarterly account statements. The new rules are expected to go into effect in the fall of 2006.

**WEB LINK**

Click to view the amended custody rules

[http://www.ccsd.cc.state.az.us/statutes\\_and\\_rules/proposed.asp](http://www.ccsd.cc.state.az.us/statutes_and_rules/proposed.asp)

**Louisiana Updates State Securities Laws.** Louisiana Governor Kathleen Blanco, has signed several bills into law that update state securities laws: S.B. 549, S.B. 578, H.B. 1270, S.B. 552. The new laws went into effect in June, 2006 and impose an exam requirement on investment adviser representatives. However, investment adviser representatives holding the CFP® certification and certain other professional certifications are exempt from the exam requirement. Investment adviser representatives employed by advisory firms registered with the SEC are also exempt from the exam requirement. A two year grandfathering provision applies to investment adviser representatives registered on the effective date of the rule. The new laws also clarify that most records held by the Commissioner are public records and are available for public inspection. Notable exceptions to this are reports of examinations, records obtained in an examination, trade secrets or confidential information, non-public personal identifying information, or nonpublic records received from another regulatory organization/agency. The new laws will also give the Commissioner new powers to issue written interpretive opinions and no-action determinations.

**WEB LINK**

Click to review the new LA security laws

<http://www.legis.state.la.us/archiver/06rs/06rs.htm>

## • State Tax Issues

### - ARIZONA -

**AZ Enacts Property Tax Cuts.** Arizona Governor Janet Napolitano signed a property tax cut package (H.B. 2876) that cuts the state income tax rate by ten percent over two years with a three-year suspension of the state property tax. The property tax will return to the current level unless legislators approve the continuation of the zero rate.

### WEB LINK

CLICK TO READ THE PROPERTY TAX PACKAGE

[http://www.azleg.state.az.us/DocumentsForBill.asp?Bill\\_Number=2876&image.x=0&image.y=0](http://www.azleg.state.az.us/DocumentsForBill.asp?Bill_Number=2876&image.x=0&image.y=0)

### - FLORIDA-

**FL Legislature Votes to Repeal Intangibles Tax.** On April 26, 2006, the Florida Senate voted to abolish the intangibles tax in a 30-9 vote. In March, the Florida House of Representatives voted in favor of abolition. Governor Bush is expected to sign the bill, but no date has been set. The repeal will become effective January 1, 2007.

### WEB LINK

Click to read the Intangibles Tax bill

[http://www.flsenate.gov/session/index.cfm?Mode=Bills&SubMenu=1&BI\\_Mode=ViewBillInfo&BillNum=0209](http://www.flsenate.gov/session/index.cfm?Mode=Bills&SubMenu=1&BI_Mode=ViewBillInfo&BillNum=0209)

**FL Governor Requires a Property Tax Study.** Florida Governor Jeb Bush signed an executive order creating a panel to examine the state's local property tax system and recommend ways to change it. The Property Tax Reform Committee will study the consequences of current property tax exemptions. The property tax debate was a focus of the 2006 legislative session.

### WEB LINK

Click to read the Executive order for the tax study

[http://sun6.dms.state.fl.us/eog\\_new/eog/orders/2006/June/06-141-taxation.pdf](http://sun6.dms.state.fl.us/eog_new/eog/orders/2006/June/06-141-taxation.pdf)

### - KANSAS-

**KS Governor Signs Estate Tax Repeal in 2010.** Kansas Governor Kathleen Sebelius signed an act (S.B. 365) that would decouple the Kansas estate tax from the federal estate tax and would eliminate the Kansas estate tax beginning in 2010. The legislation creates a new set of brackets that apply for the 2007 to 2009 tax years and exempt any estates below \$1 million.

### WEB LINK

Click and enter S.B. 365 in the search field for the new law

<http://www.kslegislature.org/legsrvc-bills/index.do>

### - MINNESOTA-

**MN Increases AMT Exemption and Eliminates State Income Tax "Marriage Penalty".** Minnesota Governor Tim Pawlenty signed H.F. 785 that increases the AMT exemption amount to \$60,000 for MFJ, \$30,000 for MFS, and \$45,000 for single taxpayers in tax year 2006. The act indexes the AMT exemption annually to inflation and phases out the state's income tax "marriage penalty" by fiscal year 2009.

### WEB LINK

Click to additional information on the MN tax changes

[http://www.governor.state.mn.us/TPaw\\_View\\_Article.asp?artid=1849](http://www.governor.state.mn.us/TPaw_View_Article.asp?artid=1849)



- **State Tax Issues Continued**

- **NORTH CAROLINA-**

**NC Legislature Approves 529 Plan Deductions and Income Tax Rate Deductions.** The North Carolina legislature approved a bill (S.B. 1741) that allows a deduction for a 529 plan contribution, up to \$10,000, from taxable income. The pending bill also calls for a study of all 529 savings plan contributions and, if enacted, would become retroactively effective to Jan. 1, 2006. The bill also decreases the personal income tax rate for high income residents from 8.25 percent to 8.0 percent, in 2007, and to 7.75 percent, in 2008. This tax break affects taxpayers who earn over \$200,000 MFJ and \$100,000 for single taxpayers. The measure will now go to the governor for signature.

**WEB LINK**

Click and enter SB 1741 in the search field to review the bill (<http://www.ncga.state.nc.us>)

- **NEW JERSEY-**

**NJ Legislature in Special Session for Property Tax Issue.** The New Jersey legislature is in a special legislative session during the month of July to address property taxes. The session will focus on school funding and property tax issues with a legislative deadline of Sept. 30<sup>th</sup>.

**WEB LINK**

Click to stay up to date on the special session (<http://www.njleg.state.nj.us/>)

- **NEW YORK-**

**NY Governor Signs Property Tax Cuts.** NY Governor George E. Pataki signed S. 8471 that cuts state property taxes by about \$1 billion per year through a new tax rebate program. After a tumultuous legislative session, the legislature and governor came to an agreement on the property tax rebate, which will provide rebate checks ranging from \$200 to \$800 to homeowners starting this fall. The amount of the rebate will depend on the location of the home and the amount of property taxes paid.

**WEB LINK**

Click to review the new law (<http://assembly.state.ny.us/leg/?bn=S08471&sh=t>)

- **OKLAHOMA-**

**OK Governor Repeals Estate Tax and Lowers State Income Tax Rate.** After a special session completed in late June, OK Governor Brad Henry signed H.B. 1172 that reduces the top state income tax rate over a four year period to 5.25 down from 6.25 percent. The act also repeals the Oklahoma estate tax over the next three years. It includes an amendment that gives immediate estate tax relief to non-linear heirs, such as nephews and nieces, treating them the same as children and grandchildren.

**WEB LINK**

Click to review more information regarding the new OK tax law ([http://www.governor.state.ok.us/display\\_article.php?article\\_id=781&article\\_type=1](http://www.governor.state.ok.us/display_article.php?article_id=781&article_type=1))

## • State Tax Issues Continued

### -PENNSYLVANIA-

#### WEB LINK

Click to review the new property tax act

(<http://www2.legis.state.pa.us/WU01/LI/BI/BT/2005/1/HB00319P0093.pdf>)

**PA Passes Property Tax without Financial Planning Tax.** Pennsylvania Governor Edward Rendell approved a measure (H.B. 39, Special Session No. 1 of 2005) to reduce property taxes through the use of gaming revenue. Originally, the legislation included a sales tax expansion that would tax many services, including financial planning. The PA chapters quickly united in a strong grassroots effort to kill the provision.

#### WEB LINK

Click here to review the PA act

(<http://www2.legis.state.pa.us/WU01/LI/BI/BT/2005/0/SB0300P1986.pdf>)

**PA Enacts 529 Plan and HSA State Income Tax Deductions.** Pennsylvania has become the first state to offer a state income tax deduction for contributions to any state's 529 college savings plan. The deductible contribution amount is capped at \$12,000 per beneficiary, per year and begins with the 2006 tax year. Another provision in the same act (S.B. 300) allows taxpayers to also take a state income tax deduction for contributions to a health savings account. This provision is retroactive to January 1, 2006 as well and employees do not have to report employer contributions as income.

### -SOUTH CAROLINA-

#### WEB LINK

Click and enter HB 4449 in the search field to review the bill

([http://www.scstatehouse.net/cgi-bin/web\\_bh10.exe](http://www.scstatehouse.net/cgi-bin/web_bh10.exe))

**SC Governor Signs Act to Reduce Property Tax.** South Carolina Governor Mark Sanford signed H. 4449 that reduces property taxes on owner-occupied homes and increases the general sales tax to 6 percent. The act eliminates school operating taxes on owner-occupied homes while increasing the state sales tax by 1 percentage point beginning July 1, 2007. It also implements the provisions of a constitutional amendment set for the ballot that would limit the increase in tax value for all property to 15 percent over a five-year period. To go into effect, the amendment would have to be approved by voters this fall. In June, the Governor vetoed the state's budget for fiscal year 2007 citing that there was a lack of tax relief for state residents. The House overrode the veto and it is currently being debated in the Senate.

### -TEXAS-

#### WEB LINK

Click for the new calculator

(<http://www.cpa.state.tx.us/taxinfo/franchise/calculator/>)

**TX Property Tax Cuts Enacted.** Governor Perry has signed five acts that have revamped the state property tax system. Texas Comptroller Carole Keeton Strayhorn has also released a new tax calculator that allows Texas businesses to estimate their tax liability under the state's new business tax (H.B. 3). The new business tax includes businesses whose revenue exceeds \$300,000 a year and exempts sole proprietors and general partnerships.

### -VIRGINIA-

#### WEB LINK

Click and type 5019 into the search engine to review the legislation

(<http://legis.state.va.us/>)

**VA Legislature Approves Estate Tax Repeal.** Both the VA House and Senate have approved estate tax repeal legislation (H.B. 5019/S.B. 5019). The legislation would repeal the state tax on estates beginning July 1, 2007. The bill would change the current state exemption of \$2 million to the federal estate tax exemption. The legislation awaits action by Governor Tim Kaine.

## PROFESSIONAL ISSUES

**FPA Releases Report on Options for Regulating Financial Planning as a Profession.** Financial planning is still not widely regarded by the public as a profession, according to a special task force report submitted to the FPA Board of Directors, and should be subject to a clear fiduciary standard, and a regulatory entity with enforcement authority to disbar dishonest or unethical financial planners. Clear identification of financial planners as a profession would enhance consumer protection and benefit financial planners and their firms by creating barriers to entry for unqualified persons. The report examines various regulatory options, including supporting the present state of regulation, and encourages membership feedback in order to identify consensus on recommended goals and objectives of the task force. A survey will be sent to all members in mid-July to provide additional feedback to the Board of Directors.

### WEB LINK

Click to review the regulation report

[http://www.fpanet.org/member/govt\\_relation/professional/index.cfm?DESTURL=%2Fmember%2Fgovt\\_relation%2Fprofessional%2Findex.cfm%3F&cs\\_LoginTime=102518](http://www.fpanet.org/member/govt_relation/professional/index.cfm?DESTURL=%2Fmember%2Fgovt_relation%2Fprofessional%2Findex.cfm%3F&cs_LoginTime=102518)

**CFP Board Updates Disciplinary Rules.** In June 2006, the CFP Board updated its *Disciplinary Rules and Procedures*. The Board amended a rule to reserve the right to reopen investigations of matters dismissed without a hearing. A procedure was added for the Board of Professional Review to counter a proposed Offer of Settlement. The Board clarified limits on petitions for reinstatement of a suspended certification. The Board also limited refunds of costs for a hearing before the CFP Board of Professional Review to cases that are found to be without merit.

### WEB LINK

Click to review the changes to the CFP Board Disciplinary Rules

<http://www.cfp.net/certificants/conduct.asp>

## PRO BONO

**FPA Hurricane Relief Office Opens in Baton Rouge.** The FPA Hurricane Support Center is now open in Baton Rouge, Louisiana, and will soon begin connecting hurricane victims around the country with volunteer CFP certificants for pro bono financial planning counseling. FPA has been working with Louisiana Congressman Richard Baker and local charities to publicize the Support Center. FPA also sent each state securities administrator a letter containing information about the FPA Pro Bono Program and Hurricane Support Center.

### WEB LINK

Click to review the details of the new program

[http://www.fpanet.org/member/press/releases/062806\\_probono.cfm](http://www.fpanet.org/member/press/releases/062806_probono.cfm)

**FPA holds Pro Bono Conference** The first ever FPA Chapter Pro Bono Directors' Forum was held on June 23-24 in McLean, VA. More than 60 attendees from 43 chapters gathered to exchange views and ideas about how to improve and expand pro bono financial planning services. Among the main topics: sharing national and chapter resources for pro bono, case studies of successful chapter programs, how pro bono can strengthen FPA and the planning profession. The forum was held with support from the Foundation for Financial Planning.

### WEB LINK

Click to the Forum Resource Guide for presentations, guidelines and tools on the "For Members" section of

[www.FPAprobono.org](http://www.FPAprobono.org)

## FPA POLITICAL ACTION COMMITTEE

FPA-PAC is the only federal political action committee representing the financial planning profession. It helps ensure that financial planners have a seat at the table on all of the important issues affecting our profession – a level playing field for financial planners, helping clients make sense out of a bewildering tax code, and saving more for retirement and education needs.

Please use the form at the end of this newsletter to make a contribution.

### FPA-PAC WISHES TO THANK RECENT CONTRIBUTORS

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*(\$1,000 or more)*

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Financial Planning Association



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[http://www.fpanet.org/member/govt\\_relation/fpa\\_pac.cfm](http://www.fpanet.org/member/govt_relation/fpa_pac.cfm)

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Account number:  Expiration:

Name on card:

\* FPA-PAC is funded solely through the voluntary contributions of FPA members, who may contribute any amount up to \$5,000 per year. Contributions to FPA-PAC are not deductible for federal income tax purposes. Contributions made by corporations cannot be accepted; however, sole proprietorship monies are acceptable. Only U.S. citizens and persons admitted to the U.S. for permanent residence may contribute to FPA-PAC. Federal law requires political action committees to report the name, mailing address, occupation, and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year.