



Capitol Update 06-3

March 3, 2006

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FEDERAL ACTIVITIES

President's 2007 Fiscal Budget Released. In early February, President Bush's 2007 Fiscal Budget was released. It includes a proposal to spend \$156 billion over 10 years for HSA tax incentives including a new deduction, tax credits, and expanded contribution limits. Also included is a proposal for making the 2001 and 2003 tax cuts permanent and a one-year provision for an AMT patch to cover 2006. The President's budget outlines the administration's priorities for the upcoming year. For more information on the President's 2007 budget, see <http://www.whitehouse.gov/omb/budget/fy2007/>.

Securities Issues

Proposed Elimination of SEC Office of Compliance Inspections and Examinations. H.R. 4618, the Compliance, Examinations, and Inspections Restructuring Act of 2005, would disperse the SEC's compliance and inspections authority to the operating divisions of the SEC and eliminate the Office of Compliance Inspections and Examinations (OCIE). The bill, which amends the Securities Act of 1934, would also require the SEC to provide periodic status reports to persons subject to an SEC inquiry and require Commissioners to give their prior approval to all sweeps. No action has yet been taken by the House on the bill and the bill appears unlikely to pass. For more information, see <http://thomas.loc.gov/> and type H.B. 4618 in the search engine.

Tax Issues

ERISA Investment Advice Provision in House-Senate Conference. FPA is preparing a letter to the House and Senate pension bill conferees expressing general support for the Senate's investment advice provision that continues a ban on direct advice from fund firms and urging conferees to incorporate disclosure to plan participants based on Form ADV. The Senate bill (S. 1783) would encourage companies to hire RIAs or broker-dealers to advise employees about their plans by limiting the employers' liability for the advice provided. The House version (H.R. 2830) of the investment advice provision would allow mutual fund companies to offer advice so long as they provide disclosure about fees and conflicts of interest. The House bill also includes provisions that would make permanent increases in contribution limits for qualified retirement plans and IRAs. Both the House and Senate versions have similar, but not identical, provisions to

induce employers to offer "automatic enrollment" in 401(k) plans. It is expected that an agreement on the conference report will be reached by April 15, when employer quarterly plan contributions are due. For additional information on the pension legislation, see <http://thomas.loc.gov/> and type S. 1783 or H.R. 2830 in the search engine.

FPA to Participate in Financial Literacy Day on Capitol Hill. FPA's Washington, D.C. office will participate in Financial Literacy Day in the Senate on April 25. The Jump\$tart Coalition, Junior Achievement and the National Council on Economic Education are sponsoring the event. It will be hosted by Senator Daniel K. Akaka (D-HI). Senators Akaka and Michael B. Enzi (R-WY), as well as Representatives Judy Biggert (R-IL) and Rubén Hinojosa (D-TX), will also participate. The event is expected to attract 250-300 members of Congress, their staffs, representatives from federal agencies and other organizations.

Deficit Reduction Act Changes Medicaid Look-Back. President Bush signed the Deficit Reduction Act (S. 1932) on February 8. It significantly revises Medicaid look-back provisions and cuts \$38.8 billion over five years from federal programs including Medicaid and Medicare. The act revised the look-back provisions for Medicaid coverage so that those with substantial assets will have a more difficult time qualifying for long-term Medicaid coverage in nursing homes. A summary of the look-back provisions will be available soon on the government relations page of the FPA website http://www.fpanet.org/member/govt_relation/index.cfm under the Compliance Section.

Tax Reconciliation Goes to Conference. The House-Senate conference on the tax reconciliation bill (H.R. 4297) has begun. Some of the key issues to be resolved include whether AMT relief will be granted and whether the 15 percent capital gains and dividend rates will be extended for one or two years. There is a limit of \$70 billion allocated for this bill and the cost of both packages exceed this amount, forcing lawmakers to decide which provisions to eliminate. The House version also includes a provision to allow the tax free transfer of assets from an IRA to charities. It is expected that the conference will conclude in mid March. For actual wording of the bills, go to <http://thomas.loc.gov/> and type S. 2020 or H.R. 4297 and 4096 in the search engine.

MRSB Eases Disclosure for Suitability Rules on 529 Plans. The Municipal Securities Rulemaking Board (MRSB) has decided to ease proposed disclosure and suitability requirements on state-sponsored 529 plans. The original proposal would have required those selling 529 plans to explain the features of 529 plans from all 50 states. The new guidelines require dealers selling out-of-state 529 plans to make several disclosures, including: that there are favorable state tax benefits by buying an in-state 529 plan; that the benefits are only one of many appropriately weighted factors; and that customers should consult with their financial, tax, or other advisers about how a 529 plan fits into their investment plans. In addition, it requires dealers to conduct a suitability analysis on how these factors affect the customer. The proposal must receive approval by the SEC, which is expected this spring or early summer. For more information, go to <http://www.msrb.org/msrb1/whatsnew/JointStatement.asp>.

President Opposes Elimination of Mortgage Interest Deduction. President Bush rejected the controversial proposal of the Federal Commission for Tax Reform to repeal the home mortgage interest deduction. The Commission had suggested that the mortgage interest deduction should be scaled back to pay for AMT repeal. The Commission's report was sent to the Treasury Department in November, and it remains unclear when formal recommendations for tax reform will be sent from Treasury to the President.

Deadline Postponed for Hurricane Katrina Victims. The IRS has postponed the tax filing and payment deadlines until August 28 for those hardest hit by Hurricane Katrina. Individuals and businesses located in the most severely damaged parishes and counties of Louisiana and Mississippi will receive an automatic time extension. Some counties of Alabama are also subject to the postponed deadline. To obtain relief, taxpayers must identify themselves to the government by writing "Hurricane Katrina" in red ink at the top of their returns or call the IRS Disaster Hotline at 866-562-5227. For specific details, go to <http://www.irs.gov/newsroom/article/0,,id=154615,00.html>.

Time Extended for Hurricane Victims to Claim Losses. The IRS has extended until October 16 the deadline for victims of hurricanes Katrina, Rita, or Wilma who want to claim disaster-related losses on prior year federal income tax returns. Taxpayers who have already filed their return can file an amended return to include these losses. Taxpayers who are claiming disaster related losses should write the name of the hurricane in red at the top of the return. For more information, please see <http://www.irs.gov/newsroom/article/0,,id=154442,00.html>.

STATE ACTIVITIES

Insurance and Trust Issues

CO FPA Chapter to Testify in Support of Uniform Trust Code. Special thanks to FPA Colorado Chapter GR Director Kate Scott for coordinating testimony in support of H.B. 1258, a bill to enact the Uniform Trust Code ("UTC") in Colorado. FPA supports adoption of the UTC because it creates a set of basic default rules that clearly, fairly and consistently govern voluntary trusts. It also promotes uniformity with other states' trust law. To review H.B. 1258 go to http://www.leg.state.co.us/clics2006a/csl.nsf/fsbillcont3/D6B3CCF0D1660143872570F4006DC396?Open&file=1258_01.pdf

FPA Supports Suitability Standards in Annuity Sales for All Consumers. Product suitability standards in annuity sales will be an important issue during the Spring meeting of the National Association of Insurance Commissioners (NAIC) on March 4-5. NAIC has released a proposal to extend to all consumers the suitability protections that currently exist only for the sale of annuities to seniors. FPA has long encouraged policymakers to address this important issue and has submitted a formal comment letter to NAIC in support of the changes. A suitability standard will reduce conflicts of interest in annuity sales and create a standard for insurance producers similar to the

standard required of broker-dealer representatives. To view the letter from FPA to the NAIC go to

http://www.fpanet.org/member/govt_relation/state/insurance/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=44561

Securities Issues

PA Introduces Financial Planner Licensure Act. Pennsylvania House Bill 2179, if enacted, would create a new licensing requirement and professional regulatory board specifically for financial planners in the state. FPA has alerted the leaders of its three Pennsylvania chapters and, although the legislation appears to have little support, is closely monitoring it. FPA is also in communication with both the bill's sponsor and the Pennsylvania Securities Commission to ensure that FPA member concerns are acted upon in the event that the Pennsylvania legislature takes up this legislation. To review H.B. 2179 go to

<http://www.legis.state.pa.us/WU01/LI/BI/BT/2005/0/HB2179P3018.HTM>

State Securities Regulators Release Top 13 Investment Scams. The North American Securities Administrators Association (NASAA) has issued its list of the Top 13 investment scams facing investors in 2006. NASAA predicts that personal information scams, oil and gas investment fraud, and prime bank schemes will be the greatest threat to investors this year. A comprehensive list of the scams is posted on the NASAA web site at http://www.nasaa.org/nasaa_newsroom/current_nasaa_headlines/4240.cfm

Uniform Securities Act Introduced in Five States; More Likely. The National Conference of Commissioners on Uniform State Laws (NCCUSL) expects that the updated Uniform Securities Act 2002 will be introduced in 15 to 20 state legislatures this year. Thus far in 2006, the model act has been introduced in Alabama, Alaska, Hawaii, Minnesota and Washington. The Act has already been approved in Idaho, Iowa, Kansas, Maine, Missouri, Oklahoma, South Carolina, South Dakota, the U.S. Virgin Islands, and Vermont. For additional information on the Uniform Securities Act 2002 and links to state legislation go to

<http://www.nccusl.org/Update/ActSearchResults.aspx>.

Tax Issues

GA Legislature Approves Child Care Credit. H.B. 1080 was unanimously approved by both the Georgia Senate and House and will shortly be signed by Governor Perdue. Under this legislation, parents are able to deduct part of their child or dependent care expenses beginning in tax year 2006. Georgia taxpayers would receive an income tax credit equal to 10 percent of the federal child care tax credit for tax year 2006, 20 percent for tax year 2007, and 30 percent for tax year 2008. The amount of the credit cannot exceed a taxpayer's liability in a tax year, but unused tax credit amounts may be carried forward to apply to succeeding years. For actual wording of the bill, go to

http://www.legis.ga.gov/legis/2005_06/sum/hb1080.htm.

OK Legislature Focusing on Estate Tax and HSAs. The Oklahoma House Revenue and Taxation Committee approved legislation (H.B. 3125) that would repeal the state's estate tax. The initiative would also further cut the top income tax rate from 6.65 percent to 6.25 percent. In addition, the OK House passed two pieces of legislation to eliminate the franchise tax for small business (H.B. 2922) and expand a health savings account plan that allows income tax-free money to be spent by state employees and teachers (H.B. 2649). H.B. 2922 exempts businesses that owe less than \$250 a year in franchise tax. H.B. 2649 gives state employees and teachers the tax benefits from the Health Savings Account Act that are presently available to other individuals and employers. For the most recent information about the OK Legislature, go to <http://www.lsb.state.ok.us/>.

FPA Government Relations Staff Changes

Robert Neill Rejoins FPA Government Relations Staff. Robert Neill, an attorney with an extensive background in lobbying and government relations, has rejoined FPA's Washington staff as Assistant Director of Government Relations. Robert will focus on state securities and insurance issues and will also serve as staff liaison to FPA's Professional Issues Subcommittee. Robert previously worked for FPA from 2000 through 2004. He can be reached at Robert.Neill@fpanet.org or 1.800.322.4237 ext. 7192.

FPA POLITICAL ACTION COMMITTEE

FPA Receives Court Date for BD Rule Hearing. FPA will submit its brief challenging the SEC's Broker Dealer Rule in the DC Circuit Court of Appeals on March 27. FPA is likely to argue the case before the court in the fall. If FPA prevails in its suit, the fight to protect professional financial planning and investor protection is likely to move from the SEC and the courts to Congress. For this reason, it is imperative that FPA strengthen its relationships on Capitol Hill. **Please join your colleagues in supporting FPA-PAC by completing the FPA-PAC contribution form below.**

FPA Political Action Committee. The first contributions of 2006 are in! Our thanks and appreciation to the first 2006 contributors of FPA-PAC: **Platinum Level (\$1000 or more):** Stephen Johnson; **Silver Level (\$200 to \$499):** Susan Bradley, Kirk Francis; **Bronze Level (under \$200):** Michael Tcheyan, Madeline Braisted, Mark Robertson, Lance Boyce, Jill Peetluk-Feinstein, David Ross, John Nettleton, Thomas Buresh, Arthur Littlefield, Steven Cariati, Martilias Porreca, Sharon Lubker, Brian Jackson, Richard Weiss, Wilbert McZeal, and Joseph Cembrola.

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OR

Please make a personal check payable to FPA-PAC and mail to:

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