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Benefits Alert

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Trump Accounts as an employee benefit

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Proposed IRS rules clarify how Trump Accounts are opened, funded, and administered—key guidance for employers considering this new benefit.



What's the impact?

- New proposed regulations clarify who may open Trump Accounts, how they are established, and what rules apply during the Growth Period.
- Employers can make tax-free contributions under Section 128 but face annual limits and future nondiscrimination requirements.
- Salary-reduction contributions via cafeteria plans may be allowed for dependents, expanding options for employee participation.

On March 9, 2026, the Department of the Treasury and the Internal Revenue Service published two sets of proposed regulations relating to Trump Accounts. Trump Accounts were created by the One Big Beautiful Bill Act (OBBA), enacted in July 2025. In general, Trump Accounts are a new type of individual retirement account (IRA) available for the benefit of certain minor children. The first set of proposed regulations addresses the general rules for making an election to open a Trump Account under Code Section 530A (Section 530A Proposed Regulations). The second set

addresses the \$1,000 “Pilot Program” contribution under Section 6434 (Pilot Program Proposed Regulations). Both proposed regulations build on the initial overview provided by the Service in IRS Notice 2025-68 (“Notice”), published in December 2025.

For employers, the regulatory package is particularly significant due to its implications for Trump Accounts as an employee benefit, including new details on how accounts are established, who may open them, and how they may be funded through employer contributions and employee pre-tax salary deferrals.

Explanation of Trump Accounts

Trump Accounts are essentially IRAs for children. From the time the account is opened until December 31 of the year in which the child turns 17 (“Growth Period”), the account is subject to special rules regarding annual contribution limits, investment options, and the timing of distributions. During the Growth Period, funds must be invested only in “eligible investments,” which are mutual funds or exchange-traded funds that track a broad index of primarily US equities, do not use borrowed funds or leverage, and have annual fees and expenses of no more than 0.1%. No distributions are permitted during the Growth Period, except for qualified rollover contributions, qualified “ABLE” rollover contributions for certain disabled individuals, excess contribution distributions, and distributions upon the death of the account beneficiary. After the Growth Period ends, a Trump Account is generally subject to the traditional rules for IRAs, with the following permanent exceptions—it may never be aggregated with other IRAs for basis allocation purposes, and it cannot accept employer SEP or SIMPLE IRA contributions.

TRUMP ACCOUNT ELIGIBILITY

An individual is eligible for a Trump Account if an election to establish a Trump Account is made on their behalf, they have been issued a Social Security number, and they have not attained age 18 before the close of the calendar year in which the election is made.

HOW TO ESTABLISH TRUMP ACCOUNTS

The Section 530A Proposed Regulations provide significant new details on establishing the accounts. An “authorized individual” may elect to open a Trump Account for an eligible individual by filing IRS Form 4547 or by using an online tool or application expected to be available in mid-2026 at www.trumpaccounts.gov. The election may be filed at any time, including at the same time as the authorized individual files their federal income tax return.

The proposed regulations establish an ordering rule to determine who qualifies as the authorized individual. If the election to open the account is being made at the same time as a Pilot Program contribution election under Code Section 6434 (discussed below), the authorized individual is the person making the Pilot Program election. If no Pilot Program election is being

made, the following individuals may make the election, in the following order of eligibility priority:

- / Legal guardian
- / Parent
- / Adult sibling
- / Grandparent

By making the election, the authorized individual represents, under penalties of perjury, that the individual is authorized to make the election and that no person with a higher priority is available. Only the first election processed by the IRS will result in an account being opened. Any subsequent election for the same child will be blocked. The election must be made no later than December 31 of the calendar year in which the eligible individual turns 17.

RESPONSIBLE PARTY

Because the account beneficiary of a Trump Account will initially be a minor without legal capacity, the proposed regulations designate a “responsible party” to act on the child's behalf. By default, the responsible party is the individual who elects to open the initial Trump Account. The responsible party generally has the authority to select among eligible investments, direct rollovers to another Trump Account or an ABLÉ account, and select a successor responsible party. Applicable law (including state law) and the account agreement govern when and how a responsible party may be removed and replaced.

TRUSTEE REQUIREMENTS

The trustee of a Trump Account must be a bank (as defined in Section 408(n)) or a nonbank custodian approved by the IRS. Notably, any person already approved as of December 31, 2025, to be a nonbank custodian of an IRA is automatically approved to be a nonbank custodian of a Trump Account. The Treasury Department will separately select one or more financial institutions to serve as trustees of initial Trump Accounts under Code Section 530A(g).

Contributions to Trump Accounts

TYPES OF CONTRIBUTIONS

During the Growth Period, five types of contributions can be made to a Trump account:

Pilot Program Contribution

For certain eligible children born from 2025 through 2028, a one-time \$1,000 Pilot Program contribution from the Federal government. To receive this contribution, a separate election under

Section 6434 must be made, and the eligible child must be a US citizen with a Social Security number.

Qualified General Contributions

Contributions funded by government entities (including state and local governments, the District of Columbia, and Indian tribal governments) or Section 501(c)(3) tax-exempt organizations, distributed in equal amounts to the Trump Accounts of all account beneficiaries in a “qualified class.”

Qualified Rollover Contributions

A trustee-to-trustee transfer of the entire balance from one Trump Account to a rollover Trump Account for the same beneficiary.

Contributions from other Sources

Contributions by parents, the beneficiary, or another third party.

Section 128 Employer Contributions

Employer contributions that are not includible in the gross income of the employee under Code Section 128.

ANNUAL CONTRIBUTION LIMITS

Contributions by parents, the beneficiary, or another third party are subject to an aggregate annual limit of \$5,000. This amount will be subject to cost-of-living adjustments after 2027. Pilot Program contributions, qualified general contributions, and qualified rollover contributions are exempt from this annual limit. Section 128 Employer Contributions are subject to a \$2,500 annual limit, as described below. No contributions of any kind may be made to a Trump Account before July 4, 2026.

TAX TREATMENT OF CONTRIBUTIONS

Contributions to a Trump Account during the Growth Period are not includible in income by the account beneficiary when made. Pilot program contributions, qualified general contributions, and Section 128 employer contributions are tax-deductible and do not create basis in the Trump Account. Contributions from other sources (such as from parents or other family members) are not tax-deductible and do create basis in the account.

SECTION 128 TRUMP ACCOUNT CONTRIBUTIONS

Code Section 128 provides that employers can contribute to the Trump Accounts of their employees or employees' dependents and that such contributions will not be taxable income to the employee. To do so, employers must establish a written Trump Account contribution program designed for the exclusive benefit of employees to provide contributions to the Trump Accounts of such employees or their dependents.

Code Section 128 employer contributions are subject to an annual per-employee limit of \$2,500 (subject to cost-of-living adjustments after 2027). This annual limit applies per employee, not per dependent of the employee. For example, if an employee has two or more children with Trump Accounts, an employer with a Trump Account contribution program may only contribute up to \$2,500 in the aggregate for 2026 to those Trump Accounts. When contributing, the employer must affirmatively inform the trustee that the contribution is a Section 128 employer contribution, excludible from the employee's gross income.

The IRS Notice stated that requirements similar to those that apply to a Section 129 dependent care assistance program (regarding discrimination, eligibility, notification, statements, and benefits) will apply to employer contributions to Trump Account programs. That said, many employers find the nondiscrimination rules applicable to dependent care assistance programs challenging to satisfy. Imposing similar nondiscrimination requirements on Trump Accounts may limit their appeal to employers. Of course, *similar* nondiscrimination requirements do not necessarily mean the *same* nondiscrimination requirements. The Section 530A Proposed Regulations state that more specific guidance on Section 128 employer contribution programs will be issued at a later date.

CODE SECTION 125 PLAN SALARY REDUCTION CONTRIBUTIONS

In addition to direct employer contributions, employees may have the option of contributing on a pre-tax basis via salary reduction under a Code Section 125 cafeteria plan. However, there is an important distinction—a Trump Account contribution program may be offered via salary reduction under a Code Section 125 cafeteria plan if the contribution is made to the Trump account of the employee's *dependent*, but not if the contribution is made to the Trump Account of the *employee* themselves. This is because a contribution to the employee's Trump Account would constitute deferred compensation under Code Section 125(d)(2)(A), because the employee would have a vested right to compensation payable in a later year.

Parents and other individuals may contribute to a child's Trump Account at any time, subject to the annual limit—but such contributions will not be tax-deductible. That fact alone makes a cafeteria plan contribution option attractive to employees who have opened a Trump Account for their dependent(s). If vendors already administering defined contribution account benefits, such as health savings accounts (HSAs), health reimbursement accounts (HRAs), and flexible spending accounts (FSAs), choose to offer Trump Accounts, then employees could potentially

access all of these benefits on a single platform, creating one-stop shopping for employees and employers.

What still remains to be addressed

While the IRS Notice and the Proposed Regulations provide important clarity on how Trump Accounts are opened—significant open questions remain. The Proposed Regulations expressly reserve a number of topics to be addressed in future rulemaking. Further, several open questions still remain. A summary of these open topics is as follows:

- / Detailed rules governing contributions during the Growth Period
- / Eligible investment.
- / Distributions during and after the Growth Period
- / Reporting requirements for trustees and custodians
- / Other special rules and coordination with traditional IRA rules
- / Nondiscrimination testing for Code Section 128 employer contribution programs
- / Guidance exempting Trump Accounts from ERISA (similar to that of HSAs)
- / Coordination of salary reduction contributions with Code Section 125 rules

The regulatory framework for Trump Accounts is beginning to take shape. Trump Account contributions commence July 4, 2026. We expect that a number of defined contribution vendors and employers will be making their decisions on whether to offer Trump Accounts very shortly.

Nixon Peabody's [Employee Benefits & ERISA team](#) is ready to guide you through these changes, ensuring your benefit programs remain compliant and optimized for your workforce. For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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