Publications

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Treasury and IRS Expand Proposed Trump Account Guidance

Key Takeaways:

- Treasury and the IRS have issued proposed rules addressing the opening and administration of Trump Accounts, employer contribution programs and eligible investments during a beneficiary's childhood.
- Employers can contribute to employees' Trump Accounts by adopting a "Trump Account contribution program," which requires a separate written document and compliance with account-verification and trustee-communication procedures, annual reporting and nondiscrimination testing.
- Employers wishing to facilitate employee contributions to Trump Accounts through payroll can add the benefit to their Section 125 cafeteria plan, subject to certain requirements.
- During the "growth period," Trump Account assets generally are limited to low-cost, unleveraged mutual funds and exchange-traded funds that track broad U.S. equity indices. Trustees are responsible for monitoring investments and correcting failures.

Since the publication of our January 2026 alert, which summarized the statutory 530A Account ("Trump Accounts") framework and Notice 2025-68, the Treasury and the IRS have issued several sets of proposed regulations that provide additional operational guidance.[1] The proposed regulations address elections to open initial Trump Accounts, rules governing employee pre-tax contributions through an employer's Section 125 plan, employer contributions, nondiscrimination requirements, eligible investments and trustee procedures.

Opening an initial Trump Account

An election to open a Trump Account is made using a Form 4547. Individuals can fill out and submit the form in the Trump Accounts app (see TrumpAccounts.gov), when they file their taxes, or through the secure IRS website called Individual Online Accounts, or IOLA. The list of individuals who are authorized to make the account-opening election is the child's legal guardian, parent, adult sibling or grandparent, in that order. The individual making the election will generally be the account's responsible party until the beneficiary turns age 18.

Related People

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The election for the $1,000 pilot program contribution for eligible beneficiaries may be made at the same time that the Trump Account is opened. However, only an individual who reasonably believes that the account beneficiary will be their “qualifying child” may make the election for the $1,000 pilot program contribution. A qualifying child must be the individual’s son, daughter, stepchild, foster child, brother, sister or a descendant of these (such as a grandchild or niece), and satisfy certain residency and support requirements.

What employers should know — implementing a Trump Account contribution program

Employers can contribute to the Trump Accounts of employees through a Trump Account contribution program. [2] Additionally, employers can facilitate salary reduction contributions to a Trump Account established for an employee’s dependent (while in the growth period) through the employer’s Code § 125 cafeteria plan (“Flexible Benefits Plan/Cafeteria Plan”). Note that both employer contributions and employee contributions made through a Trump Account contribution program are excluded from an employee’s gross income but remain wages for Federal Insurance Contribution Act (FICA), Railroad Retirement Tax Act (RRTA) and Federal Unemployment Tax Act (FUTA) purposes.

A Trump Account contribution program must be established pursuant to a written plan document that includes the following provisions:

1. describes employee eligibility;
2. sets out the employer contribution formula;
3. describes whether employee salary-reduction contributions through the employer’s Flexible Benefits Plan/Cafeteria Plan are permitted;
4. outlines procedures for employees to designate recipient accounts;
5. describes required certifications and notices;
6. memorializes annual reporting;
7. identifies the plan year; and
8. outlines correction procedures.

Like with other employer-sponsored benefits, the program must be operated in accordance with the written plan document.

To make employer contributions and salary reduction contributions to Trump Accounts, the employer must have both a separate written Trump Account contribution program and, if it wishes to allow salary reduction contributions, appropriate provisions in the Flexible Benefits Plan/Cafeteria Plan.

Rules for incorporating Trump Account contributions into a Flexible Benefits Plan/Cafeteria Plan

To make salary reduction contributions through a Flexible Benefits Plan/Cafeteria Plan, the Flexible Benefits Plan/Cafeteria Plan must specifically describe the benefit. Unlike the limitations on changing elections for pre-tax contributions for health benefits and dependent care based on a change-in-status, a Flexible Benefits Plan/Cafeteria Plan must permit prospective contribution election changes to a Trump Account at least monthly.

Confirming the Trump Account is valid

Employers may rely on certain written employee certifications concerning the beneficiary’s age and relationship to the employee unless the employer has actual knowledge that the certification is incorrect. An employer should, however, establish a reasonably designed verification process using information from the trustee, payroll processor or another service provider to verify that the recipient account is a valid Trump Account.

Employers cannot limit employees to “preferred trustees”

Employers may not designate “preferred trustees” or in any way limit employer contributions to Trump Accounts to a select universe of trustees. Instead, employers adopting a Trump Account contribution program must make any contributions due under the program to any valid Trump Account with any trustee.

Annual contribution limits

Annual contributions to a Trump Account are limited to $5,000 for 2026 and 2027. Trump Accounts can be funded by parents, relatives, friends, employers, governmental entities, non-profit organizations and tribes.

Employer contributions to Trump Accounts are limited to $2,500 per employee for 2026 and 2027. If an employer contributes the maximum allowed, the remaining $2,500 can be funded from other sources.

If the employer amends the Flexible Benefits Plan/Cafeteria Plan to allow for pre-tax contributions to Trump Accounts, employees can fund contributions to their dependents’ Trump Account with pre-tax employee contributions through the employer’s Flexible Benefits Plan/Cafeteria Plan. If the employer does not facilitate pre-tax salary reduction contributions to Trump Accounts, an employee can fund the Trump Account with after-tax contributions.

If an employer adopts a Trump Account contribution program, the employer is not required to monitor whether the total annual non-taxable contributions to a Trump Account meet the contribution limits.

Any contribution to a Trump Account from a governmental source, including the federal government’s $1,000 pilot contribution, or a non-profit organization will not count against the annual $5,000 limit.

Rules governing employer contributions

Per employee: Employees with multiple employers may only receive up to $2,500 annually in the aggregate across all employers. If the combined contributions from unrelated employers to a Trump Account exceed $2,500, the excess contribution is taxable to the employee. Note that the excess contribution does not by itself disqualify either employer’s program if each program limits employer contributions under that program to no more than $2,500. Related employers are treated as a single employer under the applicable Section 414 aggregation rules.

Per employee — not per child: Employer contributions are limited to $2,500 per employee, without regard to the number of eligible Trump Accounts that employee may have. For example, an employee with three children may have three Trump Accounts. That employee’s employer may only contribute $2,500 to that employee. The employee will determine how to allocate that $2,500 among the three accounts.

Employers can only make contributions on behalf of common-law employees. Unlike dependent care assistance programs under Code Section 129, employer contributions cannot be made on behalf of self-employed individuals (e.g. sole proprietors, partners and 2% or greater S-corporation owners).

Nondiscrimination rules

Trump Account contribution programs adopted by employers must satisfy nondiscrimination rules governing contribution terms, eligibility and average benefits. The Treasury and the IRS have proposed a numerical eligibility safe harbor and require that average benefits for non-highly compensated employees equal at least 55% of those provided to highly compensated employees.

Some employers have announced a plan to make an employer contribution that matches the federal government's $1,000 pilot contribution to eligible babies born between 2025-2028. The proposed regulations provide a safe harbor for employer contributions tied to the $1,000 pilot contribution when the employer contribution is offered on the same terms to all non-excluded employees. Notwithstanding the foregoing, the standard eligibility test still would apply.

Eligible investments and trustee responsibilities

The investment of assets held in Trump Accounts is limited to certain types of investments.[3] An eligible investment during the growth period, which begins when the initial Trump Account is established and ends on December 31 of the year in which the beneficiary reaches age 17, must be a mutual fund or exchange-traded fund that 1) seeks to replicate the returns of a qualified index (described further below), 2) does not use leverage in a manner that materially increases the risk of loss, and 3) has combined annual fees and expenses of no more than 0.1% of the fund's net assets.

A qualified index is the Standard and Poor's 500 stock market index, or any other index that has a publicly available methodology, is comprised of equity investments in primarily of U.S. companies and for which regulated futures contracts are traded on a qualified board or exchange. Treasury and the IRS have proposed a safe harbor if U.S. companies represent at least 90% of the index by weight. Funds tracking industry-specific, sector-specific or environmental, social and governance indices do not qualify as "eligible investments." Actively managed funds and funds designed to outperform, reduce volatility or otherwise perform differently from an index also generally would be ineligible.

What employers should do next

Employers considering a Trump Account contribution program should begin coordinating the preparation of the written plan document, along with any necessary amendment to the Flexible Benefits Plan/Cafeteria Plan, payroll and Form W-2 reporting, account verification procedures, trustee communications, employee notices, correction procedures and nondiscrimination testing. Employers also should consider how contributions will be transmitted to multiple trustees.

Please contact Sarah Bhagwandin, April Fortner or another member of Polsinelli's Employee Benefits & Executive Compensation team with questions regarding Trump Accounts.

[1] Trump Accounts, Federal Register, Mar. 9, 2026, https://www.federalregister.gov/documents/2026/03/09/2026-04533/trump-accounts

[2] Employer Contributions to Trump Accounts and Nondiscrimination Rules for Dependent Care Assistance Programs, Federal Register, Aug. 11, 2026, https://www.federalregister.gov/documents/2026/08/11/2026-16314/employer-contributions-to-trump-accounts-and-nondiscrimination-rules-for-dependent-care-assistance

[3] Guidance on Eligible Investments for Trump Accounts, Federal Register, Aug. 21, 2026, https://www.federalregister.gov/documents/2026/08/21/2026-17123/guidance-on-

eligible-investments-for-trump-accounts