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What employers need to know about Trump accounts

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In this article

Starting July 2026, employers can voluntarily contribute to the Trump accounts of employees' dependent children. Created by the One Big Beautiful Bill Act (Pub. L. No. 119-21), these accounts are a new kind of tax-preferred savings vehicle for individuals under 18. Employer contributions up to $2,500 per year are excludable from an employee's gross income if made pursuant to a program that meets certain conditions. This tax exclusion also applies to employer contributions to accounts of employees who are under 18.

This article has been updated several times since its original publication date to reflect guidance from the IRS and Department of Labor (DOL). Most recently, DOL issued Technical Release 2026-02 to clarify that Trump accounts and IRC Section 128 Trump account employer contributions programs generally won't be considered ERISA plans if employers meet certain conditions. The guidance also explains how employers could allow employees to make after-tax contributions via payroll deduction outside of an IRC Section 128 program without triggering ERISA coverage.

Prior to that, IRS provided guidance on Trump accounts in Notice 2025-68 and two sets of proposed regulations: one on elections to open "initial Trump accounts" and another on elections to receive the $1,000 pilot program contribution for eligible children born from 2025 to 2028. The agency intends to publish final regulations by January 4, 2027 (i.e., within 18 months after the law's enactment). Neither proposal addresses issues of direct concern for employers considering offering a Trump account contributions program. However, the agency also intends to issue guidance on IRC Section 128 programs, as well as other aspects of Trump accounts — including contributions, investments, distributions, reporting, other special rules, and coordination with IRA rules.

Trump account basics

Trump accounts are a type of traditional (i.e., non-Roth) IRA under IRC Section 408(a). However, they are subject to a number of special conditions until the first day of the calendar year when the account beneficiary turns 18. Notice 2025-68 and the proposed regulations define this as the "growth period."

Account eligibility and establishment. These accounts can only be established for the exclusive benefit of individuals who already have a social security number and will not attain the age of 18 before the end of the calendar year. Under the proposed regulations, the person authorized to open an initial Trump account for an eligible individual would depend on whether an election is being made at the same time to receive the pilot program contribution:

- If the pilot program contribution is **not** being elected, then an "authorized individual" in the following order of priority could establish a Trump account: the eligible individual's legal guardian, parent, adult sibling, or grandparent.
- If the election to establish the initial Trump account is made at the same time as an election to receive a pilot program contribution, the election may be made only by a "pilot program-electing individual," that is, an individual who anticipates that the eligible individual will be their "qualifying child" under IRC Section 152(c) for tax purposes in the tax year the election is being made. (A five-part test determines whether an individual is a qualifying child, and a qualifying child needn't actually be the individual's child, but may be a grandchild, sibling, or the child of a sibling in some cases.)

The election to establish an initial Trump account is made using Form 4547, *Trump Account Election(s),* at any time by the end of the calendar year in which the eligible individual turns 18, or may be made online at the Form 4547 Data Submission Portal. The Secretary of Treasury will create or organize the initial Trump account for each eligible individual following the authorized individual's election. The proposed regulations say the individual who elects to establish the initial Trump account would be responsible for managing the account during the growth period, although the trustee's account agreement or state law could specify a different individual.

After the initial account is opened, a "rollover Trump account" could be established with a different trustee during the growth period. The rollover account would first have to be funded by a "qualified rollover contribution" (i.e., a trustee-to-trustee transfer of the entire account balance from the eligible individual's existing account) before it could receive any other contributions. Eligible individuals may only have one funded account at any time.

The account trustee must be a bank (as defined in IRC Section 408(n)) or a nonbank trustee approved by the IRS. Any person the IRS has already approved to be a nonbank trustee of an IRA as of December 31, 2025, is automatically approved.

Initial account management. On April 6, 2026, Treasury announced that it had designated the Bank of New York Mellon Corporation (BNY) to serve as the financial agent for the program. As a designated financial agent, BNY can perform services for the federal government in a fiduciary capacity, including managing the initial Trump accounts and other back-end operations. BNY will partner with the financial technology company Robinhood, which will serve as the brokerage responsible for executing trades and also as the initial trustee for the accounts.

Contributions. Accounts can begin receiving contributions on July 4, 2026 (i.e., 12 months after the law's enactment) and can continue receiving contributions through the end of the growth period. Five types of contributions can be made to an account during the growth period:

- A $1,000 federal government contribution under a pilot program for US-citizen children born from 2025 through 2028
- "Qualified general contributions" by the federal government or certain governmental or nonprofit entities to a qualified class of beneficiaries
- Qualified rollover contributions from another Trump account
- IRC Section 128 employer contributions to the account of an employee's dependent child under age 18 (including employee pretax contributions under an IRC Section 125 program described below) or to the account of an employee who is under 18
- Contributions from any other source (e.g., the account beneficiary, their parents, or guardians)

Contributions by individuals and employers are subject to an aggregate $5,000 per year contribution limit (indexed for inflation after 2027). The federal government's pilot program contribution, qualified general contributions, and qualified rollover contributions don't count toward the limit. Notice 2025-68 says the trustee (not the employer) is responsible for ensuring aggregate individual and employer contributions don't exceed the annual limit.

Individuals can't take a tax deduction for contributions, and contributions aren't included in the account beneficiary's income when made. Although a Trump account is a type of traditional IRA, account beneficiaries needn't have gross income to receive or make contributions to their account, and contributions don't count toward the contribution limits on IRAs that aren't Trump accounts.

Investment restrictions. During the growth period, the account must be invested in a mutual fund or exchange-traded fund that:

- Tracks the returns of the S&P 500 index or another index consisting of equity investments in primarily US companies for which regulated futures contracts are traded
- Doesn't use leverage
- Charges annual fees and expenses of 10 basis points or less
- Meets other criteria the Treasury Secretary deems appropriate

Notice 2025-68 says the trustee is responsible for offering only eligible investments as investment options for the account, including monitoring the investments on an ongoing basis to ensure they remain eligible.

Distributions. The law generally prohibits distributions during the growth period, with exceptions for qualified rollover contributions to another Trump account or an ABLE account, distributions of excess contributions, or distributions upon the account beneficiary's death. After the growth period, distributions are generally subject to the rules for traditional IRAs. Distributed amounts are taxable as ordinary income to the extent they're attributable to pilot program contributions, qualified general contributions, employer contributions (which includes employee pretax contributions under an IRC Section 125 cafeteria plan), and earnings. Individual after-tax contributions are considered nontaxable "basis." The 10% early withdrawal penalty for distributions prior to age 59½ also applies unless the account beneficiary qualifies for one of the exceptions under the ordinary rules for IRA distributions, which include distributions for qualified higher education expenses, qualified birth or adoption expenses, and qualified first-time homebuyers.

After the growth period, the account beneficiary can transfer their account to another IRA or to an employer-sponsored plan that's an "eligible retirement plan" under the IRC's rollover rules. However, a footnote to Notice 2025-68 explains that a Trump account with any nontaxable basis can't be transferred to a qualified plan, 403(b) plan, or governmental 457(b) plan. Notice 2025-68 doesn't address whether these plans are required to accept transfers from Trump accounts or how plan administrators can ensure the transfer doesn't include nontaxable basis.

Employer contributions program overview

The law allows — but doesn't require — employers to establish a contributions program under new IRC Section 128. Under such a program, up to $2,500 per year in employer contributions to the accounts of employees or their dependent children are excludable from the employee's gross income. Employers have two options for offering a contributions program. An employer could contribute directly to the Trump accounts of employees or employees' dependent children. Employers could also allow employees to fund the accounts of their dependent children (but not their own accounts) via pretax contributions under an IRC Section 125 cafeteria plan (described below).

Program eligibility and other requirements

The program must be a separate written plan of the employer for the exclusive benefit of employees. The program can benefit only employees or employees' dependent children who won't turn age 18 before the end of the year.

Reporting to trustee. Notice 2025-68 says an employer must "affirmatively indicate" to the trustee that the contribution is an IRC Section 128 contribution that's excludible from the employee's gross income. The notice doesn't prescribe any specific timing or content for an employer to satisfy this requirement. The notice says that the trustee may rely on the information from the employer, unless the trustee has knowledge to the contrary.

Treatment similar to dependent care assistance programs (DCAPs). The program also must meet a series of conditions similar to the requirements for DCAPs under IRC Section 129(d).

- **Nondiscriminatory eligibility classification.** The program must benefit employees who qualify under a classification Treasury finds not discriminatory in favor of highly compensated employees (HCEs), as defined in IRC Section 414(q), or their dependents. When applying these rules for DCAPs, sponsors may exclude from consideration employees who haven't attained age 21 and completed one year of service, as well as certain collectively bargained employees. However, new IRC Section 128 doesn't expressly incorporate that exclusion for testing Trump account contribution programs. Notice 2025-68 doesn't provide any guidance on whether the same exclusions can be applied to these programs.
- **Employee notification requirements.** The statute also incorporates DCAP provisions requiring employers to provide eligible employees with reasonable notification of the availability and terms of the program and furnish each employee, on or before January 31, a written statement showing the amounts paid or expenses incurred by the employer in providing benefits to the employee during the previous calendar year.
- **Average benefits test.** These programs are also subject to the average benefits test applicable to DCAPs. This test requires the average benefits provided to nonhighly compensated employees to be at least 55% of the average benefits provided to HCEs.

Contribution limits

Up to $2,500 in employer contributions, including employee pretax contributions (described below), are excludable from an employee's income. (This limit will be indexed for inflation after 2027.) Notice 2025-68 clarifies that this is an annual limit that applies to the employee regardless of how many dependents the employee has (which is consistent with how the limit on excludable contributions to DCAPs is applied). Employer contributions also count toward the annual $5,000 contribution limit (indexed).

Presumably, an employer can contribute more than $2,500 per employee, although neither the statute nor Notice 2025-68 addresses this. Any contributions exceeding the $2,500 limit would be taxable to employees.

Cafeteria plan contributions

Notice 2025-68 says employers can allow employees to make pretax contributions to the accounts of their dependent children under an IRC Section 125 cafeteria plan. However, employees under 18 can't make pretax contributions to their own accounts (because that would be a deferred compensation arrangement). If an employer offers employees the ability to contribute to Trump accounts under a cafeteria plan, any employee pretax contributions to their dependent children's accounts would count towards the $2,500 annual limit on employer contributions. The notice says IRS and the Treasury Department intend to address the coordination of Trump account contribution programs and cafeteria plans in future proposed regulations. Those regulations may address the application of cafeteria plan nondiscrimination rules and the rules allowing midyear election changes for Trump accounts.

ERISA status

DOL's Technical Release 2026-02 clarifies that Trump accounts and IRC Section 128 contributions programs generally won't be considered ERISA plans if employers meet certain conditions. If such a program is structured to be exempt from ERISA, employers can make contributions and facilitate employee pretax contributions without having to comply with ERISA's fiduciary obligations, participant disclosure rules, and annual reporting requirement.

Contributions for employees' dependents. The Technical Release notes that ERISA's definition of retirement plan focuses on benefit programs that provide retirement income to *employees*. However, DOL explains that contributions to Trump accounts benefit employees' *dependents* rather than the employees themselves. As a result, DOL concludes that a Section 128 contributions program generally wouldn't be an ERISA retirement plan, even if funded in whole or in part by employer contributions.

Contributions for employees. The Technical Release acknowledges that some employees may be eligible individuals who are within their growth period (for example, employees who are age 16 or 17). While these employees can't contribute to their own accounts through pretax salary contributions (as described above), employers can contribute through an IRC Section 128 contributions program. The guidance provides that employer contributions to an employee's account during the growth period wouldn't cause the account or the employer contributions program to be covered by ERISA, as long as employee participation is "completely voluntary" and the employer doesn't:

- Impose conditions on the use of Trump account funds beyond those permitted under the IRC
- Make or influence investment decisions for funds contributed to the Trump account
- Represent that employees' Trump accounts or the employer's IRC Section 128 contribution program are an employee pension or welfare benefit plan
- Receive any payment or compensation in connection with an employee's Trump account

These conditions are nearly identical to DOL's previous guidance on ERISA's application to health savings accounts (HSAs).

Some conditions on contributions are permitted. Similar to the agency's past HSA guidance, DOL indicates that employers can impose terms and conditions on contributions to satisfy applicable IRC requirements, but the guidance doesn't offer any examples. Presumably, this would include limiting aggregate employer and employee pretax contributions to avoid exceeding the annual $2,500 limit and preventing employees from making pretax contributions to their own accounts. However, neither the employer nor the account trustee could restrict employees' ability to move funds to a rollover Trump account beyond any restrictions imposed by the IRC.

No guidance on designating a single Trump account provider. DOL's previous HSA guidance specifically allows employers to limit the forwarding of contributions through its payroll system to a single HSA provider (or permit only a limited number of HSA providers to advertise or market their HSA products in the workplace). However, Technical Release 2026-02 doesn't provide similar flexibility for Trump accounts.

Prohibited transactions. IRC Section 128 employer contributions programs that that comply with the guidance wouldn't be subject to ERISA's prohibited transaction rules. However, IRS has confirmed to DOL that IRC Section 4975's parallel prohibited transaction rules apply to Trump accounts themselves, even where the accounts are exempt from ERISA.

After-tax payroll deduction programs

Technical Release 2026-02 explains that employers could allow employees to make after-tax contributions to their own accounts during the growth period via payroll deduction (i.e., outside of an IRC Section 128 employer contributions program). These contributions would be treated as contributions from other sources that create nontaxable basis in the account. Presumably, employers could allow employees to contribute to their dependents' accounts in this manner, as well.

The guidance confirms that employers could rely on DOL's payroll deduction IRA safe-harbor regulation, as long as employers don't make any contributions. (Apparently this means employers who allow employees to make after-tax contributions during the growth period couldn't make IRC Section 128 contributions to the employee's account, but the guidance isn't entirely clear.) DOL emphasizes that employers who rely on the safe harbor for these arrangements "should be careful not to endorse the program." The guidance explains that this restriction is not meant to "paralyze the employer and prevent it from acting reasonably and rationally" to carry out some activities related to the program. Based on DOL's prior guidance on payroll deduction IRAs in Interpretive Bulletin 99-1, the following activities won't constitute employer endorsement:

- Placing on the employer's intranet information about Trump accounts provided by IRA sponsors or a hyperlink to the official Trump accounts website
- Providing neutral information about the benefits of using payroll deduction arrangements to fund these accounts

DOL cautions that employers "must avoid putting their stamp of approval on, or vouching for, the quality of any specific product or provider."

After-tax payroll contributions after growth period. DOL acknowledges that after the growth period, a Trump account is generally subject to the rules that apply to traditional IRAs and may be rolled over to a traditional IRA. The guidance indicates that employers with payroll deduction IRA programs may allow employees to contribute to these accounts via payroll deduction after the growth period. DOL explains that employers could rely on the payroll deduction IRA safe harbor on a prospective basis for these arrangements, even if employer and employee contributions made during the growth period didn't comply with that safe harbor.

Open questions for employer contributions programs

Additional agency guidance is needed to answer several questions employers might have before deciding to offer a Trump account contributions program, including the following:

- Whether employers must substantiate that employees or their dependents are eligible to receive contributions for the year, and that the receiving account is indeed a Trump account
- Methods for performing nondiscrimination testing and correcting testing failures
- Whether employers are permitted to recoup erroneous contributions and how to do so
- Details on complying with the separate written plan document requirement
- The mechanics for forwarding employer and employee pretax contributions to a Trump account trustee (e.g., whether employers can limit employees to using a specific trustee or use a common remitter)

Related resources

Non-Mercer resources

- Trump Accounts (IRS)
- trumpaccounts.gov
- Form 4547 data submission portal
- Revenue Procedure 2026-25, Transfer tax safe harbor for certain contributions to Trump Accounts (IRS, June 29, 2026)
- Technical Release 2026-02, Trump Accounts (DOL, June 17, 2026)
- News release, US Department of Labor issues guidance clarifying Trump Accounts are not generally employee pension benefits plans (DOL, June 17, 2026)
- News release, Treasury Department designates BNY as financial agent to support new Trump Accounts program (Treasury, April 6, 2026)
- Form 4547, Trump Account Election(s) (IRS, December 2025)
- Instructions for Form 4547 (IRS, December 2025)

- Proposed rule, Trump Accounts (Federal Register, March 9, 2026)
- News release, Treasury, IRS issue proposed regulations on how to open initial Trump Accounts under the One, Big, Beautiful Bill (IRS, March 6, 2026)
- Proposed rule, Trump Accounts contribution pilot program (Federal Register, March 9, 2026)
- News release, Treasury, IRS issue proposed regulations for Trump Accounts contribution pilot program, Treasury Department to deposit $1,000 into the account of each eligible child (IRS, March 6, 2026)
- Notice 2025-68, Notice of intent to issue regulations with respect to section 530A Trump accounts (IRS, December 2, 2025)
- News release, Treasury, IRS issue guidance on Trump Accounts established under the Working Families Tax Cuts; notice announces upcoming regulations (IRS, December 2, 2025)
- Section 70204 of Pub. L. No. 119-21, One Big Beautiful Bill Act (Congress, July 4, 2025)

Mercer Law & Policy resources

- Trump Accounts — Are employers responding?
- IRS to allow pretax cafeteria plan contributions to Trump Accounts (December 18, 2025)
- Employers are undecided about Trump Accounts, poll finds (August 20, 2025)

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