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# Employee Benefits Corner

## Trump Accounts—It Begins with the First Set of Proposed Regulations

By Elizabeth Thomas Dold and David N. Levine

The Internal Revenue Service (“IRS”) issued two proposed regulations to set the framework for this new type of Individual Retirement Account (IRA) and to detail the workings of the Pilot Program that provides \$1,000 seed money for these accounts for certain newborns. The regulations are focused on setting up the accounts, and defining some key terms, as these accounts are set to go live on July 4, 2026. These regulations are largely consistent with the legal framework and design layout that was described in Notice 2025-68, but the array of implementation issues flagged in the Notice is still being considered and will be addressed in future regulations.

A look at what the proposed regulations addressed is summarized below, and employers looking forward to implementing a 128 Program to help fund these accounts should stay tuned for future guidance that we anticipate will address how to fund the accounts, address the Employee Retirement Income Security Act of 1974 (ERISA) concerns, and the applicability of nondiscrimination requirements.

Trump accounts go live July 4th, and as with any new program, there are a number of important issues to be addressed on these new IRA accounts for children, particularly following the issuance of Notice 2025-68 and the lengthy comments thereon. The IRS has provided its initial proposed regulations that are focused on the mechanics of opening an account and obtaining the \$1,000 government contribution. These rules are summarized below, which largely track the rules set forth in Notice 2025-68.

Notably, these rules are designed to get the initial Trump accounts and the Pilot Program established. Pending regulations will be issued to help employers with the Code Sec. 128 Program that will allow employers to match the pilot contributions (and more) for their employees, and provide details on the special rules that apply to these accounts—which include special contributions, distribution, investment, and reporting rules.

### Trump Accounts—General Requirements (Code Sec. 530A, Proposed Reg. §1.530A-1)

The proposed regulations on the Trump accounts focus on opening the initial Trump account and providing important definitions, which are anticipated to affect 73 million children in 44 million families.

## How Is a Trump Account Opened?

An election to open a Trump account must be made *via* Form 4547 or through the IRS website. The election can be made at the same time as filing an income tax return, but it is not part of the tax return and is independent of such filing. The first election to open an initial Trump account processed by the IRS will result in the account being opened, and no further elections will be allowed to be made by any party. Once this first step is complete, the selected trustee will notify the authorized individual to complete the account setup process.

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Currently, through this website—*form.trumpaccounts.gov*—an Authorized Individual can submit information through the Form 4547 Data Submission Portal. The information to complete this process is designed to be easy, with only needing contact information (including email), social security numbers (SSNs), and dates of birth for the child and the parent/guardian or other authorized individual, to be electronically signed under penalty of perjury. The website indicates that upon submission, the information provided is transmitted to the IRS and used to prepare and file Form 4547 to establish a Trump account for the identified child/children, and that the individual will be contacted by a trustee with whom the Trump account will be established with further instructions on how to complete the account setup.

## Who is the Initial Trustee of the Trump Accounts?

Treasury announced—*home.treasury.gov/news/press-releases/sb0433*—that the initial trustee of the Trump accounts will be Robinhood (with Bank of New York Mellon Corporation as a financial agent to help support implementation). Moreover, the announcement indicated that a Trump accounts app is being developed as a custom,

white-label product designed exclusively for Treasury. Treasury will retain control over the app and operations for these initial accounts.

## When Can a Trump Account Be Opened?

An Authorized Individual makes an election to open an initial Trump account on or before December 31 of the calendar year in which the Eligible Individual attains age 17.

## Does Automatic Enrollment Apply to Trump Accounts?

No, the Preamble to the proposed Regulations makes it clear that an affirmative election must be made by an individual. There will be no automatic enrollment process by the government to establish accounts, due to various complexities including impermissible use of tax information. However, comments are requested if a state or other governmental entity could make the election if an Authorized Individual does not.

## Type of IRA to Be Established?

A Trump account is limited to a traditional custodial account or trust account under Code Sec. 408(a). It does not include an annuity under Code Sec. 408(b), Roth IRA, Simplified Employee Pension (SEP) IRA, or Savings Incentive Match Plan for Employees (SIMPLE) IRA.

## Can I Have Multiple Trump Accounts?

No, only one Trump account containing funds is permitted at a time, and a rollover Trump account must be funded with a full transfer from a prior Trump account. The regulations indicate that sample language for rollover Trump accounts is pending.

## How Is a Trump Account Labeled?

The written document must clearly designate the account as a Trump account at the time of establishment, and the account must be titled as a Trump account.

## How Is a Trustee Approved to Offer Trump Accounts?

There is automatic approval to act as custodian/trustee of a Trump account for any person approved by the IRS as of December 31, 2025 to be a nonbank trustee of an IRA. However, they still need to notify the IRS in writing that they are going to offer Trump accounts. Persons approved after that date must request approval to act as a Trump account trustee. The Preamble to the regulations also notes that the IRS is considering changes to the requirements for a nonbank trustee and is requesting comments, such as

(1) whether the net worth test should treat certain debt as equity (e.g., for broker-dealers, debt meeting Securities and Exchange Commission (SEC) rule 240.15c3-1 treated as equity), (2) expansion of special governmental unit relief beyond deemed IRAs to cover Trump accounts; and (3) whether the fiduciary experience of subcontractors of the applicant should be taken into account.

## What Definitions Are Included in the Proposed Regulations?

The proposed regulations include a number of important definitions, including the following:

- **Growth Period.** The period that begins when the initial Trump account is established and ends on December 31 of the calendar year in which the Account Beneficiary attains age 17.
- **Eligible Individual.** Any individual who has not attained age 18 before the end of the calendar year in which an election to open an initial Trump account is made, has been issued a SSN before the election is made, and an election is made to open a Trump account.
- **Authorized Individual.** The person who is authorized to open an initial Trump account, which includes (1) the person who makes an election for a pilot contribution and opens the initial Trump account at the same time, and (2) if no pilot contribution election is being made, then in the following order of priority—the legal guardian, parent, adult sibling, or grandparent of the Eligible Individual. Where multiple individuals have the same priority, any one of them may make the election—the person so electing will be required to represent under penalty of perjury that they are authorized and that no other person with a higher priority is available to make the election.

As noted above, once the Secretary has processed an election to open an initial Trump account for an Eligible Individual, no further elections will be processed. Pending guidance will address situations where there is no Authorized Individual (e.g., foster children, orphans).

If the election is made by a person who is not an Authorized Individual, the Secretary is deemed the Authorized Individual and the Trump account remains open.

- **Responsible Party.** Unless state law or the IRA agreement provides otherwise, the default responsible party for the initial Trump account is the individual who makes the election to open the account. A responsible party has the authority to select investments, make qualified rollover contributions (or an Achieving a

Better Life Experience (ABLE) rollover), and select a successor responsible party for the account while the account beneficiary does not have legal capacity. Applicable law or the IRA agreement will govern when and how a responsible party may be removed and replaced.

## When Are the Regulations Effective?

The final regulations are to be effective beginning January 1, 2026. Comments are due 60 days after publication in the Federal Register.

## Pilot Program (Code Sec. 6434, Proposed Reg. §301.6434-1)

The proposed regulations on the Trump accounts contribution pilot program (pilot program) focus on how an election is made to receive the \$1,000 government seed money, which is anticipated to affect 15 million children in 12 million families.

*Now that the basic framework for the Trump accounts and Pilot Program is set, we look forward to future guidance that details the workings of these accounts, and how employers can further facilitate the savings accounts.*

## What Is the Tax Treatment of the \$1,000 Contribution?

The one-time \$1,000 contribution to a Trump account is treated as the eligible child making a \$1,000 payment against an income tax liability that is not due, which is refunded only through a credit to a Trump account. It is not subject to any offsets that would typically apply to a tax refund, and no overpayment interest can accrue prior to January 1, 2028.

## What Is the Election Process to Receive the \$1,000 Contribution?

An election can be made by a Pilot Program-Electing Individual at any time during the calendar year *via* Form 4547 or the IRS website. An election may be made starting

on the day that a child becomes eligible and can be made through December 31 of the calendar year that the child turns age 17. No subsequent elections will be processed after the first election is processed. The election can be made at the same time as filing an income tax return, but it is not part of the tax return and is independent of such filing. Notably, there is no requirement to wait until after the close of the taxable year to make the election—anticipation of meeting the definition of a qualifying child is sufficient.

## What Definitions Are Included in the Proposed Regulations?

The proposed regulations include a number of important definitions, including the following:

- **Eligible Child.** An individual (1) who the Pilot Program-Electing Individual anticipates will be that individual's qualifying child under Code Sec. 152(c) for the taxable year of the Pilot Program-Electing Individual in which the pilot program is made, (2) who is born after December 31, 2024 and before

January 1, 2029, (3) who is a U.S. citizen, (4) to whom a SSN has been issued, and (5) with respect to whom no prior pilot program election has been made by any individual and processed by the Secretary.

- **Pilot Program-Electing Individual.** An individual who is authorized to make a pilot program election with respect to their Eligible Child.

## When Are the Regulations Effective?

The final regulations are to be effective beginning January 1, 2026, with the goal to issue final regulations within 18 months of enactment of Code Sec. 6434. Comments are due 30 days after publication in the Federal Register.

## Next Steps

Now that the basic framework for the Trump accounts and Pilot Program is set, we look forward to future guidance that details the workings of these accounts, and how employers can further facilitate the savings accounts.



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