



TECHNICAL RELEASE 2026-02

Date: June 17, 2026

SUBJECT: TRUMP ACCOUNTS

I. PURPOSE AND OVERVIEW:

In anticipation of the U.S. Department of the Treasury’s (Treasury) plan to implement a program facilitating the establishment of Trump accounts (Trump accounts) pursuant to section 530A of the Internal Revenue Code (Code), the regulated community has requested that the Department of Labor (Department) clarify whether Title I of the Employee Retirement Income Security Act (ERISA) is applicable to such accounts. Accordingly, the Department is issuing this guidance on whether Trump accounts or arrangements for employer contributions to such accounts may be “employee pension benefit plans” for purposes of ERISA, including in cases where employers make contributions under section 128 of the Code.¹

II. BACKGROUND:

Section 70204 of the One Big Beautiful Bill Act of 2025, Pub. L. No.119 -21 (OBBBA), added Section 530A, Section 128, and related sections regarding Trump accounts to the Code.

A Trump account is a type of traditional individual retirement account (IRA) that is established for the exclusive benefit of an eligible individual and that is designated at its establishment as a Trump account. When the Trump account is opened, the eligible individual is the owner of the Trump account and is referred to as the account beneficiary.

A Trump account is subject to certain special rules inapplicable to other individual retirement arrangements under section 408 of the Code,² most of which apply only during the period that ends before January 1 of the calendar year in which the account beneficiary attains age 18 (growth period). For example, a child born on October 1, 2025, would turn 18 on October 1, 2043, and therefore the last day of the growth period with respect to the child would be December 31, 2042. The special rules that apply only during the growth period include: (i) funds in a Trump account can be invested only in eligible investments, (ii) a Trump account has a separate contribution limit from other individual retirement arrangements, (iii) a Trump account

¹ Trump accounts and contributions to such accounts generally do not provide benefits enumerated under section 3(1) of ERISA and therefore would not generally constitute employee welfare benefit plans under section 3(1) of ERISA.

² Individual retirement arrangements are individual retirement accounts under section 408(a) of the Code or individual retirement annuities under section 408(b) of the Code. Use of the term “individual retirement arrangements” refers to both individual retirement accounts and individual retirement annuities, while the term “IRAs” refers only to individual retirement accounts under section 408(a) of the Code.

is generally not allowed to make distributions, (iv) no deduction by an individual is allowed under section 219 of the Code for any contribution to a Trump account, and (v) trustees of Trump accounts have similar but different reporting requirements from trustees of other IRAs. After the growth period, most of these special rules cease to apply, and the rules under section 408 of the Code governing traditional IRAs generally apply.

Establishment. A Trump account is established for the exclusive benefit of an eligible individual. An eligible individual is any individual (i) for whom an election is made to establish a Trump account, (ii) who has not attained age 18 before the close of the calendar year in which the election is made, and (iii) for whom a social security number has been issued before the date of the election. The Secretary of the Treasury or his delegate (Secretary) will create or organize the Trump account (initial Trump account) for each eligible individual. The individual who made the election to establish the Trump account for the eligible individual will be the responsible party who generally will have the authority to manage the account including selecting among eligible investments (if applicable), requesting a transfer for a qualified rollover contribution, requesting a transfer for a qualified ABLE rollover contribution, or selecting a successor responsible party for the account.

During the growth period, a subsequent Trump account (rollover Trump account) may be established for an individual and must be funded by a trustee-to-trustee transfer of the entire account balance from the individual's existing Trump account (qualified rollover contribution). As a result, although the Trump account may be rolled over, there can be only one funded Trump account for an individual beneficiary at any time.

Trump accounts contribution pilot program under Code section 6434 (pilot program). Upon an election under the pilot program, \$1,000 is paid by the Secretary to the Trump account of an eligible child. An eligible child means a qualifying child (as defined in section 152(c) of the Code) who is born after December 31, 2024, and before January 1, 2029, who is a U.S. citizen, and for whom no prior pilot program election has been made.

Contributions. During the growth period, there are five types of contributions that can be made to a Trump account: (1) a pilot program contribution from the Secretary of \$1,000 for an eligible child; (2) qualified general contributions (funded by states (or political subdivisions thereof), the United States, the District of Columbia, Indian tribal governments, or section 501(c)(3) tax-exempt organizations) for members of a qualified class of account beneficiaries; (3) employer contributions that are not includible in the gross income of the employee under section 128 of the Code (section 128 employer contributions); (4) qualified rollover contributions; and (5) contributions from other sources (such as the account beneficiary, parents, or any other person).

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 do not create basis in a Trump account. Qualified rollover contributions are transfers from a prior Trump account and carry over any basis attributable to the funds being transferred. Contributions from other sources during the growth period create basis in the Trump account.

Unlike contributions to other traditional IRAs (which require an IRA owner to have includible compensation), contributions may be made to a Trump account during the growth period even if the account beneficiary does not have includible compensation. Pilot program contributions, qualified general contributions, and qualified rollover contributions are not subject to an annual contribution limit. However, all other contributions (that is, section 128 employer contributions and contributions from other sources) during the growth period are subject to an aggregate annual limit of \$5,000 (subject to cost-of-living adjustments after 2027).

Contributions to Trump accounts cannot be made before July 4, 2026.

Eligible investments. During the growth period, funds in a Trump account may be invested only in eligible investments. An eligible investment, generally, is a mutual fund or exchange traded fund (ETF) that tracks an index of primarily U.S. companies, such as the Standard and Poor's 500 stock market index, does not use leverage, does not have annual fees and expenses of more than 0.1 percent of the balance of the investment in the fund, and meets other criteria that the Secretary determines appropriate.

Distributions. During the growth period, no distributions may be made from a Trump account, except for qualified rollover contributions, qualified ABLE³ rollover contributions, distributions of excess contributions, and distributions upon death of the account beneficiary. After the growth period (that is, starting January 1st of the calendar year in which the account beneficiary attains age 18), distributions from a Trump account generally are subject to the rules that apply to distributions from a traditional IRA, including that a distribution may be subject to the section 72(t) 10% additional tax on early distributions if an exception does not apply with respect to the account beneficiary (such as for distributions for qualified higher education expenses or first home purchases or distributions made after age 59½).

Reporting. During the growth period, Trump accounts are not subject to the IRA reporting requirements of section 408(i) of the Code. Instead, Trump accounts are subject to reporting requirements under section 530A(i) of the Code, which provide for certain statutory requirements that are different than the statutory reporting requirements for IRAs. After the growth period, the reporting requirements of section 408(i) of the Code apply to the Trump account.

Coordination with IRA rules. After the growth period, nearly all the special rules for Trump accounts (including those relating to contributions, investments, distributions, and trustee reporting) cease to apply. Accordingly, after the growth period, Trump accounts generally will be subject to the Code section 408 rules that apply to other traditional IRAs (such as the rules related to contributions, distributions, required minimum distributions, rollovers, Roth conversions, ordinary income taxation, and reporting).

Nevertheless, a Trump account continues to be a Trump account after the growth period. An account initially established as a Trump account can never receive contributions under a Code section 408(k) SEP arrangement or Code section 408(p) SIMPLE IRA plan. Similarly, an

³ Defined in Section 529A(b)(1)(A) of the Code.

account initially established as a Trump account can never be aggregated with other individual retirement arrangements when allocating basis related to a distribution from either the Trump account or another individual retirement arrangement.

In addition, Treasury has informed us that because a Trump account is a type of IRA, the requirement under Code section 408(e)(2) (with respect to the loss of exemption of an account where an individual or his beneficiary engages in a transaction prohibited under Code section 4975 with respect to such account) would apply regardless of coverage status under Title I of ERISA.

Qualified general contributions. A qualified general contribution is made by the Secretary and funded by a general funding contribution from a state (or political subdivision thereof), the United States, the District of Columbia, an Indian tribal government, or a Code section 501(c)(3) tax-exempt organization. It is distributed to the Trump accounts of account beneficiaries who are members of a qualified class.

Section 128 employer contributions. Code section 128 employer contributions paid to a Trump account of an employee or a dependent of an employee are not includible in the employee's income. Treasury has informed us that Code section 128 employer contributions may be offered via salary reduction under a 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.⁴ Note that salary reduction contributions, whether treated as employee or employer contributions under the Code, are employee contributions for purposes of ERISA to the extent Title I of ERISA is otherwise applicable. Code section 128 employer contributions to Trump accounts, whether via salary reduction or otherwise, are limited to \$2,500 per employee per year, subject to cost-of-living adjustments after 2027. Code section 128 employer contributions must be made pursuant to a section 128(c) Trump account contribution program. Requirements similar to certain requirements that apply to a Code section 129 dependent care assistance program (regarding nondiscrimination as to contributions, benefits, eligibility, and average benefits provided, employee notifications, and statements of benefits provided) apply to a Trump account contribution program.

III. GUIDANCE:

a. APPLICATION OF SECTION 3(2) OF ERISA TO TRUMP ACCOUNTS

Section 3(2) of ERISA defines the term "employee pension benefit plan" or "pension plan," in relevant part, to mean "any plan, fund, or program . . . established or maintained by an employer . . . to the extent that by its express terms, or as a result of surrounding circumstances such plan, fund or program . . . provides retirement income to employees, or results in a deferral of income by employees for periods extending to the termination of covered employment or beyond . . ."

In enacting the OBBBA, Congress allowed employers to make tax-favored contributions under section 128 of the Code, but did not explicitly address whether such a contribution arrangement

⁴ Notice 2025-68, 2025-52 IRB 856.

or the accounts that receive the contributions are subject to Title I of ERISA.⁵ As discussed below, based on our review of Title I, and taking into account the provisions of the Code as amended by OBBBA, we are of the view that Trump accounts and Trump account contribution programs generally will not constitute “employee pension benefit plans” within the meaning of section 3(2) of ERISA.

b. TRUMP ACCOUNTS THAT BENEFIT DEPENDENTS OF EMPLOYEES

The definition in section 3(2) of ERISA focuses on employer-established arrangements that provide a specific type of benefit (retirement benefits) to a specific class of people (employees of the employer). Thus, section 3(2) of ERISA makes it clear that a plan, fund, or program is a “pension plan” under section 3(2) of ERISA only if it provides retirement income to *employees*. Section 3(6) of ERISA, in turn, defines the term “employee” to mean “any individual employed by an employer.”

Trump accounts, by contrast, generally provide benefits (tax-advantaged savings) for *dependents of employees* — and not to the employees themselves. For this reason, we are of the view that such accounts and Trump account contribution programs that contribute to these accounts generally would not constitute “pension plans” within the meaning of section 3(2) of ERISA, even if funded in whole or in part by employer contributions pursuant to section 128 of the Code.

c. TRUMP ACCOUNTS THAT BENEFIT EMPLOYEES THROUGH EMPLOYER CODE 128 CONTRIBUTIONS

We acknowledge, however, that Trump accounts are established for “eligible individuals” and that this term, in limited circumstances, may include employees — not dependents of employees. This would be the case, for example, when the eligible individual is an employee during the growth period, such as employees who are age 16 or 17,— and, in these limited circumstances, could potentially trigger ERISA coverage. In these circumstances, a pension plan within the meaning of section 3(2) of ERISA would not exist so long as the conditions of the Department’s IRA safe harbor regulation at 29 C.F.R. 2510.3-2(d) are satisfied.

The Department’s IRA safe harbor regulation, in relevant part, provides that a “pension plan” shall not include an individual retirement account described in section 408(a) of the Code, provided four conditions are met: (1) there are no employer contributions; (2) employee participation is voluntary; (3) the employer does not endorse the program; and (4) the employer receives no consideration in connection with the program, other than reasonable compensation for administrative services actually rendered in connection with payroll deductions.

⁵ Section 530A(h)(1) of the Code, however, clarifies that that a Trump account cannot be a SIMPLE IRA under section 408(p) and cannot accept contributions from an employer’s SEP arrangement under section 408(k). SIMPLE IRAs and SEP IRAs are each described in 26 CFR §1.408A-8 as an employer-sponsored plan under which an employer can make contributions to IRAs established for their employees. DOL provides certain Part 1 reporting relief for these types of plans (See, 29 CFR §§2520.104-48 and 2520.104-49), but they are otherwise subject to ERISA. See, e.g., *Altshuler v. Animal Hospitals, Ltd.*, 901 F.Supp.2d 269, 278–79 (D.Mass.2012) (“[Plaintiff] does not dispute that [defendant]’s Simple IRA is an employee benefit plan under ERISA.”); *Garratt v. Walker*, 121 F.3d 565 (10th Cir. 1997) (“As simplified employee pensions are generally established by employers for the very purpose of contributing to employee individual retirement accounts or annuities....”).

A Trump account, however, would not be eligible for this safe harbor if the employee is the “eligible individual” (and, therefore, account beneficiary) and the employer makes contributions pursuant to section 128 of the Code. Thus, in these circumstances, it might appear that the employer has established or maintained a pension plan.

However, while contributions by an employer would prevent application of the Department’s IRA safe harbor regulation, such contributions or payments, in the view of the Department, are not necessarily significant in analyzing the status of Trump accounts under ERISA.⁶ Initial Trump accounts are always created or organized by the Treasury Secretary, and any rollover Trump Accounts are created or organized for the benefit of the account beneficiary. During the growth period, the accounts may be funded by a combination of a variety of sources beyond an employer or employee, and investments are strictly controlled by the Code. The accounts themselves are always controlled solely by the responsible party on behalf of the account beneficiaries. Employers have no meaningful role in any of these account functions given these unique circumstances.

Based on the foregoing, we conclude that employer contributions to Trump accounts during the growth period would not give rise to an ERISA-covered plan where participation is completely voluntary for employees, and the employer does not: (1) impose conditions on utilization of Trump account funds beyond those permitted under the Code; (2) make or influence the investment decisions with respect to funds contributed to a Trump account; (3) represent that the Trump accounts or Trump account contribution program are an employee pension benefit plan or an employee welfare benefit plan established or maintained by the employer; or (4) receive any payment or compensation in connection with a Trump account.⁷

The mere fact that an employer imposes terms and conditions on contributions that would be required to satisfy tax requirements under the Code would not affect the above conclusions regarding Trump accounts funded with employer or employee contributions, unless the employer or Trump account trustee restricts the ability of the employee to move funds to a rollover Trump account beyond any restrictions that may be imposed by the Code or regulations thereunder.

d. IRAS (INCLUDING TRUMP ACCOUNTS) THAT BENEFIT EMPLOYEES OTHER THAN THROUGH Employer CODE SECTION 128 CONTRIBUTIONS

An employer could permit an employee to make payroll deduction taxable contributions to an employee’s Trump account outside a Trump account contribution program. For example, an employer could also allow employees to make such taxable contributions via post-tax payroll deduction. Treasury has informed us that if these contributions are made during the growth period, these contributions would be treated as contributions from other sources, which create basis in the Trump account.

⁶ See generally *Massachusetts v. Morash*, 490 U.S. 107 (1989) (courts should “look to the provisions of the whole law, and to its object and policy” in deciding what type of benefit programs are covered by ERISA).

⁷ See FAB 2004-01 (April 7, 2004) and FAB 2006-02 (October 27, 2006) which came to similar conclusions regarding employers’ involvement with Health Savings Accounts.

After the growth period, a Trump account is generally subject to the rules that apply to traditional IRAs. In addition, all of the assets of a Trump account may be transferred to a traditional IRA for the benefit of an account beneficiary that is not a Trump account, which may be provided for in the written governing instrument of the Trump account.

Although an employer may not make a Code section 128 employer contribution to a Trump account after the growth period, the Department presumes that some employers may be willing to make available their payroll deduction programs that they have established for IRAs to employees who established their own Trump accounts during the growth period. The Department's safe harbor regulation would be available in these circumstances and for payroll deduction taxable contributions to an employee's Trump account during the growth period, as described above, provided that no contributions are made by employers, and the remaining conditions of the safe harbor regulation also are satisfied prospectively. The availability of the safe harbor regulation is not foreclosed solely because its conditions were not met for employer and employee pre-tax contributions during the growth period.

In these circumstances, however, the employer should be careful not to endorse the program. The safe harbor, in relevant part, states that the "sole involvement of the employer or employee organization is without endorsement to permit the sponsor to publicize the program to employees or members, to collect contributions through payroll deductions or dues checkoffs and to remit them to the sponsor."⁸ The safe harbor's endorsement prong focuses on employer neutrality.⁹ This requirement of employer neutrality is the key to the safe harbor's rationale for not treating such a program as an employee benefit plan, namely the absence of employer involvement.¹⁰

The endorsement prong, however, does not paralyze the employer and prevent it from acting reasonably and rationally while carrying out the many different types of activities clearly contemplated by the safe harbor. Yet some level of activity will constitute too much involvement under the endorsement prong. When an employer merely facilitates the program's availability, however, and does not exercise control over it or make it appear to employees to be part and parcel of the company's own benefit package, the endorsement prong is not violated.

For instance, the safe harbor explicitly contemplates that the employer will engage in a variety of activities related to the safe harbor program without jeopardizing the safe harbor status. This includes a range of reasonable and rational activities inherent in: (1) permitting the IRA sponsor to publicize the program to employees of the employer; (2) the employer's collecting contributions through payroll deductions; and (3) the employer's remitting the contributions to the sponsor of the IRA. The safe harbor also expressly allows employers to receive limited consideration from the IRA sponsor, the receipt of which necessary entails employer involvement with the program. In addition, the safe harbor demands that participation by the

⁸ 29 C.F.R. 2510.3-2(d)(1)(iii).

⁹ See Interpretive Bulletin 99-1, 64 FR 33000, 33002 (June 18, 1999). See also Coverage; Reporting and Disclosure Requirements, 40 FR 34526, 34527 (Aug. 15, 1975).

¹⁰ 40 FR 34526, 27 (Aug. 15, 1975) (Preamble to the final rule establishing the safe harbor under 2510.3-1(j) for group or group type insurance programs, which parallels the payroll deduction IRA safe harbor promulgated on the same date and similarly provides that an employer's "sole function ... with respect to the program" must be limited to certain activities "without endorsing the program").

employee be “completely voluntary”—a demand that in and of itself comes with a modicum of employer oversight activity.

Under these principles, the Department has observed the following types of employer activities as being consistent with the safe harbor’s prohibition against too much employer involvement with safe harbor programs. Employers may encourage their employees to save for retirement by providing general information on the IRA payroll deduction program and other educational materials that explain the advisability of retirement savings, including the advantages of contributing to an IRA.¹¹ Employers may answer employees’ specific inquiries about the mechanics of the IRA payroll deduction program and may refer other inquiries to the appropriate IRA sponsor.¹² Employers may preempt anticipated questions by providing informational materials to their employees, including materials addressing topics of general interest regarding investments and retirement savings, so long as the material does not itself suggest that the employer is other than neutral with the respect to the IRA sponsor and its products.¹³ Further, displaying the employer’s name or logo in the informational materials in connection with describing the payroll deduction program would not in and of itself, suggest that the employer has “endorsed” the IRA sponsor or its products, provided that the specific context and surrounding facts and circumstances make clear to the employees that the employer’s involvement is limited to facilitating employee contributions through payroll deductions.¹⁴

Based on the foregoing, the Department would not view the following activities, individually or collectively, as exceeding the scope of the endorsement prong of the safe harbor. First, employers may place on their intranets Trump account information provided by IRA sponsors. Employers frequently use their workplace intranets (secure private digital platforms accessible only to employees and authorized staff) to publicize to their employees the availability of payroll deduction fringe benefits sponsored by third parties. Standing alone, such publicity, in the view of the Department, does not convey to employees that the items publicized are necessarily part and parcel of an employer sponsored employee benefit plan. Second, employers also may provide employees with neutral information about the benefits of using the payroll deduction arrangement to buy these benefits. In both cases, employers must avoid putting their stamp of approval on, or vouching for, the quality of any specific product or provider.¹⁵ Finally, in

¹¹ 29 CFR 2509.99-1 (c)(1) (in doing so, the employer must make clear that its involvement in the program is limited to collecting the deducted amounts and remitting them promptly to the IRA sponsor and that it does not provide any additional benefit or promise any particular investment return on the employee’s savings).

¹² 29 CFR 2509.99-1(c)(2).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ An employer that includes information about a voluntary payroll deduction arrangement on the Annual Return/Annual Report (the 5500) of the employer’s ERISA-covered plan does not, by that act alone, stamp its approval on the voluntary benefit arrangement such that the arrangement necessarily is an ERISA-covered plan. Such reporting is a relevant but not dispositive fact in the view of the Department. *See Tinsley v. Connecticut General Life Ins. Co.*, 744 F. Supp. 2d 637 (W.D. Ky. 2010) (“[F]iling an IRS Form 5500 has generally been disregarded when considering endorsement . . .”); *See also Pemberton v. Reliance Standard Life Ins. Co.*, 2008 WL 2475736 (E.D. Ky. June 17, 2008) (“[T]he court will not base a finding of endorsement on the filing of a [Form] 5500.”); *Johnson v. Watts Regulator Co., Inc.*, 63 F.3d 1129, at 1137 n. 5 (“[T]here is no evidence to suggest that Watts’ employees knew of this protective filing, and it is surpassingly difficult for us to fathom how the filing makes a dispositive difference . . . it is entirely possible, as the plaintiff suggests, that the form was filed merely as a

summarizing on its intranet website the economic benefits of having a Trump account, the employer may offer a hyperlink to the official Trump account website.

IV. CONCLUSION:

Code section 530A Trump accounts and section 128 Trump account contribution programs generally will not constitute “employee pension benefit plans” for purposes of the provisions of Title I of ERISA. Employer contributions to the Trump accounts will not generally result in Title I coverage for a Trump account or the contribution arrangement where, as discussed above, they occur only during the growth period. For periods beyond an account beneficiary’s growth period, employer involvement with a Trump account and a contribution arrangement should be limited in accordance with the IRA payroll safe harbor conditions in 29 CFR 2510.3-2(d).

precaution.”); *Ackerman v. Fortis Benefits Ins. Co.*, 254 F. Supp. 2d 792, 811 n. 14 (S.D. Ohio 2003) (“[I]t matters not whether USAir filed the IRS Form 5500s submitted to it by Fortis . . .”).