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Trump Accounts as an Employee Benefit: An Employer's Roadmap

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Late last year, Michael and Susan Dell's $6.25 billion pledge focused attention on "Trump Accounts," and the recent commencement of the $250 Dell gift to eligible Trump Account holders brought the spotlight back on this new retirement savings vehicle. However, Trump Accounts (also known as "530A Accounts") can also be offered as an employee benefit to help employees invest in their children's retirement savings.

Trump Accounts were established by Section 70204 of the One Big Beautiful Bill Act, effective for taxable years beginning after December 31, 2025, with contributions beginning July 4, 2026. The statute added IRC section 530A (governing the accounts), section 128 (governing employer contributions), and section 6434 (governing the $1,000 pilot program contribution). A Trump Account is a special type of traditional IRA subject to special rules during the "growth period," which ends December 31 of the year the beneficiary attains age 17.

On September 30, 2026, the IRS issued temporary and reproposed regulations addressing the establishment of initial Trump Accounts, including automatic enrollment by Treasury, and qualified general contributions (including qualified stock contributions). Those rules do not change the employer-contribution framework discussed below, but they are relevant context for employers because they may expand the number of employees' children with accounts.

Setting Up a Trump Account Contribution Program Under Code section 128.

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IRC section 128 permits employer contributions to a dependent's or, in limited cases, an employee's own Trump Account (employee-owned account contributions are limited to working minors who are age 17 or younger and who are still in their growth period, see discussion of employee-owned Trump Accounts below). Up to $2,500 per eligible employee per year is excluded from gross income, indexed after 2027. The cap is per employee, not per dependent.

A Trump Account Contribution Program (TACP) must be a *separate written plan* maintained for employees and address eligible classes, contribution and election rules, account verification, notices, and corrections, among others. Partners, sole proprietors, directors serving solely as directors, and 2-percent S corporation shareholders are not eligible employees, although their businesses may sponsor TACPs for common-law employees.

Contributions may go only to accounts for employees or dependents in the growth period; the TACP *may not* limit contributions to a particular trustee. Employers must use a reasonable method to verify account validity. Under the September 2026 temporary regulations, an unclaimed auto account may not receive employer section 128 contributions — it may receive only qualified general contributions and the $1,000 pilot program contribution. Employer TACP contributions can be made only to a claimed initial Trump Account, a rollover Trump Account, or a Trump Account originally established by a person other than the Secretary. Employers should coordinate with payroll providers and trustees to confirm that the receiving account has been claimed and is authorized to receive employer contributions before routing any TACP funds.

Funding Mechanisms: Employer, Employee Pre-Tax, and Employee After-Tax.

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The section 128 framework permits three approaches:

- **Employer Direct Contributions.** Direct contributions to an eligible account are excluded from gross income up to the annual limit and from federal income tax withholding, but remain subject to FICA and FUTA.
- **Pre-Tax Salary Reduction Through a section 125 Cafeteria Plan.** A TACP may permit salary reductions *only for a dependent's Trump Account* . The cafeteria plan must describe the benefit and allow at least monthly prospective election changes.
- **After-Tax Employee Contributions.** Employees may contribute after tax to their own or a dependent's account; the amounts are taxable but create basis (see discussion below).

Excess or nonqualifying employer contributions are wages subject to applicable reporting, withholding, and employment taxes.

Nondiscrimination Testing.

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Like a section 129 dependent care assistance program (DCAP), a TACP must satisfy three distinct section 128 nondiscrimination tests:

(1) contributions and benefits may not discriminate in favor of HCEs or their dependents;
(2) eligibility classifications must be reasonable, objective, and nondiscriminatory; and
(3) the average benefits test must show that non-HCE average benefits equal at least 55% of HCE average benefits, using only employees receiving benefits and allowing specified exclusions.

Because corrected excess amounts are no longer treated as section 128 contributions, employers should coordinate with trustees, so basis and reporting are handled consistently. Employers should model participation and contribution patterns before launch, particularly where HCE participation or contribution levels are expected to be high.

Basis During the Growth Period.

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During the growth period, section 530A(d)(2) excludes section 128 contributions, section 6434 pilot contributions, and qualified general contributions from "investment in the contract":

- **Employer section 128 contributions** (including dependent-account salary reductions through a section 125 cafeteria plan): *no basis*.
- **Section 6434 pilot contributions** (the $1,000 government seed contribution): *no basis*.
- **Qualified general contributions** (whether made in cash or qualified stock)**:** *no basis*.
- **After-tax and other-source contributions** (including excess amounts related to a nondiscrimination testing failure)**:** *basis*.
- **Qualified rollovers:** *basis carries over*.

The distinction affects the tax treatment of later distributions and should be explained in employee communications.

ERISA Cautions for Employee-Owned Trump Accounts. Employee-owned accounts (those involving working 16- and 17-year-olds) raise added ERISA and communications concerns. Employers can reduce or avoid these issues by designing eligibility to exclude employees under age 21 and employees who have not completed one year of service; working minors would then not participate as employees, and employee-owned Trump Account concerns can be averted. For background on the ERISA implications of Trump Accounts—including DOL EBSA Technical Release 2026-02 and the conditions under which TACPs and employee-owned accounts avoid ERISA coverage, see our earlier blog post. For employers, if minor employees are eligible for employer contributions through TACPs, the practical point is to keep TACP communications neutral and avoid directing employees to a particular trustee in order to avoid ERISA coverage.

Permissible Investments During the Growth Period. During the growth period, eligible investments generally are mutual funds or ETFs that:

- Track a qualified equity index of primarily U.S. companies (90% U.S. by weight is a safe harbor)
- Use no leverage
- Charge no more than 0.1% in annual fees and expenses
- Do not track an ESG index
- Use a qualified index with a public methodology

Trustees must monitor Trump account eligibility, provide an eligible default investment, and divest ineligible holdings within 30 days. So long as the TACP and related Trump Accounts are not subject to ERISA, the employer generally should not be responsible for selecting, monitoring, or administering account investments. Those responsibilities rest with the trustee and, where applicable, the account beneficiary or responsible party.

Other Relevant Employer Considerations.

- Use a reliable process to verify account validity; identify section 128 amounts to the trustee in writing and promptly issue corrective notice for nonqualifying contributions.
- Report section 128 contributions on Form W-2 using code "TA" and furnish the annual employee statement.

Next Steps. Trump Accounts remain subject to several overlapping IRS guidance projects. Employers designing TACPs may rely on the August 2026 proposed employer-contribution regulations and the August 2026 eligible-investment regulations for plan years beginning before those regulations are finalized. However, employers should continue to monitor final IRS and DOL guidance to confirm which regulatory strand applies to the issue being addressed.

Employers considering adding Trump Account contributions to their benefits package should:

- Evaluate contribution design, including whether to use section 125 salary reduction.
- Prepare the TACP and any cafeteria plan amendment, and coordinate payroll and trustees.
- Confirm how payroll providers and trustees will handle contributions for automatically established accounts, including what information employees must provide before an employer can route TACP contributions to a valid Trump Account.
- Model nondiscrimination testing and confirm verification, reporting, and correction procedures.
- Review employee communications (especially for employee-owned accounts) and monitor final IRS and DOL guidance.