AMERICAN RETIREMENT ASSOCIATION

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Working for America's Retirement

February 23, 2026

Internal Revenue Service
Attn: CC:PA:01:PR
(Notice 2025-68) Room 5503
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044.

SUBMITTED VIA REGULATIONS.GOV

Re: Notice 2025-68, Section 530A Trump Accounts

The American Retirement Association ("ARA") writes in response to IRS Notice 2025-68: Notice of intent to issue regulations with respect to section 530A Trump accounts.[1] ARA thanks the Department of the Treasury ("Treasury") and the Internal Revenue Service ("Service") for the opportunity to provide input on these matters, with a focus on its implications for the retirement plan system.

The ARA is a national organization of nearly 39,000 members who provide consulting and administrative services to American workers, savers, and sponsors of retirement plans and IRAs. ARA members are a diverse group of retirement plan professionals of all disciplines including financial advisers, consultants, administrators, actuaries, accountants, and attorneys. ARA is the coordinating entity for its five underlying affiliate organizations representing the full spectrum of America's private retirement system, the American Society of Pension Professionals and Actuaries ("ASPPA"), the National Association of Plan Advisors ("NAPA"), the National Tax-Deferred Savings Association ("NTSA"), the American Society of Enrolled Actuaries ("ASEA"), and the Plan Sponsor Council of America ("PSCA"). ARA's membership is diverse but united in a common dedication to America's employer-based retirement plan system.

Overview

ARA recommends that the Service issue the following guidance with respect to Trump Accounts and 128 plans:

- **Rollovers after growth period:** Clarify that pre-tax Trump Account funds may be rolled over to eligible retirement plans even if the beneficiary has basis in another portion of the account, consistent with traditional IRA rules.
- **Support reporting to young account holders:** Require custodians to track and report the source and basis of contributions, even after the growth period.
- **Clarify ERISA applicability:** Provide guidance that 128 plans are exempt from ERISA as long as the program is voluntary and the employer's involvement remains limited.
- **Address 128 plan nondiscrimination:** Clarify the impact of a 128 plan's failure to meet the nondiscrimination requirements and provide guidance on administrative actions an employer may take to ensure the nondiscrimination requirements are met.

[1] https://www.irs.gov/pub/irs-drop/n-25-68.pdf

Discussion

1. Rollover Rules for Trump Accounts with Basis

Notice 2025-68 appears to inappropriately restrict rollovers of Trump Accounts containing after-tax (basis) amounts.

At the end of the growth period Trump Accounts become subject to the traditional IRA distribution rules under IRC §408. For traditional IRAs, pre-tax amounts may be rolled into a qualified plan, whereas after-tax amounts (basis) must remain in or be rolled into another IRA.

Notice 2025-68 recognizes that, following the growth period, a Trump Account may be rolled over to an IRA, 401(a), 403(b), or governmental 457(b) plan, but then states that if there is basis in the Trump Account, the account cannot be rolled over to a qualified plan (i.e., a plan described in §402(c)(8)(B)(iii)-(vi)).

This statement in the notice creates an anomaly relative to the current treatment of traditional IRAs and inappropriately restricts the ability of a beneficiary to rollover funds to a qualified plan. Like a traditional IRA, the pre-tax portion of the Trump Account should still be eligible for rollover to a plan, while only the after-tax portion is restricted. **ARA recommends** the Service clarify that for Trump Accounts with basis, the pre-tax portion may be rolled over or transferred in a trustee-to-trustee transaction to an eligible retirement plan as defined in §402(c)(8)(B), while basis amounts may only be rolled over to an IRA, consistent with traditional IRA rollover rules.

2. Reporting Requirements for Trump Accounts at Age 18

Section 530A includes specific reporting obligations for Trump Account custodians, including reporting regarding basis. This reporting is critical for young savers and will support tax compliance and future retirement planning. **ARA recommends** the Service require custodians to track and report the source and basis of contributions to the maximum extent possible, including after the growth period. The growth period will end when the beneficiary is still a minor and extremely inexperienced with financial markets and tax matters. These minor beneficiaries cannot reasonably be expected to retain historical records or to independently track earnings over time. Reporting by custodians will facilitate accurate tax compliance for young beneficiaries and ensure a smooth consolidation of Trump Account balances with future retirement accounts, such as IRAs or employer-sponsored plans, when they make future financial decisions.

3. Applicability of ERISA to 128 Plans

Notice 2025-68 acknowledges the need for guidance related to coverage of 128 plans under the Employee Retirement Income Security Act of 1974 (ERISA).

This guidance will be critical to the establishment of 128 plans. It appears that Trump Accounts are similar in many ways to Health Savings Accounts (HSAs)—particularly that they are accounts established and owned independently from the employer. Therefore, guidance similar to the Department of Labor's guidance on HSAs (e.g., Field Assistance Bulletins 2004-01 and 2006-02) would be helpful. In the case of HSAs, the program is not subject to ERISA if the employer does not control or endorse the program and participation is voluntary. Similarly here, the Service, in coordination with the DOL, should confirm by guidance that 128 plans are not subject to ERISA provided that participation is voluntary and employer involvement is limited to administrative functions.

4. Application of Section 129 Nondiscrimination Rules to 128 Plans

Additional guidance is needed regarding 128 plan nondiscrimination requirements.

IRC §128 requires a 128 plan to satisfy the IRC §129 nondiscrimination rules. Neither the statute nor Notice 2025-68 addresses the impact of a failure to satisfy these rules. However, if a plan does not satisfy this requirement, then it appears the exemption from income taxation is not satisfied and all employees (not just highly compensated employees) would be taxed on contributions made to Trump Accounts by the employer on their behalf during that year. If that is correct, then the Trump Account beneficiary would have basis in the contributions made that year. The Service will need to require the employer to update the Trump Account custodian(s) regarding the tax treatment so that they can comply with their reporting obligations. This reporting requirement and the need to track the differing tax treatment of contributions from the same source will likely be administratively burdensome—therefore the Service should consider guidance to permit employers to avoid failures (such as limiting contributions for highly compensated employees or giving an employer flexibility on timing of deposits to assess compliance).

ARA recommends the Service issue guidance explaining the impact of a failure of a 128 plan to meet applicable nondiscrimination requirements, the required reporting in that situation, and administrative steps the employer is permitted to implement to avoid such a failure.

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Thank you for your attention to these important issues.

Sincerely,

/s/
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