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Estates & Trusts Update

The New Safe Harbor for Trump Account Contributions

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On July 4, 2026, the United States Treasury Department officially launched Trump Accounts. These new accounts are similar to Individual Retirement Accounts (IRAs) and were created with the intent of being low-risk, long-term investments supporting the beneficiary's future. A parent or legal guardian may elect to open a Trump Account for their eligible child by completing IRS Form 4547. Eligible children include U.S. citizens with a Social Security Number who will be under the age of 18 at the end of the year in which the account election is made. Children born between January 1, 2025, and December 31, 2028, will receive a one-time $1,000 pilot program contribution from the federal government for opening an account.

The "growth period" of the account lasts until January 1 of the year in which the beneficiary turns 18. During the growth period, the account is inaccessible to the beneficiary and will generally be invested in low-risk assets. Individuals who wish to contribute to a Trump Account during the growth period are subject to an annual contribution limit of $5,000 total per account for all contributors. This annual contribution limit does not include the $1,000 pilot program contribution. At the end of the growth period, the account is treated as a traditional IRA. All funds withdrawn before the beneficiary reaches 59 1/2 will be subject to a 10% penalty. However, funds may be withdrawn without the penalty for qualified expenses, which includes education costs, purchasing a home, birth or adoption expenses, or emergency personal expenses.

Questions surfaced about the transfer tax consequences for those individuals who wish to contribute to a Trump Account. The IRS allows taxpayers to gift up to $19,000 annually to a single individual without having to report such a gift. If the total amount gifted to an individual exceeds the annual limit, a taxpayer is required to file a gift tax return (Form 709). As the max annual contribution limit for Trump Accounts is $5,000, it would not seem as though a gift tax return filing is required. However, due to the nature of the account, these gifts are not considered "complete," because the beneficiary cannot access them during the growth period. Without a completed gift, the amount is ineligible to be counted towards the annual gift limit, ultimately triggering a gift tax return filing requirement.

The IRS recently issued guidance in response to this growing concern about the gift tax return filing. The solution came in the form of a "safe harbor," allowing individuals to make Trump Account contributions without a gift tax return filing requirement. You can qualify for this exception by meeting the following criteria:

1) You must be an individual
2) Before applying this exception, the only taxable gifts (over $19,000) made by you during that calendar year are Trump Account contributions
3) The current annual gift limit of $19,000 is not exceeded for any one donee (beneficiary), including the Trump Account contributions
4) No contributions can be made that create gift or generation-skipping transfer tax liability

5) Before applying this exception, you must have no independent obligation to file a gift tax return other than the Trump Account contributions.

If the taxpayer meets all five requirements, the gifts will then be considered "completed." and will count towards the annual gift limit, eliminating the need for a gift tax return filing. However, if even one of the requirements is not met, the contribution will not be treated as completed, and the taxpayer will be required to file a gift tax return. [In conclusion, small contributions to Trump Accounts will not trigger a gift tax return filing as long as contributors ensure their gifts do not exceed the annual gift limit or independently create a gift tax return obligation through other means.]

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