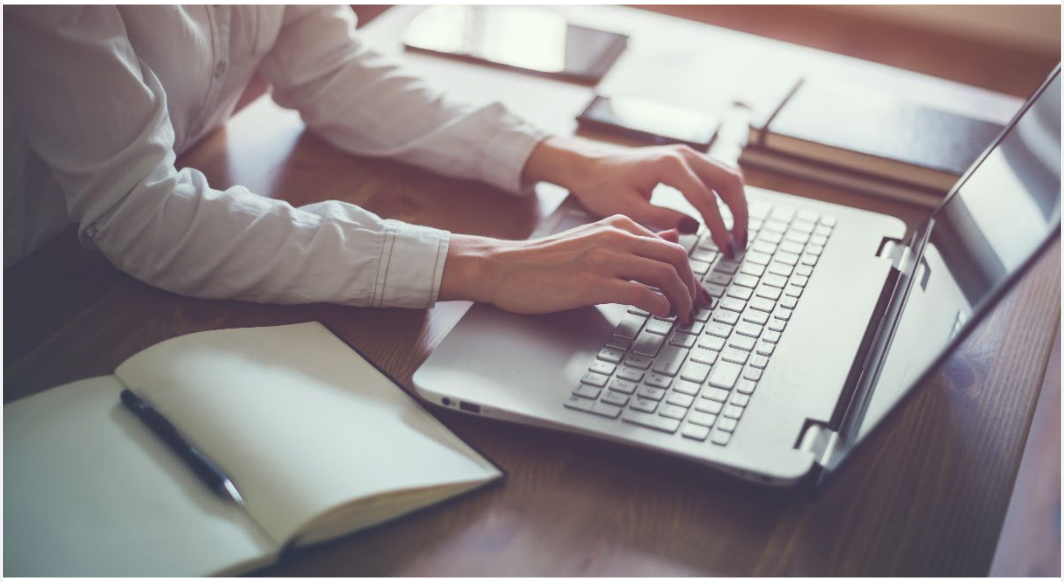
United States | Human Capital | 21 August 2026

# Rewards Policy Insider
# 2026-17



## In this Issue:

## Upcoming Compliance Reminders for Calendar Year Employee Benefit Plans

**September**

*30th: Summary Annual Report (SAR)*

**October**

*14th: Deadline to provide Creditable Coverage notice*
*15th: Form 5500 (with extension)*

*Note: This is meant to be a reminder of certain upcoming compliance deadlines for employee benefit plans operating on a calendar year basis. It is not an exhaustive list of compliance obligations. Specific plans may be subject to different obligations and deadlines depending upon a variety of factors, including the plan type, plan year, and whether or not the plan is subject to ERISA, among other things.*

# A Closer Look at the Department of Labor's Proposed E-Delivery Safe Harbor: What Types of Health Plans Would It Cover?

Following the Department of Labor's (DOL) release of proposed regulations that would establish an electronic delivery safe harbor for group health plans, one question that has arisen is whether the proposed safe harbor would apply to "supplemental" or "voluntary" benefits.

### Background

In July, DOL's Employee Benefits Security Administration (EBSA) issued proposed rules that, if finalized, would create a new safe harbor for ERISA-covered group health plans to furnish a number of participant disclosures electronically. The proposed safe harbor is very similar, though not identical, to the "notice-and-access" e-delivery safe harbor for retirement plans that EBSA established in 2020. The safe harbor would apply to any document or information the group health plan administrator is required to provide to participants and beneficiaries under ERISA Title I — including, for example, the Summary Plan Description (SPD), COBRA disclosures, and the Summary of Benefits and Coverage (SBC). The proposed safe harbor would apply only to ERISA-covered group health plans.

A full analysis of the proposed e-delivery safe harbor regulations is available in Rewards Policy Insider 2026-16.

### Would the E-Delivery Safe Harbor Apply to Supplemental or Voluntary Benefits?

One question that has emerged following the release of DOL's proposal is whether the safe harbor would apply to supplemental or voluntary benefits, such as standalone dental and vision plans, as well as hospital indemnity and critical illness plans.

Non-ERISA Plans. As an initial matter, existing DOL regulation section 2510.3-1(j) provides that an ERISA-governed employee welfare benefit plan does not include group or group-type insurance programs offered by an insurer to employees or members of an employee organization that meet certain conditions. If a benefit is exempt from ERISA under that regulation, the proposed safe harbor would not apply because it only covers ERISA plans.

Types of ERISA Plans. If the plan is subject to ERISA, then whether the safe harbor would apply depends on whether it is considered a "group health plan" under ERISA section 773(a)(1), which generally defines that term as an employee welfare benefit plan that provides medical care to employees or their dependents directly or through insurance, reimbursement, or otherwise.

- Accident-only, short-term disability, and long-term disability plans. These types of plans are not considered group health plans under ERISA and therefore would not be able to use the proposed e-delivery safe harbor.
- Stand-alone dental and vision plans. Because these types of plans are considered group health plans under ERISA section 733(a)(1), they would be able to use the proposed safe harbor.
- Hospital indemnity and critical illness plans. These types of plans generally appear to be group health plans under ERISA, and therefore the proposed safe harbor would be available.

In its proposal, DOL asks the public to weigh in on whether the proposed safe harbor should be available to all welfare benefit plans. Thus, it is possible that if sufficiently persuasive comments are received the final version of the safe harbor could be expanded if it is finalized.

# IRS Issues Guidance on Employer Credit for Paid Family and Medical Leave

The Internal Revenue Service (IRS) released guidance addressing changes to the employer credit for paid family and medical leave enacted by the One Big Beautiful Bill Act (OBBBA). The guidance primarily answers questions about the new method for calculating the credit added by the OBBBA.

### Background

In 2017, Congress enacted Internal Revenue Code (Code) section 45S, which established a paid leave credit for employers that provide certain paid family and medical leave (PFML). In general, the credit is equal to a percentage of wages (ranging from 12.5% to 25%) that the employer paid to employees while they were on leave. In order to be eligible for the credit, an employer must have a written policy that provides all qualifying full-time employees at least two weeks of PFML that provides for at least 50% of the wages normally paid to an employee.

Although the credit was initially temporary, the OBBBA made section 45S permanent. The OBBBA also made a series of other changes to the provision, including establishing a new method for calculating the credit. Under prior law, the amount of the credit was determined based on the wages actually paid to qualifying employees while they were on leave (the "wage method"). Now, an employer can calculate the credit using (1) the wage method or (2) the new "premium method." Under the premium method, if the employer maintains an insurance policy with regard to its provision of PFML, the amount of the credit is based on the premiums paid or incurred by the employer in connection with that policy.

## IRS Guidance Addresses Employer Credit

In August, the IRS issued Notice 2026-28, which provides guidance on the employer PFML credit as amended by the OBBBA. The guidance addresses how the wage method compares to the premium method, how to allocate qualifying premiums, and how to elect between the two methods. Highlights of the guidance include:

- Eligibility Under Premium Method. The Notice states that the determination of whether an employer is eligible to claim the PFML credit under the premium method is based on whether and the extent to which the premium funds a benefit for which a credit would be available under the wage method. In other words, an employer can claim the credit for a premium that funds a benefit for which a credit would be available under the wage method.

- Allocation of "Blended" Premium. The Notice addresses a situation where the premiums paid by the employer are for an insurance policy that provides both eligible and non-eligible coverage – for example, the coverage provides both qualifying PFML and other types of leave or covers both qualifying and nonqualifying employees. The IRS explains that the employer must allocate the so-called "blended" premium between the creditable coverage and the non-creditable coverage. According to the IRS, the premium may be allocated "using any reasonable method" that is consistent with the policy's terms and supported by records.

- Employers Can Use Both Wage and Premium Methods. The Notice states that an employer generally may claim the PFML credit using both the wage method with respect to certain leave, and the premium method with respect to other leave, as long as the two types of credits are not claimed as to the same instance of leave.

The Notice says that the IRS intends to issue proposed regulations on section 45S in the future. The IRS indicates that employers can rely on the guidance in the Notice for taxable years beginning after December 31, 2025, and before the issuance of forthcoming proposed regulations.

# IRS Issues Proposed Regulations on Employer Contributions to Trump Accounts

On August 10, 2026, the Internal Revenue Service (IRS) released proposed regulations regarding employer contributions to Trump accounts, including nondiscrimination rules.  By statute, the nondiscrimination rules for Trump account contribution programs (TACP) must be similar to the nondiscrimination rules that apply to Code section 129 dependent care assistance programs (DCAP).  As a result, the proposed regulations also include guidance on nondiscrimination testing for both TACPs and for DCAPs.

This article focuses primarily on the proposed rules for employer contributions to Trump accounts, including employee salary reduction contributions pursuant to a Code section 125 cafeteria plan.  Another article in a future edition of Rewards Policy Insider will take a closer look at the proposals relating to the nondiscrimination requirements for TACPs and for DCAPs.

## Background

At a high level, a Trump account is a starter individual retirement account (IRA) for children that is subject to special rules before the account beneficiary attains age 18.  Trump accounts were created by the 2025 tax bill (H.R. 1), but contributions to Trump accounts were not permitted to begin until July 4, 2026.

Contributions to a Trump account may come from a variety of sources, including employers, parents and other individuals, and non-profit entities.  An annual contribution limit of $5,000 (indexed) applies to Trump account contributions made by parents, other individuals, and employers.

New Code section 128 governs employer contributions to Trump accounts, which can be made pursuant to a TACP.  Such contributions are excludible from an employee's income when made to the Trump account of the employee or a dependent of the employee.  Section 128 contributions are limited by statute to $2,500 (indexed) per employee per year.  As noted above, TACPs also must meet certain nondiscrimination requirements that are similar to the rules for DCAPs.

In Notice 2025-68, the IRS provided that employer contributions under section 128 (called "section 128 contributions") may be made via salary reduction under a section 125 cafeteria plan.  Like the notice, the proposed regulations would confirm that this option may only be made available with respect to a Trump account of a dependent of the employee, and not for an employee's own Trump account.

Significantly, the proposed regulations confirm that employer contributions under a TACP, including employee salary reduction contributions, are excluded from employees' gross incomes.  However, these amounts are treated as wages for purposes of FICA and other payroll taxes.

## Summary of Proposed Regulations

A TACP is generally a separate written plan of an employer to provide contributions to the Trump accounts of such employees (or dependents of such employees). The proposed regulations would establish additional requirements for TACPs, including content requirements for the separate written plan, operational compliance, permitted contributions, employee notifications, contribution statements, and employer communications.

According to the proposed regulations, the TACP's written plan document would have to specify the following items:

- The classes of employees eligible to participate;
- The rules governing employer contributions, including the amount of contributions and whether contributions may be made via salary reduction;
- The procedures under which an employee must designate the Trump account of the employee or of a dependent of the employee to receive contributions;
- The required certification, notice, and reporting procedures;
- The plan year; and
- Procedures for correcting administrative failures and furnishing notices to employees and trustees when amounts previously designated as section 128 contributions are subsequently determined not to be excludable from an employee's gross income (for example, due to the nondiscrimination requirements).

The proposed regulations also would require the employer to follow the terms of the TACP's written plan.

A TACP may make contributions only to a Trump account of an employee, or an employee's dependent, and only during the "growth period." The "growth period" generally begins when the account is established and ends on December 31st of the year in which the account beneficiary attains age 17. The proposed regulations generally provide that employers can rely on an employee's certification for purposes of determining if contributions to a particular Trump account are appropriate.

## TACP Contribution Limit

The aggregate amount that may be contributed with respect to any employee under a TACP for a calendar year may not exceed the lesser of the limit specified in Code section 128(b) (i.e., $2,500 (indexed)) or the amount specified under the TACP's written plan. In other words, an employer may set a lower limit than the statutory limit. The preamble clarifies that amounts contributed by an employer that exceed the limit would not be excludible from gross income.

The proposal would confirm that the dollar limit described above applies to an employee as an individual. As such, all section 128 contributions made with respect to the employee by all employers during the year must be taken into account in determining whether there is an excess amount that may not be excluded from income. However, under the proposed regulations, an arrangement would not fail to be a TACP if an individual receives excess section 128 contributions for the taxable year, provided that the TACP prohibits contributions under the plan that exceed the limit described above.

The proposal also would clarify that the employer would have no obligation with respect to compliance with the $5,000 (indexed) overall contribution limit to Trump accounts.

The proposed regulations also include several examples to illustrate how the $2,500 employer contribution limit and the $5,000 total Trump account contribution limit would apply in certain common situations, including an unmarried employee who works for two different employers.

## Salary Reduction TACPs

As noted, a TACP can allow employees to elect salary reduction contributions, but only for Trump account(s) of the employee's dependent(s). The section 125 cafeteria plan would have to "specifically describe the Trump account contribution benefit and permit participants to prospectively change or revoke elections at least monthly, before salary becomes currently available."

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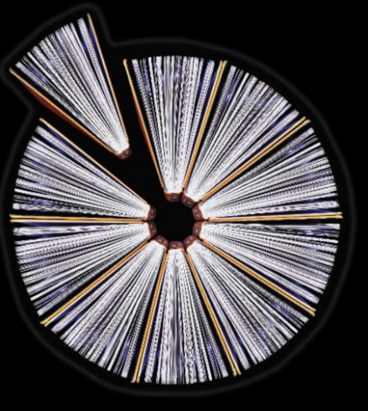

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