SPRING 2026

An Update on Reviewing & Maintaining Estate Planning Documents

Trump Accounts: Many-Legged Beasts

planning matters

PRACTICAL INSIGHTS INTO ESTATE PLANNING & WEALTH PRESERVATION

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reviewing & maintaining estate planning documents: **an update**

by Anne Marie Robbins, Esq.

Clients often wonder how frequently their estate planning documents should be reviewed. Is there a set period of time we recommend to review and perhaps update wills and other estate planning documents? As we have advised in the past, the answer depends more upon needs and life stages rather than the passage of time.

The first consideration should be whether there is a need to change a document. For example, after a move to a new state, the estate planning documents should be reviewed by an attorney licensed to practice in that state. Further, if the executor named in a will has died, moved out of state, or is no longer the appropriate person to serve, the will should be updated to substitute another executor for the one who will no longer serve. Similarly, if a guardian for a minor child is no longer appropriate because he or she has relocated to another state, or because the guardian's personal circumstances have changed, it may be necessary to revise the will to name a new guardian. A change in the tax laws may also suggest a need for revision of a will or trust, as would a significant change in financial circumstances.

New life stages may also provide reasons to update estate planning documents. For example, when children are minors, it is often appropriate to establish a trust to hold a child's inheritance until a child reaches a specific age in order to safeguard the funds and minimize potential waste. As a child grows up, the need for a trust may be eliminated, or the terms of a trust might warrant a change to give a child different benefits or more control. Similarly, when a child becomes an adult, it may be appropriate to name the child to a position of responsibility, as perhaps appointing the child as an executor.

For clients with a desire for more concrete guidance, and who think in terms of time, we generally recommend that documents be reviewed at least every ten years. There are some practical reasons for this recommendation. Estate planning documents encompass not only wills and trust agreements, but also lifetime planning documents such as powers of attorney and advance directives for health care. Particularly in the case of a power of attorney, periodic updating is important because individuals or institutions presented with a power of attorney are more comfortable accepting a recently dated document. Older powers of attorney, although perfectly legal, can raise concerns that the document may have been changed, revoked. or superseded in the interim period. A power of attorney that is more current is less apt to raise a question.

Regarding storage of original estate planning documents, for many years it was common for lawyers and law firms to store original wills and other documents for their clients. However, our firm and many others now turn over to the clients their original wills, trust agreements, powers of attorney, and health care documents, while maintaining electronic copies. It is of particular importance for the client to safeguard the original will, as only an original will, with very limited exceptions, may be probated. We recommend that original estate planning documents be maintained in a client's home safe, secure file cabinet, lock box, or similar safe location. A safe deposit box at a bank is less desirable because of the difficulty in gaining access after a box owner's death.

Trump Accounts

many-legged beasts

by Meghan E. Lawlor, Esq.

When Congress passed, and President Trump signed, the budget reconciliation bill H.R.1 (commonly referred to as the "One, Big, Beautiful Bill Act"), they established a new investment vehicle: Trump Accounts. Though frequently thought about only in connection with their most widely-publicized component—a $1,000 pilot contribution by the federal government—Trump Accounts are many-legged beasts. To take advantage of the "free money" pilot contribution from the government and the jump start it can provide to a child's savings, it is crucial to become familiar with Trump Accounts' many legs and pitfalls.

First Leg: Establishing the Account

Section 530A of the Internal Revenue Code (the "Code") allows an authorized individual—a parent, legal guardian, adult sibling, or grandparent—to file IRS Form 4547. The Form serves as an election to establish a Trump Account for a qualified individual. In order to qualify, the individual must not have attained age 18 by the end of the calendar year in which the election is made and must have a Social Security number issued before the date of the election.

Second Leg: the Free Money

To receive the $1,000 contribution, the child must be a United States citizen born after December 31, 2024 and before January 1, 2029, and have a Social Security number issued before the date of the election. The election must be made by December 31 of the calendar year in which the child reaches age 17. It appears that the election to establish a Trump Account and the election to receive the pilot program contribution may be made at the same time.

Third Leg: Contribution Rules

Individuals, employers, and government and charitable entities can all contribute to an Account. Under Section 128 of the Code, an employer may contribute a total of $2,500 per year per employee, pre-tax. An individual, such as a parent or grandparent, may contribute up to $5,000 pre-tax per year to an account. The annual limit on what a Trump Account may receive from individuals and employer contributions is $5,000. Contributions made by government or charitable entities do not count against the annual limit.

Contributions made by individuals are gifts to the beneficiary of the Account. There is an unresolved question about whether the gifts will be considered "present interest" gifts that qualify for the annual exclusion.

Fourth Leg: Control (or Lack Thereof)

The Account is considered owned by the child, and the banking institution where the Account is housed controls it until the beneficiary turns 18. No distributions are permitted in the "growth period" before the beneficiary turns 18. There is a limited exception to this moratorium on distributions if the beneficiary has a disability, in which case the Account may rolled over into an ABLE Account in the year the beneficiary turns 17.

When the beneficiary turns 18, the Account becomes an IRA for the beneficiary's benefit and under the beneficiary's control. At that point, the beneficiary may take distributions (with associated income tax liability and possible penalties).

Fifth Leg: Income Taxes

Upon distribution from the Account, almost all of the funds will be subject to income tax. The only funds that will not be taxed are those pre-tax funds that family members gave to the Account. All other contributions—employer contributions, the $1,000 pilot contribution, any other contribution, **and all the growth**—will be taxed to the beneficiary.

Sixth Leg: Penalties

Because Trump Accounts are IRAs after the growth period, any distributions, with very limited exceptions, made before the beneficiary turns 59½ incur a penalty in addition to the income tax liability.

The Takeaway

If you have a child or grandchild who will qualify for the $1,000 pilot program contribution, you may wish to consider taking advantage of that "free" money. The many other legs of the Trump Account require careful consideration about control, tax liability, and administrative hurdles, and there are other savings strategies that may provide greater benefits. While you can file an election to establish a Trump Account now, contributions cannot begin until July 4, 2026. Lindabury's estate planners can assist you in your analysis of whether a Trump Account is a beneficial savings vehicle for members of your family.

Our pledge to you is simple and sincere: **“Because Trust Matters.”** It is a reminder that we are dedicated to earning and keeping your trust every single day.

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