Estate Planning Briefs

March - April 2026

Trump Account advisory

On December 2, 2025, the IRS issued Notice 2025-68 to provide a general overview of how Trump Accounts will work, and to address initial questions about eligible investments, distributions, reporting and coordination with the rules applicable to other types of Individual Retirement Accounts.

Trump Accounts can be established in 2026, using IRS Form 4547, for any child though age 17. The contribution limit will be $5,000 per child per year. Contributions may begin after July 4, 2026. Distributions from Trump Accounts generally will not be permitted until the year the child turns 18. At that point, the account will be treated similarly to a traditional IRA, so that distributions will be taxable and potentially subject to penalties if the account owner is younger than 59½. There will be no tax deductions for contributions to Trump Accounts, but the account will grow tax-deferred until distributions begin. The accounts will be invested in certain mutual funds or exchange-traded funds that track the S&P 500 or another index of primarily American stocks.

In addition to creating a valuable financial resource for the child, the hope is that the beneficiary will become engaged in the growth of the free market economy.

Seed money. To encourage rapid adoption of the Trump Accounts, the federal government will make a one-time $1,000 contribution to the Trump Account of each eligible child born on or after January 1, 2025, through December 31, 2028. The child must have a Social Security number to be eligible.

— Notice 2025-68

COMMENT: Here is an illustration of the potential of a Trump Account provided by an online financial planning site [https://www.kitces.com/blog/taxable-accounts-custodial-kiddie-tax-obbba-trump-accounts-one-big-beautiful-act-roth-rmd-529-plan/]. Parent contributes the maximum amount to a Trump Account for 17 years, plus the account has $1,000 in seed money. Inflation is assumed to be 3% per year for the period, and investments earn 8%. On the child's 18th birthday, the account would be worth $250,069, after total Parent contributions of $116,300. The remaining $133,769 is the growth of the account. If the child leaves the account untouched, and assuming that the 8% growth continues, it will be worth $6,336,611 at age 59½.

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Adult adoptee is held a descendant

Verl Eldon DeGood's will, drafted in 1989, created a testamentary trust. All trust income was to be paid to his wife, Ourdria. At her death, the trust divided into two trusts for their children, Thomas and Melissa. Verl had adopted Thomas and hadn't adopted Melissa, but his will made it plain that he considered both of them to be his children. The trust provided each child with a life estate, with the remainder to their issue per stirpes. Verl died in 1990.

In 2008, Ourdria and the children petitioned a court to amend the trust, to reorganize the assets and to make clear how the trust income would be distributed after Ourdria's death. Specifically, if Melissa survived Thomas, his share would be held in further trust for "his descendants, per stirpes" until Melissa's death, when the trust would terminate.

Ourdria died in 2013. In May 2021, when he was 58 years old, Thomas adopted Michael, who was then an adult. Thomas died less than two months later.

The corporate trustee of Verl's trust turned to the court to determine what to do with Thomas' share. Melissa argued that Michael was not "issue" as that word was used in the original trust, nor a descendant of Thomas as in the trust restatement. The lower court rejected that argument, holding that it was not reasonable to think that Verl wanted to disinherit an adopted grandchild when he went out of his way to provide for his own adopted children. "There was no evidence presented in this case that the adoption was for a nefarious purpose, or that it was other than the true relationship of parent and child."

On appeal, the Arkansas Court of Appeals confirmed the result. Although there was precedent suggesting that a class gift to children or grandchildren did not extend to adult adoptees, that case was in 1951, and the relevant Arkansas statute had since been amended. The final question was the meaning of "descendant" in the revised trust, when the will had defined that word to mean "The word 'descendant' shall include any person born hereafter to me or my children." The majority focused on "include" to read that sentence as expansive and that there was no need to look beyond the four corners of the document. A dissent believed that "shall" was a command that narrowed the class of potential beneficiaries. Michael's claim was upheld.

—Tedford v. Centennial Bank, 717 S.W.3d 158 (Ark. Ct. App. 2025)

COMMENT: The decision was silent as to Michael's age or the length or circumstances of his relationship to Thomas.

Trust terms create an intestacy

In the 1950s, Father and Mother created four trusts—one for each of their four young sons. Those trusts included termination when each beneficiary son reached age 30, presumably with the expectation that he would then be financially mature and able to handle the money.

One of the sons, Charles, married and had a child in 1972. His daughter was named Zazulak. In 1975 Charles commenced divorce proceedings, and in 1976 he executed his will. Charles provided nothing to his infant daughter, instead directing that his estate be divided among his brothers' trusts. In the event that a brother died before Charles, that brother's share would go to their mother—and if she had also died, the money would be divided among the trusts of the surviving brothers.

There matters stood until 2020, when Charles died. Apparently, he never took another look at his will. After a brother was named executor of the estate and offered the will for probate, Zazulak objected, arguing that she was the sole heir of Charles' estate. The bequest to the

trusts for the brothers failed, because by their terms those trusts had all terminated years earlier, when the brothers reached age 30. Their mother had died as well.

— Estate of Long, No. 06-24-00064-CV, 2025 WL 1233212 (Tex. App. Apr. 29, 2025)

COMMENT: Had Charles' own trust not terminated when he reached age 30? Did he simply not remember the terms of his own will?

An inheritance promised in a pre-nup will not be an administration expense

Richard Spizzirri had been married and divorced three times before he married his fourth wife, Holly Leuders. Naturally, they executed a prenuptial agreement, given that Richard was then worth between $24.7 million and $27.7 million, while Holly brought $1 million to the marriage. During their 18-year marriage, the prenup was amended five times. The key change was that Holly released earlier promises of a share of Richard's estate for his commitment to provide $6 million in his will for her and $1 million for each of her three children from a prior marriage.

The couple became estranged, and Richard fathered two children outside of marriage, in addition to the four children from his first marriage. His will largely left his estate to the four children from his first marriage. In three codicils, he added provisions for his sons conceived out of wedlock. He never amended his will as promised, and he left nothing to his stepchildren.

The stepchildren sued for their inheritance, and Richard's estate paid them, and then claimed those payments as an expense of administration. The IRS objected, and the Tax Court agreed that the payments are not deductible.

On appeal, the 11th Circuit Court affirmed the Tax Court's judgment. Treasury Regulations list five factors that suggest a transfer was contracted bona fide. First, the transaction underlying the claim occurs in the ordinary course of business, and is free from donative intent. Second, the claim is not related to an expectation or claim of inheritance. Third, the claim originates pursuant to an agreement between the decedent and the family member. Fourth, performance by the claimant stems from an agreement between the decedent and the family member. Finally, all amounts paid in satisfaction or settlement of a claim or expense are reported by each party for Federal income and employment tax purposes in a manner that is consistent with the reported nature of the claim or expense—that is, the deducted expense is reported as income by the recipient. None of these tests were met, according to the appellate court. Notably, the stepchildren did not report their inheritances as income.

—Estate of Spizzirri v.Commissioner, 136 F.4th 1336 (11th Cir. 2025)

Don't forget to fund the trust

Robert created a revocable trust in 2014 that named his wife, Jacqueline, daughter Karey, and certain others as beneficiaries after his death. In 2021, Robert had a change of heart, and had an estate planning attorney draft a new trust, this time with Jacqueline as the sole trust beneficiary. Unfortunately, Robert never transferred the assets from the 2014 trust to the 2021 trust. In fact, the 2021 trust was never funded at all.

Jacqueline asked the trial court to reform the 2021 trust, making it instead a restatement of the 2014 trust. Satisfied by the evidence that this did reflect Robert's wishes, that Jacqueline had met her burden of proof, the trial court ordered the reformation under Section 736.0415 of the Florida statutes.

This was an error, the District Court of Appeals held. Recourse to that remedy is appropriate when there has been a mistake of law or fact. Here there was no such mistake; the 2021 trust

perfectly reflected Robert's desires. The fact that his desires were not achieved were due to the mistake of not funding the trust, not an error in drafting.

— https://caselaw.findlaw.com/court/fl-district-court-of-appeal/117605278.html

Spousal abandonment?

Gary and Emily married in 2007. In 2010, when Gary was retired, Emily relocated to Chicago for work, returning home for weekends. After Emily retired in 2014, she went to live with her son from a prior marriage for a year in Alabama, then with her daughter in Indiana for four years. The couple never divorced, and began "dating" again in 2018 while living in separate residences.

In January 2020, Gary's car was struck by a truck, causing very serious injuries to him. After Gary spent some time in the hospital and in rehabilitation, Emily agreed to move into Gary's home to take care of him. In May 2020, Gary's daughter from a prior marriage, Tonya, took him to see a lawyer, where he signed a will that specifically disinherited Emily. About that time, Gary also executed a transfer-on-death deed for his home and adjoining property to Tonya.

Emily continued to care for Gary for the next three years, including after he was diagnosed with dementia, until he died of COVID-19. After his death, Emily petitioned to open a supervised estate, naming herself as personal representative, declaring that Gary died intestate. Tonya then appeared with the will she had facilitated to be probated. Emily was removed as personal representative, and Tonya took over. Emily then filed for her spousal share of the estate and $25,000.

Tonya argued that Emily had abandoned the marriage and forfeited her interest in the estate under Indiana Code § 29-1-2-15 (Disinheritance Statute). The Probate Court ruled that, even though the couple were legally married at Gary's death, "the presence of a marital relationship between Emily and Gary was absent."

On appeal, the Court of Appeals holds that "abandonment," as that term is used in the statute, requires physical separation. Because Emily lived with Gary for the final three years of his life, the disinheritance statute does not apply to her.

— Tidd v. Estate of Tidd, 257 N.E.3d 846 (Ind. Ct. App. 2025)

Ignorance does not invalidate a disclaimer

When Daughter died intestate, she was survived by Father and Son. Father inherited Daughter's interest in a promissory note. Son approached Father, asking him to sign a disclaimer of his interest in that note, which Father did. Later Father had second thoughts and asked that his disclaimer be canceled. Father argued that although the disclaimer described the property interest he was giving up, it did not include the value of that interest. Had Father known how much he was giving up, he argued, he would not have signed the disclaimer.

This round went to Son, as Minnesota law does not require a disclaimer to include the value of the disclaimed property, the appellate court ruled. Father's disclaimer is valid.

— In re Estate of Bogren, 22 N.W.3d 189 (Minn. Ct. App. 2025)

COMMENT: However, further legal proceedings will be required. There remains the question of whether Son fraudulently induced Father into signing the disclaimer, and there is also a possibility that the disclaimer was unlawful because Father was insolvent at the time that he signed it.