Morgan Stanley

Washington Update

A Summary of Key Legislative and Regulatory Developments Affecting Retirement Savings

JUNE 2026

119th Congress—The Shutdown Ends

Congress spent a large portion of the time since the issuance of the March *Washington Update* finding a way out of the record-breaking 76-day partial government shutdown. Despite serious negotiations, Democrats and Republicans were unable to reach an agreement on policy modifications to Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) operations.

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Democrats would not agree to fund those two agencies without any reforms, leading Republicans to coalesce around a two-step funding solution: A bipartisan continuing resolution funding the Department of Homeland Security, except for ICE and CBP, through the end of the fiscal year; and a Republican-only reconciliation bill providing multi-year funding for ICE/CBP through the end of President Trump's second term (Reconciliation 2.0).[1]

Passage of Reconciliation 2.0 appeared threatened by a proposed $1.8 billion "anti-weaponization fund," which emerged as part of the settlement agreement in *President Donald J. Trump v. Internal Revenue Service*.[2] However, the Administration decided to drop the proposed fund in response to the legal and political pushback it received, which threatened to derail the rest of Republicans' legislative agenda for the year.[3]

Republicans in the Senate and House passed Reconciliation 2.0 during the first weeks of June and delivered a much-needed win for the party ahead of the November midterm elections. However, given the historical headwinds facing any president's party in midterm elections and the electorate's focus on affordability, it is unclear whether passage of Reconciliation 2.0 will move the needle electorally.

Treasury Secretary Bessent Appears Before Tax-Writing Committees

As occurs each year as part of the budget process, key administration officials appeared before congressional committees of jurisdiction for their annual budget hearings. Notably, Treasury Secretary Bessent appeared before the House Ways and Means Committee and the Senate Finance Committee during the week of June 2. Secretary Bessent focused his remarks on the tax-filing season and the refunds received by Americans from the 2025 One Big Beautiful Bill Act (OBBBA). Republicans largely attempted to echo this message and highlight strong economic growth. For their part, Democrats spent much of the hearing highlighting concerns about how the Trump Administration's policies impact affordability for working families, as well as the audit immunity clause in the settlement agreement in *President Donald J. Trump v. Internal Revenue Service*.

Legislation

Speeding Toward the August Recess

It is common in election years for Congress to schedule additional time out of session (formally known as "state or district work periods") to allow lawmakers time to hit the campaign trail. This leads to most of the legislative action in these years occurring either in the first half of the year or in a truncated session period after the November elections. Following the record-setting government shutdown at the beginning of the year, Congress is facing an especially acute calendar crunch to get legislation across the finish line. Our best prediction is that any non-essential major legislation will have to be cleared by the end of July in order to stand a chance of enactment before the end of this Congress.

The most interesting piece of tax legislation with the highest chance of enactment (albeit still fairly low) by the end of the year is perhaps a still-evolving digital assets tax package, around which conversations are occurring in the House and Senate. The Ways and Means Committee held a legislative hearing on June 9 regarding six separate bills (detailed below) and indicated it would like to hold a bipartisan markup in the coming weeks. The Finance Committee has not committed to a timeline for holding a legislative markup on digital asset tax legislation, but held a hearing on the topic last October.[4]

Legislative Overview

Included below are pieces of legislation that were introduced after the March *Washington Update*, or that have seen notable legislative developments since Q4 of 2025. While the prospects for enactment of each of these bills vary, all have generated discussion within the financial services industry.

H.R. 9178–Less Tax Paperwork for Digital Asset Owners Act

Rep. Rudy Yakym (R-IN):

Creates de minimis exclusions for gain or loss on the disposition of (i) U.S. dollar stablecoins and (ii) digital assets used to pay validation network fees that don't exceed $10. Also provides an election for taxpayers to use a simplified accounting method for reporting gains and losses on widely traded digital assets.

Status: Introduced in the House and referred to the House Committee on Ways and Means for consideration. Discussed as part of a June 9 legislative hearing.

H.R. 9175–Tax Clarity for Mining and Staking Act

Rep. Mike Carey (R-OH):

Confirms that newly minted digital assets received from digital asset mining and staking are taxable when received as ordinary income and provides an election for taxpayers to defer recognition until sale or disposition. Also clarifies sourcing rules for gains or losses on digital asset transactions and rules regarding exchange-traded products. Consistent with IRS guidance, allows grantor trusts that hold digital assets to receive staking rewards without jeopardizing their tax status.

Status: Introduced in the House and referred to the House Committee on Ways and Means for consideration. Discussed as part of a June 9 legislative hearing. Democrats at the hearing supported a discussion draft amendment to limit the deferral election to five years.

H.R. 9173–Charitable Deductions for Digital Asset Donations Act

Rep. Mike Kelly (R-PA):

Simplifies the rules for claiming charitable deductions for digital asset donations by reducing or removing qualified appraisal requirements if the value of the donation can be determined based on reliable market prices, bringing the treatment of digital assets more in line with publicly traded securities and encouraging philanthropic giving.

Status: Introduced in the House and referred to the House Committee on Ways and Means for consideration. Discussed as part of a June 9 legislative hearing. Democrats at the hearing supported a discussion draft amendment to limit the donation to the amount received by the charity when it sells the donated digital assets.

Legislation (cont.)

H.R. 9176–Providing Analogous Rules for Digital Assets Act

Rep. David Kustoff (R-TN):

Clarifies the application of certain existing safe harbors with respect to the trading and lending of digital assets and allows digital asset dealers and traders to use mark-to-market accounting.

Status: Introduced in the House and referred to the House Committee on Ways and Means for consideration. Discussed as part of a June 9 legislative hearing.

H.R. 9174–Digital Assets Voluntary Disclosure Program Act

Rep. Aaron Bean (R-FL):

Establishes a voluntary disclosure program allowing taxpayers who failed to properly report digital asset income to come into compliance, potentially with reduced penalties, modeled on prior IRS disclosure initiatives.

Status: Introduced in the House and referred to the House Committee on Ways and Means for consideration. Discussed as part of a June 9 legislative hearing.

H.R. 9172–Applying Existing Tax Anti-Abuse Rules to Digital Assets Act

Rep. Jodey Arrington (R-TX):

Applies the wash-sale rules and constructive sale rules to digital asset transactions to prevent abusive tax avoidance strategies and ensure consistent enforcement across asset classes.

Status: Introduced in the House and referred to the House Committee on Ways and Means for consideration. Discussed as part of a June 9 legislative hearing.

S. 2403–Retire Through Ownership Act

Sen. Roger Marshall (R-KS) and Sen. Tim Kaine (D-VA):

Would address the longstanding issue of employee stock ownership plans' (ESOPs) valuation by aligning ESOP valuation standards with IRS standards under existing valuation law, thereby allowing fiduciaries of ESOPs to rely on IRS Revenue Ruling 59-60 for such determinations. This reliance is permitted under the principles and methodologies established in that ruling as it existed on the date of enactment of the ERISA Adequate Consideration Act of 2025. The bill would further permit the Department of Labor (DOL) to issue additional guidance and provide a safe harbor for those fiduciaries relying on "well-established IRS provisions." The amendments apply to determinations made on or after the date the bill is enacted.

Status: The Senate unanimously passed the legislation on October 9, 2025, sending it to the House of Representatives, where it awaits legislative action.

H.R. 1155–Recovery of Stolen Checks Act

Rep. Nicole Malliotakis (R-NY):

Requires the Department of the Treasury to establish procedures that allow an eligible taxpayer to elect to receive by direct deposit a replacement of a federal tax refund amount that was originally issued as a paper check and was lost or stolen. (Currently, taxpayers eligible to receive a replacement of a lost or stolen federal tax refund check are generally issued another paper check.)

Status: The bill passed the House by voice vote in March 2025 and advanced to the Senate Committee on Finance for further consideration.

A companion bill (S. 2449) under the same title was introduced by Senators Marsha Blackburn (R-TN) and Mark Warner (D-VA) to similarly allow taxpayers whose paper checks from the Treasury were lost or stolen in the mail to receive payments via electronic deposit. The bill mandates that the Treasury establish procedures allowing taxpayers to receive such funds electronically.

Pursuant to an executive order issued by President Trump earlier this year, federal agencies were directed to stop the use of paper checks as of September 30, 2025.

Status: The bill has been referred to the Senate Committee on Finance.

Legislation (cont.)

S. 1707–Helping Young Americans Save for Retirement Act

Sen. Bill Cassidy (R-LA) and Sen. Tim Kaine (D-VA):

Expands eligibility for certain employer-sponsored retirement plans and qualified trusts. Specifically, the bill allows an employee to participate in a pension plan if the employee has at least 500 hours of service during the first 24-month period. The bill also allows a qualified public account to be counted as a participant for five years after the employee first becomes a participant in the plan.

- Would reduce the eligibility age to 18 (from age 21 today) for participation in an ERISA-covered defined contribution plan.
- Would be limited to employees between the ages of 18 and 21 in certain circumstances.
- Such employees may be excluded from nondiscrimination and top-heavy rules.
- Employees under age 21 who are eligible to participate in the plan would not be counted for purposes of determining whether the plan is subject to an annual audit (would not be counted until five years after becoming a participant in the plan).
- Would not be effective until 2027, if enacted this year.

Status: The bill has been referred to the Senate Health, Education, Labor and Pensions (HELP) Committee for further consideration.

S. 1728–Employee Ownership Representation Act of 2025

Sen. Bill Cassidy (R-LA):

Expands the membership of the Advisory Council on Employee Welfare and Pension Benefit Plans–otherwise known as the ERISA Advisory Council–to include representatives of employee ownership organizations. The council is an interagency task force that works with the DOL to develop and recommend best practices for the development and implementation of employer-sponsored retirement plans. Specifically, the bill aims to give ESOPs representation on the council by amending ERISA to include two new positions, increasing membership from 15 to 17 members.

Status: The Senate passed the Employee Ownership Representation Act of 2025 by unanimous consent on October 9, 2025. The bill then advanced to the House of Representatives and, if passed by the chamber, would go to the President for his signature into law.

S. 1831–Auto Reenroll Act of 2025

Sen. Tim Kaine (D-VA) and Sen. Bill Cassidy (R-LA):

Would encourage automatic enrollment in employer-sponsored retirement plans and the use of employer matches. Specifically, it would amend safe harbors in ERISA and the Internal Revenue Code of 1986, as amended (Code), to permit plan sponsors to reenroll non-participants at least once every three years, unless the individual affirmatively opts out again.

Status: The bill has been referred to the Senate HELP Committee.

H.R. 2089–Generating Retirement Ownership Through Long-Term Holding (GROWTH) Act

Rep. Beth Van Duyne (R-TX) and Rep. Terri Sewell (D-AL):

Allows an individual to defer recognition of a capital gain dividend if the dividend is automatically reinvested in additional shares of the company pursuant to a dividend reinvestment plan. The gain would be recognized upon a subsequent sale or redemption of stock in the distributing company or upon the death of the individual.

Status: The bill has been referred to the House Committee on Ways and Means.

A companion bill (also titled the Generating Retirement Ownership Through Long-Term Holding (GROWTH) Act) was reintroduced in the Senate by Sen. John Cornyn (R-TX) on May 21, 2025, which would similarly defer taxation of automatically reinvested capital gain distributions until shareholders sell their fund shares.

H.R. 2988–Protecting Prudent Investment of Retirement Savings Act

Rep. Rick Allen (R-GA):

On January 15, the House approved an amended version of the Protecting Prudent Investment of Retirement Savings Act, which would generally require ERISA retirement plan fiduciaries to prioritize financial returns by generally prohibiting such fiduciaries from considering so-called "non-pecuniary factors," such as environmental, social and governance (ESG), diversity, equity and inclusion (DEI), race, color, religion, sex and

Legislation (cont.)

national origin, when making plan investment decisions. The legislation would repeal the 2022 ESG Rule issued during the Biden Administration and would amend ERISA so that a plan fiduciary may only consider pecuniary factors in its plan investment decisions, with very limited exceptions. Before passage by the House, the bill was amended to include a mandate that the Government Accountability Office (GAO) conduct a study comparing investment returns in similar windows from participant-directed brokerage accounts and those investments selected and monitored by retirement plan fiduciaries, and further directs the GAO to submit a report to Congress with its findings.

Status: The bill has been referred to the Senate HELP Committee for further consideration.

S. 1840–Retirement Investment in Small Employers (RISE) Act

Sen. Maggie Hassan (D-NH) and Sen. Ted Budd (R-NC):

Would increase the tax credit that certain small employers (with fewer than 10 employees) can use to cover the administrative and start-up costs of setting up a retirement plan. Sponsors of the bill highlight that the current tax credit available to these small businesses is typically insufficient, as it is calculated on a per-employee basis. To remedy this and to assist small businesses with covering costs associated with starting an employer-sponsored retirement plan, the bill would raise the minimum tax credit from a minimum of $500 to $2,500.

Status: The bill has been referred to the Senate Committee on Finance.

A companion bill (H.R. 8837), also titled the Retirement Investment in Small Employers (RISE) Act, was reintroduced by Reps. Claudia Tenney (R-NY), Brad Schneider (D-IL), Linda Sanchez (D-CA) and Adrian Smith (R-NE) on May 14, 2025, which generally mirrors the terms of S. 1840 and prior iterations of the House bill introduced in prior Congressional sessions, with one notable new provision. The RISE Act is bipartisan legislation that would extend retirement plan accessibility to micro-businesses (employers with fewer than 10 employees) and service providers. To better assist micro-employers, the bill would provide an enhanced startup credit formula by raising the minimum tax credit ($2,500 instead of $500) and by including a higher percentage of costs in the formula (100% of the startup costs, rather than 50%). The bill includes a new provision that provides a voluntary option to shift the credit to the plan's service provider to reduce administrative burdens for those small employers that want to take advantage of such credit, thereby allowing the service provider to take the credit and reduce its service fees by the amount of such credit.

Status: The bill has been referred to the House Ways and Means Committee for further consideration.

S. 2966–Emergency Relief for Federal Workers Act of 2025

Sen. Tim Kaine (D-VA) and Rep. Don Beyer (D-VA):

Would permit furloughed participants in the federal Thrift Savings Plan (TSP) to withdraw up to $30,000 from their TSP accounts without incurring a 10% early withdrawal penalty during government shutdowns exceeding two weeks, although such workers remain responsible for paying income taxes on any withdrawn amounts. The legislation would also permit these furloughed workers to replace any withdrawn funds back into their TSP accounts. The legislation would also suspend TSP loan repayments during shutdowns, with any outstanding payments to be deducted from the participant's back pay once the government resumes operations. Notably, missed loan payments during such periods are prohibited from being classified as taxable distributions. The bill has 28 Democratic co-sponsors and is unlikely to receive support from congressional Republicans.

Status: The bill has been referred to the Senate Committee on Finance.

Legislation (cont.)

H.R. 5748–Retirement Investment Choice Act

Rep. Troy Downing (R-MT):

A one-page bill that would codify President Trump's August 7, 2025 Executive Order 14330 (Executive Order 14330) into law, stating that such order "shall have the full force and effect of the law." However, what exactly it would codify into law remains unclear, as Executive Order 14330 does not amend any law itself, and existing laws do not currently prohibit the inclusion of private market investments in a defined contribution plan.

Status: The bill has been referred to the House Committee on Education and Workforce and the House Committee on Financial Services.

S. 3086–Restoring Integrity in Fiduciary Duty Act

Sen. Bill Cassidy (R-LA) and Sen. Jim Banks (R-IN):

Would essentially codify the sub-regulatory guidance issued in 2020 during the first Trump Administration on the use of ESG factors in retirement plan investment decisions by amending Section 404(a) of ERISA to only permit fiduciaries to consider "pecuniary factors" in such plan investment decisions. If passed, the bill would impose a capita aut navia standard on a fiduciary when choosing between two or more potential investment options in a tiebreaker scenario–meaning flip a coin or otherwise decide between such options at random. The legislation would similarly impose the pecuniary-only limitation with respect to a fiduciary's exercise of shareholder rights.

Status: The bill has been referred to the Senate HELP Committee for further consideration.

S. 3083–Providing Complete Information to Retirement Investors Act

Sen. Jim Banks (R-IN):

Would require employer-sponsored defined contribution plans to provide participants with information explaining the difference between investment options selected by their plan fiduciaries and those selected through a self-directed brokerage window. Under the legislation, such plans must "provide a notice to investors each time they allocate money into or out of a brokerage window that such investments were not selected by a fiduciary and may result in lower returns."

Status: The bill has been referred to the Senate HELP Committee for further consideration.

H.R. 5887–Saving for the Future Act

Rep. Scott Peters (D-CA) and Rep. Norma Torres (D-CA):

Would establish a hybrid emergency savings and 401(k)-type government-run program and would require employers to pay a minimum of 50 cents into an employee's savings plan account for every hour worked. The minimum employer contribution amount would increase after two years from 50 to 60 cents and again with wage growth. The legislation permits businesses with fewer than 10 workers to opt out of the employer contribution mandate, and a Universal Personal Savings Account (UP Account) would still be available to such employers' workers with a direct, individual credit for their savings.

Status: The bill has been referred to the House Ways and Means Committee and the House Education and Workforce Committee for further consideration.

H.R. 6084–ERISA Litigation Reform Act

Rep. Randy Fine (R-FL):

Would amend Section 502 of ERISA to clarify that, for purposes of litigation alleging certain prohibited transactions under Section 406 of ERISA, the applicable statutory exemption under Section 408 of ERISA is effectively an element of the prohibited transaction. This effectively overrides the recent decision in Cunningham v. Cornell, which held that prohibited transaction exemptions are an affirmative defense that must be raised by the defendant and cannot be considered in the context of a motion to dismiss.

Status: The House Committee on Education and Workforce and the Committee on Judiciary voted 19-13 to advance the ERISA Litigation Reform Act, which now advances to a full floor vote in the House of Representatives.

Legislation (cont.)

H.R. 3383–Incentivizing New Ventures and Economic Strength Through Capital Formation (INVEST) Act of 2025

On December 11, 2025, the House passed the INVEST Act, a legislative package that consolidates more than 20 bipartisan bills, all passed by the House and aimed at strengthening capital markets. Section 202 of the INVEST Act includes the Retirement Fairness for Charities and Educational Institutions Act of 2025, which would amend federal securities laws to permit 403(b) plans to invest in collective investment trusts (CITs) and unregistered insurance company separate accounts, which are generally lower-cost investment options already available for inclusion as investment options in other defined contribution plans.

Status: The INVEST Act has been referred to the Senate Committee on Banking, Housing and Urban Affairs for further consideration.

S. 3352, H.R. 6450–Retirement Rollover Flexibility Act

On December 4, 2025, Rep. Darin LaHood (R-IL) and Rep. Linda Sanchez (D-CA), along with Sen. John Barrasso (R-WY) and Sen. Michael Bennet (D-CO), reintroduced the Retirement Rollover Flexibility Act, legislation that would amend the Code to specifically allow the transfer of contributions from Roth IRA savings accounts into a Roth 401(k), Roth 403(b) or Roth 457(b) plan. The bill would create parity with traditional IRAs by allowing workers to transfer Roth IRA balances into employer-sponsored retirement plans when starting a new job.

Status: The bipartisan, bicameral bill has been referred to the Senate Committee on Finance and the House Committee on Ways and Means.

S. 3333, H.R. 6417–Emergency Savings Enhancement Act of 2025

On December 3, 2025, Sen. Cory Booker (D-NJ) and Sen. Todd Young (R-IN) introduced the Emergency Savings Enhancement Act of 2025, legislation that would increase the maximum contribution limit for pension-linked emergency savings accounts (PLESAs) from $2,500 to $5,000 and would eliminate the prior exclusion of highly compensated employees to ease administrative burdens associated with PLESAs by expanding eligibility to include all employees who otherwise met the plan's general requirements.

Status: The bill has been referred to the Senate HELP Committee.

A companion bill (H.R. 6417) titled the Emergency Savings Enhancement Act of 2025 was also introduced on December 3, 2025, by Rep. Eugene Vindman (D-VA) and Rep. Glenn Thompson (R-PA) and has been referred to the House Committee on Education and Workforce and the House Committee on Ways and Means.

H.R. 6722–Automatic IRA Act of 2025

House Ways and Means Committee Ranking Member Richard Neal (D-MA) reintroduced the Automatic IRA Act of 2024 on December 15, 2025, which would establish a federal auto-IRA for employers with more than 10 employees who do not currently offer an employer-sponsored retirement plan. It would require such employers to automatically enroll all full-time and long-term part-time employees in an automatic IRA or other automatic contribution plan or arrangement, such as a 401(k) plan. The legislation sets forth exemptions from these requirements for (i) companies with 10 or fewer employees; (ii) employers that already offer an employer-sponsored qualified retirement plan or that otherwise participate in a state auto-IRA program enacted prior to 2028; (iii) employers in business for less than two years; and (iv) those employers with governmental or church plans. Further, the Treasury Secretary is directed to issue guidance under the bill to make auto-IRAs available to gig workers, self-employed individuals, freelance workers, independent contractors and other non-traditional workers. The bill has received support from a number of organizations, including the American Retirement Association, the Insured Retirement Institute and the American Council for Life Insurers.

Status: The bill has been referred to the House Committee on Ways and Means for further consideration.

Legislation (cont.)

H.R. 6183–HSA Consumer Protection Act

On November 20, 2025, Rep. Lloyd Doggett (D-TX), along with co-sponsor Rep. Pramila Jayapal (D-WA), introduced the HSA Consumer Protection Act, legislation that aims to curb perceived misuse and excessive fees in health savings accounts (HSAs) by adding restrictions such as income caps on HSA contributions, limiting non-medical withdrawals after age 65, and requiring better substantiation for expenses, among other proposed changes.

Status: The bill has been referred to the House Committee on Ways and Means for further consideration.

H.R. 7185–Home Savings Act

Rep. John McGuire (R-VA) introduced the Home Savings Act on January 21, legislation that would amend the Code to allow penalty-free withdrawals from 401(k) plan accounts for down payments or closing costs on a primary residence. Specifically, the bill would permit savers to withdraw funds from their retirement accounts for up to five years without incurring a penalty and would also permit penalty-free withdrawals gifted to eligible relatives (the spouse of the employee or any child, grandchild or ancestor of the employee or the spouse of the employee) where the withdrawn funds are used for the same purpose. If passed, the bill would apply to distributions made in tax years beginning after December 31, 2025, but would not apply to distributions made in taxable years beginning after December 31, 2030. However, the likelihood of the bill's advancement remains unclear, as President Trump stated on January 22 that he is not a fan of using retirement assets to buy a home–an abrupt change from the support evidenced by the Trump Administration earlier in January.

Status: The bill has been referred to the House Committee on Ways and Means.

H.R. 7362–Form 5500 Filing Simplification Act

Rep. Glenn Grothman (R-WI) and Rep. Donald Norcross (D-NJ), along with seven other sponsors, introduced the Form 5500 Filing Simplification Act on February 4, legislation that seeks to change the procedures for filing Form 5500 and effectively extends the filing deadline by almost three months–from July 31 to October 15. The bill directs the DOL, Treasury and Pension Benefit Guaranty Corporation to modify Form 5500 to expressly permit filers to electronically sign Form 5500 and any accompanying information. If passed, the bill would apply to plan years ending on or after the date of enactment.

Status: The House Committee on Education and Workforce advanced the bill by a vote of 22-21 and the bill now awaits a full floor vote in the House.

S. 3931–Taxpayer Assistance and Service Act

Sen. Mike Crapo (R-ID) and Sen. Ron Wyden (D-OR) introduced the Taxpayer Assistance and Service Act on February 24, legislation that combines various legislative proposals recommended by the National Taxpayer Advocate and standalone tax administration bills designed to improve communication between the IRS and taxpayers, streamline processes for tax compliance, and ensure filers have access to timely expert assistance, among other reforms. Specifically, the legislation would upgrade IRS online accounts to provide more visibility to filers related to their returns, expected refunds and any delays, expand the jurisdiction of the U.S. tax court and the independence of the National Taxpayer Advocate Service, digitize more tax returns to support faster refunds, permit the IRS to regulate and impose stronger standards on paid tax-return preparers, and protect victims of fraud from indefinite IRS scrutiny. Notably, the bill instructs the IRS to implement procedures by 2028 so that all of the agency's phone lines will provide callers with an option to receive a callback from the IRS if their call is not answered within five minutes.

Status: The bill has been referred to the Senate Committee on Finance, which is seeking to hold a markup in mid-June.

Legislation (cont.)

S. 4320–Investigation Status and Governance for Honest Transparency Act (INSIGHT Act)

Sen. Jim Banks (R-IN) and Sen. Bill Cassidy (R-LA) introduced the Investigation Status and Governance for Honest Transparency Act (the "INSIGHT Act") on April 21, legislation that targets the Employee Benefits Security Administration's (EBSA) enforcement process. The bill would amend ERISA to require EBSA to issue an annual report to Congress regarding the status of its enforcement investigations and common interest agreements focused on benefit plans and plan service providers. Such reports must include estimated completion dates for investigations that last longer than 36 months and detail any written agreements the DOL has entered into with plaintiff firms. If the investigation was not completed within the 36-month timeframe, the report must include "information on why such investigation has not been concluded" and "the estimated date of conclusion." The legislation builds off other legislative efforts to improve the oversight of the DOL's enforcement activities and that address concerns regarding lengthy EBSA investigations and undisclosed common interest agreements and seek to reinforce ERISA's policy of encouraging employer-sponsored benefit plans, such as the Balance the Scales Act and the EBSA Investigations Transparency Act (each discussed above).

Status: The bill has been referred to the Senate HELP Committee.

H.R. 8286–Protecting Americans' Retirement Savings from Politics Act

The House Financial Services Committee advanced the Protecting Americans' Retirement Savings From Politics Act in a 27-24 vote held on April 21. The bill was reintroduced by Rep. Bryan Steil on April 15 and aims to regulate the activities, and curb the influence, of proxy-advisory firms such as Institutional Shareholder Services and Glass Lewis. The bill would, among other things, (1) require proxy-advisory firms to register as an investment advisor with the SEC, (2) require asset managers utilizing proxy-advisory firms to file annual reports, (3) impose additional requirements on passive fund managers with respect to proxy voting, (4) prohibit "robo-voting," and (5) direct the SEC to conduct a comprehensive study on proxy-advisory firms and the proxy process every five years.

Status: The bill now awaits a full floor vote in the House, although no vote has been scheduled to date.

H.R. 8273–Catching Up Family Caregivers Act of 2026

Rep. Brittany Pettersen (D-CO) introduced the bicameral, bipartisan bill, aiming to lessen the financial strain caregiving can place on an individual and their ability to save for retirement by addressing gaps in retirement savings arising from an individual's need to reduce hours or leave the workforce altogether to care for family members. Under the Catching Up Family Caregivers Act of 2026, caregivers would be given more time to rebuild savings after time out of the workforce by extending eligibility for higher catch-up contribution limits in employer-sponsored retirement plans. Specifically, the bill would allow individuals to make such catch-up contributions at the highest rate available to qualifying individuals regardless of the caregiver's age.

Status: The bill has been referred to the House Ways and Means Committee and the Senate Finance Committee.

H.R. 8274–Improving Retirement Security for Family Caregivers Act of 2026

Rep. Brittany Pettersen (D-CO) introduced the bicameral, bipartisan bill, aiming to lessen the financial strain caregiving can place on an individual and their ability to save for retirement by addressing gaps in retirement savings arising from an individual's need to reduce hours or leave the workforce altogether to care for family members. Under the Improved Retirement Security for Family Caregivers Act of 2026, qualifying caregivers (caregivers who provide 500 or more hours of caregiving per year and have less than 500 hours of paid work) are permitted to contribute to a Roth IRA, even if their earned income falls below current thresholds, enabling continued retirement savings during periods of reduced wages.

Status: The bill has been referred to the House Ways and Means Committee and the Senate Finance Committee.

Legislation (cont.)

H.R. 8314–Optimizing Participant Tax Incentives Through Optional Noncash Selections (OPTIONS Act)

Rep. Greg Steube (R-FL) and Rep. Suzan DelBene (D-WA) introduced the Optimizing Participant Tax Incentives Through Optional Noncash Selections Act (the "OPTIONS Act") on April 15, bipartisan legislation that would allow employees to exercise greater control over their employer contributions, enabling them to prioritize savings in accordance with their long-term and immediate financial needs. Specifically, the bill would amend Section 125 of the Code to establish a "qualified benefits option plan" allowing participants to elect to allocate among qualified benefits, essentially codifying an IRS Private Letter Ruling issued in May 2024. Under the bill, the Treasury is directed to issue regulations outlining (1) the permissible structure of employer contribution allocation programs; (2) compliance guidelines for employers that wish to offer these benefits; and (3) safeguards to ensure equitable access across different industries and workforce demographics.

Status: The bill has been referred to the House Ways and Means Committee.

S. 4298–Stop Corporations and High Earners from Avoiding Taxes and Enforce the Rules Strictly Act (Stop CHEATERS Act)

Sen. Angus King (I-ME) introduced the Stop CHEATERS Act on April 15, legislation that would provide the IRS with over $83 billion in mandatory funding through 2031 and aims to strengthen the agency's customer service, technology and enforcement efforts. The bill would reverse both rescissions to the IRS funding under the 2022 tax-and-climate law and those discretionary spending cuts to the IRS, and require the IRS to issue a report to Congress detailing the agency's plan to shift auditing and enforcement resources to focus on high-income individuals and large corporations.

Status: The bill has been referred to the Senate Committee on Finance for further consideration.

H.R. 8783/S. 4511–Charity Parity Act

Introduced by Rep. Don Beyer (D-VA), Rep. Mike Kelly (R-PA), Sen. Kevin Cramer (R-ND) and Sen. Chris Coons (D-DE) on May 13, in their respective chambers of Congress. The bipartisan, bicameral legislation, seeking to align treatment from both employer-sponsored retirement plans and IRAs regarding tax-free qualified charitable distributions ("QCDs"), would allow QCDs from employer-sponsored retirement plans and amend the Code to exclude such distributions from gross income. The bill builds upon Section 307 of the SECURE 2.0 Act of 2022 (SECURE 2.0)–the Legacy IRA Act–that modernized the QCD rules for IRAs, allowing seniors to make tax-free charitable gifts directly from IRAs.

Status: The bill has been referred to the House Ways and Means Committee and the Senate Finance Committee.

Outlook

Given the limited amount of time Congress is in session between now and the midterm elections, it is unlikely that Congress will act to pass legislation beyond what is absolutely necessary or what is already close to enactment. There is a possibility that a digital asset market structure bill could reach the Senate floor in July, but work remains to secure the 60 votes needed for passage. Bipartisan housing legislation that seeks to increase supply and affordability has passed both chambers and seems the most likely candidate for enactment ahead of the election.[5] It is a near certainty that retirement tax legislation will not materialize until after the election, and even an end-of-year package seems like a stretch.

Lastly, given the trouble that Republicans encountered in passing Reconciliation 2.0, it seems unlikely that they will be able to muster the votes for a third reconciliation package, and may have to settle with two.

Regulatory

The Treasury and the IRS will remain exceedingly busy issuing regulations from now until at least the end of 2026, with an emphasis on OBBBA tax provisions. The highest regulatory priority for the Administration is likely the launch of the Trump Accounts (also referred to as 530A accounts) program. The Administration aims to fund Trump Accounts by July 4, which is the earliest that these accounts can accept contributions. Certain pieces of guidance, such as clarity on how the rollover process will operate, are likely to remain unanswered until after July.

Although some of the proposed rules and guidance highlighted below may be subject to review, delay and possible withdrawal by the Trump Administration (while others respond directly to various Presidential actions furthering the Administration's policy goals), here is a brief synopsis of the proposals in the event they remain viable:

Notable Presidential Actions

Executive Order 14330: Democratizing Access to Alternative Assets for 401(k) Investors

President Trump issued the long-anticipated Executive Order 14330 titled "Democratizing Access to Alternative Assets for 401(k) Investors" on August 7, which directs the DOL, the Securities and Exchange Commission (SEC) and other relevant federal agencies to revise regulatory guidance and reduce legal barriers that currently restrict defined contribution retirement plans from offering alternative investment options. Pursuant to Executive Order 14330, within 180 days (by February 3, 2026) the DOL must (i) reevaluate existing guidance–including the 2021 Supplemental Private Equity Statement, which the DOL promptly rescinded on August 12; (ii) issue guidance clarifying fiduciary duties when considering alternative assets as an investment option in a 401(k) plan; (iii) propose rules or safe harbors to limit fiduciary litigation exposure; and (iv) coordinate with other federal agencies on potential parallel regulatory updates on this issue.

View Executive Order 14330.

Executive Order 14366: Protecting American Investors From Foreign-Owned and Politically-Motivated Proxy Advisors

On December 11, President Trump signed Executive Order 14366 "Protecting American Investors from Foreign-Owned and Politically-Motivated Proxy Advisors," which requires federal agencies to tighten restrictions on proxy advisors who provide guidance to shareholders and investors by rescinding existing rules or developing new guidance aimed to curb proxy voting firms' "enormous influence." Specifically, the order mandates (among other items) that the (i) SEC: consider revising or rescinding any rules or guidance "that are inconsistent with the purpose of this order, especially to the extent that they implicate [DEI] and [ESG] policies, enforce anti-fraud provisions against proxy advisers' voting recommendations, and assess whether investment advisers breach their fiduciary duties when relying on proxy firms' non-pecuniary factors in investing; and (ii) DOL: "strengthen ERISA fiduciary rules and increase fiduciaries' transparency regarding their use of proxy advisors, ensuring proxy advisors and plan managers act solely in the financial interest of American workers and retirees," determine whether proxy advisers qualify as an ERISA fiduciary, subject to strict fiduciary standards related to managing 401(k) and other benefit plans, and take all appropriate actions to enhance transparency concerning the use of proxy advisors, particularly regarding DEI and ESG investment practices. The executive order escalates the Trump Administration's ongoing political battle over the inclusion of ESG and DEI factors in plan investment decisions, and the forthcoming ESG rule will likely reflect the limitations contemplated in Executive Order 14366.

View Executive Order 14366.

New Executive Order 14403: Promoting Retirement Savings Access for American Workers by Establishing TrumpIRA.gov

On April 30, President Trump signed Executive Order 14403: "Promoting Retirement Savings Access for American Workers by Establishing TrumpIRA.gov," which directs the establishment of a federally backed "marketplace" where workers (particularly independent contractors, self-employed individuals and other workers without employer-sponsored

Regulatory (cont.)

retirement plans) can shop for private-sector IRAs and instructs the Treasury Department to launch TrumpIRA.gov by January 1, 2027. TrumpIRA.gov does not create or operate a government-run IRA, but rather will list qualifying, privately sponsored IRA products offered by financial institutions that meet specified federal criteria. Such low-cost IRAs must accept the federal Saver's Match and meet other eligibility requirements. Executive Order 14403 directs the IRS, DOL and Treasury to take actions to effectuate the new program, and with respect to the DOL and Treasury, directs the agencies to "issue regulations, exemptions, or guidance" to ensure that IRAs (whether or not listed on the portal) "protect workers, maintain transparency, and prevent prohibited transactions." The Treasury and the White House are directed to work with Congress on legislative solutions to address those retirement savings gaps outlined in Executive Order 14403.

View Executive Order 14403.

Department of Labor

DOL Issues Compliance Assistance Release No. 2025-01: 401(k) Plan Investments in "Cryptocurrencies" (2025 CAR)

On May 28, the DOL issued the 2025 CAR, which rescinded Compliance Assistance Release No. 2022-01: 401(k) Plan Investments in "Cryptocurrencies" (the 2022 CAR), stating that the 2022 CAR was overreaching and strayed from the requirements set forth under ERISA.

In the 2022 CAR, the DOL expressed that it had "serious concerns about the prudence of a fiduciary's decision to expose 401(k) plan participants to direct investments in cryptocurrencies" or other products whose value is tied to cryptocurrencies. The guidance raised concerns about risks associated with crypto, including fraud, theft and volatility in retirement accounts and further warned plans offering cryptocurrency menu options to expect a possible DOL investigation as a result of the decision to include such assets as an investment option in a retirement plan. The 2022 CAR further directed plan fiduciaries to exercise "extreme care" before adding a cryptocurrency option to their plans.

The DOL stated that by rescinding the 2022 CAR, "the department reaffirms its neutral stance, neither endorsing nor disapproving of plan fiduciaries who conclude that the inclusion of cryptocurrency in a plan's investment menu is appropriate." The 2025 CAR applies broadly to a wide range of digital assets, including tokens, coins, crypto assets and derivatives. Further, the 2025 CAR eliminates the vague "extreme care" standard under the 2022 Guidance and restores traditional fiduciary discretion under ERISA.

DOL Proposed Rule: Requirement to Provide Paper Statements in Certain Cases–Amendments to Electronic Disclosure Safe Harbors

On February 25, the DOL published a proposed rule entitled "Requirement to Provide Paper Statements in Certain Cases–Amendments to Electronic Disclosure Safe Harbors" in the Federal Register, which would implement Section 338 of SECURE 2.0, modifying the 2002 and 2020 electronic delivery safe harbors allowing retirement plan administrators to send required documents and disclosures to plan participants electronically. The proposed rule requires retirement plans to provide plan participants with at

Regulatory (cont.)

least one paper copy of their benefits statement per year. Specifically, the proposal adds a one-time paper notice to the 2002 e-delivery safe harbor, although the proposed rule does not provide any interpretive guidance on SECURE 2.0's mandate that defined contribution participants receive a paper benefit statement at least once a year. The proposal does not apply to plans that furnish statements in accordance with the DOL's 2002 e-delivery safe harbor, where a participant or beneficiary has requested electronic delivery of benefit statements and the statements are so delivered, or for retirement plans with one sole participant. While plans may continue using electronic delivery for most required disclosures, the rule would require the provision of additional notices explaining participants' rights to opt for paper or electronic statements and would bar plans from charging fees for paper copies. While no effective date was included in the proposed rule, in the preamble, the DOL indicates that, pending the issuance of final regulations, the agency will not take enforcement action against plan administrators that comply in good faith with a reasonable interpretation of the proposal. Comments on the proposed rule were due on April 27.

View the Proposed Rule.

Field Assistance Bulletin (FAB) No. 2026-02: Temporary Enforcement Policy Regarding Pension Benefit Statements Pursuant to ERISA §105(a)(2)(E)

On May 12, EBSA issued FAB 2026-02 announcing the DOL's "temporary non-enforcement policy" with respect to the DOL's Requirement to Provide Paper Statements in Certain Cases–Amendments to Electronic Disclosure Safe Harbors requirements. Meaning, pending the adoption of a final rule, the DOL will not take enforcement action against plan administrators that comply in good faith with a reasonable interpretation of the proposal. FAB 2026-02 was issued both due to the lack of a final rule to date and in response to industry stakeholders' comments requesting the DOL confirm that a good-faith compliance approach applies with respect to these requirements.

View FAB 2026-02.

DOL Proposed Rule: Fiduciary Duties in Selecting Alternative Investments

The DOL published the proposed Fiduciary Duties in Selecting Alternative Investments rule (Investment Selection Rule) in the Federal Register on March 31. The Investment Selection Rule is asset-neutral and focuses on reinforcing the long-standing ERISA fiduciary process standard governing how fiduciaries make plan investment decisions. The rule focuses on the fiduciary's process, not the product itself, and fiduciaries must continue to consider all legally permissible investments and evaluate those options through a prudent, well-documented process focused on the best interests of participants. Notably, the proposed rule would establish a fiduciary safe harbor pursuant to which a plan fiduciary would be "under the presumption of prudence" when following a prudent process with respect to its plan investment decisions and set forth a non-exhaustive list of six factors to provide clarity to fiduciaries on how to evidence adherence to their fiduciary duties under ERISA. The safe harbor is intended to curb frivolous class action litigation challenging the inclusion of non-traditional asset types in a plan's investment lineup. The DOL aims to finalize the rule by year-end and comments on the proposed Investment Selection Rule were due by June 1.
The proposal is in direct response to Executive Order 14330 mandating the DOL review, clarify and propose guidance surrounding the fiduciary duties regarding the inclusion of private market and digital assets as investment options in 401(k) plans, While the proposed rule is in response to the directives under Executive Order 14330, the Investment Selection Rule employs a broader approach by providing additional guidance to plan fiduciaries on general investment selection and oversight.

View Proposed Rule.

Regulatory (cont.)

DOL Technical Release 2026-01: Application of ERISA Fiduciary Requirements and Preemption Provisions to Proxy Advisory Services

EBSA released new guidance warning that proxy advisory firms may be subject to the fiduciary standards under ERISA on April 1, in the form of Technical Release 2026-01: Application of ERISA Fiduciary Requirements and Preemption Provisions to Proxy Advisory Services ("Technical Release 2026-01"). Technical Release 2026-01 explains the DOL's views on (1) when a proxy advisory firm is a functional fiduciary or an investment advice fiduciary under ERISA, (2) when a state law regulating proxy advisory firms is preempted by ERISA, and (3) suggests that ESG and DEI factors may only be considered in an ERISA fiduciary's decision-making process where such factors are financially material. According to the DOL, proxy advisers regularly engage in conduct that makes them investment advice fiduciaries under the long-standing five-part test used to determine fiduciary status. Technical Release 2026-01 clarifies that a state law requiring proxy advisory firms to disclose when their research or recommendations take nonfinancial factors into consideration would not be preempted by ERISA, given proxy advisors to ERISA-governed plans are prohibited from taking "into account anything other than the exclusive purpose of providing benefits to participants and beneficiaries by maximizing risk-adjusted returns," such firms' fiduciary duties would preclude the provision of plan-related advice that would trigger the state disclosure requirements.

View Technical Release 2026-01.

DOL Field Assistance Bulletin 2026-01: Guiding Principles for EBSA Enforcement Priorities

EBSA published Field Assistance Bulletin 2026-01: Guiding Principles for EBSA Enforcement Priorities (FAB 2026-01) on April 14, outlining the agency's four priorities: (1) focusing enforcement on the most egregious conduct and significant harm; (2) ensuring, whenever possible and consistent with EBSA's mission, that EBSA does not regulate by enforcement and instead promotes fairness, prior notice and clarity to the regulated community; (3) requiring proper review by senior agency officials of all critical enforcement initiatives; and (4) committing to timely and responsive enforcement. EBSA's highest enforcement priority will be to target "individuals and entities who, acting in bad faith, improperly administer plan benefits or misappropriate (or aid in the misappropriation of) assets set aside for the benefit of the American worker," reflecting the shift in EBSA's priorities to focus on violations of the fiduciary duty of loyalty, rather than prudence. Notably, FAB 2026-01 states that the consideration of ESG factors is viewed as "unrelated to the participants' best interests" and thus grouped with conflicts of interest and self-dealing as a priority. Finally, while common interest agreements are not listed as a priority, FAB 2026-01 concludes with a statement that EBSA investigators and professionals will not do anything that compromises the DOL's independence, integrity and credibility with the regulated and participant communities and an accompanying footnote indicating that the DOL's Inspector General is investigating the use of certain common interest agreements between EBSA and plaintiff firms.

View FAB 2026-01.

Retirement Security Rule: Definition of an Investment Advice Fiduciary

The Retirement Security Rule: Definition of an Investment Advice Fiduciary was officially invalidated by federal courts in mid-March. Two federal courts granted the DOL's unopposed motions to vacate the Biden-era fiduciary rule in FACC et al. v. DOL and ACLI et al. v. DOL on March 12 and 17, respectively, officially ending the ongoing litigation challenging the rule. The 2024 amendments to PTEs 2020-02 (including the preamble thereto), 84-24, 86-128, 77-4 and 75-1 were similarly voided, enabling the DOL to reinstate the long-standing five-part test used to determine fiduciary status on March 18.

Regulatory (cont.)

On March 18, the DOL reinstated Advisory Opinion 2005-23A, which addresses whether a recommendation that a participant roll over plan assets to an IRA constitutes fiduciary investment advice under ERISA. Such reinstatement of Advisory Opinion 2005-23A follows federal court decisions vacating the Retirement Security Rule: Definition of an Investment Advice Fiduciary and the preamble to PTE 2020-02. Advisory Opinion 2005-23A reiterates that where an individual is already a fiduciary to a plan, they must satisfy the fiduciary standards under ERISA when responding to participant questions regarding plan account distributions or rollover decisions but concludes that merely recommending a permissible distribution from a retirement plan account does not constitute "investment advice" where the advisor is not otherwise a plan fiduciary and any such recommendations regarding how distributed assets may be invested pertain to assets that no longer constitute part of a retirement plan.

Department of Treasury/IRS

On September 30, 2025, the Treasury Department released the 2025-2026 Priority Guidance Plan (PGP) that contains 105 guidance projects that are priorities for the agency during the 12-month period from July 1, 2025, through June 30, 2026. Included in the PGP are retirement and/or other related benefit priorities, some of which are addressed elsewhere in this Update, and include the following (a sampling):

- Guidance under §§128, 139J, 530A, 6434 and 6659 regarding Trump accounts.
- Guidance under §529 regarding enhancements to qualified tuition programs.
- Final regulations updating electronic delivery rules and other guidance for providing applicable notices and making participant elections and spousal consents. The proposed five regulations were published on December 30, 2022.
- Guidance updating safe harbor explanations for eligible rollover distributions to satisfy the notice requirement under §402(f).
- Revenue Procedure updating and consolidating procedures for a sponsoring organization or a mass submitter to apply to the IRS for an opinion letter on whether an IRA or SEP arrangement satisfies the applicable requirements under §408.
- SECURE 2.0 Guidance:
  - Guidance implementing provisions of the SECURE 2.0 Act, including §103 (savers match), §110 (qualified student loan matching contributions), §125 (long-term part-time employees), §127 (pension-linked emergency savings accounts), §324 (rollover rules) and §334 (qualified long-term care distributions), and guidance under Code §72(t) relating to the repayment provisions for certain distributions added by the SECURE 2.0 Act.
  - Final regulations relating to modifications to §401(a)(9) and related provisions made by the SECURE 2.0 Act and regarding other issues under §401(a)(9) and related provisions. Proposed regulations were published on July 19, 2024.
  - Final regulations and related guidance on the exception to the unified plan rule for §413(e) multiple employer plans as modified by the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019 (SECURE Act). Proposed regulations were published on March 28, 2022.
  - Final regulations on automatic enrollment requirements under §414A as added by SECURE 2.0. Proposed regulations were published on January 10, 2025.

Regulatory (cont.)

  - Final regulations on updates to catch-up contribution rules under §414(v) as added by SECURE 2.0. Proposed regulations were published on January 10, 2025.

The IRS and Treasury Department issued Notice 2026-23: Public Recommendations Invited on Items to be Included on the 2026-2027 Priority Guidance Plan on March 23, which solicited recommendations from the public regarding items to be included on the 2026-2027 Priority Guidance Plan by May 29.

View Notice 2026-23.

IRS–IR 2025-07: Catch-Up Contributions (Update)

On January 13, 2025, the Treasury Department/IRS published in the Federal Register IR 2025-07, setting forth proposed regulations relating to catch-up contributions to certain defined contribution plans. The proposed regulations would amend the regulations under Code section 414(v) to reflect changes to the catch-up contribution requirements for certain eligible participants pursuant to the following provisions of SECURE 2.0:

- Section 109 of SECURE 2.0, which allows additional catch-up contributions to a 401(k), 403(b), governmental 457(b), SARSEP, SIMPLE IRA and SIMPLE 401(k) plans for employees ages 60, 61, 62 or 63;
- Section 117, which increases the contribution limits for SIMPLE IRA and SIMPLE 401(k) plans sponsored by employers with 25 or fewer employees to 110% of the limits that would otherwise apply to such plans (2024 limits), as adjusted for inflation; and
- Section 603, which provides that plan participants in 401(k), 403(b) and governmental 457(b) plans with FICA wages in the prior year (from the employer sponsoring the retirement plan) of over $145k (indexed), can make age-based catch-up contributions on a Roth basis only (not on a pre-tax basis).

On September 15, the IRS and Treasury Department released final regulations providing guidance regarding catch-up contribution changes under SECURE 2.0, including the requirement that contributions made by certain eligible participants be made on a Roth basis. Specifically, the final regulations implement the changes to Code Section 414(v) made by Sections 109, 117 and 603 of SECURE 2.0, which establish a higher catch-up limit for participants turning 60, 61, 62 or 63 years old during a taxable year, increase the contribution limits for SIMPLE plans, and require that catch-up contributions by certain higher-earning employees be made as Roth contributions. The final regulations will now apply with respect to contributions in taxable years beginning after December 31, 2026, with limited exceptions for governmental and collectively bargained plans. For prior taxable years (and collectively bargained and governmental plans), a reasonable, good-faith interpretation standard applies. The IRS published the final regulations in the Federal Register on September 16, with an effective date of November 17.

View Final Regulation.

IR 2025-09: Automatic Enrollment Requirements Under Section 414A–Proposed Regulations

On January 14, 2025, the Treasury Department/IRS published in the Federal Register IR 2025-09, setting forth proposed regulations that would, among other things, generally require newly established 401(k) and 403(b) plans to automatically enroll eligible employees starting in the 2025 plan year, absent an exception (e.g., plans established before the December 29, 2022, enactment date for SECURE 2.0). The requirement to include an automatic enrollment feature would exclude:

- SIMPLE 401(k) plans, governmental plans, church plans and new businesses in existence for less than three years.
- Small businesses with fewer than 10 employees (until such time as they employ greater than 10 employees).
- Plans established before the date of enactment of SECURE 2.0.

Comments on the proposed regulations were due to the DOL by March 17, 2025, and a public hearing was held on April 8, 2025.

View the Automatic Enrollment Proposal.

Regulatory (cont.)

IRS Notice 2026-5: Expanded Availability of Health Savings Account (HSA) Under the One, Big Beautiful Bill Act (OBBBA)

The IRS released Notice 2026-5 on December 9, which provides guidance on new tax benefits for HSA participants. Notice 2026-5 addresses changes to telehealth and remote care services, direct primary care service arrangements (DPCSAs), and treats bronze and catastrophic plans under the ACA as high-deductible health plans (HDHPs). Specifically, the notice (i) makes permanent a safe harbor permitting HSA holders to receive telehealth and other remote care services prior to meeting their deductible, while remaining eligible to contribute to their HSA, effective for plan years beginning on or after January 1, 2025; (ii) revises the definition of HDHP to treat bronze and catastrophic plans as HDHPs, regardless of whether such plans satisfy the general definition of a HDHP; (iii) clarifies that individuals enrolled in HDHPs that participate in certain DPCSAs can pay such direct primary care fees from their HSAs where the individual's monthly fees are $150 or less ($300 or less for family coverage).

Comments on the guidance set forth in Notice 2026-5 were due on March 6.

View Notice 2026-5.

IRS Notice 2026-13: Safe Harbor Explanations–Eligible Rollover Distributions

The IRS issued Notice 2026-13 on January 15, which sets forth revised guidance and updates two safe harbor explanations that may be used by plan sponsors and administrators of 401(a), 403(a), 403(b) and governmental 457(b) plans to satisfy the requirements of Section 402(f) of the Code when providing written explanations to retirement plan participants regarding eligible rollover distributions. The updated safe harbor explanations set forth in Notice 2026-13 reflect statutory changes made by SECURE 2.0 and implement recommendations made by the GAO, among other changes. Notice 2026-13 supersedes the guidance under Notice 2020-62, issued by the IRS in 2020.

View Notice 2026-13.

IRS IR 2026-05: Use Free File to Conveniently File Your Return at No Cost

On January 9, the IRS issued IR 2026-05, which announced the availability of the IRS Free File Guided Software to assist taxpayers in preparing and submitting their tax returns for the 2026 filing season. Eight private-sector partners will offer guided tax software products to taxpayers with an adjusted gross income of $89,000 or less in 2025, with Free File Fillable forms available beginning on January 26 for those with adjusted gross incomes of more than $89,000.

View IR 2026-05.

IRS Notice 2026-09: Extension of SECURE 2.0 Act Amendment Deadline for IRAs

On January 26, the IRS and the Treasury Department released Notice 2026-09, which extends the deadline to make certain amendments to IRAs, SEP arrangements and SIMPLE IRA Plans required under the SECURE Act, SECURE 2.0, the Coronavirus Aid, Relief and Economic Security Act (known as the CARES Act) and the Taxpayer Certainty and Disaster Tax Relief Act of 2020. The agency explained that the intent of this extension is partly due to the ongoing development of model language that may be used by IRA trustees, custodians and issuers to amend an IRA to ensure compliance with such legislation. The notice sets December 31, 2027 as the new compliance deadline, or such later date as may be prescribed by the Treasury in subsequent guidance.

View Notice 2026-09.

IRS Proposed Rules on Trump Accounts: Trump Accounts Proposal and Trump Accounts Contribution Pilot Program Proposal

The IRS and Treasury Department published two new rules governing Trump Accounts in the Federal Register on March 9. One proposal entitled "Trump Accounts" sets forth general guidance, requirements and certain definitions relating thereto, rules regarding the election to open an initial Trump Account, and rules regarding the responsible party for the

Regulatory (cont.)

initial Trump Accounts. The second proposal, entitled "Trump Accounts Contribution Pilot Program," focuses on the pilot program contributions. Most of the guidance set forth in the two proposals mirrors the preliminary guidance set forth in Notice 2025-68, and Treasury has indicated that additional substantive guidance is forthcoming on employer contributions, the process for rolling funds from initial Treasury-administered accounts into private rollover accounts and rules governing contributions, investments, distributions and reporting during the accounts' "growth period." Both regulations would apply to taxable years beginning on or after January 1, 2026, and Treasury indicated that it intends to publish final regulations within 18 months after the date of enactment of Sections 530A and 6434 of the Code. The comment period for the Trump Accounts Contribution Pilot Program proposal ended on April 8 and the comment period on the Trump Accounts ended on May 8.

View Trump Account Proposed Rules.

IRS Notice 2026-33: Guidance on Qualified Long-Term Care Distributions

On May 20, the IRS released Notice 2026-33: Guidance on Qualified Long-Term Care Distributions, which clarifies the reporting requirements for plan sponsors and insurance carriers with respect to qualified long-term care distributions ("QLTCDs") from defined contribution plan accounts and IRAs imposed under Section 334 of SECURE 2.0. Notice 2026-33 extends the deadline for most plans to adopt amendments permitting QLTCDs from January 1, 2026 to December 31, 2027. Notice 2026-33 establishes requirements for insurance issuers to make disclosures to the IRS and file premium statements with retirement plans, creates safe harbors for plan administrators making these distributions, sets reporting requirements under the new Form 1099-LPS and permits employees to make withdrawals from their defined contribution plan accounts to pay long-term care insurance premiums without incurring the 10% early withdrawal penalty.

View Notice 2026-33.

IRS IR 2026-68: Taxpayers Can Now View and Submit Trump Account Elections in Their IRS Individual Account

On May 28, in press release IR 2026-68, the Treasury announced that a Treasury app for managing Trump Accounts is now available on "all major mobile app stores." The press release describes the app as the "main interface" for Trump Accounts, coming just over a month before the initial deployment date for contributing to a Trump Account. The Treasury also announced that, for authorized individuals who have already submitted IRS Form 4547 on behalf of an eligible minor child to establish a Trump Account on his/her behalf, account activation emails will start going out in phases to (a) confirm such authorized individual's election to open the account, and (b) provide instructions to complete the account setup process. The IRS also stated that taxpayers can submit Trump Account elections and view election status via their online "IRS Individual Account," which includes a click-through to IRS Form 4547.

View IR 2026-68.

Miscellaneous

Simply for reference, below we provide updated inflation-adjusted amounts applicable for the upcoming calendar year 2026:

Social Security Benefits

- Social Security and Supplemental Security Income beneficiaries: 2.8% Cost of Living Adjustment for 2026.
- Taxable Wage Base: $184,500.
- Retirement Earnings Test Exempt Amounts:
  - Under full retirement age: $24,480/ year or $2,040 per month.
    - $1 in benefits withheld for every $2 in earnings above the limit.
  - The year an individual reaches full retirement age: $65,160/year or $5,430 per month.
    - Applies only to earnings for months prior to attaining full retirement age.
    - $1 in benefits withheld for every $3 in earnings above the limit.
  - There is no earnings limit beginning the month an individual reaches full retirement age.

View the Social Security 2026 Fact Sheet.

Income Taxes and Social Security Benefits for 2026

- Individual filers with combined income between $25,000 and $34,000 may pay income tax on up to 50% of benefits.
  - If more than $34,000–up to 85% may be taxable.
- Joint filers with combined income between $32,000 and $44,000 may pay income tax on up to 50% of benefits.
  - More than $44,000–up to 85% may be taxable.
- Combined income = adjusted gross income plus nontaxable interest plus ½ of Social Security benefits.

View IRS Publication 915.

Retirement Plan Limits

For quick reference, selected 2026 retirement plan limits are as follows:

- Elective deferral (contribution limit) for 401(k), 403(b) and 457(b) plans: **$24,500**.
- Catch-up contribution limit for 401(k), 403(b) and governmental 457 plans: **$8,000**.
- Annual combined contribution limit to traditional and Roth IRAs: **$7,500**.
- Catch-up contribution limit for traditional and Roth IRAs: **$1,100** (is not indexed).
- SIMPLE plans employee deferral (contribution limit): **$17,000**.
- SIMPLE plans catch-up contribution limit: **$4,000**.
- Simplified Employee Pensions (SEPs) minimum compensation threshold: **$8,000**.
- SEP maximum compensation limit: **$360,000**.
- SEP Annual contribution limit: **$72,000**.
- Annual total defined contribution plan contribution limit: **$72,000**.
- Catch-up contribution limit for individuals aged 50–59 participating in 401(k), 403(b) and governmental 457 plans: **$8,000**.
- "Super" catch-up contribution limit for individuals aged 60, 61, 62 and 63 participating in 401(k), 403(b) and governmental 457 plans: **$11,250**.
- Annual Compensation limit for calculating contributions (401(k), 403(b), profit-sharing plans, etc.: **$360,000**.
- Limit on annual benefit provided through a defined benefit plan: **$290,000**.
- ESOP amount used to determine maximum account balance: **$1,455,000**.

View the Cost of Living Adjustments for 2026.

Miscellaneous (cont.)

Health Savings Accounts (Inflation-Adjusted Amounts for 2026)

For employees to be eligible to participate in a HSA, they must be enrolled in a High Deductible Health Plan (HDHP). For 2026, the limits for both HDHPs and HSAs are provided here:

- HSA contribution limit–self only: **$4,400**.
- HSA contribution limit–family: **$8,750**.
- HSA catch-up contribution limit (age 55+): **$1,000**.
- The minimum HDHP deductible–self only: **$1,700**.
- The minimum HDHP deductible–family: **$3,400**.
- Annual out-of-pocket expenses are capped at–self only: **$8,500**.
- Annual out-of-pocket expenses are capped at–family: **$17,000.**

View the 2026 HSA limits.

Estate and Gift Tax Exclusion Amounts in 2026

For calendar year 2026, the estate and gift tax exemption amounts are:

- **$15,000,000** per individual.
- **$30,000,000** per couple.

The per-recipient gift amounts (tax-free and without counting towards the taxpayer's lifetime gift/estate tax exemption amount) are:

- **$19,000** per recipient.
- **$38,000** per recipient for married couples.

View the tax inflation adjustments for 2026.

[1] Leader Thune, Speaker Johnson Statement on DHS Funding—Press Releases, U.S. Senator John Thune.

[2] President Donald J. Trump v. Internal Revenue Service.

[3] It remains an open question whether the Administration may seek to revive the fund at a later date, although President Trump indicated that doing so would require Congressional approval: Trump continues defense of 'Anti-Weaponization Fund,' POLITICO.

[4] The Finance Committee held a hearing examining digital asset taxation on October 1, 2025.

[5] H.R.6644—119th Congress (2025-2026): 21st Century ROAD to Housing Act, Congress.gov, Library of Congress.