



ADVANCED INCOME SOLUTIONS

Contract Structuring and New York Life Annuities

When completing an annuity application, you must indicate who the owner, the annuitant and the beneficiary are. The owner is the person purchasing the annuity and establishing a contract with the insurance company. They also have certain rights under the contract, such as making withdrawals, surrendering the contract or changing the beneficiary on the contract.

When determining how to structure the annuity, the best guidance may be to keep the annuity structure as simple as possible. This usually means naming the same person as owner and annuitant, but who the owner, the annuitant, and the beneficiary should be depends on individual circumstances and the type of annuity contract.

Owner-driven versus Annuitant-driven annuity contracts

On owner driven contracts payment of the death benefit is triggered upon death of the owner, or in the case of joint ownership upon death of either owner.

- The New York Life variable deferred annuities and fixed deferred annuities are owner driven: Premier Variable Annuity FP, IndexFlex FP, Secure Term Choice II, Secure Term MVA II, Clear Income Advantage FP.

On annuitant driven contracts payment of the death benefit is triggered upon the death of the annuitant, or last surviving joint annuitant.

- The New York Life immediate income annuities and deferred income annuities are annuitant driven: Guaranteed Lifetime Income Annuity II, Guaranteed Future Income Annuity II, Guaranteed Period Income Annuity II.

Non-living entities and annuity ownership

A non-living entity can own a New York Life deferred or income annuity. This includes, Trusts, Corporations, Credit Unions, Pension or Profit-Sharing Plans and 501(c)(3) entities, to name a few. The annuitant must always be a living person, which is typically someone that can act on behalf of the non-living entity owner.

New York Life does not perform any special tax reporting or special administration on contracts owned by non-natural entities. If a distribution is made from the annuity we will issue a tax statement, in the year of distribution, on the owner's tax ID even if the payment is directed to be sent to someone other than the non-natural entity owner.

The more important question is whether the annuity is a suitable investment in these scenarios. The client should confirm the suitability of this arrangement as well as the tax implications prior to purchasing the annuity policy with their professional tax or legal advisor.

Annuity ownership and the IRS 10% tax penalty

The owner owns the annuity policy and is therefore responsible for any taxes due on distributions taken from the annuity. On deferred annuities, if the owner is under the age of 59 ½ the IRS imposes a 10% tax penalty on the gains distributed from the annuity. This is in addition to ordinary income taxes that must be paid.

On lifetime income annuities, since the payments are considered substantially equal periodic payments (SEPPs), if the owner is under the age of 59 ½ there would not be an IRS tax penalty applicable on the income stream since SEPPS are one of the exemptions to the IRS penalty tax.

If there are multiple owners of the policy tax reporting will be done on the primary owner. The client should consult with their tax advisor on the tax ramifications when designating multiple owners on the policy.

Investments and insurance products are:
Not FDIC/NCUA Insured • Not Insured by Any Federal Government Agency • Not a Deposit
or Other Obligation of, or Guaranteed by, the Bank or Any of Its Affiliates • May Lose Value

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Deferred Annuity contract operations

Scenario 1: Single Owner/ Annuitant

Owner: Husband
Annuitant: Husband
Beneficiary: Wife

Upon death of the owner, the spouse may continue the policy (if listed as sole primary beneficiary), choose to take a lump sum distribution of the death benefit proceeds or may elect a settlement option.

Scenario 2: Joint Owners/ Joint Annuitants* (Not applicable to all FDAs)

Owner: Husband
Joint Owner: Wife
Annuitant: Husband
Joint Annuitant: Wife
Beneficiary:
Surviving Joint owner
Contingent Beneficiary:
Children

Upon death of either owner, the surviving spousal owner may continue the policy (if listed as sole primary beneficiary), choose to take a lump sum distribution of the death benefit proceeds or may elect a settlement option.

If the owners die together the death benefit would be payable to the children.

Scenario 3: Joint Owners/ Single Annuitant**

Owner: Husband
Joint Owner: Wife
Annuitant: Husband
Beneficiary: Surviving spouse

Upon death of either owner, the surviving spousal owner may continue the policy (if listed as sole primary beneficiary), choose to take a lump sum distribution of the death benefit proceeds or may elect a settlement option.

If the annuitant dies and the annuitant is *not* also an owner, the primary owner will become the annuitant and the policy will continue.

Scenario 4: Non-living entity owner

Owner: Non-living entity
Annuitant: Individual
Beneficiary: Non-living entity

Upon death of the annuitant the death benefit is triggered. The Non-living entity can receive the death benefit in a lump sum or elect a payout over a maximum of 5 years

*For Clear Income Advantage FP Joint owners and Joint annuitants must be spouses.

**For Clear Income Advantage FP this ownership structure is not allowed

Please note: on a deferred annuity if the Joint owners are non-spousal, upon death of either owner the policy will end and the death benefit would be payable to the designated beneficiary.

Income Annuities contract operation

Scenario 1: Single Owner/ Annuitant

Owner: Mother
Annuitant: Mother
Beneficiary: Child

Upon death of the annuitant the death benefit is triggered. The beneficiary will receive any remaining death benefit payments.

Scenario 2: Joint Owners/ Joint Annuitants*

Owner: Husband
Joint Owner: Wife
Annuitant: Husband
Joint Annuitant: Wife
Beneficiary: Children

Upon death of either annuitant payments will continue for the life of the last surviving annuitant.

If the annuitants/owners die together or upon death of the last surviving annuitant the death benefit would be payable to the children.

Scenario 3: Joint Owners/ Single Annuitant**

Owner: Husband
Joint Owner: Wife
Annuitant: Husband
Beneficiary: Wife

Upon death of the annuitant the death benefit is triggered. The beneficiary will receive any remaining death benefit payments.

If wife predeceases the husband, no effect on income stream but the husband should name a new beneficiary to avoid a probate situation upon his death.

Scenario 4: Non-living entity owner

Owner: Non-living entity
Annuitant: Individual
Beneficiary: Non-living entity

Upon death of the annuitant the death benefit is triggered. The Non-living entity will receive any remaining death benefit payments.

*For GFI II, Joint owners and Joint annuitants must be spouses.

**For GFI II this ownership structure is not allowed

If there is no beneficiary named (or living) on the policy at time of the Owner's death, the annuity death benefit proceeds will be paid to the last surviving Owner's estate as the default beneficiary.

Contract structure for Qualified annuities

The annuity structure for qualified contracts will differ depending on the plan type (i.e., Traditional IRAs, inherited IRA, 403(b), Pension or Profit-sharing plan).

On a deferred or income annuity policy, a Traditional IRA plan may designate a joint annuitant however the IRA owner must be the single owner of the annuity (joint ownership is not permitted on qualified annuity contracts). Also, on qualified annuities the owner must also be the primary annuitant.

On an income annuity, the joint annuitant will automatically become the successor owner of the income annuity if the owner dies and the joint annuitant is living. On a deferred annuity, a joint annuitant spouse must be designated as the sole primary beneficiary in order to continue the policy.

Contract Structure for common Trust scenarios (Grantor Trusts, etc.)

In general, there are no New York Life restrictions against the types of trusts that can own an annuity. Refer to our Deferred Annuity and Trust Ownership document for more details.

What happens if there is a change of ownership on a New York Life annuity?

The owner has the right to make an ownership change on any non-qualified New York Life annuity. Changing the owner on an annuity may constitute an income and/or gift tax event. New York Life does not issue any tax reporting statements for ownership changes. The client should be encouraged to discuss ownership changes on their annuity with their professional tax advisor, prior to making any changes.

Ownership changes may also adversely affect guaranteed values, such as those associated with optional death benefit and living benefit riders, since in some situations the rider may terminate upon an ownership change.

Can a minor own a New York Life annuity?

A minor can own a New York Life annuity. Under the Uniform Gifts to Minors Act (UGMA) or the Uniform Transfers to Minors Act (UTMA), a Custodian must be named until the child reaches the age of majority. Once the minor becomes age of majority they will assume ownership of the contract. This means they would be bound by the pre-59 ½ 10% tax penalty if they want to take any withdrawals from a deferred annuity.

Titling of the UTMA contract

"[Name of custodian] as custodian for [name of minor] under the [name of State] UGMA/UTMA"

Pension and Profit-Sharing Plans

Only One-Participant plans will be accepted for new sales. One-Participant plans include spouses and partners but no other employees. The Owner must be the Pension or Profit-Sharing Plan and the annuitant must be a living person, generally the plan participant.

Key parties to the annuity contract and their roles

- **Owner** – The owner is generally the person who purchases the annuity and has all rights to the policy. They are also liable for any taxes due. The owner also names the annuitant and beneficiary.
- **Joint Owner** – If a joint owner is named on the policy, ownership rights and privileges under the policy are exercised jointly.
- **Annuitant** - The annuitant is the individual named under the annuity contract whose life will serve as the measuring life for purposes of determining the timing or amount of the payout under the contract. Thus, the annuitant, unlike the owner and the beneficiary of the annuity contract, must be a living breathing person.
- **Joint Annuitant**- Like the annuitant, the joint annuitant also serves as the measuring life for purposes of determining the timing or amount of the payout under the contract. The joint annuitant must also be a living breathing person.
- **Primary Beneficiary** - The beneficiary has no rights under the annuity contract, other than the right to receive payment of the death benefit. There is no requirement that the beneficiary be a living breathing person. A trust or other entity can be named as the beneficiary.
- **Contingent Beneficiary** – The contingent beneficiary receives payment of the death benefit if the primary beneficiary predeceases the owner and no other primary beneficiary exist under the policy.
- **Irrevocable Beneficiary** – If the beneficiary is designated as irrevocable, they cannot be removed as beneficiary without their own consent.

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