



# Annuity Titling Guide

SIX SCENARIOS FOR EFFECTIVE ANNUITY TITLING



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# Why is titling important?

It is critically important that your assets align with your overall financial plan. Failures or shortcuts in planning can have severe consequences. Different assets follow different registration rules, which are often confusing and misunderstood. Annuities have their own set of titling rules, and understanding these rules can help ensure that your annuity aligns with your financial plan and goals.

Understanding how to properly title annuities can help with:

- **Allowing annuity assets to avoid probate**
- **Providing tax-deferred\* growth potential**
- **Paying beneficiaries expediently**
- **Creating tax-efficient inheritance strategies**
- **Making charitable bequests**
- **Generating an income stream that you and/or your spouse cannot outlive†**

Titling scenarios presented in this brochure are for nonqualified annuities.

## What are annuities?

Annuities are long-term, tax-deferred vehicles designed for retirement. Variable annuities involve investment risks and may lose value. Earnings are taxable as ordinary income when distributed. Individuals may be subject to a 10% additional tax for withdrawals before age 59½ unless an exception to the tax is met and may be subject to conditions and limitations. There is no guarantee that a variable annuity with an add-on living benefit will provide sufficient supplemental retirement income.

\* Tax deferral offers no additional value if an IRA or a qualified plan, such as a 401(k), is used to fund an annuity and may be found at a lower cost in other investment products. It also may not be available if the annuity is owned by a legal entity such as a corporation or certain types of trusts.

† Add-on living benefits are available for an extra charge in addition to the ongoing fees and expenses of the variable annuity and may be subject to conditions and limitations.



## What are the six nonqualified annuity titling scenarios?

The payment of death benefits under what is called an “owner-driven”<sup>†</sup> contract is affected by the designation of the owner, any joint owner, the beneficiary, and any contingent beneficiary. This brochure illustrates how the death benefit is allocated under an owner-driven annuity contract from Jackson® in six common situations, listed below.

- 1 Individual ownership**—with proceeds to go to spouse first and others (e.g., children) second

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- 2 Individual ownership**—with proceeds to go to a non-spouse

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- 3 Joint ownership**—between spouses

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- 4 Joint ownership**—with non-spouses

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- 5 Trust accounts**

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- 6 Business ownership**—partnership, corporation, LLC

Although this brochure can provide some assistance in addressing certain common scenarios, it is not intended as personalized tax or legal advice.

Always be aware that individual circumstances can affect the tax or legal consequences of implementing any of these structures. Likewise, you should understand that the choice of structures discussed in this brochure could affect not only federal income tax liability but also federal estate or gift tax liability and state tax liability.

Accordingly, it is important to consult your tax or legal advisor regarding the impact on your individual tax or legal situation prior to adopting any of these structures. Guidance from a tax or legal financial professional is especially essential in determining the potential impact of community property and state marital laws when choosing the proper structure.

Additionally, these options apply only if there is a death prior to the contract being annuitized. If a contract is annuitized, the death benefit options are dictated by the specific product and specified annuitization option.

<sup>†</sup> Owner-driven annuities are annuities where the passing of the owner triggers the death claim to the parties designated as beneficiaries. The passing of the annuitant, if different from the owner, does not trigger the death claim. However, in cases where an owner-driven policy is owned by a non-natural entity, because that owner cannot pass away, the passing of the annuitant triggers the death claim.



## Basic death benefit distribution rules

The following are a few essential rules you must understand when you are structuring a Jackson owner-driven contract.

1. The beneficiaries of the owner are prioritized as follows.

- **Joint owner:** A joint owner is treated as the primary beneficiary of a nonqualified annuity and stands to inherit annuity proceeds before any listed beneficiary.
- **Primary beneficiary**
- **Contingent beneficiary**

2. For individually owned contracts, the annuitant is merely the measuring life for the annuity payments. If the annuitant is different from the owner and dies prior to the owner, the owner simply names a new annuitant. The implications of annuitant status are different when an annuity is owned by a nonnatural entity. For further explanation of these scenarios, please see titling scenarios 5 and 6.

3. Upon the death of the owner—if the owner is a person—the beneficiary (or joint owner if one is named) of the contract generally has the following options.

- A. Lump sum:** Receive a lump sum of the remaining value of the annuity. If a lump sum is elected, the beneficiary will pay taxes on all accrued gains in the inherited annuity in the year of the distribution.
- B. Annuitize:** Annuitize (receive a regular income) within 12 months of the date of death. The income cannot extend beyond the life expectancy of the beneficiary. Annuitization options may vary, but can include period certain, life with period certain, and life only. If the owner of an annuity has annuitized for a period certain, the beneficiary is entitled to receive those annuity payments for the remaining years under that period certain.
- C. Spousal continuation:** If the "sole, primary" beneficiary is the surviving spouse, he or she can become the new owner and continue the contract under its existing terms (including any applicable withdrawal charge schedules).
- D. Out in five:** Receive a distribution of the total value of the contract within five years of the date of the owner's death. If this distribution option is selected then no distribution is required for any year before the fifth year.
- E. Nonqualified stretch:** The nonqualified stretch option permits beneficiaries to receive a death benefit in the form of a systematic withdrawal over a period not exceeding their life expectancy. Nonqualified stretch requires the beneficiary to take a minimum amount each year to satisfy IRS requirements. Additional amounts can be withdrawn at any time and may be subject to withdrawal charges. Nonqualified stretch distributions must begin within one year of the death of the decedent.
- F. Post-death 1035 exchange:** If an individual elects nonqualified stretch, the IRS allows that stretched annuity to be transferred from one annuity carrier to another (via post-death 1035). IRS Private Letter Ruling 201330016 clarifies the beneficiaries' ability to move their death benefit to a new carrier of their choice, allowing them to remain invested according to their personal financial needs and goals. It is not incumbent upon annuity carriers to send or receive post-death 1035s. Be sure to check with the sending and receiving annuity carriers to ensure they will send/receive nonqualified stretch post-death 1035s.

Note: Withdrawal charges do not apply to any death proceeds that are payable upon the death of the owner. However, any applicable withdrawal charges or contract adjustments may apply if the surviving spouse elects to continue the contract as the new owner and then subsequently takes withdrawals or surrenders the contract. If the contract was issued after January 1, 1999, the withdrawal charges are waived.

Unnecessary replacements and replacements that are not in the best interest of the customer are generally looked upon with scrutiny by regulatory bodies.



# Individual ownership

WITH PROCEEDS TO GO TO THE SPOUSE FIRST AND OTHERS (E.G., CHILDREN) SECOND

1

**Owner:** Husband | **Annuitant:** Husband | **Beneficiary:** Wife | **Contingent beneficiaries:** Children

## Death of owner

When the husband dies, the wife as beneficiary has the following options.



- A. Lump sum
- B. Annuitize
- C. Spousal continuation
- D. Out in five
- E. Nonqualified stretch
  - Post-death 1035 exchange stretch

If the husband and wife die simultaneously, the proceeds go to the contingent beneficiary. The contingent beneficiary has all the options above except Option C. In this case, the money passes to the contingent beneficiary because there is no joint owner named.

If the beneficiary wishes to not receive the proceeds of an inherited annuity, the beneficiary can disclaim the annuity. When the beneficiary disclaims, the assets then pass to the contingent beneficiary (if listed) or to the primary beneficiary if the surviving joint owner disclaims. Please note, qualified disclaimers are required to be entered within a specific period and in a specific way. If you wish to disclaim an inherited annuity, work with a qualified financial professional to ensure that the disclaimer is properly entered. Qualified disclaimers may be subject to tax consequences. It is important to consult your tax or legal advisor regarding the impact on your tax or legal situation.



# Individual ownership

WITH PROCEEDS TO GO TO A NON-SPOUSE

2

**Owner:** Mother | **Annuitant:** Mother | **Beneficiary:** Daughter

## Death of owner/annuitant

When the mother dies, the daughter as beneficiary has the following options.



- A. Lump sum
- B. Annuitize
- D. Out in five
- E. Nonqualified stretch
  - Post-death 1035 exchange stretch

# Joint ownership

## BETWEEN SPOUSES

3

**Joint owner:** Wife

**Joint owner:** Husband

**Annuitant:** Husband or wife

**Beneficiary:** Children (or others)

### Death of joint owner

When either joint owner dies, the surviving joint owner takes precedence over any named beneficiary. The surviving joint owner has the following options.



**A. Lump sum**

**B. Annuitize**

**C. Spousal continuation\***

**D. Out in five**

**E. Nonqualified stretch**

- Post-death 1035 exchange stretch

\* Note that this spousal continuation option is only available for spousal joint owners or if the spouse is listed as the 100% primary beneficiary.

If both owners die simultaneously, the death benefit rights pass to the beneficiaries who then have the options listed above, except Option C.



# Joint ownership

WITH NON-SPOUSES

4

**Joint owner:** Mother

**Joint owner:** Daughter

**Annuitant:** Mother or daughter

**Beneficiary:** Anyone other than either joint owner

## Death of first joint owner

When either joint owner dies, the surviving joint owner takes precedence over any named beneficiary. The surviving joint owner has the following options.



**A. Lump sum**

**B. Annuitize**

**D. Out in five**

**E. Nonqualified stretch**

- Post-death 1035 exchange stretch

The named beneficiary has the above options only if all joint owners die simultaneously.

**Please note:** Non-spouse joint ownership often can lead to unintended taxable events or unintended planning outcomes and generally is not recommended.





# Trust accounts

Under 26 U.S. Code § 72(u), if a trust benefits only natural people or is a grantor trust, then a properly titled annuity owned by the trust can receive the benefit of tax deferral. When a trust owns an annuity, the death of the annuitant triggers the death claim.

**Owner:** Irrevocable trust

**Annuitant:** Any individual (if applicable, the beneficial owner of the trust)

**Beneficiary:** Trust, individuals

## Death of the annuitant/beneficial owner

If the trust is listed as beneficiary



**A. Lump sum**

**D. Out in five**

If individuals are listed as beneficiaries



**A. Lump sum**

**B. Annuitize**

**D. Out in five**

**E. Nonqualified stretch**

- Post-death 1035 exchange stretch

**Please note:** Positioning annuities in revocable trusts could lead to unintended tax and planning consequences such as loss of spousal continuation and loss of nonqualified stretch. If an annuity is suitable in one's revocable trust, it generally is more favorable to open the annuity with individual ownership rather than ownership by the individual's revocable trust.

# Business ownership

6

(PARTNERSHIP, CORPORATION, LLC, FOUNDATIONS)

Business-owned annuities generally do not receive tax deferral. Gains in the annuity are taxable annually to the extent that those gains exceed the cash surrender value of the basis. Annuities owned by single-member LLCs could be eligible for tax deferral.

**Owner:** ABC corporation

**Annuitant:** Individual designated by business

**Beneficiary:** ABC corporation

## Death of the annuitant



A. Lump sum

D. Out in five

## Proceed with professional guidance

As noted, the information in this brochure is not intended as personalized financial, legal, or tax advice. Accordingly, we strongly recommend that you obtain legal and tax advice based on your individual circumstances from a qualified advisor.





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FOR MORE INFORMATION ON ASSET TITLING.**

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