

# MAKE THE MOST OF YOUR LEGACY

USING TRANSAMERICA'S ANNUITIES IN IRREVOCABLE TRUSTS

Annuities may lose value and are not insured by the FDIC or any federal government agency. They are not a deposit of or guaranteed by any bank, bank affiliate, or credit union.



TRANSAMERICA®

**The duties of a trustee can be challenging. Among their many responsibilities, trustees must act as fiduciaries in selecting trust investments that serve the needs of multiple trust beneficiaries in a tax-efficient manner. An annuity purchased by a trust may help the trustee meet these challenges.**

## **BENEFITS OF USING ANNUITIES IN IRREVOCABLE TRUSTS**

Annuities are known for providing individual investors with benefits such as tax deferral, a diverse selection of investment options, death benefit protection, and lifetime income. What's often overlooked is annuities can provide those same benefits within an irrevocable trust.

Using annuities in irrevocable trusts can provide:

- Control over the recognition and taxation of trust earnings.
- Flexible investment options with the potential for growth.
- Death benefits that provide the potential to enhance the value of assets passing to trust beneficiaries.
- Guaranteed lifetime income.<sup>1</sup>

## **TYPES OF IRREVOCABLE TRUSTS**

Many types of trusts may be able to own an annuity. The most common include, but are not limited to:

- Credit Shelter Trust.
- Irrevocable Family Trust.
- Spendthrift Trust.
- Irrevocable Life Insurance Trust (ILIT).
- Qualified Terminable Interest Property (QTIP) Trust.
- Generation-Skipping Trust (GST).
- Special Needs Trust (SNT).

## **TAXATION OF IRREVOCABLE TRUSTS**

Taxable income retained within a non-grantor irrevocable trust may be subject to comparatively higher effective trust income tax rates:

- Top income tax rate of 37% on income over \$12,750 (2019).
- Additional tax of 3.8% on the lesser of undistributed net investment income or adjusted gross income over \$12,750 (2019).
- Capital gains and qualified dividends are taxed at 20% when income is in excess of \$12,950 (2019).

# MORE REASONS TO USE ANNUITIES IN IRREVOCABLE TRUSTS

## CONTROL OVER THE RECOGNITION AND TAXATION OF IRREVOCABLE TRUST EARNINGS

Investing trust assets in an annuity can provide income tax efficiency within the trust and help meet the needs of trust beneficiaries. Taxable income retained by certain non-grantor trusts is subject to comparatively higher effective trust income tax rates and may be subject to an additional 3.8% net investment income tax. Although income may be distributed out to trust beneficiaries to help reduce the impact of the trust tax rates, payment of income to the trust beneficiaries may not be desirable. Investment in an annuity by a trust meeting certain requirements may avoid this tax dilemma. Keep in mind that the manner in which the annuity is titled will have an impact on how the annuity contract operates. The titling options and rules are described throughout the remainder of this brochure.

## ANNUITIES AND TRUSTS: IRC SECTION 72(u)

Annuities that are owned by trusts that act solely for the benefit of living individuals will receive tax deferral under IRC Section 72(u). With annuities that meet the requirements under IRC Section 72(u), the appreciation of the annuity remains tax-deferred until the trustee requests a distribution.

Annuities owned by trusts that benefit non-natural entities, businesses, or charities will not receive tax deferral.

## FLEXIBLE INVESTMENT OPTIONS WITH GROWTH POTENTIAL

Changing trust objectives and economic conditions may cause the trust to change or modify its investment allocations. In many cases, the reallocation of trust assets may result in transaction costs and/or the realization of capital gains.

By using a Transamerica variable annuity as part of the investment strategy, the trustee can choose a diverse asset allocation among a variety of investment options. Since the investment options are held within the variable annuity, the trustee can modify the allocation of trust assets without worrying about transaction costs or capital gains recognition.<sup>2</sup>

## DEATH BENEFITS WITH POTENTIAL TO ENHANCE THE VALUE OF ASSETS PASSING TO TRUST BENEFICIARIES

An annuity with a guaranteed death benefit or enhanced death benefit offers the potential for long-term growth with downside protection, allowing the trustee to consider a more aggressive asset allocation for the benefit of remainder beneficiaries.<sup>3</sup> If the account performs poorly, an enhanced death benefit may provide an amount higher than the original account value at the death of the annuitant.

## GUARANTEED LIFETIME INCOME<sup>3</sup>

An annuity can satisfy a need for trust income through a guaranteed lifetime income stream for the income beneficiary of a trust. This can be beneficial for two reasons:

1. It allows the trustee to allocate a specific amount of trust assets to generate a lifetime stream of income.
2. It enables the trustee to invest more aggressively without fear of compromising income needed for the beneficiary's life, thereby potentially growing the trust assets for the benefit of the remainder beneficiaries.

<sup>2</sup> Insurance companies may limit the number of transfers between sub-accounts and assess additional fees on excessive transfers. Transamerica permits 12 transfers per year, after which a \$10 transfer fee may apply.

<sup>3</sup> All guarantees, including optional benefits, are based on the claims-paying ability of the issuing insurance company. Diversification is a technique to help reduce risk and does not guarantee against loss.



## CASE STUDY:

# USING REMAINDER BENEFICIARIES AS THE ANNUITANTS – THE PASS-IN-KIND STRATEGY

### HOW IT WORKS

The trustee purchases an annuity contract for the remainder beneficiary(ies) of the trust. Each remainder beneficiary is designated the annuitant on their own annuity contract.

When the trust dissolves, the trustee requests an ownership change on the annuity contract from the trust to the annuitant listed on the contract. Once complete, the trust remainder beneficiary becomes the contract owner with full ownership rights.

This ownership change allows the annuity contract to “pass-in-kind” from the trust without triggering a taxable event on any accumulated earnings in the contract. Moreover, Transamerica’s contractual benefits are not impacted by the ownership change from the trust to the beneficiary. As the account owner, the annuitant/remainder beneficiary can name new beneficiaries for their annuity contract and use the proceeds for any desired purpose. Below is a hypothetical example to help illustrate how the annuity operates under the Pass-in-Kind Strategy.

### SMITH IRREVOCABLE TRUST:

- Mrs. Smith (age 87) is the income beneficiary of the trust.
- At Mrs. Smith’s death, the remaining trust assets are to pass to her children, Suzie (age 64) and Ed (age 60).

### TODAY...

The trustee purchases two annuity contracts with Suzie named the annuitant on one contract and Ed named the annuitant on the other.

Any potential growth in the annuity contracts accumulates tax-deferred to help increase the inheritance to Suzie and Ed.

### IN THE FUTURE...

At Mrs. Smith’s death, the trust dissolves. The ownership of the annuity contracts are changed from the trust to Suzie and Ed. They become the owner of their respective contract without a taxable event or change to the contractual provisions or benefits.

This hypothetical example is not indicative of any specific investment and does not reflect the impact of fees or expenses. Because individual circumstances vary, employing this strategy may not produce the same results for all individuals. Consult your tax advisor to determine if this strategy is right for you.

SMITH IRREVOCABLE TRUST	
<b>Annuity #1</b> Suzie’s annuity accumulates tax-deferred.	<b>Annuity #2</b> Ed’s annuity accumulates tax-deferred.

SMITH IRREVOCABLE TRUST	
Suzie assumes ownership of her tax-deferred annuity contract.	Ed assumes ownership of his tax-deferred annuity contract.

## CASE STUDY:

# USING THE INCOME BENEFICIARY AS THE ANNUITANT – GENERATING INCOME

Some trusts may require the distribution of income or principal from the trust on an ongoing basis. The income beneficiary may be more interested in the continuity of income rather than tax efficiency or passing assets from the trust to the remainder beneficiaries. The use of an annuity with a living benefit can help ensure an amount of income that lasts for the lifetime of the annuitant.

### **STEVENS IRREVOCABLE TRUST:**

Mrs. Stevens (age 70) is the income beneficiary of the trust and is interested in generating ongoing income from the trust assets. She may access 5% of trust principal every year, but does not anticipate needing that much to satisfy her income needs.

### **HOW IT WORKS TODAY...**

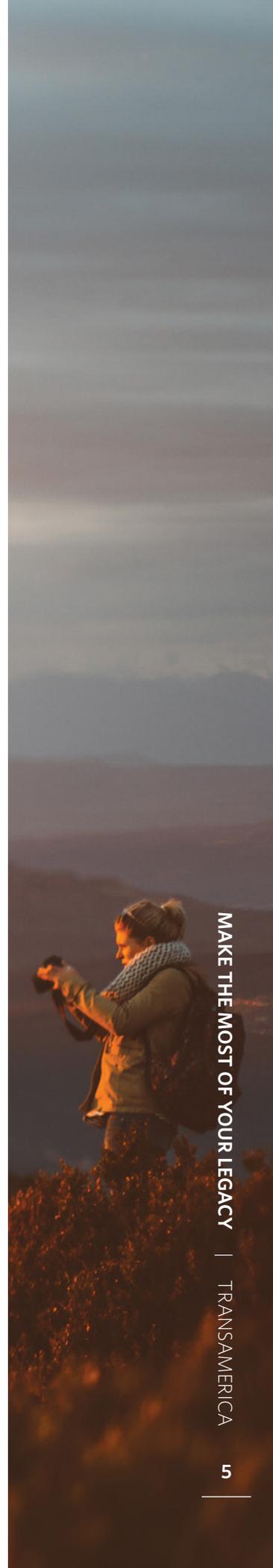
The trustee purchases a Transamerica annuity with a living benefit. Mrs. Stevens is named as the annuitant. The trust is named as the owner and beneficiary.

Mrs. Stevens is entitled to lifetime income from the living benefit. She will receive a minimum amount of income for the rest of her life regardless of how the underlying investments perform.

### **IN THE FUTURE...**

At the death of Mrs. Stevens, the remaining proceeds will pay back into the trust and the trustee will have five years to liquidate the proceeds of the annuity.

This hypothetical example is not indicative of any specific investment and does not reflect the impact of fees or expenses. Because individual circumstances vary, employing this strategy may not produce the same results for all individuals. Consult your tax advisor to determine if this strategy is right for you.



## CASE STUDY:

## USING THE INCOME BENEFICIARY

## AS THE ANNUITANT – LEAVING A LEGACY

The income beneficiary of the trust may not desire income and instead be primarily interested in accumulating more value to pass to the trust beneficiaries. Two challenges to this objective could be ongoing trust taxation and market volatility. The use of an annuity with an enhanced death benefit may help overcome these challenges.

### **FRANKLIN FAMILY IRREVOCABLE NON-GRANTOR TRUST:**

Mr. Franklin (age 68) is the income beneficiary of the trust and does not want any income from the trust.

At Mr. Franklin's death, the remaining trust assets pass to his son Matthew.

### **HOW IT WORKS TODAY...**

The trustee purchases the annuity contract naming the trust as the owner and beneficiary of the annuity. The trustee names Mr. Franklin as the annuitant and elects an enhanced death benefit based on his life.

Any growth within the annuity contract grows tax-deferred. The enhanced death benefit may increase from any potential growth in the annuity subaccounts.

### **IN THE FUTURE...**

At Mr. Franklin's death, the death benefit is triggered and pays back into the trust. The trustee has five years to liquidate the proceeds of the annuity contract.

This hypothetical example is not indicative of any specific investment and does not reflect the impact of fees or expenses. Because individual circumstances vary, employing this strategy may not produce the same results for all individuals. Consult your tax advisor to determine if this strategy is right for you.

## IRREVOCABLE TRUST-OWNED ANNUITIES AT TRANSAMERICA<sup>4</sup>

- Transamerica requires a copy of the trustee certification form, along with the title page and signature page of the trust, be provided to Transamerica.
- The trust will be listed as the owner of the annuity contract. The annuitant on the contract may be a trustor/settlor/grantor, trustee, or trust beneficiary. The annuitant is the measuring life on the contract.
- A “pass-in-kind” strategy is available at Transamerica for annuities that are owned by irrevocable non-grantor trusts. For trusts that meet the criteria to use this strategy, after the trust dissolves, the trustee would request Transamerica to retitle the ownership of the annuity contract from the name of the trust to the name of the annuitant listed on the policy. The contract ownership transfers to the annuitant without triggering an income-taxable event or change of contractual benefits such as living and death benefits. Consult with a qualified tax professional to evaluate if this strategy is appropriate for the trust.

---

## DEFINITIONS

### ANNUITANT

Individual designated on an annuity contract to serve as the measuring life for the contract features and death benefit.

### CORPUS

A term used to describe the principal of a trust, as distinguished from gains, earnings, and profits.

### GRANTOR

Also referred to as the settlor or trustor, the individual who created the trust and ceded the assets to the trust.

### INCOME BENEFICIARY

Trust beneficiary entitled to income from the trust.

### INTER VIVOS OR REVOCABLE TRUST

A trust that is established during the lifetime of the grantor that can be amended or revoked at any time by the grantor. Since this type of trust is revocable, the tax and ownership of the trust are attributed back to the grantor.

### REMAINDER BENEFICIARY

Trust beneficiary entitled to trust assets at the termination of income beneficiary's interest in the trust.

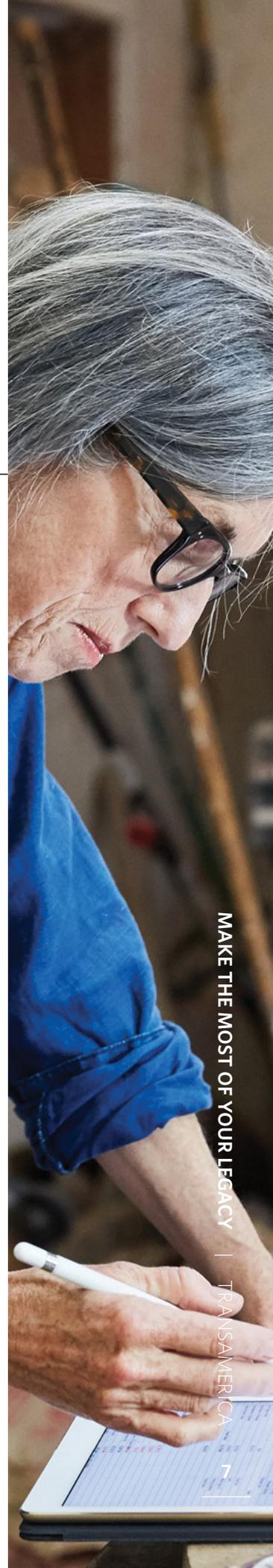
### SUCCESSOR TRUSTEE

Individual who takes over for the trustee if they become incapacitated, unable to perform their duties, or pass away.

### TRUSTEE

Fiduciary responsible for management of the trust.

<sup>4</sup>Pursuant to IRC Section 72(e)(12), all annuity contracts issued by Transamerica to the same trust as owner during a calendar year will be aggregated and treated as one contract for tax purposes. All guarantees, including optional benefits, are backed by the claims-paying ability of the issuing insurance company.





TRANSAMERICA®

**When it comes to preparing for your future,  
there's no time like the present.**

Let's get started today.

 **Visit:** [Transamerica.com](https://www.transamerica.com)

**Before investing, consider a variable annuity's investment objectives, risks, charges, and expenses. Go to [transamerica.com](https://www.transamerica.com) for prospectuses containing this and other information. Please read carefully.**

Variable annuity fees and charges include mortality and expense risk fee and administrative charge, surrender charges, annual fee, and investment option management fees. Additional fees may apply to optional benefits, including living benefit selected.

There is no additional tax-deferral benefit derived from placing IRA or other tax-qualified funds into an annuity. Features other than tax-deferral should be considered in the purchase of a qualified annuity.

Withdrawals of taxable amounts are subject to ordinary income tax and if taken prior to age 59½, a 10% federal tax penalty may apply.

Variable annuities are subject to investment risk, including possible loss of principal. Annuities are long-term, tax-deferred vehicles designed for retirement purposes.

Neither Transamerica nor its agents or representatives may provide tax or legal advice. Anyone to whom this material is promoted, marketed, or recommended should consult with and rely on their own independent tax and legal advisors regarding their particular situation and the concepts presented herein.

Annuities issued in all states except New York by Transamerica Life Insurance Company, Cedar Rapids, Iowa and in New York by Transamerica Financial Life Insurance Company, Harrison, New York Annuities are underwritten and distributed by Transamerica Capital, Inc. 1801 California St. Suite 5200, Denver, CO 80202. FINRA member. References to Transamerica may pertain to one or all of these companies.

112159

© 2019 Transamerica Capital, Inc.

0119

