Lincoln *MoneyGuard*® solutions guide to trust ownership

Dean F. "Chip" Chatlain
is an advanced sales consultant for Lincoln Financial Distributors. He has over 40 years of experience as a tax attorney, with more than 35 years in the life insurance industry. His perspectives stem from a solid background in individual and corporate taxation, as well as a thorough understanding of the tax advantages of life insurance.

Owning a *MoneyGuard* solution in a revocable, family or living trust

When someone creates a revocable trust, they reserve the right to amend or even revoke the trust. Because of their flexibility, revocable trusts have become a very popular and efficient wealth management and wealth transfer tool. For tax purposes, the assets in a revocable trust are owned by the trust grantor(s).

That also means that the assets will be included in the grantor's (or surviving grantor's) taxable estate. Although estate planners usually advise high-net-worth clients not to own life insurance in a revocable trust, that advice does not apply because *MoneyGuard* is designed to maximize long-term care benefits, provide life insurance as a secondary objective, and can be owned in a revocable trust.

Here's why

There are numerous virtues to having *MoneyGuard* owned in a revocable trust. In most revocable trusts, the trust grantor is usually the original trustee. However, if the grantor suffers a long-term care event, the trust document should list a successor trustee. That successor trustee will then be able to file claims with Lincoln for reimbursement of long-term care expenses immediately. If the insured does not have a revocable trust own the *MoneyGuard* contract, and does not have a durable power of attorney, then it may be necessary for some family member to seek a court order naming them the guardian or custodian of the insured. This will not only delay the start of long-term care benefit reimbursements by Lincoln, it will unnecessarily cost money for attorney and court fees.

The title of the trust can be misleading. After the death of the sole trust grantor, most revocable trusts will automatically become irrevocable trusts. It gets more complicated if both spouses are trust grantors, and only one of them dies. In many of these trusts, the surviving trustee will remain the sole trustee, and the entire trust will remain revocable. However, in other cases, the trust may become fully or partially irrevocable. Many of the trusts that become partially or fully irrevocable may be old trusts that predated the portability of the deceased spouse's lifetime exemption when overall estate taxes were reduced if the first to die used part or all their lifetime exemption. Even more current trusts may become partially irrevocable if one or both spouses have children from prior marriages.

Irrevocable trusts owning *MoneyGuard*® on a trust beneficiary

An excellent opportunity is when the trustee of an irrevocable trust considers purchasing *MoneyGuard* on a trust beneficiary. Almost all irrevocable trusts contain language permitting the trustee to make distributions of trust income and principal for health, education, maintenance and support. Paying a beneficiary's long-term care (LTC) expenses obviously qualifies under this standard.

Since the trustee's primary responsibility is to provide for the beneficiary's well-being, purchasing *MoneyGuard* protects the trust's other assets from having to be used to pay the beneficiary's LTC expenses. Stated differently, the trustee does not have to hold a portion of the trust assets in reserve indefinitely to pay for an LTC event that may not occur for several decades.

How it works

Most of the cases we see involve a trust that a parent funded in their will. These cases rarely pose any problem in getting the *MoneyGuard* application approved. New Business usually sends the trust to Advanced Sales to confirm that the trustee has the authority to purchase *MoneyGuard* on the trust beneficiary.

A few of the trusts we review in Advanced Sales involve a trust created by a grantor who is still alive. In a small percentage of these cases, the trust document might prohibit any distributions to a trust beneficiary during the grantor's lifetime. Since the decision to purchase the *MoneyGuard* contract was likely made a decade or more before the LTC event, it is arguably consistent with the grantor's and trustee's intent to provide LTC benefits to the trust beneficiary as soon as the insured beneficiary is eligible.

In this situation, the trustee should be advised to seek out, and rely upon, their own legal professional as to whether trust-owned *MoneyGuard* can reimburse the beneficiary's LTC expenses while the grantor is still alive. Lincoln does not give legal or tax advice to the ultimate client.

Owning *MoneyGuard*® in Irrevocable Trusts Insuring the trust grantor

Standard language in irrevocable trusts prohibits the trust grantor(s) from receiving anything of value from the trust. Since the trustee can't pay the grantor's long-term care expenses, the trustee can't file a claim for reimbursed by a *MoneyGuard* contract.

One of the most frequently asked questions involves an old life insurance policy with a large gain on surrender that insures the trust grantor. The grantor is now less concerned about leaving a legacy to his children than he or she is concerned about the impact of an extended stay in a long-term care facility. What the grantor really wants is to do a tax-free 1035 exchange into a *MoneyGuard* contract.

How it works

A careful review of the trust by the client's attorney might reveal a way to accomplish the grantor's goals, just not inside the irrevocable trust. A very quick and easy solution could occur if the trustee has the discretion to make principal and income distributions to the grantor's spouse at any time. The trustee would change ownership of the old contract to the spouse, would do the 1035 exchange into *MoneyGuard*.

The legal review may reveal that the trustee can make discretionary principal and income distributions during the grantor's lifetime, but only to the children that are trust beneficiaries. If all the children are adults, then the trustee could change ownership of the original contract to the children, who would then do a 1035 exchange into *MoneyGuard*. There is generally no problem having a child own a *MoneyGuard* contract on a parent.

Admittedly, some trusts are drafted so that none of the above approaches will work. That leaves about the last two options.

1. If the existing trust is an irrevocable grantor trust, the grantor may be able to purchase the policy from the trust. The downside of this approach is that the trust may be left with only the purchase price of the policy.

2. The second option may be for the grantor, the trust and the beneficiaries to agree to terminate the trust. If they all agree, and the beneficiaries are all adults, terminating the trust will result in the trust beneficiaries owning the existing policy. Once again, they could do a 1035 exchange into *MoneyGuard*.

Contact your Lincoln *MoneyGuard*® representative for more information.

Remember, Lincoln does not give legal or tax advice to the ultimate client. The client should seek out, and rely upon, their own legal or tax professional.

Important information:

Lincoln Financial Group® affiliates, their distributors, and their respective employees, representatives, and/or insurance agents do not provide tax, accounting, or legal advice. Clients should consult an independent professional as to any tax, accounting, or legal statements made herein.

Issuers:
The Lincoln National Life Insurance Company, Fort Wayne, IN Lincoln Life & Annuity Company of New York, Syracuse, NY

The Lincoln National Life Insurance Company does not solicit business in the state of New York, nor is it authorized to do so.

All guarantees and benefits of the insurance policy are subject to the claims-paying ability of the issuing insurance company. They are not backed by the broker-dealer and/or insurance agency selling the policy, or any affiliates of those entities other than the issuing company affiliates, and none makes any representations or guarantees regarding the claims-paying ability of the issuer. Products, riders and features are subject to state availability. The insurance policy and riders have limitations, exclusions, and/or reductions. Check state availability. Long-term care benefit riders may not cover all costs associated with long-term care costs incurred by the insured during the coverage period.

Lincoln variable universal life insurance is sold by prospectus. Carefully consider the investment objectives, risks, and charges and expenses of the policy and its underlying investment options. This and other important information can be found in the prospectus for the variable universal life policy and the prospectuses for the underlying investment options. Prospectuses are available upon request and should be read carefully before investing or sending money. For current prospectuses, please call 800-444-2363 or go to www.LincolnFinancial.com.

Distributor: Lincoln Financial Distributors, Inc., a broker-dealer

Policies:
MoneyGuard Market Advantage® is a variable universal life policy issued by The Lincoln National Life Insurance Company, Fort Wayne, IN on Policy Form ICC20-MGV892/20-MGV892 with a Long-Term Care Benefits Rider (LTCBR) on Rider Form ICC20LTCBR-892/LTCBR-892, and a Value Protection Rider on Form ICC20VPR-892/VPR-892.

Lincoln *MoneyGuard*® III, universal life insurance on policy form ICC19-MG890/19-MG890 with the following riders: Value Protection Endorsement (VPE) on form ICC19END-10534/END-10534; Terminal Illness Acceleration of Death Benefit Rider (TIR) on form ICC19TIR-891/TIR-891. Long-Term Care Benefits Rider (LTCBR) on form ICC19LTCBR-890/LTCBR-890.

Lincoln *MoneyGuard*® II NY, universal life insurance on policy form LN880a with the following riders: Value Protection Rider (VPR) on form LR880a Rev; Long-Term Care Acceleration of Benefits Rider (LABR) on form LR881a; Long-Term Care Extension of Benefits Rider (LEBR) on form LR882a; Terminal Illness Acceleration of Death Benefit Rider (TIR) on form LR883a; Nonforfeiture Benefit Rider (NBR) on form LR885a.

Lincoln *MoneyGuard*® II, universal life insurance policy form LN880/ICC13LN880 with the Value Protection Rider (VPR) on form LR880 and state variations/ICC15LR880 Rev, Long-Term Care Acceleration of Benefits Rider (LABR) on form LR881/ICC13LR881, and optional Long-Term Care Extension of Benefits Rider (LEBR) on form LR882/ICC13LR882.

For use with financial professionals only. Not for use with the general public.

Not a deposit
Not FDIC-insured
Not insured by any federal government agency
Not guaranteed by any bank or savings association
May go down in value

LincolnFinancial.com

Lincoln Financial Group is the marketing name for Lincoln National Corporation and its affiliates.

Affiliates are separately responsible for their own financial and contractual obligations.

LCN-3598136-051921
PDF 6/21 **Z01**
Order code: MG-TRUST-BRC001

Lincoln Financial Group®