Annuities Can Be Complicated…

First, for income tax purposes, if the beneficiary of an annuity is an irrevocable trust, the annuity must be paid within 5 years of the owner's death, unless the annuity has been annuitized. However, if the RLT is the owner, the incapacity of the owner will leave the successor trustee in control of the annuity. That may be preferable to the DPOA. As long as the beneficiary is an individual, the 5 year rule is avoided.

Second, for asset protection purposes, if the annuity is owned by an irrevocable trust, a judgment creditor of the owner may not attach the annuity, assuming the trust is not self-settled. Funding the annuity, and avoiding a self-settled trust is very family and fact specific situation. Under section 72(u), if an irrevocable trust purchases an annuity and the trust holds the annuity as the agent of an individual, the annuity may report under the normal rules.

Third, as to the beneficiaries, you may want to consider a designation that enables the proceeds to pass to a trust if the beneficiary needs Medicaid or other asset protection.

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