

# Athene guidelines for non-resident sales



With our ever-mobile society, it's quite likely that producers will experience situations in which there is an opportunity to sell an annuity contract to an individual who is not a resident of the state in which they are located or conducting business. Generally, insurance products should be solicited in the state where the applicant/owner resides. However, in some cases it may be permissible for an applicant/owner to sign an application and purchase a product in another state if the customer has a material interest in, or connection to, that state.

More than ever, state insurance departments are examining transactions in which residents are being sold insurance products outside their jurisdiction. The rules surrounding non-resident sales can be challenging, especially in cases where the applicant/owner and the proposed annuitant are different persons. It may be difficult to tell (1) where the solicitation took place, (2) which state's rules should apply and (3) which state's forms should be used. Accordingly, we've put together the following guidelines to make sure producers understand the rules and regulations pertaining to "non-resident sales" of annuities.

## What is a Non-Resident Sale?

A non-resident sale (sometimes referred to as a "cross-border sale") occurs whenever a customer buys a life insurance policy or an annuity contract outside the customer's state of residence.

## When are Non-Resident Sales Prohibited?

There are a number of situations where the connection to the non-resident state is insufficient to establish grounds for a non-resident sale. The following is a list of situations in which non-resident sales are not permitted:

- The non-resident state product version is more favorable than the product version otherwise available in the owner/applicant's resident state (better features, interest crediting rates, payout factors, commissions rates, etc.).<sup>1</sup>
- The owner/applicant is referred to a producer in another state with whom the owner/applicant does not already have an established business relationship and the owner/applicant has no other nexus to the non-resident state.
- The customer is a resident of AR, MA, MN, MS, NY, UT, WA, WI.<sup>2</sup>

## When are Non-Resident Sales Permitted?

We do not encourage non-resident sales. However, sales may be permitted when the customer has a significant connection to, or material interest in, the non-resident state where they are purchasing the product. The [Non-Resident Information Sheet \(16257\)](#) must be completed and submitted with the application solicited outside of the state where the applicant/owner resides.

The following is a list of situations where a non-resident sale may be permitted:

- The owner/applicant owns or rents a secondary home in a non-resident state.
- The owner/applicant owns a business or is employed in the non-resident state.
- The owner/applicant has regular business dealings in the non-resident state, depending on the type and regularity of the business contacts in the non-resident state (for example, the owner/applicant has clients in the state and the owner/applicant regularly visits those clients).
- The owner/applicant regularly visits another state for vacationing, shopping or recreational activities (the nature of the visits, dates of visiting and the frequency with which the applicant visits the non-resident state should be indicated on the Non-Resident Information Sheet).

**INVESTMENT AND INSURANCE PRODUCTS ARE: • NOT FDIC 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 • SUBJECT TO INVESTMENT RISKS, INCLUDING POSSIBLE LOSS OF THE PRINCIPAL AMOUNT INVESTED**

- The owner/applicant's former residence was in the non-resident state and the owner/applicant makes regular visits to that state to visit family/friends (the dates of residence in the non-resident state and the frequency of the visits to the non-resident state should be indicated on the Non-Resident Information Sheet).
- The applicant is a trustee or attorney-in-fact under a Power of Attorney and the sale takes place in the applicant's resident state.
- The owner/applicant has a previously established business relationship, or regular business dealings, with a producer who has a permanent business office in the non-resident state (the dates of residence in the non-resident state and the frequency of visits to the non-resident state should be indicated on the Non-Resident Information Sheet).
- The owner/applicant was referred to the producer, has another kind of significant connection to the non-resident state, and the sale took place in the producer's primary business office location in the non-resident state.
- The owner/applicant has another kind of significant connection to the non-resident state. Athene will determine whether such a reason is acceptable based on the type and frequency of contacts with the non-resident state. In addition, the producer must maintain a permanent business office in the non-resident state.
- The applicant is a trustee or attorney-in-fact under a Power of Attorney and the sale takes place in the applicant's resident state.
- The owner/applicant has a previously established business relationship, or regular business dealings, with a producer who has a permanent business office in the non-resident state (the dates of residence in the non-resident state and the frequency of visits to the non-resident state should be indicated on the Non-Resident Information Sheet).
- The owner/applicant was referred to the producer, has another kind of significant connection to the non-resident state, and the sale took place in the producer's primary business office location in the non-resident state.
- The owner/applicant has another kind of significant connection to the non-resident state. Athene will, however, determine whether such a reason is acceptable based on the type and frequency of contacts with the non-resident state. The producer must maintain a permanent business office in the non-resident state.

**NOTE:** Non-resident sales should not be a regular business practice or business model. It should be something that occurs occasionally and with appropriate well-documented, customer-specific rationale for why it is occurring. Athene prohibits non-resident sales for telephone and video solicitation. Please refer to the [Telephone and Video Solicitation Guidelines \(52269\)](#) in the Doing Business with Athene Producer Guide for details.

## What are the Requirements for a Non-Resident Sale?

If the solicitation of an insurance product takes place in a state that is not the residence state of the applicant/owner, the [Non-Resident Information Sheet \(Form 16257\)](#) must be completed and submitted with the application. Additionally, producers must comply with the following guidelines and requirements:

- Confirm product availability and state approvals.
- Ensure the applicant/owner is not a resident of a state that prohibits non-resident sales.
- Make certain the owner has a material interest/connection to the non-resident state. Thoroughly document the customer's connection to the non-resident state Non-Resident Information Sheet.
- Be licensed and appointed in the state where the solicitation takes place.
- Be familiar and comply with all rules and regulations of the state where the solicitation takes place.
- The solicitation and signing of the application and collection of premium must occur solely within the non-resident state identified in the application. **The contract must also be delivered to the owner/applicant in the same non-resident state.**
- Advise the owner/applicant of any differences between the approved product in the owner/applicant state of residence and the approved product in the non-resident state of solicitation, issue and delivery.

When completing the Non-Resident Information Sheet, keep in mind the following points in establishing a sufficient connection between an applicant/owner and the non-resident state in which the solicitation takes place:

- Provide evidence that the applicant/owner was in the non-resident state for reasons other than merely to purchase a product at the time of application.
- Thoroughly describe the connection between the applicant/owner and the non-resident state in which the solicitation took place.

Even in cases where the [Non-Resident Information Sheet \(Form 16257\)](#) is completed and an explanation for the non-resident sale is provided, Athene reserves the right to decline applications based on the information provided or other information known to us.

## What are the potential consequences of improper non-resident sales?

Insurance regulators can become aware of improper non-resident sales through a number of means, including complaints and market conduct examinations. Regulators will not tolerate any producer who deliberately bends the rules while selling products to customers outside their state of residence, nor will Athene. We are strongly committed to complying with regulatory requirements and upholding ethical business practices. Accordingly, we have implemented a suitability review process designed to identify and discourage the inappropriate sale of our products that includes review of non-resident sales. We will review all incoming applications and monitor pre/post issue activity to ensure compliance with suitability standards, state regulations and company policy. A violation of these guidelines may result in the suspension and/or termination of the producer's right to sell our products and reporting by Athene to appropriate regulatory and other authorities.

The following are some reminders that summarize the rules around non-resident sales:

- Producers should not act as a producer in states in which they are not licensed.
- Producers should not sell products in states where they are not approved.
- Producers should not invite potential prospects from one state to a seminar in another state because a product is not available in the prospect's state of residence.
- Producers should not advise a prospect to travel to a non-resident state for product availability.
- Producers should not submit an application indicating it was signed in a state in which it was not.
- Producers should not act as a "surrogate" for another producer who is not properly licensed in the state in which the solicitation occurs.

<sup>1</sup> When a product is not approved for sale in the policy owner's resident state, the customer may be allowed to purchase the product in a non-resident state only if they can provide a valid well-documented reason to be in the non-resident state (other than solely or primarily to purchase the product). In addition, for this scenario, the producer must maintain a permanent business office in the non-resident state.

<sup>2</sup> Arkansas and Mississippi: Arkansas residents may purchase an annuity in Mississippi or Tennessee. Mississippi residents may purchase an annuity in Arkansas or Tennessee. Producers must have a non-resident license in the applicant's state of residence.

This material is provided by Athene Annuity and Life Company (61689) headquartered in West Des Moines, Iowa, which issues annuities in 49 states (excluding NY) and in D.C., and Athene Annuity & Life Assurance Company of New York (68039) headquartered in Pearl River, New York, which issues annuities in New York.