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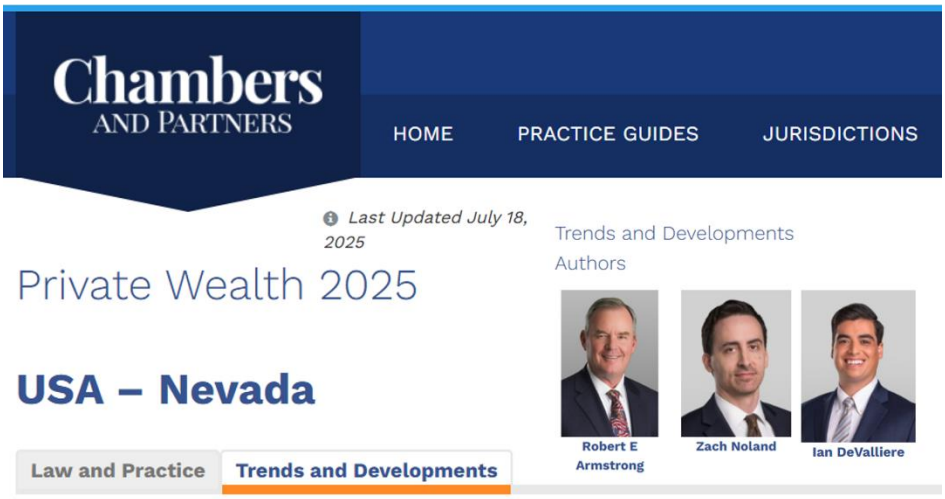
Trends and Developments in Nevada Trust & Estates/Private Wealth Law

Bob Armstrong, Ian DeValliere, and Zach Noland authored the Nevada Trends & Developments chapter of the *Private Wealth Law Guide 2025* published by Chambers and Partners. The Guide provides information about significant trends in Nevada legislative developments, appellate decisions, and private-wealth practice that underscore Nevada's position as a top-tier private wealth destination.

Chambers and Partners is the leading professional legal research company providing rankings and insight into the most highly regarded lawyers and law firms across 200 jurisdictions around the world. 2025 is the ninth consecutive year that McDonald Carano received the highest Band 1 ranking for Private Wealth Law in the *Chambers High Net Worth Guide*. Our specialty credentials include nine McDonald Carano attorneys have an LL.M. in Taxation, three are enrolled in LL.M. Taxation programs, one has an LL.M. in Estate Planning, and two are CPAs.



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TRENDS AND DEVELOPMENTS IN NEVADA PRIVATE WEALTH LAW

Due to the combination of explosive growth in the global private wealth space and Nevada's highly favorable trust and creditor-protection laws, lack of state income tax, minimal regulatory capital requirements, and ease of access to international travel hubs and major metropolitan areas in the western United States, Nevada continues to be an increasingly attractive private-wealth destination. Recent state-law developments have continued to close the few remaining gaps between Nevada and the handful of jurisdictions that are competitively situated. A discussion of significant trends in Nevada legislative developments, appellate decisions, and private-wealth practice follows.

I. Amendments from the 2025 Legislative Session

- **Two-year limitations period for breach-of-fiduciary-duty claims**

NRS 11.190 was amended to assign a two-year limitations period for breach-of-fiduciary-duty claims not involving fraud or intentional misrepresentation. This resolves a seemingly overbroad precedent in Nevada caselaw assigning a three-year limitations period. It also brings Nevada into closer competition with South Dakota, whose equivalent statute of limitations the amendment was modelled after.

- **Express exculpation for the approved and final trust account**

NRS 165.1214 was amended to clarify the effect of an approved and final account by adding an express exculpation provision. The amendment also provides, by way of cross-reference to related statutes in Title 13, that an account may be approved by virtual representation under a non-judicial settlement agreement. This amendment also brings Nevada into closer competition with South Dakota, on whose equivalent statute the amendment was modelled.

- **Statutory reimbursement power for grantor-trust tax payments**

NRS 163.557 was amended to provide an express, statutory reimbursement power to trustees, making discretionary reimbursement a default power under any Nevada grantor trust that does not provide otherwise. Before its amendment, NRS 163.557 merely provided that a trust instrument may grant a trustee the power to reimburse the settlor for tax payments without liability to any person.

The power to reimburse the settlor of a grantor trust was the subject of a significant IRS memorandum issued on 29 December 2023 ("CCA 202352018"). CCA 202352018 explains

that adding a reimbursement power to a trust instrument may constitute a taxable gift from beneficiaries who consent or omit to object to the addition of the reimbursement power. This, of course, is an undesirable outcome for beneficiaries. Adding a default reimbursement power to grantor trusts via statute does not have the same effect under CCA 202352018.

A recently enacted Florida statute provided a model for Nevada's amendment. Although its enactment preceded CCA 202352018 and was intended simply to provide the reimbursement power as a matter of convenience, it fortuitously allows Florida trusts also to avoid the gift-tax pitfall by obviating the need to add that power to any trust that does not expressly disallow reimbursement.

- **Elective bench trials for corporate disputes**

An amendment of NRS Chapter 78, governing Nevada private corporations, permits private corporations to designate "all or certain internal actions," such as shareholder disputes or fiduciary duty claims, for trial by a judge rather than a jury. This change aligns with Nevada's ongoing efforts to streamline complex business litigation and complements the proposed business court discussed below. For private wealth practitioners, it enhances Nevada's appeal as a trust and business situs by offering predictable, expert adjudication for corporate governance issues often intertwined with family trusts and holding entities. The option to bypass jury trials reduces uncertainty and costs, particularly for ultra-high-net-worth families managing closely held businesses within trust structures.

- **Proposed constitutional amendment for the establishment of a business court**

Nevada's Assembly Joint Resolution 8 (AJR8) proposes a constitutional amendment to authorize the Legislature to establish a specialized business court, a development poised to enhance the state's private-wealth landscape. If established, the court would have exclusive jurisdiction over disputes involving fiduciary duties, shareholder rights, mergers, and commercial contracts. Nevada's private-wealth practitioners anticipate that this court, with judges appointed by the Governor from nominees selected by a special nominating commission, will offer expert adjudication, streamlining complex trust and business disputes. The Supreme Court's exclusive appellate jurisdiction ensures consistent rulings, bolstering Nevada's appeal as a trust situs. The court would further consolidate Nevada's growing edge over jurisdictions like Delaware for families managing trusts alongside business entities, as wealth planning increasingly intertwines with corporate governance. AJR8 positions Nevada as a premier destination for integrated private-wealth solutions.

II. Balancing courtroom confidentiality and constitutional constraints

In a child-custody matter, Falconi v Eighth Judicial District Court, the Nevada Supreme Court addressed the constitutional limits of closed courtroom proceedings. 140 Nev. Adv. Op. 8, 543 P.3d 92 (2024). The Court held that a statute and related court rules (i) requiring closure of proceedings to the public and (ii) precluding exercise of judicial discretion as to whether the proceedings should be closed were not narrowly tailored to serve a compelling interest and thus unconstitutional.

This decision initially raised concerns that Nevada's new sealing-and-redaction statute for trust proceedings, NRS 164.041, and a similar statute available exclusively for Nevada family trust companies, NRS 669A.256, may also be held unconstitutional. But both statutes may avoid such challenges simply because both are expressly subject to judicial discretion. A later decision in Nester v Eighth Judicial District Court seems to have confirmed this by clarifying that the Falconi decision applies only to family-court proceedings and the now-void family-law statute and rules that required closure without any exercise of judicial discretion (141 Nev. Adv. Op. 4, 562 P.3d 1071, 1076 (2025)).

III. The continuing ascent of Nevada silent trusts

Nevada's silent trusts, enabled by NRS 163.004, continue to attract ultra-high-net-worth families who seek to shield beneficiaries from wealth-related risks while maximizing privacy. The Nevada Supreme Court's 2022 decision in Matter of 23 Partners Trust I, which clarified that discretionary beneficiaries are not entitled to accounts or trust instruments and may therefore be left entirely unaware of a trust's existence, continues to bolster the adoption of silent trusts in 2025. These trusts allow settlors to delay beneficiary awareness of trust terms, protecting younger generations from improvidence, manipulation, or external pressures. Nevada's 2023 elective sealing and redaction statutes further enhance confidentiality by automatically shielding court filings, such as trust instruments and accounts, from public view upon election, without requiring judicial approval. Nevada practitioners also increasingly use designated representatives to indirectly communicate with beneficiaries of trusts administered by Nevada family trust companies under NRS Chapter 669A while (silently) satisfying notice and accounting requirements. This robust privacy framework gives Nevada an edge over jurisdictions like Delaware, where sealing processes are less streamlined. As families prioritize confidentiality amid growing public scrutiny of wealth, Nevada's silent trusts, combined with its 365-year rule against perpetuities and asset-protection laws, make it a premier destination for private-wealth planning, reinforcing its appeal for clients who value long-term and discreet wealth management.

IV. Nevada as a decanting destination

Nevada's highly flexible decanting statute has cemented its status as a top destination for trust re-situsing. Practitioners regularly relocate trusts from states with restrictive modification rules, such as California, to Nevada to take advantage of its 365-year rule against perpetuities, silent trust provisions, and asset protection laws. Decanting enables trustees to reform trust terms, extend durations, enhance creditor protections, and modernize outdated instruments. Nevada's streamlined judicial and non-judicial modification processes ensure flexibility while preserving settlor intent, attracting ultra-high-net-worth clients seeking multi-generational dynasty trusts.

V. Sunsetting of TCJA provisions

The impending expiration of key provisions of the Tax Cuts and Jobs Act (TCJA) at the end of 2025 is significantly shaping Nevada private-wealth practice. The TCJA doubled the federal estate-tax, gift-tax, and generation-skipping-transfer (GST) tax exemptions, projected to reach USD13.61 million per individual in 2025. Absent congressional action, these exemptions will revert to approximately USD7 million in 2026, prompting urgent planning among ultra-high-net-worth families. Nevada's flexible trust laws, including its 365-year rule against perpetuities period and robust decanting statute, make it an ideal jurisdiction for maximising these exemptions before the sunset.

Nevada practitioners are witnessing a surge in the creation of spousal lifetime access trusts (SLATs) and long-term irrevocable dynasty trusts, which aim to lock in the higher exemptions. SLATs enable grantors to utilize their unified credit while maintaining indirect access through a spouse's beneficial interest, with Nevada's spendthrift provisions providing additional creditor protection. Dynasty trusts have leveraged the GST exemption for multi-generational wealth transfer free of estate taxes for centuries. As of this writing, uncertainty over whether Congress will extend the TCJA's provisions has advisors urging clients to act swiftly, as retroactive legislation remains speculative. Nevada's lack of state income tax and asset-protection laws further enhances its appeal for these strategies. As families rush to establish trusts before 2026, Nevada's private-wealth infrastructure is well-positioned to meet this demand, reinforcing its status as a top-tier trust jurisdiction.

VI. Federal fiduciary-income-tax developments

Recent federal fiduciary-income-tax developments, notably the IRS's 2024 proposed regulations on the Net Investment Income Tax (NIIT), continue to shape Nevada trust strategies in 2025. The NIIT imposes a 3.8% tax on undistributed net investment income for trusts and estates above a threshold (USD15,200 for 2025), affecting high-wealth trusts. Nevada's grantor-trust laws and absence of state income tax position it as an ideal

jurisdiction for minimizing NIIT exposure. Practitioners are structuring trusts to distribute income to beneficiaries in lower tax brackets or using Nevada's decanting statutes to modify trusts for tax efficiency, such as converting to non-grantor trusts to shift income from high-tax states. The possibility of higher federal income-tax rates after 2025, following the sunset of TCJA provisions, amplifies the effect of NIIT and requires proactive planning. Nevada's flexible trust administration, including silent-trust provisions and asset-protection features, allows advisors to balance tax optimization with settlor intent. As federal tax scrutiny intensifies, Nevada's tax-advantaged environment and trust laws make it a go-to jurisdiction for mitigating fiduciary tax burdens.

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