

PROBATE AND THE ESTATE TAX: BASICS

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1. Introduction

People usually have a general idea of what they would like to have happen to their assets after their death. Often, however, they are unaware of the obstacles that must be faced before the intended beneficiaries can enjoy the decedent's assets. These obstacles are: (i) Probate and (ii) Taxes. This material will focus on the basics of Probate as well as the Estate, Gift and Generation-Skipping Transfer taxes. We will also cover the basics of Wills and Trusts in Nevada as such play an important role in the probate process as well as in avoiding estate, gift and generation-skipping transfer taxes.

2. Wills

a. Introduction

When a person dies without a will, the person is said to have died "intestate." The intestacy laws of Nevada will determine who receives the Nevada property of a decedent who dies intestate. While intestacy laws endeavor to mirror a decedent's intent and attempt to provide a fair distribution of the decedent's assets after his or her death, often the distribution made is one that the decedent would not have intended. Thus, the main advantage of a will is that it gives the individual the opportunity to choose how his or her property will be distributed after death.

b. Types and Elements of Wills

It is well established that the first element of any will is "testamentary intent." In other words, before any will is created, the testator, or creator of the will, must *intend* to create a will

for the purpose of disposing of his or her property after death. Without testamentary intent, a document cannot become a will.

In addition to the requirement that there be testamentary *intent*, the Nevada Revised Statutes (NRS) also require a testator to have testamentary *capacity* at the time the will is created. Absent testamentary capacity, no will can be formed in Nevada. Nevada Revised Statutes Sections 133.020, 133.085(2) and 133.090(2) are the statutes that address testamentary capacity. They state, in pertinent part, that every person of sound mind, over the age of 18 years, may, by last will, dispose of all his or her estate. Thus, only individuals who are at least 18 years old and of “sound mind” are deemed to have the capacity to create a valid will in Nevada. Capacity will be discussed in more detail in a later section.

The remaining elements of a valid will in Nevada depend on the type of will one decides to create. The Nevada Revised Statutes refer to three different types of wills, each having a separate set of required elements. These three types of wills are as follow:

1. Attested (Witnessed) Wills: NRS 133.040 states:

“[n]o will executed in this State, except such electronic wills or holographic wills as are mentioned in this chapter, is valid unless it is in writing and signed by the testator, or by an attending person at the testator’s express direction, and attested by at least two competent witnesses who subscribe their names to the will in the presence of the testator.”

If a will is neither an electronic will nor a holographic will, it must comply with the requirements of NRS 133.040 to be a valid will. The first requirement in NRS 133.040 is that the will must be in writing. The second requirement is that this writing must be signed by the testator or by another person in the testator’s presence at the testator’s direction. Finally, the will must be signed by two competent witnesses who sign in the presence of the testator. Absent any

one of these elements, the will is not valid and the decedent's property will pass according to Nevada's intestacy laws.

2. Holographic Wills: NRS 133.090 provides:

1. A holographic will is a will in which the signature, date and material provisions are written by the hand of the testator, whether or not it is witnessed or notarized. It is subject to no other form, and may be made in or out of this State.
2. Every person of sound mind over the age of 18 years may, by last holographic will, dispose of all of the estate, real or personal, but the estate is chargeable with the payment of the testator's debts.
3. Such wills are valid and have the same force and effect as if formally executed.

A holographic will differs from an attested will in several ways. First, there is no requirement that the signing of a holographic will be witnessed. Second, the holographic will must have the material provisions written by the hand of the testator. The term "material provisions" generally refers to the identification of property and beneficiaries of the will. Third, a holographic will must be dated. Finally, a holographic will *must* be signed "by the hand testator" (i.e., unlike an attested will, a holographic will cannot be signed by another individual at the testator's direction).

3. Electronic Wills: NRS 133.085 provides:

1. An electronic will is a will of a testator that:
 - (a) Is written, created and stored in an electronic record;
 - (b) Contains the date and the electronic signature of the testator and which includes, without limitation, at least one authentication characteristic of the testator; and
 - (c) Is created and stored in such a manner that:
 - (1) Only one authoritative copy exists;
 - (2) The authoritative copy is maintained and controlled by the testator or a custodian designated by the testator in the electronic will;
 - (3) Any attempted alteration of the authoritative copy is readily identifiable; and
 - (4) Each copy of the authoritative copy is readily identifiable as a copy that is not the authoritative copy.

2. Every person of sound mind over the age of 18 years may, by last electronic will, dispose of all of his estate, real and personal, but the estate is chargeable with the payment of the testator's debts.

3. An electronic will that meets the requirements of this section is subject to no other form, and may be made in or out of this State. An electronic will is valid and has the same force and effect as if formally executed.

4. An electronic will shall be deemed to be executed in this State if the authoritative copy of the electronic will is:

- (a) Transmitted to and maintained by a custodian designated in the electronic will at his place of business in this State or at his residence in this State; or
- (b) Maintained by the testator at his place of business in this State or at his residence in this State.

5. The provisions of this section do not apply to a trust other than a trust contained in an electronic will.

6. As used in this section:

(a) "Authentication characteristic" means a characteristic of a certain person that is unique to that person and that is capable of measurement and recognition in an electronic record as a biological aspect of or physical act performed by that person. Such a characteristic may consist of a fingerprint, a retinal scan, voice recognition, facial recognition, a digitized signature or other authentication using a unique characteristic of the person.

(b) "Authoritative copy" means the original, unique, identifiable and unalterable electronic record of an electronic will.

(c) "Digitized signature" means a graphical image of a handwritten signature that is created, generated or stored by electronic means.

The Nevada Revised Statutes also address nuncupative or oral wills. A nuncupative or oral will is a will delivered to the witnesses orally, not in writing. Nuncupative wills generally refer to verbal "deathbed" wills that dispose of personal property. Per NRS 133.100, nuncupative or oral wills are not valid in Nevada.

Finally, there is another type of will permitted under Nevada law. This type of will is commonly referred to as a "pour-over" will. A pour-over will is simply a will that transfers property to a "living trust" (living trusts will be discussed in a later section). The will is called a "pour-over" will because the property passing by the will *pours over* to the trust on the death of

the person making the will. Nevada Revised Statutes Section 163.020 is the statute that permits testamentary additions to a trust through the use of a pour-over will (Note, however, that the term “pour-over will” is not defined by Nevada law)

3. Capacity

As mentioned above, in addition to being at least 18 years old, a testator must also be “of sound mind” to create a valid will in Nevada. See NRS 133.020, 133.085(2) and 133.090(2). When a will is contested by a person whose share of the testator’s estate would increase if the contest were successful, the contest often revolves around whether or not the testator had the capacity to execute the will at the time it was executed.

In general, there is a four-part test to capacity (See Restatement 3d of Property: Wills and Other Donative Transfers, § 8.1(b)). The four-part test is:

- Did the testator understand the nature of her act?
- Did the testator know the nature and extent of her property?
- Did the testator know the persons who are the natural objects of her bounty?
- Did the testator understand the nature of the disposition (i.e., did she understand the effect of making a will)?

Evidence of capacity must relate to the circumstances at the time the will was executed. Thus, if a fact related to the lack of capacity of the testator arises, the more distant in time from execution that the fact arises, the less significance it has. Also, old age, physical frailty, sickness, failing memory or vacillating judgment alone do not constitute lack of capacity if the above test cannot be met.

It is also possible that a testator may lack capacity due to an insane delusion. According to comment “s” of the Restatement 3d of Property: Wills and Other Donative Transfers, § 8.1, an

insane delusion is “a belief that is so against the evidence and reason that it must be the product of derangement.” While an insane person is not deprived from making a transfer of property, a particular transfer will be invalid to the extent it was the product of an insane delusion.

Finally, related to the principle of capacity is “undue influence.” A will, or certain gifts within the will, may be invalidated if they are the product of undue influence exerted upon the testator such that the influence “overcame the donor's free will and caused the donor to make a donative transfer that the donor would not otherwise have made.” See comment “e” to Restatement 3d of Property: Wills and Other Donative Transfers, § 8.3. A presumption of undue influence generally arises upon a showing that “the alleged wrongdoer was in a confidential relationship with the donor and there were suspicious circumstances surrounding the preparation, formulation, or execution of the donative transfer, whether the transfer was by gift, trust, will, will substitute, or a donative transfer of any other type.” See comment “f” to Restatement 3d of Property: Wills and Other Donative Transfers, § 8.3.

4. Trusts

a. Types of Trusts

There are many different types of trusts. For purposes of this material, we will focus on two basic types of trusts: (i) Revocable Living Trusts (“living trusts”) and (ii) Irrevocable Trusts.

Living trusts are trusts that are established by the settlor (the creator of the trust), during the settlor’s lifetime (as opposed to a “testamentary trust” which is created under the settlor’s will at the time of the settlor’s death). Living trusts are “revocable,” meaning the settlor can terminate or amend the terms of the trust at any time during the settlor’s lifetime. A living trust becomes irrevocable at the death of the settlor, meaning no person can terminate the trust -- the trust terminates only as directed by the terms of the trust.

The living trust has many advantages. The most notable is that any property transferred to a living trust will avoid the probate process and therefore avoid many of the costs associated with probate (probate will be discussed in a later section). Additionally, the settlor can set up the trust to be managed by another person as trustee, or may decide to manage the property herself as trustee. The settlor may also provide for the ultimate distribution of the trust property upon her death according to the terms she chooses. Because the trust is revocable, these terms may be altered or amended at any time during the settlor's life. These are just a few of the advantages associated with a living trust. One disadvantage of a living trust, however, is that a trust is more complicated and more expensive to draft than a will.

An *irrevocable* trust is a trust in which the settlor departs with direct ownership and control of the property in the trust, unlike a living trust where the settlor retains direct control and ownership over the property. Despite this disadvantage, irrevocable trusts are particularly useful in a couple of different contexts.

First, irrevocable trusts are great for life insurance planning. A properly structured irrevocable life insurance trust (or "ILIT") not only avoids probate costs and fees, but also avoids any estate taxes on the insurance proceeds paid to beneficiaries upon the settlor's death.

Second, properly drafted irrevocable trusts render superior creditor protection. Irrevocable trusts generally take the form of a "discretionary support trust" or a "pure discretionary trust." Discretionary support trusts give the trustee the power, in the trustee's sole discretion, to apply the income or principal of the trust for the support of a beneficiary (other than the settlor) during the beneficiary's lifetime. Pure discretionary trusts are similar, but the trustee's discretion is not limited to a standard of support. Creditors of the beneficiary cannot

compel the trustee to distribute trust funds since the power to distribute is in the *sole discretion* of the trustee.

Additionally, Nevada law permits the creation of “self-settled spendthrift trusts” under NRS 166. A “spendthrift” trust is an irrevocable trust that protects its assets by preventing beneficiaries and creditors of the beneficiaries from reaching the trust assets in a manner contrary to the trust’s terms. To say that the trust is “self-settled” simply means that the settlor of the trust is also a beneficiary of the trust. The common law rule in the U.S. is that settlors may not establish “self-settled spendthrift trusts” to gain creditor protection. Nevada, however, has created specific statutes allowing a settlor to establish a self-settled spendthrift trust.

Other types of trusts that may be created in Nevada include “electronic trusts” (See NRS 163.0095) and “charitable trusts” (See NRS 163.420 to 163.550).

b. Elements of a Trust

A trust is established when an individual (referred to as the “trustor,” “settlor,” or “grantor”) transfers the legal title of certain property to a trustee to be held for the benefit of a beneficiary or beneficiaries. The beneficiaries do not hold legal title to the property; rather, beneficiaries of a trust are said to hold “equitable title” to the property because they enjoy the benefits of the property.

Statutory law in Nevada addresses the valid creation of trusts. Nevada Revised Statutes 163.002 states that a trust may be created by any of the following methods:

1. A declaration by the owner of property that he holds the property as trustee.
2. A transfer of property by the owner during his lifetime to another person as trustee.
3. A testamentary transfer of property by the owner to another person as trustee.

4. An exercise of a power of appointment to another person as trustee.
5. An enforceable promise to create a trust.

Nevada Revised Statutes 163.002 through 163.006 further list the specific requirements for forming any trust. These requirements are as follows:

1. The settlor properly manifests an intention to create a trust,
2. There is trust property, except as otherwise provided in NRS 163.230,
3. The trust is created for any purpose that is not illegal or against public policy,
4. The trust, other than a charitable trust, has either an ascertainable beneficiary (or class of beneficiaries) or grants power to the trustee or some other person to select the beneficiary.

Any trust created in relation to real property must be evidenced by a writing, unless the trust was formed by operation of law. See NRS 163.008. However, in contrast to the statutes governing wills, Nevada *does* allow an *oral trust* of personal property, but only if the existence and terms of the trust can be established by clear and convincing evidence. See NRS 163.009.

5. Fundamentals of Estate, Gift and Generation Skipping Transfer Taxes

a. Overview: Federal Estate Tax and Gift Tax

The estate and gift taxes (as well as the generation-skipping transfer tax, which will be discussed later) are often referred to as “transfer taxes.” This is because both types of taxes seek to tax the transfer of wealth from one individual to another. More specifically, the estate tax system imposes a tax on property owned by an individual at death (i.e., the estate tax imposes a tax on the “estate” of the individual who becomes deceased). The gift tax imposes a tax upon the gratuitous transfer of property from one person to another during his or her lifetime.

Nevada currently does not impose any sort of state inheritance or estate tax. Thus, the discussion below will focus only on the federal estate, gift and generation-skipping transfer taxes.

b. The Federal Estate and Gift Tax: 1976 through January 1, 2002

Prior to 1976, an individual could transfer property during his lifetime at a significantly lesser tax rate than if he were to transfer the same property at death. To avoid this result, the estate and gift tax systems were “unified” into a single system in 1976. The estate and gift tax systems now use the same tax rate table to compute tax due on a transfer, whether made during life or at death. Exactly how the systems are “unified” can best be demonstrated through an example.

Assume a decedent dies and the value of his taxable estate (his “gross estate” less any tax deductions allowed) has been determined. After determining the value of the taxable estate, the next step is to look back and determine the amount of any gifts made by the decedent since 1976. The amount of these post-1976 gifts is added to the value of the taxable estate. This gives you a “tax base” that includes both the value of the taxable estate and the value of post-1976 gifts made by the decedent during life. The sum of these two amounts, the tax base, is then taxed at the rates in Section 2001(c) of the Internal Revenue Code. Because the gifts made during the decedent’s life have already been taxed, the amount of gift tax payable on all post-1976 gifts is taken back out and what remains is the amount of estate tax due. This system assures that both the value of gifts and the taxable estate are measured against the same tax rate schedule, but each is taxed only once.

The gift and estate tax systems were unified in another way prior to 2002. Once gift or estate tax liability was computed, the two systems allowed a “unified credit” to offset, dollar for

dollar, estate and gift tax liabilities. Once part of the unified credit was used to reduce gift tax liability, that portion of the credit was no longer available to reduce the decedent's estate tax liability. The amount of applicable unified credit was increased from 1977 through 1987, then remained at \$192,800 through 1997. In 1998 the amount increased again and by 2001 the applicable credit amount was \$220,550.

The unified system functioned in the above described manner and was relatively simple until the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) was passed.

1. From January 1, 2002

Legislative changes in 2001, under EGTRRA, significantly impacted the estate and gift tax systems.

Prior to 2002 (and after 1983), the estate and gift tax table ranged from 18% for amounts not over \$10,000 to 55% on amounts over \$3,000,000. The legislation enacted in 2001, however, dropped the maximum rate to 50% in 2002, and continued to drop the rate until 2009 when it reached 45%. A table providing the maximum estate tax rates for the years 2002 through 2011 is provided below:

Year	Estate Tax Max Rate
2002	50%
2003	49%
2004	48%
2005	47%
2006	46%
2007	45%
2008	45%
2009	45%
2010	Repealed
2011	55%

You will note that in 2010, there is no maximum estate tax rate. In fact, in 2010, there is no estate tax for decedents who die in that year. The table says it is “repealed.” Though this term is not technically correct, the 2001 legislation has the same effect of a repeal of the estate tax in 2010.

In addition to the reduction in the maximum estate tax rate from 2002 through 2010, the 2001 legislation also made provisions for significant increases in the amount of credit allowed to reduce one’s estate tax liability dollar for dollar. (Note: Practitioners will often refer to an “exemption amount” rather than a dollar-for-dollar “credit amount” that reduces one’s estate tax liability. The exemption amount is simply the value of the estate that corresponds to the credit amount. For example, in 2008 if a decedent’s taxable estate was valued at \$2,000,000, the amount of tax on the estate would be \$780,800 before any credit. Because the credit amount in 2008 was \$780,800, the decedent would not be liable for any estate tax.) The estate tax applicable exemption amount and applicable credit amount for the years 2002 through 2011 are provided below:

Year	Estate Tax Applicable Exclusion Exemption Amount	Estate Tax Applicable Credit Amount
2002	1,000,000	345,800
2003	1,000,000	345,800
2004	1,500,000	555,800
2005	1,500,000	555,800
2006	2,000,000	780,800
2007	2,000,000	780,800
2008	2,000,000	780,800
2009	3,500,000	1,455,800
2010	Repealed	Repealed
2011	1,000,000	345,800

You will note that the exemption amount peaks at \$3,500,000 in 2009, with a credit amount of \$1,455,800. This means that if an individual passes away in 2009, and has not made any lifetime gifts that would reduce the credit amount, that individual's taxable estate may be as high as \$3.5 million without being subject to any estate tax. And again, of course, in 2010, no estate will be subject to estate tax, no matter how large.

The 2001 legislation, EGTRRA, also made significant changes to the gift tax regime. The tax rate schedule for gift tax, because it is the same that is used for the estate tax, is identical, with one exception. In 2010, the maximum gift tax rate is 35%, whereas there is no estate tax at all in 2010. The maximum tax rate schedule for gifts made between 2002 and 2011 is provided below:

Year	Gift Tax Max Rate
2002	50%
2003	49%
2004	48%
2005	47%
2006	46%
2007	45%
2008	45%
2009	45%
2010	35%
2011	55%

The applicable exemption amount and the related credit amount for gift tax differs from that of the estate tax. While the estate tax credit amount increases between 2002 and 2009, the gift tax exemption and related credit remains at \$1,000,000 and \$345,800, respectively, through 2011. Thus, the estate and gift tax systems were really "unified" only through 2003 when the exemption amount was \$1,000,000 for both estate and gift tax purposes.

As mentioned earlier, the biggest change comes in 2010. In 2010 there is no estate tax on the estate of any decedent dying in 2010, no matter how large the estate is. There will continue to be, however, a gift tax with a maximum rate of 35% in 2010. While this makes for very favorable treatment for any individual who passes away in 2010, on January 1, 2011, these favorable laws will “sunset” absent further action taken by Congress, and the tax laws that were in effect prior to EGTRRA will be in effect once more. The maximum estate and gift tax rate will be 55%, with an applicable exclusion and credit amount of \$1,000,000 and \$345,800, respectively.

c. Generation Skipping Transfer Tax

In addition to the federal estate and gift taxes, in 1976 Congress introduced a new form of transfer tax: the generation-skipping transfer tax. Before the existence of this tax, wealthy grandparents were able to transfer their assets to grandchildren while avoiding any imposition of estate tax at the generational level in-between (i.e., the children of the grandparents, the parents of the grandchildren). In other words, these wealthy grandparents could skip a generation that otherwise would have been subject to estate tax.

This led to the creation of the generation-skipping transfer tax (the “GST” tax). As with the estate tax, there is an exemption amount from the GST tax, which matches the federal estate exemption and credit amounts. The GST tax, however, is a flat tax and is taxed at the highest marginal estate tax rate, which is currently 45%.

6. Probate

a. In General

“Probate” is the court proceeding whereby the estate of a deceased person is administered. Probate includes resolving claims against the decedent at the time of her death and

distributing the decedent's property that does not otherwise pass by operation of law or by contract. (Property that passes automatically by operation of law or by contract is usually referred to as "non-probate" property. Holding property in joint tenancy or in trust are some of the more common ways to avoid probate). Assets in the "probate estate" are those assets that pass by will or under the laws of intestacy. Thus, probate includes the administration of both testate and intestate estates.

If there is a will, the executor named in the will will be appointed by the court to settle the decedent's debts and to pass the remaining property to the beneficiaries named in the will. See NRS 138.010(1). If there is no will, the court will appoint an administrator who will then settle the debts of the decedent and pass the remaining property to the decedent's heirs according to Nevada law.

b. Laws Specific to Probate In Nevada

The probate process in Nevada differs based on the value of the probate estate:

Estates Valued at \$20,000 or Less: If the probate estate is valued at \$20,000 or less and it does not include any interest in real property, including mortgages or liens, an affidavit can be made by the person or persons entitled to the property and such persons may receive the property without a court proceeding. See NRS 146.080. At least 40 days must have elapsed since the time of the decedent's death before the affidavit will have effect. The affidavit must state the following (NRS 146.080(2)):

- The affiant's name and address, and that the affiant is entitled by law to succeed to the property claimed;
- The date and place of death of the decedent;

- That the gross value of the decedent's property in this State, except amounts due the decedent for services in the Armed Forces of the United States, does not exceed \$20,000, and that the property does not include any real property nor interest therein, nor mortgage or lien thereon;
- That at least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the certificate of death of the decedent attached to the affidavit;
- That no petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;
- That all debts of the decedent, including funeral and burial expenses, and money owed to the Department of Health and Human Services as a result of the payment of benefits for Medicaid, have been paid or provided for;
- A description of the personal property and the portion claimed;
- That the affiant has given written notice, by personal service or by certified mail, identifying the affiant's claim and describing the property claimed, to every person whose right to succeed to the decedent's property is equal or superior to that of the affiant, and that at least 14 days have elapsed since the notice was served or mailed;
- That the affiant is personally entitled . . . to full payment or delivery of the property claimed or is entitled to payment or delivery on behalf of and with the written authority of all other successors who have an interest in the property; and
- That the affiant acknowledges an understanding that filing a false affidavit constitutes a felony in this State.

Estates Valued at \$100,000 or Less: If the value of the probate estate does not exceed \$100,000, after deducting any encumbrances, "and there is a surviving spouse or minor child or minor children of the decedent, the estate must not be administered upon, but the whole estate, after directing such payments as may be deemed just, must be, by an order for that purpose, assigned and set apart for the support of the surviving spouse or minor child or minor children, or for the

support of the minor child or minor children, if there is no surviving spouse.” NRS 146.070(1). Nevada Revised Statutes Section 146.070(1) also provides that “even if there is a surviving spouse, the court may, after directing such payments, set aside the whole of the estate to the minor child or minor children, if it is in their best interests.”

A petition and a court hearing are required for this process, but an executor or administrator is not appointed and the more formal probate proceeding is not necessary.

Estates Valued at \$200,000 or Less: NRS 145.040 provides, “If it is made to appear to the court that the gross value of the estate, after deducting any encumbrances, does not exceed \$200,000, the court may, if deemed advisable considering the nature, character and obligations of the estate, enter an order for a summary administration of the estate.” Summary Administration is a formal probate procedure, but differs in various aspects from the normal probate procedure. Some differences include that the period for creditors' claims is shortened to 60 days (compared to 90 days) and that there is no requirement to confirm sales of *personal* property.

Regular Administration -- All Other Estates: For estates valued over \$100,000, a regular probate administration generally occurs (though “Summary Administration” is available for estates valued at \$200,000 or less). The process begins with the following steps:

- If necessary, a petition for the appointment of a special administrator if the circumstances listed in NRS 140.010 exist. (These circumstances include a delay in granting letters testamentary or letters of administration, suspension or removal of an executor or administrator, etc.)
- A petition for the appointment of a personal representative (i.e., the executor or an administrator) and for probate of a will. Notice of the hearing on the petition must be given to all “interested persons” (e.g., heirs and beneficiaries of the will).
- Contests that are filed in opposition to the appointment of the personal representative or to the probate of the will.
- A hearing on the petition and court appointment of a personal representative.

After the personal representative is appointed, the estate administration period begins. This period lasts until the personal representative is discharged by the court. During this period, the following takes place:

- Notice to creditors is published. The claim period is 90 days (60 days for summary administration).
- The personal representative takes possession of the estate, gathers the assets, obtains appraisals and prepares an inventory of the estate valuing the assets as of the date of the decedent’s death.
- The personal representative pays claims and debts of the decedent in the order of priority specified in NRS 147.195.
- The personal representative holds, protects, invests and manages the remaining assets as provided in Chapter 143 of the Nevada Revised Statutes.

After the payment of claims, if the estate is ready for final distribution, the estate will be distributed. Otherwise, a partial distribution may take place. If the estate is not yet closed after 6 months (or after 15 months where an estate tax return is required to be filed), the personal representative must file an explanation as to why the estate remains open. See NRS 143.035(2). Generally, the estate

must be closed within 18 months of the appointment of the personal representative, though exceptions apply. See NRS 143.037. During the time the estate remains open, an accounting must be made until the court orders final distribution of the estate and final discharge of the personal representative.

7. Resources

a. Clark County Eighth Judicial District: Probate

i. Synopsis of Nevada Probate Law

1. http://www.clarkcountycourts.us/ejdc/courts-and-judges/probate/Probate_Forms/Probate_Law.pdf

ii. Attorney's Procedure Checklist

1. http://www.clarkcountycourts.us/ejdc/courts-and-judges/probate/Probate_Forms/Attorney_Procedure_Checklist.pdf

iii. Forms Library

1. <http://www.clarkcountycourts.us/ejdc/courts-and-judges/probate/probate.html>

b. Nevada Revised Statutes -- Title 12: Wills and Estates of Deceased Persons

- i. These Chapters are available at: <http://www.leg.state.nv.us/NRS/Index.cfm>
 1. Chapter 132: General Provisions
 2. Chapter 133: Wills
 3. Chapter 134: Succession
 4. Chapter 135: Simultaneous Death (Uniform Act)
 5. Chapter 136: Probate of Wills and Petitions for Letters
 6. Chapter 137: Contests of Wills
 7. Chapter 138: Appointment of Personal Representatives
 8. Chapter 139: Appointment of Administrators
 9. Chapter 140: Special Administrators
 10. Chapter 141: Letters Generally; Changes in Administration
 11. Chapter 142: Oaths and Bonds
 12. Chapter 143: Powers and Duties of Personal Representatives

13. Chapter 144: Inventory and Appraisalment
14. Chapter 145: Summary Administration of Estates
15. Chapter 146: Support of Family; Small Estates
16. Chapter 147: Presentation and Payment of Claims
17. Chapter 148: Sales, Conveyances and Exchanges
18. Chapter 149: Notes, Mortgages and Leases
19. Chapter 150: Compensation and Accounting
20. Chapter 151: Adjustments; Distribution and Discharge
21. Chapter 152: Partition Before Discharge
22. Chapter 153: Administration of Trusts; Estates for Life and Years
23. Chapter 154: Escheats
24. Chapter 155: Notices, Orders, Procedure and Appeals
25. Chapter 156: Administration of Estates of Missing Persons

c. Nevada Revised Statutes -- Title 13: Guardianships; Conservatorships; Trusts

- i. These Chapters are available at: <http://www.leg.state.nv.us/NRS/Index.cfm>

1. Chapter 159: Guardianships
2. Chapter 160: Veterans' Guardianship (Uniform Act)
3. Chapter 161: Conservators for Members of the Armed Forces and Merchant Seamen
4. Chapter 162: Fiduciaries
5. Chapter 163: Trusts
6. Chapter 164: Administration of Trusts
7. Chapter 165: Trustees' Accounting (Uniform Act)
8. Chapter 166: Spendthrift Trusts
9. Chapter 166A: Custodial Trusts (Uniform Act)
10. Chapter 167: Transfers to Minors (Uniform Act)