

**Beyond the Headlines:  
Strategic Wealth Planning in an Evolving Tax Environment**

By: Tammie M. Sandoval, J.D., CTFA | Chief Fiduciary Officer

**I. Introduction**

Over the past decade, the taxation of wealth has reemerged as a central theme in U.S. economic and policy discourse. Although a federal wealth tax has not been enacted, sustained policy debate has materially influenced how fiduciaries and family offices evaluate long-term wealth planning structures. For those responsible for multigenerational stewardship, these developments raise strategic considerations that extend beyond any single legislative outcome.

Historically, wealth planning has evolved through the interplay of federal tax law, state tax regimes, and fiduciary practice. Trust structures, governance frameworks, and jurisdictional selection have long served as foundational tools for preserving and transferring wealth across generations. Today, however, these traditional approaches are being revisited amid heightened regulatory attention, shifting policy priorities, and increased scrutiny of concentrated wealth.

The planning landscape is now shaped not only by enacted law, but by the broader direction and intensity of policy discourse itself. Proposed changes to income taxation, capital gains treatment, and residency-based taxation, whether enacted or not, are prompting families and advisors to reassess longstanding assumptions regarding trust structures, fiduciary oversight, and jurisdictional planning.

For fiduciaries, this environment presents both complexity and opportunity. Periods of policy uncertainty may complicate long-term decision-making, but they also create critical inflection points to evaluate whether existing structures remain aligned with long-term objectives. In that respect, the fiduciary role extends beyond technical tax planning. It requires disciplined evaluation of governance, administration, and jurisdictional strategy, each of which influences how wealth is preserved, managed, and ultimately transferred over time.

This analysis does not attempt to predict legislative outcomes. Instead, it focuses on reinforcing structural principles that support resilient, adaptable wealth planning regardless of future policy direction.

**II. Policy Context: Wealth Taxation in Historical Perspective**

Although recent discussions of wealth taxation may appear novel within the current U.S. policy landscape, the concept has a long and varied history both domestically and internationally. Over the past century, multiple jurisdictions have explored forms of net wealth taxation as a mechanism to address wealth concentration and generate public revenue. These efforts, however, have produced mixed results, leading many countries to reconsider or ultimately abandon such regimes.

Research published by the Organisation for Economic Co-operation and Development (OECD) indicates that recurrent net wealth taxes became far less common across OECD

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countries over time, with only a small number of OECD countries still maintaining them as of the report's publication.<sup>1</sup>

France provides a particularly illustrative example. Its long-standing wealth tax, the *Impôte de Solidarité sur la Fortune (ISF)*, was replaced in 2018 with a more narrower tax focused on real estate holdings. More broadly, the OECD's work highlights recurring concerns associated with wealth taxes, including capital flight, administrative complexity, valuation difficulty, and enforcement challenges. Those experiences continue to inform contemporary debates regarding the practicality and economic implications of taxing accumulated wealth.<sup>2</sup>

Within the United States, wealth taxation has historically taken a different form. Rather than imposing a direct annual tax on net worth, federal policy has relied primarily on estate, gift, and generation-skipping transfer taxes to address the transfer of wealth across generations. In recent years, proposals to introduce a federal wealth tax on ultra-high-net-worth individuals have gained visibility within policy discussions. While such proposals have generated significant public attention, their implementation would likely require complex administrative frameworks and face substantial legal considerations, including constitutional questions surrounding direct taxation.<sup>3</sup>

For fiduciaries, the central takeaway is not whether a federal wealth tax will be enacted, but how planning frameworks respond to policy volatility. Historical experience suggests that tax regimes evolve in ways that are difficult to predict. Durable planning, therefore, depends less on anticipating specific outcomes and more on maintaining structural flexibility and disciplined governance.

### **III. The Fragmented State Tax Landscape**

State level tax policy is no longer a secondary consideration in wealth planning. It is a defining variable. What was once a relatively stable framework has become increasingly fragmented, creating divergent outcomes across jurisdictions.

Top marginal income tax rates currently range from 0% in states such as Florida and Texas to over 13% in jurisdictions like California.<sup>4</sup> Other states also have rather punitive rates, notably California, New York, New Jersey, Oregon and Minnesota, all of which have top rates in excess of 9.8%.<sup>5</sup>

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<sup>1</sup> Organisation for Economic Co-operation and Development (OECD), *The Role and Design of Net Wealth Taxes in the OECD*, 2018.

<sup>2</sup> Ibid.

<sup>3</sup> Congressional Research Service, *Federal Wealth Tax Proposals: Constitutional and Administrative Considerations*, 2021.

<sup>4</sup> Tax Foundation, *State Individual Income Tax Rates and Brackets*, and related state tax analyses (2024 – 2025); see also state-specific guidance from the California Franchise Tax Board, New York Department of Taxation and Finance, and New Jersey Division of Taxation.

<sup>5</sup> Ibid.; see also state revenue publications (CA, NY, NJ, OR, MN).

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But for planning purposes, the differences extend beyond headline rates. State tax regimes influence where individuals establish residency, where trusts are administered, and how fiduciary decisions are structured across jurisdictions.

Importantly, this fragmentation is not static. Changes in residency, administration, or family dynamics can shift the tax posture of structure over time, sometimes without any formal modification to the underlying plan.

For example, a trust established in Florida with in-state administration may later become exposed to California income tax if administrative responsibility shifts there. What began as a tax-efficient structure can evolve into a materially different outcome through operational change alone.

Similarly, multigenerational families spanning multiple states may encounter competing jurisdictional claims, even in the absence of distributions. In these cases, tax exposure is shaped as much by geography and movement as by design.

A related misconception in modern planning is that flexibility alone is sufficient. While many trust structures are designed to allow for future adaptation, certain foundational decisions, such as situs and governing law, are difficult to unwind. The distinction is critical: optionality is only valuable if it is preserved at inception.

Understanding this fragmentation is essential, but it is only the starting point. The more critical question is how these dynamics directly impact structure and administration of trusts in practice.

**IV. Structural and Administrative Drivers of Trust Tax Exposure**

If the challenge is fragmentation, the risk lies in how that fragmentation interacts with trust structures themselves. For fiduciaries, the issue is no longer simply where tax regimes differ, but whether trust design and administration remain aligned with those regimes over time.

Trusts remain among the most effective vehicles for preserving and transferring multigenerational wealth. Their effectiveness, however, increasingly depends on alignment between governing structure, administrative activity, and the jurisdictions in which those elements operate.

Unlike federal tax rules, which generally apply uniformly across jurisdictions, state taxation of trusts is highly variable and often inconsistent. States employ differing standards to determine tax exposure, including residency of the grantor, the location of trust administration, the residency of trustees, and, in some cases, the residency of beneficiaries,

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even absent distributions. As a result, similarly structured trusts can produce materially different tax outcomes depending on where and how they are administered.<sup>6</sup>

From a fiduciary perspective, this introduces a more active obligation. Trust structures must be evaluated not only at inception, but continuously, as facts evolve.

In practice, trusts are often governed in one jurisdiction, administered in another, and serve beneficiaries across multiple states. Without deliberate oversight, this can create exposure to overlapping or unintended taxation, driven not by planning decisions, but by operational shifts.

For example, a trustee relocation or the delegation of administrative functions across state lines may alter the trust's tax profile. These changes, while operational in nature, can carry substantive tax consequences.

Courts have imposed constitutional limits on state taxing authorities in certain circumstances. In *North Carolina Department of Revenue v. Kimberly Rice Kaestner 1992 Family Trust*, the U.S. Supreme Court held that the presence of in-state beneficiaries alone did not permit taxation where those beneficiaries lacked a present right to demand distributions.<sup>7</sup>

However, that decision does not eliminate risk. Rather, it reinforces a broader principle: state taxing authority depends on the presence of meaningful connections to the trust, and those connections vary by jurisdiction and by fact pattern.

Accordingly, fiduciaries must approach trust administration with intentionality, ensuring that structure, administration, and jurisdiction remain aligned with both tax considerations and the broader objectives of the trust. This includes evaluating trustee location, administrative functions, and beneficiary dynamics as part of an ongoing governance process.

As state tax regimes continue to evolve, trust structures that incorporate flexibility in both design and administration, are better positioned to adapt. Fiduciaries play a critical role in guiding those decisions and ensuring that tax considerations are evaluated within the broader context of multigenerational wealth stewardship.

This interplay between structure and jurisdiction underscores a broader shift: trust situs is no longer a static designation, but a strategic lever requiring active fiduciary oversight.

**V. The Strategic Importance of Trust Situs**

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<sup>6</sup> Deloitte Private, *State of the States: Trust Situs and Tax Considerations*, and industry analyses on favorable trust jurisdictions (e.g., Delaware, South Dakota, Nevada).

<sup>7</sup> *North Carolina Department of Revenue v. Kimberley Rice Kaestner 1992 Family Trust*, 588 U.S. 262 (2019).

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If the prior section highlights how state tax exposure arises in practice, the more strategic question is how fiduciaries can position trust situs to proactively manage that exposure.

Trust situs is no longer a status designation. It is a deliberate planning decision that can materially influence tax outcomes, administrative efficiency, and long-term flexibility. Historically, situs selection was often driven by familiarity or convenience. Today, it requires a more intentional, forward-looking approach.

Certain jurisdictions, including Delaware, South Dakota, and Nevada, are widely recognized for favorable trust environments. They are often associated with flexible trust modification statutes, directed trust frameworks, and the absence of state income tax on qualifying trusts.<sup>8</sup>

However, favorable tax treatment alone is insufficient. Regulators and taxing authorities increasingly scrutinize arrangements that lack substantive connection to the selected jurisdiction. A designated situs unsupported by meaningful administrative presence may not withstand examination. Thus, fiduciaries must ensure alignment between governing law, administrative activity, trustee location, recordkeeping and decision-making processes. Situs should not function as a nominal designation; it should reflect operational reality.

Consider a family that selects Delaware as a trust situs to take advantage of favorable tax treatment and flexible trust law. If the trust lacks meaningful administrative presence, such as in-state trustees, in-state records, or genuine decision-making activity tied to that jurisdiction, the intended benefits may be challenged. Proper alignment between legal structure and operational execution is critical to sustaining the advantages of situs selection.

Where appropriate, modern trust instruments can provide mechanisms to facilitate future change, including provisions that allow for trustee succession, situs relocation, or modification under applicable law. Those tools can be valuable in preserving adaptability, but they must be exercised with careful consideration of fiduciary duties, governing law constraints, and the potential impact on beneficiaries.

From a strategic perspective, situs is no longer a static designation. It is a dynamic component of fiduciary strategy requiring periodic reassessment as tax laws evolve, beneficiaries relocate, and administrative practices change.

**VI. Governance, Fiduciary Oversight, and Strategic Discipline**

As tax policy continues to evolve and jurisdictional considerations become more complex, the effectiveness of any wealth structure ultimately depends on the strength of its governance and the discipline of its fiduciary oversight. Even a thoughtfully designed trust

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<sup>8</sup> Tax Foundation, *State Individual Income Tax Rates and Brackets*, and related state tax analyses (2024 – 2025).

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framework can become misaligned over time if it is not actively monitored, evaluated, and adjusted where appropriate.

For fiduciaries and family offices, this underscores a fundamental shift in focus: from one-time structural planning to continuous stewardship. Structures should not be viewed as fixed solutions, but as frameworks that require periodic assessment in light of changing legal, tax, and family dynamics.

This begins with clear governance processes. Regular account reviews, documented decision-making protocols, and well-defined roles among fiduciaries, advisors, and family stakeholders, consistent with established fiduciary standards and regulatory expectations<sup>9</sup>, are essential to maintaining consistency and accountability. These processes create a structured environment in which complex decisions can be evaluated thoughtfully, rather than reactively.

Equally important is the ability to distinguish between decisions that require formal approval and those that fall within the scope of administrative execution. As wealth structures grow more sophisticated, fiduciaries must exercise judgment in determining when to escalate matters for review and when to proceed within established authority. This distinction enhances efficiency while also reinforcing the integrity of the governance framework.

Effective fiduciary oversight also requires a clear and well-documented record of decision-making rationale. Documentation should reflect not only the action taken, but the considerations underlying that action, including tax implications, alignment with the grantor's intent, and the interests of current and remainder beneficiaries. That level of transparency is essential in defensibility, particularly in environments subject to regulatory or beneficiary scrutiny.

Coordination across disciplines further strengthens governance outcomes. Tax advisors, legal counsel, investment professionals, and fiduciaries each bring a distinct perspective. Effective collaboration ensures decisions are evaluated holistically rather than in isolation, which is particularly important when addressing issues span multiple jurisdictions or involve complex trust structures.

At the same time, fiduciaries must remain mindful of the risk of over-engineering. Not every change in the policy environment necessitates immediate structural modification. In many cases, the most effective course of action is deliberate observation and measured response, supported by a clear understanding of available options.

From a strategic standpoint, strong governance provides the foundation for adaptability. It enables fiduciaries to respond to change with intention rather than urgency, preserving flexibility while maintaining alignment with long-term objectives. Ultimately, fiduciary

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<sup>9</sup> Office of the Comptroller of the Currency (OCC), *12 CFR Part 9 – Fiduciary Activities of National Banks*.

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excellence is not defined solely by technical expertise or structural design. It is reflected in the consistency, discipline, and judgment applied over time.

**VII. Conclusion**

The evolving discourse around wealth taxation reinforces a central truth: effective wealth management cannot be static.

While legislative outcomes remain uncertain, the direction of policy continues to influence how fiduciaries evaluate, structure, and oversee wealth. The most effective response is not reactive restructuring, but disciplined, forward-looking stewardship grounded in governance, documentation, and intentional design.

For fiduciaries, this demands more than technical expertise. It requires clarity in decision-making, consistency in execution, and alignment with both grantor intent and beneficiary outcomes. Periods of uncertainty should not be viewed solely as risk, but as opportunities to reassess existing frameworks, identify areas for refinement, and reinforce structural resilience.

Ultimately, fiduciary excellence is not defined by the ability to predict change, but by the ability to navigate change with clarity, discipline, and sound judgment.

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**Appendix: Fiduciary Decision-Making Framework for Structural Review**

In an environment shaped by evolving tax policy and increasing jurisdictional complexity, fiduciaries and family offices benefit from a consistent framework for evaluating whether existing wealth structures remain aligned with their intended purpose.

The following considerations are designed to support disciplined, well-documented decision-making:

- I. Structural Alignment**
  - Does the current structure continue to reflect the grantor's intent?
  - Are the distribution standards and governance provisions operating as intended?
  - Have family circumstances changed in a way that impacts the structure's effectiveness?
  
- II. Jurisdictional Exposure**
  - Where is the trust governed, administered, and taxed?
  - Have there been changes in state tax regimes that affect the structure?
  - Do trustee or beneficiary locations introduce new tax considerations?
  
- III. Trust Situs and Administrative Presence**
  - Is the current situs still appropriate given tax and legal considerations?
  - Does the trust maintain sufficient administrative connection to its state jurisdiction?
  - Are there opportunities to enhance flexibility through situs provisions or trustee succession?
  
- IV. Tax Efficiency vs. Practicality**
  - Are planning strategies still effective under current law?
  - Do potential tax benefits justify the administrative complexity introduced?
  - Has the balance between efficiency and simplicity shifted over time?
  
- V. Governance and Oversight**
  - Are fiduciary roles and responsibilities clearly defined and functioning effectively?
  - Are decisions being documented with sufficient rationale and support?
  - Is there an appropriate distinction between administrative actions and decisions requiring formal approval?
  
- VI. Flexibility and Optionality**
  - Does the structure allow for future adjustments (e.g., decanting, change of situs, trustee succession)?
  - Are there constraints that limit the ability to adapt to changing circumstances?
  - Have those options been recently evaluated?
  
- VII. Trigger Events for Review**

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Fiduciaries should consider a formal review of structures upon:

- Changes in tax law or policy direction
- Relocation of key stakeholders (grantor, trustees, beneficiaries)
- Significant changes in asset composition or value
- Generational transitions or changes in family dynamics

The value of this framework lies not in driving immediate change, but in ensuring decisions are intentional, documented, and aligned with long-term fiduciary responsibility.

In many cases, the outcomes of this analysis will confirm that existing structures remain appropriate. In others, it may identify opportunities for refinement. In either case, the value lies in the discipline of the evaluation itself.