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Legal Update

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China: Tax updates – New IIT regime for offshore trusts

Abstract: China introduces a life-cycle taxation and reporting regime for PRC-connected offshore trusts, impacting existing and prospective structures.

In brief

For PRC-connected high-net-worth individuals, the long-held assumption that offshore trusts fall outside the immediate reach of PRC individual income tax (IIT) may no longer be sustainable. The landmark rules released on 24 July 2026 introduce an immediately effective look-through and life-cycle taxation and reporting regime for offshore trusts, potentially bringing years of historical arrangements under fresh scrutiny. The clock is already running. A 90-day transition window applies to specified historical exposures, and failure to take timely action may result in late payment surcharges and, where applicable, penalties. A "wait-and-see" approach is therefore no longer a low-risk option.

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The new regime specially called out the concept of economic interest when assessing the domiciliation of an individual, i.e., an individual may be treated as a PRC-domiciled resident where their principal economic interests are regarded as originating from China, notwithstanding foreign nationality or long-term or permanent residence overseas. It remains to be seen whether this specific reference of economic interest concept will be confined to offshore trusts or extend beyond the trust context. Either way, it could significantly reshape wealth management landscape for PRC-connected high-net-worth individuals.

Responding effectively to the new regime requires more than a technical reading of the rules. It demands a coordinated and commercially pragmatic strategy that takes into account the broader factual context, evidentiary considerations, interactions with the tax authorities and, where necessary, the resolution of potential disputes. Professional support can be critical in developing and implementing such a strategy. This update discusses the key rules and practical implications and, more importantly, our observation of the trend and the recommendations on next steps. High-net-worth individuals, trustee companies and family offices should consider seeking professional legal and tax advice to assess potential exposure and evaluate available options under the new regime.

1. Background

Before the new rules, China had no comprehensive or dedicated IIT regime specifically addressing offshore trusts. In recent years, tax authorities in certain regions of China have reportedly conducted interviews, education campaigns, self-review requests and tax examinations involving existing offshore trust structures relating to individuals. These local enforcement developments appear to have accelerated the need for formal rules dealing with offshore trust structures.

On 24 July 2026, the Ministry of Finance (MOF) and the State Taxation Administration (STA) issued two implementing instruments: MOF and STA Bulletin [2026] No. 21 ("**Bulletin 21**"), which establishes the substantive IIT treatment; and STA Bulletin [2026] No. 15 ("**Bulletin 15**"), which sets out the filing, documentation and administration requirements. Together, the two bulletins establish a comprehensive taxation and reporting framework for the full offshore trust life cycle, including asset injection into a trust, generation of trust income, trust distributions, trust termination, residency changes of settlor/asset contributor and succession events.

2. Covered scope

Bulletin 21 defines an "offshore trust" as a trust established under foreign law, and also captures other foreign legal arrangements that are not labelled as trusts but perform substantially similar functions. Regulated financial products issued by banks, insurance companies, securities companies and fund management companies that are subject to local financial regulatory supervision, independently offered to unspecified customers and operated at the issuer's own risk are excluded from this extended concept.

Non-profit foundations and charitable organizations are not expressly carved out and may require separate analysis if they have trust-like features under the relevant foreign law.

3. Taxation throughout the trust life cycle

The table below summarizes IIT obligations across the offshore trust life cycle.

Event	Resident-settled offshore trust	Non-resident-settled offshore trust
Asset contribution into offshore trust/trust underlying entities	Resident settlor/asset contributor is treated as transferring the assets at fair market value (FMV). IIT applies at 20% on FMV less tax basis and reasonable transfer expenses, generally as property transfer income. The trust asset tax basis is stepped up to FMV after tax is paid. No instalment relief is available, which may create a cash flow issue where assets with built-in gains are settled or contributed into the trust/trust underlying entities without corresponding cash consideration.	Non-resident settlor/asset contributor is taxed on China-sourced property transfer income. This usually covers direct transfers of PRC equity, PRC real property and certain offshore equity interests whose value is mainly derived from PRC real property. A nominally non-resident-settled trust is treated as resident-settled if actually controlled by a PRC resident, and transfers through nominees or intermediaries may be attributed to the person who actually funds, bears the cost of or controls the assets.
Trust income generation / distribution	Income of the offshore trust and trust underlying entities is attributed annually to the resident settlor/asset contributor, rather than to beneficiaries, and taxed at 20% as property transfer income or interest/dividend/bonus income regardless whether any distribution has been made. Amounts already taxed are not taxed again upon distribution. The two categories of income (i.e., property transfer income vs interest/dividend/bonus income) cannot be cross-offset. Property transfer income is determined as the net amount after deducting the property's tax basis and reasonable expenses from the proceeds derived from the transfer of assets such as equity interests, shares and real property. Gains and losses arising from property transfers within the same year may be offset against each other. However, any losses cannot be carried forward to following years, and trustee remuneration, trust administration fees, legal fees, investment advisory fees and similar expenses are not deductible.	Retained income in a non-resident-settled trust is not annually attributed unless the structure is treated as resident-controlled. Tax generally arises when an economic benefit is distributed or deemed to be distributed to a PRC resident. The statutory taxpayer is the PRC resident individual who receives or is deemed to receive the benefit.
Trust termination	Resident settlor/asset contributor is taxed on liquidation gain, measured by FMV of all trust assets less tax basis and reasonable expenses. Five-year installment relief may be available if payment difficulty exists and the required filing and tax recordal are made on time.	If a PRC resident receives trust property upon termination of a non-resident-settled trust, the resident is taxed on the FMV of property received as interest/dividend/bonus income.
Resident-to-non-resident status change	A mark-to-market charge arises on the date the resident settlor/asset contributor becomes non-resident, based on FMV less tax basis of trust assets. Tax basis is stepped up after tax payment.	Not applicable in the context of a non-resident-settled trust.
Death / succession[1]	If the resident settlor/asset contributor dies and another PRC resident succeeds to the trust, resident-trust treatment generally continues. If the successor is non-resident, or there is no successor, tax is triggered on the FMV of the trust assets less their tax basis. Five-year instalment relief may be available if the conditions are satisfied.	If a non-resident-settled trust is later succeeded by a PRC resident, the resident generally becomes subject to the resident-trust rules for subsequent periods.

[1] Economically, the residence-change and death rules operate like exit-tax or estate/inheritance-tax charges in the offshore trust context, although the tax imposed remains PRC IIT rather than a separate exit tax or estate/inheritance tax.

4. Tax filing requirements

Bulletin 21 sets out the substantive IIT treatment, taxable events, timing rules, transition relief and non-compliance consequences. Bulletin 15 operationalizes the regime through detailed filing and documentation requirements. The table below summarizes the principal filing obligations for existing trusts and future periods.

Event	Tax filing timeline
Assets contribution into an offshore trust/offshore trust entities	• Resident settlor: 1 March to 30 June of the year following the year of asset contribution. • Non-resident settlor: within 15 days after the end of the month in which the asset contribution occurs.
Trust income generation / distribution	• Resident-settled offshore trust: 1 March to 30 June of the year following the year in which trust income is generated, regardless of distribution. • Non-resident-settled offshore trust: the PRC resident beneficiary should file between 1 March and 30 June of the year following the year of receipt.
Trust termination	• Resident-settled offshore trust: within 15 days after the end of the month in which liquidation is completed. • Non-resident-settled offshore trust: any PRC resident recipient of trust property should file within 15 days after the end of the month in which liquidation is completed. • If liquidation is not completed within 60 days from termination, the 60th day is deemed to be the liquidation completion date for filing purposes.
Resident-to-non-resident status change	• Within 15 days after the end of the month in which the residence status changes.
Death / succession	• The trustee or its designated domestic institution should file within 15 days after the end of the month in which the resident individual dies.

Five-year instalment relief is available only for payment difficulty arising from: (i) termination of a resident-settled offshore trust; or (ii) death of a resident settlor where the trust passes to a non-resident or has no successor. The resident individual or trustee must complete the required recordal before the prescribed deadline. The relief defers, but does not reduce, the tax liability and does not apply to settlement gains, annual trust income, residence changes, or actual or deemed distributions.

Taxpayers must submit tax returns and relevant supporting materials as required. If a taxpayer cannot provide true and complete materials demonstrating reasonable commercial purpose and arm's-length treatment, the tax authority may make adjustments. If the taxpayer cannot provide asset values, or if the values provided are clearly unreasonable, the tax authority may appoint a valuation institution to determine the relevant FMV.

The regime also clarifies responsibility for non-compliance. Taxpayers that fail to pay tax on time may be subject to late payment surcharges and, where tax evasion or other tax violations are established, penalties under the Tax Collection and Administration Law. Trustees, and in some cases intermediaries or agents, may also face administrative consequences if failures to provide information, submit materials or assist with filings result in underpaid tax.

5. A 90-day transition window

Beyond the ongoing filing requirements, Bulletin 21 provides a 90-day transition period starting from 24 July 2026 for specified historical exposures, likely the most immediate action item for existing structures. The window applies to unpaid IIT on (1) assets settled/contributed into offshore trusts by resident settlors/asset contributors from 1 January 2023 to 31 December 2025, or by non-resident settlors/asset contributors from 1 January 2023 to 24 July 2026; (2) offshore trust income generated before 1 January 2026; and (3) income distributed / deemed to be distributed by non-resident-settled offshore trusts to PRC residents before 1 January 2026, where IIT would have been payable under the new regime.

For exposure arising from contribution of assets into offshore trusts, the rules effectively look back to 1 January 2023, with a possible extension where the statutory conditions for a longer recovery period are met. For offshore trust income generated before 1 January 2026 and income distributed / deemed to be distributed by non-resident-settled offshore trusts to PRC residents before 1

January 2026, Bulletin 21 does not specify the same look-back cut-off date and requires pre-2026 income to be taxed uniformly as interest/dividend/bonus income. Tax returns and payments must be submitted within 90 days from 24 July 2026.

Bulletin 21 permits taxpayers to rectify historical positions without late payment surcharges if the unpaid tax is settled within the 90-day window. If the deadline is missed, the tax authorities may recover the tax, impose late payment surcharges and, where the statutory conditions are met, pursue penalties. Failure to file after receiving a tax authority notice may materially increase the risk of a tax evasion characterization.

Settlors, beneficiaries and trustees of existing offshore trusts (with potential nexus to PRC residents) should promptly review records and determine whether to use the transition window. Missing the required filings or payments may result in late payment surcharges and, where applicable, penalties. A deferral or “wait-and-see” approach would therefore carry significant risk and additional cash costs.

6. Anti-avoidance rules

To ensure the effective implementation of the new regime, the law drafters appear to have anticipated potential by-pass routes and incorporated targeted anti-avoidance rules into Bulletin 21. The table below sets out the baseline rules, the anticipated by-pass routes and the corresponding anti-avoidance rules.

Baseline rules	Potential by-pass routes	Targeted anti-avoidance rules
A settlor is treated as transferring assets at FMV when assets are settled into an offshore trust.	Assets are transferred through another person, nominee, company, SPV or other organization.	The settlement is attributed to the individual who actually funds, bears the cost of, or controls the assets.
Non-resident settlors are taxed only on China-sourced property transfer income when settling assets into an offshore trust.	A non-resident settlor contributes assets, while a PRC resident actually controls the trust or the relevant assets.	If assets settled by a non-resident settlor are actually controlled by a PRC resident, the settlement is treated as made by that PRC resident.
A PRC resident is taxed when receiving a distribution from a non-resident-settled offshore trust.	Distributions are routed through a non-resident individual, while the economic benefit is actually obtained, used, controlled or disposed of by a PRC resident.	If trust income is distributed to a non-resident but actually obtained, used, controlled or disposed of by a PRC resident, it is treated as a deemed distribution to that PRC resident.
	Benefits are provided through loans, guarantees, expense payments, reimbursements, free or below-market use of trust assets, or arrangements involving third parties or related parties, rather than through formal distributions.	Such arrangements may be regarded as deemed distributions to the relevant PRC resident. The deemed amount is determined based on the value of property obtained, used or enjoyed, expenses paid or reimbursed, debt discharged, or the market value of other economic benefits.
Resident-settled trust income is attributed annually to the resident settlor whether or not distributed.	Income is accumulated in low-substance offshore entities held under offshore trust structure to defer PRC taxation indefinitely.	Income of offshore entities held, controlled or managed under offshore trust structure may fall within the offshore trust tax framework. Offshore entities may be looked through where they lack operating substance, earn substantial passive or low-risk income, pay personal or non-business expenses, or do not make decisions independently.
Two or more resident individuals may act as joint settlors and/or contribute assets into a trust and should report by reference to their respective contribution ratios.	Resident and non-resident settlors are combined in the same trust to dilute or isolate the resident settlor’s tax exposure.	Where resident and non-resident individuals contribute property to the same offshore trust, the trust is treated as fully resident-settled and subject to the resident-trust rules.

7. Our observations

Bulletins 21 and 15 indicate a stricter enforcement environment for China's worldwide-income regime as applied to PRC residents. The key practical implications and open issues are discussed below, for which early, high-quality and coordinated legal and tax review by professional advisers will be critical.

(1) Liquidity pressure

The new regime may create a significant liquidity pressure to the settlor/asset contributor. A resident settlor/asset contributor may be taxed when appreciated assets are settled into a trust and on trust income attributed during the trust period, even if no cash consideration or distribution is received. The resulting liquidity burden can be material, particularly for trusts holding concentrated, illiquid or difficult-to-value assets. This issue should be modelled carefully when assessing whether to establish, retain, restructure or terminate an offshore trust, and therefore require professional tax input.

(2) Evidentiary requirement

Compliance with the new regime is likely to be evidence-intensive, and the taxpayer's ability to substantiate its technical positions may materially affect the outcome. This requires more than simply gathering documents. Experienced professional judgment is essential to identify the evidence needed for each position, assess the relative weight and reliability of available materials, address inconsistencies or gaps, and strengthen the evidentiary record as a whole. Professional support may be particularly valuable in developing a coherent evidence strategy and determining how the supporting materials and underlying analysis should be organized and presented to the tax authorities.

(3) Expanded domicile concept

Bulletin 21 provides that foreign nationality or long-term or permanent overseas residence does not, by itself, preclude PRC-domiciled resident status. If an individual's main economic interests are regarded as originating from China, the tax authorities may still treat the individual as a domiciled PRC resident who is subject to IIT on worldwide income. It remains to be seen if the scope of taxation for a deemed domiciled PRC resident will be limited to the offshore trust related income or extended to other non-China-sourced income. Given "main economic interests" is undefined, the analysis may focus on the location and source of the individual's principal businesses, investments, assets and economic decision-making.

The domestic-law analysis should be distinguished from treaty residence analysis. If another jurisdiction also treats the individual as tax resident, the applicable treaty tie-breaker rules should still be considered in determining the individual's residence position for treaty purposes. Determining—and, where necessary, defending—an individual's tax residency and domiciliation position can be highly complex. The outcome is fact- and evidence-sensitive, requiring consistent legal positions, a well-developed evidentiary record and a carefully managed defense strategy in any engagement with the tax authorities. Given the potentially significant consequences for the individual's worldwide income, experienced professional assistance is essential in assessing the position, identifying and strengthening the supporting evidence, and presenting a robust and coherent case.

(4) Availability of foreign tax credits

The new regime allows qualifying foreign IIT paid on offshore trust income to be credited against the corresponding PRC IIT, subject to the ordinary foreign tax credit rules and adequate supporting evidence. This is intended to mitigate double taxation where the same offshore trust income has already been taxed outside China. However, trust structures often involve differences in taxpayer identity, income characterization and timing across jurisdictions. These mismatches can restrict credit relief and create residual double taxation. A transaction-level review, coordinated among tax advisers in the relevant jurisdictions, may be necessary to assess the likely availability of foreign tax credits with confidence.

(5) Trustee filing obligations after settlor's death

Practical questions may also arise where a trustee is required to file on behalf of a deceased resident settlor. This obligation differs from statutory withholding and may be harder to enforce against an offshore trustee if the filing is not completed. Trustees should nevertheless treat it as a material compliance risk and address it in advance, which requires professional advices in assessing the scope of their obligations and potential exposure, as well as in preparing and submitting the requisite tax filings and supporting documentation.

(6) Spillover effect

Although Bulletins 21 and 15 apply directly to offshore trusts, their substance-over-form and look-through approach may influence future scrutiny of domestic trusts and other trust-like arrangements. Any such spillover will depend on future rules and administrative practice and should be assessed cautiously rather than assumed.

8. Recommendations on next-step actions

These observations lead to a common conclusion: affected structures should be reviewed holistically, taking into account tax cost, liquidity, evidentiary support, governance and long-term compliance capacity. Existing and prospective offshore trust settlors, together with trustee companies, should consider the following actions.

(1) Existing settlors/asset contributors

Existing structures may require careful consideration of both historical and prospective exposure under the new regime. The analysis is likely to be highly fact-sensitive and may extend beyond the trust itself to the wider circumstances of the settlor, asset contributors, beneficiaries and underlying arrangements. Given the limited transition window, an immediate priority is to determine whether to use the 90-day transition window for historical settlements/contributions, income generation or distributions, and prepare any filing package promptly.

(2) Assets owners planning to set up trusts

For individuals considering an offshore trust, the new regime reinforces the importance of assessing the arrangement in the context of its intended non-tax objectives and its expected operation over time. Whether an offshore trust remains appropriate will depend on a range of personal, commercial and cross-border considerations that should be evaluated together rather than in isolation. Specialist advice at an early stage can help ensure that material implications are understood before positions become difficult or costly to change.

(3) Trustee companies

For trustee companies, the regime may affect the administration of PRC-connected structures, the scope of relevant responsibilities and the management of associated compliance risks. The implications will vary according to the trustee’s role, the information available and the features of each arrangement. Trustee companies should assess whether existing governance, information collection and compliance procedures remain adequate in light of the new reporting and tax obligations.

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