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Offshore trusts face China tax crackdown

In brief

- China is casting a global net on offshore trusts to recover billions in historic tax arrears from high-net-worth individuals — a decisive move to rectify long-standing misconceptions about the tax treatments of offshore trusts.
- On 24 July 2026, two complementary tax circulars were issued simultaneously. The first sets out the principles and detailed requirements for applying the existing individual income tax (IIT) framework across the entire lifecycle of offshore trusts. The second addresses administrative procedures and filing obligations. The new rules apply to resident-funded offshore trusts, as well as non-resident-funded offshore trusts that hold China-origin assets or distribute income to Chinese residents.
- Crucially, a **90-day amnesty period** is granted to voluntary disclosure for waiving late-payment surcharges on legacy IIT liabilities. The amnesty filing window will end on 22 October 2026.

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In detail

On 24 July 2026, two announcements were issued in regard to matters concerning tax administration of individual income tax (IIT) on offshore trusts — Announcement No. 21 and 15.

Announcement No. 21, jointly issued by the Ministry of Finance (MOF) and the State Taxation Administration (STA), sets out substantive IIT rules and interpretation. Announcement No. 15, issued solely by the STA, addresses administrative procedures and filing requirements. Notably, a **90-day amnesty** period (ending on 22 October 2026) is offered to voluntary disclosure to waive late-payment surcharges.

The two rules represent a landmark shift in the IIT treatment of offshore trusts. By introducing a look-through IIT regime, they fundamentally dispel the long-held misconception that offshore trusts offer tax-deferral advantages. For decades, such trusts have been widely used by China's ultra-wealthy — whether for overseas listings, wealth succession, or asset management. Over the years, a growing number of high-profile cases have come to light, revealing the recurring misuse of offshore trusts for tax avoidance or asset concealment.

Taxation scope

The IIT rules cover not only formal **offshore trusts** but also any **trust-like foreign arrangements** and their underlying non-substantive entities, and threat them as pass-through entities for Chinese IIT purposes.

» Covered trusts and arrangements

The IIT rules cast a wide net, applying to:

- Offshore trusts established under foreign laws; and
- Offshore legal arrangements that perform functions substantially similar to those of a trust, regardless of whether they are formally constituted as such.

Notably, the IIT rules expressly exclude standardized financial products offered by licensed financial institutions — including banks, insurance companies, securities firms and funds— that are sold to unspecified clients, operate independently, and bear their own commercial risks, provided such products remain subject to ordinary financial regulatory oversight in their respective jurisdictions.

» Covered persons

The IIT rules apply to both resident and non-resident individuals, as summarized below:

a) Resident individuals: They are subject to Chinese IIT on all global assets transferred into offshore trusts, as well as on all income accruing during the trust's lifetime — irrespective of whether that income is actually distributed to them. This includes income distributed to them from non-resident-owned trusts.

b) Non-resident individuals: They are subject to IIT only on “*property transfer income*” derived from China-sourced assets contributed to offshore trusts. However, if an offshore trust is de facto controlled by a resident, it will be treated as a resident-owned trust for IIT purposes.

c) Multiple resident settlors in one trust: Each settlor's IIT liability shall be allocated proportionally based on the fair market value (FMV) of the assets contributed by that settlor relative to the total contributions.

d) Residents and non-residents in one trust: If both resident and non-resident individuals contribute to the same trust, the entire trust is deemed resident-owned.

e) Relocated residents: Individuals with foreign nationality or overseas permanent residence permits are treated as China tax residents if their primary economic interests sources are located in China, and are therefore subject to the full resident offshore trust IIT regime.

f) Trustees: The trustees (or their designated agent in China) are directly liable for IIT filing and payments on behalf of the ceased settlors in the death scenario where the trust passes to non-residents or is unclaimed.

» Covered assets and income

The rules apply to all global assets for resident individuals, but only China-sourced assets for non-residents. This framework is designed to ensure that virtually all economic benefits derived from offshore trusts, and arrangements with similar trust-like features, are captured within China's IIT regime.

- During the asset contribution stage, all types of assets — movable and immovable, domestic and foreign, including cash and creditor rights — transferred into offshore trusts are covered. Their fair market value (FMV) at the time of contribution serves as the tax base, and any excess over the cost basis is taxable as "*property transfer income*".

- During the trust's lifetime, all income accrued during the trust's existence — including dividends, interest, rents, capital gains, and other investment returns — is subject to annual filing obligation, regardless of whether such income is actually distributed. Trustee fees and administrative expenses are expressly non-deductible for IIT purposes.

- The rules further capture indirect economic benefits conferred on residents, including the payment of personal expenses, provision of pledging or guarantees to support loans lending to residents and other benefits to residents or its related/controlled parties.

» Covered phases

The IIT rules cover five critical phases across the full lifecycle of an offshore trust: (1) asset contribution, (2) on-going income, (3) residency status shift, (4) settlor's death, and (5) trust termination.

The core logic of the IIT regulation is phase-dependent — tax is levied at each of these five phases to ensure comprehensive taxation throughout the entire lifecycle of a trust, from inception to conclusion. The table below provides a snapshot of the taxation policies for each phase.

Phases	Taxable events	Tax treatments
1. Asset injection	It refers to the transfer of assets (domestic or offshore) to an offshore trust (or to an offshore entity controlled by a trustee).	The asset injection process is treated as a **deemed sale**, with the excess of FMV over cost basis taxed as *"property transfer income"*.
2. Income generation	It covers all income generated by the trust and its underlying offshore entities within a calendar year, including dividends, interest, capital gains, and other income, regardless of whether the income is actually distributed or not.	Capital gain is subject to annual filing on an accrual basis, with no deduction for administrative expenses. Other income is taxed under the category of "*interest*, *dividends or bonus*". Inter-category crediting is disallowed.
3. Residency shift	It covers a resident who obtains foreign nationality or a permanent residence permit, but has major economic interest originating from China.	The individual can be considered as a resident domiciled in China.
4. Death & Succession	It covers the situations when a resident passes away, and their offshore trust interest is inherited by non-resident individuals, resident individuals, or remains unclaimed (i.e. no successor).	For inheriting by a non-resident, or inheriting by no one, the event is treated as "interest, dividends or bonus". Its trustee or agent in China is held liable for the tax filing. For inheriting by a resident, the trust continues to be treated as resident-owned.
5. Termination & Liquidation	It covers all scenarios of trust expiry, voluntary revocation and formal liquidation; if the formal winding-up process remains incomplete, liquidation would be deemed complete 60 days after termination.	Upon the withdrawal of assets from the trust, the entire liquidation surplus taxed as "*interest*, *dividends or bonus*" on the final gains.

IIT exposure

The China IIT exposure is immediate and severe: Trust settlors and beneficiaries would face IIT obligations throughout the entire lifecycle of a trust—from initial asset injection through liquidation. The rules carry **retroactive** coverage grounded in the existing superior law, the *IIT Law* and the *Taxation Administrative Law*.

» IIT rate and tax cost

A uniform 20% IIT rate would apply to all stages across the full trust lifecycle, under one of the two income categories: "p*roperty transfer income*" and "*interest, dividend & bonus income*". A higher effective tax burden could result due to its strict tax timing rules and restrictive income calculation standards.

- All operational expenses incurred by the trust, such as trustee remuneration, legal fees and investment advisory charges are **non-deductible** for IIT purposes. Losses generated through transfers to related parties are **disallowed** as tax deductions.
- All income categories are calculated separately; losses of one category **cannot offset** gains in the other. Annual capital losses cannot be carried forward to reduce taxable income in subsequent tax years;
- Property transfer income of trust assets is generally calculated at FMV at the trigger date minus original asset cost and eligible reasonable expenses. After tax settlement, the asset's tax cost basis will be stepped up to the prevailing FMV for future tax calculation.
- Foreign tax credit is restricted. Only overseas IIT on the same trust qualifies for offset; in other words, offshore corporate income tax, offshore capital gains tax or other offshore taxes cannot be credited.

» Statute of limitation

The rules treat asset injection and income accrual differently for statute of limitation purposes:

- Asset injection: A three-year lookback period applies to asset contributions made from **1 January 2023** onwards. For resident individuals, the look-back covers the period from 1 January 2023 to 31 December 2025. For non-resident individuals, the look-back period extends from 1 January 2023 to the date of the announcement's implementation (24 July 2026). However, the said lookback periods could be extended further per the existing taxation laws in serious cases.
- Income accrual: No specific limitation period is prescribed for trust income accrued before 2026. All income prior to 1 January 2026 is subject to full tax, uniformly taxed under the "*interest, dividends, and bonuses*" category.

For these look-back cases, a 90-day amnesty treatment explained below is provided to waive the late-payment surcharges.

» 90-day amnesty

For legacy taxable income, Announcement 21 provides a **90-day amnesty filing window** for voluntary disclosure, during which taxpayers who come forward and declare outstanding tax liabilities are exempt from late-payment surcharges. The amnesty period runs from **24 July 2026** (the effective date of the two new rules) through **22 October 2026**.

Specifically, the 90-day amnesty applies only to the following scope:

(a) Asset injection:

- Residents contributing assets to offshore trusts between 1 January 2023 and 31 December 2025; and
- Non-residents contributing assets between 1 January 2023 and 24 July 2026.

(b) Income accrual:

- For on-going income generated before 1 January 2026 within **resident-funded** offshore trusts, taxpayers are permitted to aggregate all types of income (regardless of type) and file them collectively as "*interest, dividends, and bonus income*" within the 90-day amnesty period.

  Note: This aggregate filing method in principle helps the taxpayer to avoid filing the "*property transfer income*" and the hassles of property valuation, and could potentially lower the tax burden.

- For on-going income generated before 1 January 2026 within **non-resident-funded** offshore trusts that is distributed to residents, the resident recipients shall file IIT within the 90-days window, so as to qualify for waiver of late-payment surcharges.

Taxpayers missing the 22 October 2026 deadline will be subject to a full late-payment surcharges (at the rate of 0.05%/day) and administrative penalties. This amnesty window represents a critical one-time opportunity for taxpayers to regularize their offshore trust arrangements and avoid severe consequences.

By contrast, the 90-day amnesty does not apply to assets injection from 1 January 2026 onwards (by residents) or from 24 July 2026 onwards (by non-residents), and on-going income generated from 1 January 2026 onwards; these post-amnesty events are subject to the routine filing deadlines stated below.

The rules also provide another concession, spreading tax liability over five years. For taxpayers with financial difficulty to cope with the tax liabilities, the rules allow a five-year installment payment plan, subject to submission of a formal application with the tax authorities. However, the five-year installment tax payment is only permitted for a narrow scope: trust liquidation or death of a settlor.

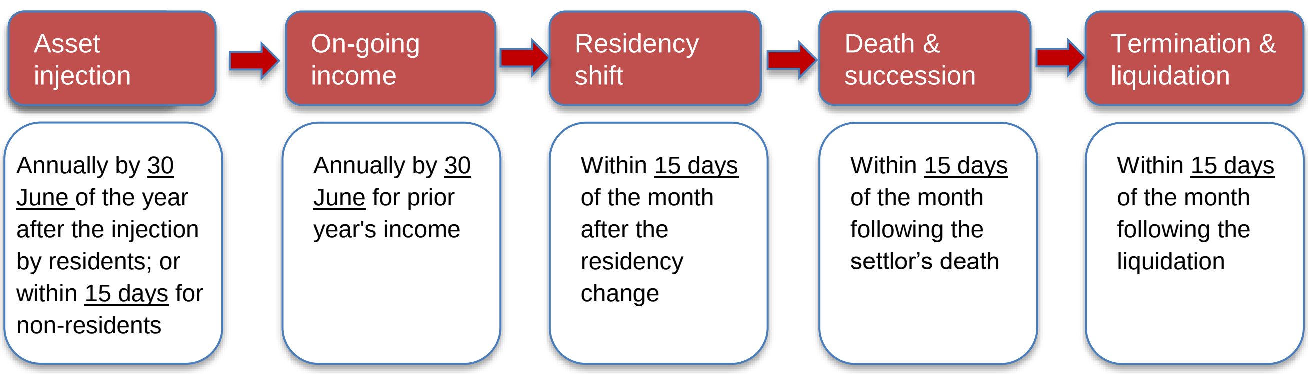
» Routine tax filing deadlines

All asset injection or income accrual events occurring after the amnesty-protected dates said above are subject to the following routine IIT filing requirements:

- **Annual IIT filing:** Asset injection and on-going income should be filed for IIT within a standard annual window from **1 March to 30 June** in the following year; or

- **Ad hoc IIT filing:** IIT filing should be filed within a **15-day deadline** following the event date for special event-driven filings (i.e. non-resident asset contribution, trust termination, death, or residency shift).

All the deadlines are depicted in the chart below. Missing them would mean the levy of late-payment surcharges.



Anti-avoidance framework

Announcements 21 and 15 carry an extensive anti-avoidance framework operating through statutory "deemed" treatments that attribute tax liability under the existing rules, including the controlled foreign entities (CFC) rules, look-back rules and general anti-avoidance rules, regardless of the legal form. These "deemed" treatments can be categorized as follows. These rules collectively neutralize the offshore trust's historical function as a so-called "tax-deferral" or estate-planning vehicle.

Articles	Deemed treatments	Asset contribution events
21/2(2)	Deemed asset injection	Transferring property to trustee-controlled offshore entity (i.e. over 25% control threshold) is deemed as contribution to the trust.
21/2(2)	Deemed individual contribution	Indirect asset injection via third-party nominees or multi-layer vehicles will be attributed to the resident individual who provides and controls the underlying capital, triggering full tax liability.
21/8	Deemed resident-contribution	A non-resident's contribution is deemed made by a resident if the resident actually controls the trust.
21/9	Deemed resident-funded trust	If both residents and non-residents contribute to the same trust, the entire trust is deemed funded by residents.
Articles	**Deemed treatments**	**Income generation / distribution**
21/4	Deemed annual income	All trust income is taxed to the resident settlor annually on an accrual basis, regardless of actual distribution.
21/8	Deemed resident distribution	Distributions from a non-resident's trust to a resident beneficiary are taxable as "*interest, dividends, and bonuses*".
21/8	Deemed resident receipt	Trust income distributed to a non-resident but actually obtained/controlled by a resident is deemed received by that resident.
21/12	Deemed distribution	Using trust property to provide loans, loan pledging, guarantees or benefits to a resident (or its related / controlled parties) is deemed as a taxable distribution.
Articles	**Deemed treatments**	**Anti-avoidance architechure**
21/6; 15/6	Deemed disposal on residency shift	When a resident settlor becomes a non-resident, unrealized gains are taxed as "*interest, dividends, and bonuses*" on the shift date.
21/7; 15/7	Deemed transfer on death	If a resident settlor dies and the trust passes to non-residents or is unclaimed, unrealized gains are taxed on the death date.
21/7	Deemed resident-funded trust	A trust inherited by a resident continues to be treated as a resident-funded trust.
21/15	Deemed trust liquidation	If the trust's winding-up process remains incomplete within 60 days, its liquidation would be deemed complete 60 days after its termination.

WTS China's observation

These two announcements rules signal a clear end to the era in which offshore trusts were mistakenly viewed as lying outside China's tax net. Obviously, the offshore trust IIT rules have closed two common tax loopholes: avoiding tax on asset transfer and undistributed gains, and evading tax obligations by switching to non-resident status. Beyond that, the rules establish a compliance framework for offshore trusts, replacing historical ambiguity with a clear set of compliance obligations. All existing and proposed cross-border offshore trusts will be subject to strict substance-piercing audits.

High-net-worth individuals with offshore trust holdings should consider the following steps:

1. Conduct immediate assessment on China IIT filing obligations;
2. Utilize the 90-day amnesty window which ends on 22 October 2026;
3. Enhance data collection and asset verification processes;
4. Compute IIT liability calculation and file accordingly; and
5. Establish on-going and forward-looking mechanism.

First and foremost, the 90-day transitional window is an immediate and critical deadline. Proactive engagement with the new rules is essential to manage risk and ensure compliance.

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