NEWSLETTER

China Issues Landmark Individual Income Tax Guidance on Offshore Trusts

(MOF & STA Announcement No. 21 / No. 15 of 2026)

EFFECTIVE DATE:
Immediately
(from July 24, 2026)

EXECUTIVE SUMMARY

On July 24, 2026, China's Ministry of Finance (MOF) and the State Taxation Administration (STA) jointly issued Announcement No. 21 of 2026 alongside Announcement No. 15 of 2026. Taking immediate effect, these landmark regulations clarify the Individual Income Tax (IIT) obligations for mainland China tax residents across the entire lifecycle of offshore trusts (establishment, operation, and liquidation).

Historical tax deferral strategies involving offshore trusts (BVI, Cayman, Jersey, Singapore) are no longer viable. PRC tax authorities now enforce a full "look-through" approach, supported by automated data exchange under the Common Reporting Standard (CRS).

KEY REGULATORY HIGHLIGHTS

01 Taxation on Asset Injection (Establishment Stage)

- Asset transfers (e.g., pre-IPO shares, overseas real estate, unlisted equities) into an offshore trust by a PRC tax resident are treated as taxable transfers based on Market Value minus Original Acquisition Cost and reasonable expenses.
- Capital gains are taxed under "income from transfer of property" at a flat 20% IIT rate.
- Safe Harbor Rule: Offshore trusts established more than 3 years ago are exempt from retroactive tax collection on the initial establishment stage.

02 Annual Taxation on Operating Income (Lifetime Stage)

- Income generated within the trust, including interest, dividends, and realized capital gains, or through underlying controlled offshore SPVs, is subject to 20% IIT annually.
- Taxation applies regardless of whether distributions are actually made to beneficiaries.

03 Temporary 90-Day Grace Period for Voluntary Disclosure

- The STA has granted a 90-day grace period ending October 22, 2026 for taxpayers to voluntarily disclose and settle unpaid IIT on trust income or transfers incurred from January 1, 2023 to present.
- Taxpayers who settle within this 90-day window will receive a waiver of late-payment interest and administrative penalties.

ACTION PLAN: HOW TO ENSURE COMPLIANCE AND MITIGATE EXPOSURE

To prevent severe tax penalties, asset freezes, or CRS-triggered audits, we recommend that clients with cross-border trust structures immediately take the following action steps:

1. **Conduct a Portfolio Audit & Scope Exposure: Review all existing family trusts, offshore holding SPVs (BVI/Cayman), and investment vehicles to identify any PRC tax-resident settlors, beneficiaries, or effective controllers.**

2. **Quantify Historical Capital Gains & Unpaid Income: Calculate cost bases, asset transfer gains, and accumulated undistributed income for the period 2023–2025 to determine precise tax exposure.**

3. **File Voluntary Disclosures within the 90-Day Window: Prepare formal tax disclosure filings before October 22, 2026, to settle outstanding liabilities and secure full waiver of late-payment interest and penalties.**

4. **Establish Formal Accounting & Annual IIT Reporting: Implement standardized, auditable accounting for underlying offshore SPVs to properly compute annual net taxable returns for ongoing mainland tax returns.**

5. **Review Trust Governance & Domicile Positioning: Transition trust objectives away from tax-deferral toward wealth succession, asset protection, and corporate governance. Evaluate the viability of shifting to Hong Kong Onshore Trusts or the HK Family Office Tax Regime to leverage Double Tax Agreement (DTA) protections.**

HOW WE CAN HELP

- Offshore Trust Tax Exposure Assessments & Health Checks
- Independent Asset Valuations for Cost-Basis Substantiation
- Voluntary Tax Disclosures & Mainland Tax Bureau Representations
- Cross-Border Restructuring & HK Onshore Trust Advisory