THE STRAITS TIMES
Thursday, 13 August 2026

Wealthy Chinese gear up for Beijing's offshore trust scrutiny

Singapore wealth professionals working with clients to comply with tax changes

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A foreign passport, permanent residence abroad or an offshore trust may not put wealthy Chinese beyond Beijing's tax reach.

At the heart of the issue is tax residency. A foreign passport or overseas permanent residence does not automatically place a person outside China's tax net if their economic interests and connections remain substantially linked to China, said Loh Kia Meng, senior partner and head of private wealth practice at Singapore-based law firm Dentons Rodyk, in an interview with The Straits Times.

"In practical terms, a foreign passport or a foreign permanent residence is not, by itself, a tax plan," he said.

Some Chinese tycoons and wealthy citizens use foreign passports, permanent residency and offshore trusts to hold their wealth abroad.

Singapore and Hong Kong are the two popular destinations in Asia for China-linked families to set up trust structures. Offshore trusts are popular vehicles for them to hold everything, from pre-initial public offering stakes to family fortunes.

But on July 24, China's Ministry of Finance and State Taxation Administration issued their clearest rules yet on taxation of offshore trusts, marking one of Beijing's most significant efforts to tighten oversight of offshore wealth arrangements.

Now, a 20 per cent tax will be collected at nearly every stage of a trust's life, from establishment to beneficiary distribution to termination. Unpaid taxes on assets placed in trusts since Jan 1, 2023, and on trust income received before 2026 must be settled within 90 days to avoid penalties for late payment.

NO IMMEDIATE IMPACT ON SINGAPORE WEALTH SECTOR

For now, Singapore's authorities said they have not seen signs of a significant impact on the local wealth management industry.

When asked about the new rules at the Aug 11 second-quarter economic survey briefing, Beh Swan Gin, permanent secretary at the Ministry of Trade and Industry, said: "We don't have any reports at this point from the wealth management sector that this has impacted them. Nonetheless, we are keeping a close watch on the sector."

Edward Robinson, deputy managing director at the Monetary Authority of Singapore, said that Singapore's asset management industry and private wealth management industry rely on diversified sources of funds.

"These flows of funds continue to be strong, reflective of the general global financial conditions and relative returns, so we didn't pick up any unusual volatility in recent weeks," he said.

Private banks contacted by ST declined to comment.

But sources said with the clock ticking, private banks have sent notices to their clients, suggesting they seek legal advice on their trusts.

Some private banks have even sought the help of legal and tax experts to visit clients together to lend clarity to the "fluid and messy" situation, a tax expert said.

Some wealthy Chinese are trying to work out how much they may owe Beijing as China steps up enforcement, added the tax expert, who declined to be named.

Loh said: "There remains significant uncertainty and a number of unresolved practical questions."

They want to know whether they are affected by the new rules, how large the tax bill might be and how to settle it before the grace period expires, he said, adding that some are already weighing which assets to sell.

"This is a watershed moment for China-linked private wealth planning," Loh added.

Over the past weeks, Dentons Rodyk has been advising families, trustees, private banks, insurers and family offices on historical exposure, the 90-day settlement window and future options.

Loh's advice to clients is: Do not panic.

"China's new offshore trust tax rules do not render every offshore structure unworkable, nor do they require families to dismantle existing arrangements," he said.

But they mark a tougher era for China-linked wealth planning.

Loh said the focus has shifted from simply holding assets offshore to showing that a structure is transparent, properly reported, able to meet tax liabilities and compliant with trustee obligations, while still serving succession, governance and asset-protection goals.

BIGGER COMPLIANCE BURDEN

The rules could also widen the compliance burden for Singapore's wealth sector, lawyers from global law firm Morgan Lewis said.

Private banks and wealth managers may not have the same reporting obligations as trustees, but they are not off the hook. If they break the rules and help cause a client or trustee to underpay tax, they could face regulatory action and penalties in China, they said.

Kang Wei, Hong Kong-based private client partner at international law firm Charles Russell Speechlys, told ST the message is clear for the wealth management industry in Singapore and Hong Kong: Offshore structures designed for Chinese high-net-worth families are entering a new era of scrutiny.

Singapore wealth professionals will need to discuss Chinese tax consequences and the complex definition of a Chinese tax resident with affected clients.

It will be a shift, but it is similar to advising clients from high-tax jurisdictions such as the United States, Canada and Britain, where offshore structures face close scrutiny, she noted.

A Variable Capital Company fund or insurance product may still have legitimate wealth-planning uses, but should not be marketed as a simple way to defer Chinese tax, Kang said.

Alternative structures may not be more attractive, she added.

For example, where the owners of the family wealth reside in either mainland China or Canada, the alternative would be having the Canadian resident individual settle an offshore trust.

Such a trust will be deemed a Canadian tax resident and the applicable tax rate for trust income is over 48 per cent – a lot higher than China's 20 per cent tax rate.

"On the other hand, to the extent that some family members grow up in or have emigrated to a jurisdiction with a territorial tax regime such as Singapore, exploring an alternative structure may be sensible," Kang said.

Singapore's private banks, family offices, trustees, lawyers and tax advisers may increasingly need to look beyond where a trust or investment vehicle is legally domiciled, and assess the client's underlying Chinese tax residency, economic interests and historical exposure, she said.

The shift could make Singapore's expertise in cross-border wealth planning more valuable, even as it raises the compliance stakes for firms serving Chinese capital, she added.

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