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## Who says China has no gift tax?

China has no gift tax or inheritance tax. But is that really true? Recently, the new tax laws issued by China actually created a "gift" tax upon transfers of assets (non-cash) by gift – this is now included in the definition of disposal and the transferor will owe a 20% gains tax.

A very elegant way to disguise a gift tax! So how does a Chinese family transfer assets to their family trust? This takes a deep understanding of the tax regulations, proper and professional planning.

Below is a very good excerpt taken from the February STEP Journal, written by Marcus Leese and Wisdom Hon of Ogier law firm. Please read it and let NewstarWealth know how we can assist you and your family in your planning matters.

### 中国没有“赠与税”吗？

一直以来我们都认为中国没有赠与税和遗产税，但这属实吗？近期中国税务部门颁布个人所得税修正案，规定非货币资产通过赠与方式转让所有权将被征税，也可以称为“赠与税”。相关资产处置或转让，让与人将承担 20% 资本利得税。

那么中国家庭如何将资产转移到家族信托呢？这需要对最新的法律法规有深刻的理解同时需要量身定制的专业规划。

下面是节选自《STEP Journal》二月刊，由来自 Ogier 律师事务所的 Marcus Leese 和 Wisdom Hon 撰写的文章。让我们邀请您阅读以下文章并让 NewstarWealth 的专业团队帮助您定制个性化的家庭财务筹划。

*Excerpt From STEP JOURNAL (February 2019)  
"Winning Chinese Clients' Trust" by Marcus Leese (Partner) and Wisdom Hon  
(Senior Associate) of Ogier law firm*

## Introduction of "Gift Tax"

China has recently amended its *Individual Income Tax Law* (IIT Law), which took effect on January 1, 2019. There is a notable change for private clients; the scope of deemed disposal will be expanded to transactions with non-cash consideration, transfer by way of gift or as repayment of debt, or investment.

Currently, there is no gift tax or inheritance tax in China and while there will not be a gift tax per se, the amended IIT law is essentially a gift tax.

It is common for settlers to inject assets into a trust as a gift. After January 1, 2019, such transfers of assets will be subject to tax. The Chinese tax authority may determine the reasonable value of such assets, and the difference between the determined value and the cost will be subject to income tax at 20%. Chinese tax residents are subject to worldwide income tax, so such a tax regime will be applicable to both Chinese and offshore assets.

*节选自《STEP JOURNAL》二月刊*

## “赠与税”简介

中国近期修正了《中华人民共和国个人所得税法》（以下简称个人税法）将于 2019 年 1 月 1 日生效。值得关注的是资产处置和转让的范围扩展到非货币资产，方式包括赠与、归还欠款或投资，将依法进行征税。修正前被处置或转让资产未包含非货币资产，同时明确了转让的途径为赠与、归还欠款和投资。

虽然在中国还没有赠与税和遗产税，但此次个人税法修正相当于已经涉及到了赠与税。

通常情况下由委托人将资产以赠与的方式注入信托，但 2019 年 1 月 1 日之后这样的资产转移将被征税，也可以是视为是“赠与税”。中国税务部门将评估相关资产的合理价值，现值和成本的超出部分将征收 20% 的个税。中国是全球征税，所以中国税务居民的境内外资产的处置和转让都将受到影响。

*(Special thank you to NewstarWealth Member Partner Shaun Xiong for assistance with translation and review)*