

## 税务快讯

# 国务院要求规范清理 各地优惠政策



国务院于 2014 年 12 月 9 日公布国发[2014]62 号文件（即《国务院关于清理规范税收等优惠政策的通知》，以下简称“通知”），要求各部委和地方政府机关对税收等优惠政策进行清理和规范。通知明确对违反国家法律法规的优惠政策予以废止；没有法律法规障碍，确需保留的优惠政策须向国务院作专题请示。各省级人民政府和有关部门应于 2015 年 3 月 31 日前向财政部报送优惠政策的专项清理情况。

## 背景

近年来，为推动区域经济发展，一些地区和部门对特定企业及其投资者（或管理者）在税收、非税收入和财政支出等方面实施了优惠政策。通知肯定了在一定程度上这些政策促进了投资增长和产业集聚，但也指出一些优惠政策扰乱了市场秩序，影响国家宏观调控政策效果，甚至可能违反中国对外承诺，引发国际贸易摩擦。因此，国务院决定对相关优惠政策进行清理和规范，以形成利于所有企业和投资者的公平市场竞争环境。

# 优惠政策规范

## 税收优惠制定权限

通知规定，除依据专门税收法律法规和《中华人民共和国民族区域自治法》规定的税政管理权限外，各地区一律不得自行制定税收优惠政策；未经国务院批准，各部门起草其他法律、法规、规章、发展规划和区域政策都不得规定具体税收优惠政策。

## 非税收入管理

通知明确严禁下列行为：

- 对企业违规减免或缓征行政事业性收费和政府性基金、以优惠价格或零地价出让土地；
- 低价转让国有资产、国有企业股权以及矿产等国有资源；
- 违反法律法规和国务院规定减免或缓征企业应当承担的社会保险缴费，或未经国务院批准允许企业低于统一规定费率缴费。

## 财政支出管理

对违法违规制定与企业及其投资者（或管理者）缴纳税收或非税收入挂钩的财政支出优惠政策，包括先征后返、财政奖励或补贴，以补贴等形式减免土地出让收入等，通知要求予以取消。

其他优惠政策，如代企业承担社会保险缴费等经营成本、给予电价水价优惠、通过财政奖励或补贴等形式吸引其他地区企业落户本地等，通知未要求立即予以取消，但明确须对其逐步加以规范。

# 已有优惠政策清理

根据通知，各地区、各有关部门须开展一次专项清理，认真排查本地区、本部门制定出台的优惠政策，其中包括对与企业签订的合同、协议、备忘录、会议或会谈纪要以及“一事一议”形式的请示、报告和批复等进行全面梳理。违反国家法律法规的优惠政策将被正式废止。没有法律法规障碍，确需保留的优惠政策，由省级人民政府或有关部门报财政部审核汇总后专题请示国务院。各省级人民政府和有关部门应于 2015 年 3 月底前，向财政部报送本省（区、市）和本部门对税收等优惠政策的专项清理情况，由财政部汇总报国务院。

# 德勤观点

通知一经发出就引起了很多企业的高度重视，企业及其投资者尤其关注通知是否会对其正在享受或者申请的地方性优惠政策（如财政补贴等）产生影响。尽管通知的具体实施情况仍有待观察，但结合我们了解到的初步信息，部分地区似乎对此事项仍在保持密切关注，相关的优惠政策申请在现阶段还未受到实质性影响；一些地区的官员对未来继续给予某些特定优惠政策的可行性仍持谨慎乐观态度。

鉴于各省级人民政府和有关部门应于 2015 年 3 月 31 日前向财政部报送优惠政策的清理情况，未来几个月将是政策落地的关键时期。德勤建议相关企业与当地政府部门积极沟通，密切关注地方政府对此通知的具体执行情况，同时针对通知的潜在财务影响采取相应措施。德勤将与相关部门和地方政府保持密切联系，并及时分享信息动态和应对建议。

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## Tax Newsflash

# State Council Calls for Changes to Local Preferential Policies



China's State Council issued a notice (Guofa [2014] No. 62) on 9 December 2014 that requires the ministries of the State Council and local governments to "clean up" and regulate preferential policies (e.g. tax incentives). Specifically, existing local incentives that violate state laws will have to be abolished; incentives that are not in violation of state laws and that are deemed to be essential to the regional/local government will have to be approved by the State Council. Local governments are required to take appropriate actions by 31 March 2015.

# Background

In recent years, some local government authorities have introduced preferential policies to promote regional economic development. Notice No. 62 acknowledges that these policies have been instrumental in boosting local investment and industrial growth, but points out that certain policies have distorted market competition and even given rise to international trade disputes. As a result, the State Council has decided to launch an initiative to cut back on preferential policies (in particular, those issued by local governments) in order to create a level playing field for all investors and enterprises.

## Regulation of preferential policies

### ***Authority to issue tax incentives***

Notice No. 62 provides that local governments may not introduce their own tax incentives unless so empowered by specific laws (for example, the local governments of the autonomous regions have discretion to provide some tax reductions or exemptions within a range prescribed by the Law of Regional Autonomy for Ethnic Minorities). The ministries may not formulate preferential policies when drafting laws, regulations and other policy documents without the approval of the State Council.

### ***Administration of non-tax government income***

The notice specifies that the following activities are not permitted:

- The reduction, waiver or deferred collection of government charges, or the assignment of land use rights for no consideration (or a consideration lower than market price) that is in violation of state laws;
- The transfer of state-owned assets, shares of state-owned enterprises or state-owned resources for a consideration lower than market price; or
- The reduction, waiver or deferred collection of social security charges that is in violation of state laws, or the granting of a lower contribution rate to enterprises without the approval of the State Council.

## ***Administration of government expenditure***

Notice No. 62 calls for the abolition of preferential policies which are in violation of state laws and in which the amount of an incentive granted is linked to the amount of tax (or non-tax) revenue contributed by the enterprise and/or its investor (or the relevant management) to the local government. According to the notice, such policies may take various forms, such as "collect, then refund," financial awards or subsidies, government subsidies for the purchase of land, etc.

The notice also calls for further regulation, although not the immediate abolition, of certain other preferential policies, such as the government paying certain business expenses on behalf of an enterprise, granting favorable rates for utilities, company relocation awards, etc.

## **Cleaning up of existing preferential policies**

According to Notice No. 62, relevant ministries and all local governments are required to carry out an investigation of their existing preferential policies, including those granted and documented in agreements, memorandum or meeting minutes with relevant enterprises. Policies that are in conflict or inconsistent with state laws must be formally abolished. Preferential policies that are deemed to be essential by the relevant ministries or local governments will have to be reviewed by the Ministry of Finance and reported to the State Council for approval. Detailed reports of the investigations must be submitted to the Ministry of Finance by the end of March 2015.

## **Deloitte comments**

Notice No. 62 has generated considerable concern among businesses about the sustainability of various incentives (in particular, financial subsidies) granted by local governments. Although it remains to be seen whether the notice will be strictly enforced, it appears that some local governments seemed inclined to take a wait-and-see approach, meaning that the granting and negotiating of preferential policies will not be effectively deterred at this stage. Some local officials seem cautiously optimistic about the probability of being able to continue to offer certain preferential policies in the future.

Since the local governments need to take action before 31 March 2015, the next few months will be critical. Affected businesses should proactively communicate with the local authorities, closely monitor developments and take appropriate steps to address the uncertainties and potential negative financial impact of Notice No. 62. We will maintain close contact with various local governments and share any updates as they occur.

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