

Local preferential policies granted implementation concession

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In Brief

- » The State Council issued Guofa [2015] No. 25 (Circular 25) to confirm its concessionary stance regarding local preferential policies.
- » Circular 25 provides an official guideline on the treatment of preferential policies promulgated by the local authorities, committed by contracts, being enjoyed by companies, or those to be formulated in the future.
- » Local authorities are allowed to honor their commitment regarding existing preferential policies until they expire.

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In detail

In November 2014, the State Council released the “Notice Regarding the Clean-up and Standardization of Preferential Policies” - Guofa [2014] No. 62 (Circular 62), urging local authorities to clean up the local preferential policies.

On 10 May 2015, the State Council issued Guofa [2015] No. 25 (Circular 25), confirming its concessionary stance on how to deal with these local preferential policies after the issuance of Circular 62. Circular 25 makes clear the following principles:

- » State preferential policies should be fully and sufficiently executed.
- » Local preferential policies have to be cleaned up. For those with an expiry date, they can continue to be effective until they expire. For those without any expiry date, they should be given a reasonable transition period and be effective until the transition period ends.
- » Local preferential policies which are committed by contracts should continue to be effective.
- » Local preferential policies already enjoyed by companies will not be clawed back.
- » For new preferential policies formulated by local authorities:
 - If related to tax or non-tax revenue (approved to be set up by the central government), such policies should be reported to the State Council for approval before implementation (except for those allowed by the laws or administrative rules);
 - Other preferential policies can be implemented after the approval by the local government (but they are not allowed to be based in any way on tax or non-tax revenue).

WTS observation

Circular 25 sends a positive signal to investors to whom local authorities are urged to honor any of their commitments ever offered as preferential policies. It also stipulates that the local authorities can only approve and implement new preferential policies that are not related to tax or non-tax revenue.

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