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International Tax News

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Start

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Welcome

Keeping up with the constant flow of international tax developments worldwide can be a real challenge for multinational companies. International Tax News is a monthly publication that offers updates and analysis on developments taking place around the world, authored by specialists in PwC's global international tax network.

We hope that you will find this publication helpful, and look forward to your comments.

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In this issue

Legislation

Cyprus

Cyprus introduces 'super-deduction' for scientific research and R&D expenditure

The Cyprus Parliament has recently voted to amend Article 9(1)(d) of the Cyprus Income Tax Law, which grants a tax deduction for expenditure incurred for scientific research and R&D (as recognized by international accounting standards).

Among other amendments, for any such expenditure incurred during the years 2022, 2023 and 2024, including expenditure of a capital nature which is being amortized, an additional allowance is granted equal to 20% of the actual expenditure incurred, i.e. a 'super-deduction' which a person may elect annually to claim in whole or in part.

Note: A taxpayer cannot claim in parallel the 80% allowance on net profits under the Cyprus nexus Intellectual Property regime (the 'IP Box' regime).

Note: Although not explicitly stipulated in the law, contribution payments made to related parties under cost sharing agreements (CSA) pertaining to scientific research and R&D activity also are expected to qualify for the 'super-deduction'.

In principle this 'super-deduction' (whether incurred through a CSA or directly) should also be available to a foreign permanent establishment of a Cyprus company that opts to be fully taxable in Cyprus (i.e., where the default PE exemption is waived). These amendments are part of a wider group of measures that the Cyprus government is taking to assist business growth and competitiveness of enterprises in Cyprus.

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Legislation

Mexico

Mexican Decree expands tax benefits for IPOs and bonds

The Mexican Government published on December 23 of 2021, a Decree that extends, and in some cases expands, to fiscal year 2025, the tax benefits initially granted through a previous Decree, published on January 8, 2019 (originally ending in FY 2021). The previous Decree related to the withholding tax on interest paid by Mexican residents for publicly traded corporate debt bonds, and a reduced tax rate for certain taxpayers on the capital gain obtained from the sale of public shares through an initial public offering (IPO).

The new Decree's main changesinclude:

• The tax credit that is currently granted to withholding agents in connection with interest payments made to nonresidents, and that is derived from debt bonds issued by Mexican-resident issuers and listed in an authorized Mexican stock exchange, is now extended to cover interest payments issued by government-owned productive entities. This benefit applies only to interest payments made to residents in a country or jurisdiction with which Mexico has an income tax treaty or exchange of information agreement in force.

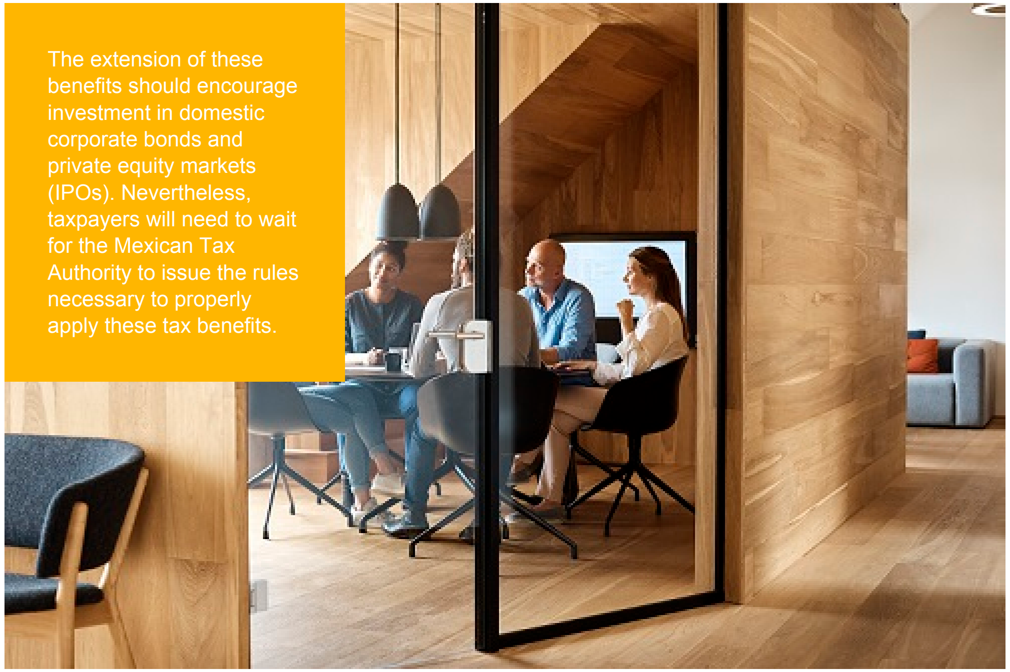
• An inclusion for the definition of bonds to mean those debt obligations or debt securities that may circulate in the authorized Mexican stock exchanges pursuant to the Mexican Securities Law and issued in a series or block and representing a participation over a collective debt.

• The extension, until 2025 (originally ending FY 2021), of the tax benefit equal to 10% of the capital gain from the sale (through the authorized Mexican stock exchanges) of listed shares issued by Mexican entities, transferred by Mexican-resident individuals and nonresidents.

• The previous condition requiring that the book equity of the Mexican issuer was MXN $1 million is modified and must now not exceed MXN $25 billion at the IPO.

For more information, see our PwC Insight

The extension of these benefits should encourage investment in domestic corporate bonds and private equity markets (IPOs). Nevertheless, taxpayers will need to wait for the Mexican Tax Authority to issue the rules necessary to properly apply these tax benefits.



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Legislation

United Kingdom of Great Britain and Northern Ireland (the)

Proposed R&D tax credit changes

The UK Government recently released draft legislation on the proposed changes to the UK R&D regimes. This follows last year's consultation on improving the R&D regimes with the aim of ensuring the incentives are appropriately targeted and globally competitive. The key proposed changes follow:

Restrictions on the eligibility of overseas costs

Eligible spend would be refocused on UK R&D activities and costs. This means most overseas resource and subcontractor costs would no longer be eligible. There would be narrow exceptions where the conditions in the overseas territory make it necessary to undertake the activities overseas and where it would be unreasonable to replicate these conditions in the United Kingdom.

Expansion of qualifying costs and activities

Eligible costs would be expanded to include certain cloud computing and data acquisition costs. The definition of R&D also would be expanded to include pure mathematics.

Process and compliance changes

Preventing abuse of the R&D regimes was a key focus areas of the changes, resulting in changes to the process for making claims as follows:

- *Mandatory documentation* - Current legislation does not require the submission of documentation to support an R&D claim. This would change, with all future claims requiring supporting documentation. Details about this documentation has not been announced.
- *Pre-notification* - Companies that have not claimed credit in the last three years would be required to pre-notify that they will be making a claim. They would have until six months after the accounting period to make the notification.
- *Digital submission* - claims, supporting documentation and prenotification would need to be made by digital submission.
- *Company sign off* - claims would need to be signed off by a senior officer within the company.
- *Agent disclosure* - claimants would need to disclose any agent that has supported them with the claim.

Timing of changes

The new rules would apply for accounting periods beginning on or after April 1, 2023.

From a practical perspective, the above requirementslikely would result in an increased administrative burden for some claimants and would need to be considered before preparing future claims. Companies would need to be prepared in advance of the commencement date to make sure they have appropriate documentation and claim pre-notification processes in place. Each company would need to assess the changes to qualifying costs in order to understand the impact on their UK and global R&D claims position.

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Legislation

Uruguay

Public Consultation – New CIT provisions

The Executive Branch has presented a draft bill of law for public consideration. The bill was sent to Congress for consideration on July 28. This draft includes new Corporate Income Tax (CIT) provisions that comply with the government's EU commitment to amend the current CIT rules that could be considered potentially harmful and encouraging unfair tax competition.

The draft proposes to tax by CIT certain items of passive income obtained by entities of multinational groups when the assets are exploited outside Uruguay, and then grant an exemption to the extent they comply with substance requirements. These requirements include:

- Income from patents and registered software when not considered as 'qualified income' (defined as the amount resulting from applying a coefficient to the exploitation proceeds of such rights, in line with the 'nexus approach' of the OECD recommendations).
- Income from real estate yields, dividends, interests, royalties, capital gains for the transfer of the assets that generate such income, obtained by an entity are not considered qualified. An entity will be deemed qualified to the extent it has an adequate economic substance during the fiscal year, which will ultimately depend on certain requirements on which the regulations will further elaborate.

The draft bill aimsto amend the EU observations on some potentially harmful aspects of the tax system. After the Public Consultation period ends, the final bill of law will be submitted to Congress for consideration of being passed before the end of 2022. The objective is an effective date of January 1, 2023.

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Legislation

Colombia

Significant Economic Presence: Taxation of the Digital Economy In Colombia

In order to tax the income earned by digital economy companies who develop their operations in Colombia, the recently elected government proposed to include the Significant Economic Presence (SEP) concept in its proposed tax reform bill. Per this new concept, income earned by a nonresident that is attributable to its *SEP,* will be subject to Corporate Income Tax at the general rate (35% for 2022).

A nonresident entity will trigger a SEP in Colombia when it fulfills any of the following conditions:

- (i) Obtains annual gross revenues of COP 1,189,525,200 (Approx. USD 290K for 2022) from transactions involving goods or services with persons in Colombia.
- (ii) Uses .co domains or Colombian websites.
- (iii) Maintains an interaction or promotion display with three hundred thousand or more Colombian users during the taxable year, and allows them to view prices and make payments in Colombian currency.

The SEP has not yet been enacted as a law, and this is not yet enforceable.

Significant Economic Presence is a new concept that mainly targets nonresident entities of the digital economy. Although the conditions that trigger a SEP are far less demanding than those that trigger a Permanent Establishment, the consequences/implications are the same for both. Subject to case-by-case analysis, tax treaties enforceable in Colombia will provide relief to income that is attributable to a SEP.

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Legislation

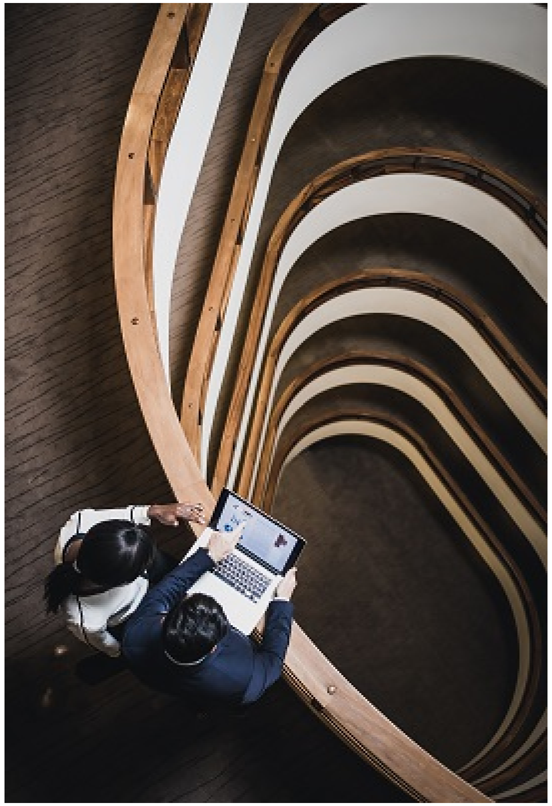
United States of America (the)

US Book Minimum Tax

President Biden signed into law the Inflation Reduction Act (the Act) on August 16. One key-revenue raising provision is a 15% minimum tax based on adjusted financial statement income (book minimum tax, or BMT). This Insight focuses on certain international aspects of the BMT. The BMT is effective for tax years beginning after December 31, 2022. (For a general overview of the BMT see prior PwC Insights, Senate passes 'Inflation Reduction Act' reconciliation bill and Corporate book minimum tax to be effective for 2023.)

For more details see our PwC Insight.

The legislation delegates a number of issues to be determined by Treasury, both explicitly and implicitly. Potentially affected taxpayers should expect extensive regulations interpreting and supplementing these provisions. If the IRS and Treasury do not issue guidance before the BMT's effective date, taxpayers may need to take positions based on a reasonable interpretation of the statute. Companies should start preparing as soon as possible for the 2023 effective date.



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Administrative

Colombia

Colombian government presents tax reform bill

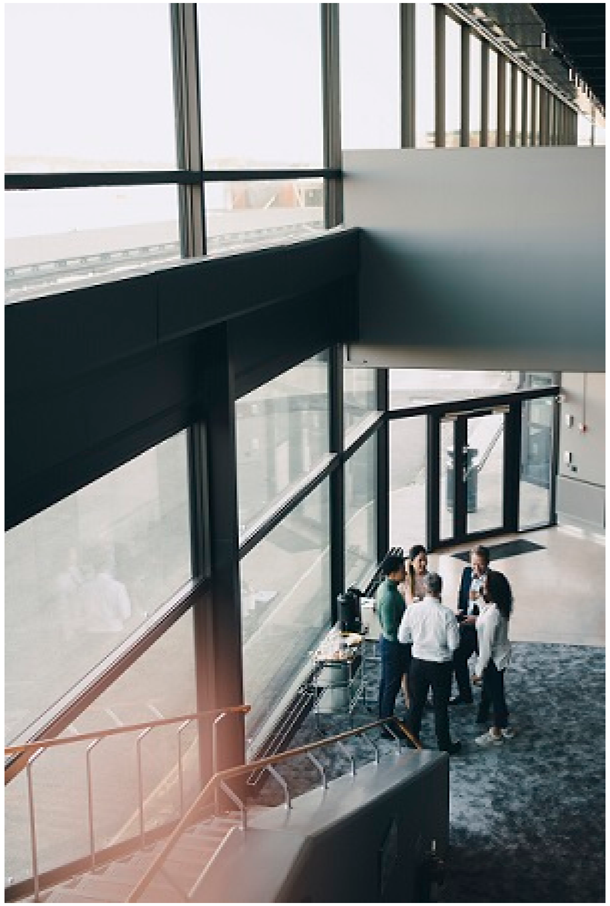
The leader of the left-wing coalition 'Pacto Histórico,' Gustavo Petro, took office as the 61st Colombian president on August 7.

Within a day of inauguration, the executive branch presented a new tax reform bill, which has the intended goals of making the Colombian tax system more egalitarian, progressive, and efficient. The government hopes to meet these goals through provisions focused on taxing high-net-worth taxpayers, preventing tax evasion and avoidance, and promoting the improvement of the public health system and the environment.

The government's expectation is for the bill to be passed before year-end. If this happens, then most of the bill's provisions would become effective January 1, 2023.

For more details see our PwC Insight.

Colombia is proposing significant changes to its tax legislation as part of President Petro's agenda. Although the opposition party does not currently represent more than 20% of the Colombian Congress, the president's party on its own does not have a majority in Congress. Given the current political environment, the bill is expected to be subject to debate, from both technical and political standpoints. Accordingly, certain provisions of the proposed bill may change during the discussion in Congress.



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Administrative

United States of America (the)

European Commission proposal would address distortions caused by foreign subsidies

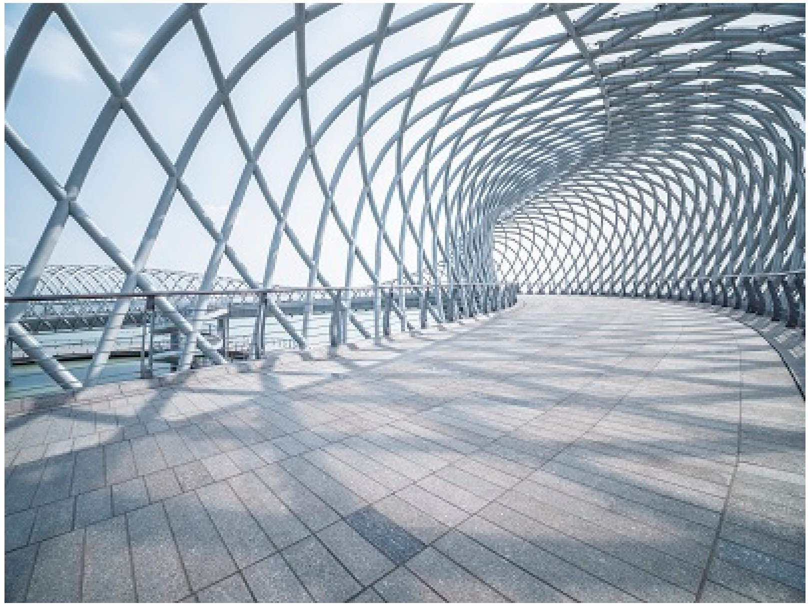
After a period of negotiations, on June 30 the Council of the European Union and the European Parliament reached political agreement on the text of a draft regulation on foreign subsidies that, in certain cases, are distorting the internal market (see also our previous tax policy alert on the initial proposal).

This proposal aims to ensure a level playing field in the internal market. This draft regulation is an important next step that follows the Commission's publication of a White Paper on distortive subsidies in June 2020. The White Paper set out several approaches to address distortive effects caused by foreign subsidies. The proposal is part of the broader EU 2020 industrial strategy driven by the principle of 'enhancing strategic autonomy.'

For more details see our PwC Tax Policy Alert.

The regulation will enter into force once it is formally adopted by the European Council and the European Parliament and published in the Official Journal. The Regulation will become directly applicable across the European Union six months after entry into force. The notification obligations will start to apply nine months after entry into force and appear particularly onerous in relation to concentrations given the broad nature of financial contributions and the relatively low thresholds. Therefore, if adoption occurs at the end of this year, the regulation would likely apply from mid-2023 and the notification obligations would start Q3 2023.

This proposal may increase the regulatory burden for businesses outside the European Union that wish to invest in or otherwise enter the EU internal market. Furthermore, it could lead to increased scrutiny for mergers and acquisitions, and a prolonged public tender process, to name just some of the potential impacts. Potentially impacted businesses should monitor the proposal and consider what further actions may be appropriate if adopted.



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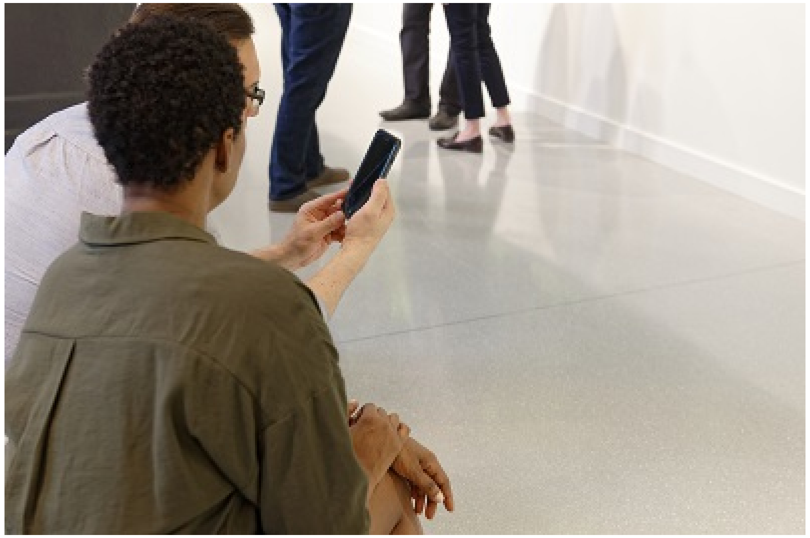
Judicial

France

Administrative Supreme Court recognizes tax credit fox taxes paid abroad on dividends



Under the French participation exemption regime, 95% of the net dividends received from subsidiaries may be excluded from the Corporate Income Tax (CIT) basis of parent companies established in France that hold at least 5% of the subsidiaries' issued capital. The remaining 5% of the dividends are subject to CIT at standard rate.

The position of the French tax authorities was that the add back of 5% of the dividends should not be considered as taxation, which prevented parent companies established in France from claiming a tax credit in France for the withholding tax paid abroad for such dividends.

In a July 5, 2022 decision, the French administrative Supreme Court ruled the add back of 5% of the dividends should be considered a genuine taxation in France. This decision therefore renders possible a claim by the parent company for a tax credit in France.

MNEs with holding companies in France should assess the opportunity to file a claim in order to benefit from a tax credit in France. For dividends paid in respect of the 2019 financial year (CIT paid in 2020), the deadline for filing a claim is December 31, 2022.

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Treaties

China

China ratifies the MLI

China ratified the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (the 'MLI') and deposited its instrument of ratification to the OECD on May 25, 2022. The instrument sets out the respective MLI positions of Mainland China and Hong Kong Special Administration Region (SAR) for their covered tax agreements. For Mainland China, the Convention will enter into force on September 2, 2022.

Covered tax agreements

China's instrument of ratification has covered 100 treaties, except for seven already in force (Chile, India, New Zealand, Spain, Republic of the Congo, Angola and Rwanda) and two not yet in force (Kenya and Argentina). Most of the tax agreements not covered were signed over the five years or have been updated through new protocols, which have already adopted the minimum standards recommended by BEPS.

Hybrid mismatches

For dual resident entities, the MLI requires that the competent authorities of the contracting jurisdictions shall consider the place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors, and endeavour to determine by mutual agreement the entity's tax residence. China has adopted this provision. However, China has not adopted the other optional measures under the hybrid mismatch action.

Preventing treaty abuse

As a minimum standard, China has opted for the principal purpose test (PPT) whereby a treaty benefit may be denied if obtaining that benefit was one of the principal purposes of any arrangement or transaction, unless granting of such benefit in the circumstances would be in accordance with the object and purpose of a tax treaty. China has not opted for the simplified limitation of benefits (LOB) rule, which is basically in line with the position reflected in recent tax treaties it has signed.

Artificial avoidance of PE

China opted out of all the provisions in the avoidance of permanent establishment (PE) section in the Convention. China's domestic treaty interpretation (Guoshuifa [2010] No.75) has already provided similar provisions to address the BEPS concerns including agency PE, preparatory and auxiliary activities.

Improving dispute resolution

China has adopted the full implementation of Mutual Agreement Procedures (MAP) in good faith required by the Convention; and has allowed appropriate corresponding adjustments in cases where such adjustment is justified. However, China has opted out of the mandatory arbitration provisions of the Convention.

For more details see our PwC News Flash.

The ratification of the Convention is an important step in the implementation of the BEPS Action Plans in Mainland China. China has opted out of most of the provisions that are not required under the minimum standard, specifically the PE provisions. However, even if a tax treaty is not revised by the MLI, it is likely that the China's tax authority would be more cautious in granting treaty benefits under this new landscape.

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Glossary

Acronym	Definition
AFIP	Argentine Tax Authorities
ATAD	anti-tax avoidance directive
ATO	Australian Tax Office
BEPS	Base Erosion and Profit Shifting
CFC	controlled foreign corporation
CIT	corporate income tax
CTA	Cyprus Tax Authority
DAC6	EU Council Directive 2018/822/EU on cross-border tax arrangements
DST	digital services tax
DTT	double tax treaty
ETR	effective tax rate
EU	European Union
MNE	Multinational enterprise
NID	notional interest deduction
PE	permanent establishment
OECD	Organisation for Economic Co-operation and Development
R&D	Research & Development
SBT	same business test
SiBT	similar business test
VAT	value added tax
WHT	withholding tax

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Worldwide Tax Summaries

If you're operating globally, are you aware of changes to the myriad tax rates in all the jurisdictions where you operate?

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