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NEWSLETTER

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Issue n.9 – October 2017

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1. State Council Clarifies the Supervision and Administration of Financing Guarantee Companies

News Category: Finance/Accounting
State Council Order No. 683 [2017]
Title: *Administrative Regulations on Supervision of Financing Guarantee Companies*
Promulgator: State Council
Promulgation Date: August 21st, 2017
Effective Date: October 1st, 2017

The Regulations clarify that a financing guarantee company could be established only when the provisions stipulated in the Company Law of the PRC and another four requirements, such as "contributing the threshold CNY20 million of the registered capital all in cash" for set up approval from local government regulatory authorities, are satisfied.

Where a financing guarantee company intends to set up a branch in another province, autonomous region, or municipality directly under the Central Government, it shall meet three conditions, such as "having engaged in the financing guarantee business for over three years and gained profits for the latest two consecutive fiscal years", and win the approval from the regulatory authority of the place where the proposed branch will be situated.

Moreover, the Regulations provide for rules on the operation of financing guarantee companies, including: establishing and improving internal control systems such as specifications for all businesses and risk management, calculating and measuring the balance of the guarantee liability with the risk weight specified by the State; the balance of the guarantee liability should not exceed the corresponding ratio; and financing guarantee companies are prohibited from taking deposits, self-made loans or entrusted loans, and making investment as entrusted.

You can read the complete news at:
http://www.gov.cn/zhengce/content/2017-08/21/content_5219204.htm

2. MOFCOM Improves Effectiveness of Tax Relief for Equipment Imported by Encouraged FIEs

News Category: TAX
Shang Ban Zi Han No.367 [2017]
Title: *Circular of the General Office of the Ministry of Commerce on Further Effectively Implementing Tax Relief for Equipment Imported by Foreign-invested Enterprises Engaging in the Encouraged Category of Foreign Investment*
Promulgator: MOFCOM
Promulgation Date: September 5th, 2017
Effective Date: September 5th, 2017

Effective from the promulgation date, the Circular states that from July 30, 2017, for a FIE that will invest in a project falling under the encouraged category in the Catalog for the Guidance of Foreign Investment Industries or any category listed in the [Catalog of Priority Industries for Foreign Investment in the Central-Western Region](#) and is eligible to get established or increase its registered capital under record-filing procedures, such enterprise or its investor must provide **details about the encouraged project**, such as the nature of the project, the total investment amount in US dollars, the imported equipment value, the construction period of the project, etc., while filling in the record-filing report online through the Integrated Management Information System for Foreign Investment.

After completing the record-filing procedures, the enterprise or its investors may obtain from the record-filing authority a **Record-filing Receipt** for the Incorporation of Foreign-invested Enterprises or a Record-filing Receipt for the Change of Foreign-invested Enterprises with the relevant information indicated in the "Remarks" section of the receipt.

Furthermore, any record-filing authority shall report in time to the supervising customs offices in case of an enterprise's violation of laws or regulations regarding the tax relief for equipment imported by FIEs engaging in the encouraged category of foreign investment.

You can read the complete news at:
<http://images.mofcom.gov.cn/wzs/201709/20170911160202957.pdf>

3. SAT to Promote Industrial and Commercial Information Sharing for “Consolidating Multiple Certificates into One” Reform

News Category: TAX
Shui Zong Han No.402 [2017]
Title: *Circular of the State Administration of Taxation on Further Promoting the Application of Industrial and Commercial Information Sharing for the Reform of "Consolidating Multiple Certificates into One"*
Promulgator: SAT
Promulgation Date: September 15th, 2017
Effective Date: November 1st, 2017

With the Circular No. 402, SAT makes arrangements in several aspects, among them: **improving information sharing and collaboration with departments of industry and commerce, optimizing the supplementary collection of the registration information, and improving the practice in handling tax affairs of existing enterprises that have their old-style business certificates replaced** with new certificates marked with the uniform social credit code".

Additionally, the Circular requires that, in case of encountering any issue related to the quality of industrial and commercial sharing, tax authorities shall timely notify the departments of industry and commerce, coordinate with them to introduce additional rules in order to check the information inputs, expand the scope of registration information sharing, improve and implement the mechanism for information sharing.

The Circular also clearly specifies that when the newly established and registered enterprises and farmers' cooperatives handle tax-related affairs for the first time, tax authorities shall prepare the Form for the Confirmation of Registration Information for the Reform of "Consolidating Multiple Certificates into One" based on the registration information shared between departments of industry and commerce, and reminding taxpayers of supplementing incomplete information, correcting the inaccurate information and providing updated information.

You can read the complete news at:
<http://www.chinatax.gov.cn/n810341/n810755/c2829016/content.html>

4. Authorities Issue Measures for the Tax-free Import of Goods for Scientific Research Use

News Category: TAX
Guo Ke Fa Zheng No.280 [2017]
Title: *Circular on Issuing the Administrative Measures for the Tax-free Importation of Articles Used for Scientific Researches, Technological Development and Teaching Activities by Scientific Research Institutes, Scientific Research Institutes Undergoing System Transformation, National Key Laboratories, National Key Laboratories in Enterprises and National Engineering Technology Research Centers*
Promulgator: Ministry of Science and Technology; Ministry of Finance; GAC; SAT
Promulgation Date: September 6th, 2017
Effective Date: January 1st, 2016

According to the Measures, the institute to be transformed into an enterprise as approved shall go through the tax relief formalities according with the customs provisions, submitting its registration certificate for a corporate legal person and other necessary materials. The institute incorporated into an enterprise, after undergoing the system transformation and if suitable for tax relief, can present the registration certificate for the affiliated corporate legal person, the letter of commitment on such corporate legal person's undertaking the management of goods eligible for tax relief, and other materials, in order to apply to the competent customs office for going through the tax relief formalities for goods imported for scientific research, technological development, and teaching activities.

Furthermore, the Measures state that those approved national key laboratories or national key laboratories established in enterprises, may apply for tax incentives by presenting the organization code certificate or the registration certificate for a corporate legal person of the enterprise where they are based, the letter of commitment on the enterprise undertaking the management of goods entitled to tax incentives, and other materials.

You can read the complete news at:
http://www.most.gov.cn/mostinfo/xinxifenlei/fqzc/gfxwj/gfxwj2017/201709/t20170922_135037.htm

5. Reinforced Implementation of the Super Pre-tax Deduction Policy for R&D Expenses

News Category: TAX

Shui Zong Fa No.106 [2017]

Title: *Circular of the State Administration of Taxation and the Ministry of Science and Technology on Strengthening the Implementation of the Super Pre-tax Deduction Policy for Enterprises' Research and Development Expenses*

Promulgator: Ministry of Science and Technology; SAT

Promulgation Date: September 18th, 2017

Effective Date: September 18th, 2017

The Circular states that, with regard to the verification of R&D projects that relate to enterprises' immediate benefits, including the verification of said projects in the process and the verification of ex post checks on projects in question, **efforts should be made to unify relevant policies, make clear the special coordination mechanism, work out the implementation of rules for the verification of R&D projects, and standardize the handling procedures.** Further, the Circular expressly states that where a R&D project contract includes all substantial elements required for the technical contract registration, but is different from the technical contract template, such R&D contract should be registered as well, and the relevant authority should not request the enterprise concerned to resubmit the contract modified according to the technical contract template.

The Circular also requires that taxation departments and science and technology ones at all levels shall guide **enterprises in the loss period** through taxation record-filing and other relevant formalities in time, and intensify publicity and services; small and medium-sized tech firms should be urged to have self-evaluation and make registration at the "National Information Service Platform for Small and Medium-sized Tech Firms" pursuant to provisions set out in the Measures for Evaluating Small and Medium-sized Tech Enterprises.

You can read the complete news at:

<http://www.chinatax.gov.cn/n810341/n810755/c2830675/content.html>

6. SAT Clarifications on the Integrated Foreign Trade Service Enterprises' Handling of Tax Rebate

News Category: TAX

SAT Announcement No.35 [2017]

Title: *Announcement of the State Administration of Taxation on Adjusting and Improving Relevant Matters concerning Tax Rebate (Exemption) on Exported Goods Handled by Integrated Foreign Trade Service Enterprises*

Promulgator: SAT

Promulgation Date: September 13th, 2017

Effective Date: November 1st, 2017

The Announcement clarifies the **conditions for integrated foreign trade service enterprises to handle tax rebate affairs on others' behalf**, specific measures for this purpose, ways to deal with unusual circumstances in commissioned handling, relevant legal liability, and penalty provisions.

According to the Announcement, if a manufacturing enterprise intends to entrust an integrated foreign trade service enterprise to handle tax rebate affairs for its exported goods, it shall meet **five requirements**, one of which is that "goods to be exported are produced by the manufacturing enterprise itself or deemed as self-produced ones". Manufacturers and integrated foreign trade service enterprises shall file a record for export rebate (exemption) respectively. Firstly, a manufacturer is required to file a VAT return according to applicable provisions and then issue to the integrated foreign trade service enterprise special invoices for tax refund purpose which could be used as certifications when such service provider handles tax refund affairs.

Moreover, the **amount of tax refundable** should be calculated according to the "amount" specified in the said special invoices issued for tax refund purpose and the export rebate rate applicable to exported goods, while the integrated foreign trade service enterprise is handling affairs on a commission basis.

You can read the complete news at:

<http://www.chinatax.gov.cn/n810341/n810755/c2843976/content.html>

7. China Drafts Export Control Law (for Public Comments) to Strengthen National Security

News Category: Customs

Title: *Circular of the Ministry of Commerce on Seeking Comments on the Export Control Law (Draft for Comment)*

Promulgator: MOFCOM

Promulgation Date: June 16th, 2017

Effective Date: June 16th, 2017

Recently, the Ministry of Commerce ("MOFCOM") has issued the Export Control Law of the People's Republic of China (Draft for Comment) (the "Draft for Comment") for public comments before July 15, 2017.

The Draft Law, if adopted (expected to happen by the end of the current year) **would be China's first law specifically addressing export controls** and would implement an export controls system to safeguard China's national security and consolidate its nonproliferation efforts. The Law would bring China's system closer to other export control regimes and would affect both domestic and international players that are exporting items and technologies out of China.

The Law broadens the scope of current controls and strengthens enforcement for more serious violations and non-compliance. It will also introduce new controls such as sanctions, embargoes, and re-export controls. Therefore, businesses involved in the export or re-export of Chinese products or items incorporating Chinese products will be subject to more comprehensive compliance requirements.

As to the objective of making corporations better aware of the prevention of illegalities, the Draft for Comment clarifies in three aspects: the first is to formulate a consultation mechanism for export operators; the second is to set out a facilitated licensing system; the third is to introduce an administrative guidance regime; and the fourth is to take measures for the purpose of avoiding risks of illegalities.

You can read the complete news at:

<http://tfs.mofcom.gov.cn/article/as/201706/20170602594467.shtml>

8. 13th Five-Year Plan for the Development of the Press, Publication, Radio, Film and Television Industries Issued

News Category: Corporate / Legal

Xin Guang Fa No. 150 [2017]

Title: *13th Five-Year Plan for the Development of the Press, Publication, Radio, Film and Television Industries*

Promulgator: SAPPRFT

Promulgation Date: September 20th, 2017

Effective Date: September 20th, 2017

The Plan, issued by the State Administration of Press, Publication, Radio, Film and Television ("SAPPRFT"), details the goals to achieve by the year 2020 in China, among them: "fully updating public cultural services", "creating significant impacts on stimulating economic growth", and "fully advancing the smart radio and television strategy and the digital transformation and upgrading of the press and publication industries".

To meet said targets, in the Plan 11 tasks are proposed, reporting some: "deepening integrated development and making new breakthroughs in media convergence", "constructing a modern public service system for the press, publication, radio, film and television industries to boost the quality and efficiency of public cultural services", and "speeding up to form a market system for the press, publication, radio, film and television industries".

In particular, the Plan calls for optimizing the system and mechanism adopted to assess social benefits of radio stations, television stations, newspaper offices, presses, and online audio-visual and publication websites, increasing the influence of indicators regarding the political guidance, content quality, taste and style, and social impacts.

You can read the complete news at:

<http://www.sapprft.gov.cn/sapprft/contents/6588/350248.shtml>

9. State Council Reduction of 52 Administrative Approval Items

News Category: Corporate / Legal

Guo Fa No. 46 [2017]

Title: *Decision of the State Council on Cancelling Another Batch of Administrative Approval Items*

Promulgator: State Council

Promulgation Date: September 22th, 2017

Effective Date: September 22th, 2017

According to the recently issued Decision of State Council, **40 items requiring administrative approvals from the State Council will be cancelled**, and among them items that the market can automatically adjust, like the "assessment of the Level I qualification of real estate management enterprises", "License for the sale of commercial encryption code products", "Approval for the use of commercial encryption code products by foreign companies", "Approval for the use of commercial encryption code products by foreign companies and individuals or equipment that contains cryptographic technology", items subject to repeated approvals by one single department for the same affair, such as the "approval of water resources justification reports for construction projects" by the Ministry of Water Resources ("MWR"), and other items subject to series approval from several authorities.

Furthermore, according to the Decision, **3 categories of 12 additional administrative approval items** from the Central Government for the local governments will be cancelled. In the first category are included those items with significant impacts, relating to the production and operation of enterprises and the employment and business startup of individuals. In the second category are included items subject to repeated approvals, in the third one, some items requiring approvals from State Council departments, to be cancelled; meanwhile, corresponding administrative approval items designated by the Central Government to local governments will also be considered, and cancelled if it is deemed as necessary after careful studies.

You can read the complete news at:

http://www.gov.cn/zhengce/content/2017-09/29/content_5228556.htm

10. Authorities Promote the Healthy Development of Integrated Foreign-trade Service Enterprises

News Category: Corporate / Legal

Shang Mao Han No. 759 [2017]

Title: *Circular of the Ministry of Commerce, the General Administration of Customs, the State Administration of Taxation, the General Administration of Quality Supervision, Inspection and Quarantine and the State Administration of Foreign Exchange on Relevant Work to Promote the Healthy Development of Enterprises Providing Integrated Foreign Trade Services*

Promulgator: MOFCOM, GAC, SAT, AQSIQ, SAFE

Promulgation Date: September 25th, 2017

Effective Date: September 25th, 2017

The Circular provides for the first time a **clear definition of "integrated foreign-trade service enterprise"**: "an integrated services enterprise refers to an enterprise that is qualified for foreign trade business, is commissioned by clients at home and abroad, concludes integrated services contracts (agreements) in accordance with the law, handles the integrated services, including customs clearance, inspection declaration, logistics, tax rebate, and credit insurance on a commission basis through the integrated services information platform, and assists to deal with the financing business."

Furthermore, The Circular proposes **advancing information sharing and joint regulation**, improving administrative measures for export tax refund (exemption) for integrated service enterprises and stepping up category-based credit management. Additionally, the Circular states that where an integrated service enterprise serves as an agent for tax refund business, it may apply for export tax rebate on behalf of manufacturers in a centralized manner. A manufacturer, as the subject for tax refund, should undertake its responsibilities in this capacity, while the integrated service enterprise, as its agent, should be held jointly liable.

The Circular also reports that the **foreign exchange** received and paid by integrated service enterprises for the trade purpose should be subject to the subject-targeted regulation, the verification on the total amount, and dynamic monitoring, and such service enterprises, should comply with the requirement that "whoever exports or imports goods is the party receiving or making payments in foreign exchange".

Moreover, The Circular calls for **reinforced examination** to check whether the alleged trade activities take place in reality, and encouraging integrated service enterprises to actively innovate their services, products and business models.

You can read the complete news at:

<http://www.mofcom.gov.cn/article/b/e/201709/20170902652018.shtml>

11. MEP Regulates the Application and Issuance of Pollutant Discharge Permits for the Pharmaceutical Industry and Others

News Category: Corporate / Legal

MEP Announcements No. 53, 54 [2017]

Title: *Announcement on Five National Environmental Protection Standards, such as Discharge Permit Application and Issuance of Technical Specifications, Pharmaceutical Industry Raw Material Drug Manufacturing, etc.; Announcement on Four National Environmental Protection Standards, such as the Application and Issuance of Pollution Discharge Permit, Technical Specification for Nonferrous Metals Industry, Lead and Zinc Smelting, etc.*

Promulgator: Ministry of Environmental Protection

Promulgation Date: September 29th, 2017

Effective Date: September 29th, 2017

The **Technical Specifications** provide for requirements on reporting basic information about pollutant emission entities of the pharmaceutical industry – active pharmaceutical ingredient (API) manufacturing in respect of the application and issuance of pollutant discharge permits, methods to determine the permitted emission limits, methods to calculate the amount of pollutants discharged in effect, methods to judge compliance, self-monitoring, environmental management standing books and implementation reports on pollutant discharge permits, and other requirements on environmental management, in addition to requirements on feasible technologies used to prevent and clean up pollution created in the pharmaceutical industry – active pharmaceutical ingredient manufacturing. Furthermore, the Technical Specifications state that pollutant discharge entities should optimize the composition of their products, adopt advanced production techniques and equipment, actively promote new technologies for cleaner production, such as new technologies to manufacture APIs through biotransformation, and create new strains of bacteria or optimize existing species of bacteria to manufacture antibiotics and vitamin, to boost the productivity.

You can read the complete news at:

http://www.mep.gov.cn/gkml/hbb/bgg/201710/t20171009_423105.htm

http://www.mep.gov.cn/gkml/hbb/bgg/201710/t20171009_423105.htm

12. CBRC to Issue Administrative Measures for Trust Registration

News Category: Treasury / Foreign Exchange
Yin Jian Fa No. 47 [2017]
Title: *Circular of the China Banking Regulatory Commission on Issuing the Administrative Measures for Trust Registration*
Promulgator: CBRC
Promulgation Date: August 25th, 2017
Effective Date: September 1st, 2017

On 25 August 2017, the China Banking Regulatory Commission (CBRC) issued the *Administrative Measures on Trust Registration* (the "2017 Measures").

A three-month transitional period is set for the implementation of the Measures, namely from September 1 to November 30, 2017. During the transitional period, all trust companies shall carry out product reports to the banking regulatory authority in accordance with the provisions of the *Guiding Opinions of the General Office of the China Banking Regulatory Commission on the Supervision and Administration over the Risks of Trust Companies* (Yin Jian Ban Fa [2014] No.99) while conducting the trust registration in accordance with the Measures. After the transitional period, the aforesaid product reports shall be subject to the Measures. Where a new trust product is released in the course of the 1 September to 30 November 2017 period, both the 2017 Measures and the 2014 Measures may be applied. For an existing trust product, which is still in existence by 1 July 2018, the trust registration is also required.

Trust registration includes pre-registration, initial registration and registrations for alteration/rectification of previously registered matters. Trust companies are required to record their trust products and beneficial owners of the products with the state-owned China Trust Registration Co., Ltd (China TRC), which was established in 2016 on approval of the State Council and CBRC.

Set-up and administration of beneficial owners' accounts will be dealt with by China TRC. The access to these records will be allowed to CBRC and other government authorities, but they will not be open to the public consultation.

A unique code will be granted to the registered trust product by China TRC. This will facilitate regulatory authorities to oversee the whole business chain of the

trust product.

Basic information on trust plans involving pooled funds shall be publicized by China TRC on their website.

You can read the complete news at:

http://www.cbrc.gov.cn/govView_30985FAB47794FF6A348DD6FF918FE44.html

13. Catalog of National Occupational Qualifications Issued

News Category: HR

Ren She Bu Fa No. 68 [2017]

Title: *Circular of the Ministry of Human Resources and Social Security on Issuing the Catalog of National Occupational Qualifications*

Promulgator: MOHRSS

Promulgation Date: September 12th, 2017

Effective Date: September 12th, 2017

According to the Circular recently issued by the Ministry of Human Resources and Social Security (MOHRSS), there are **140 items in the catalog of national occupational qualifications**.

In particular, 59 out of them are occupational qualifications for professionals, including 36 entry qualifications and 23 proficiency evaluation qualifications; and the remaining 81 are occupational qualifications for skilled personnel, including five entry qualifications and 76 proficiency evaluation qualifications.

Additionally, the Circular clarifies that the State brings occupational qualifications into the catalog of national occupational qualifications according to certain conditions and procedures and exercises the list-based administration, implying that it is therefore prohibited granting and accrediting any occupational qualification that is not specified in the said catalog and associating employment or entrepreneurship with any occupational qualification other than entry qualifications included in the catalog.

Furthermore, the Circular states that social groups, enterprises and public institutions may carry out activities to evaluate the proficiency on their own depending on the market needs, but they are forbidden from granting and accrediting any qualification in a disguised manner, or marking relevant certificates with the wording, like "People's Republic of China" and "Occupational Qualification", or with the national emblem.

You can read the complete news at:

http://www.mohrss.gov.cn/gkml/xxgk/201709/t20170915_277385.html

14. SAWS Issues the 13th Five-Year Development Plan for Work Safety Standards

News Category: HR

An Jian Zong Zheng Fa No. 104 [2017]

Title: *Notice of the State Administration of safety supervision on the issuance of the 13th Five-Year Development Plan for Work Safety Standards*

Promulgator: SAWS

Promulgation Date: September 20th, 2017

Effective Date: September 20th, 2017

The Plan issued recently by the State Administration of Work Safety (SAWS) states that by 2020, the framework of work safety standards will be more comprehensive, with a further expanded coverage, and the number of standards to be newly designed and amended for some key sectors during the 13th Five-Year Plan period will see over 5 percent growth compared with the figure for the 12th Five-Year Plan period.

To achieve this end, the Plan proposes 6 major tasks, including: strengthening preliminary study on work safety standards, calling for efforts to integrate and simplify the mandatory standards in order to strictly limit them to the extent of safeguarding personal health and ensuring the life and property safety.

The Plan also states that recommended standards shall be optimized and improved, to cut the number and scale of existing recommended standards step by step.

362 standards are expected to be formulated and revised during the 13th Five-Year Plan period, including 231 mandatory standards (93 national and 138 industrial standards) and 131 recommended standards (38 national and 93 industrial standards).

You can read the complete news at:

http://www.chinasafety.gov.cn/newpage/Contents/Channel_22243/2017/1011/296165/content_296165.htm

15. Hong Kong and Saudi Arabia Sign Tax Avoidance Treaty

News Category: Hong Kong

Title: *Agreement between the government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Kingdom of Saudi Arabia for the Avoidance of Double Taxation and the Prevention of Tax Evasion with Respect to Taxes on Income*

Promulgation Date: August 24th, 2017

Hong Kong and Saudi Arabia, represented by the Secretary for Financial Services & the Treasury James Lau and the Saudi Consul-General Omar Bakheet Al Bunayan, have signed on August 24th a comprehensive agreement for the avoidance of double taxation. **The document is the 38th tax agreement signed by HK with its trading partners.**

Under it, any Saudi Arabian tax paid by Hong Kong companies will be allowed as a credit against the tax payable in Hong Kong on the same profits, subject to the provisions of Hong Kong tax laws.

For Saudi Arabian companies, the tax they pay in Hong Kong will be allowed as a deduction from the tax payable on the same income in Saudi Arabia.

The document sets out the allocation of taxing rights between the two jurisdictions which will help investors better assess their potential tax liabilities from cross-boundary economic activities.

The Treaty will come into force after the completion of ratification procedures on both sides.

You can read the complete news at:

http://www.ird.gov.hk/eng/pdf/Agreement_SaudiArabia_HongKong.pdf

16. 2017 New Hong Kong Tax Plan is Announced

News Category: Hong Kong

Title: *2017 Policy Address*

Promulgation Date: October 11th, 2017

During her first Policy Address, the Chief Executive of Hong Kong SAR, Mrs. Carrie Lam announced that the Government is very determined in the taxation policies and strives to implement a new tax system within 2018. A **two-tier profits tax system** will be introduced to increase Hong Kong competitiveness. According to it, the tax rate for the first \$2 million of profits of enterprises will be lowered to 8.25%, or half of the standard profits tax rate. Profits of over \$2 million will continue to be subject to the standard tax rate of 16.5%.

To ensure the tax benefits target **small and medium enterprises**, there will be some restrictions imposed by the Government. Each group of enterprises can only nominate one enterprise to benefit from the lower tax rate. To encourage enterprises to invest in research and development, the Chief Executive proposed that the first \$2 million eligible R&D expenditure will enjoy a 300% tax deduction with the remainder at 200%.

You can read the complete news at:

http://www.news.gov.hk/en/categories/finance/html/2017/10/20171011_101341.shtml

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