

RHODE ISLAND TAX NEWS

A NEWSLETTER FOR TAX PROFESSIONALS

OCTOBER/NOVEMBER/DECEMBER 2019

NEW TAX LAWS NOW IN EFFECT

New Rhode Island tax laws, enacted earlier this year, took effect on October 1, 2019.

The new laws affect a range of taxpayers, includ-

ing providers of streaming video services, streaming audio services, and funeral services.

At issue are tax-related provisions which were in-

cluded in the budget bill approved by the Rhode Island General Assembly and signed into law by Rhode Island Governor Gina M. Raimondo on July 5, 2019.

Now the law

The legislation specified that the following provisions take effect October 1, 2019. Thus, the following are now the law:

◆ Rhode Island's 7% sales and use tax now applies to streaming video, streaming music, e-books, and other "specified digital products".

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DIVISION HOLDS SEMINAR FOR PREPARERS

The Rhode Island Division of Taxation will hold a free seminar for tax preparers.

The main focus is on what's new for the 2020 filing season and on what's new based on recently enacted legislation.

The seminar will include a discussion of what's new at the Division from a technical standpoint.

The seminar also will include discussions of Rhode Island's new requirement for taxpayers to maintain health insurance (sometimes called the indi-

vidual mandate.) The seminar will also include a look at the impact of the sales and use tax on remote sellers as well as on specified digital products; and the new entity-level tax for those pass-through entities that elect to pay it.

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SALES TAX EXEMPTION FOR URNS

Recently enacted legislation provides a Rhode Island sales and use tax exemption for urns. It took effect October 1, 2019. For more information, see page 2.

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NEW TAX LAWS NOW IN EFFECT (CONTINUED FROM PAGE 1)

◆ Urns that are ordinarily sold by a funeral director as part of the business of funeral directing are now exempt from Rhode Island sales and use tax.

◆ Feminine hygiene products, including tampons, panty liners, and sanitary napkins, are now exempt from Rhode Island sales and use tax.

◆ The monthly E-911 surcharge under Rhode Island General Laws § 39-21.1-14 on residence and business phone lines, as well as on wireless and cellular lines, is now split into two separate charges – one as the emergency services surcharge, the other as the first response surcharge. (Please see table on this page.)

The provisions were part of the legislation known as the “budget bill” -- which established the State of Rhode Island’s budget for the year that will end June 30, 2020.

Ever since the legislation was signed into law, the Division has been working to spread the word about the tax changes that the bill contained. “We are trying to be as proactive as possible as we try to get the word out to taxpayers -- including businesses and individuals -- as well as tax software providers, tax advisors, and other stakeholders,” said Tax Administrator Neena Savage, who oversees the Rhode Island Division of Taxation. (To learn more, click [here](#).)



Photo by Paul Grimaldi / Rhode Island Department of Revenue

Meeting: Rhode Island Governor Gina M. Raimondo joined senior members of the Rhode Island Department of Revenue at a DOR conference at Bryant University in Smithfield, Rhode Island, in August. Among those attending were (left to right) Steve Coleman, chief of the Division of Municipal Finance; Walter R. “Bud” Craddock, administrator of the Division of Motor Vehicles; Mark A. Furcolo, director of the DOR; Jane Cole, DOR chief financial officer; Neena Savage, tax administrator; Paul Dion, chief of the Office of Revenue Analysis; Governor Raimondo; Kate C. Brody, chief of the Central Collections Unit; Jade Borgeson, DOR chief of staff; and Marilyn Shannon McConaghy, general counsel - DOR.

E-911 Category / Charge	Old law	New law
Wireline		
E-911 surcharge:	\$1.00	\$0.50
First response surcharge:	-	\$0.50
Education fund:	\$0.26	\$0.26
Total:	\$1.26	\$1.26
Wireless		
E-911 surcharge:	\$1.00	\$0.50
First response surcharge:	-	\$0.75
GIS surcharge:	\$0.26	-
Total:	\$1.26	\$1.25

“First response surcharge” did not apply under old law, but applies under new law. “GIS surcharge” applied under old law but not under new law. (“GIS surcharge” refers to Rhode Island General Laws § 39-1-62, “Geographic information system (GIS) and technology fund”, which has been repealed.) “Education fund” refers to Rhode Island General Laws § 39-1-61, “Rhode Island telecommunications education access fund”, which remains in effect.

SEMINAR FOR TAX PREPARERS IS SCHEDULED

The Division will hold the seminar at the Community College of Rhode Island (CCRI) Newport County Campus in Newport on Friday, November 8, 2019. The seminar will be repeated on Friday, December 13, 2019, at CCRI's Knight Campus in Warwick.

The seminar is free, but pre-registration is required. Those planning to attend are allowed to sign up for only one session – whichever is most convenient for their schedules.

Registration information is available at the Division of Taxation website, under "Online Services":

<http://www.tax.ri.gov/onlineservices/>

(Note: Once you use the link above to click through to the webpage, scroll down on that page to the "Practitioners' Corner" section.)

"As we did in the 2018 seminar, we wanted to give preparers a chance to meet with us, get their questions answered, and be briefed on changes – all well in advance of the coming filing season," said Rhode Island Tax Administrator Neena Savage.

"We have some significant changes that we are working to implement for the coming season, and we want to give preparers a heads up."

The Division of Taxation, prior to each filing season, typically sends representatives to meetings sponsored by trade associations whose

members are preparers.

Such presentations are typically only for members of a particular trade association and are sponsored by that group.

The seminar at CCRI is sponsored by the Division of Taxation and is open to any paid preparer.

"With this free seminar, we hope to reach tax return preparers who are employed by national, regional, or local tax preparation firms, as well as those who prepare returns seasonally and may be self-employed and not part of a professional association," Savage said.

CPAs, EAs, PAs, and other paid preparers are welcome to attend, too. "The seminar at CCRI is intended to supplement – not to replace – our regularly scheduled presentations to practitioner groups," she said.

"We value those professional groups and the important work they do, and the members of those groups are welcome to register for the CCRI seminar, too," she said. The CCRI seminar is for paid preparers. (The Division of Taxation typically meets separately with organizations of volunteer preparers.)

"CCRI is an invaluable resource for Rhode Island, and we are delighted and appreciative that CCRI once again made available its resources to us for this important seminar," Savage added.



Newport County Campus: The seminar for tax preparers will be held at the CCRI Newport County Campus (see photo above) in Newport on Friday, November 8, 2019, from 9:00 a.m. to 12:00 noon, in the main auditorium.



Knight Campus: The seminar for tax preparers will be repeated at CCRI's Knight Campus (see photo above), in Warwick, on Friday, December 13, 2019, from 9:00 a.m. to 12:00 noon, in Presentation Room No. 4080.

Photos courtesy of CCRI

E-file reminder



For those filing on extension, the Rhode Island Division of Taxation will accept the following returns under its electronic filing program (e-file):

- Form RI-1040
- Form RI-1040NR
- Form RI-1120C
- Form RI-1120S
- Form RI-1065

NEW CHIEF NAMED FOR TAX ASSESSMENT & REVIEW

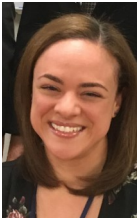
Leo R. Lebeuf has been promoted at the Rhode Island Division of Taxation to the rank of chief, Tax Assessment & Review.

He formerly served as chief of the Personal & Corporate Income Tax unit.

In his new role, he will oversee a section that administers excise taxes (including the sales and use tax), the estate tax, the corporate income tax, and the personal income tax.

He replaces Marlen Bautista, who has moved to a job outside of State government. "We are fortunate to have

had Marlen's expertise, and we thank her for her years of service," said Rhode Island Tax Administrator Neena Savage.



MARLEN BAUTISTA

"I am pleased to welcome Leo as her successor. He was chosen from among a very strong field of candidates. He brings with him experience in both the private and public sectors. He is also well-versed in the Division's new agency-wide computer system known as STAARS," Savage said.

Born and raised in Pawtucket, Rhode Island, and a graduate of Tolman High School, he studied accounting at Bryant University in Smithfield, Rhode Island.



Promoted: *Leo Lebeuf has been promoted at the Rhode Island Division of Taxation to the rank of chief, Tax Assessment & Review. He will oversee administration of the personal income tax, corporate income tax, sales tax, and other levies.*

.Worked through college

Lebeuf worked his way through college, managing a local McDonald's restaurant.

After graduating in 1996 from Bryant with a degree in accounting, he continued managing for McDonald's before joining the Division in October 1996 as a revenue officer in the Compliance & Collections section.

Lebeuf took a job in Field Audit in 1998 as a revenue

agent, then moved to Corporate Tax in May 2008 as a principal revenue agent.

While there, he helped to craft the Division's regulation on mandatory unitary combined reporting.

In a ceremony at the State House in August 2017, the Division was officially named by Rhode Island Governor Gina M. Raimondo as a recipient of the 2017 Executive Branch Employee Recogni-

tion Award for Outstanding Government Service.

Savage formally accepted the award on behalf of a Division team, including Lebeuf, which led the installation and implementation of the new computer system.

Guest speaker

He has represented the Division at numerous seminars and workshops, including those sponsored by the Internal Revenue Service's Volunteer Income Tax Assistance (VITA) program and the AARP Foundation's Tax-Aide program.

He has also been a guest speaker at events sponsored by the Rhode Island Society of Certified Public Accountants, the Rhode Island Association of Public Accountants, the Rhode Island Society of Enrolled Agents, the National Association of Tax Professionals, and others. In addition, he has represented the Division in tax programs on Rhode Island's public television station (WSBE Rhode Island PBS).

He and his wife reside in Pawtucket with their three children. Active in his community, Lebeuf is president of Pawtucket Youth Soccer and scoutmaster of Boy Scout Troop 18 in Pawtucket.

Legal Corner

RECENT STATE TAX CASES IN SUMMARY

Following is a summary of tax-related cases in which final decisions were made after administrative hearings. By law, decisions are public information, but taxpayer information cannot be disclosed. Administrative Decisions are online at www.tax.ri.gov

OTP tax

At issue is whether the taxpayer -- a business -- owes tax on "other tobacco products" and, if so, whether any sanctions should be imposed.

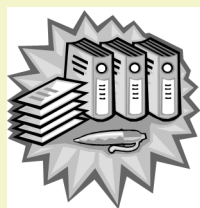
In general, the term "other tobacco products" -- also known as "OTP" -- refers to tobacco products other than cigarettes.

OTP generally includes cigars, cheroots, stogies, pipe tobacco, chewing tobacco, snuff, hookah, shisha, and "mu'assel" tobacco.

In February 2019, on an inspection of the taxpayer's business, Division inspectors seized OTP for which the taxpayer could not verify that tax had been paid.

The Division then issued a notice of cigarette dealer's suspension and notice of deficiency for the unpaid tax on the OTP.

The taxpayer appealed and a hearing was held, but the taxpayer did not appear at the hearing.



Rhode Island Tax News provides only summaries of some recent tax-case decisions, which are based on specific facts and circumstances.

The summaries are merely informative and provide general information. To determine how state tax laws and regulations apply to your particular circumstances, please consult your tax professional.

It turns out that the taxpayer had two previous tobacco tax violations, which were settled by stipulation with the Division.

Because of the taxpayer's prior violations, the Division imposed penalties which, as allowed under the law, were greater than would otherwise apply.

On July 10, 2019, Hearing Officer Catherine R. Warren concluded that the taxpayer owes the tax and penalties as assessed by the Division.

She also determined that the taxpayer's license be considered suspended for 12 days.

On July 10, 2019, Tax Administrator Neena Savage adopted the hearing officer's decision and recommendation.

-- [Final Decision and Order No. 2019-04](#)

Personal income tax

The Division determined that a taxpayer had Rhode Island-source income for the 2010 tax year, based on Forms 1099 and W-2. The taxpayer had not filed a personal income tax return with the Division for that year.

The Division then prepared a return for the taxpayer as a single filer with a standard deduction. The Division determined the amount of tax due, as well as related interest and late-filing and late-payment penalties.

The taxpayer was sent a notice and requested a hearing but did not appear at the hearing on the scheduled date and time.

On September 17, 2019, the hearing officer concluded that the taxpayer had Rhode Island-source income for the 2010 tax year but did not file a Rhode Island return for that year.

(Please turn to next page)



Tax hearings

Any taxpayer aggrieved by the action of the Tax Division in determining the amount of tax, surcharge, or penalty, may make written request for a formal hearing.

The taxpayer is first afforded an opportunity to have a preliminary review. Should the matter not be resolved, it may then proceed to formal hearing under the terms of the state Administrative Procedures Act (Rhode Island General Laws § 42-35-1 et seq.) and Division of Taxation regulation 280-RICR-20-00-2.

If not satisfied with the outcome, the taxpayer may appeal to Sixth Division District Court (Rhode Island General Laws § 8-8-24 et seq.).

Legal Corner

RECENT STATE TAX CASES IN SUMMARY (FROM PREVIOUS PAGE)

She also concluded that the Division properly prepared a 2010 Rhode Island personal income tax return on



the taxpayer's behalf and that the taxpayer owes the tax as well as the interest and penalties as assessed.

On the same date, the tax administrator adopted the

hearing officer's decision and recommendation.

-- [Final Decision and Order No. 2019-05](#)

COURT CASE INVOLVING CAR LEASE AND CAR TAX

Several years ago, a taxpayer leased a new 2009 Nissan Altima.

The Town of North Providence assessed local property tax (also known as car tax) on the vehicle and sent the bill to the owner of vehicle: the leasing company.

The leasing company then sent the taxpayer the monthly car lease bill.

On that bill, the leasing company decided to separately list the amount of the car tax. (It is not clear whether the leasing company decided to separately list, on the bill, any other taxes or fees for which the leasing company was legally responsible.) The leasing company also separately listed on the bill the amount of sales tax charged on the car tax.

In November 2011, the taxpayer filed a refund claim for the amount of sales tax that was charged on the car tax. (The refund sought was for \$97.30.)

The Division denied the claim. The taxpayer appealed, and in September 2012, following a hearing, the Tax Ad-

ministrator denied the claim for a refund. (See [Administrative Decision 2012-11](#).)

The taxpayer then appealed to the Sixth Division District Court in Providence.

The central issue in the case is whether the property tax assessed on the taxpayer's leased vehicle should be included in the sales price for purposes of a sales tax assessed on the leased payments made by the taxpayer to the leasing company, wrote Administrative Judge Elaine T. Bucci.

The taxpayer claimed that the property tax on the vehicle in question should not be subject to a sales tax.

He asserted that the term "sales price" for Rhode Island sales tax purposes does not include any taxes legally imposed directly on the consumer that is separately stated on the bill.

Judge Bucci determined that the law would only exempt a sales tax on the property tax if the tax was legally imposed on the taxpayer, not on the leasing company.

In this case, although the property tax is separately stated on the taxpayer's bill, the tax was not legally imposed on him.

In essence, the leasing company passed its obligation for the property tax onto the taxpayer, via the lease agreement. Thus, the taxpayer is responsible for the property tax based on the contract with the leasing company, but the taxpayer is not legally responsible to the Town of North Providence for the property tax, Judge Bucci wrote.

Furthermore, the law clearly states that the tax applies to the "sales price" in a given transaction without deduction for all taxes (except those that are legally imposed on the consumer and that are separately stated on the invoice). Thus, the sales price does include the amount of the property tax.

Here, the imposition of the sales tax on the property tax is legally imposed on the [leasing company], and ultimately paid by the [taxpayer], pursuant to the lease agreement, Judge Bucci wrote.

Tax tip line



If you have information about wrongdoing involving state taxes, call the tax fraud tip line at (401) 574-TIPS or (401) 574- 8477 and leave a message.

The line is staffed by the Rhode Island Division of Taxation's Special Investigation Unit, which follows up on all tips. Callers can leave their names and contact information or remain anonymous. You may also [leave your tip online](#).

"Although this Court recognizes and appreciates the Taxpayer's frustration with the taxing structure in this matter, it is not the role of this Court to usurp the power of the Legislature. Although the Court sympathizes with the Taxpayer, it must uphold the law" for the reasons detailed in the decision, Judge Bucci wrote.

The court ruled that the taxpayer is not entitled to a refund for the sales tax he paid on the property tax in this case. The court affirmed the final decision and order issued by the tax administrator in 2012. The court also denied and dismissed the taxpayer's appeal.

(Note: The decision in this case, A.A. No. 12-193, was issued August 27, 2019.)

Practitioners' Corner**QUESTIONS AND ANSWERS ABOUT STATE TAXES**

Q: I represent a multi-member LLC which is located in another state and which owns Rhode Island real estate. I understand that if the LLC sells the real estate, there's a withholding tax involved. How can I get more information about that tax?



We have a regulation which focuses entirely on the withholding tax on the sale of real estate by nonresidents. To view a copy, click [here](#).

Our website has a page which includes the various forms and instructions. Click [here](#).

If you still have questions, call us at (401) 574-8829 and select option #4. The line is typically staffed from 8:30 a.m. to 3:30 p.m. business days.

Q: If I'm eligible for the Section 179 deduction at the federal level, but I don't claim it at the federal level, can I claim it at the Rhode Island level?

No. Rhode Island follows federal law for Section 179 purposes. That's because of legislation enacted in 2013,

which generally took effect on January 1, 2014. Thus, because the provisions of Section 179 were expanded by federal law enacted in

December 2017 (the Tax Cuts and Jobs Act, or TCJA), Rhode Island follows suit. That's a potentially significant benefit for Rhode

Island taxpayers.

However, for purposes of corporations, pass-through entities, and individuals, Rhode Island allows the Section 179 deduction only if it is claimed at the federal level.

For more about the Section 179 deduction for Rhode Island tax purposes, see page 13 of the Division's second-quarter 2019 newsletter. To view the newsletter, click [here](#).

Q: For taxpayers that need to request penalty relief on underpayment due to Section 965 inclusion, the final regulation states that the taxpayer should send in a written request for relief. Is there a specific department/address to send this to, or is this something that should be in-

cluded in the filed return as a statement, or both?

After the return is filed, mail a letter to us explaining the circumstances and requesting the penalty relief, citing the regulation specifically. The address for your letter is:

Rhode Island Division of Taxation, Personal & Corporate Income Tax Unit, Penalty Relief Request, One Capitol Hill, Providence R.I. 02908

There's no need to include the penalty-request letter with the filing. But if you choose to do so, make sure that you still send a copy of the letter to us separately after the return has been filed, using the address above.

Some brief background: Under legislation approved by Congress and signed into law by President Donald Trump on December 22, 2017, taxpayers with untaxed foreign earnings must include, in income for federal tax purposes, their accumulated post-1986 deferred foreign income ("Section 965 income").

The Division of Taxation issued a number of Advisories, as well as a Regulation, to provide guidance on how to treat that income for federal tax purposes. The Regulation -- [280-RICR-20-25-15](#) -- also includes information about seeking penalty relief.

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About 'Practitioners' Corner'

The "Practitioners' Corner" feature provides general answers to some of the questions that the Tax Division encounters through the normal course of business.

The answers are intended solely to provide general information. They do not represent formal guidance, and are not substitutes for Rhode Island General Laws, Tax Division regulations, or Tax Division rulings.

Practitioners' Corner

QUESTIONS AND ANSWERS ABOUT STATE TAXES (CONTINUED FROM PREVIOUS PAGE)

Q: I'm a marketplace facilitator. In accordance with a Rhode Island law enacted earlier this year, I began collecting and remitting Rhode Island sales and use tax on July 1, 2019, on taxable products and services. Must I also collect and remit on specified digital products?

Yes. Legislation enacted July 5, 2019, requires the collection of sales and use tax on specified digital products starting October 1, 2019 – including collection by mar-



ketplace facilitators starting October 1, 2019.

“Specified digital products” include digital movies, TV shows, books, music, and related items. The term also refers to subscriptions to streaming audio and subscriptions to visual products (such as films, shows, and music), streamed or downloaded to computers, phones, and other devices.

Q: Is Rhode Island's new entity-level tax mandatory or elective? In some states, it's mandatory.

In Rhode Island, it's elective, not required.



Conference: Rhode Island Division of Taxation personnel, and others from the Rhode Island Department of Revenue, took part in a conference in August hosted in collaboration with the Hasenfeld Institute for Public Leadership at Bryant University, in Smithfield, Rhode Island. Workshops focused on leadership, customer service, computer software, and other topics.

Photo by Paul Grimaldi / Rhode Island Department of Revenue



Meeting: Rhode Island Tax Administrator Neena Savage (top left), who is president of the North Eastern States Tax Officials Association (also known as NESTOA), took part in numerous workshops during the group's annual meeting, which was held in September at the Omni Providence Hotel in Providence, Rhode Island.

Photo by Paul Grimaldi / Rhode Island Department of Revenue

~ A MESSAGE FOR TAX PROFESSIONALS ~



HEALTH INSURANCE MANDATE

Special
Notice

*A message for tax professionals from the
Rhode Island Division of Taxation*

Rhode Island's new mandate involving health-care coverage was part of the [fiscal year 2020 budget bill](#) proposed by Rhode Island Governor Gina M. Raimondo, approved by the Rhode Island General Assembly, and enacted on July 5, 2019.

- ◆ The mandate to have sufficient health-care coverage (known as “minimum essential coverage”) takes effect January 1, 2020.
- ◆ If you fail to have sufficient health-care coverage or qualify for an exemption, you will have to pay a penalty on your Rhode Island personal income tax return, starting in early 2021 (for the 2020 tax year).
- ◆ Most people have minimum essential coverage (through employer-sponsored health insurance, Medicaid, Medicare, TRICARE, or some other means) and will not have to pay the penalty.



Beginning January 1, 2020, Rhode Island will require its residents to maintain health-care coverage.

The new Rhode Island law requires you and your family to have minimum essential health-care coverage throughout 2020 and beyond, unless you qualify for an exemption.

Failure to have health coverage or qualify for an exemption will result in a “shared responsibility payment” (in other words, a penalty) when you file your 2020 Rhode Island personal income tax return.

[HealthSource RI](#), the [Rhode Island Division of Taxation](#), and the [Office of the Health Insurance Commissioner](#) will be providing further details about the mandate in the months ahead.

Note: If you are not required to file a 2020 Rhode Island personal income tax return, you will be exempt from the mandate for that year. The new Rhode Island law is similar to the federal health insurance mandate in effect on December 15, 2017, prior to enactment of the federal Tax Cuts and Jobs Act.



Rhode Island Department of Revenue Division of Taxation

NEWSLETTER POLICY

Rhode Island Tax News is a newsletter from the Rhode Island Department of Revenue's Division of Taxation. It is typically published each quarter. Its purpose is to provide taxpayers and tax professionals with general information regarding Rhode Island tax laws, regulations, and rulings, and procedures. It is neither designed nor intended to address complex issues in detail. Nothing contained in this newsletter in any way alters or otherwise changes any provisions of the Rhode Island General Laws, regulations of the Tax Division, or formal rulings. The Tax Division is at One Capitol Hill, Providence, RI 02908. Its website is www.tax.ri.gov.

HOW TO SUBSCRIBE

Rhode Island Tax News is distributed free, by e-mail, to those who have joined our listserv. If you are not on our listserv but would like to join, send an email to Neil.Downing@tax.ri.gov with the word SUBSCRIBE in uppercase in the subject block.

COMMENTS AND SUGGESTIONS

Unless otherwise indicated, all articles and photos in this issue are by the newsletter's editor, Neil Downing. If you have comments or suggestions for *Rhode Island Tax News*, please email: Neil.Downing@tax.ri.gov

BACK ISSUES

Rhode Island Tax News back issues are on the Tax Division website: www.tax.ri.gov

How to contact us

Taxpayers may contact the Division of Taxation online, by phone, by letter, or in person. (Hours of operation are typically 8:30 a.m. to 3:30 p.m. business days.)

Website

www.tax.ri.gov

(For numbers and e-mail addresses for specific sections, click the "Contact us" link.)

Mailing address

Rhode Island Division of Taxation
One Capitol Hill
Providence, R.I. 02908

Telephone

Phone: (401) 574-8829
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The following Division of Taxation personnel provided information or other assistance for this issue of Rhode Island Tax News:

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The Division of Taxation also thanks Hearing Officer Catherine Warren, as well as Paul Grimaldi, chief of information and public relations at the Department of Revenue, for their assistance.

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