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Just the beginning..

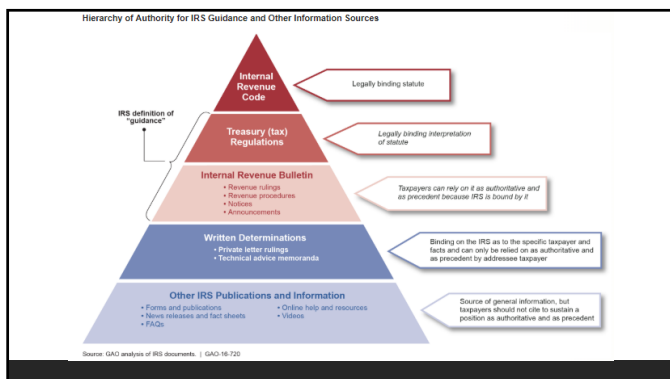
Signing of the TCJA on December 22, 2017 marked the beginning of change

- Treasury & IRS issuing guidance
- Drafting of the compliance forms and instructions
- Tax product software companies to incorporate all changes
- Tax practitioners to absorb, understand, apply and explain to clients

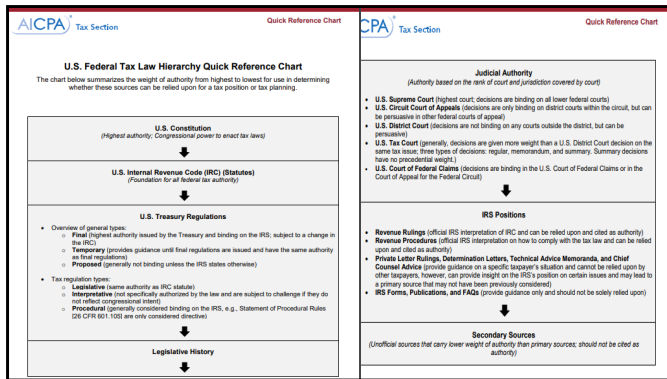
Simplifying the tax code was one of the promises attached to the Tax Cuts & Jobs Act

- Most practitioners would argue the opposite occurred!

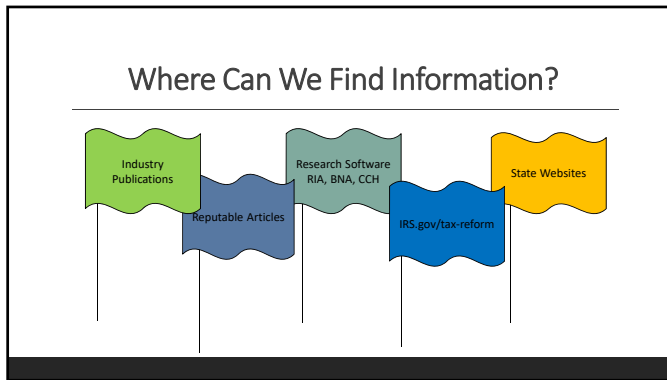
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WHAT GUIDANCE DO WE HAVE?

<https://www.irs.gov/newsroom/tax-reform-guidance>

- **13 Final Regulations**
 - Qualified Business Income Deduction §199A
 - Contributions in Exchange for SALT Credits
 - GILTI §951A
 - Transition Tax §965
 - Bonus Depreciation
- **36 Proposed Regulations**
 - Business Interest Expense Limitation §163(j)
 - Opportunity Zones (2) §1400Z
 - BEAT §59A
 - §199A Rules for Coops & their Patrons
 - §846 Discounting Rules for Insurance Companies
- **32 Revenue Procedures**
- **5 Revenue Rulings**
- **56 Notices**
 - §199A Safe Harbor: Rental Real Estate 2019-07
 - Expenses for Business Meals 2018-76

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What Do We Still Need?

Technical Corrections

- QIP Qualified Improvement Property 15 year life

Final and proposed regulations

- §461(l) Business Loss Limitations
- Reminder still waiting on final regs from the 1986 Act

More clarification

- What is a trade or business?
- Snacks and beverages provided by employer deductibility
- Court cases will help once more time has passed

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Best and Worst of the TCJA Awards

FAVORITE TCJA CHANGE

199A QBD	32%
Corp Rate Cut	6%
\$25M Small Biz Exception	38%
Increased Bonus 179	24%
34 votes - Final results	

LEAST FAVORITE TCJA CHANGE

163(j) Bus Int Limitation	36%
951A GILTI	2%
274(a)(4) N/O parking	17%
164(b)(6) SALT cap	45%
53 votes - Final results	

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1040 Redesign (Again): No Postcard

2018 FORM 1040

The 2018 Form 1040 is a standard individual income tax form. It includes sections for income (1-7), deductions (8-13), and tax (14-18). The form is designed to be filled out by taxpayers or their preparers. The 2018 version includes changes related to the Tax Cuts and Jobs Act, such as the new standard deduction and the elimination of the miscellaneous itemized deduction.

2019 FORM 1040

The 2019 Form 1040 is a redesigned version of the individual income tax form. It features a more streamlined layout with a clear distinction between income, deductions, and tax. The form includes sections for income (1-7), deductions (8-13), and tax (14-18). The 2019 version includes changes related to the Tax Cuts and Jobs Act, such as the new standard deduction and the elimination of the miscellaneous itemized deduction.

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New Form: 1040-SR US Tax Return for Seniors

- Available for 2019
- For use by taxpayers 65+
- Use of 1040-SR requires taking the standard deduction (similar to old Form 1040-EZ)
- No income limits to using the 1040-SR (unlike the 1040-EZ)
- Larger font size
- Better color contrasting
- Larger schedule showing the additional standard deduction
- Unlikely to get a lot of use

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Individual Tax Withholding

IRS introduced a new Tax Withholding Estimator in August 2019

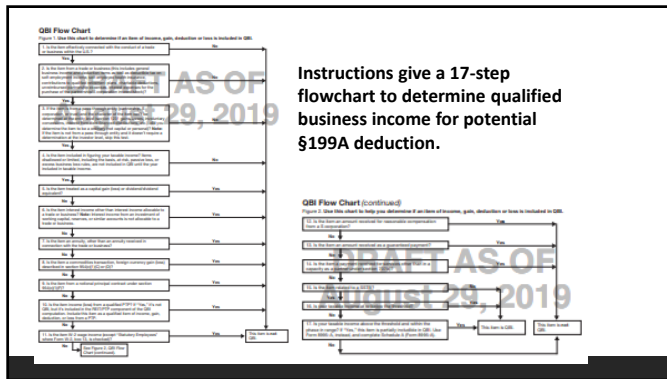
- <https://www.irs.gov/individuals/tax-withholding-estimator>
- Has been encouraging a "Paycheck Checkup" especially after tax reform changes
 - Ensure taxpayers have sufficient withholding to avoid surprise tax due and/or penalties
 - Reduce refunds to get more money during the year vs at tax time
- New withholding estimator is more user friendly, includes more situations
 - Employee and self-employed, retired
- Review Pub 505 Tax Withholding and Estimated Tax for complex tax situations
- Result is only as good as input!

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Revised Form W-4

- For use beginning in 2020
- Not required
- Employers will continue to use the most recently completed Form W-4
- Removed the concept of allowances (no more personal exemptions)

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§199A Rental Real Estate Safe Harbor

- **Notice 2019-07** released with a draft Rev. Proc. in January 2019 provided rental real estate a safe harbor **solely for the §199A QBI deduction**
- In September 2019, **Rev. Proc. 2019-38** finalized the procedure – largely following the draft.
- A positive change regarding **mixed-use rental properties** (single bldg. which has both commercial and residential units)
- **No correction of the QIP “retail glitch”** (39 to 15 year QIP life)
- The tax code still has not defined what is a “trade or business” (TOB)

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§199A Rental Real Estate Safe Harbor

- Under the safe harbor, a rental real estate enterprise will be treated as a TOB for §199A if **250 hours per year of rental services are performed** with respect to the rental enterprise
 - And has separate books/records for each rental on income/expense and hours/services performed
- **Triple net leases are prohibited from using the safe harbor** (doesn't preclude from 199A though)
 - Landlords with multiple NNN leases stand a good chance
- The safe harbor is not the only way to qualify for the QBI deduction, **analyze facts and circumstances** to make a determination if safe harbor is not available

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§199A Rental Real Estate Safe Harbor

- Taxpayers can treat each rental property as stand alone or group together ("enterprise")
- Commercial and residential real estate may not be part of the same enterprise grouping (except for mix-use property)
- Must be consistent with this treatment unless a significant change in facts
- The 250 annual hours of services test may be performed by owners, employees, agents or contractors and include:
 - Advertising, negotiating and executing leases, verifying rental applications and collecting rent, maintenance and repair of property, managing the real estate, supervision of EEs and contractors
- Qualifying rental services do not include:
 - Financial or investment management, reviewing financial statements, travel to and from properties

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Meals and Entertainment

- TCJA disallows previously 50% deductible entertainment expenses
- **Notice 2018-76** gives guidance on business meals in general and the comingling of client M/E
 - **Imperative food and beverage costs be separately stated on receipt from the entertainment component**
- Recall the exceptions that applied pre – tax reform that still apply
 - **Social gatherings for employees (holiday parties, picnics) 100% deductible**
 - However, now "onsite meals" previously 100% are now 50% deductible

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Expense Category	Deductible Amount	Tax Guidance
Company social events and facilities for employees (e.g., picnics, holiday parties, company golf course)	100%	IRC Secs. 274(e)(4) and 274(n)(2)(A)
Meals and entertainment included in employee or nonemployee compensation	100%	IRC Secs. 274(e)(2) and (9)
Reimbursed expenses under an accountable plan	100%	IRC Sec. 274(e)(3)
Meals and entertainment made available to the public	100%	IRC Sec. 274(e)(7)
Meals and entertainment sold to customers	100%	IRC Sec. 274(e)(8)
Business travel meals	50%	IRC Sec. 274(n)(1)
Client/customer business meals	50%	Notice 2018-76
Business meeting meals	50%	IRC Secs. 274(n)(5), 274(n)(1), and 274(e)(6)
De minimis food and beverages provided in the workplace (e.g., bottled water, coffee, snacks)	50%	IRC Sec. 274(e)(1)
Meals provided for the convenience of the employer (before 2025)	50%	IRC Sec. 274(n)
Employer-operated eating facilities (before 2025)	50%	IRC Sec. 274(n)
Nonseparately stated meals/beverages associated with entertainment activities	N/D	Notice 2018-76
Meals provided for the convenience of the employer (after 2025)	N/D	IRC Sec. 274(o)
Employer-operated eating facilities (after 2025)	N/D	IRC Sec. 274(o)
Personal, lavish, or extravagant meals/beverages in relation to the activity	N/D	IRC Secs. 274(n)(1) and (2)
Entertainment without an exception	N/D	IRC Secs. 274(a)(1) and (e)

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Reduction of Charitable Deduction for SALT Credits

- June 2019 the IRS issued **final regulations (TD 9864)** related to charitable donations made in exchange for a state tax credit
- Donors who receive something of value (quid pro quo) in return for a donation must reduce the value of the charitable deduction (longstanding principle)
- Federal donation deductions in exchange for tax credits must be reduced by the amount of the state credit
- Exception for donations that give SALT credits of not more than 15% of amount contributed
- If only a deduction against state taxable income is received in exchange for the charitable donation, no reduction in donation unless given deduction is an excess deduction

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SALT Donation Examples

Sam gives \$1,000 to a charitable entity or State that provides a **70% state income tax credit** in exchange for the donation.

- Sam's Federal donation is **reduced from \$1,000 to \$300** ($1,000 - (1,000 * .70)$)

Sam gives \$1,000 to a charitable entity or State that provides a **10% state income tax credit** in exchange for the donation.

- Since the tax credit received **does not exceed 15%** of the donation, **no reduction** of Federal charitable deduction is required.

Sam gives \$1,000 to a charitable entity or State that provides a dollar-for-dollar **deduction** on Sam's state tax return.

- Sam's Federal charitable donation amount is **not reduced**

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SALT Safe Harbor

Safe Harbor issued as well under **Notice 2019-12**, allowing certain taxpayers who itemize deductions to treat charitable deductions as state tax payments not in excess of SALT cap for the portion of payments disallowed as a charitable contribution deduction.

- Treatment as SALT payment allowed as itemized deduction in year resulting credit is applied
- Carryforward allowed and used as SALT deduction when state tax credit used to offset liability
- IRS intends to issue proposed regulations related to this safe harbor, but Notice may be relied upon until that time.

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Update to High Deductible Health Plans

• **Notice 2019-45** added to the list of HDHP compliant preventative care treatments for certain chronic conditions

• Class of care that doesn't require the deductible be met before HDHP pays out

• §223 requires taxpayer to be covered by a HDHP with no disqualifying coverage in order to contribute to a health savings account (HSA)

APPENDIX

Preventive Care for Specified Conditions	For Individuals Diagnosed with
Angiotensin Converting Enzyme (ACE) inhibitors	Congestive heart failure, diabetes, and/or coronary artery disease
Anti-refluxive therapy	Osteoporosis and/or osteopenia
Beta-blockers	Congestive heart failure and/or coronary artery disease
Blood pressure monitor	Hypertension
Inhaled corticosteroids	Asthma
Insulin and other glucose lowering agents	Diabetes
Retinopathy screening	Diabetes
Peak flow meter	Asthma
Glucometer	Diabetes
Thrombolytic A32 testing	Diabetes
International Normalized Ratio (INR) testing	Liver disease and/or bleeding disorders
Low-density lipoprotein (LDL) testing	Heart disease
Selective Serotonin Reuptake Inhibitors (SSRIs)	Depression
Statins	Heart disease and/or diabetes

Appendix to Notice 2019-45

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ACA Healthcare Mandates

• TCJA repealed (put to zero) the individual mandate penalty effective 2019 at the Federal level

• **States may impose** a requirement and penalty at their level

• **California** passed a law summer 2019 that will require its residents have health care, similar to the former ACA Federal individual mandate, starting in 2020. Penalty will be imposed on the CA return.

• **Employer mandate still in effect**

• **Keep filing Form 1094-C and 1095-C**

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Health Reimbursement Accounts (HRAs)

• June 2019 final regulations released: **TD 9867**

• Allow for employers of all sizes to offer an Individual Coverage HRA (ICHA) instead of traditional group plans starting in 2020

• Creates a new excepted-benefit HRA to allow employers to offer traditional group coverage plus reimburse employees for certain qualified medical expenses like dental and vision plan premiums.

• Employers subject to ACA's employer mandate may be able to use ICHRA to satisfy the requirement

• **Proposed Reg. §54-4980H-5** gives a safe harbor for employers to determine whether their ICHRA will meet coverage requirements.

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Miscellaneous Health Care Items

- The “**Cadillac Tax**” of the ACA has been delayed further until 2022
- Imposes an excise tax on the value of coverage over certain thresholds
- Potential for full repeal remaining a future possibility
- The **health insurer tax (HIT)** had also been suspended for 2019
- Another controversial ACA tax that is assessed on premiums collected and likely to be passed onto the consumer in premium increases
- Uncertainty to its future, no sign of delay
- IRS issued a notice in September 2019 stating a \$15.5B 2020 potential tax

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Virtual Currency: IRS Knows About You

- In July, 2019 IRS sent out 10,000 letters to known owners of virtual currency who may not have properly complied with related tax reporting.
- Three different types of letters:
 - **6173**: Jig is up! IRS is fairly certain you have not complied. Respond and correct or face potential audit, even if you feel you’ve properly reported.
 - **6174-A**: IRS knows you have cryptocurrency account, unsure if you’ve reported correctly. (No response required unless corrections needed)
 - **6174**: IRS knows you have a cryptocurrency account, sending information on how to report for taxes. (No response required unless corrections needed)

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Virtual Currency: Tax Reporting

- **Notice 2014-21** issued in 2014 provides tax reporting guidance
- **Revenue Procedure 2019-24 and FAQs** on IRS website issued in October 2019 supplements the 2014 guidance
- A new question on the 2019 Form 1040 for virtual currency transactions

SCHEDULE 1 (Form 1040 or 1040-SR) Department of the Treasury Internal Revenue Service	Additional Income and Adjustments to Income Attach to Form 1040 or 1040-SR. Go to www.irs.gov/Form1040 for instructions and the latest information.	OMB No. 1545-0048 2019 Attachment Sequence No. 01
Name(s) shown on Form 1040 or 1040-SR		Your social security number
At any time during 2019, did you receive, sell, send, exchange, or otherwise acquire any financial interest in any virtual currency? <input type="checkbox"/> Yes <input type="checkbox"/> No		

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Virtual Currency: Tax Reporting

- Virtual currency is treated as property for tax purposes, follow property transaction guidance.
- If received as payment for good/services, include FMV received as income in US dollars on date of receipt, which becomes your basis.
 - Subject to SE tax if applicable
 - "Miners" include in gross income
- Gain/loss is recognized when exchanged for other property.
 - Capital in nature if you're not in the business of selling virtual currency (it's not inventory)
- If held for investment, treatment is similar to traded stock, FIFO applies.
 - ST Capital gain/loss if held < 1yr
 - LT Capital gain/loss if held > 1yr
- If received as payment from employer, withholding for FICA, FUTA and income taxes applies.
 - FMV is included on Form W-2
- Paying with virtual currency requires filing Form 1099 if > \$600, same as paying with cash. Use the FMV on payment date as reportable value paid.

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Virtual Currency: Tax Reporting

- Track basis in your virtual currency each time a transaction occurs:
 - As receipt for payment, FMV reported as income is now your basis in the property
 - As payment for goods/services, basis offsets FMV at date of payment in gain/loss calculation
- Example:
- George is an artist and is paid for a sculpture in 1 bitcoin with FMV of \$500. George reports the \$500 into current income on his Schedule C, and has a bitcoin asset of \$500.
- Later, George uses his 1 bitcoin to buy a desk with his 1 bitcoin current FMV now \$750. George has a capital gain of \$250 to report. $\$750 - \$500 = \$250$ gain

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New Legislation: Taxpayer First Act of 2019

Signed into law July 1, 2019

- Codifies an **Internal Revenue Independent Office of Appeals**
 - Previous internal revenue procedure, now under §7803(e)(3)
 - Goal is to fairly and impartially resolve tax disputes without litigation
- Direct the IRS to submit to Congress, within 1 year, a comprehensive **customer service strategy** that improves relationships with taxpayers
 - Practitioners Division is being anticipated as a potential outcome
- Various taxpayer friendly topics
 - **Fee waiving for offers in compromise** to low income taxpayers
 - Enhanced **whistleblower** processes
 - Improve **security and identity theft** program
- The IRS must now **provide "helpful information"** while taxpayers are on hold...(no more music?!)
- General information on common tax scams and how/where to report
- How taxpayers can protect themselves from identity theft
- **IP PINs** to be available upon request of any taxpayer
 - Used in conjunction with taxpayer SSN to assist in verification

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Transcript Availability Changes

Changes:

- No more faxing tax transcripts to taxpayers, professionals, or third parties
- No more mailing tax transcripts to third parties
- To protect against identity theft

How can taxpayers get a transcript?

- <https://www.irs.gov/individuals/get-transcript>
- Request Online
 - Register and verify identity
- Request by Mail
 - Sends to the address on file with IRS

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Interesting Odds & Ends

- **Final regulations TD 9861** on July, 3 2019 confirmed the use of truncated SSNs on employee copies of Form W-2
 - For tax year 2020+
 - Optional
- **Rev. Rul. 2019-19** Taxability of Retirement Plan Distributions
 - Not dependent on when the check is cashed
 - Included into income in the year of distribution
 - Think constructive receipt
 - 1099-R will be required in the year of distribution

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Interesting Odds & Ends

23andMe, Inc **received a favorable PLR (Private Letter Ruling)** stating a medical deduction would be allowed for the portion of their testing that was related to health services.

A DNA collection and testing service that provides ancestry information as well as genetic health risks, carrier status, wellness and other health related traits.

The IRS concluded:

- A reasonable method to value and allocate health services cost is required
- If a taxpayer purchases only DNA testing for the ancestry results, no medical deduction would be allowed

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LB&I Campaigns

- Restructured in 2016 to make the best use of limited resources
- Moving towards issue-based exams, outreach, and education
 - Voluntary compliance/soft educational letters
 - Targeted areas of suspected non-compliance
 - Some of the largest businesses will still have continuous audits
- <https://www.irs.gov/businesses/corporations/lbi-active-campaigns>
- Related Party Transactions
- S Corp Losses, Distributions in Excess of Basis, Built in Gains
- Virtual Currency

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Wayfair & State Nexus

June 2018 the U.S. Supreme Court ruled in favor of the state in **South Dakota v. Wayfair, Inc.**

- **Allows a state to collect SALES tax on remote sales**
- Previously a taxpayer had to have physical presence in the state to create nexus
- Now economic nexus is allowed and can be based on sales revenue and/or transaction volume in a state
- Many states have enacted laws to collect sales tax based on this outcome
- **P.L. 86-272** still applies to protect remote sellers of **tangible goods** from **INCOME tax**

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Retirement Legislation

House passed the Secure Act in May 2019

Not vet law, but important implications of what may eventually occur

- Increase RMD age from 70 ½ to 72
- Remove age restrictions on IRA contributions
 - Current limit is 70 ½, no age-based restriction for Roths
- 401(k)s available for part-time employees
 - Currently need to work 1,000 hours/year to enroll
 - Change to 500 hours
- Make it easier for 401(k) plans to offer annuities
 - Require 401(k) statements to tell participants lifetime income potential vs a current balance
- Incentives for small business to offer retirement plans
 - Increase the tax credit for 50% of plan start-up costs from \$500 to \$5,000
 - Create a new \$500 credit for plans that have automatic enrollment
 - Allow small businesses to join together to provide plans for employees
- **Change mandatory withdrawal period for inherited IRAs**
 - Currently over beneficiary life expectancy
 - Change to 10 years, with some exceptions

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