



2024 State and Local Tax Update



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INTRODUCTION



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FIRM OVERVIEW

McKonly & Asbury is a team of CPAs and Business Advisors serving clients from our offices in Camp Hill, Lancaster, Bloomsburg, and Philadelphia.

We provide **Advisory & Business Consulting, Audit & Assurance, Entrepreneurial Support & Client Accounting, Internal Audit, Professional Placement, Tax, and Technology** services to a variety of industries including:



Affordable Housing



Construction



Employee Benefit Plans



Family-Owned Business



Healthcare



Manufacturing & Distribution



Nonprofits



AGENDA

- Determining State Nexus
- Pennsylvania Budget and Updates
- Pass through entity Taxes
- Trends in state taxation and recent updates
- Sales tax overview





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STATE NEXUS

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- Types of Nexus
 - Income Tax
 - Excise Tax
 - Sales Tax
 - Business Registration
- Wayfair – 6 years later
 - Gross vs. Taxable Sales
 - Sales and/or Transaction Threshold
 - Indiana removed 200 transaction threshold effective 1/1/24
 - Wyoming removed 200 transaction threshold effective 7/1/24
- Application of Public Law 86-272
- Voluntary Disclosure Agreements





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PENNSYLVANIA UPDATES

PA BUDGET UPDATES

- Net Operating Loss update
- Expanded child & dependent care credit
- Employer childcare credit
- Personal income tax deduction for student loan interest
- Exemption for grease storage traps
- State level deduction for cannabis business expenses
- Removing exemption for data center equipment for crypto mining
- Missing from the budget: pass through entity tax



PA NET OPERATING LOSS

- Double limitation – 40% - 80%
- Starts to phase in for years starting after 12/31/24
 - 50% for tax years beginning in 2026
 - 60% for tax years beginning in 2027
 - 70% for tax years beginning in 2028
 - 80% for tax years beginning in 2029



OTHER PA UPDATES

- Continued corporate income tax rate reductions
- Section 179 Deduction
- Online sales tax exemption application for nonprofit organizations
- Pennsylvania Supreme Court Case: Philadelphia DOR vs. taxpayer
 - Claim of double taxation





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PASS-THROUGH ENTITY TAXES

PASS-THROUGH ENTITY TAXES

- \$10,000 SALT cap with passing of Tax Cuts & Jobs act
- IRS granted a workaround for states
- Most states have passed a PTE regime
- What state return are you filing?
 - Partnership/S Corp tax return
 - Composite Tax Return
 - Pass Through Entity Tax Return



TIMELINE

- 12/22/2017: Tax Cuts & Jobs Act caps SALT deduction at \$10,000
- April 2018: Connecticut becomes the first state to allow a pass through entity tax
- 11/9/2020: IRS Notice 2020-75 allowing PTE Taxes
- 12/31/2025: Tax Cuts & Jobs Act Provisions Expire



PASS-THROUGH ENTITY TAX CONSIDERATIONS

- Mandatory vs. Elective
 - If elective, revocable or irrevocable
 - If elective, deadline to elect
- Annual Election or one time?
- Eligible Partners & Residents/Nonresidents
- Rate of PTE tax (can be higher than individual bracket)
- Estimated payments required
- Allowable resident credit/credit for taxes paid to other states



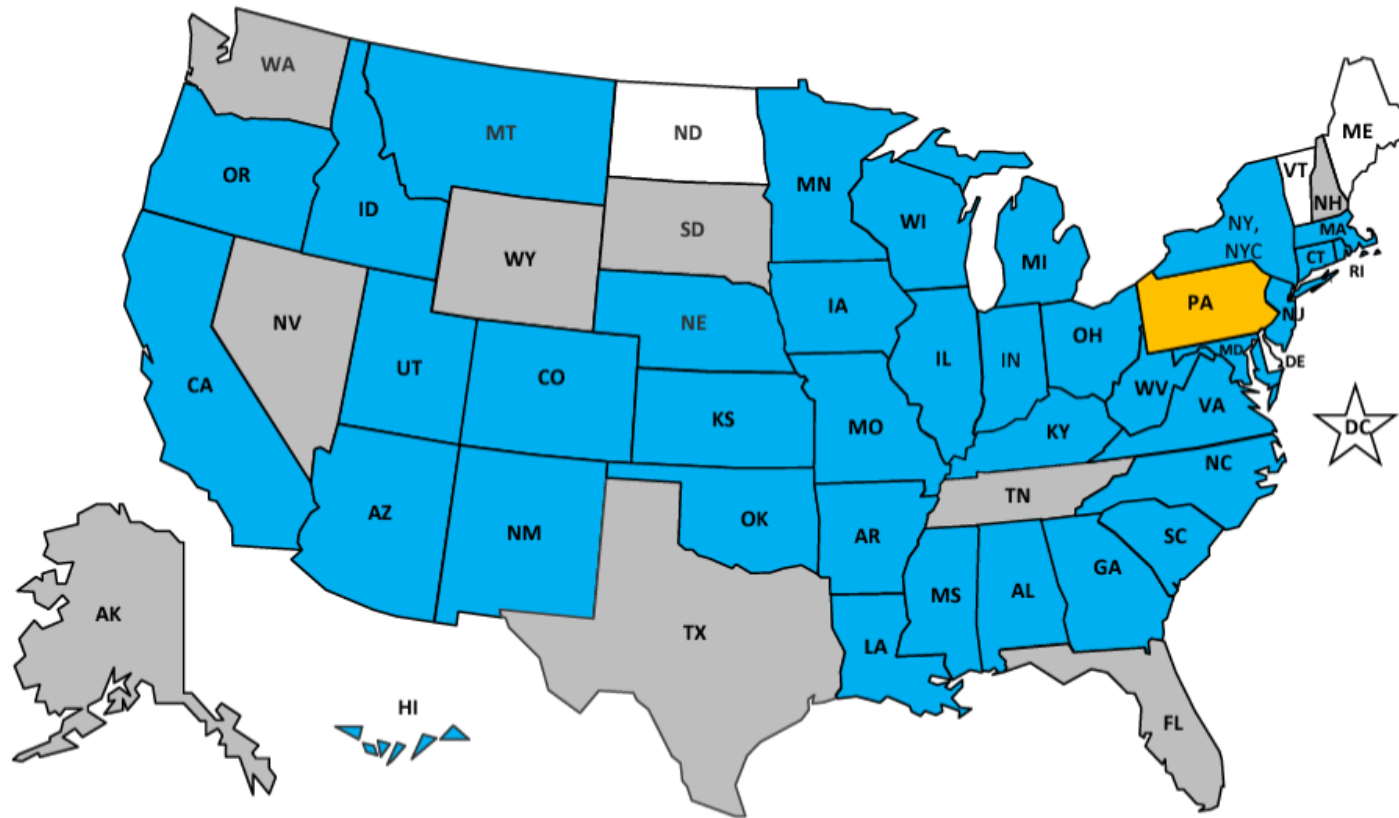
PASS-THROUGH ENTITY TAX CONSIDERATIONS

- Some rely on owner credit, others exclude the income
 - Can credit be carried forward?
- Will credit for taxes paid in other states be allowed at individual level if it is a PTE tax?
 - Some states with PTE say they will allow if other state's tax is "substantially similar" – what does this mean?
 - Even for partners/shareholders in a non-tax jurisdiction (FL, TX), the indirect federal benefit of the tax deduction remains.
- Some automatically end when SALT cap is phased out (after 2025)



States with Enacted or Proposed Pass-Through Entity (PTE) Level Tax

As of May 14, 2024



● 36 states (& 1 locality) that enacted a PTE tax since TCJA SALT deduction limitation, effective for 2021 (or earlier) unless noted:

[AL](#), [AR](#)¹, [AZ](#)¹, [CA](#), [CO](#)³, [CT](#)⁴, [HI](#)², [GA](#)¹, [IA](#)¹, [ID](#), [IL](#), [IN](#)¹, [KS](#)¹, [KY](#)¹ (& [KY](#)), [LA](#), [MA](#), [MI](#), [MD](#), [MN](#), [MO](#)¹, [MS](#)¹, [MT](#)², [NC](#)¹, [NE](#)³, [NJ](#), [NM](#)¹, [NY](#), [OH](#)¹, [OK](#), [OR](#)¹, [RI](#), [SC](#), [UT](#)¹, [VA](#), [WI](#), [WV](#)¹, and [NYC](#)¹

¹ Effective in 2022

² Effective in 2023 or later

³ Retroactive to 2018

⁴ Mandatory 2018-2023, elective starting 2024

● 1 state with active proposed PTE tax bills:
PA – [SB 659](#) in Senate committee; [HR 1584](#) in House committee

● 9 states with no owner-level personal income tax on PTE income:
AK, FL, NH, NV, SD, TN, TX, WA, WY

○ 4 states with an owner-level personal income tax on PTE income that have not yet proposed or enacted PTE taxes:
DC, DE, ME, and ND



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TRENDS IN STATE TAXATION

RECENT STATE UPDATES

- Tennessee removes property measure of franchise tax
 - Refundable for past 3 tax years
- Many state rate cuts to both individual and corporate taxes
- Retail Delivery Fees
 - Colorado retail delivery fee on items that are subject to the sales tax.
 - Minnesota will impose a \$0.50 Road Improvement and Food Delivery Fee for certain transactions over \$100 involving retail delivery within the state. There are some exemptions but it does apply to items that are not subject to sales tax.



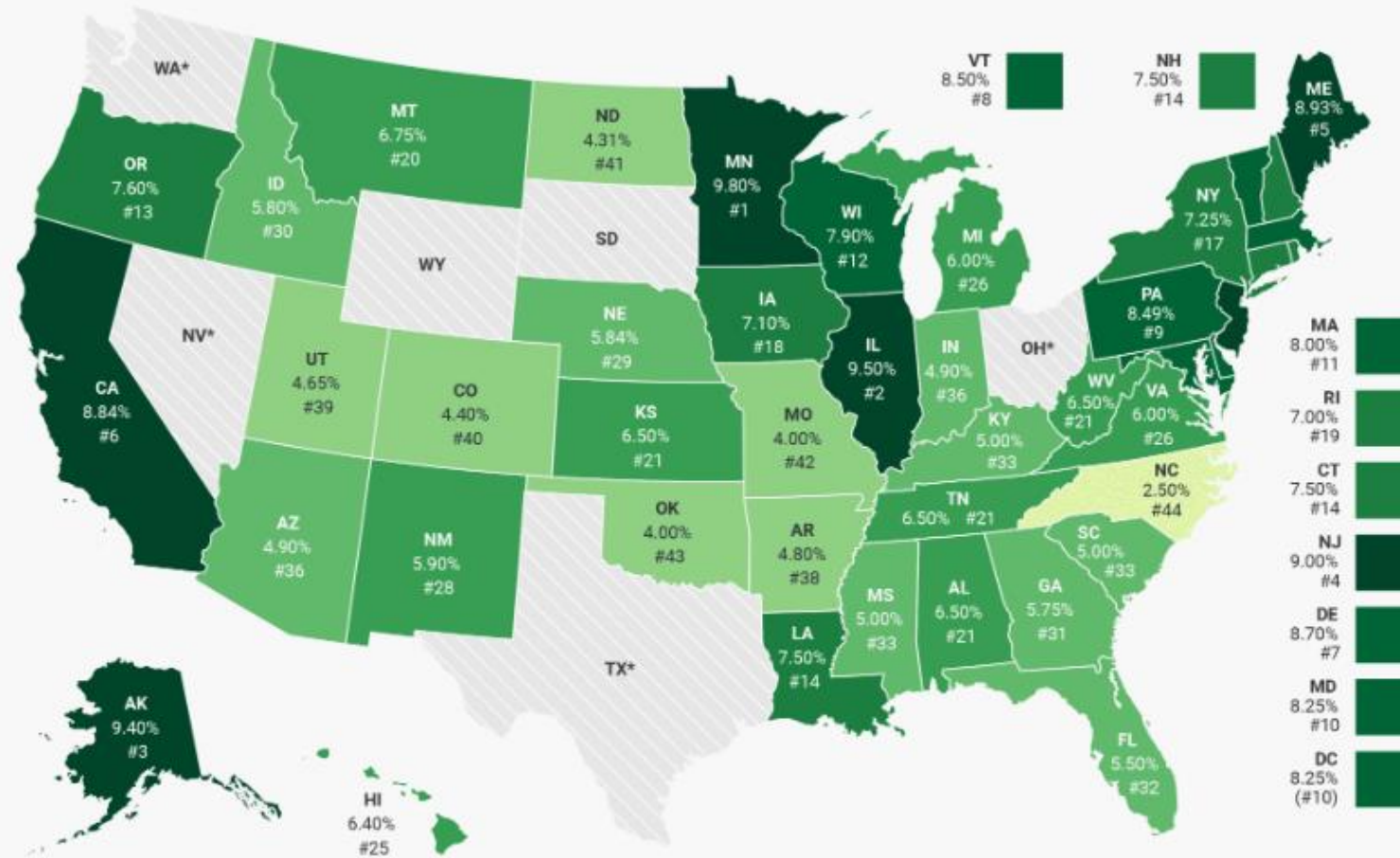
RECENT STATE UPDATES

- New Jersey increase to gas tax over the next 5 years totalling \$.10/gallon
- Digital Advertising Taxes
 - Maryland
 - Nebraska bills introduced & other states



How High Are Corporate Income Tax Rates in Your State?

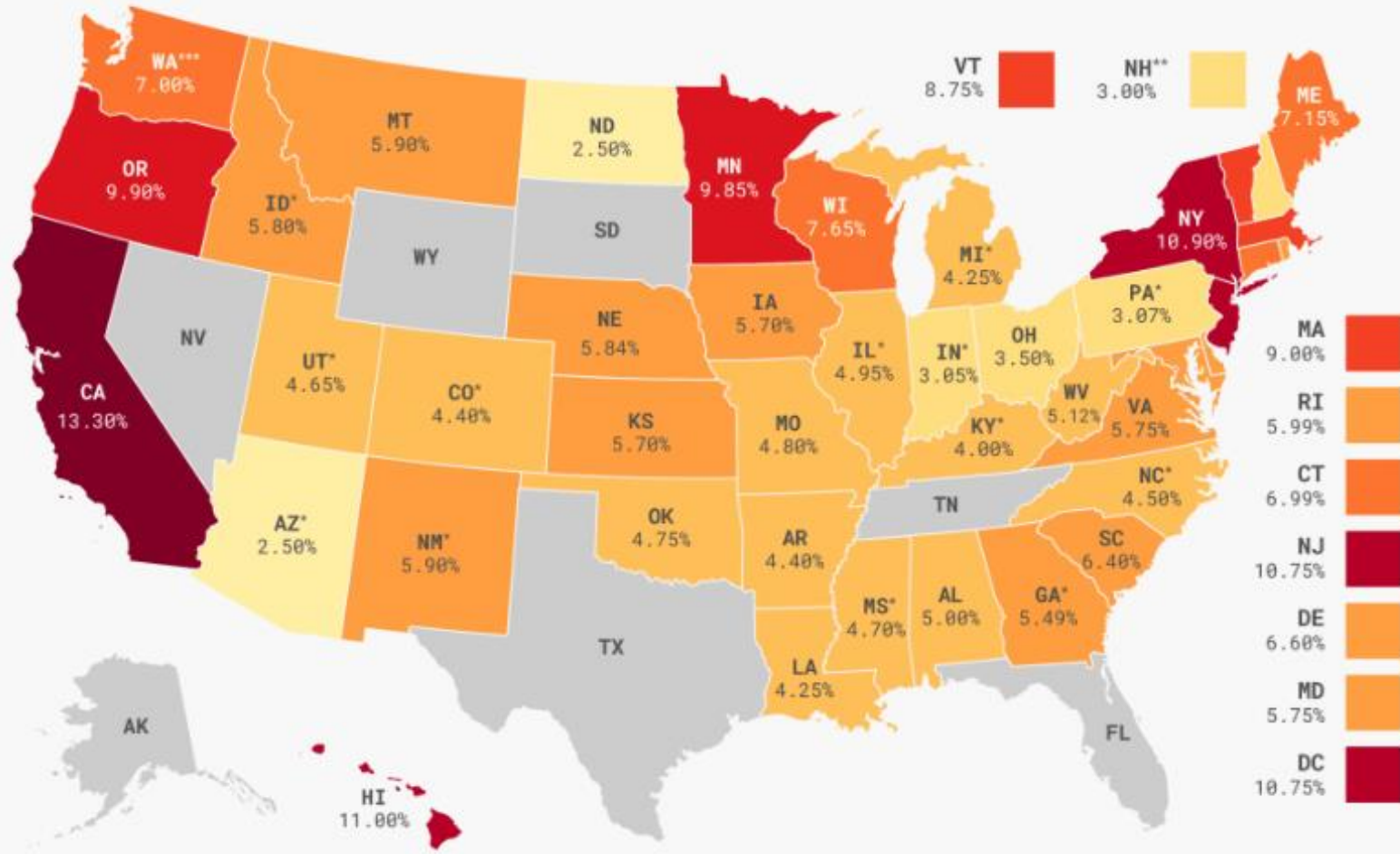
Top Marginal Corporate Income Tax Rates as of January 1, 2024



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Top Marginal State Individual Income Tax Rates (as of January 1, 2024)

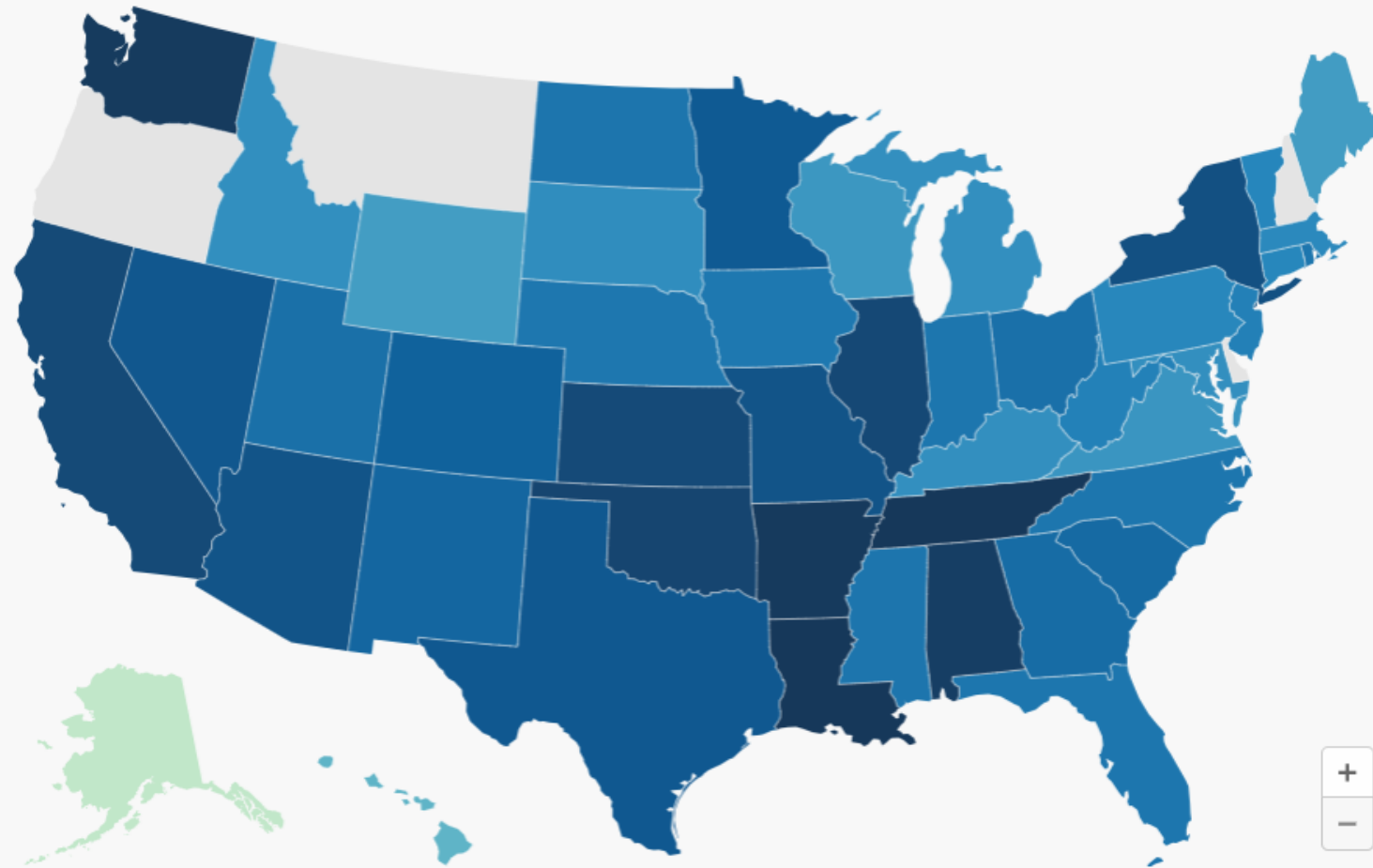


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How High Are Sales Taxes in Your State?

Combined State & Average Local Sales Tax Rates, July 2024



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SALES TAX

SALES TAX CONSIDERATIONS – INCIDENCE OF TAX

- Nexus
- Sales vs. Use tax
- State Differences – rates & otherwise
- Sourcing of a sale
- Basis of tax – shipping/handling, discounts
- Drop Shipping



SALES TAX CONSIDERATIONS – TAXABILITY

- Exemptions vs. Nontaxable items
 - Use of exemption certificates
- Services
 - Computer services, software, digital products
- Contractors
 - Real property, repair, installation
- Manufacturing
- Nonprofits & Government
 - Occasional sales



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UPCOMING EVENTS

AUGUST 29 WEBINAR



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SEPTEMBER 12 WEBINAR



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