

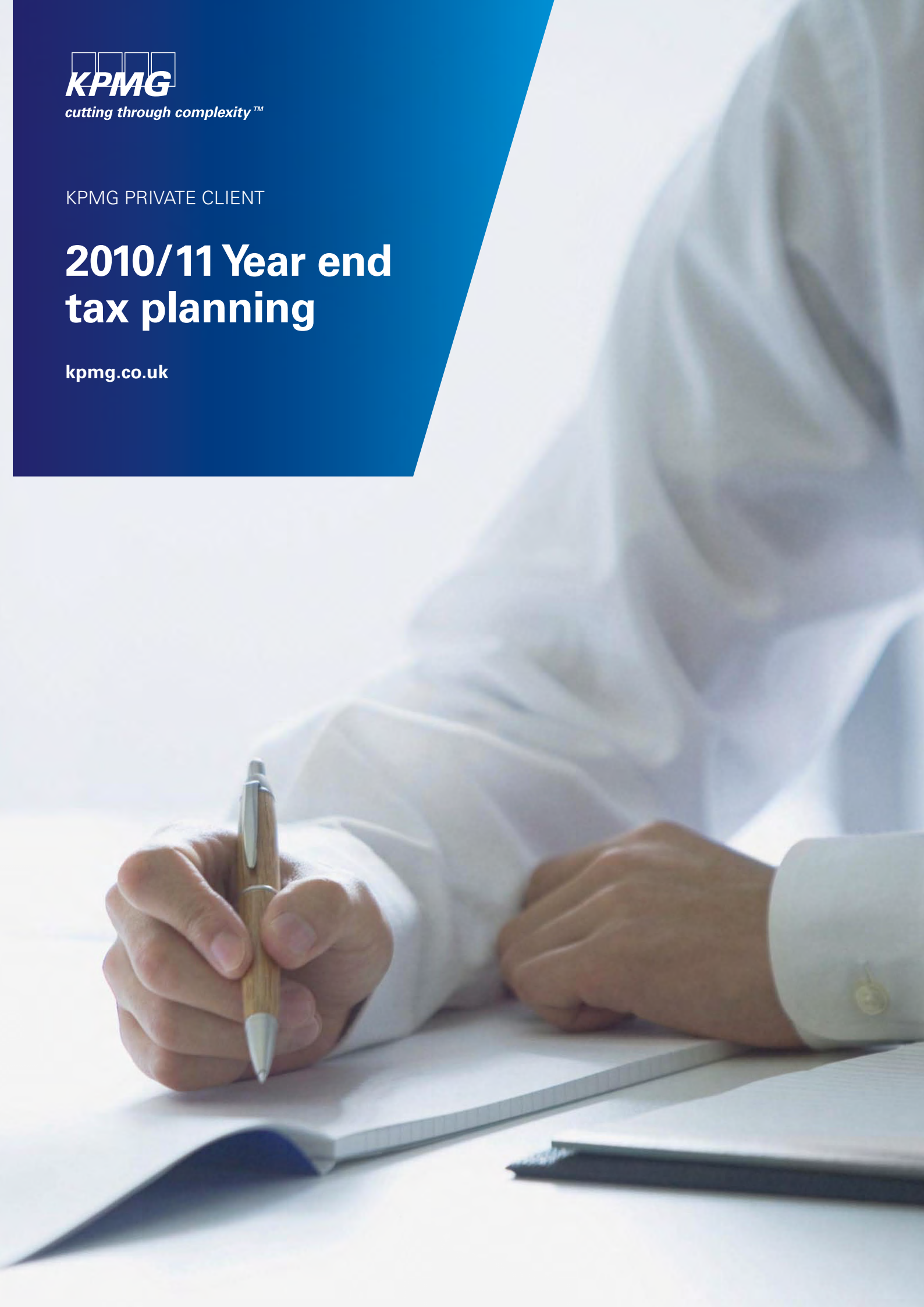


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2010/11 Year end tax planning

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Things to do before Tuesday 5 April 2011

The current tax year ends on Tuesday 5 April 2011, and it is important before then to consider personal tax planning strategies that could mitigate your overall UK tax liability.

This year the 2011 Budget will be held on 23 March 2011. Although the Coalition Government's new approach to introducing changes to the tax legislation includes moving the timetable for changes such that the March 2011 Budget should be focused on content for Finance Act 2012, we expect announcements of tax changes for the tax year ended 5 April 2012. Some may take effect from 23 March if Parliament approves them. It is possible, though not the normal practice, for Parliament to make changes effective from dates before the Budget.

There are risks inherent in taking action to create a tax charge before a Budget, these include that tax maybe paid earlier than if no action had been taken; that the tax liability may have been lower if action had been deferred until 23 March; and that the desired tax result may not be achieved because new legislation makes it ineffective. The purpose of this checklist is to provide you with a list of planning suggestions that if undertaken before 6 April 2011 could be of benefit to you. You need to decide whether to take action in the light of these risks.

Only brief details are given below and you should seek advice before implementing any action. For further advice please do speak to your usual KPMG contact or any member of the tax team. Please note that this document, which is not an exhaustive list, contains tax planning ideas and nothing in the document should be considered to be investment advice.

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Make use of spouses' lower rate tax bands by transferring income producing assets

1. Income Tax

General:

- Use your personal allowances. Married couples and civil partners can transfer income-producing assets outright to their spouse to make maximum use of their personal allowance and lower rate tax bands.
- Children also have their own personal allowances, even in the year that they were born. However, income of more than £100 that is derived from a parental gift will normally be assessed on the parent if the child is a minor and unmarried.
- Claim a tax refund. Your spouse, civil partner or family dependent may be paying tax on savings income or income from a trust or settlement even if their total income is below the tax threshold. Request and complete a tax rebate claim form from H M Revenue & Customs ("HMRC") for 2010/11, or register to have savings interest paid without tax deducted.
- Review your PAYE notice of coding. HMRC admitted last year that they had issued incorrect PAYE notice of coding for a significant number of taxpayers. In addition, HMRC are seeking to use the PAYE notice of coding to collect income tax in respect of say rental income and saving income. These can be removed from your PAYE notice of coding should you wish.
- Make charitable donations. Provided that you pay sufficient income tax at the basic rate (being 20%) you should be able to obtain income tax relief at your marginal rate for cash donations made under gift aid. A transitional relief that has been available to charities for gift aid donations comes to an end on 5 April 2011, as such donations are worth a bit more to the charity if paid on or before 5 April rather than if paid after. Tax reliefs are also available for gifts of qualifying interests in land and of qualifying investments.
- Bring forward employment income. Consider if there is scope for a bonus to be paid before 6 April 2011 before the additional 1% increase in both employer's and employee's national insurance contributions ("NIC") comes into effect. Please note that by advancing the income you will also bring forward the date the tax is payable.
- Bring forward expenditure on FHL, depending upon your cash flow. Provided that the conditions for FHL are met, you can claim to set any loss arising against other sources of income and gains. From 6 April 2011 onwards you will no longer be able to claim income tax loss relief against other sources of income; instead the loss will be set off against income from other FHLs. In addition, new stringent commercial conditions on the definition of an FHL will be introduced from 6 April 2012 onwards.





Investments:

- Review life assurance based investments. Whilst these products may allow a withdrawal of 5% tax free each year, on maturity or in the event of a full or partial early surrender the profits are subject to income tax. With careful planning you may wish to surrender these policies before 6 April 2011 so as to make full use of any surplus basic rate band that you have available. Please note that gains on some events are calculated by reference to the policy year rather than the tax year.
- Take advantage of tax free investment products. You can invest up to £10,200 in an ISA every tax year, of which up to £5,100 can be saved in a cash ISA with one provider. The remainder can be invested in stocks and shares with either the same or another provider.
- Make tax efficient investments. Discuss with your financial adviser whether you should, as part of your overall investment strategy, make an investment in a qualifying Enterprise Investment Scheme ("EIS") company or a Venture Capital Trust ("VCT"). These are higher risk investments with generous tax breaks. You can obtain 20% income tax relief on a qualifying EIS investment up to £500,000, ie a tax relief of £100,000, plus after 3 years you can sell the shares completely free of capital gains tax.

Relief is available at 30% on a VCT investment up to £200,000. In addition, VCT dividends are tax free and the investment can be cashed in tax free after 5 years.

- Review your investment portfolio. Discuss with your financial adviser whether you should, as part of your overall investment strategy, consider switching to investments that produce growth in a capital form which is therefore subject to capital gains tax rather than income tax, eg dividends or gains on certain offshore funds are subject to income tax.

Owner-managed businesses:

- Review your accounting date if self employed or in a partnership. Consider changing the accounting period end date to bring profits forward and ensure that they are taxed in the current tax year before the additional 1% NIC rates will apply. You should be aware that there is likely to be a cash flow impact of accelerating profits, however you may be able to offset overlap relief generated in earlier years.
- Incorporate a partnership. Partners may consider transferring their business to a company with partners becoming directors and/or employees. There are a number of tax, accounting and commercial implications that need to be considered. Currently the main corporation tax rate is 28%.

From 1 April 2011 onwards the main corporation tax rate will be reduced by 1% per annum until a main corporation tax rate of 24% is achieved.

- Consider capital expenditure. Full tax relief (ie 100%) is currently available on capital expenditure that qualifies for Annual Investment Allowances up to a maximum of £100,000 spent. From April 2012 onwards this limit will be reduced to £25,000. Consideration would need to be given to funding the acquisition.
- Consider a company purchase of own shares. Where the full capital gains tax treatment conditions are not met the proceeds from a sale of shares back to your private limited company are likely to be taxed wholly or partly as income. If a company purchase of own shares is planned due to exit or succession, consider completing the exercise prior to 5 April 2011 to make use of any surplus basic rate tax band you may have.
- Get tax relief on financing. Investors in qualifying private limited companies, partnerships or rental properties qualify, in certain circumstances, for tax relief on the interest paid on loans taken out in their own name to provide investment or financing for those business enterprises. You may wish to check whether your circumstances qualify for tax relief or consider restructuring your borrowings if you do not already obtain tax relief on such loans.

Take advantage of tax free investment products. You can invest up to £10,200 in an ISA every tax year.

Entrepreneurs' Relief can be worth up to £900,000 per individual

2. Capital Gains Tax ("CGT")

General:

- Talk to us now if you are expecting to make substantial capital gains in the future, or have already done so in the current tax year.
- Plan disposals of chargeable assets to make use of the CGT annual exemption allowance (£10,100 for 2010/11) available to every individual.
- Consider transferring assets with built in gains to your spouse or civil partner, if they have unused capital losses and/or annual exemption.
- Consider making gifts of certain assets whilst asset values may be relatively low.
- Bed and breakfasting (the sale and repurchase overnight) of the same class of shares is no longer tax effective. But the shares could be sold by you and repurchased by your spouse/civil partner, or by another related entity such as your ISA or family trust. This means you don't have to give up the asset, but you make use of your annual exemption allowance or capital losses.
- Consider whether to defer crystallising capital losses. Due to the change in the CGT rate following the Emergency 2010 Budget on 22 June 2010, careful consideration would need to be given as to whether losses should be crystallised, claims made before 6 April 2011 or deferred.

- Check you have made the appropriate principal private residence election with HMRC if you have more than one property for personal use.

Investments:

- Anyone who has made sizeable capital gains may wish to consider investing in a qualifying Enterprise Investment Scheme ("EIS") company. This is a higher risk investment with generous tax breaks. A qualifying EIS investment allows you to defer capital gains arising in the previous three years or the subsequent 12 months. You will be liable to pay the CGT when the shares are subsequently disposed of, and care should be taken as there is no guarantee that CGT rates will remain at current rates.

Owner-managed businesses:

- Consider realising losses on shares subscribed for in a qualifying company to set against income tax liabilities.
- We could help you to review whether Entrepreneurs' Relief ("ER") is available on the first £5m of capital gains made from the sale of shares or assets of a qualifying business entity.

ER reduces the effective rate of CGT down to 10% on the first £5m of gain for disposals made on or after 23 June 2010. For any disposals made between 6 April 2010 and 22 June 2010 the limit was £2m.

- ER can be worth up to £900,000 per individual and can also be made available to other family members with careful planning.

Offshore Trusts:

- There are transitional rules which apply to offshore trusts and the application of the appropriate CGT rate where the settlor is taxable on gains arising in the trust. There are also transitional rules where capital payments were made before 23 June 2010. These rules allow certain gains to be taxed at 18% (rather than 28%). Trustees should consider any action they need to take before 6 April 2011 to take advantage of these transitional rules.





3. Inheritance Tax (“IHT”)

- Do you have an up to date Will?
- Ensure you have written any lump sum death benefits into trust so that the funds do not form part of your estate on death for IHT purposes.
- Make use of the annual exemption for gifts up to £3,000 each year, which can be carried forward one year only before it is lost. Make use of other gift reliefs available such as gifts on marriage.
- Establish a regular pattern and basis for gifts in accordance with the “normal expenditure out of income” principles so that they are exempt from IHT.
- Consider alternative structures to trusts, such as family limited partnerships or a family investment company.
- Consider giving away assets that qualify for business property relief or agricultural property relief now.

It is not certain that these reliefs will continue to be available in the future.

- Consider insuring against potential IHT liabilities.
- Be careful of the pre-owned assets rules that impose an income tax charge if you have use of a property (eg a home or holiday home) or a chattel (eg a work of art) that does not belong to you but that you previously owned or provided the funds, directly or indirectly, to purchase.

4. Pensions

- Review your pension contributions. The current Annual Allowance is £255,000 gross for contributions to arrangements with pension input periods ending on or before 5 April 2011. The Annual Allowance will reduce to £50,000 from 6 April 2011 onwards.
- If you are a higher earner, with relevant income of £130,000 or more in the current or in either of the two previous tax years, you will need to be careful of the anti-forestalling provisions which restrict tax relief on increases to contributions above your Special Annual Allowance, which will be between £20,000 and £30,000, depending on your previous contribution history. We can provide you specialist advice in this regard.
- Consider making use of the £3,600 pension contribution allowance you can pay for someone else, such as your spouse or children, even if they do not pay tax.
- The draft 2011 Finance Bill published 9 December 2010 detailed a proposal to reduce the Lifetime Allowance from £1.8m for 2011/12 to £1.5m from 6 April 2012 onwards. It may possible to apply for “fixed

protection” should you expect your pension savings to exceed £1.5m, in order to retain a Lifetime Allowance of £1.8m, providing that there are no more pension contributions paid / pension accrual from 6 April 2012 onwards. The application for “fixed protection” needs to be submitted to HMRC by 6 April 2012.

Consider making use of the £3,600 pension contribution allowance for you and your family

Consider whether you should be claiming the remittance basis charge

5. Remittance basis for the non-UK domiciled

- Individuals who are not domiciled in the UK for taxation purposes can be subject to separate tax rules in connection with their overseas income and gains. We can provide assistance in reviewing your domicile status for UK tax purposes.
- Consider now whether you wish to claim the remittance basis for 2010/11 and pay the £30,000 remittance basis charge.
- Review your overseas bank accounts to determine which will be your nominated bank account. Please note that your nominated bank account must have received a minimum of £1 of income during 2010/11. We can provide you with specialist advice in this regard.
- Ensure you understand the extended definition of a remittance under the rules introduced in 2008.
- Consider whether to undertake any planning now in light of the published Government intention to review the taxation of non-UK domiciled individuals.

**For help with year end tax planning, speak to your usual
KPMG contact, or one of the people below:**

David Kilshaw

Partner – London
T: +44 (0)207 311 2841
E: david.kilshaw@kpmg.co.uk

Dermot Callinan

Partner – Leeds
T: +44 (0)113 231 3358
E: dermot.callinan@kpmg.co.uk

Greg Limb

Partner – London
T: +44 (0)207 694 5401
E: greg.limb@kpmg.co.uk

Nick Pheasey

Director – Leeds
T: +44 (0) 113 231 3163
E: nick.pheasey@kpmg.co.uk

Daniel Crowther

Director – London
T: +44 (0) 207 694 5971
E: daniel.crowther@kpmg.co.uk

Mike Walker

Partner – Manchester
T: +44 (0)161 246 4117
E: mike.walker@kpmg.co.uk

Paul Spicer

Partner – Bristol
T: +44 (0)117 905 4040
E: paul.spicer@kpmg.co.uk

Mark Patterson

Partner – Midlands
T: +44 (0)115 935 3441
E: mark.patterson@kpmg.co.uk

Jane Crotty

Director – Bristol
T: +44 (0) 117 905 4143
E: jane.crotty@kpmg.co.uk

Narinder Paul

Partner – Birmingham
T: +44 (0)121 232 3357
E: narinder.paul@kpmg.co.uk

Roger Gadd

Director – Bristol
T: +44 (0) 117 905 4636
E: roger.gadd@kpmg.co.uk

Emma Baylis

Partner – Birmingham
T: +44 (0)121 609 5843
E: emma.baylis@kpmg.co.uk

Beatrice Friar

Director – Glasgow
T: +44 (0)141 300 5768
E: beatrice.friar@kpmg.co.uk

Maire Spencer

Director – Birmingham
T: +44 (0) 121 232 3627
E: maire.spencer@kpmg.co.uk



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