
Status: Point in time view as at 31/07/1998.

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 1998, Part I. (See end of Document for details)*

SCHEDULES

SCHEDULE 13

CHANGES TO EISETC

PART I

EIS INCOME TAX RELIEF

Eligibility for relief

- 1 (1) In subsection (1) of section 289 of the Taxes Act 1988—
- (a) in paragraph (a), after the words “has subscribed” there shall be inserted the words “wholly in cash”;
 - (b) after that paragraph there shall be inserted the following paragraph—
 - “(aa) at the time when they are issued the shares are fully paid up (disregarding for this purpose any undertaking to pay cash to the company at a future date),”;
 - (c) in paragraph (b), after the words “the shares” there shall be inserted the words “and all other shares comprised in the same issue”; and
 - (d) in paragraph (c), for the words “that activity” there shall be substituted the words “the activity mentioned in paragraph (b) above”.
- (2) In subsection (1A)(c) of that section, for the word “subsidiary” there shall be substituted the words “90 per cent. subsidiary”.
- (3) In subsection (6) of that section, after the word “subscribed” there shall be inserted the word “for”.
- (4) In subsection (7) of that section, the word “preferential”, in the second place where it occurs, shall cease to have effect.
- (5) After subsection (8) of that section there shall be inserted the following subsection—
- “(9) In this section “90 per cent. subsidiary”, in relation to the qualifying company, means a subsidiary of a kind which the company might hold by virtue of section 308 if—
 - (a) the references in subsection (2) of that section to 75 per cent. were references to 90 per cent.; and
 - (b) subsection (4) of that section were omitted.”

Form of relief

- 2 In subsection (4) of section 289A of the Taxes Act 1988, for “£15,000” there shall be substituted “£25,000”.

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Attribution of relief to shares

- 3 (1) In subsection (3)(b) of section 289B of the Taxes Act 1988, for the words “bonus shares in that company which are eligible shares” there shall be substituted the words “corresponding bonus shares in that company”.
- (2) After that subsection there shall be inserted the following subsection—
- “**(3A)** In subsection (3) above “corresponding bonus shares” means bonus shares which—
- (a) are issued in respect of the shares comprised in the original issue; and
- (b) are of the same class, and carry the same rights, as those shares.”
- (3) For subsection (4) of that section there shall be substituted the following subsection—
- “(4) Subject to subsection (5) below, in this Chapter references (however expressed) to an issue of eligible shares in any company to an individual are references to any eligible shares in the company that are of the same class and are issued to him on the same day.”
- (4) In subsection (5) of that section, for the words “the following provisions of this Chapter (except section 290(1))” there shall be substituted the words “sections 299(4) and 306(1)”.
- (5) Sub-paragraphs (1) and (2) above have effect in relation to bonus shares issued on or after 6th April 1998.

Maximum subscriptions etc.

- 4 In subsection (2) of section 290 of the Taxes Act 1988, for “£100,000” there shall be substituted “£150,000”.
- 5 Section 290A of the Taxes Act 1988 shall cease to have effect.

Individuals qualifying for relief

- 6 (1) In subsection (1) of section 291 of the Taxes Act 1988, for the words “the relevant period connected with the company” there shall be substituted the words “the seven year period connected with the company (whether before or after its incorporation)”.
- (2) In subsection (2) of that section, the words “and sections 291A and 291B” shall cease to have effect.
- (3) For subsection (3) of that section there shall be substituted the following subsection—
- “(3) In subsection (2) above “subsidiary”, in relation to the issuing company, means a company which at any time in the relevant period is a 51 per cent subsidiary of the issuing company, whether or not it is such a subsidiary while the individual concerned or his associate is such an employee, partner or director as is mentioned in that subsection.”
- (4) After subsection (5) of that section there shall be inserted the following subsection—

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“(6) In this Chapter “the seven year period”, in relation to relief in respect of any eligible shares issued by a company, means the period beginning two years before, and ending five years after, the issue of the shares.”

Connected persons: directors

- 7 (1) In subsection (1)(a) of section 291A of the Taxes Act 1988, for the words “the relevant period” there shall be substituted the words “ the seven year period ”.
- (2) In subsection (5) of that section—
- (a) for sub-paragraph (ii) of paragraph (b) there shall be substituted the following sub-paragraph—
- “(ii) involved in carrying on (whether on his own account or as a partner, director or employee) the whole or any part of the trade carried on by the issuing company or a subsidiary, and”; and
- (b) the words “and the reference to a trade previously carried on includes part of such a trade” shall cease to have effect.

Connected persons: persons interested in capital etc.

- 8 (1) After subsection (5) of section 291B of the Taxes Act 1988 there shall be inserted the following subsection—
- “(5A) An individual is not connected with a company by reason only of the fact that one or more shares in the company are held by him, or by an associate of his, at a time when the company—
- (a) has not issued any shares other than subscriber shares; and
- (b) has not begun to carry on, or to make preparations for carrying on, any trade or business.”
- (2) For subsection (6) of that section there shall be substituted the following subsection—
- “(6) In this section “subsidiary”, in relation to the issuing company, means a company which at any time in the relevant period is a 51 per cent. subsidiary of the issuing company, whether or not it is such a subsidiary while the individual concerned has, or is entitled to acquire, such capital, voting power, rights or control as are mentioned in this section.”

Qualifying companies and qualifying trades

- 9 (1) In subsection (3B)(b) of section 293 of the Taxes Act 1988, after the word “activities” there shall be inserted the words “ (other than research and development and oil exploration) ”.
- (2) In paragraph (a) of subsection (6) of that section, the words “it is shown that” shall cease to have effect.
- (3) After that subsection there shall be inserted the following subsections—
- “(6A) The value of the relevant assets—

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- (a) must not exceed £15 million immediately before the issue of the eligible shares; and
 - (b) must not exceed £16 million immediately afterwards.
- (6B) Subject to subsection (6C) below, the reference in subsection (6A) above to the value of the relevant assets is a reference—
- (a) in relation to a time when the company did not have any qualifying subsidiaries, to the value of the gross assets of the company at that time; and
 - (b) in relation to any other time, to the aggregate value at that time of the gross assets of all the companies in the company's group.
- (6C) For the purposes of subsection (6B) above assets of any member of the company's group that consist in rights against, or in shares in or securities of, another member of the group shall be disregarded.
- (6D) In subsections (6B) and (6C) above references, in relation to any time, to the company's group are references to the company and its qualifying subsidiaries at that time."
- (4) Subsection (7) of that section shall cease to have effect.
- (5) In subsection (8) of that section, for the words "Subject to section 308" there shall be substituted the words " Subject to sections 304A and 308 ".
- (6) Sub-paragraph (2) above has effect in relation to events occurring on or after 6th April 1998.
- 10 In subsection (1) of section 297 of the Taxes Act 1988, the words "Subject to section 298(7) below" shall cease to have effect.
- 11 In subsection (1) of section 298 of the Taxes Act 1988, for the words "sections 293(9) and 297" there shall be substituted the words " section 297 ".

Disposal of shares

- 12 (1) In subsection (1) of section 299 of the Taxes Act 1988—
- (a) for the words from the beginning to "relevant period" there shall be substituted the words " Subject to section 304(1), where an individual makes, before the end of the relevant period, any disposal of eligible shares to which relief is attributable "; and
 - (b) in paragraphs (a) and (b)(ii), for the words "any relief" there shall be substituted the words " the relief ".
- (2) In subsection (3) of that section—
- (a) for the words "any issue of shares held by any person" there shall be substituted the words " any issue of eligible shares held by any individual "; and
 - (b) for the words "the shares" there shall be substituted the words " the issue ".
- (3) In subsection (4) of that section—
- (a) after the words "any issue of" there shall be inserted the word " eligible "; and
 - (b) after the word "shares" there shall be inserted the words " issued in that year (or treated by section 289B(5) as so issued) ".

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(4) After subsection (5) of that section there shall be inserted the following subsection—

“(5A) The shares to which such an option relates shall be taken to be those which, if—

- (a) the option were exercised immediately after the grant, and
- (b) any shares in the company acquired by the individual after the grant were disposed of immediately after being acquired,

would be treated for the purposes of this section as disposed of in pursuance of the option.”

(5) For subsection (6) of that section there shall be substituted the following subsections—

“(6) Where shares of any class in a company have been acquired by an individual on different days, any disposal by him of shares of that class shall be treated for the purposes of this section as relating to those acquired on an earlier day rather than to those acquired on a later day.

(6A) Where shares of any class in a company have been acquired by an individual on the same day, any of those shares disposed of by him shall be treated for the purposes of this section as disposed of in the following order, namely—

- (a) first any to which neither relief under this Chapter nor deferral relief is attributable;
- (b) next any to which deferral relief, but not relief under this Chapter, is attributable;
- (c) next any to which relief under this Chapter, but not deferral relief, is attributable; and
- (d) finally any to which both relief under this Chapter and deferral relief are attributable;

and in this subsection and subsection (6C) below “deferral relief” has the same meaning as in Schedule 5B to the 1992 Act.

(6B) Any shares falling within paragraph (c) or (d) of subsection (6A) above which are treated by section 289B(5) as issued on an earlier day shall be treated as disposed of before any other shares falling within that paragraph.

(6C) The following, namely—

- (a) any shares to which relief under this Chapter is attributable and which were transferred to an individual as mentioned in section 304, and
- (b) any shares to which deferral relief, but not relief under this Chapter, is attributable and which were acquired by an individual on a disposal to which section 58 of the 1992 Act applies,

shall be treated for the purposes of subsections (6) and (6A) above as acquired by him on the day on which they were issued.

(6D) In a case to which section 127 of the 1992 Act applies (whether or not by virtue of section 135(3) of that Act), shares comprised in the new holding shall be treated for the purposes of subsections (6) and (6A) above as acquired when the original shares were acquired.

In this subsection “new holding” and “original shares” shall be construed in accordance with sections 126, 127, 135 and 136 of the 1992 Act.”

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- (6) Subsection (7) of that section shall cease to have effect.
- (7) Subsection (8)(a) of that section shall cease to have effect.
- (8) Sub-paragraphs (1), (3)(b), (5) and (6) above have effect in relation to disposals made on or after 6th April 1998.
- (9) Sub-paragraph (4) above has effect in relation to options granted on or after that date.

Value received from company

- 13 (1) For subsection (1) of section 300 of the Taxes Act 1988 there shall be substituted the following subsection—

“(1) Subsection (1A) below applies where an individual who subscribes for eligible shares in a company receives any value from the company at any time in the seven year period.”

- (2) For subsection (1C) of that section there shall be substituted the following subsection—

“(1C) References in subsection (1) above to the receipt of value from a company include references to the receipt of value from a person who at any time in the relevant period is connected with the company, whether or not he is so connected at the time when the individual concerned receives the value from him; and other references to the company in this section and section 301 shall be read accordingly.”

- (3) After subsection (5) of that section there shall be inserted the following subsection—

“(6) Where by reason of an individual’s disposal of shares in a company any relief attributable to those shares is withdrawn or reduced under section 299, the individual shall not be treated for the purposes of this section as receiving value from the company in respect of the disposal.”

- (4) Sub-paragraph (3) above has effect in relation to disposals made on or after 6th April 1998.

- 14 (1) After subsection (4) of section 301 of the Taxes Act 1988 there shall be inserted the following subsection—

“(4A) For the purposes of this section and section 300, an individual who acquires any eligible shares on such a transfer as is mentioned in section 304 shall be treated as if he subscribed for those shares.”

- (2) In subsection (5) of that section, for the words “the credit” there shall be substituted the words “any credit”.

- (3) Sub-paragraph (1) above has effect in relation to value received (within the meaning of section 300 of that Act) on or after 6th April 1998.

Value received by persons other than claimants

- 15 (1) For subsections (1) to (2) of section 303 of the Taxes Act 1988 there shall be substituted the following subsections—

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“(1) Where, in the case of an issue of eligible shares in a company, any relief is attributable to any shares comprised in the issue which are held by an individual, subsection (1A) below shall apply if at any time in the seven year period the company or any subsidiary—

(a) repays, redeems or repurchases any of its share capital which belongs to any member other than that individual or a person who falls within subsection (1B) below, or

(b) makes any payment to any such member for giving up his right to any of the share capital of the company or subsidiary on its cancellation or extinguishment.

(1A) The relief—

(a) if it is greater than the amount mentioned in subsection (1C) below, shall be reduced by that amount, and

(b) if paragraph (a) above does not apply, shall be withdrawn.

(1B) A person falls within this subsection if the repayment, redemption, repurchase or payment in question—

(a) causes any relief attributable to his shares in the company to be withdrawn or reduced by virtue of section 299 or 300(2)(a), or

(b) gives rise to a qualifying chargeable event (within the meaning of paragraph 14(4) of Schedule 5B to the 1992 Act) in respect of him.

(1C) The amount referred to in subsection (1A) above is an amount equal to tax at the lower rate for the year of assessment for which the relief was given—

(a) where subsection (1) above does not apply in the case of any other individual, on the amount receivable by the member;

(b) where that subsection also applies in the case of one or more other individuals, on the appropriate fraction of that amount;

and subsection (4) of section 299 applies for the purposes of this subsection as it applies for the purposes of subsection (2) of that section.

(1D) In subsection (1C) above “the appropriate fraction” is—

$$\frac{A}{B}$$

where—

A is the amount subscribed by the individual for eligible shares which are comprised in the issue and to which relief is or, but for subsection (1A)(b) above, would be attributable;

B is the aggregate of that amount and the amount or amounts subscribed by the other individual or individuals for such shares.

(2) Where the repayment, redemption, repurchase or payment mentioned in subsection (1) above falls within the seven year periods for two or more issues of eligible shares in the company, subsection (1A) above shall have effect in relation to each of those issues as if the amount receivable by the member were reduced by multiplying it by the fraction—

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$$\frac{C}{D}$$

where—

C is the amount subscribed by individuals for eligible shares which are comprised in the issue and to which relief is or, but for subsection (1A) (b) above, would be attributable;

D is the aggregate of that amount and the corresponding amount or amounts for the other issue or issues.”

(2) In subsection (3) of that section, for the words “the relevant period” there shall be substituted the words “the seven year period”.

(3) For subsection (9A) of that section there shall be substituted the following subsection—

“(9A) References in this section to a subsidiary of a company are references to a company which at any time in the relevant period is a 51 per cent. subsidiary of the first mentioned company, whether or not it is such a subsidiary at the time of the repayment, redemption, repurchase or payment in question or, as the case may be, the receipt of value in question.”

Husband and wife

16 (1) After subsection (3) of section 304 of the Taxes Act 1988 there shall be inserted the following subsection—

“(4) Subsections (6) to (6D) of section 299 shall apply for the purposes of this section as they apply for the purposes of that section.”

(2) This paragraph has effect in relation to disposals made on or after 6th April 1998.

Acquisition of share capital by new company

17 (1) After section 304 of the Taxes Act 1988 there shall be inserted the following section—

“304A Acquisition of share capital by new company.

(1) This section applies where—

- (a) a company (“the new company”) in which the only issued shares are subscriber shares acquires all the shares (“old shares”) in another company (“the old company”);
- (b) the consideration for the old shares consists wholly of the issue of shares (“new shares”) in the new company;
- (c) the consideration for new shares of each description consists wholly of old shares of the corresponding description;
- (d) new shares of each description are issued to the holders of old shares of the corresponding description in respect of and in proportion to their holdings;
- (e) at some time before the issue of the new shares—
 - (i) the old company issued eligible shares; and

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- (ii) a certificate in relation to those eligible shares was issued by that company for the purposes of subsection (2) of section 306 and in accordance with that section; and
 - (f) before the issue of the new shares, the Board have, on the application of the new company or the old company, notified that company that the Board are satisfied that the exchange of shares—
 - (i) will be effected for bona fide commercial reasons; and
 - (ii) will not form part of any such scheme or arrangements as are mentioned in section 137(1) of the 1992 Act.
- (2) For the purposes of this Chapter—
- (a) the exchange of shares shall not be regarded as involving any disposal of the old shares or any acquisition of the new shares; and
 - (b) any relief under this Chapter which is attributable to any old shares shall be attributable instead to the new shares for which they are exchanged.
- (3) Where, in the case of any new shares held by an individual to which relief becomes so attributable, the old shares for which they are exchanged were subscribed for by and issued to the individual, this Chapter shall have effect as if—
- (a) the new shares had been subscribed for by him at the time when, and for the amount for which, the old shares were subscribed for by him;
 - (b) the new shares had been issued to him by the new company at the time when the old shares were issued to him by the old company;
 - (c) the claim for relief made in respect of the old shares had been made in respect of the new shares; and
 - (d) his liability to income tax had been reduced under section 289A in respect of the new shares for the same year of assessment as that for which his liability was so reduced in respect of the old shares.
- (4) Where, in the case of any new shares held by an individual to which relief becomes so attributable, the old shares for which they are exchanged were transferred to the individual as mentioned in section 304, this Chapter shall have effect in relation to any subsequent disposal or other event as if—
- (a) the new shares had been subscribed for by him at the time when, and for the amount for which, the old shares were subscribed for;
 - (b) the new shares had been issued by the new company at the time when the old shares were issued by the old company;
 - (c) the claim for relief made in respect of the old shares had been made in respect of the new shares; and
 - (d) his liability to income tax had been reduced under section 289A in respect of the new shares for the same year of assessment as that for which the liability of the individual who subscribed for the old shares was so reduced in respect of those shares.
- (5) Where relief becomes so attributable to any new shares—
- (a) this Chapter shall have effect as if anything which, under section 306(2), 307(1A) or 310, has been done, or is required to be done, by or in relation to the old company had been done, or were required to be done, by or in relation to the new company; and

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- (b) any appeal brought by the old company against a notice under section 307(1A)(b) may be prosecuted by the new company as if it had been brought by that company.
 - (6) For the purposes of this section old shares and new shares are of a corresponding description if, on the assumption that they were shares in the same company, they would be of the same class and carry the same rights; and in subsection (1) above references to shares, except in the expressions “eligible shares” and “subscriber shares”, include references to securities.
 - (7) Nothing in section 293(8) shall apply in relation to such an exchange of shares, or shares and securities, as is mentioned in subsection (1) above or arrangements with a view to such an exchange.
 - (8) Subsection (2) of section 138 of the 1992 Act shall apply for the purposes of subsection (1)(f) above as it applies for the purposes of subsection (1) of that section.”
- (2) This paragraph has effect in relation to new shares (within the meaning of section 304A of the Taxes Act 1988) issued on or after 6th April 1998.

Relief for loss on disposal of shares

- 18 (1) In subsection (2) of section 305A of the Taxes Act 1988, for the words “576(2) and (3)” there shall be substituted the words “ 576(1) to (3) ”.
- (2) This paragraph has effect in relation to disposals made on or after 6th April 1998.

Claims

- 19 (1) In subsection (1) of section 306 of the Taxes Act 1988, after the word “assessment”, in the first place where it occurs, there shall be inserted the words “ (or treated by section 289B(5) as so issued) ”.
- (2) In subsection (2) of that section, for the words “the conditions for the relief, so far as applying to the company and the trade,” there shall be substituted the words “ , except so far as they fall to be satisfied by that person, the conditions for the relief ”.
- (3) For subsection (3) of that section there shall be substituted the following subsection—
- “(3) Before issuing a certificate for the purposes of subsection (2) above a company shall furnish the inspector with a statement to the effect that, except so far as they fall to be satisfied by the persons to whom eligible shares comprised in the share issue have been issued, the conditions for the relief—
- (a) are satisfied in relation to that issue; and
 - (b) have been so satisfied at all times since the beginning of the relevant period.”
- (4) In subsection (3A) of that section, the words “but section 289B(5) shall not apply for the purposes of this subsection” shall cease to have effect.
- (5) For subsections (4) and (5) of that section there shall be substituted the following subsections—

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“(4) No certificate shall be issued for the purposes of subsection (2) above without the authority of the inspector; but where the company, or a person connected with the company, has given notice to the inspector under section 310(2) or paragraph 16(2) or (4) of Schedule 5B to the 1992 Act, the authority must be given or renewed after the receipt of the notice.

(5) Any statement under subsection (3) above shall be in such form as the Board may direct and shall contain—

- (a) such additional information as the Board may reasonably require, including in particular information relating to the persons who have requested the issue of certificates under subsection (2) above;
- (b) a declaration that the statement is correct to the best of the company’s knowledge and belief; and
- (c) such other declarations as the Board may reasonably require.”

Withdrawal of relief

20 (1) In subsection (1A) of section 307 of the Taxes Act 1988—

- (a) for the words “section 289(1)(b) or (c)” there shall be substituted the words “ section 289(1)(b), (ba) or (c) ”; and
- (b) after the words “section 310” there shall be inserted the words “ or paragraph 16(2) or (4) of Schedule 5B to the 1992 Act ”.

(2) After subsection (1B) of that section there shall be inserted the following subsection—

“(1C) Where any issue has been determined on an appeal brought by virtue of paragraph 1A(6) of Schedule 5B to the 1992 Act (appeal against notice that shares never have been, or have ceased to be, eligible shares), the determination shall be conclusive for the purposes of any appeal brought by virtue of subsection (1B) above on which that issue arises.”

(3) In subsection (4) of that section, for the words “ordinary shares” there shall be substituted the words “ eligible shares ”.

(4) In subsection (6)(b) of that section, for the words “section 291” there shall be substituted the words “ section 289(1)(ba), 291 ”.

Application to subsidiaries

21 In subsection (2) of section 308 of the Taxes Act 1988, for the words “90 per cent.”, in each place where they occur, there shall be substituted the words “ 75 per cent. ”.

Information

22 (1) In subsection (1) of section 310 of the Taxes Act 1988, for the words “299A, 300 or 304” there shall be substituted the words “ 299A or 300 ”.

(2) In subsection (2) of that section—

- (a) for the words “289(1)(c) or (6), 293, 297” there shall be substituted the words “ 289(1)(ba) or (c), 293 ”; and

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- (b) the words “or payment” shall cease to have effect.
- (3) In subsection (7) of that section, for the words “300, 301 and 303(3)” there shall be substituted the words “ 300 and 303(3) ”.
- (4) After subsection (9) of that section there shall be inserted the following subsection—
“(9A) References in this section to withdrawal of relief include its reduction.”
- (5) This paragraph has effect in relation to events occurring on or after 6th April 1998.

Interpretation of Chapter III

- 23 (1) In subsection (1) of section 312 of the Taxes Act 1988—
- (a) the definition of “new consideration” shall cease to have effect; and
 - (b) for the definitions of “research and development” and “relief” there shall be substituted the following definitions—
 - “relief” means relief under this Chapter;
 - ‘research and development’ means any activity which is intended to result in a patentable invention (within the meaning of the ^{M1}Patents Act 1977) or in a computer program;
 - ‘the seven year period’ has the meaning given by section 291(6);”.
- (2) In subsection (1A) of that section, the words “(disregarding section 289B(5))” shall cease to have effect.
 - (3) In subsection (1B)(c) of that section, the words “dealt in on the Unlisted Securities Market or” shall cease to have effect.
 - (4) In subsection (2) of that section, for the words “sections 291 to 291B” there shall be substituted the words “ section 291, section 291A(1), (4) and (5) and section 291B ”.
 - (5) After subsection (4) of that section there shall be inserted the following subsections—
 - “(4A) In this Chapter references (however expressed) to an issue of eligible shares in any company are to any eligible shares in the company that are of the same class and are issued on the same day.
 - (4B) For the purposes of this Chapter shares in a company shall not be treated as being of the same class unless they would be so treated if dealt with on the Stock Exchange.”
 - (6) In subsection (7) of that section, for the words “section 289(2)(c)” there shall be substituted the words “ subsection (2)(c) of section 289 ”.

Marginal Citations

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