

# ***TR 2001/2A5 - Addendum - Fringe benefits tax: the operation of the new fringe benefits tax gross-up formula to apply from 1 April 2000***

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## Addendum

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### Taxation Ruling

#### Fringe benefits tax: the operation of the new fringe benefits tax gross-up formula to apply from 1 April 2000

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Ruling TR 2001/2 to reflect the following matters:

- (a) update section references, tables, terms and rates used in this Ruling to those used in the *Fringe Benefits Tax Assessment Act 1986* (FBTAA 1986)
- (b) 2006, 2014 and 2016 amendments to the fringe benefits tax rate of tax and consequential adjustments to the Type 1 and Type 2 gross-up rates (including the new Table 1 and 2)
- (c) 2012 amendments in relation to valuation of in-house fringe benefits and in relation to the regulation of charities
- (d) 2015 amendments to the fringe benefits tax exemption caps and rebate caps (including the new Table 3)
- (e) 2016 amendments in relation to salary packaged entertainment benefits (including the new Table 3)
- (f) removal of some examples about car fringe benefits – transitional valuation issues upon the introduction of the *A New Tax System (Goods and Services Tax) Act 1999*.

#### TR 2001/2 is amended as follows:

##### 1. Paragraph 2

After the paragraph; insert:

- 2A. From 1 April 2000 employers will use the new (higher or Type 1) gross-up formula where fringe benefits are provided and there is an entitlement to input tax credits. Also, from 1 April 2000, employers will continue to use the former (lower or Type 2) gross-up formula where fringe benefits are provided and there is no entitlement to input tax credits. Grossing-up affects the calculation of the **fringe benefits**

**taxable amount**<sup>2A</sup>, the calculation of the **FBT rebate**<sup>2B</sup> and the calculation of the employee's reportable fringe benefits amount.<sup>2C</sup>

## 2. Paragraph 4

After the paragraph; insert:

4A. In this Ruling references to 'GST Act' are references to the *A New Tax System (Goods and Services Tax) Act 1999*.

## 3. Paragraph 5A & 5B

Omit the paragraphs.

## 4. Paragraph 7

(a) After '**employer's type 1 aggregate fringe benefits amount**'; insert:

<sup>2D</sup> The **type 1 aggregate fringe benefits amount** is defined in subsection 5B(3) and is the amount worked out under subsection 5C(3).

(b) After '**employer's type 2 aggregate fringe benefits amount**'; insert:

<sup>2E</sup> The **type 2 aggregate fringe benefits amount** is defined in subsection 5B(3) and is the amount worked out under subsection 5C(4).

## 5. Paragraph 8

(a) After 'higher'; insert 'or Type 1'.

(b) After 'lower'; insert 'or Type 2'.

## 6. Paragraphs 9 and 10

Omit the paragraphs; substitute:

9. Employers that are **public benevolent institutions**<sup>3</sup> or are certain not-for-profit, non-government employers, have to calculate the **employee's type 1 and type 2 'individual**

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<sup>2A</sup> Fringe benefits taxable amount is defined in subsection 136(1) as the meaning given by section 5B.

<sup>2B</sup> The FBT rebate is a rebate of tax for certain not-for-profit employers (**rebatable employers**) described in section 65J.

<sup>2C</sup> Refer to paragraph 23.

<sup>3</sup> **Registered public benevolent institution** from 3 December 2012, refer subsection 136(1).

**base non-exempt amounts<sup>3A</sup> and the employee's 'individual base non-rebatable amounts<sup>3B</sup>' respectively.**

10. Fringe benefits tax payable will be the fringe benefits taxable amount multiplied by the fringe benefits tax rate. Refer to Table 1 at paragraph 48A for the FBT rates of tax applying to particular FBT years.

#### **7. Paragraph 15**

Omit the paragraph; substitute:

15. Type 1 benefits are grossed-up to a tax inclusive value by applying the higher Type 1 FBT gross-up formula. For the 2001 FBT year the higher Type 1 FBT gross-up formula results in a gross-up rate of 2.1292 where the FBT rate is 48.5% and the GST rate is 10%. Refer to Table 1 at paragraph 48A for the gross-up rates that apply to subsequent FBT years.

#### **8. Paragraph 19**

Omit the paragraph; substitute:

19. Type 2 benefits are grossed-up to a tax inclusive value by applying the lower Type 2 FBT gross-up formula. For the 2001 FBT year the lower Type 2 FBT gross-up formula results in a gross-up rate of 1.9417 where the FBT rate is 48.5%. Refer to Table 2 at paragraph 60A for the gross-up rates that apply to subsequent FBT years.

#### **9. Paragraph 20**

(a) Omit from the heading both occurrences of 'Employer's'; substitute 'Employee's'.

(b) Omit 'non-profit'; substitute 'not-for-profit'.

(c) Omit footnotes 9 and 10.

(d) After the paragraph; insert:

***From 1 April 2016: salary packaged entertainment benefits***

20A. In addition for these section 57A exempt and section 65J rebatable employers, from 1 April 2016, the provision of **salary packaged entertainment benefits** remain eligible for exemption or rebate, however are now capped at

<sup>3A</sup> Subsections 5B(1H) and 5B(1J) set out respectively what is the employee's type 1 and type 2 individual base non-exempt amount.

<sup>3B</sup> Subsections 65J(2E) and 65J(2F) set out respectively what is the employee's type 1 and type 2 individual base non-rebatable amount.

# TR 2001/2

up to \$5,000 of the grossed-up taxable value of fringe benefits for each employee (refer to Table 3 at paragraph 72A).<sup>10</sup>

20B. For employers exempt under section 57A, the new sections 5B(1M) and 5B(1E) provide for the \$5,000 salary packaged entertainment benefits exemption. For rebatable employers, the new sections 65J(2J) and 65J(2B) provide for the \$5,000 salary packaged entertainment benefits rebate.

20C. For these employers, the grossed-up taxable value of salary packaged entertainment benefits will be determined following the same procedure for determining type 1 and type 2 individual base non-exempt amounts (for exemption purposes) and type 1 and type 2 individual base non-rebatable amounts (for rebate purposes).

## 10. Footnote 16

After 'section 195-1'; insert 'of the'.

## 11. Paragraph 48

- (a) Omit 'Where'; substitute 'For the 2001 FBT year where'.
- (b) Omit the last sentence (including the formula).
- (c) After the paragraph; insert:

**Table 1: FBT rates and Type 1 gross-up rates for Type 1 benefits**

48A. The FBT rate of tax and the resultant higher Type 1 gross-up rate for the FBT year commencing 1 April 2000 and future years<sup>20A</sup> are provided in the following table (where the GST rate is 10%):

| FBT year(s)                   | FBT rate of tax | Type 1 gross-up rate for Type 1 benefits |
|-------------------------------|-----------------|--|
| 1 April 2000 to 31 March 2006 | 48.5%           | 2.1292                                   |
| 1 April 2006 to 31 March 2014 | 46.5%           | 2.0647                                   |

<sup>10</sup> From 1 April 2016, under the *Tax and Superannuation Laws Amendment (2015 Measures No. 5) Act 2015*, a separate grossed-up cap of up to \$5,000 for section 57A and 65J rebatable employers applies to salary packaged meal entertainment or salary packaged entertainment facility leasing expense benefits, referred to collectively as **salary packaged entertainment benefits**.

<sup>20A</sup> These Type 1 gross-up rates are obtained by applying the formula shown at paragraph 47 to each FBT year.

|  |     |        |
|--|-----|--------|
| <b>1 April 2014 to<br/>31 March 2015</b> | 47% | 2.0802 |
| <b>1 April 2015 to<br/>31 March 2016</b> | 49% | 2.1463 |
| <b>1 April 2016 to<br/>31 March 2017</b> | 49% | 2.1463 |

**12. Paragraph 49**

- (a) After the table insert:

*Table 1 at paragraph 48A shows the Type 1 gross-up rate for the 2001 FBT year as 2.1292.*

- (b) Omit the note at the end of the paragraph.

**13. Paragraph 53**

Omit footnote 21, insert:

21. The taxable value of \$1,500 includes any reduction available under section 62.

**14. Paragraph 55**

- (a) Omit 's 149A'; substitute 'section 149A'.  
 (b) After 'GST input'; insert 'tax'.

**15. Paragraph 60**

- (a) Omit 'The lower'; substitute 'For the 2001 FBT year the lower'.  
 (b) Omit the last sentence (including the formula).  
 (c) After paragraph; insert:

**Table 2: FBT rates and Type 2 gross-up rates for Type 2 benefits**

60A. The FBT rate of tax and the resultant lower Type 2 gross-up rate for the FBT year commencing 1 April 2000 and future years are provided in the following table:

| <b>FBT year(s)</b>                       | <b>FBT rate of tax</b> | <b>Type 2 gross-up rate for Type 2 benefits</b> |
|--|------------------------|---|
| <b>1 April 2000 to<br/>31 March 2006</b> | 48.5%                  | 1.9417  |
| <b>1 April 2006 to<br/>31 March 2014</b> | 46.5%                  | 1.8692  |

|                                  |     |        |
|----------------------------------|-----|--------|
| 1 April 2014 to<br>31 March 2015 | 47% | 1.8868 |
| 1 April 2015 to<br>31 March 2017 | 49% | 1.9608 |
| 1 April 2017 to<br>31 March 2018 | 47% | 1.8868 |

**16. Paragraph 61**

After the table; insert:

*Table 2 at paragraph 60A shows the Type 2 gross-up rate for the 2001 FBT year as 1.9417.*

**17. Paragraph 65**

(a) Omit '1 July 2000 to 31 March 2001'; substitute '1 April 2016 to 31 March 2017'.

(b) After the second sentence, insert:

*The staff entertainment for \$2,200 is not provided under a **salary packaging arrangement**<sup>21B</sup>.*

(c) Omit 'Subdivision 69-5' and substitute 'section 69-5'.

(d) After the second paragraph; insert:

*Note: Effective from 1 April 2016 under the Tax and Superannuation Laws Amendment (2015 Measures No. 5) Act 2015, salary packaged meal entertainment no longer forms part of a 'meal entertainment benefit' under Division 9A; under section 51AEA of the Income Tax Assessment Act 1936; under subsection 69-25 of the GST Act.*

(e) After the third paragraph; insert:

*Table 1 at paragraph 48A shows the Type 1 gross-up rate for the 2017 FBT year as 2.1463.*

(f) Omit the last sentence from the fourth paragraph; substitute:

*The fringe benefits taxable amount would be \$5,902 (\$2,750 x 2.1463) and the FBT payable would be \$2,892 (\$5,902 x 49%).*

<sup>21B</sup> Salary packaging arrangement as defined in subsection 136(1).

**18. Paragraphs 66 to 72**

Omit the paragraphs (including the heading); substitute:

**Employee's Type 1 and Type 2 Individual Base  
Non-Exempt Amounts and Employee's Type 1 and Type 2  
Individual Base Non-Rebatable Amounts**

66. For the FBT year commencing 1 April 2000, the FBT exemption allowed under section 57A for public hospitals and public benevolent institutions (who are not public or private not-for-profit hospitals) is capped at \$17,000 and \$30,000 respectively of the grossed-up taxable value of fringe benefits for each employee. Refer to Table 3 at paragraph 72B for capping amounts for particular FBT years, including the \$17,667 (public hospital) and \$31,177 (public benevolent institution) amounts for the year commencing 1 April 2016.

67. In addition for these exempt employers, from 1 April 2016, the provision of salary packaged entertainment benefits are capped at \$5,000 of the grossed-up taxable value of fringe benefits for each employee (refer to Table 3 at paragraph 72B)<sup>22A</sup>. For these employers, salary packaged entertainment benefits that exceed the \$5,000 grossed-up cap will be included in the general \$17,667 or \$31,177 cap respectively. Employers in this category will need to apply a specific calculation methodology when ascertaining whether a FBT liability arises.

68. For these exempt employers, some benefits such as non-salary packaged entertainment by way of food or drink, non-salary packaged hiring or leasing entertainment facilities, or car parking fringe benefits will remain exempt from FBT and are not included in the capping threshold irrespective of the value of other benefits provided to an employee.

69. The specific calculation methodologies mentioned in paragraphs 66 to 68 are set out in subsections 5B(1F) and 5B(1G) respectively. They are similar to the calculations under subsections 5B(1B) and 5B(1C).

70. For the FBT year commencing 1 April 2000, the rebatable amount available to section 65J rebatable employers will be capped at \$30,000 of grossed-up taxable value of fringe benefits for each employee. Refer to Table 3 at paragraph 72B for rebate cap amounts for particular FBT years, including \$31,177 for the year commencing 1 April 2016.

71. In addition for these rebatable employers, from 1 April 2016, the rebate for the provision of salary packaged entertainment benefits will be capped at \$5,000 of the grossed-up taxable value of fringe benefits for each employee

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<sup>22A</sup> Refer footnote 10A.

(refer to Table 3 at paragraph 72B). For these employers, salary packaged entertainment benefits that exceed the \$5,000 grossed-up rebate cap will be included in the general \$31,177 rebate cap. Employers in this category will need to apply a specific calculation methodology when ascertaining whether an FBT liability arises.

72. For these employers, some benefits such as non-salary packaged entertainment by way of food or drink, non-salary packaged hiring or leasing entertainment facilities, or car parking fringe benefits will remain eligible for the FBT rebate and are not included in the rebate capping threshold irrespective of the value of other benefits provided to an employee.

72A. The specific calculation methodologies mentioned in paragraph 70 to 72 are set out in subsections 65J(2C) and 65J(2D) respectively. They are similar to the calculations under subsections 5B(1B) and 5B(1C).

**Table 3: Capping thresholds for the FBT exemption and FBT rebate concessions**

72B. Certain not-for-profit employers receive FBT concessional treatment up to a capping threshold for each employee as described in the following table.

| <b>FBT year(s)</b>                   | <b>Public benevolent institution<sup>22B</sup> (other than a public hospital); health promotion charity (from 1 July 2005)</b> | <b>Public hospital, not-for-profit hospital; public ambulance services; certain government bodies</b> | <b>Rebatable employers: certain charities<sup>22C</sup>; certain not-for-profit organisations</b> |
|--------------------------------------|--|---|---|
| <b>1 April 2000 to 31 March 2015</b> | FBT exemption capped at \$30,000   | FBT exemption capped at \$17,000  | FBT rebate of 48%, capped at \$30,000   |
| <b>1 April 2015 to 31 March 2016</b> | FBT exemption capped at \$31,177   | FBT exemption capped at \$17,667  | FBT rebate of 49% capped at \$31,177  |

<sup>22B</sup> Registered health promotion charity from 3 December 2012, refer subsection 136(1).

<sup>22C</sup> Registered charity from 3 December 2012, refer subsection 136(1).

|  |  |  |  |
|--|--|--|--|
| <b>1 April 2016 to<br/>31 March 2017</b> | FBT exemption capped at \$31,177<br>Salary packaged entertainment benefits capped at \$5,000 | FBT exemption capped at \$17,667<br>Salary packaged entertainment benefits capped at \$5,000 | FBT rebate of 49% capped at \$31,177<br>Salary packaged entertainment benefits capped at \$5,000 |
|--|--|--|--|

**19. Paragraph 77**

Omit '(i.e., those not under non-reviewable leasing contracts entered into before 8 July 1999) after 1 July 2000'.

**20. Paragraph 81**

After 'actual' in the last sentence; insert 'interest'.

**21. Footnote 22A**

Renumber footnote 22A to 22D.

**22. Paragraph 86**

Omit the paragraph (including heading).

**23. Paragraph 89**

After '12 week register method'; insert footnote:

<sup>22E</sup> Subject to the paragraph 37AC(b) exclusion for salary packaged meal entertainment from 1 April 2016 by the *Tax and Superannuation Laws Amendment (2015 Measures No. 5) Act 2015*. From 1 April 2016 salary packaged entertainment expenses are excluded from the 50-50 split method and the 12 week register method'.

**24. Paragraph 93**

After the second bullet point insert:

- From 8 May 2012, for in-house property fringe benefits which are airline transport fringe benefits under paragraph 42(1)(ab), 75% of the stand-by airline travel value.
- From 22 October 2012, for in-house property fringe benefits which are salary packaged under paragraph 42(1)(aa), the **notional value**.

- Other valuation methods such as the arm's length acquisition cost to the provider where goods are purchased for resale.

## 25. Paragraph 96

(a) After the second bullet point insert:

- From 8 May 2012, for in-house residual fringe benefits which are airline transport fringe benefits under paragraphs 48(ab) and 49(ab), 75% of the stand-by airline travel value.
- From 22 October 2012, for in-house residual fringe benefits which are salary packaged under paragraph 48(aa) or 49(aa), the notional value.

(b) Omit the last two sentences.

(c) After the paragraph; insert:

96A. The taxable value of a residual benefit will be a question of fact. The value will be the GST-inclusive value or GST-exclusive value depending on whether GST is payable.

## 26. Paragraph 106

(a) After '1.9417'; insert 'in the 2001 FBT year'.

(b) After the second sentence; insert:

Refer to Table 2 at paragraph 60A for the Type 2 gross-up rates applying to particular FBT years.

## 27. Paragraph 107

After the table insert:

*Table 2 at paragraph 60A shows the Type 2 gross-up rate for the 2001 FBT year as 1.9417.*

## 28. Paragraph 112

Omit 'either an airline transport fringe benefit,'.

## 29. Paragraph 116

(a) Omit 'from 1 April 2000'; substitute 'for the 2001 FBT year'.

(b) At step 4(a) omit 'currently 48.5%'; substitute '48.5% for 2001 FBT year'.

**30. Paragraph 117**

- (a) After 'FBT payable'; insert 'for the 2001 FBT year'.
- (b) After the note to step 1(a); insert:

Table 1 at paragraph 48A shows the Type 1 gross-up rate for the 2001 FBT year as 2.1292.

Table 2 at paragraph 60A shows the Type 2 gross-up rate for the 2001 FBT year as 1.9417.

**31. Paragraphs 118 to 130**

Omit the paragraphs (including headings); substitute:

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## **Examples**

### **Further examples on car fringe benefits**

***Which gross-up rate do you use for a car for which you do not have an entitlement to an input tax credit for its purchase however you do have an entitlement for expenditure for running and maintenance costs and for non-business fitted accessories?***

118. In some instances, employers, or other providers, will not be entitled to an input tax credit for the purchase of a car. For example, where the supply of the car to the employer was not a taxable supply because the supplier was not registered or required to be registered for GST. This means the employer will need to use the lower gross-up rate.

119. The determining factor for which gross-up rate you use for a car fringe benefit is whether the provider was entitled to an input tax credit at the time the car was acquired. Under those circumstances, the relevant matter is the original purchase of the car even though non-business fitted accessories or running and maintenance costs, on which GST has been paid and which may give rise to an entitlement to a GST input tax credit, may subsequently have been paid. Despite the subsequent additional costs the lower gross-up rate will still be used where there is no entitlement to a GST input tax credit for the purchase of the car.

#### *Example 17*

120. *Castor Ltd is a company registered for GST that purchased a car on 1 May 2014 from an unregistered supplier. The company provides the car to its company secretary in the FBT year ended 31 March 2015. When Castor Ltd calculates its FBT liability in respect of the car fringe benefits for the 2015 FBT year it will use the lower gross-up rate of 1.8868 (refer Table 2 paragraph 60A ) as Castor Ltd is not entitled to a GST input tax credit for the GST it paid on the car's purchase. If Castor Ltd is*

*entitled to GST input tax credits for the car's running and maintenance costs or non-business accessories cost it would still use the lower gross-up rate of 1.8868 to calculate the fringe benefits taxable amount for the car fringe benefits.*

**32. Paragraph 132**

Omit 'of 2.1292'.

**33. Paragraph 133**

After '2.1292'; insert '(Table 1 at paragraph 48A)'.

**34. Paragraphs 134 to 144**

Omit the paragraphs (including headings).

**35. Paragraph 146**

After '2.1292'; insert '(Table 1 at paragraph 48A)'.

**36. Paragraph 147**

Omit:

|  |     |
|--|-----|
| Employer's Type 1 and Type 2 Individual Base Non-Exempt Amounts and Employer's Type 1 and Type 2 Individual Base Non-Rebatable Amounts                             | 20  |
| Employer's Type 1 and Type 2 Individual Base Non-Exempt Amounts and Employer's Type 1 and Type 2 Individual Base Non-Rebatable Amounts                             | 66  |
| Calculation of Employer's FBT Liability from 1 April 2000 (who is not a public benevolent institution nor a rebatable employer)                                    | 116 |
| <i>Which gross-up rate do you use for a car bought before 1 July 2001?</i>   | 118 |
| <i>Example 17</i>  | 119 |
| <i>Which gross-up rate do you use for a car bought after 1 July 2000 and the purchaser was entitled to an input tax credit from that date?</i>                     | 120 |
| <i>Example 18</i>  | 121 |
| <i>Which gross-up rate do you use for a car bought before 1 July 2001 but its running and maintenance costs after that date had input tax credit entitlements?</i> | 122 |
| <i>Example 19</i>  | 124 |

|  |     |
|--|-----|
| <i>Which gross-up rate do you use for a car bought before 1 July 2001 but the non-business fitted accessories were purchased after 1 July 2000?</i>  | 125 |
| <i>Example 20</i>  | 127 |
| <i>Which gross-up rate do you use for a car leased only before 1 July 2000?</i>  | 134 |
| <i>Example 23</i>  | 135 |
| <i>Which gross-up rate do you use for a car leased before AND after 1 July 2000?</i>   | 136 |
| <i>Example 24</i>  | 138 |
| <i>How do you apply an employee's contribution for a car leased before AND after 1 July 2000?</i>  | 140 |
| <i>Example 25</i>  | 144 |
| Insert:  |     |
| Employee's Type 1 and Type 2 Individual Base Non-Exempt Amounts and Employee's Type 1 and Type 2 Individual Base Non-Rebatable Amounts   | 20  |
| <i>From 1 April 2016: salary packaged entertainment benefits</i>   | 20A |
| Table 1: FBT rates and Type 1 gross-up rates for Type 1 benefits   | 48A |
| Table 2: FBT rates and Type 2 gross-up rates for Type 2 benefits   | 60A |
| Employee's Type 1 and Type 2 Individual Base Non-Exempt Amounts and Employee's Type 1 and Type 2 Individual Base Non-Rebatable Amounts   | 66  |
| Table 3: Capping thresholds for the FBT exemption and FBT rebate concessions   | 72B |
| Calculation of Employer's FBT Liability for the 2001 FBT year (who is not a public benevolent institution nor a rebatable employer)  | 116 |
| <i>Which gross-up rate do you use for a car for which you do not have an entitlement to an GST input tax credit for its purchase however you do have an entitlement for expenditure for running and maintenance costs and for non-business fitted accessories?</i> | 118 |
| <i>Example 17</i>  | 120 |

**37. Subject references**

Omit the references (including heading).

## 38. Legislative references

Omit:

- FBTA 1986 149A(2)(a)
- STAA92 15E
- ANTS(GST) Div 9A
- ANTS(GST) A99 9-30(2)
- ANTS(GST) A99 38-1
- ANTS(GST) A99 Subdiv 38-K
- ANTS(GST) A99 Subdiv 69-5
- ANTS(GST) A99 20
- Taxation Laws Amendment Act (No.8) 2000

Insert:

- FBTA 1986 5B
- FBTA 1986 5B(3)
- FBTA 1986 Pt III Div 9A
- FBTA 1986 37AC(b)
- FBTA 1986 42(1)(aa)
- FBTA 1986 48(aa)
- FBTA 1986 49(aa)
- FBTA 1986 149A(2)(a)(i)
- FBTA 1986 149A(2)(a)(ii)
- FBTA 1986 149A(2)(a)(iii)
- FBTA 1986 149A(2)(a)(iv)
- ANTS(GST) A99 Div 40
- ANTS(GST) A99 69-5
- ANTS(GST) A99 69-25
- Tax and Superannuation Laws Amendment (2014 Measures No. 5) Act 2015

This Addendum applies on and from 15 June 2016.

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**Commissioner of Taxation**

15 June 2016

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ATO references

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