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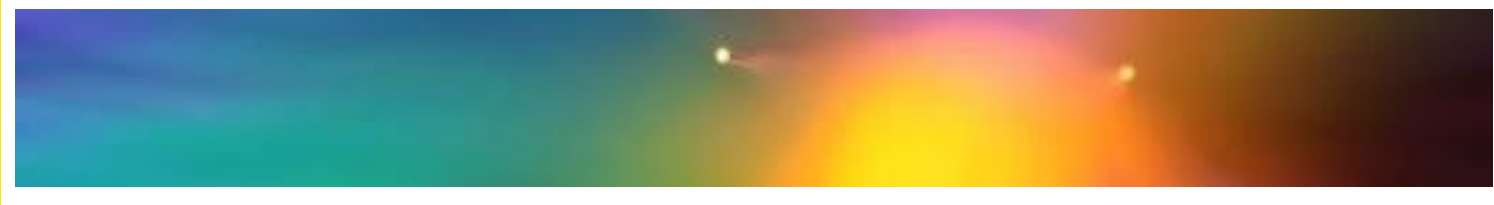
Malaysian developments

Accelerated capital allowance (ACA) for the purchase of machinery and equipment

In the 2020 Economic Stimulus Package announced on 27 February 2020, it was proposed that accelerated capital allowance (ACA), made up of 20% initial allowance and 40% annual allowance, be given on qualifying capital expenditure on machinery and equipment (including information and communications technology (ICT) equipment), incurred between 1 March 2020 and 31 December 2020 (see *EY Take 5: Economic Stimulus Package 2020*).

Thereafter, in the Short-Term Economic Recovery Plan (PENJANA) announced on 5 June 2020, it was proposed that the ACA to cover such qualifying expenditure incurred be extended up to 31 December 2021 (see *EY Take 5: COVID-19: Short-term Economic Recovery Plan*).

To legislate the proposals, the Income Tax (Accelerated Capital Allowance) (Machinery and Equipment including Information and Communication Technology Equipment) Rules 2021 [P.U.(A) 268] were gazetted on 15 June 2021. The Rules provide that a person will



be given ACA (20% initial allowance and 40% annual allowance) in respect of qualifying plant expenditure (QPE) incurred between 1 March 2020 and 31 December 2021, for the purpose of his business.

The Rules also provide that in a case where the person incurs QPE under a hire purchase agreement for the purchase of machinery and equipment (including ICT equipment) for the purpose of his business:

- (a) The person shall be treated as the owner of the machinery and equipment, and
- (b) The QPE incurred in the basis period for a year of assessment (YA) shall be taken to be the capital portion of any instalment payments made in the basis period

The following terms have been defined in the Rules:

(a) QPE

Capital expenditure incurred under Paragraph 2, Schedule 3 of the Income Tax Act 1967 (ITA) in relation to the provision of machinery and equipment (including ICT equipment), but excluding motor vehicles

(b) ICT equipment

- Access control system
- Banking systems
- Barcode equipment
- Bursters or decollators
- Cables and connectors
- Computer assisted design (CAD)
- Computer assisted manufacturing (CAM)
- Computer assisted engineering (CAE)
- Card readers
- Computers and components
- Central processing units (CPU)
- Storages
- Screens
- Printers

- Scanners or readers
- Accessories
- Communications and networks

The non-application provisos stipulate that the Rules will not apply to a person who has made a claim on the same QPE under the:

- ▶ Income Tax (Accelerated Capital Allowance) (Automation Equipment) Rules 2017, or
- ▶ Income Tax (Exemption) (No. 8) Order 2017

The Rules are effective from YA 2020.

Tax deduction on cost of personal protective equipment (PPE)

To encourage businesses to adapt to new norms and adhere to COVID-19 related standard operating procedures (SOPs), it was proposed under PENJANA that a tax deduction be given on costs incurred to prevent the spread of COVID-19, including the purchase of personal protective equipment (PPE), thermal scanners and COVID-19 screening tests.

To legislate the proposal, the Income Tax (Deduction for Expenses in relation to the Cost of Personal Protective Equipment) Rules 2021 [P.U.(A) 269] were gazetted on 15 June 2021. The Rules provide that in ascertaining the adjusted income of an employer from his business in a basis period for a YA, a deduction shall be allowed for the cost of PPE for the purpose of his business from 1 March 2020.

The “cost of PPE” has been defined in the Rules to mean expenditure incurred by the employer for the purpose of prevention and protection of its workers from COVID-19.

The non-application provisos stipulate that the Rules will not apply to an employer who has claimed the following on the costs of the PPE:

- ▶ Capital allowances for qualifying expenditure under Schedule 3 of the ITA, or
- ▶ Accelerated capital allowance under the Income Tax (Accelerated Capital Allowance) (Machinery and Equipment Including Information and Communication Technology Equipment) Rules 2021

The Rules came into operation in YA 2020.

Updates to the IRB's FAQs on Tax Matters during the Movement Control Order (MCO) 3.0

The Inland Revenue Board (IRB) has published on its website an updated version of the document titled "Frequently Asked Questions on Tax Matters during the Movement Control Order (MCO) 3.0" (FAQs). The updated document is dated 26 June 2021.

The changes to the FAQs as well as certain updates provided by the IRB have been highlighted in grey in the full version of the latest FAQs set out in the Appendix to this Alert. One of the key changes is the extension of time (EOT) granted for the following:

- (a) Return forms for companies, limited liability partnerships (LLPs), unit trusts or property trusts, co-operative societies, trust bodies, real estate investment trusts (REITs) or property trust funds (PTFs) and business trusts with accounting periods ending between 1 October 2020 and 31 January 2021, for YA 2020 or YA 2021 (as the case may be):
 - ▶ Two-month extension (from the statutory due date)
- (b) Petroleum income tax return forms with accounting periods ending between 1 October 2020 and 31 January 2021, for YA 2020 or YA 2021 (as the case may be):
 - ▶ Two-month extension (from the statutory due date)
- (c) Return forms for taxpayers carrying on a business involving individuals, resident individuals (knowledge or expert workers), non-resident individuals, non-resident individuals (knowledge or expert workers), partnerships, associations, deceased persons' estate and Hindu Joint Families for YA 2020
 - ▶ EOT will be given until 31 August 2021 (previously 31 July 2021)

In addition, we understand from a communication from the IRB to the professional tax and accounting bodies that the following EOTs will be given pertaining to Labuan-related tax matters:

- (a) Submission of the irrevocable election form to be taxed under the ITA (Form LE3) where the due date falls on 30 June 2021 (for companies with a 31 March 2021 financial year end for the YA 2022 under the Labuan Business Activity Tax Act 1990 (LBATA))
 - ▶ An EOT will be given until 31 July 2021
- (b) Submission of returns under the LBATA (Forms LE1, LE4 and LE5) for YA 2021
 - ▶ An EOT was previously given until 31 August 2021, subject to conditions
- (c) Submission of returns under the ITA for a Labuan entity carrying on "other trading activities" for YA 2019 and YA 2020 (accounting period up to 31 October 2020), subject to conditions
 - ▶ An EOT was previously given until 30 June 2021, subject to conditions
 - ▶ Affected taxpayers who are unable to furnish the return by the deadline may apply for a further EOT to the IRB's Labuan branch

Overseas developments

Hong Kong enacts legislation to allow a tax deduction for foreign taxes charged on gross income basis

Hong Kong enacted the Inland Revenue (Amendment) (Miscellaneous Provisions) Bill 2021 (the New Law) on 11 June 2021. The New Law allows a tax deduction for foreign taxes charged on a gross income basis and it applies to tax years beginning on or after 1 April 2021.

Many stakeholders had lobbied the Hong Kong Government to reinstate the Inland Revenue Department's previous assessing practice of allowing a tax deduction for foreign taxes charged and paid on a gross income basis in respect of all types of income. Stakeholders noted that the reinstatement of this practice, which had applied until June 2019, would benefit taxpayers. The New Law was passed to address some of these concerns.

The New Law allows:

1. A tax deduction for foreign taxes on non-interest income (e.g. royalties) that were charged on a gross income basis and were either paid: (i) by a Hong Kong resident person in a non-Hong Kong tax treaty partner jurisdiction; or (ii) by a non-Hong Kong resident person in either a Hong Kong tax treaty or a non-Hong Kong tax treaty partner jurisdiction
2. A non-Hong Kong resident to claim a deduction for foreign taxes paid in respect of certain interest income from a Hong Kong tax treaty partner jurisdiction

The New Law imposes new restrictions that limit a non-Hong Kong resident person from claiming a tax deduction in Hong Kong for foreign taxes paid as summarized above, only to the extent that such

foreign taxes are not relieved from double taxation (by deduction or other methods) in the jurisdiction of residence of the non-Hong Kong resident person.

Chilean tax authorities are evaluating foreign service providers' compliance with recently enacted VAT on digital services

Foreign service providers that provide digital services to individuals in Chile must register for the simplified value-added tax (VAT) regime and withhold a 19% VAT on the payment for digital services. Non-compliance could trigger audits from the tax authority and withholding through credit card issuers.

The Chilean tax authorities have recently e-mailed foreign service providers that may be providing digital services to Chilean users and are not in compliance with current legislation.

Background

According to the Chilean VAT Law, the Chilean tax authorities are authorized to use any technological means of audit available to verify whether foreign service providers are in compliance with tax obligations related to digital services and the simplified VAT regime, regardless of where the information is located.

To identify the foreign service providers that may not be complying, the Chilean tax authorities established a portal through which foreign service providers that are not in compliance may be reported anonymously.

Additionally, the Chilean tax authorities issued two resolutions mandating Chilean banks and credit card issuers to report, on a quarterly basis, the acquisition of services by Chilean customers from foreign service providers and paid for with credit cards or other analogue payment systems (note that banks have been reporting this information since June 2020 and

financial institutions that are not banks, since October 2020).

Non-compliance with registration requirement

Based on the information received, the Chilean tax authorities have e-mailed several foreign service providers that may be providing digital services to Chilean users but are not registered in Chile for purposes of declaring and paying VAT, if applicable.

Not complying with the Chilean rules may result in intermediary entities (i.e., Chilean banks or credit cards issuers) being responsible for collecting the VAT, if not declared by the foreign service providers.

Implications

Foreign service providers that have not already registered for the simplified VAT regime, or have not analyzed whether their services fall within the scope of these new provisions, should register immediately, as non-compliance could result in an audit or the withholding of payments by third parties for digital products purchased by Chilean customers.

For more information on the VAT on digital services in Chile, see EY Global Tax Alert, [Chile: VAT on digital services enters into force](#), dated 3 June 2020.

Frequently Asked Questions on Tax Matters during the Movement Control Order (MCO) 3.0 Period

Question	IRB's response																		
A. General																			
1. When will these FAQs apply?	These FAQs will apply within the MCO 3.0 period.																		
2. Who is eligible to appeal under this facility during the MCO 3.0?	Taxpayers who are affected may file an appeal to the IRB by providing supporting documents.																		
3. What type of services are provided by the IRB during the MCO 3.0 period?	<p>To facilitate tax matters during the MCO 3.0 period, IRB will provide the following services:</p> <table border="1" data-bbox="558 730 1531 1938"> <thead> <tr> <th data-bbox="558 730 651 770">No.</th> <th data-bbox="651 730 1000 770">Services</th> <th data-bbox="1000 730 1531 770">Operating hours / Methods</th> </tr> </thead> <tbody> <tr> <td data-bbox="558 770 651 1493">i.</td> <td data-bbox="651 770 1000 1493">IRB's payment centre counter (Kuala Lumpur, Kota Kinabalu and Kuching)</td> <td data-bbox="1000 770 1531 1493"> Working days 8:00 a.m. - 12:00 p.m. Types of services provided: (a) Cash and cheque payments <ul style="list-style-type: none"> - Withholding tax - Public entertainer - Real property gains tax (RPGT) by acquirer - Compound (b) Payment by debit and credit card <ul style="list-style-type: none"> - Income tax - Other taxes Other services are provided online only. </td> </tr> <tr> <td data-bbox="558 1493 651 1656">ii.</td> <td data-bbox="651 1493 1000 1656">Stamp duty counter at IRB branches</td> <td data-bbox="1000 1493 1531 1656"> Working days 8:00 a.m. - 12:00 p.m. (by appointment only) </td> </tr> <tr> <td data-bbox="558 1656 651 1740">iii.</td> <td data-bbox="651 1656 1000 1740">MyTax (ezHasil)</td> <td data-bbox="1000 1656 1531 1740">24 hours</td> </tr> <tr> <td data-bbox="558 1740 651 1860">iv.</td> <td data-bbox="651 1740 1000 1860">Phone calls: Hasil Care Line (HCL) (Call Centre)</td> <td data-bbox="1000 1740 1531 1860"> Working days 9:00 a.m. - 4:00 p.m. </td> </tr> <tr> <td></td> <td data-bbox="651 1860 1000 1938">Hasil Live Chat</td> <td data-bbox="1000 1860 1531 1938"> Working days 9:00 a.m. - 5:00 p.m. </td> </tr> </tbody> </table>	No.	Services	Operating hours / Methods	i.	IRB's payment centre counter (Kuala Lumpur, Kota Kinabalu and Kuching)	Working days 8:00 a.m. - 12:00 p.m. Types of services provided: (a) Cash and cheque payments <ul style="list-style-type: none"> - Withholding tax - Public entertainer - Real property gains tax (RPGT) by acquirer - Compound (b) Payment by debit and credit card <ul style="list-style-type: none"> - Income tax - Other taxes Other services are provided online only.	ii.	Stamp duty counter at IRB branches	Working days 8:00 a.m. - 12:00 p.m. (by appointment only)	iii.	MyTax (ezHasil)	24 hours	iv.	Phone calls: Hasil Care Line (HCL) (Call Centre)	Working days 9:00 a.m. - 4:00 p.m.		Hasil Live Chat	Working days 9:00 a.m. - 5:00 p.m.
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	<p>v. <i>Bantuan Prihatin Rakyat</i> Counter (application for appeal) at IRB branches, satellite offices, Revenue Service Centres (PHK) and Urban Transformation Centres (UTC)</p>	<p>Working days 8:00 a.m. - 12:00 p.m. (by appointment only)</p>
<p>All tax counters are closed during the MCO 3.0 period. The counters for Business Registration and Business License Renewal at IRB's Kuching branch are also closed.</p> <p>Details on the types of services provided by the IRB during the MCO 3.0 period are as outlined below:</p> <ul style="list-style-type: none"> i. Perkhidmatan Lembaga Hasil Dalam Negeri Malaysia (LHDNM) Sepanjang Tempoh Penutupan Penuh Sektor Sosial Dan Ekonomi (Total Lockdown) ii. Perkhidmatan LHDNM Sepanjang Tempoh Perintah Kawalan Pergerakan (PKP) 3.0 		
<p>4. Will an EOT be given if taxpayers are required to submit documents for audit or investigation within the MCO 3.0 period?</p>	<p>Application for an EOT must be submitted by letter or e-mail to the IRB branch which handles the case. The appeal will be considered based on the merits of the case.</p>	
<p>5. Will an EOT be given if taxpayers are required to respond to IRB's letters within the MCO 3.0 period?</p>	<p>Application for an EOT must be submitted by letter or e-mail to the IRB branch which handles the case. The appeal will be considered based on the merits of the case.</p>	
<p>B. MyTax (ezHasil)</p>		
<p>1. How may one apply for an e-Filing PIN number?</p>	<p>Taxpayers may apply through the Customer Feedback Form available on the IRB's official portal.</p>	
<p>2. How may one register for an income tax number?</p>	<p>The registration for an income tax number and submission of documents may be performed online as follows:</p> <p>(a) Individuals, companies, employers, partnerships and LLPs through e-Daftar</p>	

	<p>(b) Associations, deceased persons' estate, Hindu Joint Families, unit trusts or property trusts, co-operative societies, trust bodies, REITs or PTFs and business trusts through Customer Care Officer</p> <ul style="list-style-type: none"> ▶ Select the relevant IRB branch and click 'Contact Us: Click here' ▶ The application for the registration will be received and processed by the relevant customer care officer from the selected branch.
<p>3. What should one do if one forgets one's e-Filing password?</p>	<p>(a) Taxpayers who have a registered e-mail address or handphone number with the IRB can reset their password by clicking on the "Forgot Password" link on the ezHASiL website.</p> <p>(b) Taxpayers who do not have a registered e-mail address or handphone number or who have changed their registered e-mail address or handphone number, will be able to update the details through the Customer Feedback Form on the IRB's official portal.</p>
<p>C. Forms</p>	
<p>1. Will the IRB provide an EOT for the submission of return forms either manually or by way of e-Filing?</p>	<p>The deadline for the submission of return forms is as stated in the 2021 Return Form (RF) Filing Programme (Amendment 3/2021).</p> <p>EOT will be given as follows:</p> <p>(a) YA 2020 return forms for companies, LLPs, unit trusts or property trusts, co-operative societies, trust bodies, REITs or PTFs and business trusts with accounting periods ending between 1 October 2020 and 31 December 2020:</p> <ul style="list-style-type: none"> ▶ Two-month extension (from the statutory due date) <p>(b) YA 2021 return forms for companies, LLPs, unit trusts or property trusts, co-operative societies, trust bodies, REITs or PTFs and business trusts with accounting periods ending between 1 January 2021 and 31 January 2021:</p> <ul style="list-style-type: none"> ▶ Two-month extension (from the statutory due date) <p>(c) YA 2020 return forms for petroleum with accounting periods ending between 1 October 2020 and 31 December 2020:</p> <ul style="list-style-type: none"> ▶ Two-month extension (from the statutory due date) <p>(d) YA 2021 return forms for petroleum with accounting periods ending between 1 January 2021 and 31 January 2021:</p> <ul style="list-style-type: none"> ▶ Two-month extension (from the statutory due date)

	<p>(e) YA 2020 return forms for taxpayers carrying on business involving individuals, resident individuals (knowledge or expert workers), non-resident individuals, non-resident individuals (knowledge or expert workers), partnerships, associations, deceased persons' estate and Hindu Joint Families</p> <ul style="list-style-type: none"> ▶ EOT will be given until 31 August 2021.
2. Will an EOT be given for the submission of CP500 and/or CP204 amendment where the due date falls in June 2021?	An EOT will be given until 31 July 2021.
3. How does one submit Form CP22 during the MCO 3.0 period?	The Form CP22 can be submitted through the Customer Feedback Form available on the IRB's official portal.
4. How can applications for tax clearance letters (TCLs) be made during the MCO 3.0 period?	<p>(a) Applications can be submitted through:</p> <ul style="list-style-type: none"> (i) e-SPC (ii) Customer Feedback System <ul style="list-style-type: none"> ▶ Select the relevant IRB branch and click 'Contact Us: Click here' ▶ The application will be received and processed by the relevant customer care officer from the selected branch. <p>(b) For submission of the income tax return form which does not have the e-Filing facility, the form can be submitted by post or by way of scheduling an appointment only.</p> <p>(c) The processing of TCL applications will be made after receipt of complete documents and information.</p>
5. Will an EOT be given for the submission of Form Q (i.e. notice of appeal) to the Special Commissioners of Income Tax where the due date falls within the MCO 3.0 period?	Application for an EOT must be done in writing by completing Form N and submitting it to the IRB branch. The appeal will be considered based on the merits of the case. The taxpayer will be required to file a Form N and state that the delay was caused by the implementation of the MCO 3.0.
6. Will the IRB provide an EOT for the submission of Country-by-Country Reporting (CbCR) where the financial year-end falls within the MCO 3.0 period?	Application for an EOT must be submitted in writing to the Department of International Taxation. The appeal will be considered based on the merits of the case.

<p>7. What is the alternative where an application for a Certificate of Residence (CoR) via the e-Resident platform is not feasible as supporting documents need to be submitted?</p>	<p>Applications can be submitted as follows:</p> <p>(a) Appointment; or (b) E-mail to lhdn_int@hasil.gov.my</p> <p>Please visit this link for further information.</p>
<p>8. Will an EOT be given for the submission of tax estimates (CP204) and notification of change of accounting period (CP204B) which are due in June 2021?</p>	<p>An EOT will be given until 31 July 2021. The CP204B will need to be submitted by post or courier.</p>
<p>9. Will a revision of tax estimate be allowed in the third month of instalments which falls in 2021?</p>	<p>No revision is allowed in the third month of instalments. Taxpayers are to submit the revision of tax estimate (Form CP204A) in the sixth and/or ninth month of the basis period for the YA.</p>
<p>D. Payments</p>	
<p>1. Will an EOT be given for tax estimate payments (CP204) which are due in June 2021?</p>	<p>No EOT will be given. Payments can be made via online services at ByrHASiL.</p>
<p>2. Will an EOT be given for all other tax instalment payments related to audit and investigations which are due in June 2021?</p>	<p>No EOT will be given. Payments can be made via online services at ByrHASiL.</p>
<p>3. Will there be an EOT for the submission of monthly tax deduction (MTD) data and remittance of MTD / CP38 payments for remuneration on employment which are due on 15 June 2021?</p>	<p>No EOT will be given. Payments can be made via online services at e-PCB, e-Data PCB and e-CP39.</p>
<p>4. Will there be a deferment for compound and penalty payments which should be paid between 1 June 2021 and 28 June 2021?</p>	<p>A 30-day extension will be given from the initial due date of the payment.</p>

5. Is rescheduling of tax instalment payments allowed?	<p>The taxpayer is required to submit an application with the relevant documents such as cash flow statements.</p> <p>Editor's note: We understand from a communication from the IRB to the professional tax and accounting bodies that taxpayers whose businesses are affected may appeal for the deferment of CP204 and CP500 instalment payments which are due between April 2021 and December 2021, by providing supporting documents. The appeal will be considered based on the merits of the case.</p>
6. Will an EOT be given for withholding tax payments which are due within the MCO period?	No EOT will be given. Withholding tax payments can be made via telegraphic transfer and furnishing the payment details to the IRB by way of fax (03-62019637) or e-mail (HelpTTpayment@hasil.gov.my).
E. Appeal and penalty payment	
1. Can a taxpayer appeal against a penalty imposed?	<p>Yes. The taxpayer may submit an appeal against tax penalties in the following cases:</p> <p>(a) Unpaid penalties</p> <p>(b) Penalties that have been imposed and paid under an instalment schedule</p>
2. Can a taxpayer appeal against a tax increase?	Yes. The taxpayer may submit an appeal through the Customer Feedback Form available on the IRB's official portal.
3. Can a taxpayer appeal to defer the payment of any outstanding penalty imposed to year 2022?	Yes. The taxpayer may submit an application for deferment through the Customer Feedback Form available on the IRB's official portal.
F. Real Property Gains Tax (RPGT)	
1. Will an EOT be provided for the submission of RPGT return forms where the due date falls in June 2021?	EOT will be given until 31 July 2021.
2. Will an appeal on penalty be considered?	Yes. The appeal will be considered based on the merits of the case.
G. Stamp duty	
1. Will an appeal against a penalty be considered?	Yes. The appeal will be considered based on the merits of the case.

2. Will an EOT be given if stamping cannot be done within the MCO 3.0 period?	Yes. The appeal will be considered based on the merits of the case. The appeal must be lodged within 30 days from the date of the documents. Editor's note: We understand from a communication from the IRB to the professional tax and accounting bodies that a 30-day extension will be given from the last day an instrument is due to be stamped, where the due date falls between 1 June 2021 and 28 June 2021.
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The FAQs are also available in the following link:

[Frequently Asked Questions on Tax Matters during the Movement Control Order \(MCO\) 3.0](#)

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Important dates

30 June 2021	6 th month revision of tax estimates for companies with December year-end. As a concession, this deadline is extended to 31 July 2021 pursuant to the FAQs on Tax Matters during the MCO 3.0.
30 June 2021	9 th month revision of tax estimates for companies with September year-end. As a concession, this deadline is extended to 31 July 2021 pursuant to the FAQs on Tax Matters during the MCO 3.0.
30 June 2021	Statutory deadline for filing of 2020 tax returns for companies with November year-end. As a concession, this deadline is extended to 31 August 2021 pursuant to the RF Filing Programme (Amendment 3/2021).
15 July 2021	Due date for monthly instalments
31 July 2021	6 th month revision of tax estimates for companies with January year-end
31 July 2021	9 th month revision of tax estimates for companies with October year-end
31 July 2021	Statutory deadline for filing of 2020 tax returns for companies with December year-end. As a concession, this deadline is extended to 30 September 2021 pursuant to the RF Filing Programme (Amendment 3/2021).

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