



GRATs vs. IDGTs for Wealth Transfer

GRATs and IDGTs/IDGITs

For a U.S. taxpayer with a potentially taxable estate, both a GRAT and an IDGT are tools that may help move future growth in assets to children, grandchildren, or trusts for their benefit. They work differently, have different risks, and require careful legal and tax planning.

Important note: This document is for general education only. It is not a recommendation to use either strategy. The final design of any estate planning technique depends on the client's full facts, including cash flow needs, asset types, expected investment growth, family goals, risk tolerance, existing estate plan, tax position, and legal drafting by qualified estate planning counsel.



1. GRANTOR RETAINED ANNUITY TRUST – “GRAT”

What is a GRAT?

- A Grantor Retained Annuity Trust, or GRAT, is an irrevocable trust created by the person doing the estate planning, called the “grantor.”
- The grantor transfers assets to the GRAT and keeps the right to receive fixed payments, called annuity payments, for a set period of time. The value of those annuity payments are calculated using an IRS mandated interest rate called the 7520 rate. The annuity payments are generally made by returning a portion of the assets gifted to the GRAT valued on the date of the annuity payment. If the asset has appreciated, then less of the asset needs to be returned to pay the annuity.
- After the payment period ends, any assets left in the trust generally pass to the children, descendants, or a trust for their benefit.
- GRATs are specifically addressed under IRC §2702 and related regulations. Under these rules, the retained payment right must qualify as a “qualified interest” for the gift tax value to be reduced by the value of the grantor’s retained annuity interest.

In Plain-English...

- A GRAT is often used when the grantor believes an asset may grow faster than the IRS 7520 rate.
- The GRAT pays the grantor back each year over the life of the GRAT.
- If the assets grow enough, the “extra” growth remaining after the grantor is paid can pass to the family with reduced gift or estate tax cost.

How is the gift measured?

- When assets are transferred to a GRAT, the grantor is treated as making a gift of the future remainder interest.
- The taxable gift is the value of the property transferred to the GRAT, reduced by the actuarial value of the annuity payments retained by the grantor.
- The value of the retained annuity is calculated using IRS valuation rules under IRC §7520.
- Because the family receives a future interest rather than an immediate right to use the property, the annual gift tax exclusion is not available for the GRAT remainder gift.

1. GRANTOR RETAINED ANNUITY TRUST – “GRAT”

Key Legal Requirements

- The trust must provide the grantor with an irrevocable right to receive a fixed annuity amount each year during the GRAT term.
- Under Reg. §25.2702-3, the annuity may be a stated dollar amount or a fixed percentage of the initial fair market value of the property transferred to the GRAT.
- Payments must be made at least annually, and the GRAT term must be fixed and measurable when the trust is created.
- Once the GRAT is funded, additional contributions are prohibited.
- During the GRAT term, the trust cannot make distributions to anyone other than the annuity holder.
- The trust generally must prohibit prepayment of the annuity and cannot pay the annuity by issuing the GRAT's debt instrument, option, or similar financial arrangement.

“Zero-out” GRATs

- Some GRATs are designed so the value of the grantor's retained annuity is equal to the value of the property transferred to the trust.
- As a result, the taxable gift will be zero. This allows the grantor's lifetime exemption from estate and gift tax to remain in full. In addition, even if IRS increases the value of the gift to the GRAT on audit, if a formula (rather than dollar amount) is used to define the annuity, no gift tax will be due; the annuity will just be adjusted upward, leaving the gift at zero.
- A GRAT may provide that annuity payments continue to the grantor's estate if the grantor dies during the term or, alternatively, that the assets pass as part of the grantor's probate estate or living trust if the grantor dies before the end of the GRAT term.

1. GRANTOR RETAINED ANNUITY TRUST – “GRAT”

What happens if the GRAT works well?



- If the GRAT assets grow faster than the IRS 7520 rate, the excess growth will pass to the beneficiaries at the end of the term with a reduced gift tax cost.
- If the grantor survives the GRAT term, IRC §2036 does not cause estate inclusion. As the remaining GRAT assets are distributed to other beneficiaries during the grantor's lifetime, there is no property remaining in the GRAT at the end of the term to be included in the grantor's gross estate.
- The appreciation of a zero-out GRAT passes gift tax free.

What happens if the GRAT does not work well?

- If the assets do not grow faster than the IRS assumed rate, nothing will pass to the family at the end of the GRAT term.
- In that case, the grantor will have incurred legal, appraisal, tax reporting, and administrative costs of setting up and running the GRAT without accomplishing a tax benefit.
- If not structured as a zero-out GRAT, some of the grantor's lifetime exemption against estate and gift tax will be used without providing any tax savings. (A zero-out GRAT should be used to avoid this potential downside.)



1. GRANTOR RETAINED ANNUITY TRUST – “GRAT”

Estate Tax Risk if the Grantor Dies During the GRAT Term

- If the grantor dies before the GRAT term ends, IRC §2036 causes all or part of the GRAT assets to be included in the grantor's gross estate.
- Regulations under Reg. §20.2036-1(c)(2) provide that the includible amount is generally the portion of trust principal needed to produce the retained annuity payment, limited by the trust's fair market value. That calculation is made based on the 7520 rate at the time of the grantor's death. If the 7520 rate is higher than the 7520 rate used at the time the GRAT was established, some of the GRAT assets will be excluded from the grantor's taxable estate.
- For this reason, shorter-term GRATs (2-year GRATs) are sometimes used to reduce mortality risk.

Income Tax Treatment

- GRATs are treated as grantor trusts for income tax purposes.
- This means the grantor reports all items of income, deductions and credits during the GRAT term on the grantor's personal income tax returns.
- Paying the income tax on the trust's income can indirectly benefit the beneficiaries because the trust assets can grow without being reduced by their own income tax payments; this tax payment by the grantor is not treated as an additional taxable gift by the grantor to the GRAT (as the grantor is simply paying the grantor's own tax).

Generation-Skipping Transfer Tax Limitation

- Under IRC §2642(f), generation-skipping transfer tax exemption cannot be effectively allocated during the GRAT term, which limits the GRAT's usefulness for long-term “dynasty” planning.

1. GRANTOR RETAINED ANNUITY TRUST – “GRAT”

GRAT - Potential Pros

- Can move future appreciation to family at low gift tax cost
 - Only the actuarial value of the remainder is treated as the gift. If designed as a zero-out GRAT, the value of the gift will be zero.
- Grantor keeps a payment stream
 - The grantor receives fixed annuity payments during the GRAT term, which may help if the grantor still wants cash flow from the assets.
- Success requires that assets which appreciate more than the 7520 rate be used to fund the GRAT term
 - If the trust assets outperform the 7520 rate, the excess growth will pass to beneficiaries at a reduced transfer tax cost
- Specifically recognized in tax law
 - GRATs are expressly addressed in IRC §2702 and Reg. §25.2702-3, which gives the structure a more defined legal framework than some other planning techniques.
- Income tax payments by grantor may enhance family transfer
 - Because a GRAT is a grantor trust, the grantor's payment of income tax on trust income can allow more to be transferred out of the grantor's estate on a gift tax free basis.

GRAT - Potential Cons/Risks

- Mortality risk
 - If the grantor dies during the GRAT term, all or part of the GRAT will be included in the grantor's estate under IRC §2036.
- Investment performance risk
 - If the GRAT assets do not outperform the IRC §7520 rate, nothing will end up passing to the remainder beneficiaries.
 - If the GRAT using a formula to state the annuity is a zero-out GRAT, it will at a minimum avoid using the grantor's estate or gift tax exemption without benefit.
- Limited flexibility after funding
 - Additional contributions are prohibited after the GRAT is funded.
 - The annuity payment structure must be made on the anniversary date of the trust every year. For planning purposes, the GRAT would want to make the annuity payment when the GRAT assets are at their highest value, when a GRAT is used because the annuity payments must be made on fixed payment dates, this result cannot always be accomplished.
- Less useful for generation-skipping planning
 - GST exemption generally cannot be allocated until the end of the GRAT term under IRC §2642(f).
- Loss of basis step-up may matter
 - If appreciated assets are removed from the grantor's estate, those assets generally may not receive a step-up in income tax basis at the grantor's death. This could increase future capital gain tax when beneficiaries sell the assets.
 - If the GRAT assets pass to grantor trusts at the end of the GRAT term, swapping high basis assets owned by the grantor with low basis assets in that grantor trust can minimize this problem.
- Administrative cost and complexity
 - GRATs require legal drafting, trust administration, tax reporting, and often asset valuation work.

2. INTENTIONALLY DEFECTIVE GRANTOR TRUST – “IDGT” OR “IDGIT”

What is an IDGT?

- An Intentionally Defective Grantor Trust, commonly called an IDGT, is an irrevocable trust designed to be treated one way for income tax purposes and another way for estate tax purposes.
- For income tax purposes, the grantor is treated as the owner of the trust under the grantor trust rules in IRC §§671–678.
- For estate tax purposes, the goal is to pass the appreciation of the assets gifted to the IDGT for the benefit of the grantor’s heirs without being subject to gift or estate tax. As a result, the grantor is not treated as the owner for estate and gift tax purposes.

Why is the word “defective” used?

- “Defective” does not mean the trust is broken.
- It means the trust is intentionally drafted so the grantor is still treated as the owner of the IDIT assets for income tax purposes, even though the trust is intended to be effective for estate tax planning purposes.

In Plain-English...

- An IDGT, just like a GRAT, is used to move future growth in assets to children or descendants at a reduced gift tax cost.
- The grantor may either gift assets to the trust or sell assets to the trust in exchange for a promissory note. The promissory note bears interest at the applicable federal rate (AFR) as defined in IRC §1274.
- If a sale is used, the grantor takes back a note receivable, while the trust purchases and owns the growth asset.
- The planning goal is to “freeze” the grantor’s estate at the value of the note, while future growth above the AFR passes to the grantor’s beneficiaries without gift tax cost.

How is the trust made a grantor trust?

- To be treated as grantor trusts, IDGTs must include provisions that make them grantor trusts. Most often, the provisions used are intended to cause grantor trust treatment under IRC §675.
- For example, a trust may allow the grantor to substitute trust assets with other assets of equal value (substitution powers) under IRC §675(4). Alternatively, the IDGT may permit the grantor to borrow from the IDGT without interest or security making it a grantor trust under IRC §675(2).

2. INTENTIONALLY DEFECTIVE GRANTOR TRUST – “IDGT” OR “IDGIT”

Common Structure: Seed Gift Plus Sale to the IDGT

- Where the grantor desires to sell assets to the IDGT, the grantor must first make a gift to the trust (“seed gift”).
- The seed gift should be at least 10% of the value of the property the trust will buy.
- After the seed gift, the grantor may sell appreciating assets to the IDGT in exchange for a promissory note that bears the AFR.
- These sales are typically structured to be interest-only with the principal due on a fixed date. However, there is typically no prepayment penalty if principal is paid before the due date (so that the IDGT can pay off the note using the appreciated assets it owns when they are at their highest value, effectively leaving more of those assets to be retained for the trust beneficiaries).

Income Tax Treatment of a Sale to an IDGT

- Because the grantor is treated as the owner of the trust for income tax purposes, the sale is ignored for income tax purposes while the grantor is alive, and the trust remains a grantor trust. There is no gain or loss recognized on the sale.
- Interest payments on the note are also generally ignored for income tax purposes: the trust does not deduct the interest, and the grantor does not report the interest as taxable income while the grantor is treated as the owner.

Grantor Pays the Trusts’ Income Tax

- Because IDGTs are structured as grantor trusts for income tax purposes, the grantor reports all items of income, deduction and credit of the trust on the grantor’s personal income tax returns.
- Paying the income tax on the trust’s income can indirectly benefit the beneficiaries because the trust assets can grow without being reduced by their own income tax payments; this tax payment by the grantor is not treated as an additional taxable gift.
- The IDGT will typically include a provision that permits the trustee, for flexibility purposes, to reimburse the grantor for those income tax payments. For the best estate planning result, the grantor would not want reimbursement. However, including this provision allows for reimbursement if paying the tax on the trust’s income becomes too onerous for the grantor.

2. INTENTIONALLY DEFECTIVE GRANTOR TRUST – “IDGT” OR “IDGIT”

Gift Tax Treatment

- The initial seed gift to the IDGT is a taxable gift and uses part of the grantor's gift and estate tax exemption. If the grantor has exhausted his or her exemption, and the grantor's annual gift tax exclusion is not sufficient to cover the entire gift, gift tax would be due as a result of the gift.
- If the sale price equals the fair market value of the property sold and the note uses at least the AFR there should not be a taxable gift on the sale itself.
- If the property is undervalued the IRS could argue that a gift occurred and seek to use a grantor's estate and gift tax exemption or even impose gift tax. If the promissory note is structured using a “defined value” (or Wandry) clause or, perhaps, using a “price adjustment” clause, the risk of a gift might be mitigated.

Tax Treatment if the Grantor Dies Before the Note is Paid

- If the grantor dies before the note is fully repaid, the fair market value of the unpaid installment note is included in the grantor's gross estate.
- The trust assets and their appreciation after the sale to the trust are will not be part of the grantor's taxable estate, and effectively pass without tax to the beneficiaries.
- For estate tax purposes, the note may be discounted for estate tax purposes. However, under Reg. §20.2031-4, the estate bears the burden of supporting any discount below face value.
- The trust cannot be a grantor trust after the grantor dies. As a result, payments on the note after the grantor's death are treated differently. The interest paid on the note would become income taxable to the IDGT upon receipt. The income tax consequences of principal payments post-death are unclear, but the probable outcome is that such payments are not income taxable but the IDGT receives no basis for post-death payments made.

Basis Step-Up Issue

- Assets transferred to an IDGT that are not included in the grantor's estate and do not receive a step-up in basis at death under IRC §1014.
- Rev. Rul. 2023-2 confirms that assets gifted to an irrevocable grantor trust by completed gift do not receive an IRC §1014 basis adjustment if they are not included in the deceased grantor's gross estate.

Generation-Skipping Transfer Tax Planning

- Unlike a GRAT, an IDGT allows generation-skipping transfer tax exemption to be allocated to the seed gift when the trust is funded.
- As a result, the assets of the IDGT (including their post-contribution to the IDIT appreciation) can avoid transfer tax as each generation dies and passes the assets in dynasty trust form to future generations.

2. INTENTIONALLY DEFECTIVE GRANTOR TRUST – “IDGT” OR “IDGIT”

IDGT/IDGIT – Potential Pros

- Can freeze estate value
 - In a sale to an IDGT, the grantor exchanges an appreciating asset for a note, so the grantor's estate owns the note rather than the growth asset. Effectively, the value of the asset sold to the IDIT is “frozen” for purposes of the grantor's estate tax.
- Can shift future appreciation to family
 - If the trust assets grow faster than the AFR, the excess growth passes to the trust beneficiaries without gift tax consequence.
- Grantor pays trust income tax without an additional gift
 - The grantor's payment of income tax on the trust's income can reduce the grantor's estate while allowing the trust to grow for beneficiaries. Such tax payment is not treated as a gift from the grantor to the IDIT
- Potentially lower hurdle rate than a GRAT
 - A sale to an IDGT uses the AFR, while a GRAT uses the 7520 rate. The 7520 rate is 20% more than the AFR.
 - Since the goal is to move appreciation on assets from parents to the trust beneficiaries, the AFR is the hurdle rate for success of an IDGT and the 7520 rate is the hurdle rate for a GRAT. The lower the hurdle rate, the more appreciation can be moved in the right direction. For this reason, a sale to an IDIT is more effective than a gift to a GRAT.
- More flexible payment terms
 - IDGT installment notes can be structured as interest-only notes, with principal due at a certain date but without prepayment penalty if the note is repaid sooner. This allows the note to be paid whenever the assets to be used in repayment are perceived to be at their highest value.
 - GRATs must make annuity payments on set dates, making it harder to make payments when the value of the GRAT assets are at their highest. This flexibility in choosing when to make payments is another advantage that IDGTs have over GRATs.
- More useful for long-term dynasty planning
 - GST exemption can be allocated to the seed gift when the IDGT is funded, making the technique able to accomplish multi-generation planning. Since that exemption can only be allocated to GRATs at the end of the GRAT term (when the assets have already appreciated substantially), this makes IDGTs more effective than GRATs.

2. INTENTIONALLY DEFECTIVE GRANTOR TRUST – “IDGT” OR “IDGIT”

IDGT/IDGIT – Potential Cons/Risks

- Less direct statutory authority than a GRAT
 - Unlike a GRAT, a sale to an IDGT does not have the same specific statutory framework. Some view that fact as a potential benefit of GRATs over IDGTs. Thought this may have been true years ago, sales to IDGTs are tried and true estate planning techniques that IRS has acknowledged have efficacy over the years.
- Requires a taxable seed gift
 - The initial seed gift uses part of the grantor’s gift and estate tax exemption, as compared to a zero-out GRAT which leaves the grantor’s exemption intact.
 - In this instance, if the asset doesn’t appreciate, using a GRAT leaves the grantor’s exemption available for use in other contexts, while if used to cover the seed gift with an IDGT sale, that exemption is lost forever.
 - For this reason, if the grantor is not substantially certain that the asset will appreciate in value, a gift to a GRAT may be better than a sale to an IDIT.
 - Also, if the grantor cannot afford to pay any gift tax in connection with his plan, the zero-out GRAT using a formula annuity clause creates a virtual certainty that no gift tax will be due. Though where there is an IDIT sale a defined value or price adjustment clause may give arguments to eliminate that risk, the result is not certain.
- Grantor must be comfortable paying income taxes
 - The grantor is taxed on the trust’s income under the grantor trust rules.
 - This can be beneficial for wealth transfer, but it can also create a cash flow burden for the grantor. The cash flow burden can be reduced if a reimbursement provision is included in the IDGT so that the trustee is permitted to reimburse the grantor should tax payments become too onerous.
- Potential loss of basis step-up
 - Assets outside the grantor’s estate do not receive a basis step-up under IRC §1014, and Rev. Rul. 2023-2 confirms this result for completed gifts to irrevocable grantor trusts that are not included in the estate. (The same is true for assets that pass to beneficiaries at the end of the GRAT term, however.)
 - If the grantor swaps high basis assets with low basis assets in the IDGT before his death, the basis step-up can still be accomplished for the lower basis assets. Because the swap is between the grantor and his grantor trust, no gain or loss will be recognized on the swap.
- Uncertainty if grantor dies before note is paid
 - The estate includes the value of the note, but because the income tax consequences of payment of the remaining balance after the grantor’s death are not 100% clear, that issue must be addressed at the time.

3. GRAT VS. IDGT/IDGIT

Topic	GRAT	IDGT / IDGIT
Basic idea	Grantor transfers assets to a trust and receives fixed annuity payments for a set term. Any remaining value after the term passes to beneficiaries.	Grantor creates an irrevocable grantor trust, often makes a seed gift, and may sell appreciating assets to the trust for a promissory note.
Primary planning goal	Shift appreciation above the 7520 rate to children or descendants with reduced gift tax cost.	Freeze the grantor's estate at the note value and shift future appreciation above the AFR to beneficiaries.
Governing authorities	Specifically addressed by IRC §2702, IRC §7520, and Reg. §25.2702-3.	Uses grantor trust rules under IRC §§671-678, including possible IRC §675 powers; IDGT sales rely on grantor trust income tax principles including Rev. Rul. 85-13.
Initial gift tax impact	The taxable gift is the value of the remainder interest after subtracting the actuarial value of the grantor's retained annuity. A "zero-out" GRAT using a formula annuity clause makes the gift zero, even if IRS audits and increases the value of the asset given to the GRAT.	The seed gift is a taxable gift. If assets are later sold to the trust for fair market value with an adequate interest rate, the sale generally should not create an additional taxable gift. However, on audit IRS could increase the value of the asset sold resulting in a gift; using defined value or price adjustment clauses may mitigate that risk.
Cash flow to grantor	Grantor receives required annuity payments during the GRAT term.	Grantor receives payments on the promissory note if a sale structure is used.
Payment flexibility	Less flexible. Payments must be made each year on the anniversary of the trust.	Potentially more flexible. Notes may allow interest-only payments and balloon payments, depending on facts and drafting. And if there is no prepayment penalty if principal is paid early, payment of the note principal using assets at their highest value is possible.

3. GRAT VS. IDGT/IDGIT

Topic	GRAT	IDGT / IDGIT
Interest or hurdle rate	GRAT must outperform the 7520 rate for wealth transfer to occur.	IDGT note planning generally uses the applicable federal rate (AFR), which presents in a lower hurdle rate than the GRAT hurdle rate.
If assets perform poorly	Little or nothing may pass to beneficiaries; the trust may essentially return assets to the grantor through annuity payments.	Poor performance may make it difficult for the trust to repay the note, and no appreciation would pass to the beneficiaries. (There is no debt forgiveness if the trust cannot repay the note and no additional gift; the IDGT just fails to transfer appreciation to beneficiaries.)
If grantor dies during term / before note payoff	All or part of the GRAT may be included in the grantor's estate under IRC §2036.	The unpaid note is included in the grantor's estate, but the trust assets and post-sale appreciation are outside the grantor's taxable estate.
Income tax treatment	GRATs are grantor trusts. Grantor pays income tax on trust income, which can benefit the remainder beneficiaries.	Grantor is treated as owner under IRC §§671-678; sale and note interest are generally ignored for income tax purposes while grantor trust status applies under Rev. Rul. 85-13.
GST planning	GST exemption generally cannot be allocated during the GRAT term under IRC §2642(f). Therefore, GRATs are not a good option for GST planning.	GST exemption can be allocated to the seed gift when the IDGT is funded. Therefore, IDGTs are very good for GST planning.
Basis step-up issue	Assets successfully removed from the estate may not receive a basis step-up at death. Swapping assets pre-death (especially if the assets pass to grantor trusts after the GRAT term ends) may minimize this issue.	Assets not included in the estate generally do not receive a IRC §1014 step-up; Rev. Rul. 2023-2 confirms this for completed gifts to irrevocable grantor trusts outside the estate. Consider swapping assets pre-death to minimize this issue.
Administrative complexity	Requires careful drafting, valuation, annual annuity payments, tax reporting, and administration.	Requires careful drafting, valuation, seed gift planning, note documentation, trust administration, and monitoring of income tax and estate tax issues.
Best suited conceptually for	Gifts of assets that the grantor is not substantially certain will appreciate, or where the grantor absolutely cannot afford to pay any gift tax (assuming a zero-out GRAT is used).	Transfer of assets that are expected to appreciate over time.

4. HIGH-LEVEL TAKEAWAYS

- Both techniques are designed to move future growth, not necessarily current value.
 - GRATs attempt to move appreciation above the 7520 rate.
 - IDGT sales attempt to move appreciation above the AFR..
- An IDIT is more effective than a GRAT in most cases.
 - The AFR is less than the 7520 rate, meaning the hurdle rate for an IDIT is less which increases the chance of success and the opportunity for moving more without transfer tax cost.
 - IDGTs are perfect for generational planning, using GST exemption to create dynasty trusts.
 - There is no requirement that the grantor live until the note is repaid for the IDGT sale to work, whereas if he dies before a GRAT term ends, the GRAT fails.
 - Payments on the note can be timed to match the high point of the IDGT asset values, whereas with GRATs, the payments must be made on fixed dates which may not correspond to the highest values.
 - A GRAT is only more beneficial than an IDGT in two circumstances: if the grantor is not certain if the asset transferred will appreciate in value, or if the grantor cannot risk having to pay any gift taxes in connection with the transfer. Because an IDGT sale requires a seed gift which uses up gift/estate tax exemption, if there is no appreciation that used exemption is wasted. With a zero-out GRAT, no exemption is used whether the asset appreciates or not. Further, the regulations are clear that there is no gift with a zero-out GRAT using a formula annuity clause, where defined value or price adjustment clauses do not provide that same certainty in avoiding the need for payment of gift taxes.
- Both can create income tax cash flow obligations for the grantor.
 - In both structures, grantor trust treatment may cause the grantor to pay income taxes on trust income, which may help wealth transfer but requires available cash flow.
 - With the IDIT, a provision allowing the trustee to reimburse the grantor for tax paid on IDIT income can help ease this risk. Though a similar provision cannot be part of a GRAT during the GRAT term, if the assets of the GRAT pass at the end of the GRAT term to a continuing grantor trust, that reimbursement provision can be part of that continuing grantor trust.
- Both may sacrifice a future basis step-up.
 - If assets are successfully removed from the taxable estate, beneficiaries will lose the income tax benefit of a step-up in basis at death under IRC §1014.
 - Asset swaps pre-death can help avoid that result.
- The right answer depends on facts, not labels.
 - The choice between a GRAT and an IDGT depends on the type of assets, expected growth, cash flow, estate tax exposure, family goals, desired trust duration, GST planning, and the client's willingness to accept administrative and tax complexity.

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