

Discussion on the Collection and Management of Urban Land Use Tax under the Background of Tax Reduction and Fee Reduction

Dandan Zhao

Heilongjiang Bayi Agricultural University, Daqing, Heilongjiang Province 163319, China.

Abstract

The policy of tax reduction and fee reduction not only brings fortune to the taxpayers of enterprises, such as exemption from real estate tax and urban land use tax during the epidemic period, but also brings troubles to the stakeholders, such as many problems found in the actual collection and management of urban land use tax. Based on this, through semi-structured interviews and case studies, this paper makes an in-depth investigation on the collection and management of urban land use tax in a province of China, and summarizes the existing problems according to the results of the investigation, including the difficulties in determining the tax payers of urban land use tax for paid rental land, the unclear tax-free policies of urban land use tax for high-tech agricultural companies, and the tax payable in some cases is difficult to determine the area, and the time of tax obligation is unreasonable. In view of these problems, some suggestions are put forward, such as improving relevant policies and regulations and using GPS measurement to determine the land area.

Keywords

Urban land use tax; Tax and fee cuts; Collection management problems.

1. Introduction

Since the 19th National Congress of the Communist Party of China, the CPC Central Committee and the State Council have successively issued a series of tax reduction policies. The Ministry of Finance and the State Administration of Taxation have also issued a series of measures, especially the “Circular of the Ministry of Finance and the State Administration of Taxation on the implementation of the inclusive tax reduction policies for small and micro enterprises” (CS [2019] No. 13, hereinafter referred to as CS [2019] No. 13) further defines the inclusive tax reduction preferences, which is also an important policy basis for tax departments to reduce taxes and fees. Adhering to tax reduction and fee reduction, and combining inclusive tax reduction with structural tax reduction, is conducive to supply-side structural reform and high-quality development of the real economy^{[1][2]}, and ultimately to enhancing people’s sense of access^[3]. At the same time, the policy of tax reduction and fee reduction is the basic constraint in China of deepening the reform of the financial and tax system^[4], and it also faces the challenges of macro, meso, micro, institutional and management^[5]. It is necessary to continue to strengthen the policy of tax reduction and fee reduction and expand its policy space^[6]. Urban land use tax is also the main tax type for the implementation of tax reduction and fee reduction policy, but in practical work, due to various reasons, urban land use tax collection and management still faces some problems, which need to be solved.

Urban land use tax is the only tax levied in the process of land tenure in China^[7], which is conducive to the rational use of land resources by enterprises and the improvement of land use efficiency^[8]. Since the urban land use tax was levied, the urban land use tax policy has been continuously improved, and the “Provisional Regulations of the people's Republic of China on land use tax” has been revised several times. At present, the main policies applicable to urban land use tax are the “Interim

Regulations of the people's Republic of China on urban land use tax”(revised for the third time on December 7, 2013) (hereinafter referred to as the Interim Regulations), the“Circular of the State Administration of Taxation on the examination and issuance of the interpretation and Interim Provisions ‘on some specific issues of land use tax ’(gsdz [1988] No. 015, hereinafter referred to as the State Administration of Taxation Di Zi [1988] No. 015 document)”, “notice of the Ministry of Finance and the State Administration of Taxation on the relevant policies of real estate tax and urban land use tax ”(CS [2006] No. 186, hereinafter referred to as CS [2006] No. 186 document) and other documents, as well as the“detailed rules for the implementation of interim regulations ”formulated by the people's governments of all provinces, autonomous regions and municipalities directly under the central government according to the actual situation. Some scholars have proposed to incorporate urban land use tax into real estate tax ^[9]. Up to now, this vision is not only unrealized, but also urban land use tax has become one of the main taxes of local fiscal revenue, occupying an important position in local taxes, and playing an important role in the growth of local fiscal revenue. The Ministry of Finance and the State Administration of Taxation issued document [2019] No. 13 on inclusive tax relief .The land use tax of small and micro enterprises in cities and towns has been reduced by half, which is also one of the main taxes of the Party Central Committee and the State Council.

On the one hand, this study helps to clarify the current controversial issues in the collection and management of urban land use tax, and help the tax authorities and taxpayers to solve the practical difficulties. On the other hand, it can speed up the improvement of relevant tax policies, further reduce the burden of taxpayers, and enable taxpayers to enjoy more tax reduction and fee reduction dividends.

2. The current situation and main problems of urban land use tax collection and management

In this paper, semi-structured interviews and case studies are used to conduct in-depth research on the collection and management of urban land use tax in a province. From 2014 to 2018, the fiscal revenue of the province was 195146 million yuan, 210117 million yuan, 215844 million yuan, 232931 million yuan and 265665 million yuan, respectively. From 2014 to 2018, the land use tax of local fiscal cities in the province was 9599million yuan, 10281 million yuan, 10477 million yuan, 11622 million yuan and 12684 million yuan respectively. As shown in Figure 2-1. From 2014 to 2018, the urban construction land area (square kilometers) of the province is 2233, 2363, 2425, 2531, 2645. As shown in Figure 2-2.

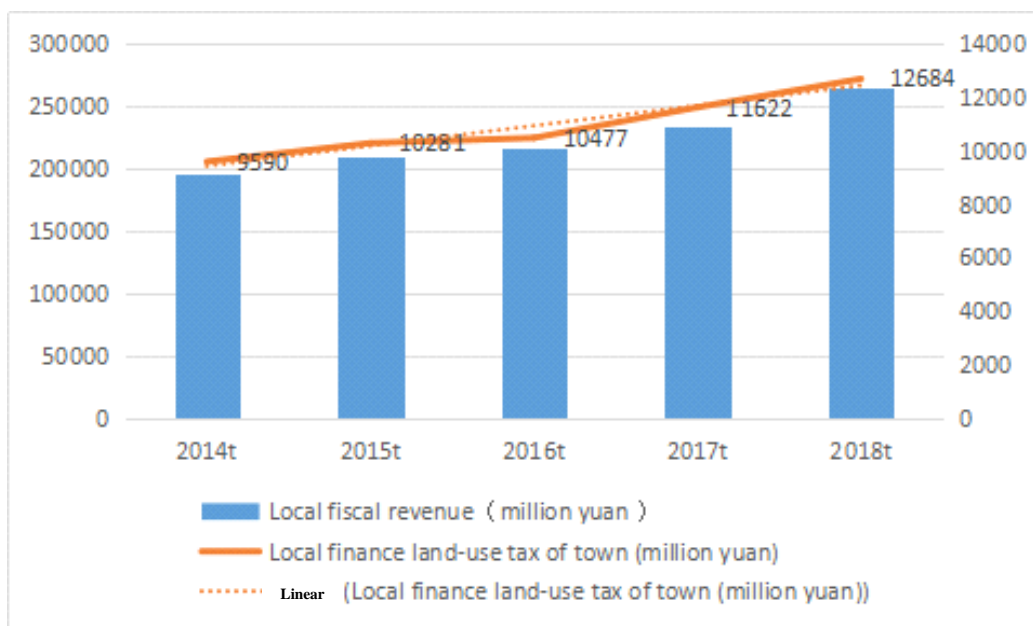


Figure 2-1 2014-2018 Province X fiscal revenue and urban land use tax revenue trend chart.

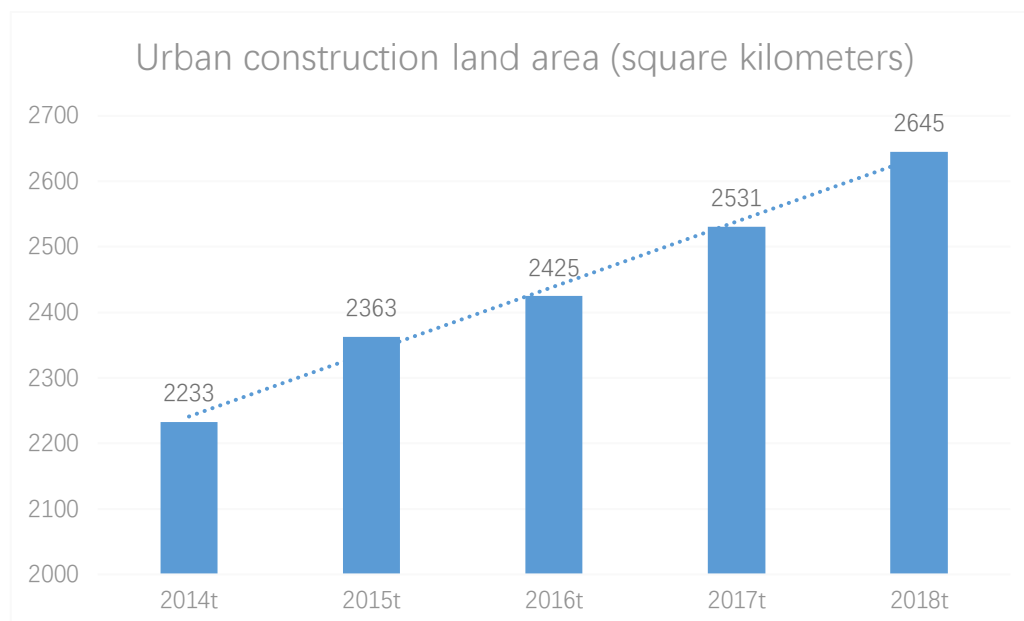


Figure 2-2 Trend map of urban construction land area in Province X.

According to figures 2-1 and 2-2, as the urban construction land area increases year by year, the fiscal revenue increases year by year, and the urban land use tax also increases year by year. In 2018, the urban land use tax increased by 9.1% compared with the same period last year. In 2017, the urban land use tax increased by 10.93% compared with the same period last year. In 2018, the area of urban construction land increased by 4.5% compared with the same period last year. In 2017, the area of urban construction land increased by 4.4% compared with the same period last year. The slow growth of urban construction land area and the slow growth of urban land use tax show that the policy of tax reduction is effective. However, there are still many problems in the process of levying urban land use tax, which are summarized as follows. The cases used in the following are all from the results of semi-structured interviews, and they are properly simplified.

2.1 On the determination of tax payer of paid land lease

The first paragraph of Article 2 of the “Provisional Regulations” stipulates that “units and individuals that use land within the scope of cities, counties, towns, industrial and mining areas shall be taxpayers of urban land use tax and shall pay land use tax in accordance with the provisions of these Regulations”. It can be seen that the taxpayers of urban land use tax in the “Interim Regulations” are “units and individuals using the land”, but the “Interim Regulations” and its detailed rules for implementation do not further clarify what kind of behavior is “using the land”. Specifically, in terms of the paid lease of land, the lessor rents the idle land to earn rent, and the lessee uses the leased land for production and management. In this case, in practice, who is the unit using the land? Who is the taxpayer of urban land use tax? There is a dispute in the actual work. The lessor and the lessee have a dispute about who is the “user”. The lessor thinks that the lessee’s use of land for production and operation is the “use of land” behavior, and the lessee thinks that the lessor’s “lease” of land is the “use of land” behavior, and both parties shuffle each other, which brings great difficulties to tax collection and management. In the face of this situation, there are usually two approaches in practice, one is “no matter who pays, as long as one party pays”, from the legal level, this confuses the taxpayer and the non taxpayer, and the determination of the taxpayer is the primary issue of tax collection and management; the second approach is that the lessor pays the land, based on the national tax Di Zi [1988] No.4 Article of Document No.015: “as for the determination of the taxpayer, the land use tax shall be paid by the unit or individual who owns the land use right. If the taxpayer who owns the right to the use of the land is not in the place where the land is located, the tax shall be paid by the custodian or the actual user; if the right to the use of the land is not determined or the ownership dispute is not settled, the tax shall be paid by the actual user; if the right to the use of the land is shared, the tax shall

be paid by the joint owners separately”. Since the lessor has handled the state owned land use certificate, it is considered that the lessor owns the right to the use of the land, Lessor pays taxes. In practice, the above two approaches may increase the tax burden of taxpayers, or may result in less tax collection. Now for example: Company A is a small and micro enterprise. It rents a piece of idle land that has been dealt with the “state owned land use right certificate” to a non small and micro enterprise B. If according to the first method, A company enjoys half of the discount, and B company pays taxes in full, the tax burden of both parties is obviously different, which is obviously wrong. If we follow the second method, A company will enjoy the preferential policy of halving the expropriation. In fact, this land is actually occupied by B company, which also contradicts with the reality.

In response to this problem, according to the interpretation of “Xinhua Dictionary”, it was also proposed that leasing refers to the behavior that the lessor transfers the right to use the assets to the lessee to obtain the rent within the agreed period. From the accounting point of view, the lease behavior is the behavior of transferring the right to use the property, that is, it is the behavior of transferring the right to use the land. Therefore, the lessee obtains the right to use the land, and the lessee is the right holder of the land and the tax payer of the urban land use tax. In view of this view, the explanation of relevant researchers has some reasons, but the current law does not expressly provide for it, which makes it lack of legal effect and enforcement in practice. There are two problems in the above explanation: one is to evade the question of “is leasing a kind of use behavior?”; according to national tax Di Zi [1988] No. 4 Article of Document No.015, the other is that, there is a difference between the unit with the right to use the land and the actual user, and the lessee in the leased land is the actual user, and the above statement obviously refers to the unit with the right to use and the actual user International users are the same subject, which is inconsistent with national tax Di Zi [1988] No. 015 document.

From the above analysis, it can be seen that it is very important to make clear what is the behavior of “use of land”, as well as to make clear payers, who rent the land with compensation, of the urban land use tax.

2.2 On the collection and exemption of urban land use tax of modern agricultural company

With regard to the reduction and exemption of land use tax, Article 6 of the “Provisional Regulations on Taxation”: “the following land is exempt from land use tax, of which the fifth item is directly used for the production land of agriculture, forestry, animal husbandry and fishery, while the eleventh paragraph of gsdz [1988] No. 015 stipulates that “the production land directly used for agriculture, forestry, animal husbandry and fishery refers to the professional land directly engaged in planting, breeding and breeding, It does not include agricultural and sideline products processing sites and living and office land”.

However, with the development of modern agricultural science and technology, soilless culture, soilless culture and other technologies have been widely used. Agricultural production has been highly scientific and technological in some production fields, and traditional agriculture has developed into high-tech and modern agriculture. For this reason, the collection and management of urban land use tax shows that land is not directly used in agricultural production, but the products are indeed agricultural products. There is a dispute on whether the urban land use tax can be reduced or not. Here is an example: C company is a vegetable and food one located in a town of a county, covering an area of 42 mu. The company mainly deals in the production and sales of bean sprouts, mung bean sprouts, small golden yellow, mung bean tips and other bean sprouts. All products have passed the green certification. Its market covers the surrounding 3-4 prefecture level cities, with a daily output of about 200 tons of bean sprouts. It is a large sprout production base in China, with bubble washing workshop and incubation workshop, cleaning and packaging workshop, the production process is soybean through cleaning, disinfection, incubation, germination, shelling, dehydration to product packaging, quality testing and other processes, the final product is bean sprout. Is the land occupied

by the company's workshop subject to urban land use tax? There are two different views in the actual collection and management. According to item 5 of Article 6 of the "provisional regulations" and paragraph 11 of gsdz [1988] No. 015 document, One view is that only the land directly used for agricultural production can be exempted. Although the workshop of the company produces bean sprouts and belongs to the scope of agricultural products, the plot is not directly used for agricultural production, the same as according to the "notice on Issuing the scope of primary processing of agricultural products enjoying the preferential policies of enterprise income tax (Trial) (CS [2008] No. 149) "and the "scope of primary processing of agricultural products enjoying the preferential policies of enterprise income tax (Trial) (2008 version)", bean sprout production belongs to the primary processing of bean products, so the land occupied by the workshop of the company is the land for processing of agricultural and sideline products, it not belongs to the scope of urban land use tax exemption and should be subject to urban land use tax; another view is that the company's workshop area is exempt from urban land use tax. The reason is that the company produces bean sprouts. The production process of bean sprouts is from soaking to sprouting. It is a typical soilless planting. It belongs to the modern and high-tech planting industry and still belongs to the scope of agricultural production. It can not be seen from the perspective of traditional agricultural production. According to the provisions of the "interim regulations", it should be exempted. At the same time, even if the "interim regulations "do not clearly stipulate the reduction and exemption of urban land use tax of high-tech agricultural companies, the land use tax shall be exempted in accordance with the provisions of CS [2008] No. 149 document and the preferential policies of enterprise income tax. From the perspective of practical work, each of the above two points of view is reasonable, which also brings great difficulties to tax collection and management. If we do not grasp them well, it may cause excessive tax burden on enterprises, or may lead to less tax collection and loss of national tax. The reason for the above situation is that, with the progress of science and technology, the rapid development of agricultural modernization, the scientific and technological content of agriculture is getting higher and higher, so there are many new situations and new problems in the tax collection and management, but the tax laws and regulations are far behind.

2.3 Determination of taxable area of urban land use tax

There are mainly the following provisions on the taxpayer's occupation of taxable area. Article 3 of the "Provisional Regulations "stipulates that "the land use tax shall be calculated and levied on the basis of the land area actually occupied by the taxpayer. The organization and measurement of the land occupation area mentioned in the preceding paragraph shall be determined by the people's governments of provinces, autonomous regions and municipalities directly under the central government in accordance with the actual situation. "According to Article 6 of GSDI Zi [1988] No. 015, "the actual land occupied by taxpayers refers to the land area determined by the organizations of the people's governments of provinces, autonomous regions and municipalities directly under the central government. Where no measurement has been organized, but the taxpayer holds the land use certificate issued by the government department, the land area confirmed in the certificate shall prevail; where the land use certificate has not been issued, the taxpayer shall declare the land area according to the facts ".

Combined with the interview results, the above two policies have the following shortcomings. First of all, according to the above provisions, the taxable area of the land without the land use right certificate shall be declared by the taxpayer according to the facts, and the document gives the power of measuring the taxable area to the provincial people's government, while the grass-roots tax source management department does not have the power of measuring the land area. However, according to the "provisions of Article 35 of the law of the people's Republic of China on the administration of tax collection, the tax authorities have the right to verify the tax payable, while for the land use tax, the main purpose of verifying the tax payable is to verify the taxable area. "In this regard, the GSDiZi [1988] No. 015 and the "Provisional Regulations"are in accordance with Article 35 of the law of the people's Republic of China on the administration of tax collection. In case of conflict, it is suspected

that the inferior law violates the superior law. According to gsdz [1988] No.015 and “provisional regulations”, the grass-roots tax source management department requests the provincial people's government to organize the measurement, which is also extremely difficult to implement in practical work. Second, in the actual collection and management, there are not many ways for the grass-roots tax source management departments to measure the land area. If they use a tape measure for daily use, on the one hand, it will cause tension between the two sides of collection and payment, and the taxpayer does not approve the measurement results of the tape measure; on the other hand, the land area is very large, and in the case of irregular land shape, only by the tape measure it is impossible to measure the accurate area, which can only be estimated by experience. It also makes it difficult for the actual recruitment of management workers.

2.4 Determining the time of occurrence of tax obligation

The policy on the time of occurrence of tax liability of urban land use tax mainly include the article 9 of “provisional regulations” and article 2 of Finance and Taxation [2006] no. 186. Article 2 of Finance and Taxation [2006] no. 186 stipulate “a matter of time of paid in land use of urban land usage tax obligations, paid to obtain the land use right to transfer or transfer way, should be determined by the assignee from land contract delivery time of the month royalties of pay town land; If the time of land delivery is not stipulated in the contract, the transferee shall pay the urban land use tax from the month following the signing of the contract. From the practical point of view, there are many improper.

First, a careful study of the above policy shows some flaws. From the law point of view, “provisional regulations” is the time of the cultivated land, from the date of approval to impose full 1 year; the one of collection of non-cultivated land, since the approval to collect the next month, the key word is “approved”, Finance and Taxation [2006] no. 186 is prescribed by the assignee from the land contract delivery time of the month”, or “assignee” since the second month of the contract signing, contrast, “approval” and “contract” is two time points. From the reality, there is still a long time between the acquisition of land from the superior departments “approval” to the signing of the state-owned land use right grant contract, some can be as long as 1-2 years, therefore, the Finance and Taxation [2006] no. 186 violates “provisional regulations”.

Secondly, according to the interview, the “delivery date agreed in the contract” may be quite different from the actual date of occupation, and there are even some land occupation behaviors, for which the “state-owned land use right grant contract” has not been signed for a long time. Worth thinking about reality, there are two conditions, one is the actual occupancy date is much earlier than the date of delivery stipulated in the contract, one of the most typical example is the behavior of the some occupy the rural collective land, the most common way is to preempt after formalities, but the land expropriation related formalities cycle is very long, maybe after a few years to sign a formal contract, so that a formal contract “contract delivery time” is on the far later than enterprise actual occupation of land of time, if according to the “land contract delivery time” following the land royalties actually cause a loss of tax; another is that the actual date of occupancy is later than the delivery date stipulated in the contract due to objective reasons. Typical example is the urban village transformation development, urban village reconstruction is often done by the real estate developers, involving one of the main problem is the demolition. However, the prevalence of the problem is there is no agreement on demolition compensation, households and enterprises will exist a lot of so-called “nail households”, demolition work not bottom go to, the follow-up development work can't. However, “village in city reconstruction project” generally is a major project of the government, the “state-owned land use right transfer contract” has already signed early may. On the one hand, developers are faced with the situation, the the slow progress of demolition is caused by “nail households”. On the other hand, though having signed the state-owned land use right transfer contract, it may be still unable to complete the demolition since the delivery time agreed upon in the contract expires or even a long period of time. In such cases, the taxpayer does not actually take up the land, if, in accordance

with the “contract delivery time of the month”, collection of town land royalties will aggravate the burden of taxpayers, tax is actually more and more. From the aspects of the property law, the land use right is usufructuary right, land use rights transfer is a kind of real right change form, the transfer of land use right to register for the elements, only signed a “land use right transfer contract” and did not register, the land use right did not transfer, the transferee did not obtain the land use right. In that case, if the time of delivering land has been stipulated in the contract, the delivery would have not been done. letting the assignee royalties pay urban land use tax are more unfair and against legal spirit.

3. Conclusion and policy Suggestions

Based on the results of semi-structured interviews, relevant cases and tax policies, this paper discusses the problems existing in the collection and administration of urban land use tax. On the one hand, these problems reflect the complexity of environment of in the front line of tax collection and management. On the another hand, it also reflects that with the development of the Times, some policies and regulations lag behind and need to be improved urgently. Of course, there are still many shortcomings in this article, for example, the case description is not detailed enough. On the practical problems in the collection and administration of urban land use tax, the following Suggestions are put forward:

3.1 To make clear in depth relevant matters concerning land lease with compensation

In essence, paid leasing with free use are obviously different, the paid leasing itself is also a kind of management behavior, to normalize it, relevant laws and regulations on paid leasing land behavior norms should be perfect. In particular, what is the behavior of using the land, which should be clear, further determine the behavior of paid rent land is or not a kind of use, it shall be determined by the relevant departments.

3.2 Expand the scope of traditional agriculture, and clearly include the land occupied by agricultural, forestry, animal husbandry and fishery companies engaged in modern high-tech agriculture in the scope of urban land use tax exemption

Due to the progress of science and technology and the development of The Times, the existing scope of agriculture, forestry, animal husbandry and fishery has already broken through the traditional concepts, and the relevant agriculture-related policies formulated in the early stage have been unable to solve the problems in the practical collection and management, so the problems mentioned above have emerged. Therefore, we should according to the actual situation, define the relevant high-tech industry on agriculture, forestry, animal husbandry and fishery industry, and unswervingly support high-tech applied in the agricultural industry, high-tech agro-industries town land royalties tax measures, and make some ways of urban land use tax exemption or reduction on high-tech agro-industries, and give the right of enjoying the dividend of tax and fee cuts.

3.3 Improving relevant policies and regulations, and promoting the use of GPS land survey in tax source management

In the 1980s and 1990s, our country is in the early stages of the reform, collection measures fall behind, some tax policy had not adapt to today's situation. Therefore, it is necessary to further clear and correct some policies of urban land use tax, especially in the determination of taxable area on urban land use tax. For example, in the measurement of land area, the GPS positioning system should be used for the measurement, which improves the accuracy and reduces the difficulties in the actual collection and management on urban land use tax.

3.4 Standardize the time of occurrence of tax obligation

To reasonably reduce the tax burden of taxpayers and contribute to the policy of tax and fee cuts, we will combine the policy of tax and fee cuts with the practical principle, and strive to reduce disputes, and pay attention to the substance, especially pay attention to the transfer of taxpayers'

substantive rights and the actual occupation of the behavior, and regulate the time of the occurrence of tax obligations.

Acknowledgements

Heilongjiang Bayi Agricultural Reclamation University's Cultivation Project Funding Program "Regional Agricultural Circular Economy Performance Evaluation Research under the New Agricultural Management System" stage results, project number: XRW2016-08

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