

# VAT NEWSLETTER

## April 2026

### I. REGULATIONS AND UPDATES

#### Reduced VAT rate temporarily applicable to certain energy supplies and fuels

Royal Decree-Law 7/2026, of March 20, establishes temporary measures in the area of Value Added Tax (VAT) aimed at mitigating the impact of rising energy costs on consumers and economic operators, in a scenario marked by the war in the Middle East, uncertainty regarding its evolution, and its impact on international energy and fuel markets.

Effective March 22, 2026, and generally until June 30, 2026, the reduced rate of 10% applies to supplies, imports, and intra-Community acquisitions of certain energy products. The measure applies to electricity, natural gas, briquettes and pellets derived from biomass, firewood, and certain fuels and biofuels defined by reference to the Excise Tax regulations.

In the case of electricity, the application of the reduced rate is not general in nature but is limited to supplies made to contract holders with a contracted power of less than 10 kW, as well as to beneficiaries of the social tariff who are recognized as severely vulnerable or severely vulnerable at risk of social exclusion.

With regard to natural gas, the measure has a broader scope; the 10% rate applies to its supplies, imports, and intra-Community acquisitions without being subject to subjective requirements equivalent to those established for electricity. The reduction also extends to other energy products for thermal use, such as briquettes and pellets derived from biomass and firewood.

Likewise, the Royal Decree-Law applies the 10% rate to certain types of gasoline, diesel, and biofuels intended for use as fuel, as defined by express reference to the Excise Tax regulations.

However, the reduction does not apply unconditionally throughout the entire period initially envisaged. The application of the reduced rate until June 2026 is contingent, in the case of electricity, gas, and motor fuels, on the CPI variation for the corresponding product in April exceeding by more



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than 15% that recorded in the same month of the previous year, according to information published by the National Institute of Statistics in May.

The Royal Decree-Law was published in the Official State Gazette (BOE) on March 21, 2026, and entered into force on March 22, 2026, subject to its mandatory ratification by the Congress of Deputies.

### Excise Taxes and Energy Taxation: Other Temporary Measures to Reduce the Tax Burden

Royal Decree-Law 7/2026, of March 20, also includes various measures regarding Excise Taxes and energy taxation aimed at temporarily reducing the tax burden associated with the consumption of electricity and fuels, as well as mitigating the impact of rising energy prices on certain operators and economic sectors.



With regard to the Special Tax on Electricity, effective as of March 22, 2026, and generally applicable until June 30, 2026, the tax rate is set at 0.5%, the minimum rate permitted under EU regulations. However, the regulation specifies that the resulting tax amounts may not be less than 0.5 euros per MWh when the electricity is used for industrial purposes, vessels moored in port that are not classified as private pleasure craft, or rail transport, nor less than 1 euro per MWh when used for other purposes.

With regard to the Hydrocarbon Tax, the Royal Decree-Law reduces the tax rates applicable to certain energy products and fuels to the minimum levels permitted by Directive 2003/96/EC. The measure affects, in particular, widely consumed products such as diesel and unleaded gasoline, and also applies to other products, including fuel oil, LPG, natural gas, and kerosene used as fuel.

The regulation also provides for a particularly significant measure regarding diesel for professional use, setting the rate of the partial refund regulated in Article 52 bis.6 of Law 38/1992 of December 28 on Excise Taxes at zero euros, effective from the entry into force of the Royal Decree-Law until June 30, 2026. From a technical standpoint, this effectively suspends the partial refund applicable for this purpose during that period.

On the other hand, regarding the Tax on the Value of Electricity Production, special rules are introduced for determining the tax base and the amount of estimated tax payments for the 2026 fiscal year. Specifically, the tax base will be reduced by 10% of the revenues corresponding to electricity fed into the system during the first calendar quarter and by the totality of the revenues corresponding to the second quarter. As indicated by the regulation itself, this measure is intended to compensate for the higher costs borne by companies that determine the price of electricity in the wholesale market.

The Royal Decree-Law also provides for extraordinary and temporary aid directed at certain groups, including agricultural producers and certain land transport operators, as part of a broader regulatory response to rising energy costs.

### Electronic invoicing: approval of the implementing regulations for the electronic invoicing requirement in transactions between businesses and professionals (B2B)

On 31 March 2026, Royal Decree 238/2026 was published in the Spanish Official Gazette, developing the mandatory e-invoicing system between entrepreneurs and professionals and amending the Invoicing Obligations Regulation approved by Royal Decree 1619/2012. This represents a further step in the implementation of Law 18/2022 (the "Create and Grow" Law), which extended the obligation to issue, send and receive electronic invoices in business-to-business (B2B) transactions.

The new regulation establishes a hybrid model under which both private e-invoicing exchange platforms and a public solution managed by the Spanish Tax Authorities (AEAT) may be used. The public solution will also act as a central repository of invoice information.

In this context, interoperability is reinforced through the requirement for private platforms to support multiple structured formats (such as UBL, CII, EDIFACT or Facturae) and to be interconnected with one another.

The regulation also introduces the obligation to report invoice status information, including acceptance or rejection and effective payment, within short deadlines. This is intended to enhance the traceability of the invoicing lifecycle and enable monitoring of payment terms. In line with this objective, even where private platforms are used, a "faithful copy" of each e-invoice must be submitted to the public solution, allowing the authorities to have full visibility over the invoice lifecycle.



Where private platforms are used, they must comply with strict interoperability and interconnection requirements, ensuring the exchange of

invoices and related status information with other platforms and, where applicable, with the public solution.

As regards the implementation timeline, although the Royal Decree has entered into force, its effective application is subject to the approval of a Ministerial Order that will regulate the technical specifications of the public e-invoicing solution. From that moment, the implementation deadlines will start to run: one year for entrepreneurs and professionals with annual turnover exceeding EUR 8 million, and two years for all other taxpayers.

From a practical perspective, this regulatory development will require businesses to review invoicing processes, validation workflows, data quality and the integration of technological systems. Its impact therefore goes beyond formal compliance and affects the overall organisation of invoicing and payment flows between businesses.

It should also be noted that this obligation must be distinguished from the rules applicable to invoicing software systems (VERI\*FACTU), regulated by Royal Decree 1007/2023.

While both frameworks are closely linked and create synergies in terms of digitalisation, compliance support and tax control, they pursue different objectives: B2B e-invoicing focuses on the electronic issuance, transmission and monitoring of invoices and payments, whereas the invoicing software regulation addresses the technical requirements applicable to the systems used to generate such invoices.

## The Canary Islands approve a new 1% IGIC rate for petroleum and refined petroleum products

Law 9/2025, of December 23, on the General Budget of the Autonomous Community of the Canary Islands for 2026, published in the Official Gazette of the Canary Islands (BOC) on December 29, 2025, introduces changes to the IGIC effective January 1, 2026. Specifically, it adds a new Article 33 bis to the consolidated text of the Canary Islands IGIC to establish a specific 1% rate applicable to the supply and importation of petroleum and petroleum refinery products, even when mixed with biofuels.

The same regulation modifies the biofuel regime within Article 33. Thus, the zero rate for supplies of biofuels is maintained, but it is expressly specified that this zero rate does not apply when biofuels are supplied or imported mixed with petroleum refining products. In such cases, the new specific rate of 1% becomes applicable.

From a practical standpoint, the amendment distinguishes between, on the one hand, the supply and importation of pure biofuels, which continue to be taxed at 0%, and, on the other hand, transactions involving petroleum, petroleum products, and mixtures with biofuels, which, as of January 1, 2026, are subject to a 1% IGIC rate.



## Judgment of March 5, 2026, of the Court of Justice of the European Union. Joined Cases C-409/24 (J-GmbH), C-410/24 (D), and C-411/24 (D GmbH & Co. KG)

*Preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 98 — Power of Member States to apply a reduced VAT rate to certain supplies of goods and services — Short-term accommodation in hotels and similar establishments — Annex III, point 12 — Reduced VAT rate applicable to accommodation provided in hotels and similar establishments — Services ancillary to accommodation — National legislation providing for a mechanism for breaking down taxable transactions — Non-application of the reduced VAT rate to services not directly intended for accommodation — Principle of fiscal neutrality.*

In this judgment, in which it consolidates several cases, the CJEU examines a fundamental issue in the field of VAT: the possibility for Member States to exclude certain ancillary services from the reduced rate applicable to hotel accommodation. The dispute arises in Germany, where the law requires certain hotel services (breakfast, parking, or access to facilities) to be itemized and subject to the standard rate, even when they form part of an all-inclusive price.

The cases analyzed present similar situations: hotel establishments that offer, along with accommodation, a series of additional services included in the total price. The taxpayers argued that these services should be considered ancillary and, therefore, should receive the same tax treatment as the main service, with the reduced VAT rate applied. However, the German tax authorities considered these services to be independent of the main service.

The Court bases its reasoning on the VAT Directive, which allows Member States to apply the reduced rate to hotel accommodation. However, the Court notes that this power constitutes an exception to the standard rate and, as such, must be interpreted strictly. Under this premise, the CJEU introduces the possibility of applying the reduced rate selectively within the same category.

In this regard, the Court reaffirms that Member States may limit the reduced rate to specific and concrete aspects of a category of services, provided that such delimitation is based on objective and clear criteria. In the German case, the regulations distinguish between services directly linked to accommodation (subject to the reduced rate) and other additional services that are not considered essential for such accommodation.

One of the most significant aspects of the judgment is the CJEU's relativization of the concept of a single supply, since, although previous case law had held that an ancillary supply must follow the tax treatment of the principal supply, the Court indicates that this logic is not decisive when the legislature has exercised its power to apply the reduced rate selectively. In other words, even if there is a single supply from the perspective of the average consumer, this does not preclude a breakdown for tax purposes.



The European Court also examines the principle of fiscal neutrality, which requires that similar competing services not be subject to different tax treatment. In this regard, it notes that services such as breakfast or parking, when offered independently by other economic operators, are subject to the standard rate. Therefore, applying the reduced rate in this hotel context could lead to distortions of competition.

In light of the above, the CJEU concludes that the breakdown of ancillary services and their exclusion from the reduced rate does not violate the VAT Directive provided that the requirements of objective delimitation and respect for tax neutrality are met. The judgment does not constitute a departure from the single supply doctrine, but rather clarifies its relevance in the context of reduced rates, by acknowledging that, where the national legislature has validly exercised its power to apply the reduced rate selectively, the existence of a single supply from the perspective of the average consumer does not, in itself, preclude unbundling for tax purposes.

**Judgment of March 5, 2026, of the Court of Justice of the European Union. Case C-436/24 (Lyko Operations AB)**

*Procedimiento prejudicial — Sistema común del impuesto sobre Preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 30a — Supply of goods — Concept of “voucher” — Classification — Customer loyalty program based on points awarded for previous purchases — Points that can subsequently be exchanged for items of low value.*

The judgment analyzes the classification for VAT purposes of points awarded in customer loyalty programs. In particular, the preliminary question raised is whether such points can be considered vouchers under the VAT Directive.

The case originates in Sweden, where a company engaged in the sale of beauty products proposed implementing a points system based on the customer's purchase volume. These points can be redeemed for low-value products, but only if the customer makes a new purchase. Furthermore, the points have no monetary value, cannot be transferred or purchased, and expire after a specified period of time.

In this context, the company asked the Swedish tax authorities to clarify whether these points actually constituted multi-purpose vouchers, and how the taxable base should be calculated at the time of redemption. However, the tax authorities concluded that this was simply a promotional mechanism for the brand's products.

In this regard, the Court emphasizes that a voucher implies the existence of an enforceable right on the part of its holder that the supplier is obligated to accept as full or partial consideration for the delivery of goods or the provision of services. This obligation to accept the voucher as consideration is the element that distinguishes vouchers from other commercial instruments. However, in the case under review, the points do not meet this requirement, as they do not create an obligation for the supplier to accept them as consideration, but rather constitute an incentive conditional upon future purchases.

However, in this case, the points do not confer on the customer a right to receive goods, but only the possibility of obtaining additional products in the context of a new purchase; that is, they do not function as a means of payment, but as a commercial incentive that is conditional upon the making of future purchases. Consequently, they do not create an obligation for the supplier to accept them as consideration.



The CJEU concludes that the points do not meet the fundamental requirement to be considered vouchers, which excludes their classification as single-purpose or multi-purpose vouchers. In short, this judgment establishes a clear distinction between instruments that constitute means of payment and those that represent mere commercial incentives.

**Judgment of March 5, 2026, of the Court of Justice of the European Union. Case C-472/24 (MB Žaidimų valiuta)**

*Preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Exemptions — Article 135(1)(e) — Transactions involving the exchange of virtual currency units from an online video game for traditional currencies — Calculation of the taxable amount — Article 30a — Multi-purpose vouchers — Virtual currency of an online video game.*

*In this judgment, the Court determines the VAT treatment of the sale of virtual currency used exclusively within an online video game.*

The dispute arose in Lithuania, where a company engages in the purchase and resale of units of this virtual currency (referred to as “gold”) in exchange for real money, raising questions about its potential exemption or legal classification.

The CJEU first analyzes whether these transactions qualify for the exemption provided for transactions involving foreign currencies. In this context, a previous CJEU ruling on Bitcoin acknowledged that certain virtual currencies could benefit from the exemption provided they were accepted as a means of payment and had no other purpose.

However, in the case of the video game’s “gold,” the Court indicates that these requirements are not met. This virtual currency can only be used within the game itself and is not accepted as a means of payment outside that environment. Furthermore, its function is not to serve as a general instrument of exchange, but rather to facilitate interaction within the game. Therefore, it cannot be treated as a currency for VAT purposes.

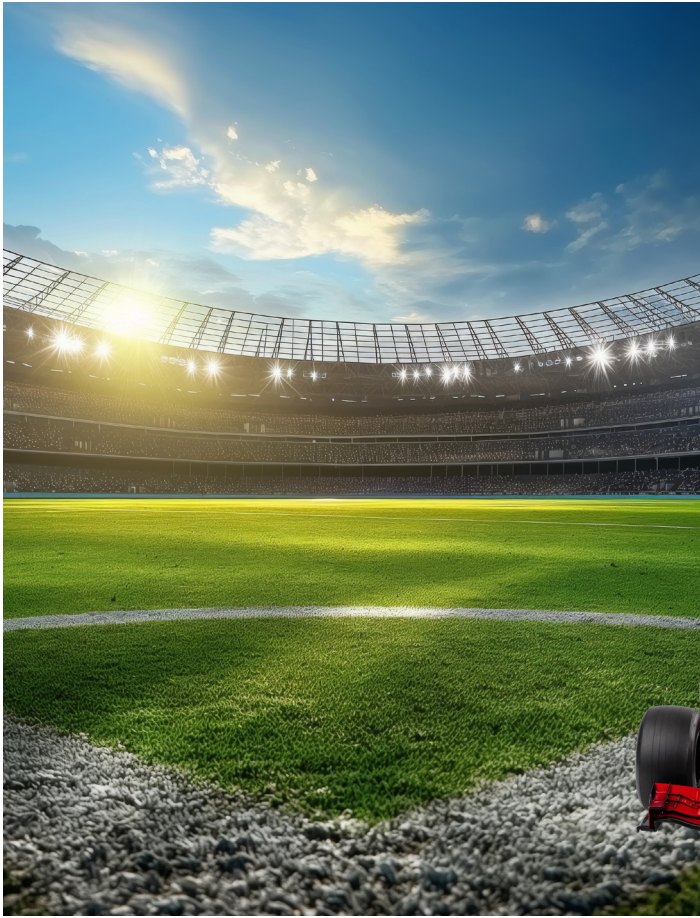
Having ruled out the exemption, the CJEU proceeds to analyze whether these units can be classified as vouchers, specifically multi-purpose vouchers. This is relevant because, if so, VAT would become due at the time of redemption, and the taxable base could be determined differently. However, the Court also rejects classifying these units as multi-purpose vouchers.

The decisive factor for the Court is that the “gold” does not function as an instrument enabling the acquisition of future goods or services, but rather constitutes in itself the object of consumption within the video game. In other words, it does not represent a right to a subsequent benefit, but rather forms an integral part of the digital service itself. In this regard, the virtual currency cannot be classified as either a means of payment or a voucher, but rather as an element of the electronic service consumed by the user.

Therefore, the CJEU concludes that the transactions must be considered services subject to VAT, with the taxable base determined in accordance with the general rule—that is, on the total consideration received for the sale of the gold, and not solely on the margin obtained by the operator.

Thus, the judgment draws a clear distinction between cryptocurrencies (which can serve as a means of payment) and virtual currencies used in closed environments such as video games (which are subject to VAT).





**Judgment of March 12, 2026, of the Court of Justice of the European Union. Case C-515/24 (Randstad España, S.L.U.)**

*Preliminary ruling — Taxation — Common system of value added tax (VAT) — Deduction of input VAT — Directive 2006/112/EC — Article 176, second paragraph — Exclusion of the right to deduct VAT — Purchase of tickets for shows and recreational services — Entry into force of the right to deduct VAT on the date of the Kingdom of Spain's accession to the European Economic Community — Standstill clause.*

The CJEU's judgment in Case C-515/24 has settled one of the most persistent tax debates in Spain regarding whether businesses can deduct VAT on client entertainment expenses. The answer is now clear: they cannot, and Spain is fully entitled to maintain this restriction.

The Court reached this conclusion by applying the standstill clause of the EU VAT Directive, which allows countries to maintain certain VAT limitations that already existed when they joined the EU. Spain introduced VAT on January 1, 1986, and the rule denying deductions for entertainment expenses was already in place on that date. Therefore, the Court confirmed that Spain is not infringing EU rules by maintaining it.

A key point in the ruling is that prior to 1986, Spain did not have a tax system that allowed businesses to deduct input tax in the manner that VAT operates. When it introduced VAT, its deductions and limits were all implemented at the same time. The Court considered this essential because the standstill clause is not intended to freeze a system that existed, but rather to allow each country to maintain the rules it had in force since its accession to the EU, and since Spain did not have a deduction system prior to VAT, the Spanish rule has not curtailed any existing rights. The current limits simply reflect how VAT was originally designed in Spain.

The case concerns classic expenses such as soccer tickets, access to VIP areas at major sporting events, Formula 1 invitations, and similar perks offered to customers. These are common in business relationships, and many companies view them as marketing tools. In this regard, the Court agreed with the Spanish VAT Law in considering these expenses to be related to leisure, entertainment, or luxury.

Another important clarification is that the VAT treatment of these expenses has nothing to do with how they are treated under corporate income tax. Even if a company can deduct the cost for corporate income tax purposes, that does not mean it is entitled to deduct the VAT. According to the CJEU, corporate income

tax and VAT operate differently.

In practice, for companies, VAT on client entertainment is a cost. This means that companies must factor in VAT when planning strategies; some may decide to reduce high-cost events or replace them with clearly professional activities; and others may choose to continue offering entertainment by absorbing the cost as part of their business budget.

In summary, the CJEU's decision confirms the approach Spain has followed for decades, and this confirmation provides businesses with legal certainty and helps shape future business planning. The Court's ruling puts an end to a debate that had dragged on for years and makes clear how companies should treat these expenses in the future. Furthermore, it is important to note that the rules will not change unless the EU someday introduces a harmonized list of expenses that are always considered non-deductible.

**Judgment of March 12, 2026, of the Court of Justice of the European Union. Case C-521/24 (Aptiv Services Hungary Kft)**

*Preliminary ruling — Taxation — Common system of value added tax (VAT) — Directive 2006/112/EC — Intra-Community acquisition of goods — Article 168 — Deduction of input VAT on such an acquisition — Articles 178 and 179 — Conditions for exercising the right to deduct VAT — Late delivery of the invoices necessary to exercise the right to deduct VAT — Denial of the right to deduct VAT — National legislation establishing a corrective declaration procedure allowing the taxable person to exercise their right to deduct beyond the tax period in which that right arose — Principles of neutrality, proportionality, and effectiveness.*

This judgment addresses a recurring issue in VAT law: the timing of when the right to deduct may be exercised when the necessary invoices are received late. The case originates in Hungary and involves a company that had made intra-Community acquisitions of goods several years before receiving the corresponding invoices.

Upon finally receiving the invoices in 2021, the company decided to exercise the right to deduction in that same tax period. However, the tax authority denied the deduction, arguing that the right should have been exercised in the tax periods in which the purchases were made, thereby forcing the taxpayer to resort to correction procedures that were no longer available because the prescribed deadlines had expired.

Consequently, the matter has been referred to the CJEU, which proceeds from the fundamental principle that the right to deduct constitutes an essential element of VAT, intended to ensure the neutrality of the tax. This right arises when the tax becomes due,

but its exercise also requires compliance with certain formal requirements, such as the possession of an invoice.

In this context, it is recalled that the substantive requirements determine the existence of the right, while the formal requirements govern its exercise. This distinction is key, since failure to meet formal requirements cannot, in principle, deprive the taxpayer of the right to deduct if the substantive requirements are met.

Applying this doctrine to the specific case, the CJEU notes that the company could not exercise the right to deduct in the original periods, as it did not have the necessary invoices. Therefore, the moment when both the substantive and formal requirements are met is when those invoices are received, and that is the period in which the right to deduct must be exercised. This is not an exception, but rather the application of the general rule, which requires the simultaneous fulfillment of both types of requirements for the effective exercise of the right.

In this regard, the Court emphasizes the principle of effectiveness, concluding that national legislation that prevents the exercise of a right in these circumstances (when acting in good faith and within the statute of limitations) renders it practically impossible. Furthermore, this conclusion is reinforced by the fact that the alternative mechanisms for deduction provided for under national law were not accessible in practice. Likewise, from the perspective of the principle of proportionality, the Court considers that the denial of the right to deduction in the absence of fraud or abuse is excessive, concluding that EU law precludes legislation that denies the deduction in such cases.



**Judgment of March 19, 2026, of the Court of Justice of the European Union. Case C-513/24 (Oblastní nemocnice Kolín, a.s., nemocnice Středočeského kraje)**

*Preliminary ruling — Taxation — Common system of value added tax (VAT) — Directive 2006/112/EC — Right to deduct VAT — Article 173(1) — Pro rata deduction — Expenses forming part of a taxable person's general expenses — Technical equipment and minimum material requirements for healthcare facilities that constitute a prerequisite for obtaining authorization to provide healthcare services that do not give rise to a right of deduction — Services necessary for the provision of services that give rise to a right of deduction.*

This judgment addresses a key issue in VAT law: the deductibility of tax on goods and services used in mixed activities, that is, in both transactions that give rise to a right of deduction and in exempt transactions.

The dispute concerns a hospital that primarily provides exempt healthcare services but also engages in other taxable activities; the issue arises from certain expenses related to the acquisition of technical equipment and supplies required by national regulations to provide healthcare services. The hospital argues that these costs should be considered general expenses, since without them it could not operate or carry out its VAT-subject activities. Therefore, it contends that they should be deductible on a pro rata basis.

First, the CJEU notes that the right to deduction depends on the existence of a direct and immediate link between the expense incurred and the taxable transactions.



This link may be direct (when the expense is incorporated into the price of a specific transaction) or indirect, in the case of general expenses that form part of the overall cost of the economic activity.

However, the Court makes a decisive clarification: the fact that an expense is required by law does not automatically imply that it is linked to the economic activity as a whole or that it should be classified as a general expense. What matters is not the legal obligation, but the objective relationship between the expense and the transactions carried out.

In this regard, the actual use of the goods and services acquired must be analyzed; that is, if a particular piece of equipment is used exclusively for the provision of exempt services, there will be no right to deduction.

Likewise, the Court notes that the analysis must be conducted on a case-by-case basis, and a blanket solution cannot be applied. This approach by the CJEU requires the taxpayer to conduct a detailed examination of how each good or service is allocated to the taxpayer's various activities.

In light of all this, the CJEU concludes that this type of expenditure required by regulations to provide exempt services does not automatically give rise to a right to a pro-rata deduction.



### III. DOMESTIC COURT RULINGS

**Supreme Court Decision No. 308/2026 of March 11, 2026.  
Appeal No. 4660/2023.**

The recent judgment of the Supreme Court sets an important reference point for mixed holding companies that combine management activities with financial functions.

The case arose following a tax audit in which the Spanish Tax Authorities concluded that the group's parent company carried out, alongside its operational support activity for its subsidiaries, a fully autonomous financial activity. This was because it not only granted loans and guarantees, but also actively participated in the acquisition, holding, and reorganization of shareholdings within the group. This dual nature led the Spanish Tax Agency (AEAT) to consider that separate sectors existed for VAT purposes, thereby preventing the company from applying a full deduction of input VAT.

The Supreme Court confirmed this approach and emphasized that the rules on separate sectors aim to distinguish activities subject to substantially different deduction regimes. In this regard, the Court stressed that transactions involving shareholdings (including their intra-group acquisition and transfer) may be treated as a financial activity where they follow an investment or divestment logic integrated into the holding company's habitual and non-ancillary activity, particularly where such transactions have their own substance and form part of its structural operations.

Furthermore, the Court noted that habituality cannot be assessed solely on the basis of quantitative parameters; what matters is whether these transactions have a structural connection with the entity's ordinary activity. In the case at hand, these transactions formed part of the holding company's strategic functioning and therefore could not be regarded as ancillary or sporadic.

The second issue examined by the Court concerns whether certain intra-group transfers may be regarded as outside the scope of VAT under Article 7.1 of the Spanish VAT Law, which governs the transfer of a going concern.

The Court recalled that this exception requires the transfer of an organized set of resources capable of carrying on an activity by its own means. Although the EU VAT Directive allows, in exceptional circumstances, a transfer of shareholdings to be treated as the transfer of a business, such equivalence requires that the purchaser receive more than mere economic rights, namely the structure necessary to operate independently. In the case at hand, the transaction did not involve the transfer of the means required to carry out the concession activity



(as the purchaser already had the necessary organization), and therefore it could not be regarded as the transfer of an autonomous economic unit.

As a result, the Supreme Court establishes a relevant doctrine, concluding that intra-group transfers of shareholdings carried out by a mixed holding company may fall within a separate financial sector of activity where, in light of the specific circumstances, they constitute a habitual, non-ancillary activity with its own substance within the entity's structure.

Likewise, such transactions may only be treated as outside the scope of VAT where they genuinely involve the functional transfer of an autonomous economic unit, which must be assessed on a case-by-case basis. This is, in any event, a narrowly construed exception requiring the effective transfer of an autonomous business organization. Where a transaction qualifies as outside the scope, it shall not be taken into account for the purposes of calculating the pro rata deduction.



**IV. ADMINISTRATIVE DECISIONS**

**TEAC Resolution No. 03765/2024, dated January 20, 2026, regarding the inclusion of VAT in the agreed price when the contract does not expressly mention the tax.**

In this decision, the Central Economic-Administrative Court (TEAC) rules on the determination of the taxable base for Value Added Tax (VAT) in cases where the price of the transaction was agreed upon without express reference to the tax and the taxpayer can no longer pass on the tax to the recipient.

The dispute arises in a case where, more than a year having elapsed since the tax became due without an invoice having been issued, the tax authority demands payment of the corresponding VAT, which prevents the seller from passing on that tax to the purchaser in accordance with Article 88.4 of the VAT Law. The central issue is whether, in this case, VAT must be added to the agreed price or, conversely, whether that price is deemed to include it.

In this regard, the TEAC starts from the general rule established in Article 78 of the VAT Law, according to which the taxable base consists of the total consideration received or to be received by

the taxable person for the transaction carried out, without the tax itself forming part of that base. However, the Court notes that this rule must be interpreted in light of the principles governing the common VAT system and the case law of the Court of Justice of the European Union.

In particular, the Court recalls that VAT is a consumption tax that must be borne by the final recipient of the transaction, not by the business. Thus, if the price was agreed upon without reference to the tax and the

taxpayer lacks the legal possibility of passing it on subsequently, adding VAT to the agreed-upon price would shift the economic burden of the tax to the business, contrary to the nature of the tax and the principle that the Administration cannot collect more in VAT than the taxpayer actually receives.

On this basis, the TEAC expressly applies the doctrine of the CJEU contained in the judgment of November 7, 2013, joined cases C-249/12 and C-250/12 (Tulică and Plavoşin), according to which, when the contract does not mention VAT and the seller cannot recover it from the purchaser, it must be understood that the agreed price includes the tax. Following this criterion, the Court concludes that, in such cases, VAT is implicitly included in the consideration agreed upon by the parties.

Consequently, the TEAC reiterates this criterion and rules that, when the price of a transaction has been agreed upon without mention of VAT and the taxpayer cannot subsequently pass it on because the statutory period has expired, said price must be considered a price inclusive of VAT. This obliges the Administration to recalculate the tax base and the tax amounts accordingly, thereby avoiding placing the economic burden of the tax on the business owner.



**TEAC Ruling 00/04172/2025, dated February 27, 2026, regarding the denial of the right to deduct VAT in cases of reverse charge when self-invoices identify a fictitious supplier.**

The recent ruling by the Central Economic Administrative Court (TEAC) dated February 27, 2026 (RG 00/04172/2025) addresses the VAT implications of issuing self-invoices under the reverse charge mechanism when a fictitious supplier is deliberately listed on them. In the case under review, a taxpayer purchased scrap metal using the reverse charge mechanism, but part of those purchases were documented with invoices issued by a fictitious supplier that concealed the actual seller. The Tax Inspectorate found collusion between the two parties through cross-payments and the indiscriminate use of payment methods and addresses. Consequently, the Tax Administration only allowed the deduction for purchases made from actual suppliers and denied the deduction of the amounts associated with the irregular invoices, maintaining the self-assessment since it was established that those documents originated from a non-existent supplier and prevented the identification of the true supplier.

In this regard, the TEAC notes that the right to deduction in transactions subject to Article 84.1.2 of the VAT Law requires strict compliance with the substantive and procedural requirements of the tax, including the correct identification of the actual supplier. This criterion is supported both by the established doctrine of the Supreme Court—such as the Supreme Court ruling of February 22, 2022—and, decisively, by the case law of the Court of Justice of the European Union. In particular, the judgment of November 11, 2021, in the *Ferimet* case (C-281/20), states that the right to deduct must be denied when the taxable person deliberately indicates a fictitious supplier on the self-invoice, as this prevents the Administration from verifying whether the actual supplier was a VAT taxable person or whether the transaction forms part of a fraud. The CJEU adds that the denial does not require proof that

the taxpayer obtained a tax advantage; it is sufficient that the false identification of the supplier hinders or prevents tax control, thereby constituting a breach of an essential substantive requirement of the right to deduction.

Based on this doctrine, the TEAC concludes that the inclusion of a non-existent supplier in self-invoices cannot

be classified as a mere formal irregularity, but rather constitutes a deliberate falsification of the supplier's identification that prevents the Administration from verifying the identity of the true supplier and determining whether the latter was a VAT-registered entity or whether the transaction is part of a fraud.

This circumstance constitutes a substantial defect that prevents verification of the transaction's authenticity and renders effective tax control impossible, as it disconnects the document from its evidentiary function. Consequently, such an irregularity cannot be justified by the principle of VAT neutrality or by the doctrine permitting deduction in cases of mere formal non-compliance, as it directly affects elements essential to the exercise of the right to deduct.

Consequently, the TEAC establishes as doctrine that the deliberate inclusion of a fictitious supplier in self-invoices issued under the reverse charge mechanism results in the loss of the right to deduct the self-charged amounts, as it prevents verification of the identity of the actual supplier and violates the formal and substantive requirements necessary for the exercise of that right.



**TEAC Ruling No. 01454/2023, dated February 27, 2026, on the classification of the special VAT pro rata as a tax option and the impossibility of modifying it after the deadline**

The Central Economic-Administrative Court (TEAC), in its ruling of February 27, 2026, establishes relevant doctrine regarding VAT deductions by confirming that the choice between the general pro rata and the special pro rata constitutes a tax option under the terms of Article 119.3 of the General Tax Law. Based on this consideration, the Court concludes that such a choice cannot be modified after the regulatory deadline for filing the self-assessment return in which it must be exercised, except in exceptional cases of a substantial change in circumstances, which does not apply in the case under review.

The dispute arises in connection with a real estate development company that, over several fiscal years, simultaneously carried out transactions subject to VAT but not exempt and transactions subject to VAT but exempt from VAT, arising, among other things, from land expropriations. The Tax Inspectorate adjusted the deductions made, considering the general pro rata rule applicable. In response, the company argued that the special pro rata rule should have been applied for the 2013 to 2016 fiscal years, even though it had not formally opted for it, and contended, in the alternative, that certain expropriations should not be included in the pro rata calculation because they did not constitute a regular activity.

In this regard, the TEAC bases its decision on Articles 102 through 106 of Law 37/1992 on VAT, concerning the methods of apportionment, as well as Article 28 of the VAT Regulation, and categorically rejects this possibility, noting that since the amendment of Article 28 of the VAT Regulation by Royal Decree 828/2013, the option for the special pro rata may be exercised in the final self-assessment of the fiscal year, when the taxpayer is already aware of all transactions carried out and their effects on the deduction, thereby eliminating the traditional scenarios in which the choice was made “blindly.

” Consequently, failure to exercise the option within the deadline results in the automatic application of the general pro rata method, and a subsequent adjustment by the tax authority does not, in and of itself, constitute a substantial change in circumstances that would allow for altering the initial choice.

The Court further notes that recent Supreme Court case law, in particular the judgment of April 3, 2024, considers that the choice between the general pro rata and the special pro rata constitutes a tax option, as it involves a choice between distinct and mutually exclusive legal regimes. Therefore, the general rule of irrevocability provided for in Article 119.3 of the General Tax Law applies, such that the option cannot be rectified once the statutory filing deadline has passed. The TEAC specifies that the doctrine of the *rebus sic stantibus* clause applies only when there is a substantial change in the circumstances determining the option initially exercised, a circumstance it does not find in the case at hand.

Likewise, the TEAC also analyzes the entity’s subsidiary argument regarding the exclusion of exempted expropriations from the pro rata calculation on the grounds that they do not constitute a regular business activity. The Court rejects this argument, affirming that the transfer of land used for development activities—even if it occurs through compulsory expropriation—is part of the ordinary course of business for a real estate company, in accordance with the Supreme Court’s established doctrine regarding habituality and accessory nature. Therefore, the amount of the exempted expropriations must be included in the denominator of the general pro rata calculation, in accordance with the provisions of Article 104 of the VAT Law, as these are transactions inherent to the taxpayer’s business activity.



## V. BINDING RULINGS

### V0197-26: Advance payments on sales of vessels imported from third countries. VAT accrual and possibility of monthly refunds to mitigate financial costs.

The Directorate General of Taxes, in binding ruling V0197-26, analyzes the VAT treatment of a transaction in which an entity established within the territory subject to the tax acquires vessels outside the European Union for subsequent sale to customers established in Spain. During the boat's construction phase, the customer makes advance payments, after which the entity seeking the ruling imports the goods and subsequently delivers them to the final purchaser. The issue raised centers on determining whether it is possible to avoid paying the VAT corresponding to the advance payments received and, at the same time, whether at the time of importation only the value of the vessel should be considered, without taking into account those prior payments.

First, the DGT distinguishes between two clearly separate taxable events. On the one hand, the importation of the goods, subject to VAT pursuant to Articles 17 and 18 of Law 37/1992. On the other hand, the subsequent domestic delivery of the vessel to the final customer, carried out by the consultant in the course of its business activities. Based on this distinction, the DGT emphasizes that the taxable base for the importation shall be determined in accordance with Article 83 of the VAT Law, that is, based on the customs value and the items that must legally be added, regardless of whether the customer has made advance payments prior to the entry of the goods into the Union. Consequently, advance payments do not alter the taxable base of the import, which must be determined in accordance with the rules specific to this transaction.

However, the ruling expressly rejects the notion that such advance payments may remain outside the scope of taxation until the time of final delivery. In this regard, it recalls the accrual rule contained in Article 75.2 of the VAT Law, which establishes that in taxable transactions involving advance payments prior to the occurrence of the taxable event, the tax accrues at the time of full or partial collection of the price for the amounts actually received. Thus, each advance payment received by the taxpayer in connection with the future delivery of the vessel triggers the accrual of the corresponding VAT, which must be charged to the customer and included in the self-assessment for the period in which such advance payment is received.

However, the consultation does propose a mechanism to mitigate the financial impact of this procedure. It is possible to apply for inclusion in the Monthly Refund Registry (REDEME), in accordance with Article 116 of the VAT Law and Article 30 of the VAT Regulations, to claim a refund of input tax.

This would allow for the monthly recovery of the credit balance resulting from self-assessments, thereby mitigating the cash flow costs associated with the payment of VAT charged on advance payments and input VAT on imports.

Finally, the DGT reminds taxpayers who file their self-assessments on a monthly basis that they must maintain their accounting records through the Electronic Office of the State Tax Administration Agency by electronically submitting their invoicing records, in accordance with the terms established by regulation (SII). In short, the consultation concludes that the cash flow problem arising from this type of transaction cannot be resolved by exempting the advance payments received from taxation, but rather by resorting, where appropriate, to the monthly refund system as a means of accelerating the recovery of input VAT.



**V0136-26: Construction of a solar park. Application of the reverse charge mechanism for VAT.**

The Directorate General of Taxes, in binding ruling V0136-26, analyzes the possible application of the reverse charge mechanism provided for in Article 84.1.2.f) of the VAT Law to construction work related to the construction of a solar park intended for electricity production. In the case at hand, the taxpayer is developing this facility on the roofs of several industrial buildings and on certain plots of land.

The DGT notes, first, that the reverse charge mechanism for real estate construction work requires the fulfillment of several conditions:

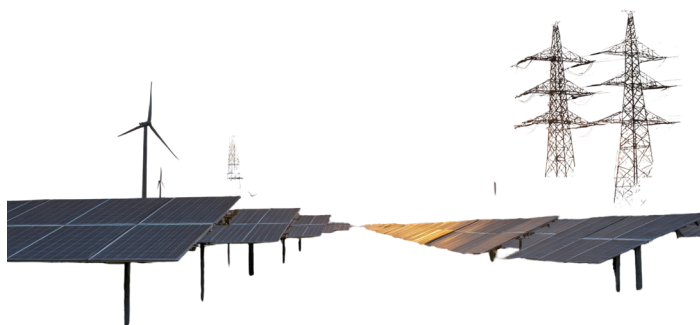
- ▶ That the recipient acts as a business or professional,
- ▶ That the transactions be for the purpose of land development or the construction or renovation of buildings
- ▶ That the transactions carried out have the legal nature of construction work.
- ▶ That such transactions result from contracts directly entered into between the developer and the main contractor, which may also apply to subcontractors.

From there, the central issue of the inquiry lies in determining whether a solar farm can be considered a building for these purposes. In this regard, the DGT distinguishes in this specific case between solar panels considered in isolation, which do not constitute a building because they can be dismantled and moved without damage, and the set of elements that make up the solar farm, which includes photovoltaic installations (solar panels), connection or transmission lines for the energy produced, energy delivery and transformation centers, connection and generation lines, and the buildings where they are located, among other components. Considered in its entirety, the solar farm can indeed be classified as a building for VAT purposes in accordance with Article 6 of the VAT Law. However, the application of the reverse charge mechanism is not automatic; rather, it may apply to the construction of solar parks provided that the requirements set forth in Article 84.1.2.f) of the VAT Law are met, in particular that the transactions constitute construction work under contracts directly entered into between the developer and the contractor.

However, the DGT clarifies that, with regard to the installation of solar panels on the roofs of existing industrial buildings, the reverse charge mechanism will only apply if the work can be classified as building renovation under the terms of Article 20.1.22 of the VAT Law. Otherwise, the contractor must charge the tax to the developer in accordance with the general rules.

On the other hand, in the case of installations carried out on adjacent land, the application of the mechanism will require that the work be performed within the framework of the construction of solar parks, which do qualify as buildings under the terms set forth.

In short, for the application of the reverse charge mechanism, it will be necessary to analyze in each case whether the work performed actually falls within a process of construction or renovation of buildings for the purposes required by the VAT Law.



### **V0180-26: Transfer of residential properties acquired from a developer. Relevance of the completion of the development and the concept of a residential property suitable for use.**

The Directorate General of Taxes, in binding ruling V0180-26, analyzes the Value-Added Tax treatment of the transfer of homes acquired by the taxpayer from the developer, where such buildings had a final construction certificate, but did not have a first occupancy permit or a certificate of habitability, and, furthermore, the development works on the land where they were located were not fully completed. The main issue is to determine the treatment of the acquisition of these homes and the subsequent sale made by the consultant.

The DGT notes that the exemption under Article 20.1.22 of the VAT Law applies to second and subsequent transfers of buildings, but not to initial transfers. For the purposes of classifying a supply of buildings as a first, second, or subsequent supply, and applying the exemption, it is an essential requirement that the building in question be one whose construction or renovation has been completed. Generally, once the final construction certificate has been issued, the transfer of the corresponding building is considered a first transfer for tax purposes; however, in certain cases, the existence of a final construction certificate is not sufficient, and the status of the infrastructure works must also be taken into account when such works are essential.

The DGT reiterates its position in Consultation V1993-13, which established that "the lack of essential urban infrastructure services, such as the supply of drinking water, must lead to the building being classified as unfinished for the purposes of applying the exemption, even if the final construction certificate has been issued."

Thus, if at the time of the acquirer's purchase of the dwellings, despite having a certificate of completion, they were located on land whose development was not completed in essential respects, such acquisition would not have been considered a first supply, as they were still buildings under construction, and the transaction would be subject to the standard rate. In such a case, the subsequent transfer made by the taxpayer would be considered a first supply and would be subject to, rather than exempt from, VAT.

Conversely, if the development works had been effectively completed at the time of the acquisition from the developer, the supply received by the taxpayer would have constituted a first supply of a completed building, subject to the reduced rate of 10%. In that scenario, the subsequent sale of the homes by the consultant would be considered a second transfer and would be subject to but exempt from VAT, without prejudice to any potential taxation under the ITPAJD's regime for onerous transfers of assets.

The fact that the consultant carries out repair and renovation work on the homes that does not qualify as rehabilitation for tax purposes does not alter this conclusion.

In short, the consultation makes clear that, for the purpose of determining whether the transfer of homes constitutes a first or second supply, not only the structural condition of the building is essential, but also the effective completion of the development of the land on which it is situated. Likewise, it confirms that the application of the reduced tax rate specific to residential properties does not depend exclusively on the formal obtaining of the corresponding license or certificate, but rather on the demonstration that the property is objectively suitable for use as a residence.

### **V0100-26: Application of the VERI\*FACTU Regulation to invoices issued to international customers.**

The DGT analyzes whether the Regulation approved by Royal Decree 1007/2023 applies to invoices issued by a professional established in Spain for services provided to international clients, both within the European Union and outside it. The consultation is based on the premise that the taxpayer is subject to personal income tax and carries out an economic activity in Spain, and it notes that the obligation to issue invoices and the obligation regarding computerized invoicing systems are distinct, though closely related, obligations.

The criteria of the consultation are clear: the Regulation does not depend on whether or not the client is established in Spain, but rather on whether the taxpayer uses a computerized invoicing system in the course of their economic activity. What matters is that the taxpayer falls within the scope of the Regulation (Article 3). Therefore, if the business owner or professional uses a program or system that allows for the entry, storage, or processing of invoicing information, they must comply with the requirements of the Regulation. Conversely, if invoices are issued strictly manually, as is the case with handwritten invoices, this obligation does not apply.

In short, the ruling confirms that invoices issued to foreign customers may also be subject to VERI\*FACTU when issued via a computerized invoicing system. What matters is not the recipient's location or whether those transactions are already reported on other tax forms (303, 390, 349...), but rather the method used for invoicing. In addition, the DGT notes that, if required to do so, the taxpayer may choose between using a system compliant with the Regulation or the computer application provided by the Tax Agency itself.

**V0080-26: Proprietary invoicing software in groups under the SII and VERI\*FACTU obligations of software producers and distributors.**

This consultation analyzes whether a parent company of a group whose entities are covered by the SII for VAT or IGIC must adapt the internally developed invoicing software used exclusively by the group's companies to Royal Decree 1007/2023 (RSIF).

The main criterion of the consultation is that taxpayers who maintain their accounting records through the Immediate Information Reporting System are excluded from the scope of application of the Regulation on Computerized Invoicing Systems. Therefore, group companies covered by the SII are not required, in their capacity as users, to adapt their internal software to the requirements of VERI\*FACTU. The reason is that the regulation itself, in Article 3.3, expressly excludes those who maintain their books in accordance with Article 62.6 of the VAT Regulation, that is, through the electronic submission of invoicing records via the AEAT's electronic portal.

However, the DGT clearly distinguishes between the position of group entities as users of the software and that of the consulting company as a potential producer or marketer of the software. Although companies covered by the SII are excluded from the Regulation because they use these systems for their own invoicing, this does not prevent the entity that develops and makes them available to the group from being subject to the RSIF as a producer or marketer of the software, depending on its specific legal status. In other words, exclusion due to the application of the SII does not completely negate the application of the Regulation, but only with respect to its use by the taxpayer covered by that system.

The consultation makes it clear that it is not sufficient for the software to be internal, for exclusive use, or not marketed to third parties to automatically fall outside the scope of VERI\*FACTU. If the entity that develops it qualifies as a producer or distributor, it must comply with the requirements established in Article 8 of



the Regulation, including guarantees of integrity, preservation, accessibility, legibility, traceability, and inalterability of the billing records, as well as the ability to continuously transmit such records to the tax administration via electronic means in a securely, correctly, completely, automatically, consecutively, instantly, and reliably.

**V0016-26: Contribution of a Real Estate Leasing Business Line and Effects on VAT and ITPAJD**

Consultation V0016-26 analyzes a restructuring transaction in which a holding company contributes the real estate leasing business to a wholly-owned subsidiary. According to the facts described, the transferred business comprises 109 leased properties and the subrogation of the employment contract of a full-time employee hired to manage the leases.

With regard to VAT, the ruling addresses the application of Article 7.1 of the VAT Law. The DGT notes that, for the exemption to apply, the transferred assets must constitute an autonomous

economic unit capable of carrying out a business or professional activity on its own. In the case at hand, it considers that the transfer of the properties together with the employment contract of the person in charge of management incorporates an organizational structure sufficient for the autonomous conduct of the rental activity. Therefore, it concludes that the transfer will not be subject to VAT.



With regard to the ITPAJD, the consultation assumes that the transaction can be classified as a restructuring transaction for these purposes. On this basis, it indicates, first, that such transactions are not subject to the corporate transactions regime, in accordance with Article 19 of the TRLITPAJD.

Furthermore, the DGT notes that the tax treatment of these transactions is not limited to this exemption. Article 45.I.B) 10 of the TRLITPAJD also establishes an exemption from the categories of transfers of assets for consideration and documented legal acts, preventing the transaction from being taxed under these categories despite involving the transfer of real estate or its formalization in a public deed.

Consequently, the DGT concludes that the contribution of the business unit, to the extent that it is considered a restructuring transaction, will not be subject to VAT or corporate transactions and will be exempt from TPO and AJD. This conclusion is based, however, on the facts stated by the consultant and is subject to subsequent verification by the Administration.

### V0038-26: Judicial Award Decree Not Subject to Stamp Duty

Consultation V0038-26 examines the treatment under stamp duty of a transfer of a residential property effected through a judgment of award issued in a foreclosure proceeding. According to the facts presented, the consultant is a company that purchased the property at auction, and the transfer of ownership is documented through a judicial decision.

The DGT indicates that the stamp tax regime applies only to notarial, commercial, and administrative documents, in accordance with Article 27 of the TRLITPAJD.

Based on this legal definition, it concludes that judicial documents do not constitute a taxable event for stamp duty. Therefore, when the transfer of property is effected through a judicial decision, as is the case with an award decree, taxation under the stamp duty regime does not apply.

### V0086-26: Scope of the IEPNR for Laboratory Products

Consultation V0086-26 examines whether certain products imported by a laboratory equipment distributor—such as pipette tips, empty plastic tubes, and plastic tubes containing media—fall within the scope of the Special Tax on Non-Reusable Plastic Packaging.

The DGT indicates that Article 68 of Law 7/2022 includes within the scope of the tax non-reusable packaging containing plastic, as well as certain products intended for

the sealing, marketing, or presentation of such packaging. It also notes that, to be included within the scope of the tax, products must cumulatively meet three conditions: they must fall under the definition of packaging or a similar product, be non-reusable, and contain plastic.

Applying these criteria, the consultation concludes, first, that pipette tips do not fall within the scope of the tax, as they are not included in any of the categories listed in Article 68.

Second, regarding empty plastic tubes, the DGT considers that, based on the facts described, these are products intended for the containment, protection, handling, distribution, and presentation of goods, which contain plastic and are non-reusable. Therefore, it concludes that they are considered packaging for the purposes of Article 68.1.a) and that their importation is subject to the tax.

Finally, regarding plastic tubes containing liquid, the DGT indicates that the information provided does not allow for a definitive classification, as their characteristics and specific purpose are not sufficiently specified. However, it reiterates that any non-reusable product containing plastic and designed to contain, protect, handle, distribute, or present goods will be included within the scope of the regulation, unless it forms an integral part of a product under the terms provided by law.

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