



**STPTAX**

**DUTCH TAX PLAN 2023**

20 SEPTEMBER 2022



On September 20th 2022, the 2022 Dutch Tax Plan was presented by the Minister of Finance to the lower house of the parliament. Please find the most important measures below. Unless mentioned otherwise, these measures will enter into force on January 1st 2023.

This special is divided into the following topics:

- measures for businesses;
- measures for employers;
- measures for VAT and excise duties;
- measures on immovable property;
- measures for vehicles & mobility;
- measures in income tax box 3;
- measures for (wealthy) individuals;
- measures for international situations;
- other measures.

## BUSINESSES

### Lowest corporation tax rate (vpb) from 15% to 19%

The government wants to increase the corporation tax rate in the lowest tax bracket from 15% to 19%. It also wants to reduce the extent of the lowest tax bracket from €395,000 to €200,000. As a result, the high corporation tax rate of 25.8% already applies to taxable amounts exceeding €200,000.

### Two tax brackets in box 2

Box 2 levies taxes on income from a substantial interest, such as dividends paid to a director and major shareholder from their private limited liability company (BV). Currently, a single tax rate of 26.9% applies. As from 2024, two tax brackets will be included in the box 2 rate. The rate becomes progressive (the more income, the higher the rate). The proposal is as follows:

2024 Income tax rate for taxation box 2			
Box 2 rate	Tax.inc. more than (€)	but not more than (€)	2024 rate (%)
Low rate		67,000	24.5%
High rate	67,000		31.00%

### Accelerated scale down of self-employed deduction

The self-employed deduction is being scaled down accelerated by €1,280 per annum (including the previously announced scale-down based on the 2020 Tax Plan and the 2021 Tax Plan). The self-employed deduction is incrementally being reduced from €6,310 in 2022 to €900 in 2027. For 2023, the self-employed deduction amounts to €5,030.

### Increased Environmental Investment Credit (MIA) and Energy-saving Investment Credit (EIA)

The government announced that budgets for the Environmental Investment Credit (MIA) and

Energy-saving Investment Credit (EIA) will be increased, to give companies additional support and because of the growing number of applications. The budget for these investment schemes will be increased structurally by €100 million (MIA) and €50 million (EIA) per annum as from 2023.

### No business succession scheme (BOR) for rented property

The government wants to tackle constructs and tax regulations further. A subsequent proposal is that rented property should no longer be eligible for the business succession scheme (BOR) and transfer facility. As a result, rented property can no longer be transferred in a tax-advantaged manner. This proposal, which is still being elaborated upon in more detail, was announced in the 2023 Budget Memorandum.

## EMPLOYER

### increased work-related expenses scheme

Employers may make use of the discretionary margin of the work-related expenses scheme to compensate for and provide tax-exempt benefits to their employees. The current discretionary margin for each employer amounts to 1.7% of the first €400,000 of the wage sum and 1.18% of amounts in excess thereof. Due to inflation, it is proposed that the discretionary margin should (only) be increased over the first €400,000 of the wage sum by 0.22%. This is a maximum of €880 additional discretionary margin per employer.

### Effectiveness margin on customary salary

Directors and major shareholders are obliged to award themselves a salary from their own private limited liability company. The minimum amount of such salary is determined based on the customary salary scheme, which also takes the salary of the most comparable employment into account. The director and major shareholder's salary may be up to 25% lower than this salary. This 25% is known as the effectiveness margin. It has now been proposed that the effectiveness margin be discontinued

so that directors and major shareholders should award themselves a higher salary.

#### **Higher salary for director and major shareholder of innovative start-ups**

In the case of innovative start-ups, the customary salary of the director and major shareholder may be set to the minimum rate of pay for a maximum of three years without consultation with the Tax and Customs Administration. This scheme will be discontinued as of 2023 for new cases.

#### **Limitation of the 30% facility**

As of 1 January 2024, the 30% facility for incoming employees will be limited to what is known as the Balkenende standard (remuneration standard for senior civil servants, currently €216,000). The 30% allowance will then be capped if the tax base is higher than this amount. A transitional arrangement is hereby established for incoming employees for whom the 30% facility is applied in the last payroll period of 2022. For them, the capping will only apply as from 1 January 2026. From 2023 onwards, employers will additionally have to make a choice each calendar year for incoming and seconded employees, to reimburse extraterritorial costs based on the 30% facility or on a reimbursement basis.

## VAT & EXCISE DUTIES

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#### **Zero-rate VAT on solar panels**

Currently, the supply and installation of solar panels is charged with 21% VAT. The government wants to apply a zero-rate VAT to the supply and installation of solar panels for homes as from 1 January 2023. The purchase of solar panels will no longer be subject to VAT. If the annual turnover of the supply of electricity remains below €1,800, the private owner of solar panels will no longer need to report to the Tax and Customs Administration.

#### **Nitrous oxide charged at 21% VAT**

The general VAT rate (21%) is declared applicable to the supply of nitrous oxide (laughing gas cartridges).

#### **Increase in consumption tax on nonalcoholic beverages**

As at 2023, consumption tax on nonalcoholic beverages increases by €11.37 to €20.20 per 100 litres. In 2024, this increases further to €22.67 per 100 litres. In addition, mineral water is exempted from consumption tax on nonalcoholic beverages as of 1 January 2024. To ensure that light beers remain at least at the same rate as for soft drinks, the lowest rate of excise duty on beer will be increased with effect from 2023 and 2024 by the same amounts.

#### **Increase in tobacco duty**

Tobacco duty is increasing so that the average selling price for a pack of 20 cigarettes will be approximately €10 in 2024. This is being done in two equal, successive increments as at 1 April 2023 and 1 April 2024. Excise duty on tobacco and cigars will also increase with effect from the same date. Aside from the expected behavioural effects, an increase in tobacco duty leads to additional revenue.

#### **Reduction in fuel excise duty**

Since 1 April 2022, the government has substantially reduced the rates of excise duty on unleaded petrol, diesel and LPG to mitigate rising energy prices. The measure applies until the end of 2022 and will be extended until 30 June 2023. The annual indexation prescribed by law and the increase in the rate of excise duty on diesel included in the Climate Agreement Tax Measures Act have been postponed until 1 July 2023.

## IMMOVABLE PROPERTY

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#### **Value with vacant possession ratio to 100%**

The value of rented housing with security of tenure is determined by multiplying the value for the purposes of the Valuation of Immovable

Property Act (WOZ value) by the value with vacant possession ratio. This is important for the gift and inheritance tax and box 3 for purposes of income tax. It is proposed that as from 2023 a ratio of 100% be applied to temporary tenancy agreements and for letting to related parties. This in fact eliminates the value with vacant possession ratio in these situations.

#### **Transfer tax increased to 10.4%**

The general rate of transfer tax is being increased again. The non-residential transfer tax and transfer tax for residences in which the buyers will not personally be living permanently, is being increased from 8% to 10.4%.

#### **Property outside regime of fiscal investment institution**

The government has announced a corporation tax measure that will prevent fiscal investment institutions (FIIs) from investing directly in property. This measure is intended to ensure that profits gained on property can be taxed in all cases. It has been shown that in situations with foreign investors and property in the Netherlands owned by fiscal investment institutions (FIIs), the Dutch levy of corporation tax may be frustrated. The measure is expected to enter into force on 1 January 2024.

## **VEHICLES & MOBILITY**

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#### **Tax-exempt travel allowance**

An employer may pay its employees a tax-exempt travel allowance of up to €0.19 per kilometre for business kilometres (including commuting). The maximum tax-exempted allowance will be increased to a maximum of €0.21 as from 1 January 2023 and to a maximum of €0.22 per kilometre as from 1 January 2024. The increases also apply for purposes of income tax, so that entrepreneurs, recipients of income from other activities, and suchlike can also benefit from it.

#### **Additional tax liability for electric vehicles**

By default, 22% of the catalogue value is added to the employee's salary for the private use of a company car. For entrepreneurs, this 22% is

deducted from deductible vehicle costs. For new zero-emission vehicles such as fully electric cars, only 16% additional tax liability applies on a maximum amount of €35,000 in 2022. In 2023, this will be 16% on a maximum amount of €30,000, so too in 2024. In 2025, the additional tax liability will be 17% on a maximum of €30,000 and the benefit for electric cars will disappear as from 2026. The additional tax liability will then be equal to the default additional tax liability (22%). This had been proposed in previous tax plans.

#### **Passenger motor vehicle and motorcycle tax (BPM) exemption for commercial vans discontinued**

The passenger motor vehicle and motorcycle tax (BPM) exemption for commercial vans will be discontinued as at 1 January 2025. This also shifts the tax liability of the holder of the registration certificate to the applicant of the van registration in the vehicle registration system. As from 1 January 2025, the applicant, who is usually the importer or dealer, must pay the passenger motor vehicle and motorcycle tax (BPM). The passenger motor vehicle and motorcycle tax (BPM) exemption for zero-emission vans remains in place.

#### **Increase in motor vehicle tax for vans**

The motor vehicle tax rate (MRB) is increasing for the vans of entrepreneurs. In 2025, this concerns an increase of 15%, followed by a further increase of 6.96% in 2026.

## **BOX 3**

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#### **Box 3 - Christmas Eve ruling**

In December 2021, the Supreme Court of the Netherlands ruled in the renowned Christmas

Eve ruling that, in certain cases, the ‘Dutch box 3 income tax system’ is contrary to European law, which must be remedied. In this, a distinction is made between the past (2017 to 2022), the transitional period (2023 to 2025) and the future (2026 and later years).

### Limitation of judicial remedy of box 3

The proposed Judicial Remedy of Box 3 Act applies to assessments for income tax/national insurance contributions for the years 2017 to 2022, provided that they are not irrevocably established.

### New capital yield tax base

In the new calculation of the capital yield tax base in box 3, gains from savings and investments are based on the actual composition of the capital. Three categories of assets are distinguished: bank account credit balances, liabilities and other assets. For each asset category, a specific fixed capital yield rate is proposed that is as close as possible to the actual yield.

### Calculation of new gains from savings and investments

Yields to be calculated by multiplying the applicable fixed capital yield rate by the value of the assets in the relevant category (after deduction of the debts threshold) on the 1 January reference date.

Capital yield rates for the new calculation by category:

	Bank a/c cr.bal. (I)	Other assets (II)	Debts (III)
2017	0.25 %	5.39 %	3.43 %
2018	0.12 %	5.38 %	3.20 %
2019	0.08 %	5.59 %	3.00 %
2020	0.04 %	5.28 %	2.74 %
2021	0.01 %	5.69 %	2.46 %
2022	-	5.53 %	-

The rates for categories I and III for 2022 are not yet known.

The tax-free assets of the current ‘Dutch box 3 income tax system’ remains in place. Since the new calculation is based on an actual (instead of

a fixed capital yield) assets mix, the question arises as to which asset components the tax-free assets should be deducted from. It is therefore proposed to multiply the effective fixed capital yield rate in the three asset categories by the capital yield tax base, to determine the new gains from savings and investments, after it has been reduced by the tax-free assets.

### Distribution of combined tax base

Since the level of the combined income components may have been altered by the judicial remedy and the method of distribution as a result of the judicial remedy – by corresponding with the distribution chosen by the tax partners – may deviate from current legislation, and this may possibly be unfavourable for the taxpayer, the proposed legislative text allows tax partners to choose a different distribution in respect of the additional deduction. To this end, they may apply to the tax inspector for an official reduction, or – for the years 2021 and 2022 – submit a new tax return in which they make their joint choice known.

### Transitional Income Tax Box 3 Act

In line with the box 3 judicial remedy, for taxation in the years 2023 to 2025, the actual composition of the assets is used. For every asset category (bank account credit balances, other assets and debts), a separate fixed capital yield rate applies.

### Box 3 fixed capital yield rates known for 2023

In 2023, a fixed capital yield of 0.01% will be applied for bank account credit balances. For other assets, this fixed capital yield rate will be 5.69%. The fixed capital yield rate on debts will be negative 2.46%.

### Exemption on green investments is maintained

The new ‘Dutch box 3 income tax system’ will also exempt green investments up to a certain maximum amount. In doing so, a separation must be made between green investments on bank account credit balances and other green investments. The exemption must first be

allocated as much as possible to other green investments.

### Reference date arbitrage

Without further measures, taxation in Box 3 under the Transitional Income Tax Box 3 Act can be easily reduced by selling investments just before the reference date. The proceeds are then temporarily deposited into a bank account. It is for this reason that such a sale is ignored if it occurs in a connected three-month period starting before and ending after the reference date.

### Rate increase

From 2023 to 2025, the Box 3 rate will increase by 1 percentage point annually. The rate will therefore be 32% in 2023, 33% in 2024, and 34% in 2025.

### Increase in tax-free assets

Tax-free assets are being increased from €50,650 to €57,000. For partners, tax-free assets are being increased from €101,300 to €114,000.

## (WEALTHY) INDIVIDUALS

### 2023 Income tax rates for taxpayers below statutory retirement age

Taxpayers who have not reached the statutory retirement age (AOW) at the beginning of 2023, are expected to apply the following tax brackets in 2023.

2023 Income tax rate			
Box 1 - rate	Tax.inc. more than (€)	but not more than (€)	2023 rate (%)
Low-rate bracket		73,031	36.93 %
High-rate bracket	73,031		49.50 %

2022 Income tax rate			
Box 1 - rate	Tax.inc. more than (€)	but not more than (€)	2022 rate (%)
Low-rate bracket		69,398	37.07 %
High-rate bracket	69,398		49.50 %

These percentages include national insurance contributions. A different rate structure applies for those who qualify for other national insurance contributions.

### 2023 Income tax rates for old-age pensioners

Taxpayers who have reached the statutory retirement age (AOW) at the beginning of 2023 and were born after 1946, are expected to have the following tax brackets applied in 2023.

2023 Income tax rate (old-age pensioners)			
Box 1 - rate	Tax.inc. more than (€)	but not more than (€)	2023 rate (%)
Tax bracket 1		37,149	19.03 %
Tax bracket 2	37,149	73,031	36.93 %
Tax bracket 3	73,031		49.50 %

2022 Income tax rate (old-age pensioners)			
Box 1 - rate	Tax.inc. more than (€)	but not more than (€)	2022 rate (%)
Tax bracket 1		35,472	19.17 %
Tax bracket 2	35,472	69,398	37.07 %
Tax bracket 3	69,398		49.50 %

These percentages include national insurance contributions. A different rate structure applies for those who qualify for other national insurance contributions.

### Changed tax credits

Below are the changes in tax credits as mentioned in the Explanatory Memorandum of the 2023 Tax Plan. These relate to taxpayers who are below the statutory retirement age

(AOW). For persons entitled to an old-age pension, in principle, lower maximum amounts apply.

Tax credits	2023 (€)	2022 (€)
Max. general tax credit	3,070	2,888
Max. employed person's tax credit	5,052	4,260
Max. income-related combination tax credit	2,694	2,534
Young disabled person's credit	820	771

### Phasing out of Income-dependent Combination Tax Credit

The Income-dependent Combination Tax Credit (IACK) for working parents with one or more children up to 12 years of age will be discontinued as of 2025. This does not apply to parents with (one or more) children born before 1 January 2025. A fundamental revision has been announced of the childcare allowance (KOT). The government has opted for an income-independent compensation of 96% (up to the maximum hourly rate) for working parents. This high compensation contributes to the affordability of childcare. This makes it more attractive for parents to combine work and care for young children.

### High marginal pressure on middle-income earners

If someone earns more income they pay more income tax and contributions and they receive fewer benefits and allowances. The difference between the gross additional income and the net additional income is called marginal pressure. Specific tables for this have been added to the tax plans. Above a gross income of approximately €23,000, there is a very high marginal pressure of up to 87% for people who are entitled to a healthcare and housing allowance. As the maximum healthcare allowance and maximum housing allowance have been increased, the group of people affected by this has increased.

### In 2025, the aggregate income determines the general tax credit

In 2022, the maximum general tax credit (AHK) of €2,888 decreases by 6.007% of income from work and home, provided that such income exceeds €21,317. In 2025, this scale-down will depend on the aggregate income.

### Joyous tax-free lump sum discontinued

The extended gift tax exemption of €106,671 (2022), designated to buy an own home or to repay a home acquisition debt, will be discontinued as of 2024. In anticipation of this, this exemption will already be reduced to €28,947 in 2023. The possibility of spreading will also be discontinued on 1 January 2024. In concrete terms this means that the part of the maximum exemption in 2022 that remains unused can only be used for a donation in 2023, but no longer for a donation in 2024.

### Apply compulsory old-age provision (ODV) for annuity

Previously, directors and major shareholders could accrue a pension provision within their own private limited liability company. When this was discontinued, part of the pension could be converted into a compulsory old-age provision (ODV). Prior to the payout of a compulsory old-age provision (ODV), the director and major shareholder can use this to purchase an annuity. As there was a preference – in practice – to buy an annuity after the start of the ODV payouts (even if five years have passed since the end of the calendar year in which the taxpayer reaches the statutory retirement age (AOW)), approval was issued for this purpose. These approvals, including the terms and conditions set out therein, are now laid down in law.

### Reparation of transitional rule for training allowance

Since 1 January 2022, the tax allowance for training expenses for income tax purposes was discontinued. Since then, there has only been a transitional provision for training expenses up to and including the academic year 2014/2015. This transitional rule was intended to apply until 1 January 2031. However, the way in which the transitional provision was incorporated into the law was incorrect, so it has now been decided

to retroactively repair this with effect from 1 January 2022. As a result, the law is consistent with its intention.

#### **Restriction of periodic deduction for gifts**

Periodic gifts are gifts made annually for a minimum of five years. Under certain conditions, such gifts are currently fully deductible for income tax purposes. It has been proposed to introduce a maximum deductible amount for periodic gifts. Gifts of more than €250,000 (per household) may no longer be offset against income.

#### **Correction of deduction for gifts multiplier**

The multiplier for income tax purposes means that the amount of deductible gifts to cultural public benefit organisations (ANBI) will be increased by 25%, but at most by €1,250. In practice, it has always been assumed that the maximum amount of €1,250 applies jointly to both partners. Based on current legal text, the increase for tax partners should at most be double (€2,500). The law has been adapted to align with practice. The maximum increase for tax partners jointly will also remain at €1,250.

#### **Average scheme discontinued**

It is proposed to discontinue the average scheme. The average scheme was used to recalculate the tax on income from work and home over a continuous period of three calendar years (the averaging period) to the tax over an average income over this averaging period. If the recalculated tax was lower than the levied tax, then the difference will be refunded after deducting a threshold of €545. The period 2022–2023–2024 is the last period that can be used as a basis to apply the average scheme.

#### **Flight tax to be increased**

Flight tax is being increased by €17.95. As the current flight tax of €7.947 is indexed annually, the new rate including indexation and increase amounts to €26.43 per departing passenger. Short-distance flights are therefore discouraged because the flight tax on these flights is relatively more expensive.

#### **Increase in healthcare and housing allowance**

The maximum housing allowance and the maximum healthcare allowance have respectively been increased by approximately €35 and approximately €17 per month to support the most vulnerable households. As the healthcare allowance increases and the phase-out percentage remains the same, more households will be entitled to healthcare allowance in 2023.

#### **Sheltered, displaced Ukrainian is not a partner in terms of allowances**

The government is amending the law to ensure that a sheltered, displaced Ukrainian does not count as a partner for benefits and allowances. Without this amendment, the sheltering of Ukrainians would limit or jeopardise entitlement to an allowance.

## INTERNATIONAL SITUATIONS

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#### **Increased personal tax allowance in the Caribbean Netherlands**

As a measure to increase purchasing power, the government wants to raise the personal tax allowance by US\$500 for salary and income taxes purposes in the Caribbean Netherlands. In addition, the personal tax allowance will also rise due to the annual inflation adjustment as of 1 January 2023.

#### **Decreased excise duty on petrol in Caribbean Netherlands to last longer**

On 1 April 2022, the government temporarily reduced the excise duty on petrol in the Caribbean Netherlands by US\$0.16 per litre. The government intends to extend the temporary reduction until 30 June 2023. The temporary reduction will be reversed in two equal steps of US\$0.08 per litre on 1 July 2023 and on 1 January 2024. Excise duty is not levied on diesel and LPG in the Caribbean Netherlands.

## OTHER MEASURES

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### **Tailored approach to interest on overdue tax possible**

If a taxpayer does not pay their tax liabilities on time, they also have to pay interest on overdue tax. It has been proposed to broaden the inspector's scope not to calculate interest on overdue tax if late payment is not attributable to the taxpayer. This would be the case, for example, if a 2022 provisional income tax assessment did not take the developments regarding box 3 into account. Collection of taxes due on this assessment are then halted. Notwithstanding that taxes need not be paid; the Tax and Customs Administration will still charge interest on overdue tax. That is no longer necessary thanks to this broadened scope.

### **Increased child-related budget**

The government wants to increase the child-related budget over and above the annual inflation adjustment, to focus on parents undergoing an increased risk of poverty. The government proposes three adjustments: The maximum amount for the third child and upwards is being increased by €468 per annum. In addition, all amounts for children are being increased pro rata by €356. Finally, the single-parent supplement has temporarily been increased by €356.

### **Discontinuation of old-age pension income support**

In addition to regular indexation, the minimum rate of pay will increase by 8.05%. This increase also applies to all linked schemes, including the old-age pension scheme. As this already supports the purchasing power of old-age pensioners, the government has opted to reduce supplementary old-age pension income support payments and then to discontinue them as from 1 January 2025. The income support for people who have reached state pension age (AIO), however, remains in place. The income support for people who have reached state pension age (AIO) is a household-

level payment that supplements income to the social minimum level.

### **Contribution for high energy prices**

The government intends to set a maximum rate for electricity and/or gas up to a certain amount of usage. The intention is also to help energy-intensive SMEs with liquidity improvement and sustainability.

### **Measures due to high energy prices**

For the year 2023, the government will take a number of extraordinary measures due to the high energy prices. A few (rate) adjustments will temper the increase in household energy bills. This concerns an extraordinary decrease in the energy tax for natural gas and electricity and a temporary higher tax reduction of energy tax. In addition, a number of simplifications have been introduced in the taxation of energy. The Surcharge for Sustainable Energy and Climate Transition (ODE) rates will be set to zero as of 1 January 2023 and the energy tax will be raised by the same extent as of that date. This means the ODE costs will disappear from the energy bill.

### **CO<sub>2</sub> levy for industry will be tightened**

The CO<sub>2</sub> levy for industry is being tightened. This is particularly true of the dispensation rights, but the rate will remain unchanged for the time being.

### **Minimum CO<sub>2</sub> price for industry**

The government will introduce a minimum CO<sub>2</sub> price as part of the existing CO<sub>2</sub> levy for industry for operating industrial plants. The minimum CO<sub>2</sub> price also applies for waste incineration and nitrous oxide plants. This measure will ensure that a minimum price will apply to that part of emissions that are exempted for industry under the regular CO<sub>2</sub> levy based on dispensation rights. In addition, a relatively high minimum price remains applicable to emissions for which a company has no dispensation rights. This will continue to encourage reductions in emissions that exceed the emission reduction target for industry.

**Reporting obligation by CBAM sector**

Under European Climate Law, a carbon levy is expected to be introduced at the European external border on 1 January 2026. For importers in the Carbon Border Adjustment Mechanism (CBAM) sectors importing commodities (steel/iron, cement, fertilizer, aluminium and electricity) from outside the EU, a reporting obligation will be introduced during the transitional period from 1 January 2023 to 31 December 2025.

**Legislation already submitted, including:**

- The payment discount will only be discontinued for provisional corporation tax assessments. The payment discount for provisional income tax assessments remains in place.
- It will be arranged that if an additional tax assessment has been established in accordance with a request for establishing such an additional tax assessment, the period for which interest on tax is calculated will end no later than ten weeks after the date of receipt of such request.
- A provision has been proposed which makes it possible, in certain situations, where the interest on tax scheme's system is too harsh, to provide a tailor-made solution by reducing interest on tax.
- A measure has been proposed which discourages borrowings by a substantial interest holder from a private limited liability company. If the company's total debt (with the exception of home acquisition debt) exceeds €700,000 then the excess will be taxed as a benefit in box 2 for income tax purposes. The proposal has now been approved by the Dutch House of Representatives.



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